

APPENDIX 6

FILED
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CLARENCE J. BASTYRT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
	)	Criminal No. 4:01CR207
Plaintiff,)	
	)	Judge Lesley Wells
vs.)	
	)	Violations:
	)	Title 18 U.S.C.
JAMES A. TRAFICANT, Jr.	)	Sections 371, 201(c)(1)(B),
and RICHARD E. DETORE,	)	1503, 1962(c) and 2; and
	)	Title 26 U.S.C. Section 7206(1)
Defendants.)	

SUPERSEDING INDICTMENT

The Grand Jury charges:

GENERAL ALLEGATIONS

1. At all times relevant to this Indictment, JAMES A. TRAFICANT, Jr., the Defendant, was a Member of the United States House of Representatives, representing the 17th Congressional District in the State of Ohio that included the area in and around Youngstown, Ohio. As such, he was a public official within the meaning of Title 18, United States Code, § 201(a)(1).

2. Defendant TRAFICANT maintained several offices for the purpose of conducting his official congressional duties, including offices in Washington, D.C., Youngstown, Ohio, Boardman, Ohio, and Niles, Ohio.

3. Defendant TRAFICANT resided at 429 North Main Street, Poland, Ohio. TRAFICANT purchased his residence on or about October 21, 1966. On or about November 18, 1982, ownership of the residence was transferred to Defendant TRAFICANT's wife. On or about July 27, 1987, ownership of the residence was transferred to Defendant TRAFICANT's father. On or about July 24, 1994, ownership of the residence was transferred to Defendant TRAFICANT's wife.

4. Defendant TRAFICANT operated a farm at 6908 West South Range Road, Greenford, Ohio (hereinafter referred to as "Defendant TRAFICANT's farm" or "the farm"). Defendant TRAFICANT purchased the farm on or about August 29, 1969 with his father, mother and wife. On or about February 9, 1983, ownership of the farm was transferred to Defendant TRAFICANT's wife. On or about July 20, 1987, ownership of the farm was transferred to Defendant TRAFICANT's father. On or about July 21, 1994, ownership of the farm was transferred to Defendant TRAFICANT's wife. On or about December 10, 1999, ownership of the farm was transferred to Defendant TRAFICANT's daughter.

5. From January 1985 through May 1998, the exact dates being unknown, Charles O'Nesti held various positions within Defendant TRAFICANT's office, including District Director in the Youngstown, Ohio office, and was assigned to work on various matters including constituent services.

6. At all times relevant to this Indictment, Anthony R. Bucci and Robert T. Bucci, Sr. (collectively referred to as "the Buccis") were owners, employees and/or officers of Asphalt Specialist, Inc. and Prime Contractors, Inc. Asphalt Specialist and Prime Contractors are Ohio corporations established in or about 1981 and 1989, respectively, for the purposes of manufacturing asphalt and engaging in the asphalt paving business. On or about February 19, 1992 and again on July 10, 1992, Anthony Bucci and Asphalt Specialist were convicted of various felony violations relating to the manner in which they conducted their paving work. Anthony Bucci was sentenced to six months imprisonment. On or about April 22, 1992, Robert T. Bucci was convicted of a related misdemeanor offense. As a result of the Buccis' convictions, the United States Department of Transportation, on or about March 18, 1993, debarred Anthony Bucci, Robert Bucci, and Asphalt Specialist from participating in any future federal government contracting and government-approved subcontracting until September 17, 1994, September 17, 1993, and March 17, 1996, respectively. On or about March 8, 1994, the United States Department of Labor placed the Bucci brothers and Asphalt Specialist on the list of ineligible bidders for a period of three years as a result of the Buccis' convictions. On or about September 10, 1992, the Ohio Department of Transportation debarred the Bucci brothers and Asphalt Specialist for a period of three years as a result of the Buccis' convictions.

7. At all times relevant to this Indictment, Arthur David Sugar, Sr. (aka Dave Sugar) was the President of Honey Creek Contracting Company Incorporated ("Honey Creek"), a company engaged in commercial construction.

8. At all times relevant to this Indictment, the Youngstown Central Area Community Improvement Corporation ("CIC") was an Ohio not-for-profit corporation engaged in the economic development of downtown Youngstown.

9. At times relevant to this Indictment, John J. Cafaro was a Youngstown area businessman affiliated with U.S. Aerospace Group, LLC, an Ohio limited liability company. U.S. Aerospace Group obtained the rights from Cafaro Laser, Ltd., an Ohio limited liability company, to market the commercial application of a laser-guidance technology system (hereinafter "the laser-guidance technology") for use in landing aircraft and navigating water vessels through channels and was seeking certification of that technology from various federal agencies, including the Federal Aviation Administration ("FAA"). Cafaro Laser, Ltd. and U.S. Aerospace Group, LLC are collectively referred to hereinafter as "USAG."

10. At times relevant to this Indictment, Defendant RICHARD E. DETORE was Chief Operating Officer of USAG.

COUNT 1

(Conspiracy to Violate the Federal Bribery Statute:

18 U.S.C. §§ 201(b)(1)(A), 201(b)(2)(A) & 371)

1. The allegations contained in paragraphs 1-6 of the General Allegations of this Indictment are realleged and incorporated by reference in this Count.

I. THE VIOLATION

2. From in or around December 1986 through October 1996, the exact dates being unknown to the Grand Jury, in the Northern District of Ohio and elsewhere, JAMES A. TRAFICANT, Jr., the Defendant, together with others known and unknown to the Grand Jury

who are not charged in this indictment, did knowingly and willfully combine, conspire, confederate and agree together and with each other to commit acts in violation of the federal bribery statute, Title 18, United States Code, Section 201(b). Specifically, these persons agreed that:

- a. Anthony Bucci, Robert Bucci and others acting in concert with them known to the Grand Jury, directly and indirectly would corruptly give, offer, and promise things of value to Defendant TRAFICANT with the intent to influence Defendant TRAFICANT's official acts.
- b. Defendant TRAFICANT, directly and indirectly would corruptly demand, seek, receive, accept, and agree to receive and accept things of value personally and for any other person and entity in return for being influenced in the performance of official acts.

II. MANNER AND MEANS OF THE CONSPIRACY

It was part of the conspiracy that:

3. During late 1986 and early 1987, Defendant TRAFICANT helped the Buccis resolve a dispute between their company Asphalt Specialist and a Youngstown, Ohio area labor union. At or about that same time, Asphalt Specialist performed services at the request of Defendant TRAFICANT at Defendant TRAFICANT's farm. On or about May 19, 1987, Asphalt Specialist billed Defendant TRAFICANT \$10,233.25 to cover its costs of labor and materials. Throughout the period from May 1987 through November 1988, Defendant TRAFICANT failed to pay this bill. Acting on behalf of Defendant TRAFICANT and in response to threats of collection actions by the Buccis, Charles O'Nesti told the Buccis that there

were actions Defendant TRAFICANT, as their local Congressman, could take to help them if they would forgive the above debt. In response to this overture, Defendant TRAFICANT, Charles O'Nesti, Anthony Bucci and Robert Bucci met and agreed that the Buccis would forgive the above debt, that Defendant TRAFICANT would intercede in future matters when requested by the Buccis, and that the Buccis would continue to provide additional things of value to Defendant TRAFICANT to influence such official actions.

4. During the time period extending from the above agreement through October 1996, Anthony and Robert Bucci, companies they controlled, and others acting at their request agreed to and did provide things of value to Defendant TRAFICANT, including free labor, materials, supplies and equipment for use at Defendant TRAFICANT's farm.

5. During the time period extending from the above agreement through at least October 1996, Defendant TRAFICANT agreed to and did perform official acts on behalf of the Buccis, including interventions in matters pending before the Federal Bureau of Prisons, the Youngstown Community Corrections Association, the Ohio Department of Transportation, the United States Departments of Transportation and Labor, the Weathersfield Township Board of Trustees, the Office of the Mahoning County Engineer, and the loan department of a bank in Youngstown.

III. OVERT ACTS

6. The following overt acts, among others, were performed in the Northern District of Ohio and elsewhere in furtherance of the conspiracy:

Overt Act 1

On or about September 2, 1992, Defendant TRAFICANT, Charles O'Nesti, and Robert Bucci met with David Dreger, the Deputy Director of the Ohio Department of Transportation (ODOT) in charge of the district which encompassed Youngstown, Ohio. During this meeting, Defendant TRAFICANT complained about the way ODOT Inspector Tom Williams was treating the Buccis and threatened to take action against ODOT if ODOT's actions caused the Buccis to go out of business.

Overt Act 2

On or about November 4, 1992, Defendant TRAFICANT sent a letter to the Warden of the federal prison facility in North Carolina where Anthony Bucci was incarcerated, advising the Warden that Anthony Bucci had experienced no other problems with the federal judicial system, claiming "this was an unusual case," and asking that Anthony Bucci be transferred to a federal prison in Pennsylvania so that he could be closer to his family.

Overt Act 3

On or about March 22, 1993, Defendant TRAFICANT sent a letter to the Director of the Community Corrections Association, a halfway house facility in Youngstown, Ohio at which Anthony Bucci was then incarcerated. Defendant TRAFICANT sent the letter in response to a disciplinary action taken by the facility against Anthony Bucci. In the letter, Defendant TRAFICANT stated that "this is an unusual case," thanked the Director for information supplied in their telephone conversation earlier that day, and thanked the Director for his willingness to mitigate the problem.

Overt Act 4

On or about April 8, 1993, Defendant TRAFICANT telephoned Wilbert Baccus, Associate Counsel for the U.S. Department of Transportation, Federal Highway Administration (FHWA), and said he was upset with the FHWA's proposal to debar Robert Bucci, Asphalt Specialist and possibly Prime Contractors. Defendant TRAFICANT expressed concern that the debarments would exacerbate the economic hardships of his district, falsely claiming 150 jobs would be lost. Defendant TRAFICANT said that although he did not condone what the Bucci brothers did, Anthony Bucci was being made "the sacrificial lamb" and Robert Bucci, who had only been convicted of a misdemeanor, should not be debarred. Defendant TRAFICANT stated that if the FHWA moved forward with the debarments, he might contact Federico Pena, the Secretary of Transportation, and conduct a Congressional investigation regarding the matter.

Overt Act 5

On or about April 8, 1993, Defendant TRAFICANT sent a letter to Wilbert Baccus thanking him for the courtesy extended in their telephone conversation, notifying Baccus that Anthony Bucci was voicing his opposition, through Defendant TRAFICANT as his representative, to his proposed debarment, asking Baccus to consider the arguments raised in their earlier telephone conversation, and asking the FHWA to "preclude" Prime Contractors and Robert Bucci from any legal action.

Overt Act 6

On or about May 20, 1993, Defendant TRAFICANT sent a letter to Secretary of Transportation Federico Pena stating that Cheryl Bucci was President of Prime Contractors, that her husband Anthony Bucci and his company Asphalt Specialist were recently convicted of a

felony and were pending debarment by the Department of Transportation, and that Anthony's brother Robert was convicted of a misdemeanor and was in danger of debarment. The letter contained the following false statements: that Anthony and Robert had no connection to Prime Contractors other than marriage, that Prime Contractors had been operated solely by Cheryl Bucci for the past four years, that Cheryl had remarkable experience and expertise in the profession and that Prime Contractors employed approximately 150 employees. Defendant TRAFICANT recommended that the FHWA not debar Robert Bucci and asked to meet with Secretary Pena personally to discuss these matters.

Overt Act 7

On or about January 27, 1994, Defendant TRAFICANT sent a letter to the President of a Youngstown area bank complaining that the bank had "sloughed off" a local businessman known to the Grand Jury who operated a construction company and a cement company (hereinafter "cement contractor"), whom the Administrative Assistant for Defendant TRAFICANT had referred to the bank for the purpose of obtaining financing for a new cement company. The new cement company was a joint venture between the cement contractor, the Buccis, and an additional third party known to the Grand Jury. The letter did not make any mention of the Buccis' involvement in the company.

Overt Act 8

On or about May 26, 1995, Defendant TRAFICANT engaged in a telephone conversation with ODOT Inspector Tom Williams and the Buccis. During the conversation, Defendant TRAFICANT complained about Williams's treatment of the Buccis and said he would contact

the Director of ODOT and the Ohio Governor's office to have Williams fired unless Williams backed off the Buccis.

Overt Act 9

At some point believed to be prior to 1996, the exact date being unknown to the Grand Jury, Defendant TRAFICANT gave the Buccis a list of things he wanted the Buccis to do for him.

Overt Act 10

On or about June 8, 1995, Defendant TRAFICANT telephoned ODOT Director Jerry Wray regarding the Buccis and their problems with ODOT Inspector Tom Williams. Defendant TRAFICANT requested that Director Wray meet with the Buccis personally and falsely told Wray that there were 250 jobs at stake.

Overt Act 11

During the mid-1990's, the exact dates being unknown to the Grand Jury, the Buccis paid one of their employees to work full-time as a farm hand for a period of approximately six months at Defendant TRAFICANT's farm. The employee repaired farm machinery, tended horses, cleaned horse stalls, bailed hay, mended fences, assisted with carpentry work in the barns and performed other duties as assigned by Defendant TRAFICANT. Defendant TRAFICANT did not pay for these services.

Overt Act 12

During the mid-1990's, the exact date being unknown to the Grand Jury, Defendant TRAFICANT met with the Buccis and a member of Defendant TRAFICANT's Congressional

staff known to the Grand Jury who was also a member of the Weathersfield Township Board of Trustees and discussed Weathersfield Township's withholding of payment to the Buccis.

Overt Act 13

On or about March 27, 1996, a staff member acting at the direction of Defendant TRAFICANT sent a memorandum to a staff member of the United States Department of Labor. The memorandum explained that although the Department of Labor had debarred the Buccis from participating in government contracts for three years beginning in March 1994, the U.S. Department of Transportation had reduced similar debarments against the Buccis to 18 months for Anthony Bucci and six months for Robert Bucci. The memorandum falsely stated that as the bidding for 1996 contracts "reaches fever pitch," the Buccis would go under, and with them 250 "hard working Ohioans" if the Buccis were unable to obtain contracts. The memorandum further stated that Defendant TRAFICANT wanted the Secretary of Labor to know that it would devastate the Buccis' business if they had to wait the usual sixty day period for the Department of Labor to consider whether to grant the Buccis' request for early removal from the debarment list.

Overt Act 14

On or about April 30, 1996, Anthony Bucci and Robert Bucci met with a United States Department of Labor Investigator concerning their debarments.

Overt Act 15

On or about May 8, 1996, Defendant TRAFICANT telephoned the Department of Labor investigator assigned to the Bucci debarment case to ascertain why the Buccis' request for early removal from the debarred bidders list was being delayed.

Overt Act 16

On or about June 24, 1996, Defendant TRAFICANT telephoned ODOT Director Jerry Wray and complained that ODOT had rejected a bid from the Buccis' company which was the lowest bid received.

Overt Act 17

In or about September 1996, Defendant TRAFICANT instructed Charles O'Nesti to contact the Mahoning County Engineer regarding a dispute between Prime Contractors and another Youngstown, Ohio area paving contractor over the Mahoning County paving contract for 1996.

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

The Grand Jury further charges:

COUNT 2

(Conspiracy to Violate the Federal Bribery Statute: 18 U.S.C. §§ 201(c) & 371)

1. The allegations contained in paragraphs 1-4 and 7-8 of the General Allegations of this Indictment are realleged and incorporated by reference in this Count.

I. THE VIOLATION

2. From in or about April 1999 through late April 2000, the exact dates being unknown to the Grand Jury, in the Northern District of Ohio and elsewhere, JAMES A. TRAFICANT, Jr., the Defendant, together with others known and unknown to the Grand Jury who are not charged in this Indictment, did knowingly and willfully combine, conspire, confederate and agree together and with each other to commit acts in violation of the federal bribery statute, Title 18, United States Code, Section 201(c). Specifically, these persons agreed

that Defendant TRAFICANT, otherwise than as provided by law for the proper discharge of his official duty, directly and indirectly would demand, seek, receive, accept and agree to receive and accept things of value personally for and because of official acts performed and to be performed by Defendant TRAFICANT.

II. MANNER AND MEANS OF THE CONSPIRACY

It was part of the conspiracy that:

3. In or about April 1999 Arthur David Sugar, his son and Defendant TRAFICANT met to discuss a DUI case that was pending in Licking County, Ohio against Sugar's son. Sugar was seeking to have Defendant TRAFICANT help his son obtain a reduced sentence and obtain a transfer to and work release privileges from a half-way house facility in Youngstown, Ohio. Defendant TRAFICANT said he would look into the matter and see what he could do to help. At the conclusion of the meeting, Defendant TRAFICANT asked Sugar and his son to accompany him to his farm, telling them he had some work he thought they could do to help him. Sugar and his son accompanied Defendant TRAFICANT to the farm, where Defendant TRAFICANT showed them several tasks he wanted them to perform. Sugar and his son, understanding that Defendant TRAFICANT did not intend to pay them for this work and that Defendant TRAFICANT expected them to perform the work because of Defendant TRAFICANT's willingness to take official actions on their behalf, agreed to do the work.

4. Defendant TRAFICANT performed official acts on behalf of Sugar during 1999, including submitting a letter on behalf of Sugar's son to Sugar's lawyer for attachment to a bond motion to be filed with the Licking County Common Pleas Court, directing a staff member to contact the Director of the Youngstown Community Corrections Association (half-way house),

and directing staff members to help Sugar resolve problems his company, Honey Creek, was having with various government entities, including the United States Department of Agriculture (USDA).

5. In or about April 1999, Sugar, his son, Honey Creek, and others acting at Sugar's direction, provided free labor, materials and supplies to Defendant TRAFICANT at his farm at the request of Defendant TRAFICANT. These things of value included repairs to field drainage systems, cutting roads, removing trees, obtaining and spreading stone, grading and site preparation work.

6. Upon learning in December 1999 that the Federal Bureau of Investigation (FBI) was actively investigating Defendant TRAFICANT's activities, Defendant TRAFICANT gave Sugar an unsolicited check for \$1,142 to conceal Defendant TRAFICANT's request for and acceptance of these free services and materials.

7. After learning of the FBI investigation, Defendant TRAFICANT continued to seek services and materials from Sugar, including requests for Sugar to haul farm machinery from Defendant TRAFICANT's farm and to pour a concrete floor in a barn located at Defendant TRAFICANT's personal residence in Poland, Ohio.

8. Between November 3, 1999 and April 2000, Defendant TRAFICANT attempted to help Sugar secure a contract to demolish the former Higbee building in downtown Youngstown, Ohio by attempting to persuade the Youngstown Central Area Community Improvement Corporation (CIC) to modify the specifications of the demolition contract in a way that would benefit Sugar and by threatening to cut future funding of CIC projects unless the CIC gave the contract to Sugar.

III. OVERT ACTS

9. The following overt acts, among others, were performed in the Northern District of Ohio in furtherance of the conspiracy:

Overt Act 1

In or about April 1999, Sugar, his son, Honey Creek, and others acting at Sugar's direction, provided labor, materials and the use of equipment to Defendant TRAFICANT at his farm. These things of value included repairing field drainage systems, removing trees, cutting roads, obtaining and spreading gravel, grading and site preparation work.

Overt Act 2

On or about July 6, 1999, Defendant TRAFICANT submitted a letter to an attorney for inclusion in a bond motion being filed with the Licking County Court of Common Pleas. In the letter, Defendant TRAFICANT noted that both Sugar and his son "have always risen to the occasion in our community by donating either equipment and/or materials for all sorts of charitable causes." Defendant TRAFICANT also offered to discuss the matter with the Judge upon request.

Overt Act 3

On or about July 15, 1999, a staff member, acting at the direction of Defendant TRAFICANT, contacted the Director of the Youngstown Community Corrections Association, seeking to help Sugar's son obtain work release privileges while serving his DUI sentence.

Overt Act 4

On or about December 23, 1999, Defendant TRAFICANT gave Sugar an unsolicited check in the amount of \$1,142, which was significantly less than the value of the labor and materials supplied by Sugar and Honey Creek, explaining that the Federal Bureau of Investigation was investigating him and that he had to make sure he paid everyone something. Defendant TRAFICANT instructed Sugar to cash the check and maintain a photocopy of the check in a file.

Overt Act 5

On or about March 17, 2000, a Honey Creek employee, acting at the direction of Sugar, transported a piece of large farm equipment from Defendant TRAFICANT's farm to a farm in Pennsylvania.

Overt Act 6

During the period March 27, 2000 through March 31, 2000, Honey Creek employees, acting at the direction of Sugar, poured a concrete floor in a barn located at Defendant TRAFICANT's personal residence in Poland, Ohio.

Overt Act 7

On or about March 27, 2000, Defendant TRAFICANT sent a letter to the Youngstown Central Area Community Improvement Corporation (CIC) requesting that CIC save the historic tile facade from the Higbee demolition project for use in a new Federal Courthouse to be constructed in Youngstown, Ohio.

Overt Act 8

At some point between late March and mid-April, 2000, the exact date being unknown, Defendant TRAFICANT gave Sugar several items of personal property, including a piano, to make it falsely appear that Sugar had performed the work set forth in Overt Acts 5 and 6 of this Count as part of a legitimate arms-length transaction.

Overt Act 9

On or about April 19, 2000, Defendant TRAFICANT placed a telephone call to a consultant working for the Youngstown Central Area Community Improvement Corporation (CIC), to complain that the CIC was awarding the Higbee demolition contract to an out-of-state contractor.

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

The Grand Jury further charges:

COUNT 3

(Conspiracy to Violate the Federal Bribery Statute: 18 U.S.C. §§ 201(c) & 371)

1. The allegations contained in paragraphs 1, 2, 9, and 10 of the General Allegations of this Indictment are realleged and incorporated by reference in this Count.

I. THE VIOLATION

2. From in or about November 1997 through March 2000, the exact dates being unknown to the Grand Jury, in the Northern District of Ohio and elsewhere, JAMES A. TRAFICANT, Jr., RICHARD E. DETORE, and others known and unknown to the Grand Jury who are not charged in this Indictment, did knowingly and willfully combine, conspire, confederate and agree together and with each other to commit acts in violation of the federal

bribery statute, Title 18, United States Code, Section 201(c). Specifically, these persons agreed that Defendant TRAFICANT, otherwise than as provided by law for the proper discharge of his official duty, directly and indirectly would demand, seek, receive, accept and agree to receive and accept things of value personally for and because of official acts performed and to be performed by Defendant TRAFICANT.

II. MANNER AND MEANS OF THE CONSPIRACY

It was part of the conspiracy that:

3. In or around November of 1997, during a time when John J. Cafaro and Defendant DETORE were seeking Defendant TRAFICANT's assistance in having laser-guidance technology certified by the Federal Aviation Administration (FAA), Defendant TRAFICANT asked Cafaro and Defendant DETORE to assist him in arranging repairs on a wooden boat Defendant TRAFICANT owned.
4. On or about February 4, 1998, Defendant TRAFICANT attended a demonstration of USAG's laser-guidance technology in Manassas, Virginia.
5. Following the February 4, 1998 demonstration, Defendant DETORE met with Defendant TRAFICANT at the Taverna restaurant in Washington, D.C. to discuss and plan actions Defendant TRAFICANT was taking and promising to take on behalf of USAG. Defendant DETORE used USAG funds to purchase their meals during those meetings as follows:

<u>Date</u>	<u>Amount</u>
04/29/98	\$157.08
05/06/98	105.59
05/20/98	92.28

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06/17/98	92.03
06/23/98	112.53
07/14/98	68.69
07/16/98	90.58
07/23/98	105.43
08/05/98	149.75
09/09/98	124.73
09/15/98	83.54
09/24/98	140.45
10/06/98	129.57
10/12/98	136.83
02/24/99	70.88
03/23/99	101.28
04/12/99	116.65
04/21/99	104.23
05/11/99	135.02
05/19/99	120.00
09/22/99	148.98
09/29/99	124.62
10/06/99	110.32
10/13/99	88.68
10/18/99	79.84
10/21/99	90.08
10/26/99	180.06
11/03/99	77.87
11/10/99	56.39
11/16/99	142.67
12/17/99	34.39

6. During the period between February 4, 1998 and July 28, 1998, Defendant TRAFICANT took numerous official actions to promote the laser-guidance technology marketed by USAG, including actions to encourage certification of the technology by the FAA and to promote use of the technology by the FAA, the United States Army, and the United States Coast Guard.

7. During that same period, Defendant TRAFICANT promised Defendant DETORE and Cafaro that he would take official actions aimed at obtaining legislation favorable to USAG.

8. In or about July 1998, Defendant DETORE told Cafaro that Defendant TRAFICANT was having financial problems with his boat. Defendant DETORE explained that Defendant TRAFICANT owed approximately \$26,000 on a loan on the boat, the boat needed major, costly repairs and Defendant TRAFICANT could not sell the boat until the repairs were made. Defendant DETORE further told Cafaro that given the value of Defendant TRAFICANT's assistance to USAG, USAG could assist Defendant TRAFICANT by purchasing the boat, paying for the needed repairs and using the boat to demonstrate the nautical applications of USAG's laser-guidance technology. Although the purchase of Defendant TRAFICANT's boat was not in the best interest of USAG from a business standpoint, Cafaro agreed to purchase the boat from Defendant TRAFICANT as a favor to Defendant TRAFICANT for and because of the official actions Defendant TRAFICANT had taken and would take on behalf of USAG.

9. In or about July 1998, Defendant TRAFICANT instructed one of his congressional staff members to call and obtain the payoff figure for Defendant TRAFICANT's boat loan. Defendant DETORE subsequently obtained the payoff figure from the congressional staff member, provided it to Cafaro, and requested that Cafaro obtain a check in that amount so the boat could be purchased from Defendant TRAFICANT. On or about July 28, 1998, Cafaro had an employee purchase a cashier's check in the amount of \$26,948.18 payable to Nations Bank, the bank holding the boat loan, and falsely listing Defendant TRAFICANT as the purchaser of the cashier's check. Defendant TRAFICANT subsequently expressed concern about the transaction, saying he feared it would look bad if it ever became public that Cafaro had purchased the boat during the time Defendant TRAFICANT was promoting the technology of

Cafaro's company. Accordingly, Defendant TRAFICANT said they would have to find another way to complete the sale.

10. Defendant TRAFICANT, Defendant DETORE, Cafaro, and USAG's Chief Engineer (hereinafter "the Engineer") thereafter agreed to a plan whereby they would conceal Cafaro's purchase of the boat by making it falsely appear as though the Engineer was purchasing the boat in his individual capacity. As part of that plan, Defendant TRAFICANT and the Engineer entered into a handwritten purchase agreement. The agreement provided that the Engineer would arrange and pay for repairs to Defendant TRAFICANT's boat and then pay him \$26,000 to complete the sale at the conclusion of the repairs. Contrary to the terms of this agreement, Defendant TRAFICANT and Defendant DETORE understood that Cafaro was in fact the person who was actually purchasing the boat and paying for the costs of the repairs.

11. During the summer of 1998, the Engineer hired a crew to perform repairs on the boat. During 1998 and 1999, the Engineer paid a total of approximately \$26,000 for repairs to the boat, slip fees, and other expenses incurred during the period of the repairs. Cafaro provided funds to Defendant DETORE and the Engineer to reimburse the Engineer for funds expended for boat repairs and slip fees.

12. In or about October or November 1998, Defendant TRAFICANT complained to Cafaro that he was experiencing financial difficulties and asked Cafaro to give him an advance on the \$26,000 purchase price of the boat. Cafaro agreed to give Defendant TRAFICANT approximately one-half of the purchase price. On November 14, 1998, Cafaro gave Defendant TRAFICANT an envelope containing \$13,000 cash. Cafaro gave Defendant TRAFICANT this

\$13,000 for and because of the official actions Defendant TRAFICANT was taking and would take on behalf of USAG.

13. During the period from November 1998 through February 2000, Defendant TRAFICANT continued to promote the use of USAG's laser-guidance technology with various federal agencies and departments. He also continued to promise to help them obtain legislation favorable to USAG.

14. In or about April and May 1999, respectively, Defendant TRAFICANT asked Defendant DETORE if USAG had a generator and welder he could use. Based on this request, Defendant DETORE caused USAG to purchase a new generator and welder and caused USAG employees to deliver them to Defendant TRAFICANT for and because of the official actions Defendant TRAFICANT was taking and would take on behalf of USAG. Defendant TRAFICANT did not pay USAG for the generator and welder.

III. OVERT ACTS

15. The following overt acts, among others, were performed in the Northern District of Ohio and elsewhere in furtherance of the conspiracy:

Overt Act 1

On or about April 17, 1998, Defendant TRAFICANT instructed a staff member at his Youngstown district office to give a copy of an April 14, 1998 press release to Cafaro. The press release contained an announcement that Defendant TRAFICANT wanted the FAA to make the installation of enhanced vision technologies at U.S. airports part of the Clinton Administration's aviation safety agenda.

Overt Act 2

On or about June 17, 1998, Defendant DETORE sent a facsimile to Cafaro at his Youngstown-area office, telling him that Defendant TRAFICANT intended to ask FAA Administrator Jane Garvey to attend a joint briefing with him in Manassas, Virginia.

Overt Act 3

In or about July 1998, Defendant TRAFICANT instructed one of his congressional staff members to call Nations Bank and obtain the payoff figure for Defendant TRAFICANT's boat loan.

Overt Act 4

In or about July 1998, Defendant DETORE obtained the payoff figure for Defendant TRAFICANT's boat loan from the congressional staff member.

Overt Act 5

In or about July 1998, Defendant DETORE instructed Cafaro to obtain a certified check in the amount of \$26,948.18.

Overt Act 6

On or about July 28, 1998, Cafaro instructed an employee at his Youngstown-area office to purchase a cashier's check in the amount of \$26,948.18 at a Liberty, Ohio bank. The check was made payable to Nations Bank, the holder of Defendant TRAFICANT's boat loan, and falsely listed "J. Traficant" as purchaser.

Overt Act 7

On or about August 12, 1998, Defendant DETORE and Cafaro discussed the need for Cafaro to provide \$3,500 cash to the Engineer so the Engineer could begin paying for repairs to Defendant TRAFICANT's boat.

Overt Act 8

On or about August 13, 1998, Cafaro received a facsimile at his Youngstown-area office from the Engineer, reminding him to bring \$3,500 cash with him for use in the operation Cafaro and Defendant DETORE had discussed at their meeting the day before.

Overt Acts 9 - 12

On or about the dates set forth below, Cafaro obtained checks from Youngstown-area banks in the following amounts to reimburse monies the Engineer had expended for the repairs, slip fees, and other expenses on Defendant TRAFICANT's boat:

<u>Overt Act</u>	<u>Date</u>	<u>Amount</u>
9	8/13/98	\$3,500
10	8/27/98	\$3,800
11	9/10/98	\$3,000
12	9/28/98	\$6,000

Overt Act 13

On or about November 14, 1998, Cafaro gave Defendant TRAFICANT an envelope containing \$13,000 cash while driving in the vicinity of Youngstown State University.

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Overt Act 14

On or about November 23, 1998, Defendant DETORE sent a memorandum to Cafaro in which Defendant DETORE requested a check for \$8,000 to complete the boat repairs.

Overt Act 15

On or about December 24, 1998, Cafaro obtained an \$8,000 check payable to Defendant DETORE for use in reimbursing monies the Engineer had expended for the repairs, slip fees, and other expenses on Defendant TRAFICANT's boat.

Overt Act 16

Between December 24, 1998, and January 7, 1999, the exact date being unknown to the Grand Jury, Defendant DETORE endorsed the December 24, 1998 check in the amount of \$8,000 and gave it to the Engineer to reimburse him for the repairs, slip fees, and other expenses on Defendant TRAFICANT's boat.

Overt Act 17

On or about January 22, 1999, Defendant DETORE sent a facsimile regarding Defendant TRAFICANT's efforts to promote FAA approval of USAG's technology and arrangements for a visit by the FAA Administrator to a demonstration of USAG's technology.

Overt Act 18

In or about April 1999, Defendant TRAFICANT asked Defendant DETORE if USAG had a generator he could use.

Overt Act 19

In or about April, 1999, Defendant DETORE caused USAG employees to purchase a new generator for Defendant TRAFICANT.

Overt Act 20

In or about April, 1999, Defendant DETORE caused USAG employees to deliver the newly purchased generator to Defendant TRAFICANT.

Overt Act 21

In or about May 1999, Defendant TRAFICANT asked Defendant DETORE if USAG had a welder he could use.

Overt Act 22

In or about May 1999, Defendant DETORE caused USAG employees to purchase a new welder for Defendant TRAFICANT.

Overt Act 23

In or about May 1999, Defendant DETORE caused USAG employees to deliver to Defendant TRAFICANT the newly purchased welder.

Overt Act 24

On or about January 17, 2000, the Engineer received a USAG check in the amount of \$2,172 in Virginia to reimburse him for monies he expended for repairs, slip fees, and other expenses on Defendant TRAFICANT's boat.

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

The Grand Jury further charges:

COUNT 4

(Conspiracy to Violate the Federal Bribery Statute: 18 U.S.C. §§ 201(c) & 371)

1. The allegations contained in paragraphs 1-4 of the General Allegations of this Indictment are realleged and incorporated by reference in this Count.

I. THE VIOLATION

2. From in or about November 1998, and continuing until in or about January 2000, the exact dates being unknown to the Grand Jury, in the Northern District of Ohio and elsewhere, JAMES A. TRAFICANT, Jr., the Defendant, together with others known and unknown to the Grand Jury who are not charged in this Indictment, did knowingly and willfully combine, conspire, confederate and agree together and with each other to commit acts in violation of the federal bribery statute, Title 18, United States Code, Section 201(c). Specifically, these persons agreed that Defendant TRAFICANT, otherwise than as provided by law for the proper discharge of his official duty, directly and indirectly would demand, seek, receive, accept and agree to receive and accept things of value personally for and because of the official acts performed and to be performed by Defendant TRAFICANT.

II. MANNER AND MEANS OF THE CONSPIRACY

It was part of the conspiracy that:

3. In or about November 1998, Defendant TRAFICANT offered to employ a Youngstown-area attorney known to the Grand Jury (hereinafter "the attorney") as Administrative Counsel on his Congressional staff and to continue to lease office space for use as a Congressional district office at 11 Overhill Road, Boardman, Ohio, provided that the attorney: (a) rent additional Congressional office space to Defendant TRAFICANT at 11 Overhill Road, Boardman, Ohio, and (b) divert \$2,500 per month from his salary as a Congressional staff employee to Defendant TRAFICANT.

4. In or about November 1998, Defendant TRAFICANT referred the attorney to his Administrative Assistant for instructions about how to make the monthly payments to Defendant TRAFICANT.

5. In or about November 1998, the attorney met with Defendant TRAFICANT's Administrative Assistant, who acknowledged that he also had diverted a portion of his salary to Defendant TRAFICANT and explained that the procedure for giving money to Defendant TRAFICANT was to cash the Congressional pay check at a financial institution, obtain cash, place the cash into an envelope and slide the envelope with cash under the door of Defendant TRAFICANT's office at 11 Overhill Road, Boardman, Ohio.

6. In or about November 1998, the attorney became Administrative Counsel on Defendant TRAFICANT's Congressional staff and, in December 1998, commenced making monthly cash payments from his Congressional salary in the amount of \$2,500 each to Defendant TRAFICANT.

III. OVERT ACTS

7. The following overt acts, among others, were performed in the Northern District of Ohio in furtherance of the conspiracy:

Overt Act 1

In or about November 1998, Defendant TRAFICANT offered to employ a Youngstown-area attorney as Administrative Counsel on his Congressional staff and remain a tenant in office space at 11 Overhill Road, Boardman, Ohio, provided that the attorney: (a) rent additional Congressional district office space to Defendant TRAFICANT at 11 Overhill Road, Boardman,

Ohio, and (b) divert \$2,500 per month from his salary as a Congressional staff employee to Defendant TRAFICANT.

Overt Act 2

In or about November 1998, Defendant TRAFICANT directed the attorney to meet with his Administrative Assistant for instructions about how to make the monthly payments to Defendant TRAFICANT.

Overt Act 3

In or about November 1998, the attorney met with Defendant TRAFICANT's Administrative Assistant, who told him how to make cash payments from his Congressional pay check to Defendant TRAFICANT.

Overt Act 4

In or about November 1998, the attorney accepted Defendant TRAFICANT's offer of employment and became employed as Administrative Counsel under the terms and conditions specified in paragraph 3 of this count.

Overt Acts 5-17

Commencing in December 1998 and continuing until early January 2000, the attorney, on a monthly basis, took \$2,500 from his Congressional pay check and made a \$2,500 cash payment to Defendant TRAFICANT.

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

The Grand Jury further charges:

COUNT 5

(18 U.S.C. § 201(c)(1)(B))

1. The allegations contained in paragraphs 1-4 of the General Allegations of this Indictment are realleged and incorporated by reference in this Count.
2. Beginning in or about December 1998 and continuing until in or about January 2000, the exact dates being unknown to the Grand Jury, in the Northern District of Ohio, JAMES A. TRAFICANT, Jr., the Defendant, being a public official within the meaning of Title 18, United States Code, § 201(a)(1), otherwise than as provided by law for the proper discharge of official duty, did directly and indirectly demand, seek, receive, accept and agree to receive and accept a thing of value personally for and because of any official act performed and to be performed by the Defendant, in that Defendant TRAFICANT demanded, sought, received, accepted and agreed to receive and accept \$2,500 per month from the Congressional salary of his Administrative Counsel for and because of Defendant TRAFICANT's official acts of hiring and continuing to employ the Administrative Counsel on his Congressional staff and of renting and continuing to rent space used by Defendant TRAFICANT as a Congressional field office at 11 Overhill Road, Boardman, Ohio.

All in violation of Title 18, United States Code, § 201(c)(1)(B).

The Grand Jury further charges:

COUNT 6

(Obstruction of Justice: 18 U.S.C. § 1503)

From on or about January 21, 2000 and continuing until on or about February 29, 2000, in the Northern District of Ohio, JAMES A. TRAFICANT, Jr., the Defendant, did corruptly endeavor to influence, obstruct and impede the due administration of justice by endeavoring to persuade his Administrative Counsel to destroy evidence and to provide false testimony and information to a federal grand jury which was empaneled in the Northern District of Ohio and which Defendant TRAFICANT knew had issued federal grand jury subpoenas.

All in violation of Title 18, United States Code, Section 1503.

The Grand Jury further charges:

COUNT 7

(Conspiracy to Defraud the United States: 18 U.S.C. § 371)

1. The allegations contained in paragraphs 1-5 of the General Allegations of this Indictment are realleged and incorporated by reference in this Count.

I. THE VIOLATION

2. From the late 1980's, and continuing until early 2000, the exact dates being unknown to the Grand Jury, in the Northern District of Ohio, JAMES A. TRAFICANT, Jr., the Defendant, together with others, known and unknown to the Grand Jury who are not charged in this Indictment, did knowingly and willfully combine, conspire, confederate and agree together and with each other to defraud the United States of money and property.

II. PURPOSE OF THE CONSPIRACY

3. It was the purpose of the conspiracy for Defendant TRAFICANT to improperly obtain government funds, property, and services for his personal use and benefit by having Congressional employees make improper payments from their Congressional salary to him and by having employees improperly perform personal labor and services on his boat and at the Farm.

III. MANNER AND MEANS OF THE CONSPIRACY

It was part of the conspiracy that:

4. Defendant TRAFICANT solicited and accepted payments from the salaries of high-ranking Congressional employees at his Youngstown-area field offices, which salaries were drawn from funds of the United States Treasury.

5. The allegations contained in paragraphs 3-6 of Count 4 of this Indictment are realleged and incorporated by reference in this Count as part of the Manner and Means of this Conspiracy.

6. In or about the early 1990's, the exact date being unknown to the Grand Jury, Defendant TRAFICANT directed employees of his Youngstown and Washington, D.C. Congressional staff, who were receiving U.S. government salaries which were funded by the United States Treasury, to labor on maintaining and repairing Defendant TRAFICANT's personal boat located in the Washington, D.C. area. The employees complied. Defendant TRAFICANT did not pay the employees for their labor.

7. Beginning in or about 1988 and continuing until in or about February 2000, the exact dates being unknown to the Grand Jury, Defendant TRAFICANT repeatedly directed

employees of his Youngstown and Niles, Ohio Congressional staff known to the Grand Jury, who were receiving U.S. government salaries which were funded by the United States Treasury, to labor at Defendant TRAFICANT's farm doing various farm chores, including but not limited to baling hay, running and repairing farm equipment, maintaining and repairing structures such as barn walls, horse stalls and a farm house deck, building a horse corral, converting a corn crib to another use, electrical repair, and plumbing repair. The employees repeatedly complied. One of those employees performed manual labor at Defendant TRAFICANT's farm on at least 150 occasions during this time period. Defendant TRAFICANT did not pay the employees for their labor.

IV. OVERT ACTS

8. The following overt acts, among others, were performed in the Northern District of Ohio in furtherance of the conspiracy:

Overt Acts 1-13

Beginning in December 1998 and continuing through January 2000, Defendant TRAFICANT's Administrative Counsel made 13 monthly payments from his U.S. Government salary to Defendant TRAFICANT in the amount of \$2,500 each.

Overt Act 14

During the time period between May and December 1996, the exact dates being unknown to the Grand Jury, Defendant TRAFICANT directed one of his Congressional staff employees known to the Grand Jury (hereinafter "Employee One"), who was receiving a U.S. Government salary, to perform manual labor at Defendant TRAFICANT's farm.

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Overt Act 15

During 1997, the exact dates being unknown to the Grand Jury, Defendant TRAFICANT directed Employee One, who was receiving a U.S. Government salary, to perform manual labor at Defendant TRAFICANT's farm.

Overt Act 16

During 1998, the exact dates being unknown to the Grand Jury, Defendant TRAFICANT directed Employee One, who was receiving a U.S. Government salary, to perform manual labor at Defendant TRAFICANT's farm.

Overt Act 17

During 1999, the exact dates being unknown to the Grand Jury, Defendant TRAFICANT directed Employee One, who was receiving a U.S. Government salary, to perform manual labor at Defendant TRAFICANT's farm.

Overt Act 18

During the Summer of 1996, the exact dates being unknown to the Grand Jury, Defendant TRAFICANT directed one of his Congressional staff employees known to the Grand Jury (hereinafter "Employee Two"), who was receiving a U.S. Government salary, to perform manual labor at Defendant TRAFICANT's farm.

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

The Grand Jury further charges:

COUNT 8

(Filing False Tax Return: 26 U.S.C. § 7206(1))

On or about April 15, 1999, in the Northern District of Ohio, JAMES A. TRAFICANT, Jr., the Defendant, a resident of Poland, Ohio, did willfully make and subscribe a joint U. S. Individual Income Tax Return, Form 1040, on behalf of himself and his wife for the calendar year 1998, which was verified by a written declaration by Defendant TRAFICANT that it was made under the penalties of perjury, and was filed with the Internal Revenue Service, which return Defendant TRAFICANT did not believe to be true and correct as to every material matter, in that the return reported his and his wife's total income on line 22 in the amount of \$138,985, whereas, as Defendant TRAFICANT then and there well knew and believed, the true and correct amount of his and his wife's total income was substantially in excess of the reported amount.

All in violation of Title 26, United States Code, Section 7206(1).

The Grand Jury further charges:

COUNT 9

(Filing False Tax Return: 26 U.S.C. § 7206(1))

On or about October 16, 2000, in the Northern District of Ohio, JAMES A. TRAFICANT, Jr., the Defendant, a resident of Poland, Ohio, did willfully make and subscribe a joint U. S. Individual Income Tax Return, Form 1040, on behalf of himself and his wife for the calendar year 1999, which was verified by a written declaration by Defendant TRAFICANT that it was made under the penalties of perjury, and was filed with the Internal Revenue Service, which return Defendant TRAFICANT did not believe to be true and correct as to every material

matter, in that the return reported his and his wife's total income on line 22 in the amount of \$140,163, whereas, as Defendant TRAFICANT then and there well knew and believed, the true and correct amount of his and his wife's total income was substantially in excess of the reported amount.

All in violation of Title 26, United States Code, Section 7206(1).

The Grand Jury further charges:

COUNT 10

(RICO: 18 U.S.C. § 1962(c))

I. THE ENTERPRISE

1. The allegations contained in paragraphs 1-10 of the General Allegations of this Indictment are realleged and incorporated by reference in this Count.

2. From in or about January 1985 through the date of this Indictment, JAMES A. TRAFICANT, Jr., the Defendant herein, served as the elected member of the United States House of Representatives for the 17th Congressional District of Ohio. In this capacity, Defendant TRAFICANT supervised the operations of his Congressional office in Washington, D.C. and field offices in the 17th Congressional District of Ohio. In addition, he supervised the activities of Congressional staff members who worked in those offices. Defendant JAMES A. TRAFICANT, Jr., together with these offices and individuals, constituted an enterprise as defined in Title 18, United States Code, Section 1961(4), which enterprise is hereafter referred to as the Office of Congressman James A. Traficant, Jr. This enterprise was engaged in, and its activities affected, interstate and foreign commerce.

II. THE RACKETEERING VIOLATION

3. From in or about 1985 through April 2000, the exact dates being unknown to the Grand Jury, in the Northern District of Ohio and elsewhere, JAMES A. TRAFICANT, Jr., the Defendant herein, being a person employed by and associated with the Office of Congressman James A. Traficant, Jr., which enterprise was engaged in, and the activities of which affected, interstate and foreign commerce, did knowingly and unlawfully, conduct and participate, directly and indirectly, in the conduct of the affairs of the above enterprise through the following pattern of racketeering activity within the meaning of Title 18, United States Code, Sections 1961(1) & 1961(5):

III. THE PATTERN OF RACKETEERING ACTIVITY

A. Acts Relating to Bribery: Racketeering Act 1

Racketeering Act 1

From in or around December 1986 through October 1996, the exact dates being unknown to the Grand Jury, in the Northern District of Ohio and elsewhere, Defendant TRAFICANT, being a public official, directly and indirectly corruptly demanded, sought, received, accepted, and agreed to receive and accept things of value personally and for any other person and entity in return for being influenced in the performance of official acts for the Buccis and their companies as alleged in paragraphs 3 through 5 and all overt acts of paragraph 6 of Count 1 of this Indictment, which allegations are realleged and incorporated by reference in this Act, in violation of Title 18, United States Code, Section 201(b)(2)(A).

B. Acts Relating to Bribery: Racketeering Acts 2 through 8

During the time periods set forth below for racketeering acts 2 through 8, the exact dates being unknown to the Grand Jury, in the Northern District of Ohio and elsewhere, Defendant TRAFICANT, being a public official, otherwise than as provided by law for the proper discharge of his official duty, directly and indirectly did demand, seek, receive, accept, and agree to receive and accept things of value personally for and because of official acts performed and to be performed by Defendant TRAFICANT in violation of Title 18, United States Code, Section 201(c)(1)(B), as follows:

Racketeering Act 2

During 1993, Defendant TRAFICANT demanded, sought, received, accepted and agreed to receive and accept labor and materials in the construction of an addition and deck on the farm house at the farm from a Youngstown-area businessman known to the Grand Jury who ran an international commercial construction company for and because of official acts performed by Defendant TRAFICANT, including helping the businessman who ran the international commercial construction company secure the release of several million dollars held by a Saudi Arabian prince during the early 1990's, helping the businessman contact government officials regarding a business project in the Gaza Strip, and helping the businessman with problems incurred in the business project in the Gaza Strip area from 1994 to the present.

Racketeering Act 3

During 1994, Defendant TRAFICANT demanded, sought, received, accepted and agreed to receive and accept labor and materials, including the installation of concrete floors in the barn and horse stalls at Defendant TRAFICANT's farm, as well as the installation of drainage pipes

and water lines, the clearing and hauling of debris and delivery and spreading of gravel at that farm, from Capital Ready Mix, Big G Construction, and a local businessman affiliated with those companies (hereinafter "cement contractor"), for and because of official actions performed and to be performed by Defendant TRAFICANT in helping the cement contractor secure loans for Capital Ready Mix from a Youngstown, Ohio area bank.

Racketeering Act 4

During the period from November 1997 through March 2000, Defendant TRAFICANT demanded, sought, received, accepted and agreed to receive and accept things of value for and because of official acts performed and to be performed by Defendant TRAFICANT for USAG as alleged in paragraphs 3 through 14 and all overt acts of paragraph 15 of Count 3 of this Indictment, which allegations are realleged and incorporated by reference in this Act.

Racketeering Act 5

From April 1999 through July 1999, the exact dates being unknown to the Grand Jury, Defendant TRAFICANT demanded, sought, received, accepted and agreed to receive and accept labor and materials, including the repair of field drains, cutting of roads, removal of trees, supplying and spreading of gravel and grading and site preparation work at Defendant TRAFICANT's farm, for and because of official acts performed and to be performed by Defendant TRAFICANT in assisting the efforts of Arthur David Sugar's son to obtain a reduced DUI sentence, assisting the efforts of Arthur David Sugar's son to obtain a transfer to and work release privileges from a half-way house facility in Youngstown, Ohio, and assisting Sugar and his company Honey Creek Contracting, Inc., with problems with government entities, including the United States Department of Agriculture.

Racketeering Act 6

During March and April 2000, Defendant TRAFICANT demanded, sought, received, accepted and agreed to receive and accept free labor and the use of trucks and construction equipment in moving a large farm machine from the farm to a farm in Pennsylvania and in installing a concrete floor in a barn located at his personal residence in Poland, Ohio, for and because of official acts performed and to be performed by Defendant TRAFICANT in helping Sugar attempt to obtain a contract to demolish the Higbee building in downtown Youngstown, Ohio.

Racketeering Act 7

During the period from December 1998 through January 2000, Defendant TRAFICANT demanded, sought, received, accepted and agreed to receive and accept \$2,500 per month from the Congressional salary of his Administrative Counsel for and because of Defendant TRAFICANT's official acts of hiring and continuing to employ the Administrative Counsel on his Congressional staff and of renting and continuing to rent space used by Defendant TRAFICANT as a Congressional field office in a building located at 11 Overhill Road, Boardman, Ohio.

Racketeering Act 8

In or about August 1998, in the Northern District of Ohio, Eastern Division, Defendant TRAFICANT demanded, sought, received, accepted and agreed to receive and accept things of value from James A. Sabatine for and because of official acts performed by and to be performed by Defendant TRAFICANT in intervening on Sabatine's behalf with officials from an interstate

railroad company to assist Sabatine in securing a rail line and a steady supply of raw materials to produce asphalt at Sabatine's Youngstown asphalt plant. The things of value were as follows:

- a. seeking free labor from Sabatine at Defendant TRAFICANT's farm;
- b. receiving and accepting \$2,400 cash.

C. Acts Relating to Mail Fraud: Racketeering Acts 9 through 11

During the time periods set forth below for racketeering acts 9, 10, and 11, the exact dates being unknown to the Grand Jury, in the Northern District of Ohio, JAMES A. TRAFICANT, Jr., the Defendant, did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud the United States of money and property and, for the purpose of executing such scheme and artifice and attempting to do so, Defendant TRAFICANT caused regular payroll checks, funded by the United States Treasury for Employee One, Employee Two, and Employee Three, all known to the Grand Jury, who were receiving a U.S. Government salary, to be placed into an authorized depository for mail matters, which checks were delivered by the United States Postal Service.

The scheme and artifice to defraud was in substance as follows:

- a. by employing and continuing to employ Employee One, Employee Two, and Employee Three at his Congressional offices in Ohio, Defendant TRAFICANT caused those employees to receive regular pay checks, funded by the United States Treasury, through mail delivered by the United States Postal Service;
- b. Defendant TRAFICANT directed Employee One, Employee Two, and Employee Three to perform personal services at Defendant

TRAFICANT's farm doing various farm chores, including but not limited to baling hay, running and repairing farm equipment, maintaining and repairing structures such as barn walls, horse stalls and a farm house deck, building a horse corral, converting a corn crib to another use, electrical repair, plumbing repair, and other farm chores;

- c. Defendant TRAFICANT did not pay Employee One, Employee Two, and Employee Three for the personal services performed at Defendant TRAFICANT's farm; and
- d. by directing Employee One, Employee Two, and Employee Three to perform personal services at Defendant TRAFICANT's farm and not paying them, Defendant TRAFICANT funded these personal services at the expense of the United States in the form of U.S. Government compensated time and the U.S. Government salaries that the employees were paid while working at Defendant TRAFICANT's farm.

The following Congressional employees were directed by Defendant TRAFICANT to perform personal services at Defendant TRAFICANT's farm and received regular pay checks in the mail delivered by the United States Postal Service throughout the following time periods, the exact dates being unknown to the Grand Jury:

<u>Racketeering Act #</u>	<u>Employee</u>	<u>Time Period</u>
9	Employee One	1988 to February 2000
10	Employee Two	1991 to 1996
11	Employee Three	October 1990 to July 1992

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

All in violation of Title 18, United States Code, Section 1962(c).

The Grand Jury further charges:

FORFEITURE ALLEGATIONS

(RICO Forfeiture: 18 U.S.C. § 1963)

1. The allegations contained in Count 10 of this Indictment are realleged and incorporated by reference in this Count as though fully set forth for the purpose of alleging forfeiture under Title 18, United States Code, Section 1963.

2. The Defendant, JAMES A. TRAFICANT, Jr., (a) has interests acquired and maintained in violation of Title 18, United States Code, Section 1962, which interests are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1), and (b) has property constituting and derived from proceeds obtained, directly and indirectly, from racketeering activity, in violation of Title 18, United States Code, Section 1962, which property is subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(3).

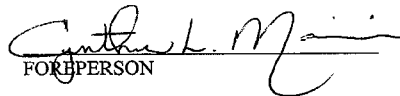
3. The properties of the Defendant subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1) and (a)(3), include but are not limited to the sum of at least \$100,000.

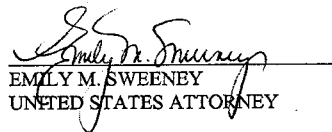
4. If any of the property described herein as being subject to forfeiture, as a result of any act or omission of the Defendant, (a) cannot be located upon the exercise of due diligence; (b) has been transferred or sold to, or deposited with, a third party; (c) has been placed beyond the jurisdiction of the court; (d) has been substantially diminished in value; or (e) has been

commingled with other property which cannot be divided without difficulty; it is the intention of the United States, pursuant to Title 18, United States Code, Section 1963(m), to seek the forfeiture of other property of the Defendant up to the value of the forfeitable property.

All pursuant to Title 18, United States Code, Section 1963.

A TRUE BILL.


FOR PERSON


EMILY M. SWEENEY
UNITED STATES ATTORNEY

1556

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

FILED

02 APR 11 PM 4:57

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

UNITED STATES OF AMERICA)

PLAINTIFF)

vs.)

JAMES A. TRAFICANT, JR.)

DEFENDANT)

CASE NO. 4:01 CR 207

JUDGE LESLEY WELLS

VERDICT FOR COUNT ONE:
CONSPIRACY, 18 U.S.C. § 371

As to Count One of the Indictment – that is, conspiracy to violate the
federal bribery statute, we, the jury, find that James A. Traficant, Jr. is

GUILTY ☒

NOT GUILTY ☐

Anna Loma
Lice Kileler
Paul A. Smith
Robin A. Shepherd
Leo Glaser
James M. Southworth

Regina M. Kinn
Walter A. ...
Long Adams-Korotki
Patricia A. Copeland
Jeri A. Zimmerman
John J. Kopp
Foreperson

Date: 4-10-02

341

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

FILED

02 APR 11 PM 4:57

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

UNITED STATES OF AMERICA)

CASE NO. 4:01 CR 207

PLAINTIFF)

JUDGE LESLEY WELLS

vs.)

JAMES A. TRAFICANT, JR.)

VERDICT FOR COUNT TWO:
CONSPIRACY, 18 U.S.C. § 371

DEFENDANT)

As to Count Two 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 NOT GUILTY

Anne Simon
Jill Kiebler
Bob A. Bisher
Paul A. Smith
Joe Glaser
Samuel M. Battistoni

Regina M. Lunn
Keith Cross
Greg Hanna-Brooks
Patricia A. Copeland
Joe A. Zimmerman
Alan D. Kessipp
Foreperson

Date: 4-10-02

341

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

FILED

02 APR 11 PM 4:57

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

UNITED STATES OF AMERICA)

CASE NO. 4:01 CR 207

PLAINTIFF)

JUDGE LESLEY WELLS

vs.)

JAMES A. TRAFICANT, JR.)

VERDICT FOR COUNT THREE:
CONSPIRACY, 18 U.S.C. § 371

DEFENDANT)

As to Count Three 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 ☒NOT GUILTY ☐

Patricia A. Copeland
John A. Zimmerman
Shane B. Sims
Mark G. Goss
Kevin M. Perna
Joe Glaser

Paul A. Smith
Bob P. Thompson
Joe Kilmer
Paul Adams-Krooks
Quincy M. Battinelli
Debra J. Krupp
Foreperson

Date: 4-9-02

341

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

FILED
02 APR 11 PM 4:57

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

UNITED STATES OF AMERICA	)	CASE NO. 4:01 CR 207
)	
PLAINTIFF)	
	)	JUDGE LESLEY WELLS
vs.)	
)	
JAMES A. TRAFICANT, JR.	)	<u>VERDICT FOR COUNT FOUR:</u>
	)	<u>CONSPIRACY, 18 U.S.C. § 371</u>
DEFENDANT)	

As to Count Four 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 ✓

NOT GUILTY

Carrie Sims
Jeff Kiedler
Leo Glaser
Robert A. Shepherd
James M. Castleberry
Regina M. Turner

Melvin Cross
James Hanna-Brooks
John A. Smith
Joe A. Zimmerman
Patricia A. Bradford
Sheldon J. Krupp
Foreperson

Date: 4-11-02

341

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

FILED

02 APR 11 PM 4:57

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

UNITED STATES OF AMERICA)

CASE NO. 4:01 CR 207

PLAINTIFF)

JUDGE LESLEY WELLS

vs.)

JAMES A. TRAFICANT, JR.)

VERDICT FOR COUNT FIVE:
ILLEGAL GRATUITY, 18 U.S.C.
§ 201(c)(1)(B)

DEFENDANT)

As to Count Five of the Indictment – that is, receiving an illegal gratuity, we,
the jury, find that James A. Traficant, Jr. is

GUILTY ✓

NOT GUILTY _____

Arnie Simon
Jige Kilecar
Paul A. Smith
Bob A. Thompson
Geo. Glaser
James M. Battworth

Regina M. Lane
Walter Cross
Angie Adams-Brooks
Patricia A. Copeland
Jeri A. Zimmerman
Sharon J. Gripp
Foreperson

Date: 4-10-02

341

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

FILED
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND
02 APR 11 PM 4:57

UNITED STATES OF AMERICA)

CASE NO. 4:01 CR-207

PLAINTIFF)

JUDGE LESLEY WELLS

vs.)

JAMES A. TRAFICANT, JR.)

VERDICT FOR COUNT SIX:
OBSTRUCTION OF JUSTICE.
18 U.S.C. § 1503

DEFENDANT)

As to Count Six of the Indictment – that is, obstruction of justice, we,
the jury, find that James A. Traficant, Jr. is

GUILTY ☒NOT GUILTY ☐

James Sarna
Jill Killely
Paul A. Smith
Robert G. Shepherd
Glo Glover
James W. Whittaker

Regina M. Perna
Walter Cross
Paul Adams-Brooks
Patricia A. Copeland
Jeri A. Zimmerman
Shelley J. Krupp
Foreperson

Date: 4-10-02

241

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

FILED

02 APR 11 PM 4:57

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

UNITED STATES OF AMERICA)

CASE NO. 4:01 CR 207

PLAINTIFF)

JUDGE LESLEY WELLS

vs.)

JAMES A. TRAFICANT, JR.)

VERDICT FOR COUNT SEVEN:
CONSPIRACY TO DEFRAUD THE
UNITED STATES, 18 U.S.C. § 371

DEFENDANT)

As to Count Seven of the Indictment – that is, conspiracy to defraud the
United States, we, the jury, find that James A. Traficant, Jr. is

GUILTY ✓

NOT GUILTY _____

Crisne Sims
Jill Kelleher
Paul A. Smith
Bob A. Shepherd
Les Glaser
Simon P. Montemurro

Kevin M. Leno
Matthe Cross
Angela Huns-Brooks
Barbara A. Reynolds
Ja A. Zimmerman
Heidi J. Groppe
Foreperson

Date: 4-10-02

341

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

FILED

02 APR 11 PM 4:57

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

UNITED STATES OF AMERICA)

PLAINTIFF)

vs.)

JAMES A. TRAFICANT, JR.)

DEFENDANT)

CASE NO. 4:01 CR 207

JUDGE LESLEY WELLS

VERDICT FOR COUNT EIGHT:
FILING FALSE TAX RETURN,
26 U.S.C. § 7206(1)

As to Count Eight 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

GUILTY / NOT GUILTY

Annie Lima
Jill Kileger
Paul A. Spittler
Robin A. Thompson
Leo Glaser
James M. Battistone

Regina M. Luma
John Cross
Greg Adams-Brooks
Patricia A. Capeland
Joe A. Z...
John D. Murphy
Foreperson

Date: 4-10-02

341

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

FILED
02 APR 11 PM 4:57

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

UNITED STATES OF AMERICA)

CASE NO. 4:01 CR 267

PLAINTIFF)

JUDGE LESLEY WELLS

vs.)

JAMES A. TRAFICANT, JR.)

VERDICT FOR COUNT NINE:

DEFENDANT)

FILING FALSE TAX RETURN.
26 U.S.C. § 7206(1)

As to Count Nine 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 ✓

NOT GUILTY _____

Anne Davis
Jill Kibler
Paul A. Smith
Robin A. Shepherd
Les Goss
Anna M. Chatterworth

Lynna M. Puma
Mattie Cross
Greg Adams - Brooks
Patricia A. Copeland
John A. Zorn
Michael J. Krupp
Foreperson

Date: 4/10/02

341

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

FILED

02 APR 11 PM 4:58

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

UNITED STATES OF AMERICA)

CASE NO. 4:01 CR 207

PLAINTIFF)

JUDGE LESLEY WELLS

vs.)

JAMES A. TRAFICANT, JR.)

VERDICT FOR COUNT TEN:

DEFENDANT)

RICO, 18 U.S.C. § 1962(c)

As to Count Ten 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 ✓

NOT GUILTY _____

Arnell Serna
Julie Killebr
Paul A. Smith
John A. Stephens
Eric Glaser
Anna M. Cantelero

Regina M. Lima
Matthias Gross
James Adams - Brooks
Patricia A. Copeland
John A. Z...
John D. ...
Foreperson

Date: 4-11-02

GO TO THE NEXT PAGE FOR THE SPECIAL RICO VERDICT FORM

341

SPECIAL RICO VERDICT FORM: COUNT TEN

If you found the defendant not guilty on Count Ten, stop here and do not complete this page.

If you found the defendant guilty on Count Ten, please record which racketeering acts you unanimously found that the defendant knowingly committed by checking the "committed" column for those particular acts.

<u>Alleged Racketeering Act</u>	<u>Committed</u>
1 Bribery relating to Bucci	<input checked="" type="checkbox"/>
2 Illegal gratuity relating to Bucheit	<input checked="" type="checkbox"/>
3 Illegal gratuity relating to Tyson	<input type="checkbox"/>
4 Illegal gratuity relating to Cafaro	<input checked="" type="checkbox"/>
5 Illegal gratuity relating to Sugar (1999)	<input checked="" type="checkbox"/>
6 Illegal gratuity relating to Sugar (2000)	<input type="checkbox"/>
7 Illegal gratuity relating to Sinclair	<input checked="" type="checkbox"/>
8 Illegal gratuity relating to Sabatine	<input type="checkbox"/>
9 Mail fraud relating to Buccella	<input checked="" type="checkbox"/>
10 Mail fraud relating to Traficanti	<input checked="" type="checkbox"/>
11 Mail fraud relating to Rovnak	<input checked="" type="checkbox"/>

Anne Lema
Joe Kibler
Paul A. Smith
John P. Shepherd
Leo Glaser
Simon M. DiStefano

Ryan M. Lunn
Walter Cross
Greg Adams-Brooks
Patricia A. Copeland
John A. Z...
John J. Krupp
Foreperson

Date: 4-11-02

341

APPENDIX 7

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

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

TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON WEDNESDAY, FEBRUARY 13, 2002

Jury Trial

Volume 1

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.

1 Wednesday Session, February 13, 2002, at 8:30 A.M.

2 THE COURT: We have a few preliminary
3 matters. I understand that there are some new motions
4 filed in the case. Am I correct, Congressman, did you file
5 motions in the case today?

6 MR. TRAFICANT: Yes, I filed two motions
7 today.

8 THE COURT: And have they been served on the
9 Government?

10 MR. TRAFICANT: The one that concerns the
11 Government has been served on the Government.

12 THE COURT: Okay. Maybe you'd better clarify
13 for me. Which motion did you file?

14 MR. TRAFICANT: The one dealing with the
15 peremptory challenges.

16 THE COURT: Okay.

17 MR. TRAFICANT: The other one dealt with the
18 Sixth Circuit and dealt with one of your decisions, and I
19 did not serve it on the Government, but I can, if you
20 should so request.

21 THE COURT: Well, I have a copy of something
22 that was just handed to me. It has the Northern District
23 of Ohio title at the top of it. It's a request for leave
24 to file the hearing motion to dismiss the indictment
25 against him. Is that what you're talking about?

1 MR. TRAFICANT: Yes.

2 THE COURT: Okay. Well --

3 MR. TRAFICANT: That was in response to
4 the --

5 THE COURT: It shows the service on
6 Mr. Morford. I just want to make sure he, in fact, has it.

7 MR. MORFORD: We do not have it, your Honor.

8 MR. TRAFICANT: I'll make it available to
9 him.

10 THE COURT: Thank you.

11 THE COURT: Do you mean this motion to be in
12 front of this Court or in front of the Sixth Circuit?

13 MR. TRAFICANT: Well, I don't know what the
14 process is. I assume you have to move on it, and if
15 necessary, the Sixth Circuit court would, I would -- will
16 legal aspects of it -- I'm not prepared right now to make
17 that statement.

18 THE COURT: All right.

19 MR. TRAFICANT: Well, then, we'll let the
20 Government, now that they have a copy of this have read it,
21 we won't deal with it right now. At the -- whenever our
22 noon break or maybe at 4:30 today, we'll try and straighten
23 out which court you wish this to be attended to. I haven't
24 had a chance to read it either. It was just given to me.

25 The other one is a motion and objection to directions

1 of the court relative to peremptory challenges, and we went
2 over that yesterday, and maybe there's something we can do
3 that will help clarify before we get into the case any
4 furthermore, what it was you were objecting to yesterday.

5 I can talk to you for a minute about peremptory
6 strikes. We talked about it repeatedly, and I think the
7 last time was in the final pre-trial, but as you know, you
8 have ten peremptory strikes to use against any potential
9 juror, and when there are six alternate jurors, as there
10 were in this case to be seated, then each side can exercise
11 three peremptory strikes against those jurors, and that's
12 the procedure we followed. It's the procedure we described
13 all the way through the proceedings, and it comports with
14 the criminal rules, criminal Rule 24.

15 So that's what we did. I wasn't able to really
16 understand what your concern was yesterday, but if you want
17 us to address this, I can address this further then at the
18 lunch break, if you want to talk about it then.

19 MR. TRAFICANT: I do, and I've asked for the
20 Court Reporter to report my -- our side bar conversation
21 relative to my concerns about that.

22 THE COURT: Fine.

23 MR. TRAFICANT: And the instructions that I
24 was given by the clerk that I was limited to certain
25 numbers on my peremptory challenges on the alternate

1 jurors, and I was not under that impression nor assumption
2 when I made that request at the side bar.

3 THE COURT: Okay. We then went ahead, and
4 you exercised your challenges. We went all the way through
5 all of that part of the process. There were many occasions
6 on which we might have made clearer to you something, which
7 you didn't understand, if we had known it, but you waited
8 until actually -- we had actually sworn all the jurors in
9 this case and impaneled the jury. Now, this is an issue
10 that you may be able to raise on appeal, you may be able to
11 raise it some other time, but we have a jury in this case,
12 and the jury's impaneled, and there were lot of
13 opportunities to --

14 MR. TRAFICANT: The only problem I have with
15 that is I was instructed in the beginning that the
16 numerical listing of my strikes had no effect, and I could
17 return to any lower number.

18 THE COURT: Okay. Well, let's not argue that
19 now. We have got a bunch of jurors ready to come up, but
20 you want to put more on the record about that, I'll give
21 you every opportunity to do it.

22 MR. TRAFICANT: Thank you.

23 THE COURT: And we'll do that at noon.

24 There was a little bit of discussion as well
25 yesterday about the appropriate scope of opening statement.

1 Are you clear about that, Congressman?

2 MR. TRAFICANT: I'm under the impression as
3 long as I'm talking about evidence or evidentiary material
4 that I plan to bring, that I would be able to discuss the
5 points relative to that.

6 THE COURT: Okay. I think we're at the area
7 where I want to be sure that you're clear. It's just in
8 the area of evidence that's relevant to the guilt or the
9 innocence of the Defendant in the charges in this case, and
10 that includes credibility of witnesses, and you --
11 you're -- you have every right to cross-examine people and
12 to challenge them and to challenge how they came to testify
13 and whether they're testifying truthfully.

14 And so as long as what you tell the jury what
15 evidence you plan to present and are thinking about,
16 whether you'll actually be able to present that evidence at
17 trial, I don't see there are any difficulties with it. I
18 don't anticipate any difficulties.

19 MR. TRAFICANT: Well, I'm wondering why we're
20 spending about five times on this when I've made opening
21 arguments before in a RICO case, and there were no
22 problems, and I do plan to make an opening statement that I
23 believe speaks to my particular case, and it is relevant to
24 my case.

25 Now, if, in fact, the Court would find objection to

1 it, certainly, they can object, or the Prosecutor could.
2 But I do not want to give the impression that I will, in
3 fact, be withheld from making those statements, what I
4 think are part and parcel to an opening statement that sets
5 the ground work for a trial of such significance.

6 THE COURT: Fine. I don't know what the
7 rules were in 1983 or in any other case, but we've gone
8 over them. I think you're correct, we've gone over them
9 enough here, so there shouldn't be any difficulty.

10 MR. TRAFICANT: For the record, you've
11 already ruled on obsession and vendetta, and they removed
12 that as an opportunity for me to discuss it as a
13 possibility of my defense. So you've already taken away
14 part of my defense. Now, you're cautioning me on what I'm
15 going to say in opening argument. I haven't even yet to
16 make an opening statement.

17 THE COURT: Right, that's the opening
18 statement that we were discussing.

19 MR. TRAFICANT: I know that.

20 THE COURT: And while we're talking about the
21 scope of it, we're not talking about what kind of evidence
22 to be admitted down the road, we're not dealing with any of
23 that.

24 MR. TRAFICANT: I believe the scope should be
25 that which speaks to the relevancy of the Defense that I

1 plan to offer.

2 THE COURT: Fine.

3 MR. TRAFICANT: Is that a problem with the
4 court?

5 THE COURT: No, it's not a problem.

6 MR. TRAFICANT: Thank you.

7 THE COURT: Is there anything else before we
8 bring the jurors up?

9 MR. MORFORD: No, your Honor.

10 THE COURT: Mr. Morford?

11 MR. TRAFICANT: There were a couple of
12 outstanding matters dealing with the deposition of a fellow
13 in Florida.

14 THE COURT: We're going to -- I said several
15 times I can't rule on that motion until I have had an
16 opportunity to sit back. Right now we've been trying to
17 select a jury in the case, and we've done that.

18 MR. TRAFICANT: Second point of question,
19 there was a last minute move by the Government with a fruit
20 basket ploy to bring in some testimony relative to a person
21 who is now deceased, who used to serve on his staff. From
22 what I understand, you have yet to rule on that, and we are
23 now approaching trial, and I'd like to know if and when you
24 are going to rule, or if you have ruled and it has sort of
25 just missed my cognizance of seeing it.

1 THE COURT: Any time I rule, it appears on
2 the docket. The docket immediately -- not dockets
3 available to you if you're not regularly in the courthouse.
4 It's available on line, you can just click on it, and there
5 you are, you have the ruling, and if I haven't done that,
6 then I haven't ruled on it yet. But, I think you're talking
7 about -- are you talking about the witness in Florida?

8 MR. TRAFICANT: No, I'm talking about the
9 deceased witness who worked for me, Mr. O'Nesti.

10 THE COURT: Oh, well, I have ruled in a sense
11 that I said I have to wait until we get to that point in
12 the trial so that the Government can demonstrate what it
13 needs to demonstrate before we would admit that testimony.

14 MR. TRAFICANT: Even though they submitted it
15 after the June deadline? They submitted it to me, they
16 said that June 16th by --

17 THE COURT: We've gone over that, and I ruled
18 on that. And if you go and read the orders in the case,
19 you'll see that was ruled on quite awhile ago.

20 MR. TRAFICANT: One, he --

21 THE COURT: But some rulings are conditional
22 regarding evidence.

23 MR. TRAFICANT: Yes. One other point.

24 The Prosecutor has not notified me that he intends to
25 bring witnesses today. I was not prepared for what

1 witnesses they may be, and I am now asking of this Court
2 that if he does bring a witness, that I may not necessarily
3 want to, in fact, examine or cross-examine that witness
4 today and would like the opportunity to reserve and bring
5 that witness back tomorrow for examination since I was not
6 prepared to know which witness that might be.

7 THE COURT: I don't know where we'll be in
8 terms of having witnesses, but the Government may get to
9 its case today, and Mr. Morford's on his feet, so I'll
10 listen to him now. Mr. Morford?

11 MR. MORFORD: Your Honor, Monday, we gave
12 Congressman Traficant several, not real thick witness
13 folders of the first few witnesses we expected to call in
14 this case, and my understanding was, if we got done with
15 opening statements and there was time today, which I fully
16 expect there will be, that we would proceed with testimony
17 like you do in every other case. He's had these materials
18 for, I think it was six or seven witnesses, since Monday.
19 And he's known that it was going to be those witnesses that
20 would be called.

21 THE COURT: All right. So the witnesses he
22 gave you information on are the ones he'll begin with, and
23 that's the way we proceed in trial, and yesterday, when we
24 talked about how we were going to proceed, we anticipated
25 the Government would begin its case, and what they do, they

1 call their witnesses, and you've been given notice so we're
2 going to bring the jurors up now. Okay?

3 MR. TRAFICANT: Fine.

4 THE COURT: Thank you.

5 MR. TRAFICANT: One last question, your
6 Honor: Will I have the right to recall a witness even
7 though it may be a Government witness at a later time?

8 THE COURT: Are you talking about when the
9 trial starts?

10 MR. TRAFICANT: Yes.

11 THE COURT: When they start putting on --

12 MR. TRAFICANT: Yes.

13 THE COURT: That's a good issue for us to
14 talk about down the road. Okay? That's a -- we'll try and
15 give you an answer to that. Okay? But not right now.

16 MR. TRAFICANT: Is that a normal procedure in
17 the court of law?

18 THE COURT: What?

19 MR. TRAFICANT: Where a defendant may have an
20 opportunity to recall a Government witness requesting it
21 for cause?

22 THE COURT: Anything about that part of the
23 procedure we'll talk about when we start getting evidence
24 put on in the case, but right now, we're waiting for the
25 jury to come in and do opening statements, one step at a

1 time.

2 (Proceedings resumed in the presence of the jury:)

3 THE COURT: Good morning.

4 THE JURY: Good morning.

5 THE COURT: I promised you that we would
6 begin the morning with some instructions from the Court on
7 what you might expect in general terms as we go forward
8 with this proceeding. So if you'll just make yourselves
9 comfortable, I'm going to ask the clerks -- I don't see any
10 notebooks out there.

11 THE CLERK: That's what I was just --

12 THE COURT: Okay. We're going to get you
13 some notebooks that you can use or not. I'll give you
14 instructions on that. Sometimes we put them out in your
15 chairs, and sometimes they slip down through and go down on
16 the floor. So I didn't know if you were all sitting on
17 them or if it slipped on the floor, but I think we just
18 didn't get them out. So just get yourselves as comfortable
19 as you can, and we'll get the books.

20 (Pause.)

21 THE COURT: Ladies and gentlemen of the jury,
22 those who participate in a trial must do so in accordance
23 with certain rules. These are rules established by law,
24 and they apply to witnesses, they apply to parties, they
25 apply to lawyers, they apply to pro se litigants, they

1 apply to the Judge, and they apply to jurors, and the Judge
2 and the jurors, as I suggested earlier on in this case,
3 have separate duties to perform. A case must be decided on
4 the evidence. It's evidence presented here in this
5 courtroom, and on the law as given to the jurors by the
6 trial judge.

7 It's the duty of the United States Attorneys and the
8 Defendant to present any evidence that they wish to present
9 by questioning witnesses and introducing exhibits, but this
10 has to be done under rules, and they are long established
11 rules. The Judge then provides -- presides over the trial.

12 It's my responsibility to enforce the rules and to
13 decide what evidence can be considered by the jury.
14 Although, as you recall together we make up the Court, your
15 duties are distinct as jurors from my duties as Judge. You
16 are the sole and exclusive judges of the facts; also of the
17 credibility or believability of witnesses. The Judge and
18 the judge alone has the responsibility of deciding the law.
19 The jury, and the jury alone, decides the facts in light of
20 the law as it's given to you by the trial judge.

21 Now, the procedure for a trial is set forth also by
22 law. First, we impanel a jury, and we've done that. Next,
23 the United States and the Defendant, if they wish, they
24 make opening statements to the jury. These opening
25 statements are not evidence. The jury cannot consider them

1 as if they were evidence, but they may be helpful to the
2 jury as the case goes forward.

3 In these opening statements, the United States and
4 the Defendant have the opportunity to outline and to
5 describe to you what evidence they will introduce from the
6 witness stand or any exhibits which are admitted into
7 evidence.

8 Now, witnesses don't always appear in chronological
9 order. There can be various reasons for that, and so
10 opening statements can be very helpful to a jury as a sort
11 of road map to what you can expect the evidence will show
12 in the case. They're not evidence, but they can be helpful
13 by outlining in advance to you, sort of like a table of
14 contents or something in a book, what the United States and
15 the Defendant think the evidence will in fact show when it
16 then comes on.

17 I want to read to you from a United States Supreme
18 Court case. The opening statement has a narrow purpose and
19 scope. It is to state what evidence will be presented to
20 make it easier for jurors to understand what is to follow
21 and to relate parts of the evidence and testimony to the
22 whole. It is not an occasion for argument. The opening
23 statements, the remarks the lawyers for the United States
24 and the Defendant make during the course of the trial and
25 the closing arguments they make after all the evidence in

1 the case has been put before you, all of those things are
2 not evidence and aren't to be considered by you as
3 evidence.

4 Now, in this case, please bear in mind, as in any
5 case where we have pro se litigants, that because
6 Mr. Traficant has decided to represent himself, he appears
7 here with what you might think of as two hats on. In
8 representing himself, that's a lawyer's role and as
9 Defendant.

10 In his lawyer side, in his lawyer role, he can make
11 opening statements to you. He can ask questions of
12 witnesses, and he can make closing argument. After the
13 opening statements, the attorneys for the United States
14 will present evidence. We expect that may begin today.

15 Next, the Defendant, acting as his own attorney, may,
16 if he chooses, present evidence. It's completely up to
17 him. Because the United States has the burden of proving
18 the Defendant guilty beyond a reasonable doubt, it is
19 entirely the defendant's choice whether he wants to present
20 evidence or not. And if he does, whether he testifies or
21 not is also his choice.

22 Remember, it is not necessary that the Defendant take
23 the witness stand in his own defense. A defendant has a
24 constitutional right not to testify, and if he does not
25 testify, that must not be considered by you for any purpose

1 whatsoever. However, if the Defendant wants to testify, he
2 may. Then, however, he has to do it from the witness
3 stand, sworn under oath and subject to cross-examination
4 like other witnesses.

5 Unless the Defendant is sworn to tell the truth,
6 sitting on the witness stand available to be
7 cross-examined, he's not testifying, and so what he says is
8 not evidence. After all the evidence has been presented to
9 you, all of it, whatever it's going to be, then the United
10 States and the Defendant are permitted to argue the case to
11 you.

12 In the opening statement, they give you a preview of
13 what they believe the testimony -- what the evidence will
14 show, and that's a road map. They don't argue the case at
15 the beginning.

16 First, you get a chance to hear the evidence in the
17 case as it actually comes out in this trial, and then, when
18 they've heard all of that and you've heard all of that,
19 whatever the evidence is going to be in the case, then is
20 the time for argument, and that's called final argument or
21 closing argument. Okay? So one is an opening statement,
22 and then at the end, it's final argument.

23 This is the way it is in every criminal case. It's
24 not always this way on television and other places, but in
25 the courts of law, this is the procedure and the way we go.

1 So you get an idea now of what you have ahead of you.

2 Before and after closing arguments, way down at the
3 end, after we've heard all the evidence, I've heard it and
4 you've heard it, then the Judge advises you as to the law
5 that will be applicable in this case and the procedure that
6 you'll follow in your deliberations, and then the matter
7 will be in your hands, in the jury's hands for a verdict.
8 You really don't have to worry throughout these proceedings
9 about how -- what the rules are for you once you go back
10 and deliberate because I'm going to explain those to you
11 right at the very end, right before you go back, so don't
12 be concerned about that.

13 Now, there are times during every trial when one side
14 or the other -- the lawyers for the United States or the
15 Defendant acting as his own lawyer, want to bring something
16 to my attention, which is a legal issue. And so in this
17 courtroom, they stand when they have an objection, and they
18 patiently wait. You see them doing this. They don't
19 interrupt each other. They patiently wait, and I know when
20 a lawyer is on his feet that there is probably an objection
21 of some kind coming, and then I deal with that objection.

22 This is the time I think -- you may have seen it
23 happen. I can't remember in this case if you've seen it
24 happen yet -- but when there's something that is not one of
25 the things that you have to be concerned with but rather

1 it's what the Judge has to be concerned with, along with
2 the lawyers, which would be something that involves the law
3 as opposed to credibility or the facts, which are your
4 part, then we do that outside of your hearing. We address
5 that outside of your hearing.

6 You'll see us take what's called the side bar. We'll
7 do that if it works. The other option is to stop the
8 proceedings and dismiss you, send you back to the jury room
9 so that this will not sort of infect the process that you
10 have to be focused on, and I'll be able to make a
11 determination. The reason that we do side bars is a matter
12 of convenience because if we can fairly, quickly resolve
13 somebody's concern -- and lawyers have a responsibility as
14 the Defendant does when he's representing himself to bring
15 to the court's attention something which they feel is not
16 going according to the rules of the law, when that happens,
17 then I try to resolve it quickly, and in almost every case,
18 it can be resolved very quickly.

19 So we go over. The Court reporter gets up, goes over
20 as far away from the jury as we can get. We are not being
21 rude, but we turn our backs on you, and we make every
22 effort not to talk in a tone of voice that you'll hear, and
23 the reason for that is because we don't want you to have to
24 deal with this issue.

25 It's one I have to deal with anyway. This is just

1 like I don't get involved in the issues that are your part
2 of the case to deal with.

3 But sometimes we have situations where either we
4 can't do it without it being something that's brought to
5 your attention, or we're going to have to deal with it in a
6 way that seems like it's going to delay things. I will
7 probably in most of those cases put that out side of the
8 time you're normally here, which will be at one of the
9 breaks. The lawyers would have to stay and not get a break
10 or at lunch. We would have to work on it, or maybe if it's
11 something that takes a good bit of time, we do it Friday
12 afternoons, when we will have sent you home.

13 It isn't always possible to keep you completely in
14 the box all the time you're here, but that's the goal that
15 we have. So I want you to understand that, and to
16 understand that, lawyers have a responsibility to raise
17 issues with the Court when they think there's a problem,
18 and I have a responsibility to deal with it. That's part
19 of my work. These are legal issues.

20 If I find under the law that an objection is well
21 taken, then you may hear me say I sustain it or something
22 like that. That -- if the objection is not well taken,
23 then I would overrule it. If we have a witness on the
24 stand, it might mean that I allow a witness to continue to
25 testify, even though somebody brought something legal to my

1 attention.

2 The case, however, is going to have to be decided by
3 you only on exhibits, which have been admitted and only on
4 answers which are given under oath or affirmation from the
5 witness stand. Or if I've declared that for some reason a
6 statement is admissible straight out under rules and the
7 law, then that's another circumstance in which evidence
8 could come into the Court and be approved by the court.
9 Those are all legal matters.

10 Sometimes someone will ask a question of a witness,
11 and it will sound -- the question itself will sound like an
12 answer, and that's one of those times when you have to
13 remember that we take the evidence from the answers, from
14 the person who's sworn in telling the truth on the witness
15 stand. Just because the question contains something, you
16 have to remember where it's coming from, and you'll be able
17 to sort this out as we go along.

18 But the evidence comes from the answers. A good way
19 to remember it, if a statement is testimony that can be
20 considered by you as evidence, ask yourself if it's a
21 statement that the Judge has otherwise declared is going to
22 be admissible under the law or if it was said by somebody
23 who was sworn and on the witness stand. That's it. That's
24 a helpful thing to remember.

25 Now, sometimes the lawyer for the United States or

1 the Defendant may ask somebody a question on the witness
2 stand, and the Court will rule that the question can't be
3 answered. You won't get to hear the answer. Then you
4 haven't heard the evidence, right, that evidence? You
5 can't consider what you haven't heard as if it were
6 evidence. You begin to see how all this works as we go
7 along.

8 There are times when these legal or procedural
9 matters are being discussed where we may make an
10 instruction to you to disregard something that somebody
11 said, and that's the same thing. Even if somebody has
12 gotten some words out before an objection was made, we may
13 ask you to disregard things because that then won't be
14 evidence because of the legal ruling or ruling by the
15 Judge.

16 I want to talk to you just for a minute about your
17 notebooks. You don't have to take any notes if you don't
18 want to. We provide those to you as a convenience. This
19 is going to be a fairly long proceeding, we think, and
20 there are a lot of counts in this, and so it may help you
21 as we go along to take notes. So what judges have
22 developed are a few things to remind jurors about when
23 they're taking notes, and these are just things for you to
24 consider.

25 Don't let taking your notes divert you from paying

1 full attention to somebody on the witness stand. You'll
2 find -- and I'll give you an instruction about your job as
3 determining credibility of witnesses before you can hear
4 the first one, but what you'll find that a person's
5 demeanor may be something you want to pay attention to.

6 You'll find you'll want to be able to view and see
7 what's happening here, and so take notes if you'd like, but
8 just remember that you're not -- you don't want to lose
9 what's actually happening in front of you here in the
10 courtroom because that may help you evaluate credibility.
11 Notes are memory aids; they are not evidence.

12 So the notes that you take or your fellow jurors take
13 are not evidence in the case, but they are things to help
14 you with memory. And it all depends on your style. We all
15 remember that from school. Some people were good note
16 takers, and some people were better just listening and
17 taking in information. So -- somebody's independent
18 recollection may be something you want to rely on more than
19 the fact that someone else had a note that's going to be
20 told to you.

21 At the end of every trial day, we collect all of your
22 notebooks, and we keep them locked, and we don't look at
23 them. Nobody else reads these except you. They'll be on
24 your chairs or on the floor, depending on how it works out
25 right near your chair when you come in to be impaneled each

1 day, but we take care of them. Your notes won't be
2 reviewed by any of us or by anyone else. You will be able
3 to use your notes when you go back to deliberate in the
4 case after the case has been given to you for a verdict.

5 But after the trial, the Court staff collects all
6 these notebooks, and we destroy all juror notes. They are
7 not kept as part of the record in the case. Then finally,
8 I know you know this, but a trial isn't a contest about
9 skill or learning or tact or any of those things. Under
10 our system, it is a proceeding, which tries to give us with
11 all the full protections of the constitution and our system
12 of law a way of determining, as well as truth can be
13 determined from evidence submitted under the law and under
14 the rules for court proceedings, what the facts are in this
15 case and what the decision should be under the law in this
16 particular case.

17 As I said, when we started this altogether, we know
18 this is inconvenient, we know this is disruptive of your
19 lives. It's a very high calling of service in this
20 country, and so we're now going to turn to the lawyers and
21 let them begin to present to you what they believe the
22 evidence in this case is going to show, and I think later
23 on today you'll probably begin to actually hear the
24 evidence in this case. We'll start with the Government.
25 Mr. Morford?

1 MR. MORFORD: Thank you, your Honor

2 OPENING STATEMENTS ON BEHALF OF THE GOVERNMENT

3 MR. MORFORD: Good morning, ladies and
4 gentlemen. The case you are about to hear is about the
5 abuse of power. The case is about a United States
6 Congressman who misused his position, abused his power, and
7 used people for his own selfish gain. In a nutshell, what
8 the evidence in this case is going to show is that the
9 Defendant, Congressman James A. Traficant, Junior, used his
10 position, his office, as a U.S. Congressman to take
11 advantage of other people for his own personal profit.

12 Indeed, the evidence in this case is going to show
13 Congressman Traficant is one of the most powerful people in
14 this country, one of 435 members of the powerful House of
15 Representatives, the body that makes the laws that govern
16 this country, the body that funds the agencies and
17 departments and has oversight over the agencies and
18 departments that make up our Government, and the body that
19 has the power to help investigate virtually anyone, even
20 the president of the United States. It's a very powerful
21 position.

22 The evidence is also going to show that in his
23 dominion of Youngstown, Ohio, the Congressional district he
24 represents, he is the single most powerful Government
25 official there is. He is a man who's very words, actions,

1 promises, threats, demands, letters, telephone calls, carry
2 great weight and influence, influence over the federal
3 agencies and departments that depend upon Congress for
4 their funding, influence over state and local Government
5 agencies that seek federal funding, and, therefore,
6 influence over businessmen who in the ordinary course of
7 their business have to deal with these federal, state, and
8 local agencies and departments on a regular basis, and then
9 go to their local Congressman to have them assist them and
10 help them when they have problems with those agencies and
11 departments.

12 In short, ladies and gentlemen, the evidence in this
13 case is going to show that in the dominion of Youngstown,
14 Ohio, Congressman Traficant is a political Goliath, if you
15 will, who uses his hammer of power and influence as a
16 United States Congressman to take advantage of others for
17 his own personal profit. Let me give you some examples.

18 The evidence in this case will show as a member of
19 Congress, Congressman Traficant has the power to hire and
20 fire and set the salaries and duties of his staff members
21 at will. He can decide how many staff members he's going
22 to have. He decides what they're going to do, he decides
23 where they're going to work, he decides who's going to
24 supervise them. And he decides how much they're going to
25 make.

1 And the evidence is going to show that he abused that
2 power with certain select employees by giving them salaries
3 that were greatly inflated, salaries that were beyond the
4 duties that they were given to do, salaries that were not
5 justified, and then had those employees give him kickbacks,
6 cash kickbacks from their inflated salaries.

7 One such employee was a man by the name Allen
8 Sinclair. Allen Sinclair was a young lawyer in the
9 Youngstown area who happened to have an office in the
10 same -- who happened to have an office in the same building
11 as Congressman Traficant. His specialty was personal
12 injury work. When somebody had an accident, he would get
13 the police report, contact the person to see if they wanted
14 to sue. That's what he did. He had absolutely no
15 Congressional experience whatsoever. Yet, Congressman
16 Traficant hired him, gave him very big duties, gave him
17 almost no supervision, put him in an office away from the
18 rest of his Youngstown staff, and allowed him to continue
19 to practice his personal injury law practice on a full time
20 basis.

21 And at the same time, he gave him a \$60,000 a year
22 salary over the strenuous objection of his own chief of
23 staff in Washington, who thought it was ludicrous.

24 The \$60,000 was the second highest salary in his
25 entire congressional staff. It was even higher than the

1 Direct of Legislation in Washington D C who worked for him
2 for over four years, and the evidence is also going to show
3 that in return, Mr. Sinclair would give Congressman
4 Traficant \$2500 cash every month out of his paycheck.

5 From the time he received his first full
6 congressional paycheck in December of 1998, for the next 13
7 months until January 2000 when the FBI came and questioned
8 Mr. Sinclair, confronted him with an allegation of the
9 salary kickback scheme, Mr. Sinclair, every month for 13
10 months gave \$2500 a month to Congressman Traficant. If you
11 do the math, that's \$32,500 cash, tax free in just over a
12 year that he put in the pocket of Congressman Traficant
13 because of his power as a U.S. Congressman.

14 In addition to the Allen Sinclair kickback, the
15 evidence is going to show that the man who preceded
16 Mr. Sinclair was also required to kickback a portion of his
17 salary, which was also inflated, and that he had done so
18 for several years.

19 In addition to these salary kickbacks, Congressman
20 Traficant misused the power of his high office by having
21 members of his congressional staff perform personal
22 services for him, as though he were a king and
23 congressional staffers earning taxpayer salary were his
24 personal servants. He sent staff members out to his horse
25 farm in the Youngstown area and had them perform chores,

1 hundreds of hours of chores during the hey season. He
2 would send employees out to the farm and sometimes a week
3 at a time, working all day long in the hot summer sun,
4 bailing hey, congressional staffers.

5 He also sent staff members out to perform maintenance
6 and repair work, sanding, painting, repairing a wooden
7 house he had in Washington, but that's not all. The
8 evidence is going to show that he also used his power and
9 his influence and his congressional position to get
10 Youngstown area businessmen to perform thousands of dollars
11 work of free services and to give him goods and labor at
12 a -- at the horse farm he had in the Youngstown area.

13 In one case, he got a Youngstown area businessman to
14 hire and pay workers over \$30,000 to build an addition on
15 the farm house, the horse farm in Youngstown.

16 He had three other contractors come out at different
17 times and perform thousands of dollars work of free work.
18 Another contractor ended up giving him \$2400 that he
19 wouldn't have to go out to farm and get someone to do work
20 like the others. He had yet another businessman give him
21 \$13,000 in cash and paid to have \$26,000 work worth of
22 repairs done on his wooden house over and over and over
23 again.

24 The evidence is going to show a continuing pattern,
25 which Congressman Traficant used his position as a

1 Congressman to perform and to promise to perform official
2 acts, and that as a result of that, he obtained free
3 things, free services, free labor, free items in cash as a
4 result of his position.

5 Now, some of these things you are a going to hear
6 about they're viewed in artificial isolation. You just
7 look at a particular item; may not seem like a whole lot.
8 He got some free oats or saw dust for free delivered for
9 his horse stalls, but when you add the things together,
10 when you take everything as a whole and you look and see
11 what you see, what you are going to see is a repetitive
12 pattern of illegal bribes, illegal gratuities, and fraud,
13 which add up to over \$100,000 of free labor, free items,
14 and free services.

15 And regardless how anybody else might view these
16 things, what's important, what the evidence is going to
17 show is that Congressman Traficant himself, for him, these
18 things were very important, and the reason was because the
19 evidence is going to show that Congressman Traficant is
20 very tight with his money, and it will show that it was
21 these kinds of things that were important to him.

22 It was these kind of things that he coveted. It was
23 these kinds every things he sought from the people who were
24 seeking his help, and it was these kinds of things that he
25 obtained kickbacks for and because of the official acts

1 that people were asking him to do. Some of the best
2 examples of this pattern can be found in the work that was
3 done at his horse farm.

4 And in this regard, the evidence is going to show
5 that Congressman Traficant had a great interest in love for
6 show horses, and he wanted to have a farm in which he could
7 raise and breed and train and take show horses to
8 competitive horse shows.

9 The problem is horse shows are a very expensive
10 hobby. It requires a great deal of time, labor, and money
11 to run a farm like that, especially when you spend half
12 your time Washington, D.C. Indeed, the evidence is going
13 to show and you are going to see pictures of it that this
14 farm was very rundown, and you are going to hear testimony
15 about the shape of the farm in the early years and what bad
16 shape it was and all the repair work and all the things,
17 improvements and things that were needed.

18 And Congressman Traficant didn't want to pay for
19 those things. He wanted to have the farm, but he didn't
20 want to pay for the farm and so what he did is used his
21 power and influence as a U.S. Congressman to get others to
22 do the things that he didn't want to pay for himself.
23 Trying to run the farm as cheaply as possible, he got
24 businessmen from the Youngstown, Ohio, area to come in and
25 do all kinds of free work.

1 And one case, in the late 1980's, there was a crooked
2 contractor, a paving contractor by the name of Tony Bucci.
3 And the evidence is going to show that Tony Bucci was
4 having trouble with the labor union. They were trying to
5 reach a labor agreement, and they were putting great
6 pressure on Bucci, and Bucci didn't want to enter the terms
7 of the agreement to what the union wanted, so he went to
8 Congressman Traficant, who he knew was a Congressman, had
9 great influence over the labor unions, and he asked him if
10 he could intervene on his behalf.

11 And the evidence will show that Congressman did
12 intervene on Bucci's behalf, and at the same time he was
13 helping Bucci with his labor problem, he asked Bucci to do
14 something for him, to send crew workers and heavy machinery
15 back hoes and things out to his farm to do some work. And
16 Bucci did.

17 And Bucci decided he would only build them at his own
18 cost. And he sent him a bill for \$10,000 for the work he
19 did. The Congressman Traficant refused to pay for it. And
20 he sent him another bill because the evidence is going to
21 show that Bucci was also very tight with his money. And he
22 sent him bill after bill after bill after bill, to the
23 point that he finally got a lawyer and sent letters
24 threatening to sue the Congressman unless he paid the bill,
25 and you'll see that evidence.

1 They finally settled the matter when they had a
2 meeting out at the farm, and Congressman Traficant said
3 look, for the \$10,000 bill, why don't you just let that go,
4 there is a lot I can do to help you. You let the bill go,
5 and send your crews out and do stuff at the farm from time
6 to time. Then I'll go to back for you, I'll take my
7 hammer, congressional power, and influence and help you
8 with some of the problems you're having because you're
9 going to hear from the evidence that Bucci was a crooked
10 contractor who was always having problems, problems with
11 the U.S. Department of Transportation, problems with the
12 U.S. Department of Labor, with the Ohio Department of
13 Transportation, with the Federal Bureau of Prisons.

14 The evidence is going to show that after they reached
15 that agreement for the next six years until 1996 when Bucci
16 himself came under investigation by the Internal Revenue
17 Service, Congressman Traficant went to bat for Bucci. He
18 went to bat with the U.S. Department of Transportation, the
19 U.S. Department of Labor, the Bureau of Prisons, DOT, the
20 Ohio Department of Transportation, many other state and
21 local agencies, sometimes demanding those agencies to take
22 action on behalf of Bucci, sometimes demanding that those
23 agencies leave Bucci alone, sometimes even threatening
24 those agencies with congressional investigations if they
25 didn't back off of Bucci.

1 And the evidence is going to show Bucci continued to
2 do work out at the farm. You're going hear from a whole
3 series of witnesses who were working for Bucci and sent out
4 to the farm all through the period 1992, 1993, 1995, 1996.
5 An, in fact, there was one employee, a full time employee
6 of Bucci, who Bucci sent out to work at the farm as a farm
7 hand for six months. Congressman Traficant didn't pay him
8 a penny. Bucci paid him a salary as though he were working
9 for Bucci, even though he was working for Bucci by doing
10 work on Congressman Traficant's farm.

11 In another case, you're going learn about another
12 contractor by the name of Greg Tyson. Greg Tyson was a
13 partner of Bucci in some businesses. One of those
14 businesses they were trying to start up was a concrete
15 company. And his son needed to borrow \$400,000 from the
16 bank. The problem was Tyson was a terrible credit risk.
17 The things he wanted to use the money for had no collateral
18 value.

19 So Bucci went to Congressman Traficant and said this
20 is a deal where I can make a lot of money because whatever
21 Bucci gets out of his bank loan, he's going to pay --
22 whatever Tyson gets out of the bank loan, he is going to
23 pay to me in return for me giving him these trucks and this
24 cement batch plan, and we're going to run it together.

25 So Congressman Traficant referred Bucci to Bank One

1 of Youngstown and asked them if they could help him get the
2 loan. The bank officer looked at the loan application and
3 said this guy's not qualified. This is a terrible loan for
4 the bank, no. And then Congressman Traficant wrote a
5 letter to the bank in which he demeaned the young bank
6 officer who was doing his job properly, he then went to the
7 president of the bank and the CEO of Bank One Youngstown
8 and got the bank to reverse their decision and give the
9 loan, and the evidence is going to show that within one
10 year of that loan, Greg Tyson defaulted on the loan, and
11 the bank had lost several hundred thousand dollars, and
12 Bucci made several hundred thousand dollars on the deal.
13 And what about Congressman Traficant?

14 The evidence is going to show that Congressman
15 Traficant had Tyson send a group of his workers out to the
16 farm where they did thousands of dollars worth of
17 construction services for free because Congressman
18 Traficant's efforts in helping him get the loan, but that's
19 not all. The evidence is going to show there was another
20 contractor, this one by the name of James Sabatine, another
21 crooked Youngstown paving contractor, and the evidence is
22 going to show in his business he was having problems with
23 the railroad, and he contacted the railroad and called them
24 several times; couldn't get the railroad company to return
25 his calls.

1 So he went to Congressman Traficant, and he asked him
2 for his help. And Congressman Traficant got involved and
3 he set up meetings, and as soon as he got involved, he
4 asked Sabatine to come out to his farm, and like the
5 others, he started showing him things on the farm that
6 needed to be done. He asked him to bring out a carpenter
7 to do some carpentry work. He asked Sabatine if he would
8 pave his driveway. He started giving Sabatine a list of
9 things to do, and Sabatine looked at the farm and decided
10 he didn't want to get involved because he felt the list of
11 jobs would never end.

12 So instead, he got \$2400 cash; met Congressman
13 Traficant out in one of the barns, handed him the cash,
14 because he felt he needed to give him something because of
15 what Congressman Traficant was doing for him, that he
16 didn't want to get involved in the farm.

17 Again, the pattern is repeated with another
18 contractor, a man by the name of Dave Sugar. Dave Sugar's
19 son had a DUI offense, and he was looking to get a lesser
20 sentence for his son, and he was looking to see if he could
21 get his son out of Licking County where the DUI had taken
22 place, out in the country, so he wouldn't have to serve
23 time in the Licking County Jail and get back to Mahoning
24 County and serve time, home detention or in the Youngstown
25 halfway house.

1 So he and his son met with Congressman Traficant and
2 asked him to use his congressional influence to help them,
3 and Congressman Traficant did. He had staff members make
4 calls. He had a staff member set up a lawyer to come in
5 and represent the son. He sent letters to the Judge. He
6 sent letters to the halfway house. It's interesting the
7 very day they met with Congressman Traficant and asked for
8 his help, he asked him if they'd seen his farm, and he put
9 him in the car and brought him to the farm, and once again,
10 he started showing him things that needed to be done with
11 the farm and gave him a list of things that they needed to
12 do for him.

13 And Dave Sugar will testify they did \$10,000 worth of
14 work at the farm. And that there was no expectation of
15 being paid. There was no discussion of payment because he
16 understood that this was something he needed to do because
17 of the work Congressman Traficant was doing for him.

18 Again, in the spring of 2000, Dave Sugar needed
19 another favor from the Congressman, and he went to the
20 Congressman, and once again, the Congressman asked him to
21 come out and do more work. And yet, another incident, a
22 Youngstown area contractor name Pete Bucheit had an
23 international deal that had gone sour, and there was a
24 large multi-million dollar dispute he had with the
25 principles of Saudi Arabia, the king's brother, and he was

1 getting nowhere in negotiating with the Suadis, and
2 somebody said you need to get your Congressman involved.

3 So he went to see Congressman Traficant, and
4 Congressman Traficant agreed to help him. And he began
5 contacting the Department of State, the Department of
6 Commerce, the Saudi Government.

7 He wrote letters to the king of Saudi Arabia, letters
8 to the Secretary of State, James Baker, he threatened the
9 Saudi Government with hearings. And then, he finally,
10 through his pressure, obtained a settlement for Bucheit,
11 and weeks after that settlement, he had Bucheit send a
12 carpenter out to the farm, and the carpenter got out to the
13 farm, and Congressman Traficant kept adding and adding and
14 adding to the job until soon they'd done a major addition
15 on the house that had cost \$30,000, and Congressman
16 Traficant never paid Bucheit a penny for that work.

17 But instead, as Bucheit had additional problems in
18 another place, this time in the Gaza strip, Congressman
19 Traficant went to bat for him again. At the same time he
20 owed this money that he was not paying.

21 During the same time Congressman Traficant had all
22 this work going on at his farm, he began to have problems
23 with his wooden boat because he didn't put the money into
24 maintaining, and it could be a problem. And the boat
25 started to rot, smelled of mildew. He could not longer

1 live on the boat, but the problem, he had a \$26,000
2 mortgage on the boat and couldn't unload the boat because
3 nobody would buy it because of the horrible shape it was
4 in. It needed major repairs. And so what he did was he
5 saw an opportunity, a millionaire from Youngstown by the
6 name of J. J. Cafaro, had just launched a new company that
7 had a new technology, and the technology to be successful
8 needed to be certified by the FAA, Federal Aviation
9 Administration.

10 Cafaro was also looking for federal funds to purchase
11 this technology. And so what happened was Cafaro went to
12 the Congressman and had asked him to help, and Congressman
13 Traficant sat on the House Aviation Subcommittee, was the
14 ranking member of that committee, said he'd go to bat for
15 Cafaro. He would pressure the FAA to certify the
16 technology, and he would promise to propose legislation to
17 try to get funding for that company.

18 The evidence will show at the same time Congressman
19 Traficant said oh, by the way, I got this problem with my
20 boat. And in return and because of what he was doing for
21 Cafaro, he got Cafaro to agree to buy this boat in its
22 state of utter disrepair with the idea that Cafaro would
23 pay him \$26,000 that was left on the mortgage to get him
24 out from under the mortgage, and he would also fund the
25 repairs on the boat.

1 But Congressman Traficant was worried about how that
2 transaction would look, and so at the same time that he's
3 going to bat for this company, Cafaro is helping him out
4 with the boat. So he set up a sham transaction to make it
5 look as though one of Cafaro's employees was actually
6 buying the boat.

7 But it was Cafaro that did the funding, and Cafaro
8 paid \$26,000 in repairs on the boat. He gave Congressman
9 Traficant half of the money, \$13,000 towards the purchase
10 of the boat, and in the end, Congressman Traficant ended up
11 with the boat, with \$13,000 in cash, and \$26,000 worth of
12 repairs on the boat.

13 The evidence is also going to show in addition to
14 this pattern we talked about of illegal bribes, illegal
15 gratuities, and fraud, that when the Congressman learned
16 that the FBI was investigating these matters, he began
17 taking steps to try to hide these things, to cover up, and
18 to obstruct justice.

19 The evidence will show that he tried to transfer some
20 property so the Government couldn't seize the property. He
21 also took checks and wrote checks to people who he never
22 intended to pay and suddenly showed up at their office
23 saying, look, the FBI is investigating me, and they may
24 come out and interview you about the work that I did, here,
25 even though you did \$10,000 worth of work, here, I want to

1 give you a check for the thousand dollars.

2 I'll pay the rest some day, cash the check, put it in
3 your file. If the FBI comes out, show I made a partial
4 payment, and it never happened until he found out he was
5 under investigation.

6 In addition to that, he instructed one of his
7 congressional employees to destroy evidence and stood over
8 his shoulders and watched him as he burned documents. In
9 addition to that, he instructed federal employees to come
10 and lie to the Grand Jury in Cleveland.

11 Now, ladies and gentlemen, during the course of this
12 trial, you are a going to hear testimony from a number of
13 different kinds of people. You are a going to hear
14 testimony from some of the people who Congressman Traficant
15 used in his effort to obtain these things for free. You're
16 going hear the testimony of his staff members, loyal, some
17 of them very good people, who believed in him so strongly
18 that they overlooked things that they knew over time
19 weren't right. And they'll come in and tell that you,
20 looking back on it now, it was their loyalty that caused
21 them to go along with things that they now know are wrong.
22 You're going to hear testimony from some of the people who
23 he bullied. You are going to hear from the young bank loan
24 officer who had Congressman Traficant in a very demeaning
25 way go over his head.

1 You're going hear from a young lawyer with the
2 Department of Transportation who was trying to do his job
3 in the course of enforcing the law against Bucci, only to
4 have Congressman Traficant call him on the phone, swear at
5 him, tell him to do what the Buccis wanted, and threatened
6 the Department of Transportation, the U.S. Department of
7 Transportation with a congressional investigation if they
8 didn't help the Buccis.

9 You'll hear about a DOT inspector doing his job so
10 well he was keeping Bucci from being able to cheat on
11 contracts, and Bucci hated him because of that, and he went
12 to the Congressman and said you've got to do something
13 about this guy. And you'll hear how the Congressman
14 contacted the Ohio Department of Transportation and
15 threatened to try to get this employee fired and threatened
16 the Ohio Department of Transportation with a congressional
17 investigation. Why? Because he was doing his job, which
18 was bothering Bucci. And why would Congressman Traficant
19 do that? Because Bucci was doing work at his farm, and
20 that was their agreement.

21 You're also going to hear from some of the
22 businessmen who payed the bribes and gratuities to the
23 Congressman. Some of these businessmen were reluctant, but
24 they did it anyway. Most of them were not reluctant, most
25 of them were willing participants who were willing to

1 oblige the Congressman's request because they wanted his
2 hammer of power and influence on their side. And they were
3 willing to do those little things that it took to keep it
4 on their side.

5 Some of those people are going to -- you're going to
6 find out had been charged with federal offenses, and some
7 of them are going to be testifying under plea agreements,
8 and it's very important that you know that. And every one
9 of those witnesses who take that stand, we're going to ask
10 them to explain to you their understanding of the plea
11 agreement, what it is they hope to gain in return for their
12 testimony because that's something you need to know to
13 determine the credibility.

14 What we're also going to provide, a large amount of
15 evidence that will substantiate and corroborate what it is
16 they're saying that happened. You're not going to have to
17 take the word of a J. J. Cafaro or a Tony Bucci or a Dave
18 Sugar. You're going to be able to see the actual letters
19 and faxes the Congressman sent to the agencies on their
20 behalf. You're going to be able to see bills and invoices
21 and photographs and hear testimony of workers who were out
22 at the farm at the same time he was sending those letters
23 that you will see.

24 And so you won't have to rely just on their
25 testimony. In fact, you'll hear from a whole chorus of

1 witnesses, most of which don't even know each other, but
2 all of which describe incredible repetitive pattern in
3 which Congressman Traficant used his influence to perform a
4 promise of official acts and got these people to do things
5 of value to him because of those official acts.

6 Ladies and gentlemen, watch for this corroboration,
7 take note of the things that are not in serious dispute
8 because they're so well documented, and note the repetitive
9 pattern that you'll see repeating over and over and over
10 again in this case.

11 In closing, ladies and gentlemen, if you view the
12 evidence as a whole, if you focus on the documents that
13 corroborate the testimony, if you listen to all the little
14 witnesses that corroborate the big witnesses, if you watch
15 for this repetitive pattern that will repeat itself over
16 and over and over again with the Congressman always getting
17 something back at the same time he's taking action for
18 other people, if you base your verdict on the evidence in
19 this case and apply the law which your Honor gives to you,
20 then you will reach a verdict in this case that is both
21 fair and just, and in this case, that will be a verdict of
22 guilty as to all ten counts of this indictment.

23 Thank you.

24 THE COURT: Thank you, Mr. Morford.
25 Congressman, you can tell us what you expect the evidence

1 in the case to show.

2 OPENING STATEMENTS ON BEHALF OF DEFENSE

3 MR. TRAFICANT: Good morning.

4 THE JURY: Good morning.

5 MR. TRAFICANT: Now that you've found me
6 guilty, let me proceed. This body is known as the dream
7 team in Mahoning County because they have such excellent
8 attorneys. As you know, the Judge has informed you,
9 Prosecutor has made some very serious charges. He said I'm
10 so powerful I can do anything. I'm not the president. I
11 want to talk specifically about this case and matters that
12 deal with evidence.

13 I will show evidence that in 1983 I was the only
14 American in the history of the United States that defeated
15 the Justice Department in a RICO case per se me not being
16 an attorney. I will have a witness who will come forward
17 and say that when I walked out of that courtroom, I was
18 immediately being investigated by the IRS and the FBI.
19 Number 1.

20 Number 2, the IRS didn't like some of the legislative
21 acts that I had taken, and the evidence will show that I'd
22 been threatened for those acts where I changed the law that
23 now allows American citizens the right to sue the IRS for
24 \$1 million if they abuse you; changes of law of the proof
25 in civil tax case where you were guilty and had to prove

1 yourself innocent, almost like many of you believe I might
2 have to do here.

3 Now, they have to prove you're guilty. The other
4 Traficant law says they can no longer in the back room
5 decide to seize your home without a warrant. You have a
6 right to be present and represented and contest their
7 taking. Let me tell you what that impact of legislation
8 had and how mad the IRS is and had made threats to my
9 office repeatedly through the entire process.

10 Wager tax on American citizens dropped from \$3.1
11 million a year to \$500,000. Property values dropped from
12 \$688,000 to \$160,000, and seizures of American homes
13 dropped from over 10,000 to under 60,000. They were taking
14 10,000 homes; members of Congress saying Jim, you're crazy,
15 watch yourself. You're going to be targeted. Be careful,
16 watch what you say, watch what you say. Is this America?
17 I sure as hell didn't watch what I said.

18 Now, let's talk about some of these cases they
19 brought up. One of these contractors was facing 20 years
20 in jail, losing \$15 million, and all he had to do was wear
21 a wrist bracelet, will come before you and tell you he gave
22 Jim Traficant a couple thousand dollars.

23 Another one is an attorney who owed another attorney
24 half a million dollar who was already on probation for
25 having misrepresented and lied in his ads to people like

1 yourself and taking advantage of them, and suspended for
2 one year. And that lifted and was put on probation for six
3 months, and, in fact, fraudulently produced a document to
4 the Government that put the business where I was renting in
5 his wife's name, which was clearly against the law, which
6 would clearly have taken away his law license.

7 Be careful of the witnesses brought before you. The
8 Bucci brothers, evidence will show that I recommended
9 several people, that they fired them, they weren't
10 trustworthy, but they had 250 seasonal jobs in my
11 district. My district is hurting. It's the highest
12 unemployment rate of any city in the State of Ohio. My
13 people are hurting, they can't get jobs, that's my job.

14 Did I call ODOT? Yes, I did. Now, U.S. Aerospace,
15 they had a laser guided system that basically forced that
16 plane to land at the same spot, at the same time, every
17 time, thus avoiding great disasters. If you'll recall the
18 disaster in Arkansas, the plane missed the runway because
19 of failure to visually see the runway, and they landed long
20 on the runway. I believe strongly in that.

21 What he's talking about is, he's saying that I went
22 with my power and got the FAA under pressure to do
23 something about it. I didn't do that. I got the
24 secretary -- the Secretary for the Aviation Administration,
25 James Garvey, on a night when it was raining and wind

1 blowing, and took her with the committee chair maybe of the
2 Subcommittee on Aviation, Jimmy Duncan, who I will call as
3 a witness, and showed under such an extreme circumstances
4 how the plane flying back and forth landed exactly on that
5 spot safely.

6 There was talk the Congressman passed legislation
7 that made guard rails, signs, lights, impact, bridge impact
8 continuators, 100 percent funded, and in the trust fund,
9 I'm known for safety in America, and I take offense here.
10 I never forced anybody to work on my farm, I don't own that
11 farm. I didn't want Bucheit to do that work, and if I
12 asked Pete Bucheit who has been charged and pleaded
13 innocent to build me a barn, he would have built me a Taj
14 Mahal because yes, he had so much confidence in his
15 Congressman, and I'm proud of this.

16 I went before Prince Bandar's chief assistant. I, in
17 fact, negotiated the agreements. Then the attorneys come
18 in and sign the papers like these guys and made about a
19 million and a half dollars.

20 And let the evidence show that I didn't get a damn
21 dime.

22 Now, let's talk about the grocer, Mr. Nemenz, and I
23 have tape recordings on many of these if the Judge allows
24 them in. Mr. Nemenz threatened to sue me. He was to build
25 me a barn, I had all the steel, I had the poles. They came

1 to me and said well, I think we should fill in the hole. I
2 said I'll fill in the hole. It won't cost much. We'll
3 fill in the hole.

4 Then they come back and said these round post,
5 telephone posts are hard to work with. Let's get six-inch
6 square poles. Then they said we'll bring 25 Amish men out.
7 They'll be here five days. You have the lumbar. You have
8 the steel. It's an all steel pole barn, and we'll be out
9 of here in five days, it'll be \$17,000. And now I have a
10 witness in here that was standing right there when that was
11 said.

12 I didn't force anybody to do anything. You know what
13 I did? I fought for my people. And yes, I've been
14 outspoken, and I've been targeted for it. I happen to be a
15 Democrat, and I like President Clinton, but I'm the only
16 Democrat that brought up the issue of Red Chinese general
17 army money going to the Democrat national committee that
18 possibly could have affected the last election.

19 MR. MORFORD: Objection.

20 THE COURT: Just what the evidence will show,
21 Congressman.

22 MR. TRAFICANT: The evidence will show that I
23 have made tremendous enemies within the Government because
24 of the stand I had taken on Waco, Ruby Ridge, Enron,
25 Chinese Government, going to the Democrat National

1 Committee, and that I stood up and said by God, this is
2 wrong.

3 And I was one of the very few. And members of
4 Congress listened again. Be careful, Jim. What the hell
5 is wrong with you? You're going to be targeted. Look, the
6 FBI does not like me. Ten years ago, they went to visit a
7 man with an IRS agent, a treasury agent, about a year ago,
8 an IRS agent, a treasury agent, an FBI agent stopping cold
9 on a man who I bought a horse from in southern Ohio, with
10 a check, ten years ago. Three agents. They don't like me,
11 I don't like them. I believe in President Regan. I
12 believe what President Truman said. I believe what
13 President Carter intimated, I love America, but I don't
14 like the big bureaucrats. They seem to run America.
15 Congress seems to be afraid of these bureaucrats. People
16 are afraid to death of them.

17 THE COURT: That's argument, and you're going
18 to have a chance to do that after they've had a chance to
19 hear the evidence in the case.

20 MR. TRAFICANT: Do I still have time in my --

21 THE COURT: Yes, you do.

22 MR. TRAFICANT: How much time do I have?

23 THE COURT: Another 15 minutes.

24 MR. TRAFICANT: Okay. Let the witness
25 reflect on Mr. Bucheit. Mr. Bucheit was charged with

1 perjury. They said he lied about what he did with Jim
2 Traficant. First of all, his deal was made with my father.
3 Witnesses will come out and prove that.

4 Second of all, some of the things were done I didn't
5 want done because of the costs, and my dad was up in age.
6 And I didn't want them done, but that's not the issue. The
7 issue is the perjury he was charged with. They took the
8 word of a man who I have a police report on, who threatened
9 to break Mr. Bucheit's wife's legs if he didn't give him
10 \$50,000. And I've got the police report, here, here as
11 evidence.

12 And the Government took the words of a man who was
13 going to break Mr. Bucheit's wife's legs over Mr. Bucheit.
14 And then they're saying I forced Mr. Bucheit. Mr. Bucheit
15 would have built me a Taj Mahal. He said Jim, pay me over
16 20 years. I can't speak the exact numbers because it was
17 gagged, but let me tell you this. The agreement I reached
18 with Mr. Bucheit was four times that what the attorney
19 will -- I agreed to settle on in the beginning, and yes, I
20 felt that this Prince not only ripped off Mr. Bucheit, I
21 found out he ripped off 20 other American companies that
22 called me. And I submitted a press release to the
23 Washington Post printed and said that when he comes into
24 America, he should be picked up on the civil RICO, and damn
25 his passport should be taken, and he should pay these

1 claims.

2 And let me tell you this, jury, they knew Bucheit's
3 case was a dead bang winner but didn't want the exposure on
4 the other millions of dollars they owed the company, but
5 they had to settle with Mr. Bucheit, and they had to eat
6 some of those other ones and some of the other companies
7 from Georgia, from Florida, called me to help them.

8 Now, let's talk about Tyson. He was truly a black
9 contractor. Now, we've had a lot of shell games, folks.
10 We've had a lot of people that say they're black business,
11 they are not black businesses. They put someone out in
12 front, someone gets a couple of bucks, and they take the
13 money. Did I go to bat for Mr. Tyson?

14 Yes, I gave him a shot. I said give him a shot, help
15 him. Did he do some things for me? He wanted to. Did I
16 pay him? Yes, with a horse. I don't have racing horses; I
17 have a world champion horse that won two champions, prize
18 money was \$160. I happen to love the breed of American
19 saddle horses. But here I am now being accused of having
20 my staff come out and forcing them to work. I --

21 THE COURT: That's argument, Congressman, you
22 will have a chance to do that.

23 MR. TRAFICANT: I will present evidence.

24 THE COURT: Thank you.

25 MR. TRAFICANT: That I mowed, raked, tended,

1 bale hay, and I will produce evidence that any worker that
2 came out came out for two reasons.

3 Number 1, they didn't want to come out to see me and
4 talk to me. And Number 2, some of them wanted some
5 exercise. And many times, it was on the weekend. There
6 were times when I did not have sawdust for the bedding of
7 my horses. I called -- I had one fellow that could drive
8 an old truck I had that was so unsafe only one guy I felt
9 comfortable with. They went and got sawdust. One of the
10 Bucci brothers used the sawdust, and I repaid it with straw
11 I had because I didn't use straw in bedding for my horses
12 because it's too hard to clean those stalls.

13 What am I on trial here for?

14 Evidence will show there were loans made to me that
15 I'm a member of Congress, and all this so-called big money,
16 I average \$2,400 a month in pay. My wife still works on
17 her feet. She's a beautician. My dad was a truck driver.
18 I never complained a damn bit. But I'm not going to be
19 pushed around by anybody. You have a very serious duty
20 here, but I want to state this to you. This isn't
21 self-serving. Evidence will show that this is more than a
22 case about Jim Traficant.

23 The evidence will show that this is a case of the
24 judicial branch and the legislative branch for whatever
25 reason looking horns.

1 Now, this isn't out of school, but there are
2 technicalities in this case that still deal with documents
3 that deal with the speech and debate laws and the
4 separation of powers --

5 MR. MORFORD: Objection.

6 MR. TRAFICANT: -- of Congress and the
7 judicial branch.

8 THE COURT: That is not telling them what the
9 evidence will show in this case. This is -- this is this
10 case. You've heard what this case is about. I read it to
11 you earlier. This is the lawsuit that I read to you about
12 earlier. Mr. Traficant?

13 MR. TRAFICANT: Does that take up my time,
14 your Honor?

15 THE COURT: It doesn't.

16 MR. TRAFICANT: Thank you.

17 The point I'm making is some of these documents that
18 you'll be looking at as evidence, when these documents were
19 subpoenaed, this is now evidence, I turned over all of my
20 evidentiary matters to the general counsel of the United
21 States House of Representatives the evidence will show.

22 MR. MORFORD: Objection.

23 THE COURT: That is not part of this lawsuit.
24 That is maybe something that happened before this lawsuit,
25 but these jurors are here on this lawsuit.

1 MR. TRAFICANT: I beg to disagree. These
2 documents are being presented as evidence, and I believe
3 the evidentiary history in genesis of them is salient to
4 the point at hand.

5 THE COURT: Well, it is -- it is not salient
6 to your opening statement. Your opening statement is to
7 give them a road map of what you believe the evidence in
8 the case will show. You can talk about specific items of
9 evidence that you believe you will be here producing in
10 this case, but something that happened -- house counsel is
11 not involved in this lawsuit.

12 MR. TRAFICANT: Does that take from my time,
13 your Honor, or do I still have time?

14 THE COURT: Just like the time I responded to
15 that question, no.

16 MR. TRAFICANT: Thank you very much. How
17 much time do I have left?

18 THE COURT: About four minutes.

19 MR. TRAFICANT: Four minutes?

20 THE COURT: Um-hum.

21 MR. TRAFICANT: Mr. Nemenz, who supposedly is
22 in some kind of a deal with me as offered by the
23 Government, has no agreement out of court settlement. They
24 took me to court. They literally sued me. Now, I will
25 prove evidence and show evidence, if I'm in cahoots with a

1 man who's suing me, then beam me up here. You'd better
2 take a very close look at these witnesses. Every one of
3 these witnesses have been threatened.

4 One witness I'll present evidence said if I didn't
5 have two kids I'd blow my head off. Another one said
6 they're now pressuring my wife and my family. When I asked
7 the one witness from Virginia who was doing the prosecution
8 , he said U.S. Assistant Prosecutor. I said what is his
9 name? He said Morford. He didn't say Jones; he didn't say
10 Ball, he didn't say Smith; he said Morford.

11 In addition, two of my mowing machines were picked
12 up. I was called later and said they determined that they
13 were legally bought, and I can have them back. I said you
14 do not bring them back until I have see the warrant. I
15 have to see a warrant for them picking up my equipment and
16 the cause for same. And yes, they have me on tape as a
17 visit to the FBI. I did raise my voice and told them
18 exactly what I felt.

19 Everybody in America is afraid of the Government.
20 Here's what I'm saying, I'm certainly no giant killer. I
21 don't believe anybody in America should fear the
22 Government. We're the Government. And I'm going to fight
23 them like a junk yard dog, and I am going to offer
24 evidence, and I'm going to offer witnesses to contest the
25 statements they have made here in their opening statements.

- - -

1 But whether those witnesses take the stand, I want
2 you to keep one thing in mind: They either have something
3 great to gain or something great to lose, and the way they
4 could absolve it all is by saying they did something
5 illegal with Jim Traficant. Well, let's look for the
6 proof, let's look for the evidence.

7 Now, I need not put on any evidence, but I will.
8 Now, many of you have stated that you believe that at least
9 somewhat -- many of you said a defendant should prove
10 himself innocent. One individual said even when you're
11 charged it implies.

12 MR. MORFORD: Objection, your Honor.

13 THE COURT: Mr. Traficant, we have impaneled
14 the jury from over 105 people, from 103 people, I guess.
15 We had days of close inquiry.

16 MR. TRAFICANT: That was closing.

17 THE COURT: Well, you were closing, I'll give
18 you time to do that, but you were leaving the implication
19 that somehow among this group were certain people who made
20 certain representations. Is that the implication you want
21 to make? We're talking about the evidence in the case.

22 MR. TRAFICANT: Yes, the evidence in the case
23 should be the yard stick by which we make our decision.
24 And I'm asking you to do that, and I'm asking you not to do
25 so casually. Accept that which the Government may offer in

1 light of the fact that when I walked out the courtroom on
2 the second floor, they started investigating me in 1983.

3 God bless you. I wish you well, thank you for
4 putting up with me.

5 THE COURT: Thank you.

6 THE COURT: It's 10:20. We normally take our
7 break around now. I think it would be a good time for us
8 to take a break. So we'll reconvene at 10 minutes of --
9 you be ready so that you can come downstairs and be in the
10 box at 10 minutes of 11:00. Okay? Thank you very much.
11 All rise for the jury.

12 (Thereupon, a recess was taken.)

13 (Proceedings in the absence of the jury:)

14 (The following proceedings were held at side bar:)

15 THE COURT: I had a call from the jury
16 department about alternate 6, who was the young woman who
17 you recall had talked about the job she has with a
18 pharmaceutical outfit, and so she was upset this morning,
19 and so I wanted to find out what was the matter.

20 And she explained that last night her employer told
21 her that she would get paid only 30 percent of her salary
22 while she was on jury duty. She knows that the law
23 protects her from being fired, but 30 percent of her
24 salary, she can't live on. And so my first approach to
25 this is simply to say, do we really need the 6th alternate,

1 and it is a hardship, and she -- she was upset.

2 So if you think five alternates will serve us as we
3 go forward, then the easiest resolution of this is simply
4 to let her go. Whether we'll get into alternates or not is
5 something I don't know, but we could get into alternates
6 having to replace seven in this case. On the other hand,
7 we have six, and she's at the end of that list.

8 MR. TRAFICANT: I would adhere to your order,
9 whatever you decide is best.

10 THE COURT: She's --

11 MR. MORFORD: We have for cause on her. That
12 was Congressman Traficant's objection so we have no
13 objection.

14 THE COURT: In any event, we have a young
15 woman who's trying to be very conscientious. She's upset.

16 MR. TRAFICANT: She likes me.

17 THE COURT: Well, in any event.

18 MR. TRAFICANT: Craig, you're cruel. I'll
19 tell you, he is good.

20 THE COURT: I will simply let her go, and
21 we'll work with five alternates in the case.

22 MR. TRAFICANT: Um-hum. Another Traficant
23 supporter bye.

24 THE COURT: Well, we didn't really have time
25 to find out.

1 MR. TRAFICANT: She liked me, you're sure.

2 THE COURT: Everybody was listening to you.

3 MR. MORFORD: She was fine when you were
4 speaking, so that's either --

5 MR. TRAFICANT: She was crying, I have that
6 effect on some women.

7 MR. SMITH: Your Honor, may I ask one
8 question. The other jurors are liable to wonder why is she
9 gone. I don't know what your practice is.

10 THE COURT: My practice is to simply let her
11 go, and if she wants to tell the other jurors something,
12 that's her business about why she's leaving, but she's
13 leaving, and she was a crying person in their midst, and so
14 I don't know what she had told them why she was crying.

15 MR. TRAFICANT: What concerns me is that we
16 would have like a run on the bank, the Traficant bank, you
17 know.

18 THE COURT: Well, we can prevent that from
19 happening. We're just going one at a time. Okay?

20 (Proceedings resumed within the hearing of the jury:)

21 THE COURT: As I said, I'll give you some
22 general instructions for witnesses since we're about to
23 start hearing witnesses in the case, and this is meant to
24 just give you suggestions. Part of your job as jurors is
25 to decide how credible or believable each witness is. It's

1 up to you to decide, the jury, if a witness' testimony is
2 believable, and it's also up to you to decide how much
3 weight you give to a witness' testimony.

4 You are free to believe everything that a witness
5 says, part of what a witness says, or none of what a
6 witness says. It's all up to you to make that decision.
7 But, you should, of course, act reasonably and carefully,
8 as you make these decisions. We generally suggest some
9 things to jurors that they may consider if they wish to in
10 this task of evaluating each witness' testimony.

11 Ask yourself if the witness was able to clearly see
12 or hear whatever they're testifying to, events they're
13 testifying to. Sometimes even an honest witness may not
14 have been in a position to see or hear what was happening
15 and so might make a mistake. Ask yourself how good the
16 witness' memory seems to be. Was the witness able to
17 accurately remember what happened regarding an event? You
18 might ask yourself if there was anything else that could
19 have interfered with the witness' ability to perceive or
20 remember the events.

21 Ask yourself how the witness is acting in front of
22 you while testifying. Does the witness appear to you to be
23 testifying honestly? Does the witness appear to you to be
24 not testifying honestly? Ask yourself if the witness has
25 any relationship to the Government or to the Defendant or

1 anything to gain or lose from the case that might influence
2 the witness' testimony.

3 Ask yourself if the witness shows any bias, any
4 prejudice, any reason for testifying that might have caused
5 the witness to lie or misrepresent or slant the testimony
6 in favor of one side or the other.

7 Ask yourself if the witness testifies inconsistently
8 while they're testifying to you from the witness stand or
9 inconsistently in regard to something the witness said or
10 did or failed to say or do at some other time that is
11 inconsistent with what the witness says to you while
12 testifying.

13 And then, if you believe that a witness is
14 inconsistent, ask yourself further, does that make the
15 witness' testimony less believable? Sometimes it may,
16 inconsistencies may, and sometimes it may not. Also,
17 consider whether the inconsistency is about something
18 important or some unimportant detail.

19 You can ask yourself whether you think it seemed like
20 an innocent mistake if you think it was a mistake, or if it
21 seemed deliberate. Ask yourself how believable a
22 particular witness' testimony is in light of all the
23 evidence that's put in front of you in the case.

24 Is the witness' testimony supported, or is it
25 contradicted by other evidence that you find believable.

1 If you believe that a witness' testimony is contradicted by
2 other evidence, remember that sometimes people forget
3 things, and even two honest people, who witness the same
4 event, may describe it differently.

5 These are only some of the things that you may
6 consider in trying to perform your function or determining
7 the credibility or believability of a witness. You can
8 also consider other things that you think shed light on the
9 witness' believability. Use your common sense, use your
10 everyday experience in dealing with other people, and then
11 decide what testimony you believe and how much weight you
12 think it deserves.

13 The jurors are the sole and exclusive judges of the
14 credibility and believability of witnesses.

15 Thank you. And now we're going to turn to the
16 Government --

17 MR. MORFORD: Yes, your Honor.

18 THE COURT: -- to open their case.

19 MR. MORFORD: Your Honor, the Government
20 calls Allen Sinclair.

21 THE COURT: Thank you.

22 MR. MORFORD: Your Honor, for the defendant's
23 benefit and the Court's benefit, most of the exhibits that
24 this witness will be referring to will be found in the
25 first exhibit notebook that starts 1-1, and there will be

Sinclair - Direct

1 one document from the sixth book, 6-11.

2 THE COURT: I don't know where my copy of the
3 exhibits are.

4 THE COURT: Sir, if you'll raise your right
5 hand.

6 ALLEN SINCLAIR

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

10 DIRECT EXAMINATION OF ALLEN SINCLAIR

11 THE COURT: The jury, they need to hear you
12 well, and also the galley. This is a -- this is an old
13 high ceiling courtroom, and so we may need to have you
14 speak up. I can see that there are people in the back of
15 the room who are having -- are you having trouble hearing
16 me? No, okay, all right. Well, if anyone's having trouble
17 being particularly jurors, raise your hand so that we can
18 make sure everyone hears everything: Just a second.

19 MR. MORFORD: Thank you, your Honor.

20 THE COURT: You may proceed

21 BY MR. MORFORD:

22 Q. Could you please state your name?

23 A. Raymond Allen Sinclair.

24 Q. And could you spell your last name for the Court
25 reporter?

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1 A. S-I-N-C-L-A-I-R.

2 Q. And can you tell us, Mr. Sinclair, where you
3 currently live?

4 A. 104 Newport Drive in Boardman, Ohio.

5 Q. And where is Boardman in relation to Youngstown,
6 Ohio?

7 A. Basically adjacent. It's a township in the
8 Youngstown area.

9 Q. And what do you do for a living, what's your
10 occupation?

11 A. I'm an attorney.

12 Q. And did you -- where did you go to law school?

13 A. I went to law school at the Thomas M. Cooley Law
14 School in Lansing, Michigan.

15 Q. Can you walk us through your educational background,
16 if you would?

17 A. Graduated from Wilson High School in Youngstown,
18 1981, I had some college at Youngstown State University,
19 just general courses. I entered into a nuclear medicine
20 technology program at one of the area hospitals, which was
21 a two-year program in which I sat for boards and became a
22 nuclear medicine technologist.

23 I moved to the Virginia area and worked in a hospital
24 for several years at the same time I went to a college
25 called Strayer College and finished my bachelor of science

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1 degree in hospital administration. After that, I applied
2 to law school and was accepted in Lansing.

3 Q. Okay. And prior to all of your education, where did
4 you actually grow up?

5 A. I grew up on the south side of Youngstown.

6 Q. And did you have family back in the Youngstown area?

7 A. Yes, I did.

8 Q. Now, what did you do after graduating from Coolly Law
9 School in Michigan?

10 A. I graduated approximately June of 1991, and I had
11 been living in Michigan for several years, and I decided to
12 come back to the Youngstown area. My mother is in town. I
13 wanted to be close to her and my family. And I decided to
14 come back to town to look for a job.

15 Q. And did you have any trouble finding a job?

16 A. Made several applications to some of the law firms in
17 Youngstown. Unfortunately, none at the time were hiring.

18 Q. So where did you end up going?

19 A. In my search for employment, I noticed that there was
20 an ad in the Daily Legal News, which is like a legal
21 publication for attorneys and other professionals to read,
22 and there was an advertisement in the paper that there was
23 an office sharing arrangement in an established law office,
24 with possibility of referral work. And so I answered that
25 ad.

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1 Q. Okay. And who was that with, who was the attorney?

2 A. That was with attorney Henry DiBlasio.

3 Q. Had you ever met Mr. DiBlasio prior to answering that
4 ad?

5 A. No, I did not. I knew of him, but I didn't -- never
6 met him before.

7 Q. What had you heard of him?

8 A. He was a well-established attorney. He was an older
9 gentleman at that time, probably in his late 50's or early
10 60's at the time, very well respected, and I heard nothing
11 bad of him.

12 Q. Okay. Now, where was his law practice actually
13 located physically?

14 A. Where I currently office now, which is at 11 Overhill
15 Drive in Boardman, basically just right on the brink of the
16 south side of Youngstown.

17 Q. Okay. And -- how far, mileagewise, are we talking
18 from the law office at 11 Overhill Drive to downtown
19 Youngstown?

20 A. Probably two miles if that.

21 Q. What other offices were located in this building at
22 11 Overhill Drive besides the law office of Henry DiBlasio
23 and once you started sharing space there in your office?

24 A. At that time, it was June, July of 1991. That's
25 where the main congressional office for the 17th

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1 congressional district Congressman Traficant, that's where
2 he had his main staff.

3 Q. Okay. Now, had you ever met Congressman Traficant
4 prior to the time you started working at Henry DiBlasio's
5 law office?

6 A. Yes. I did not on a professional capacity but as a
7 more or less social or just community interaction.

8 Q. Do you recall the first time that you met him?

9 A. Yes, I did.

10 Q. Can you describe that to the jury?

11 A. I was approximately 19, 20 years old. I was a
12 baseball little league coach for one of the teams in
13 Youngstown, and every year there would be a parade where we
14 marched kids down Gibson Avenue, and boy, this would have
15 been probably 1981, '82, somewhere around there, and I
16 believe the Congressman was -- he was a sheriff or running
17 to be sheriff, and he walked with me during this parade.
18 That was the first time that I had the opportunity to meet
19 him.

20 Q. And what was your view of him that day and then
21 continuing up until the time you started working for Henry
22 DiBlasio's law practice?

23 A. I had thought he was a great guy. He spent a lot of
24 time with me; told me to keep my head on my shoulders and
25 stick to my guns. I'd do good in life and talked a little

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1 bit about drugs, you know, doing a good thing, keeping the
2 kids, you know, playing baseball and just -- he made me
3 feel real good.

4 Q. What types of cases, what was your specialty of
5 practice? You started with Henry DiBlasio in 1991
6 continuing into the mid to late 1990's?

7 A. Well, coming fresh out of law school, you have to
8 understand law school does not teach you how to be a
9 lawyer. And you basically have to get your feet wet in any
10 area of interest that you want to pursue. And at that
11 time, I knew I had an interest in a personal injury
12 practice, but I wanted to try a little bit of everything
13 just to see what I liked.

14 Working with Mr. DiBlasio, he had an established
15 practice in some collection work. He was also a special
16 counsel to the Ohio Attorney General's Office, and they
17 assigned him various collection work to collect on back
18 taxes, back sales taxes on businesses. So I worked a
19 little bit in that area.

20 Attorney DiBlasio also had an established corporate
21 practice, setting up new businesses for corporations,
22 maintaining their minutes, doing corporate work, and just
23 basically various other cases that would come through his
24 office to minor traffic tickets, to sales of businesses, to
25 personal injury cases, a little bit of everything.

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1 Q. You mentioned that at one time Henry DiBlasio was a
2 special counsel to the Attorney General. What all did that
3 entail? Was it just handling collection matters in
4 Mahoning County or more to it than that?

5 A. I -- I think that's basically it. It was a -- he was
6 assigned the duties of -- as an arm of the Attorney
7 General's Office, to handle local work that the Attorney
8 General would direct, and from what I understood, a lot of
9 their problem areas were collecting on tax issues.

10 If a business didn't pay their sales tax and they
11 were assessed, they would need someone locally to pursue
12 collection, either to file lawsuits, to establish
13 judgments, also, you know, back income taxes as well. He
14 would file judgments and be the judgment and attempt to
15 collect off of the individual or business.

16 Q. Almost like an independent contractor?

17 A. Yes.

18 Q. Now, how much did you personally have to pay Henry
19 DiBlasio to rent your office space within his office at 11
20 Overhill Drive?

21 A. He had an office that was approximately 11 by 11, not
22 very big, and the arrangement was that I would pay him \$350
23 per month for rental of that space, as an exchange for me
24 being in his office.

25 Q. Okay. And who did you actually give the rent

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1 payments to?

2 A. Attorney DiBlasio.

3 Q. Where was your office space physically located in the
4 building at 11 Overhill Drive as opposed to the
5 congressional space? Would you lay out the physical layout
6 of the building a little bit.

7 A. I occupied the -- it was two floors. I occupied the
8 top floor, small office in the front. Attorney DiBlasio's
9 office was more in the back on the top floor, and the
10 congressional office was located on the bottom floor.

11 Q. And did the congressional office have the entire
12 bottom floor?

13 A. The entire bottom floor, also I failed to mention
14 Congressman Traficant also had a personal private office in
15 the upstairs, but more or less separated from the upstairs
16 office. It was above a garage and had a separate entrance
17 and was closed off from the main offices in the upstairs.

18 Q. Okay. The separate office that Congressman Traficant
19 had, would you describe that?

20 A. Well, like I said, it was above the garage and
21 approximately 22 by 22, 24 by 24. It was much like a
22 little efficiency apartment, had a kitchenette, bathroom,
23 shower, closet area and just some main room that he used as
24 his office. It had a separate entrance that came in from a
25 garage. He -- he would park his vehicles there and walk up

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1 a back stairway, and had a private entrance into his
2 office.

3 Q. To your knowledge, were there times when the
4 Congressman actually slept in this efficiency
5 apartment/office?

6 A. Oh, yes many times.

7 Q. How many employees worked in the congressional office
8 that was downstairs in the building, do you recall,
9 approximately?

10 A. Approximately six or seven.

11 Q. Do you recall who some of the main employees were?

12 A. Jackie Bobby, Grace Yavorsky. I think Anthony
13 Traficanti was there at the time. I remember Chuck
14 O'Nesti, and there were others, but I can't remember their
15 names.

16 Q. Was it someone name Bob Barlow?

17 A. I don't remember Bob Barlow being there at the time I
18 started.

19 Q. Okay. Do you know what position Jackie Bobby held?

20 A. No, not in her technical title like administrative
21 assistant.

22 Q. Okay. How about Chuck O'Nesti, did you know his
23 position?

24 A. Again, administrative assistant. I'm not sure
25 exactly what his title was.

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1 Q. Where was Henry DiBlasio's office located? Was it
2 down with the congressional workers or somewhere else in
3 the building?

4 A. No, his office was upstairs where I officed, and it
5 was on the second floor.

6 Q. And what did -- what was your understanding of
7 Mr. DiBlasio's title with respect to Congressman Traficant?

8 A. I understood his title was chief of staff.

9 Q. And he was chief of staff of Congressman Traficant,
10 that was your understanding?

11 A. Yes.

12 Q. Did he also maintain his law practice at the same
13 time?

14 A. Yes, he did.

15 Q. Did he have a desk or an office placed down in the
16 congressional office in any way?

17 A. I don't believe so. The offices down there weren't
18 that big, and with six or seven people down there, it was
19 pretty well -- pretty well filled up anyway. So he had a
20 separate office upstairs.

21 Q. Now did there come a time you and Henry DiBlasio
22 started talking about starting a law partnership?

23 A. Yes, we did.

24 Q. Did you ultimately form such a partnership?

25 A. Yes, we did.

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1 Q. And could you very briefly describe the nature of
2 that partnership, the work that you were going to
3 specialize and how you set about to set up that practice?

4 A. Well, as I explained to you, when I got out of law
5 school, my goal was to develop a personal injury practice.
6 And for those of you who may not know what that is,
7 basically auto accident cases, medical malpractice cases,
8 any case where someone is injured due to someone else's
9 negligence. And unfortunately, to establish a practice
10 like that, you have to advertise, and advertising is very
11 expensive. I could not do that by myself. So over the
12 years, Henry and I would work on special projects where we
13 would advertise and attempt to develop a practice. And it
14 became a point where we talked about forming a partnership
15 formally, which was done, I believe, January 1st of 1996.

16 Q. As part of that partnership agreement, who was going
17 to provide the funds that would be needed to set up the
18 business, the advertising expenses and the other expenses
19 in such a business?

20 A. That responsibility fell on Attorney DiBlasio. I do
21 not have the funds to finance advertising. A phone book ad
22 is astronomical what it would have cost per month and per
23 year. He had established credit that he was willing to use
24 to get our business underway.

25 Q. And when did this partnership form, approximately?

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1 A. January 1st, 1996.

2 Q. And in terms of the game plan, how long did you and
3 Henry DiBlasio expect it would take to get the partnership
4 up and running properly?

5 A. Well, any business person knows a business doesn't do
6 well during the first two or three years. Your overhead
7 and expenses come first. And in order to get your -- your
8 foot into the business, you have to advertise and come out
9 with a lot of advertising to get your name recognized so
10 that you can attract these types of cases. So it was a
11 pretty well known fact that we weren't going to do good the
12 first couple years.

13 Q. Did there come a time when Henry DiBlasio announced
14 he was retiring?

15 A. Yes, he did. That was the summer of 1998.

16 Q. And were you expecting that amount, sir?

17 A. Not at all. It was approximately two, two and a half
18 years after we formed our partnership, and I was very taken
19 back by the announcement.

20 Q. When he announced he was retiring, what was he
21 retiring from?

22 A. The practice of law.

23 Q. How about his position with Congressman Traficant?

24 A. Yes, from what I understood, he was resigning that
25 position as well. His intent was to move to Florida and

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1 retire.

2 Q. What concerns did Henry DiBlasio's announcement that
3 he was retiring from the partnership raise for you?

4 A. Well, with establishing the personal injury practice,
5 you have to enter into various contracts for advertising,
6 and these contracts are year long contracts. And the
7 advertising is very expensive. Not only advertising, but
8 when you do get a client in that needs your services, most
9 clients do not have the money to front the expenses that
10 are required to advance their case, such as purchasing
11 medical records, hiring experts, there's a variety of
12 expenses that the attorneys usually advance that can range
13 anywhere on an average of \$500 to \$1,000 per client, and if
14 it's a larger case, can be in the thousands of dollars to
15 hire experts to prove the case.

16 That was a burden that I just could not undertake at
17 that time. I did not have the -- the credit available to
18 finance the business.

19 Q. Now, in addition to those problems, did you have any
20 financial obligations to Henry DiBlasio regarding the
21 partnership?

22 A. Well, of course, with the partnership agreement, we
23 were partners, and he's entitled to an interest on the
24 business, and with him retiring, created an issue as to the
25 amount of money that he was to be paid for his retirement

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1 and an interest in the cases that we had together. So yes,
2 I knew that it was going to be a huge financial burden upon
3 me to not only make the business successful, but as well as
4 being able to pay Henry what he was due.

5 Q. What about the building, what was going to happen to
6 the building at 11 Overhill Drive when Henry DiBlasio
7 retired?

8 A. Well, Henry said that he was going to have to sell
9 the building, of course, because he was liquidating all his
10 assets. He was selling his home as well as the office, and
11 I didn't want to be stuck without an office or having to go
12 find another space and move out of there. So I expressed
13 an interest in purchasing the building.

14 Q. Did you ultimately purchase the building from Henry
15 DiBlasio?

16 A. Yes, I did.

17 Q. Did you also take over the personal injury practice
18 that you and he had formerly run as a partnership?

19 A. Yes, I did.

20 Q. Now, where was the home district of Congressman
21 Traficant actually located at the time in 1998 when Henry
22 DiBlasio announced his retirement?

23 A. I'm sorry. I don't understand your question.

24 Q. Summer of 1998, you said Henry DiBlasio announced his
25 retirement?

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1 A. Yes.

2 Q. Was the main office for Congressman Traficant still
3 in the building at 11 Overhill at that time?

4 A. No, by that time. I believe a few years before that,
5 approximately 1996, a new Federal Courthouse was built in
6 downtown Youngstown and his main staff occupied the space
7 in the Federal Building.

8 Q. Where was Jackie Bobby, the office manager,
9 administrative assistant, whatever she was, where was she
10 working at that time?

11 A. If she was working at that time -- I don't know if
12 she was still working at that time -- but, it would have
13 been in the Federal Building in downtown Youngstown.

14 Q. How about Chuck O'Nesti?

15 A. Again, if he was working at that time, that would
16 have been in downtown Youngstown.

17 Q. When the move was actually made in 1996, did Yavorsky
18 and Bobby and Chuck O'Nesti stay at 11 Overhill Drive or
19 move to the courthouse?

20 A. They moved to the courthouse.

21 Q. Who actually stayed and kept offices at 11 Overhill
22 Drive?

23 A. The Congressman maintained his private office above
24 the garage, as well as one staff member by the name of Bob
25 Barlow.

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1 Q. And Mr. DiBlasio, correct?

2 A. Yes.

3 Q. Okay.

4 Did there come a time where you were asked to join
5 the congressional staff of Congressman Traficant?

6 A. Yes.

7 Q. And could you explain to the jury how that topic
8 first arose?

9 A. Well, when Henry announced his retirement in the
10 summer of 1998, I had many concerns -- purchasing the
11 building, carrying on with the business -- and Attorney
12 DiBlasio mentioned to me he would talk to the Congressman
13 about me joining his staff to help me make things a little
14 easier on you.

15 Q. Did there come a time you actually had a conversation
16 with the Congressman himself about that topic?

17 A. Yes.

18 Q. And what period of time are we talking when you first
19 talked to Congressman Traficant about going on staff?

20 A. I knew that Henry was talking to him off and on. I
21 was not present for those conversations, but sometime in
22 October of 1998, I was approached by the Congressman, and
23 he offered me a position.

24 Q. Okay. Can you describe for the jury what you recall
25 about that first conversation with Congressman Traficant in

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1 the fall of 1998 about going on staff?

2 A. He was in the office and basically came into my
3 offices, you know, come on let's go for a ride. And we
4 went into the car in the parking lot, got in my car, went
5 for a ride, and he discussed the position, offered me the
6 position.

7 Q. What position did he offer you?

8 A. As administrative assistant on his staff,
9 administrative counsel, administrative assistant.

10 Q. And who had served that function, as you understood
11 it, prior to the time that you were being offered this
12 position?

13 A. Well, Attorney DiBlasio, I wasn't going to fill his
14 shoes as far as his seniority or his functions as chief of
15 staff or administrative assistant as he was doing, but I
16 understood my position now was going to be basically a
17 staff member, and work at the discretion of the
18 Congressman.

19 Q. Now, was there anything about your particular area of
20 specialty in law, personal injury lawsuits that you felt
21 made you particularly qualified to serve as a staff counsel
22 for the United States Congressman?

23 A. No, that was one of my concerns I expressed to him.

24 Q. And can you tell us about his response when you
25 expressed those concerns?

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1 A. Well, I told him I didn't feel I was qualified to
2 fill the position. I really had no interest in politics,
3 no interest especially in Washington politics. I failed to
4 keep up on current events as far as that was concerned, and
5 I -- I didn't feel I would be a good asset to him, and he
6 explained that he's always had an attorney on his staff and
7 he always will, that he's been watching me over the years,
8 and that he's confident I could do the job.

9 Q. Did you discuss with him how taking this job would
10 affect your own efforts to establish your private, personal
11 injury practice?

12 A. Yes, I explained to him that I had an obligation to
13 Henry, as far as him retiring, and I had to make a go of
14 this. I couldn't let my personal practice suffer because
15 he asked me to work on his staff, and that was one of the
16 main concerns.

17 Q. And what was his response when you raised that
18 concern?

19 A. Basically, it wasn't a concern. He said that I would
20 work at his discretion, always there anyways working, that
21 we would work around the schedule, and as long as I was
22 able to put in the time at his discretion, that everything
23 would be fine.

24 Q. Now, the office you would work out of, would you have
25 to go downtown to the main congressional office with the

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1 rest of the employees or would you be allowed to stay at 11
2 Overhill Drive?

3 A. I understood I would keep my same address at 11
4 Overhill Road.

5 Q. Okay.

6 And how much time did Congressman Traficant actually
7 spend in the office at 11 Overhill Road versus the time he
8 spent in Washington, D.C.?

9 A. Well, he was there -- he was in D.C. quite a bit. He
10 would drive home, usually on Thursday nights, and stay
11 through the weekend and drive back Sunday or Monday. But,
12 then off and on throughout the year, he would -- he would
13 be in and out. So I don't know if that answers your
14 question.

15 Q. During the time that you're working out of the office
16 at 11 Overhill road, who would be supervising your work?

17 A. He would, basically, he would call me either from the
18 road from his car or from D.C. if he needed to talk to me.

19 Q. But, as far as anybody day-to-day, would there be
20 anybody there to supervise what you were doing?

21 A. Yes.

22 Q. How much of your personal injury practice required
23 you to make court appearances during the daytime?

24 A. Well, quite a bit. A good part of my practice,
25 probably at least 20 to 25 percent of my cases, are in

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1 litigation, which means if you can't settle the case out of
2 court, you have to file documents to go into court to
3 resolve the case, and that required attendance at the
4 courthouse for hearings and whatever was scheduled on the
5 court docket.

6 Q. Did you discuss salary with Congressman Traficant,
7 how much he would be paying you?

8 A. Really wasn't discussed. He just said that it would
9 be a base salary of approximately 60 -- 60 to \$65,000 a
10 year.

11 Q. What did Congressman Traficant tell you he expected
12 you to do for him in return for the 60 to \$65,000 a year
13 that he was going to pay you?

14 A. Well, at the time I was joining his staff, he had a
15 local initiative to develop a regional development
16 authority. Basically we have three counties in our area,
17 Mahoning and up to the north Trumbull County and Columbiana
18 County to the south, and it was an idea of his to develop
19 economic growth for those areas, and he wanted to get a
20 sales tax initiative on the ballot to raise money to
21 develop an economic plan where businesses or whatever can
22 come into the development authority, get loans or ask for
23 money for economic development of the area.

24 Q. Had you done that kind of work before?

25 A. No.

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1 Q. Did you have any interest in that kind of work
2 before?

3 A. No.

4 Q. Did you have any connections that would make you
5 particularly effective at doing that kind of work?

6 A. No.

7 Q. Did he ask you to do anything personally for him if
8 you took this job of \$60,000 to \$65,000 a year?

9 A. Yes.

10 Q. What did he ask you?

11 A. He explained to me that -- that he really can't make
12 ends meet with his congressional salary and other
13 obligations that he has, and that a requirement of the job
14 was to give him back \$2500 from my paycheck each month.

15 Q. Did he tell you why he was claiming to have trouble
16 making ends meet?

17 A. Well, in the early 80's, he was assessed tax
18 penalties, basically for unpaid income tax, I believe, and
19 that he -- money was being taken out of his paycheck by the
20 Government to pay back his penalties and interest from this
21 tax problem that he had.

22 Q. Now, when he told you that you were going to be
23 expected to give him \$2500 a month, did you ask him in what
24 form you were supposed to make these payments?

25 A. Yes.

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- 1 Q. What did he tell you?
- 2 A. Basically didn't tell me anything. He told me to go
- 3 talk to Attorney Henry DiBlasio.
- 4 Q. And did you go talk to Mr. DiBlasio?
- 5 A. Yes, I did.
- 6 Q. And what did Mr. DiBlasio tell you?
- 7 A. Attorney DiBlasio explained to me that basically he
- 8 was doing the same thing over the years. I don't know how
- 9 much he was giving back to the Congressman, but that he
- 10 would cash his congressional paycheck and take money out,
- 11 put it in an envelope, and give it to the Congressman.
- 12 Q. Now, in addition to telling you that he wanted you to
- 13 give him this cash each month, did he tell you there was
- 14 anything else that he wanted you to do as part of this
- 15 arrangement in terms of rental space?
- 16 A. Yes. As I explained to you, he occupied a space
- 17 above the garage. He wanted to take over the office that
- 18 Attorney DiBlasio had. He explained to me he needed some
- 19 additional room to meet constituents and have office
- 20 meetings, business meetings, and that he needed a more
- 21 presentable place to meet with these people, so he would
- 22 also take over that space as well.
- 23 Q. What was the problem with the space he already had
- 24 above the garage? Why couldn't he take constituents up
- 25 there?

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1 A. Well, it was -- it was just a mess. I mean he -- it
2 wasn't a place that you would bring someone in to meet with
3 him, put it that way. It was -- it was his own personal
4 space, and it just wasn't conducive to meetings.

5 Q. Why couldn't he take constituents and meet them at
6 the office at the federal courthouse two miles away in
7 downtown Youngstown? Did you ask him that?

8 A. I didn't ask him that directly, but, you know,
9 throughout conversations, I knew that he felt that his
10 constituents didn't like to go into the downtown area. A
11 lot of people are afraid of the downtown area. He just
12 wanted a more local presence and the area that we were in
13 to meet with people. That's what I understood.

14 Q. Now, was there -- at that point in time, who was left
15 in the office at 11 Overhill Road?

16 A. After Attorney DiBlasio left?

17 Q. Yes.

18 A. Well, there was the Congressman, there was myself and
19 my staff. I have four employees. And Mr. Bob Barlow
20 occupied the lower half, and then there was another
21 attorney that rented space downstairs.

22 Q. Did Mr. Barlow, was he a full-time or part-time
23 employee, as you understood it?

24 A. I don't know if it was a full or part-time. He was
25 there mainly in the mornings. I don't recall him being

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1 attorney that rented space downstairs.

2 Q. Did Mr. Barlow, was he a full-time or part-time
3 employee, as you understood it?

4 A. I don't know if it was a full or part-time. He was
5 there mainly in the mornings. I don't recall him being
6 there much in the afternoon, so I really don't know what
7 his status was part-time.

8 Q. To your understanding, did he have a separate job
9 apart from his job with Congressman Traficant?

10 A. I don't believe he did.

11 Q. Now, to sum up your conversation with Congressman
12 Traficant about you going on staff, what were the key
13 points of the arrangement as you understood it based on
14 your conversation with Congressman Traficant?

15 A. Well, it was cash back of \$2500 out of my paycheck
16 each month, as well as requirement that he add the
17 additional space.

18 Q. And what would you be allowed to do during the time
19 that you worked for him?

20 A. Maintain my private practice.

21 Q. Based on your conversation with Congressman Traficant
22 and the deal you just described, did you go on staff?

23 A. Yes, I did.

24 Q. And whether you received your first full paycheck,
25 did you give a portion of that paycheck to Congressman

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1 Traficant?

2 A. Yes, I did.

3 Q. How much did you give him?

4 A. \$2500.

5 Q. Did you give him money each and every month that you
6 worked for him?

7 A. Yes, I did, up until -- I believe January of 2000.

8 Q. And what caused you to stop giving him these \$2500
9 cash payments in January of 2000?

10 A. That's basically when the investigation started into
11 the Congressman, and he didn't want me to do that anymore.

12 Q. These \$2500 cash payments you were giving him each
13 month, was it your -- what was your understanding about the
14 nature of these payments? Were these loans, or were these
15 payments you were giving him that you would not be getting
16 back? What was your understanding?

17 A. Well, he explained that they were to be loans, but at
18 first, I believed that, but then come to the realization
19 that they were not loans.

20 Q. Was there ever any kind of loan document?

21 A. No, sir.

22 Q. I O U?

23 A. No, sir.

24 Q. Any discussion of interest?

25 A. No, sir.

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1 Q. Any discussion of when and how he would ever pay you
2 back?

3 A. No, sir.

4 MR. TRAFICANT: Your Honor, excuse me, the
5 Prosecutor, could he go slower so I might catch his
6 testimony? Could you repeat the last couple of questions
7 for me.

8 THE COURT: Are you asking to have the last
9 couple of questions read back?

10 MR. TRAFICANT: Yes. He said the first \$2500
11 loan kickback, he said at first loans, and then I didn't
12 hear what he said after that.

13 THE COURT: Okay. All right.

14 I'm going to ask the Court Reporter to read this
15 back, but as long as I'm talking, she has to keep recording
16 what's being said in the courtroom, so we're all going to
17 be quiet and take her a minute, she'll go back and read.

18 THE COURT: Thank you. You can continue.

19 MR. MORFORD: Thank you, your Honor.

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

22 Q. When did you actually start working for Congressman
23 Traficant on his staff?

24 A. October of 1998.

25 Q. And who was your supervisor?

Sinclair - Direct

- 1 A. Nobody, himself, the Congressman.
- 2 Q. You didn't have to answer to his chief of staff?
- 3 A. No, sir.
- 4 Q. Did you have to answer to anyone except the
- 5 Congressman?
- 6 A. No, sir, and he explained that to me specifically
- 7 that I'm there at his discretion.
- 8 Q. Was there anyone that would supervise or review the
- 9 work you were doing?
- 10 A. No, sir.
- 11 Q. Was there anybody who would check to see how much
- 12 work you were actually doing?
- 13 A. No.
- 14 Q. How many hours per week were you actually working on
- 15 congressional affairs on an average?
- 16 A. About the beginning, quite a bit, but as it tapered
- 17 off, probably no more than 20 hours a week.
- 18 Q. When you say in the beginning it tapered off, we're
- 19 talking what you describe, let's say, the 13 months that
- 20 you described from the time you got your first full
- 21 paycheck until the FBI questions you about kickbacks in
- 22 January of 2000, how many hours are we talking that you
- 23 actually were working on congressional matters?
- 24 A. I would say 20 hours per week would be a good
- 25 estimate.

Sinclair - Direct

1 Q. Given the hours, the ability to practice your law
2 practice, remain at your office at 11 Overhill Road, would
3 you have taken the same job for \$30,000 a year if you had
4 to give \$2500 cash each month to Congressman Traficant?

5 A. I'm sorry, I don't understand your question.

6 Q. Would you have taken the same job for \$30,000 less a
7 year if you hadn't had to pay the \$2500 cash to Congressman
8 Traficant?

9 A. I don't know how to answer that question. Probably
10 not. I -- I guess I would have to explain my reasons for
11 even taking the job in the first place.

12 Q. Why don't you do that?

13 A. He's a hard person to say no to. He doesn't give you
14 many options, and at the time -- all this was going on with
15 Attorney DiBlasio retiring, with me knowing that I would
16 have a huge financial burden on my shoulders to cover
17 advertising expenses and keep the office going as far as
18 overhead is concerned, and my abilities to even make my
19 personal injury practice succeed, I guess I was looking for
20 a fall back position, and that -- when I talked to him
21 about accepting the job, I explained to him in no uncertain
22 terms that I wanted it to be temporary, that just in case I
23 had to fold up my personal injury practice, maybe this
24 might open the doors for me to have another job at the
25 time.

Sinclair - Direct

1 So I -- I probably would have taken it for no money
2 to be honest with you. I don't think money is really the
3 issue as far as what my mental state was at the time.

4 There were other reasons overriding the issue of money,
5 because certainly the money issue was of no benefit to me.

6 Q. You have a book of evidence in front of you, and I'd
7 like to ask you in the big book there, if you would turn to
8 what's been marked Government's Exhibit 1-8; should be
9 about the 8th document or so, although there may be a set
10 of things together.

11 A. Yes.

12 Q. Do you recognize that photograph?

13 A. Yes, I do.

14 Q. And can you tell us what that's a photograph of?

15 A. This is a photograph of Attorney DiBlasio's
16 retirement party. We threw him a little party before he
17 retired to Washington, and myself is in the picture along
18 with Attorney DiBlasio, the Congressman, a former staff
19 person, my -- one of my secretaries.

20 MR. TRAFICANT: Your Honor --

21 THE COURT: Yes.

22 MR. TRAFICANT: Could I please see the
23 photograph?

24 THE COURT: Did you get it in the exhibit
25 books?

Sinclair - Direct

- 1 MR. TRAFICANT: No, I don't have the exhibit
2 book with me.
- 3 MR. MORFORD: He did get them, your Honor.
4 He had the complete set.
- 5 THE COURT: So you just didn't bring it to
6 court?
- 7 MR. TRAFICANT: I didn't bring it here. I
8 didn't know he was going to be called today, and I'd like
9 to see the photograph if it's not offensive to the court.
- 10 THE COURT: Just a moment while I try to find
11 the exhibit.
- 12 MR. SMITH: Your Honor, we have an extra copy
13 if I can hand it over to the Congressman.
- 14 THE COURT: Okay, thank you.
- 15 MR. SMITH: Thank you, your Honor.
- 16 MR. TRAFICANT: Thank you very much.
- 17 THE COURT: Mr. Morford, I think now I have
18 1-8 in front of me, and the Congressman does.
- 19 MR. MORFORD: Okay. Thank you
- 20 BY MR. MORFORD:
- 21 Q. And could you tell us approximately when this picture
22 was taken, do you recall?
- 23 A. This would have been most likely in October of 1998.
- 24 Q. This is about the time that Henry DiBlasio was
25 leaving, and you were coming on; is that correct?

Sinclair - Direct

1 A. Yes, I believe he was leaving just a matter of a few
2 days after this picture was taken.

3 Q. Turning your attention to another exhibit, this one
4 1-22, it's towards the back.

5 A. Yes.

6 Q. Do you recognize this document?

7 THE COURT: Hold on for just a minute.
8 Congressman, are your exhibits someplace where you can
9 retrieve them if we gave you five minutes?

10 MR. TRAFICANT: I have sent somebody to
11 retrieve them, but I -- I'm hoping they get here any
12 minute, but I don't have them now, your Honor.

13 THE COURT: Okay. You have an extra copy of
14 this exhibit?

15 MR. SMITH: Certainly, your Honor.

16 THE COURT: Thank you.

17 MR. TRAFICANT: If, in fact, at this time I
18 would like to inquire of the court if there would be some
19 advance notice of what witnesses might be called so that
20 the Defense can be --

21 THE COURT: You were given notice of the
22 witnesses and the order in which they would be called.

23 MR. TRAFICANT: I was.

24 THE COURT: Yes, that was explained this
25 morning. I think actually you were given -- Mr. Morford,

Sinclair - Direct

1 when was he given?

2 MR. MORFORD: On Monday, we gave him I think
3 it was five or six witness folders to tell him these would
4 be the first six witnesses.

5 THE COURT: Yeah, okay. All right. So all
6 of those things should --

7 MR. TRAFICANT: This Monday?

8 MR. MORFORD: Yes.

9 THE COURT: Yes.

10 MR. TRAFICANT: Okay.

11 THE COURT: All right.

12 BY MR. MORFORD:

13 Q. Can you tell us what this document is?

14 A. This is a warranty deed, basically a document --
15 documenting that the building at 11 Overhill Road was
16 purchased by my wife.

17 Q. Was it your wife who actually purchased it, or was it
18 you?

19 A. Well, us together, me, yes.

20 Q. Was the title of building put in your name or wife's
21 name or both names, or how did you handle that?

22 A. I believe that at the time the title was placed in my
23 wife's name.

24 Q. And why was that?

25 A. Well, it was explained to me by the Congressman and

Sinclair - Direct

1 also attorney DiBlasio that the building could not be in my
2 name directly and also rent space to the Congressman for
3 the space that he occupied. And that this issue was
4 resolved back in the early 80's when Attorney DiBlasio went
5 on staff because the building was in his name at that time.
6 There were basically problems. He had advertised that that
7 couldn't be, and he explained to me that it was worked out
8 through the U.S. House of Representatives that you had to
9 be in another person's name or another entity's name for it
10 to be ethical, and that was the main reason for the
11 building being placed in my wife's name.

12 Q. And can you tell us who actually prepared this deed?

13 A. Well, this would have been prepared at the time of
14 closing on the -- on the building, most likely by the title
15 company or the bank.

16 Q. Did you have anything to do with the production or
17 preparation of this document?

18 A. Only in the direction that the building be placed in
19 my wife's name.

20 Q. And when was this document actually signed and
21 executed?

22 A. It was recorded on November 23, and it was signed by
23 the seller on November 20th, 1998.

24 Q. I want to show you one last document here.

25 Congressman, here's a copy you can look at.

Sinclair - Direct

1 Exhibit 1-23, very next page, can you tell us what
2 that is?

3 A. That is a lease agreement, that basically a lease
4 agreement, the lease on space to Congressman Traficant at
5 the 11 Overhill Road address.

6 Q. What was the date that this was signed?

7 A. December 11th, 1998.

8 Q. And who signed it on behalf of the office of
9 Congressman Traficant?

10 A. That's Congressman Traficant's signature.

11 Q. And who signed it on behalf of the building owner?

12 A. My wife.

13 Q. And why is your wife signing this document as opposed
14 to you?

15 A. Because as I explained, the building could not be
16 owned in my name because I was on staff, on the
17 congressional staff, and that there were ethical
18 considerations that that couldn't be as such.

19 Q. And how much rent was the congressional office of the
20 United States House of Representatives to pay you towards
21 the rental space of the space for Congressman Traficant and
22 Mr. Barlow?

23 A. \$656.

24 Q. Per month?

25 A. Per month.

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1 Q. And for how long a period, what was the duration of
2 the lease?

3 A. It was a two-year lease.

4 Q. And why was it just a two-year lease?

5 A. That coincided with his two-year term as Congressman.
6 He was up for reelection every two years, and this was just
7 after -- just after the 1998 election.

8 Q. You said earlier you had an additional tenant, an
9 attorney, what was his name?

10 A. Michael Gullins.

11 Q. Was he also paying you rent?

12 A. Yes, he was.

13 Q. How much was he paying you?

14 A. \$500.

15 Q. And the \$625 you were getting from Congressman and
16 the \$500 from Mr. Gullins, was that sufficient for meeting
17 your monthly mortgage on the building?

18 A. Yes, it was.

19 Q. How important was it to you at that time to maintain
20 Congressman Traficant as a tenant?

21 A. Well, very important. As I explained to you, I had
22 many financial concerns on how I was going to make
23 everything work, and I -- I thought I needed all the help I
24 could get, and if I was able to get enough rent to cover
25 the mortgage payment, that would be one less thing I would

Sinclair - Direct

1 have to worry about.

2 THE COURT: Mr. Morford, it's noon, it's a
3 good time to recess. And so we're going to adjourn and be
4 back here at 1:30.

5 Lynn?

6 MR. MORFORD: I'd like to get our exhibits
7 back so we can keep track of it, your Honor.

8 MR. TRAFICANT: Thank you, Mr. Morford. I
9 appreciate it.

10 (Thereupon, a luncheon recess was had.)

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Sinclair - Direct

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

2 THE COURT: Continue with your witness,
3 please.

4 MR. MORFORD: They just went to get him, your
5 Honor.

6 THE COURT: Oh, okay. You're still under
7 oath.

8 THE WITNESS: Thank you

9 BY MR. MORFORD:

10 Q. Mr. Sinclair, I put the evidence book back up there
11 in front of you, and I'd like to ask you to turn to
12 Government's Exhibit 1-4 (1). Do you see that?

13 A. Yes, I do.

14 Q. And can you tell us what those are?

15 A. This is a -- this was one of my congressional pay
16 checks, dated January 29, 1999, in the amount of \$3,473.30.

17 Q. These are photo copies of paychecks you received as a
18 congressional employee?

19 A. Yes, it is.

20 Q. And I'd like you to turn if you would to Government's
21 Exhibit 1-4 (2).

22 A. Yes.

23 Q. And do you recognize this document?

24 A. Yes, I do.

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

Sinclair - Direct

1 A. This is my statement from the Homes Savings and Loan
2 Bank pertaining to my personal checking account.

3 Q. Is this a document you recognize?

4 A. Yes, it is.

5 Q. And this was your personal account, correct?

6 A. Yes, it is dated January 20, 1999.

7 MR. MORFORD: Your Honor, I would like to
8 have permission, if I could, to display a copy of this
9 exhibit on the screen as the witness describes this.

10 THE COURT: Yes, that's fine

11 BY MR. MORFORD:

12 Q. Okay. I'd like to turn your attention to the third
13 item down on your checking statement. Do you see that?
14 It's dated 12-21?

15 A. Yes.

16 Q. And what does that indicate there?

17 A. That indicates a deposit into my checking account in
18 the amount of \$3,779.42.

19 Q. Okay. And there's some letters ATM?

20 A. Yes, that apparently means it was a deposit that I
21 made through the -- the ATM machine rather than going
22 directly into the bank to make the deposit.

23 Q. Turning your attention down several lines to an item
24 dated 12-28, withdrawal, do you see that?

25 A. Yes, I do.

Sinclair - Direct

1 Q. And can you tell us what's the amount of that
2 withdrawal?

3 A. \$2500.

4 Q. And what did that \$2500 withdrawal represent?

5 A. One of the payments I gave back to Congressman
6 Traficant.

7 Q. And what did the \$3779.42 deposit represent?

8 A. That would have been the net amount of my
9 congressional paycheck.

10 Q. Now, I'd like to ask you to turn, if you will, to
11 what has been marked Government's Exhibit 1-3.

12 A. Okay.

13 Q. And can you tell us what this is?

14 A. Again, this is a statement dated April 20, 1999, and
15 it is a --

16 Q. I'm sorry, I think it's actually Government's Exhibit
17 1-3 (1). If you'd go back a little bit?

18 A. I have 1-3.

19 Q. Okay. And can you tell us what 1-3 (1) is?

20 A. This is a deposit slip, dated February 1, 1999.

21 Q. And where did you get this deposit slip from?

22 A. These are my own personal deposit slips that I had
23 printed up to make deposits to my -- of my checking
24 account.

25 Q. Okay. And can you tell us what this deposit slip

Sinclair - Direct

1 represents?

2 A. This represents a deposit of \$3473.30, which was my
3 net amount from my congressional paycheck for the month of
4 February and also shows that I took a \$2500 out of that
5 deposit for a net deposit of \$973.30 into my checking
6 account.

7 MR. MORFORD: Okay. Your Honor, again, can I
8 display this for the jury?

9 THE COURT: That's fine

10 BY MR. MORFORD:

11 Q. And that's the net -- you're testifying that
12 represents the deposit of your paycheck?

13 A. The net deposit, yes.

14 Q. And how much did you get back?

15 A. How much did I put into my checking account?

16 Q. No. How much did you get back in cash?

17 A. Well, I didn't get back anything -- well, \$2500 back
18 in cash.

19 Q. And what did you do with that \$2500?

20 A. I gave that to Congressman Traficant.

21 Q. How long after you would get this cash from the bank
22 would you wait before you transferred it to Congressman
23 Traficant?

24 A. That day, I gave I would have the cash on me so I
25 would normally give it to him that day or at least put it

Sinclair - Direct

1 in his control that day.

2 Q. How would you go about physically getting it to him?

3 A. I would place it in a bank envelope, and if he was in
4 the office, I would give it to him personally. If he
5 wasn't there, I would leave it on his desk or chair.

6 Q. Were there ever times when you gave it to him
7 personally that you can recall?

8 A. Yes.

9 Q. And can you describe what you would do with the cash
10 when you handed it to him?

11 A. Just take it. He would throw it on his desk or just
12 put it in his pocket. We really didn't discuss it.

13 Q. Turning your attention to Government's Exhibit 1-2,
14 can you tell us what that represents?

15 A. Yes, this is a deposit ticket dated March 8, 1999.
16 It's a deposit of \$3473.30, which represents my net
17 congressional paycheck. I took back \$2500 in cash for a
18 net deposit of \$973.30.

19 Q. And what did you do with the cash?

20 A. I gave it to Congressman Traficant.

21 Q. Next item, Government's Exhibit 1-3 (3). Can you
22 tell us what this is?

23 A. This is a deposit ticket, dated March 31, 1999. The
24 deposit represents my congressional paycheck in the amount
25 of \$3473.30. And I believe that there was an error at the

Sinclair - Direct

1 bank at that time where they deposited the entire amount
2 rather than giving me back \$2500 in cash, as I wanted to
3 do, but you can see that there's some pen work scratching
4 out that area where I would have done that that.

5 Q. Okay. I'd like if you would turn to Government's
6 Exhibit 1-4 (2)?

7 A. Yes.

8 Q. You see that?

9 A. Yes, I do.

10 Q. Can you tell us what that is, in general, without
11 getting into specifics yet?

12 A. This is my congressional checking account statement,
13 bank statement.

14 Q. Okay. And on that statement, do you show a deposit
15 and a withdrawal consistent with the deposit slip that you
16 just described?

17 A. Yes.

18 Q. And what date did that take place?

19 A. The deposit took place on December 21 -- this is not
20 the right --

21 Q. I'm sorry. If you'd look underneath that, there
22 should be more documents underneath that.

23 Do you see a statement dated April 20, 1999?

24 MR. TRAFICANT: What are we working off of,
25 what exhibit?

Sinclair - Direct

1 MR. MORFORD: 1-4 (3). I'm sorry, I gave you
2 the wrong number. That's my fault.

3 THE WITNESS: I see that now, yes. And this
4 is my personal checking account statement dated April 20,
5 1999.

6 Q. Calling your attention down at the bottom, 3-31, was
7 a deposit. Do you see that?

8 A. Yes, I do.

9 Q. And what is the amount of that deposit?

10 A. \$3473.30.

11 Q. And what did that deposit represent?

12 A. My net paycheck from the congressional office.

13 Q. How much cash did you take out the same day?

14 A. \$2500.

15 Q. What did that \$2500 represent?

16 A. The money I gave to Congressman Traficant.

17 Q. Turning your attention to 1-3 (4), would you tell us
18 what that is?

19 A. This is my deposit ticket into my checking account,
20 dated May 3, 1999.

21 Q. And how much was your congressional paycheck?

22 A. \$3,473.30.

23 Q. And how much did you withdraw in cash?

24 A. \$2500.

25 Q. What did you do with the cash?

Sinclair - Direct

- 1 A. I gave that to Congress Congressman Traficant.
- 2 Q. Turning to 1-3 (5), can you tell us what that is?
- 3 A. This is again, a deposit ticket dated June 2, 1999.
- 4 THE COURT: You mind if I look with you?
- 5 THE WITNESS: Not at all. Right here.
- 6 THE COURT: Okay.
- 7 Q. And what does the deposit represent?
- 8 THE COURT: Thank you.
- 9 THE WITNESS: This represents the net
- 10 paycheck from my congressional salary of \$3474.65.
- 11 Q. And how much cash did you get back?
- 12 A. \$2500.
- 13 Q. And what did you do with that cash?
- 14 A. I gave that that to Congressman Traficant.
- 15 Q. Turning next to 1-3 (6) what is that?
- 16 A. This is a deposit ticket with a bank stamp, dated
- 17 June 29th, 1999, with a deposit of \$3424.65.
- 18 Q. And how much cash did you get back?
- 19 A. \$2500.
- 20 Q. And what did you do with that cash?
- 21 A. I gave that to Congressman Traficant.
- 22 Q. Turning next to 1-3 (7)?
- 23 A. This is a deposit ticket, dated August 2, 1999, with
- 24 a net deposit of \$367.65.
- 25 Q. And did you receive any cash back?

Sinclair - Direct

- 1 A. Yes, I took \$2600 out of that amount.
- 2 Q. And what did you do with the \$2600 on this occasion?
- 3 A. Well, I know I would have given \$2500 of it to
- 4 Congressman Traficant, probably the other was for pocket
- 5 change.
- 6 Q. 1-3 (8)?
- 7 A. This is a deposit ticket, dated September 1, 1999. I
- 8 don't have the net deposit listed, but I did take out \$2500
- 9 from whatever that deposit was.
- 10 Q. And what did you do with the \$2500 cash?
- 11 A. I gave that to Congressman Traficant.
- 12 Q. How about Exhibit 1-3 (9)?
- 13 A. This is a deposit ticket dated October 5, 1999.
- 14 Again, I don't have the net deposit, but I took \$2500 out
- 15 of that deposit.
- 16 Q. Okay. And then the \$567 -- looks like 65 would be
- 17 the net deposit, is that correct, what was left of the
- 18 paycheck?
- 19 A. Yes, sir.
- 20 Q. And how about 1 -- I'm sorry. Turn your attention to
- 21 1-4 (1), and I apologize for jumping around like this, it's
- 22 just the way the evidence happens to be organized.
- 23 A. 1-4 what?
- 24 Q. It's 1-4 (1)?
- 25 A. Okay.

Sinclair - Direct

1 Q. And what is that document?

2 A. This is my congressional paycheck dated January 29,
3 1999, in the amount of \$3474.30.

4 Q. That would be that check there; is that correct? Can
5 you see that?

6 A. Yes -- no, I don't believe it is. The one I have in
7 front of me is dated January 29, 1999, that's dated October
8 29, 1999.

9 Q. I'm sorry. If you look through the pages, there
10 should be a number of those checks there. I'm sorry. Do
11 you have the document you're looking at is 1-4 (1),
12 correct?

13 A. 1-4 (1).

14 Q. You'll see a series of checks there, correct?

15 A. Yes, I do.

16 Q. You see one that is dated 11-2 -- I am sorry,
17 10-29-99?

18 A. Yes, I do.

19 Q. And is that -- what is that?

20 A. That is my congressional paycheck in the amount of
21 \$3,067.65.

22 MR. TRAFICANT: What was that amount?

23 THE WITNESS: \$3067.65.

24 Q. Okay. Next, if you could turn your attention to
25 1-4.4 (4), do you see that document?

Sinclair - Direct

1 A. These documents don't have the parentheses numbers on
2 them.

3 Q. You see down at the bottom Government's Exhibit
4 sticker 1-4.4, do you see that by chance?

5 A. Only on the cover page. It's 1-4 (11), but the rest
6 don't have a sticker on them.

7 MR. MORFORD: Your Honor, can I approach the
8 witness stand for a moment?

9 THE COURT: All right. These don't either.

10 MR. TRAFICANT: Can I also see that?

11 MR. MORFORD: It is the two documents down,
12 is a separate 1-4.4 the document we're now on. You see
13 that?

14 MR. TRAFICANT: That's quite confusing. Has
15 too many colors.

16 BY MR. MORFORD:

17 Q. Can you tell us what that document is?

18 A. This is a statement of my checking account.

19 Q. Okay. And would you turn to Page 2? You have to
20 pull the document out of there if you look at Page 2.

21 A. Yes, sir.

22 Q. Well, let me ask this: Do you see the deposit of the
23 last check that we were just looking at?

24 A. Yes, I do.

25 Q. Okay. And can you tell us where that is and where

Sinclair - Direct

1 that's reflected?

2 A. The deposit is dated November 2, 1999, in the amount
3 of \$567.65.

4 Q. Now, the check that you just looked at was for
5 \$3067.65. What happened to the remaining \$2500?

6 A. I would have given that to Congressman Traficant.

7 Q. So that was a cash withdrawal?

8 A. Yes, it was.

9 Q. And what did you do with the cash?

10 A. I gave it to Congressman Traficant.

11 Q. Now, turning back -- I hate to have to keep you
12 jumping around like -- this but turning back to
13 Government's Exhibit 1-3 (10)?

14 A. Yes.

15 Q. Can you tell us what that is?

16 A. This is a deposit ticket dated November 30th, 1999,
17 to my checking account in the amount of \$3067.65, and I
18 took back cash of \$2500.

19 Q. And what did you do with that cash?

20 A. I gave that to Congressman Traficant.

21 MR. TRAFICANT: What date was that? What
22 date was that?

23 THE COURT: Just a moment. I'll ask him --
24 ask the reporter to read it back.

25 MR. TRAFICANT: What is the Exhibit Number?

Sinclair - Direct

1 THE COURT: Excuse me.

2 MR. TRAFICANT: I haven't been able to find
3 it.

4 THE COURT: Excuse me. Let's go a little
5 slower so that we can trace these.

6 MR. MORFORD: The Exhibit number is 1-3 (10).

7 THE COURT: Okay.

8 Q. And Mr. Sinclair, what is the date on the deposit
9 slip?

10 A. November 30th, 1999.

11 Q. And what does the \$3067.65 item at the top represent?

12 A. That is a deposit of my congressional paycheck.

13 Q. And how about the \$2500 item that's written in?

14 A. That is the amount of cash I took out of that
15 deposit.

16 Q. And what did you do with that cash?

17 A. I gave that to Congressman Traficant.

18 Q. Finally, Exhibit 1-3 (11)?

19 A. Yes.

20 Q. Can you tell us what that is?

21 A. That is a deposit ticket dated December 29, 1999, in
22 the amount of \$3651.15, and again, I took out \$2500 in
23 cash.

24 Q. And what did you do with that cash?

25 A. I gave that to Congressman Traficant.

Sinclair - Direct

1 Q. With the exception of the conversation you already
2 testified to regarding Henry DiBlasio and what he told you
3 about cash kickbacks, were you ever told about any other
4 congressional employees having the kickback?

5 A. Not other than Henry, no.

6 Q. That was the only one?

7 A. That was the only one I was aware of, yes.

8 Q. Turning your attention to -- I placed an exhibit
9 underneath your book -- and, your Honor, Congressman
10 Traficant, you actually have to go to the other book. It's
11 book 6. The exhibit is Government's Exhibit 6-11.

12 Do you have that document, Mr. Sinclair?

13 A. Yes, I do.

14 Q. I'm going to hold off for a minute to give
15 Congressman Traficant a chance to --

16 MR. TRAFICANT: Is it in here?

17 MR. MORFORD: It's in book 6 that we talked
18 about earlier today.

19 MR. TRAFICANT: I think I can understand it.

20 BY MR. MORFORD:

21 Q. Do you recognize that document, sir?

22 A. Yes, I do.

23 Q. And what is that document?

24 A. This is what is known as a quit claim deed that I
25 prepared on behalf of Congressman Traficant.

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1 MR. MORFORD: Again, your Honor, may I put
2 this on the overhead?

3 THE COURT: Yes.

4 MR. TRAFICANT: What date is that?

5 Q. What does this deed relate to?

6 A. Well, quit claim deed is basically a transfer of
7 property into another person's name that is recorded at the
8 local county courthouse, which would indicate that there
9 was a transfer of ownership.

10 Q. Okay. And what particular property does this quit
11 claim deed relate to?

12 A. There is a property inscription which is I, of
13 course, would recognize from the property inscription, but
14 I know that it regarded the Congressman's farm in
15 Greenburg, Ohio.

16 Q. At whose direction did you prepare this quit claim
17 deed?

18 A. Congressman Traficant.

19 Q. And on what date was this quit claim deed filed? Is
20 there a file stamp at the top?

21 A. There is one at the bottom. It was filed at the
22 county recorder's office on December 10, 1999.

23 Q. And who did the Congressman Traficant want you to
24 transfer the farm from and who did he want you to transfer
25 the farm to?

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- 1 A. It was transferred to his daughter, Elizabeth H.
2 Traficant, and it was conveyed by himself and I believe his
3 wife, Patricia.
- 4 Q. Turning to the second page --
- 5 MR. TRAFICANT: Excuse me. Do you see the
6 bottom of it to see the signatures?
- 7 Q. Turning to Page 2, signature lines, do you recognize
8 any of the signatures there?
- 9 A. Yes, I did.
- 10 Q. Whose signatures do you recognize?
- 11 A. Congressman Traficant's and myself.
- 12 Q. Is that Congressman Traficant's there that I'm
13 pointing to?
- 14 A. Yes, it is.
- 15 Q. Okay. And on the left-hand side, there's some
16 scribble initials, R A S. Is that your signature?
- 17 A. That's my signature.
- 18 Q. How about the signature right above you, do you
19 recognize that name?
- 20 A. I recognize the name, Robert Barlow, Robert Barlow,
21 but I don't recognize the signature as such.
- 22 Q. Who is Bob Barlow again?
- 23 A. He is congressional aid on the congressional staff.
- 24 Q. You testified that you actually prepared this deed
25 yourself; is that correct?

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1 A. I prepared it, I typed it. However, you'll notice on
2 the bottom of the deed, there's a place where you commonly
3 put who it's prepared by, and I made sure that it's stated
4 it was prepared by James A. Traficant, Junior.

5 Q. Why did you reflect on there that it was prepared by
6 Congressman James A. Traficant, Junior if you were, in
7 fact, the person who prepared this document?

8 A. I didn't feel comfortable having my name on this
9 document as being the preparer.

10 Q. And why is that?

11 A. Well, right around this time period --

12 Q. Let me interrupt you. When you say this time period,
13 what time period are you talking about?

14 A. Not the time period it was prepared necessarily, but
15 this would have been maybe several months prior to December
16 of 1999. The Congressman was well aware that there was an
17 investigation on him, and he was concerned about getting
18 any assets he may have in his name.

19 Q. How do you know that?

20 A. With the discussion with him.

21 Q. Okay. So what did he ask you to do then?

22 A. He asked me to prepare a quit claim deed transferring
23 his farm property from his name and his wife's name into
24 his daughter's name.

25 Q. And why didn't you want your name to be on the

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1 document?

2 A. Well, I explained to him that if that was the purpose
3 of why he was doing it, that it would be considered a
4 fraudulent conveyance, and that, most likely, it would
5 still be attachable if he was convicted or found guilty of
6 any crimes and trying to hide this asset.

7 Q. Based on your discussions with Congressman Traficant,
8 by the time this was filed December 10, 1999, is it your
9 testimony that he was telling you he was aware that he was
10 under investigation?

11 A. Yes.

12 MR. TRAFICANT: What was that date?

13 MR. MORFORD: December of 1999, Congressman.

14 Q. I'd like to ask you some questions about your
15 contacts and dealings with the Government in this case.
16 Okay?

17 A. Yes.

18 Q. Do you recall the first time that you were contacted
19 by the FBI regarding its investigation of Congressman
20 Traficant?

21 A. Yes, it was January 21, Year 2000.

22 Q. And do you recall how it was that the first meeting
23 with the FBI came to be set up?

24 A. Well, I received a call at my office by one of the
25 agents to ask me to come down to the FBI office to answer

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1 some questions.

2 Q. And did you go down to the FBI office in Youngstown?

3 A. Yes, I did.

4 Q. And when you arrived there, did you meet with some
5 agents?

6 A. Yes, I met with Agent Denholm and Agent Perkins.

7 Q. Okay. Do you see them in the courtroom here?

8 A. Yes, I do.

9 Q. They're the two gentlemen seated there?

10 A. Yes, they are.

11 Q. What questions -- what kinds of questions did they
12 ask you at that first interview?

13 A. Majority of the questions concerned Attorney Henry
14 DiBlasio, questions concerning how much I paid in rent to
15 Attorney DiBlasio, who I made the checks payable to, also
16 some of the clients that Attorney DiBlasio had in the past,
17 in a nutshell.

18 Q. Did you inform Congressman Traficant, after that
19 interview concluded, that you had spoken with the FBI?

20 A. Yes, I did.

21 Q. What did you tell him?

22 A. I didn't tell him that I was going to talk to the
23 FBI, but I did notify him after I came back that the FBI
24 had called me in for questions. Of course, he wanted to
25 know what was -- what was said, what was asked of me. I

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1 told him, and he explained to me that they were probably
2 going to call me for additional questioning, and that I
3 should not comply.

4 Q. He told you you should not comply, meaning what, you
5 should not speak to them again?

6 A. That's correct.

7 At the first meeting, the agents asked me to produce
8 certain documents concerning checks that I had written to
9 Henry to cover my rent at his office, and they asked me to
10 produce those documents, and I told them I would have to go
11 home and dig them out of my files, and I would bring them
12 back another day.

13 And the Congressman instructed me not to -- when I
14 did drop those documents off, either have someone else drop
15 them off, or if I did, not to stick around for any
16 additional questions.

17 Q. Did you take his advice?

18 A. No, I did not.

19 Q. Did you go back to the FBI?

20 A. Yes, I did.

21 Q. Did you talk with any agents at that next meeting?

22 A. Yes. Again, I talked to Agent Denholm and Ken the
23 other agent, I think Agent Bushner, at the time on the
24 second meeting.

25 Q. And tell us about the second meeting, what took place

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1 when you met with the FBI on the second occasion?

2 A. Well, the first meeting was on a Friday. Because I
3 remember the weekend, and the agents didn't tell me any
4 specific day to bring those documents back. But I called
5 the office and told them that I had these documents
6 prepared, and I -- that I would drop them off sometime
7 during the day. And I ultimately did that on January 24,
8 which was that Monday.

9 Q. And did they ask you any questions during that time?

10 A. Yes, they did.

11 Q. And you recall any of the questions that they asked
12 you?

13 A. The questions were more geared to myself at that
14 time, and they asked me if I was giving money back to the
15 Congressman, and --

16 Q. Let me stop you there. Were you expecting to be
17 asked that question?

18 A. Yes. I think at that time I was expecting some
19 questions of that nature, yes.

20 Q. What was your reaction when you were asked if you
21 were giving any money to the Congressman?

22 A. I didn't say anything at the time. Of course, it did
23 upset me quite a bit, and I asked if I could leave, and
24 that I needed to think about a few things.

25 Q. Did they in any way attempt to restrain you?

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1 A. Not at all.

2 Q. Did they say or do anything to threaten, coerce,
3 intimidate you?

4 A. No, sir.

5 Q. You said you paused and needed to think about some
6 things. What did you mean by that?

7 A. Well, I realized that I was involved in something
8 that needed to come out, and I wasn't about to lie, but I
9 wasn't prepared at that time to sit down and tell my own
10 story.

11 Q. So what did you do after you left the FBI office?

12 A. After I left the FBI office, I went back to my
13 office, and I informed the Congressman that I had a second
14 meeting with the FBI.

15 Q. Did there come a time where you and the Congressman
16 went somewhere where you could speak privately?

17 A. Yes, later on that day, he requested that we go out
18 for a car ride.

19 Q. And did you go for a car ride?

20 A. Yes, we did.

21 Q. And tell us about the car ride, any discussion that
22 took place?

23 A. Well, of course, I was concerned. I told him
24 questions that were asked of me, and he basically tried to
25 ease my feelings about -- that I had done nothing wrong,

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1 that it was him that they were after, and that I should
2 feel at ease about that.

3 Of course, that didn't put me at ease. And we must
4 have rode around for hours, it seemed like, that evening,
5 and not really talking about too much. It was more or less
6 thinking. It was a very, very, very strange few hours for
7 me, very strange.

8 Q. Did Congressman do or say anything to indicate to you
9 that he was reluctant to talk to you about these matters in
10 your car?

11 A. Yes. He felt that my vehicle was bugged by the
12 Government.

13 Q. How do you know that?

14 A. Every time I would go to talk to him about something,
15 because I wanted to know what was going on, I needed some
16 answers for myself, and he would instruct me not to talk.
17 And what he would say, he would more or less say in code
18 language that I could understand what he was talking about
19 but not actually saying the words.

20 Q. So what did you do next?

21 A. Well, we rode around at least an hour in my vehicle.
22 And I needed to talk. I needed to find out what was going
23 on.

24 So I made a suggestion to go back to the office, to
25 get a different vehicle, and which I did. I had one of my

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1 employees, I asked them if they could take out his pickup
2 truck. I thought maybe the Congressman would feel more
3 comfortable talking in that vehicle rather than mine.

4 Q. At any point while you were in the truck, did
5 Congressman Traficant attempt to give you something?

6 A. Yes, he did.

7 Q. And what did he attempt to give you?

8 A. This was January, of course, so it was cold, he had a
9 coat on. And inside his coat, he had a plastic bag with
10 other envelopes in the plastic bag, like a shopping bag.

11 Q. Did there come a time when you actually opened the
12 bag and opened the envelopes to find out -- found out what
13 was inside of them?

14 A. Later on that evening, yes, while we were in the
15 vehicle, I think I had an understanding what was in the
16 bags, but the bags weren't opened at that time.

17 Q. Where were the bags ultimately opened?

18 A. Well, again, he didn't feel comfortable speaking in
19 the truck either, and we were riding around, and he was
20 trying to think of someplace to go to talk, that he would
21 feel comfortable, and ultimately, I made the suggestion to
22 go back to my house because I knew nobody was home, and he
23 agreed, and that's what we did, went to my house.

24 Q. Where did you go when you got to your house?

25 A. Into my basement.

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1 Q. What happened when you got to the basement?

2 A. When we got into the basement, the Congressman
3 started opening up the bags, and inside the bag there were
4 envelopes, and inside the envelope, there was cash.

5 Q. How was the Congressman's demeanor, how was he acting
6 at that time?

7 A. To begin with, he seemed somewhat eccentric, and I
8 learned to work with him in that regard, but that evening,
9 he was more anxious, more nervous, acting more erratically
10 than he normally does.

11 Q. And what happened with the bags and the envelopes in
12 the basement?

13 A. As he is taking the money out of the envelopes, he is
14 instructing me to start counting money and putting the
15 money in piles of one thousands.

16 MR. TRAFICANT: Would you repeat that?

17 THE COURT: We'll have the read record back.

18 (Record reread by the Reporter.)

19 Q. What were the denominations of the bills themselves,
20 do you recall that?

21 A. 100's and 50's.

22 Q. Did you recognize any of the handwriting on any of
23 the envelopes?

24 A. Yes, I did.

25 Q. Whose handwriting did you recognize on the envelopes?

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- 1 A. Henry DiBlasio's.
- 2 Q. And what kind of things did it say on the envelopes
- 3 that you recall?
- 4 A. J T, the initials J and T, personal, and I recognized
- 5 that to be Henry's writing. Henry had a habit of writing
- 6 that on just pretty much anything he would give me even.
- 7 He would write "personal" on it, and I recognized other
- 8 documents that he had given the Congressman, and he would
- 9 either put J T or J A T.
- 10 Q. Now, was Henry DiBlasio's writing on all the
- 11 envelopes or some of the envelopes?
- 12 A. Just some of them.
- 13 Q. Did any of the envelopes look familiar to you?
- 14 A. Yes, they did.
- 15 Q. In what way?
- 16 A. The envelopes looked familiar because they were the
- 17 envelopes that I used at my local bank to put the \$2500 in
- 18 on a monthly basis to the Congressman.
- 19 Q. Now, would that be all the envelopes or just some of
- 20 the envelopes?
- 21 A. Just some of the envelopes.
- 22 Q. And would those have been the ones that had the J. T.
- 23 Personal and Henry DiBlasio's writing, or are you talking
- 24 about other envelopes?
- 25 A. Well, I recognize the envelopes that I thought that

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1 were from -- that I handled. But then there were other
2 envelopes that had personal or J T on it.

3 Q. Two separate sets of envelopes?

4 A. Yes.

5 Q. Did Congressman Traficant at any point make any
6 statements as to where some of this cash may have come
7 from?

8 A. Yes. There was one envelope in there that I saw that
9 had the name J.J. Cafaro, and the Congressman mentioned
10 something about the money coming from him.

11 Q. Who's J.J. Cafaro?

12 A. He is a local businessman in the Youngstown area.
13 Their family is in the business of developing shopping
14 malls across the United States.

15 Q. After you counted out this money, what did
16 Congressman Traficant tell to you do with the cash?

17 A. He told me to keep it at home basically.

18 Q. For what purpose?

19 A. For the purpose of being able to justify the
20 withdrawals that I made from my congressional paycheck.

21 Q. What was the issue, what was the problem that you had
22 to justify it?

23 A. Well, \$2500 coming out of cash in anyone's paycheck
24 is a problem. I mean, you -- I'm not an extravagant
25 person. I don't have expenses that would need to withdraw

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1 \$2500 out of on a monthly basis to pay for personal needs.

2 So it was my understanding that I had to account for
3 that money, to be able to show that, okay, you see that
4 I've taken \$2500 out, but here it is, I have it.

5 Q. Account to who?

6 A. Account to the Government.

7 Q. You say the Government, meaning?

8 A. The FBI agents who were investigating the case.

9 Q. What did you do with the envelopes?

10 A. Well, once -- once all the money was taken out of the
11 envelopes, the Congressman was trying to figure out what to
12 do with them, and he was walking around in my basement, and
13 he saw that I had a concrete wash tub. This is an older
14 house, and he asked me if I had a match or something to lay
15 them on fire.

16 Q. And what did you do?

17 A. I had a propane torch I would use for soldering
18 copper pipes, whatever, and I got that.

19 Q. And what did you do?

20 A. Lit them on fire in my wash tub.

21 Q. Where was Congressman Traficant while you lit these
22 envelopes on fire?

23 A. Over my shoulder.

24 MR. TRAFICANT: Did it catch on fire?

25 THE COURT: Congressman?

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1 MR. MORFORD: Objection.

2 THE COURT: You will disregard that. Can
3 you?

4 THE JURY: Yes.

5 THE COURT: Thank you.

6 Q. Did there come a time when Congressman Traficant gave
7 you more cash?

8 A. Yes.

9 Q. And when did that occur?

10 A. Just within an hour after that incident, I drove him
11 back to the office, and ultimately, he gave me an
12 additional envelope with some more cash in it.

13 Q. How much cash did he give you?

14 A. An additional \$2500.

15 Q. Do you recall, as you sit here today, how much cash
16 he'd initially given you in the basement?

17 A. Yes. The money that was counted out in the basement
18 totalled \$16,000.

19 Q. So this \$2500 was in addition to the \$16,000?

20 A. Yes, for a total of \$18,500.

21 Q. What, if anything, else did Congressman Traficant
22 give you at the same time he gave you this additional
23 \$2500?

24 A. Additional envelopes, it was my assumption that he
25 just had some additional envelopes there, again, in a

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1 plastic shopping type bag.

2 Q. Was there anything in those additional envelopes?

3 A. Other than the \$2500, no, there weren't.

4 Q. Did you recognize any handwriting on any of the
5 additional empty envelopes that he gave you at the time
6 that he gave you this additional \$2500?

7 A. Yes, I did.

8 Q. And what did he tell you to do with these envelopes?

9 A. To destroy them in the same manner.

10 Q. Why did Congressman Traficant give you the additional
11 \$2500; what was your understanding?

12 A. Well, my understanding was that the \$18,500 wasn't
13 enough to be able to justify what was going on.

14 Q. Now, did anything else eventful happen in your life
15 that same day that you were down the basement with the
16 \$16,000 and later that day you got the \$2500, was there
17 something else that happened?

18 A. Yes.

19 Q. Can you tell us what happened?

20 A. My stepfather had a stroke that evening.

21 Q. And what was his condition?

22 MR. TRAFICANT: Pardon? I didn't hear that
23 response.

24 THE WITNESS: My stepfather had a stroke that
25 evening.

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1 Q. What was his condition?

2 A. Very serious.

3 Q. And when did you first learn about this?

4 A. Right during the time of the -- when he was giving me
5 the additional \$2500 in cash.

6 Q. How much pressure were you feeling at that time?

7 A. Probably just about as much as I'm feeling now,
8 tremendous.

9 Q. What did you do with the envelopes?

10 A. I just had to go on auto pilot and do what I had to
11 do. Following his instructions, I went back to my house
12 and again lit them on fire.

13 MR. TRAFICANT: I didn't hear that response.

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

16 BY MR. MORFORD:

17 Q. What did you do next?

18 A. Well, as I did that, I realized that this was wrong,
19 that I couldn't do that, and I -- I put them out with
20 water.

21 Q. Had they burned completely?

22 A. No. They did not burn completely.

23 Q. And what did you decide to do that day?

24 A. To contact the agents I had been talking with and
25 tell him -- to give them everything they knew.

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1 MR. TRAFICANT: What day was that?

2 THE COURT: Excuse me, but this isn't your
3 time to talk to the witness. Thank you.

4 MR. TRAFICANT: Okay

5 BY MR. MORFORD:

6 Q. Do you recall what day this would have been
7 approximately?

8 A. That was the evening of January 24, 2000.

9 Q. Did you end up contacting the FBI?

10 A. Yes, I did.

11 Q. Did there come a time when you actually went and met
12 with the agents?

13 A. Yes, I did.

14 Q. Did anyone go with you?

15 A. Yes, one of my employees at the office, not only
16 having a work relationship, but he's a friend of mine,
17 personal friend.

18 Q. And did he go with you to the FBI that day?

19 A. Yes, he did.

20 Q. What was your purpose in going to the FBI that day?

21 A. To let them know that I wanted to tell them what I
22 had been through.

23 Q. Did you actually give them the information, tell them
24 any facts that first day?

25 A. No, not that first day. I -- we discussed setting up

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1 an appointment to come in and do that.

2 Q. When was the next time that you saw Congressman
3 Traficant after you went to the FBI and told them that you
4 wanted to tell them everything you knew?

5 A. My stepfather died the next day, and he came to one
6 of the services.

7 Q. And where was that?

8 A. In Youngstown.

9 Q. Where did you see him physically? Was it at a
10 church?

11 A. At the funeral home, calling hours.

12 Q. Did you have an opportunity to talk with Congressman
13 Traficant at the funeral home?

14 A. Yes, he paid his respects and asked me to walk out
15 with him and talked to me a bit.

16 Q. Do you recall what, if anything, he said to you that
17 night at the funeral home?

18 A. Well, he was under the suspicion that I received a
19 subpoena to testify at the Grand Jury, and he told me that
20 we would talk about it later, just asked me if I was okay,
21 had his arm around me.

22 Q. Had you actually received the Grand Jury subpoena by
23 that point?

24 A. Yes, I did.

25 Q. Did you indicate to Congressman Traficant that you

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1 had decided to tell the FBI everything you knew?

2 A. No, not at that time I did not.

3 Q. Why not?

4 A. I was -- I was afraid of him, afraid of what he would
5 do, just afraid of the whole situation.

6 Q. Now, when were you scheduled to actually appear
7 before the Grand Jury and testify? Do you recall?

8 A. February 1, 2000.

9 Q. And what did you tell him when he asked you if you
10 would be testifying before the Grand Jury?

11 A. Well, I was aware that Attorney DiBlasio was also
12 subpoenaed to testify for February 1st. However, it was my
13 understanding that Henry was going to all of a sudden have
14 a medical condition that he couldn't appear. So I
15 understood that I was going to be moved into March, and so
16 I told the Congressman that that's when I was expected to
17 testify in March.

18 Q. I'd like to turn your attention to what is marked
19 Government's Exhibit 1-5 (1) and 1-5 (2) do you see those
20 items?

21 MR. TRAFICANT: What are the numbers?

22 THE WITNESS: Yes, I do.

23 MR. MORFORD: 1-5 (1), 1-5 (2).

24 Q. Have you seen these documents before?

25 A. Yes, I have.

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1 Q. Do you recognize the handwriting on these documents?

2 A. Yes, I do.

3 Q. Whose handwriting is on these documents?

4 A. Congressman Traficant's.

5 Q. Just without getting into the details, just in
6 general, what are these documents?

7 A. Personal notes that he wrote to me and left them on
8 my desk.

9 Q. And let's start with 1-5 (2). Just in general,
10 without getting into the details, what is that exactly?

11 A. This is a no-detail note that he left me.

12 Q. And 1-5 (1), what would you call that?

13 A. That's a post-it note, just a short note.

14 Q. Okay. Were those ever connected at any time, posted
15 in a larger note?

16 A. Yes. I believe the post-it note was attached onto
17 the larger note, 1-5 (2).

18 Q. When was the first time you recall seeing these
19 documents?

20 A. Well, this would have been after I -- I was out that
21 entire week with the funeral, and this would have been the
22 Monday I came back to work.

23 MR. MORFORD: Your Honor, if I could, I'd
24 like to put these on.

25 THE COURT: All right.

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1 Q. We'll start with 1-5 (1.)

2 MR. TRAFICANT: What is the number of it?

3 MR. MORFORD: 1-5 (1).

4 Q. Could you please read that, sir?

5 A. It says Allen -- my name is spelled wrong -- let me
6 know if IRS was one of the intimidators; also keep
7 confidential. No give me copy of this.

8 Q. And turning to 1-5 (2), we'll start at the top here.
9 Can you go ahead and read this, please?

10 A. It says, "Allen, tell them the truth or tell the
11 truth, they know you never gave me kickbacks. But they may
12 ask if you ever gave me money, and you did. You lent me
13 cash on several parentheses three to four months,
14 occasions, from \$100 to \$300, and I did pay you back in
15 cash. That is no crime. Best I can recall, total amount
16 is approximately \$800. I still owe you \$250, and will pay
17 by March. March 1st. I need to take -- I need to talk to
18 you about CCA prison issue, land options. Call me in D.C.
19 in afternoon. I'm traveling," signed Jim.

20 At the bottom "also, we're looking into the prospect
21 that both you and Henry can sue IRS for \$1 million. Check
22 with me."

23 Q. You were asked questions about these notes. At one
24 point, Congressman Traficant says in his note that he's on
25 his way to Washington, D.C. Did he, in fact, go to

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- 1 Washington, D.C. that day?
- 2 A. Yes, he did.
- 3 Q. And you said you believed this was January 31st; is
- 4 that correct?
- 5 A. If -- if that was the Monday, yes.
- 6 Q. When were you supposed to be testifying before the
- 7 Grand Jury?
- 8 A. February 1.
- 9 Q. That would be the very next day?
- 10 A. Yes, sir.
- 11 Q. Now, one point the Congressman says that you lent him
- 12 cash on several occasions between \$100 and \$300. He paid
- 13 you back in cash. Best he can recall the total amount was
- 14 \$800, is that true?
- 15 A. No, it's not.
- 16 Q. On both post-it notes where he says let me know if
- 17 IRS was one of the intimidators and on the bottom we're
- 18 looking into the prospects that both you and Henry can sue
- 19 the IRS for a million dollars, would you explain to the
- 20 jury what that's about.
- 21 A. Well, before this, he was boasting about suing the
- 22 Government for intimidating him, and that he was going to
- 23 be rich, basically because of it, that he was going to file
- 24 a multi-million dollar lawsuit against the IRS for
- 25 harassment, and that prior to this happening, I believe one

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1 of the -- one of the FBI went to talk to Henry, and Henry
2 was saying that it was a very intimidating situation.

3 So that's what I gathered he meant me, and Henry
4 would also be able to sue the IRS or the Government for a
5 million dollar.

6 Q. Had you been in any way intimidated, coerced, or
7 pressured by the IRS?

8 A. No, sir.

9 Q. After Congressman left for Washington, D.C. that day,
10 did you meet with anyone?

11 A. Yes, I did.

12 Q. And who did you meet with?

13 A. I met with yourself and many of the agents in the
14 local office.

15 Q. Had you and I ever met prior to January 31st?

16 A. No, sir.

17 Q. What was the purpose of our meeting?

18 A. The meeting was for me to explain everything that I'd
19 been through.

20 Q. At any point in any of your dealings with the FBI,
21 IRS, my office, me, were you ever threatened, coerced,
22 intimidated in any way?

23 A. No, sir.

24 Q. Are you familiar with the term called "a proffer
25 letter"?

Sinclair - Direct

1 A. Yes, I am.

2 MR. TRAFICANT: Pardon? I didn't get that
3 word.

4 THE COURT: Proffer letter.

5 Q. And can you tell the jury what a proffer letter is ?

6 A. Basically, it's a situation where it's an agreement
7 between myself and the Government to come in and explain
8 everything that I knew about the situation and answer
9 questions that they may have without the implications of
10 any criminal actions that can be taken against me.

11 Q. And was that meeting that day conducted under the
12 terms and conditions of a proffer letter?

13 A. Yes, it was.

14 Q. What did you tell us that day when we met on January
15 31st?

16 A. I explained the situation with me being hired on to
17 the congressional staff, the history of me getting \$2500
18 back each month from my paycheck to the Congressman, and
19 the destruction of the envelopes in a nutshell.

20 Q. After that meeting was concluded, did you agree to
21 provide evidence to the FBI?

22 A. Yes, I did.

23 Q. And did you, in fact, meet with agents and provide
24 evidence?

25 A. Yes, I did.

Sinclair - Direct

1 Q. And can you tell the jury what evidence you provided
2 to the FBI?

3 A. That would have been the \$18,500 in cash that I had
4 at home as well as the envelopes that I kept at home that
5 were burned.

6 Q. And how about the letter that we just looked at,
7 Exhibit 1-5?

8 A. Yes.

9 Q. I'd like you to turn, if you will, to Government's
10 Exhibit 1-1 (11) through 16?

11 A. I'm sorry. Again?

12 Q. 1-1, and they're marked individually 1 through -- I
13 think we'll go 1 through 16. There's also a 17, but we'll
14 hold off and get to that in an a minute.

15 Do you see those?

16 A. Yes, I do.

17 Q. And do you recognize those?

18 A. Yes, I do.

19 Q. What are those?

20 A. These are the envelopes that I had in my possession
21 where I was instructed to burn them.

22 Q. These are the envelopes that you indicated before you
23 started to burn them and then put water on them to put the
24 fire out?

25 A. That's correct.

Sinclair - Direct

1 Q. And are these part of the evidence that you provided
2 to the FBI?

3 A. Yes, it is.

4 MR. MORFORD: Your Honor, I would like to ask
5 permission, if possible, to first offer this evidence and,
6 second possible, to present it to the jury.

7 THE COURT: How long do you think that's
8 going to take?

9 MR. MORFORD: Well, they -- there's 16
10 individual ones that can be cast down so I'm not sure,
11 really.

12 MR. TRAFICANT: I do not object, and if it
13 would be an expeditious event for the Court, go right
14 ahead.

15 THE COURT: All right. Very well. I'm also
16 thinking about your mid day break, and so what we'll do is
17 take it after we've done that, and yes, you can go forward.

18 MR. MORFORD: Thank you, your Honor.

19 (Pause.)

20 THE COURT: The record should show that
21 without objection, Exhibits 1-1, subparts 1 through 16, are
22 admitted. Now we're going to take the afternoon break.
23 It'll last long enough so that you don't have to come back
24 and come back down here for a half hour. You have the
25 time. I'll tell you what it is. You should be ready to be

Sinclair - Direct

1 in box at the end by -- in the jury box again at quarter
2 after 3:00. Then we'll proceed for the afternoon. Thank
3 you.

4 (Proceedings in the absence of the jury:)

5 THE COURT: I just received an order from the
6 Sixth Circuit, which relates to an appeal -- actually filed
7 yesterday, but I didn't see it until now. So if any of you
8 would like to look at this, you can look at it. I guess it
9 is --

10 MR. TRAFICANT: Can we make copies and
11 just --

12 THE COURT: Yeah, we'll make copies. This is
13 an order entered by order of the court regarding the
14 defendant's appeal of this Court's order denying his motion
15 to suppress evidence at his criminal trial. And it's their
16 order basically granting the Government's motion to dismiss
17 on that, for lack of jurisdiction.

18 So I'll hand it down -- lawyers like to see it right
19 away. But we will make copies, and it's a Sixth Circuit
20 order, not an order we issued, so it's available to the
21 press through your normal channels of getting Sixth Circuit
22 orders.

23 MR. SMITH: Yes, your Honor.

24 (Thereupon, a recess was taken.)

25 THE COURT: You're still under oath, sir.

Sinclair - Direct

1 Mr. Morford?

2 Q. When we left off before the break, we were talking
3 about the events of January 31, which was a Monday. I want
4 to take you at the time very next day, Tuesday, February 1,
5 2000, and ask, you did you testify before the Federal
6 Grand Jury on that date?

7 A. Yes, I did.

8 Q. And did you testify under a grant of statutory use of
9 immunity?

10 A. Yes, I did.

11 Q. And could you explain to the jury your understanding
12 of that immunity that you testified under that day?

13 A. Under my rights not to incriminate myself, immunity
14 was given to me to testify truthfully about the issues that
15 we have been talking about.

16 Q. What was your understanding based on that immunity as
17 to whether or not your own words and testimony could be
18 used against you?

19 A. That they could not be used against me.

20 Q. And as you're testifying here today, is that same
21 immunity applying to your testimony here today?

22 A. Yes, sir.

23 Q. Did you tell the Grand Jury back on February 1, 2000,
24 the same basic type of things you told the jury here today?

25 A. Yes, I did.

Sinclair - Direct

1 Q. Did you tell Congressman Traficant that you had gone
2 before the Grand Jury and testified on February 1, 2000?

3 A. No, I did not.

4 Q. Why not?

5 A. Well, we still had a very close relationship. He was
6 in my office. I knew that I would have to deal with him,
7 and I wasn't proposed to doing that yet. I was -- I was
8 fearful of what might happen if I disclosed and what it
9 would do to him.

10 Q. When did you tell him you would actually have to
11 testify before the Grand Jury? What date did you tell him
12 you would actually appear if you did appear?

13 A. I believe I laid the ground work for that when he
14 paid his respects at my stepfather's funeral, when I told
15 him I think I was subpoenaed for March. So I think he was
16 under the impression that that's when I was going forward
17 to testify in March, the same date that him and DiBlasio
18 was supposed to appear at the Grand Jury in March.

19 Q. Now, I'd like to call your attention to what's been
20 marked Government's Exhibit 1-1 (17), the very last of the
21 envelope exhibits. Do you see that?

22 A. Yes, I do.

23 Q. And do you recognize that document or that item?

24 A. Yes. This is the style of envelope that was
25 available at my bank the Home Savings and Loan Company,

Sinclair - Direct

1 that I would place the cash that I received after cashing
2 my paycheck.

3 Q. And you testified -- let me ask you, did there come a
4 time when you received an envelope from Congressman
5 Traficant after you appeared before the Grand Jury?

6 A. Yes, after I appeared before the Grand Jury on
7 February 1st?

8 Q. Yes.

9 A. Yes.

10 Q. Can you tell the jury about that?

11 A. He came back from Washington.

12 Q. When you say he?

13 A. Congressman Traficant, he came back from Washington a
14 day or two, I believe it was the next day after I
15 testified, and we had gone for a car ride. This was over a
16 period of two days, and on the second day, we went to a
17 restaurant that was located in North Lima, Ohio, just a
18 little distance from Youngstown, and he talked to me about
19 my testimony and what I should and shouldn't say.

20 Q. Let me interrupt you a minute. When you say your
21 testimony, are you talking about the testimony you were
22 just giving or the testimony that he thought was yet to
23 come?

24 A. The testimony that he thought was to come.

25 Q. Okay.

cc 011 010

Sinclair - Direct

1 A. We had conversations concerning that subject, and on
2 the way home or back to the office, the Congressman was in
3 my car. I was driving. And this is the envelope that he
4 gave me, which I believed at the time contained additional
5 money.

6 Q. What discussion, what types of things did you discuss
7 at the point just prior to him handing you this envelope?

8 A. Well, as we were sitting there, again, he's
9 reaffirming I've done nothing wrong, that they're after
10 him, the Congressman, and that I can easily justify what I
11 had done with the money, and as he's sitting there, he's --
12 I can see him counting on his fingers, and I had some
13 understanding that he didn't feel that the \$18,500 that I
14 had would be enough to justify all the withdrawals that I
15 made.

16 I didn't know it at that time, but on the way back to
17 the office, he indicated to me that, well after he passed
18 me this envelope, he held up his hand and went like this to
19 me, and I understood that there was six more thousand
20 dollars in the envelope.

21 MR. MORFORD: Your Honor, at this time I'd
22 like to put this on the overhead.

23 THE COURT: All right.

24 Q. Now, at the time that Congressman Traficant gave you
25 this envelope, was it opened or sealed?

Sinclair - Direct

- 1 A. It was sealed.
- 2 Q. And what did you do with the envelope?
- 3 A. I either placed it in my pocket or just put it beside
- 4 my leg.
- 5 Q. What did you ultimately do with the envelope?
- 6 A. After I got back to the office, I contacted the
- 7 agents and advised them of what happened.
- 8 Q. Agents from which agency?
- 9 A. From the FBI.
- 10 Q. And what did you do with the envelope?
- 11 A. I arranged a meeting for the agents to meet me
- 12 somewhere, and I met with Agent mike Pikunas and Agent Joe
- 13 Bushner, which I turned over the sealed envelope.
- 14 Q. And did anyone open the envelope in your presence?
- 15 A. Yes, the agents did.
- 16 Q. Did they count the money in your presence?
- 17 A. Yes, they did.
- 18 Q. How much money was in the envelope?
- 19 A. \$6,000.
- 20 Q. You remember the denominations?
- 21 A. Hundreds and 50's, I know. The breakdown, no, I
- 22 don't.
- 23 Q. The first set of evidence you said you took to the
- 24 FBI, which was the \$18,500, partially burned envelopes and
- 25 the letter with the little sticker marked Government's

Sinclair - Direct

- 1 Exhibit 1-5, do you recall that testimony?
- 2 A. Yes.
- 3 Q. When you gave the agents the money, did they count it
- 4 in your presence?
- 5 A. Yes, they did.
- 6 Q. And how much did they count out on that first
- 7 occasion?
- 8 A. \$18,500.
- 9 Q. So by the time you'd given them this additional
- 10 \$6,000, how much total had you given them?
- 11 A. With the \$18,500 plus six, \$24,500.
- 12 Q. Where did you get the \$24,500?
- 13 A. Congressman Traficant.
- 14 Q. What was the purpose of his giving you that \$24,500?
- 15 A. To justify the withdrawals that I had made, to show
- 16 that I would be able to account for that money. I can say
- 17 here it is. I have it at home.
- 18 Q. Now, were you still working for the Congressman on
- 19 staff at that point?
- 20 A. Yes, I was.
- 21 Q. And what office were you and he working out of at
- 22 that point?
- 23 A. The 11 Overhill Road address.
- 24 Q. Did that raise any concerns in your mind?
- 25 A. Certainly. He was at the office when he was in town,

Sinclair - Direct

1 pretty much night and day as well as me working there. I
2 had a lot of close contact with him.

3 Q. Did you have any personal concerns about that, given
4 the fact that you were now providing information to the
5 FBI?

6 A. It was a very difficult situation to be in, yes.

7 Q. What, if anything, did you try to do about that?

8 A. I wanted to distance myself as far away as I could
9 from him, and I explained to him how I wanted to resign. I
10 had done this many, many, months beforehand, too, told him
11 that I wanted to resign from the position. I had gotten to
12 the point where it was a more urgent situation, and that I
13 also wanted him to move from the building, and basically,
14 he just said no.

15 And as I explained, it was very difficult to talk to,
16 he dominates the conversation, and it's very aggressive,
17 and I was not that assertive with him, but it came to the
18 point it was too much on me, to have him around anymore
19 under those circumstances, and I had to come up with an
20 excuse that he would understand, to move out of the
21 building.

22 At the time, my wife was pregnant with our third
23 child, and I just told him it was too much on our family.
24 And he seemed to understand that, and I asked him to move
25 out by March 1st, and ultimately, he did move out April 1st

Sinclair - Direct

1 of 2000.

2 Q. Did he express any concerns to you when you requested
3 to resign and have him move out of the building?

4 A. Well, yes. Many months before this incident
5 occurred, where I expressed interest in resigning because I
6 wasn't comfortable with the job, he kept putting me off.
7 This is election time, you know, we just can't do that
8 right now and left it at that. He just would not even
9 accept what I attempted to explain to him.

10 And basically, towards the end as well, he was
11 worried about the press coverage and how it would look if
12 he were to be moving out of the office because at that
13 time, there were some newspaper articles in the paper about
14 the -- the rental agreement and that the -- the FBI had
15 subpoenaed records concerning the office building and the
16 ownership aspect, and he was afraid of just how it would
17 appear in the press.

18 Q. I'd like you to turn your attention to Government's
19 Exhibit 1-6.

20 A. Yes.

21 Q. Do you recognize that document?

22 A. Yes, I do.

23 Q. And without getting into the particulars of the
24 document, can you just tell the jury in general terms what
25 that is?

Sinclair - Direct

1 A. That's a note that the Congressman wrote me and left
2 on my desk concerning moving out of the office.

3 Q. Why would the Congressman Traficant write you these
4 notes as opposed to having these discussions face-to-face?

5 A. I really don't know. He generally didn't like to
6 talk about this stuff. It was very difficult to pin him
7 down to be able to talk about it. Maybe because of his
8 schedule, he just decided to put it down in a note, but
9 usually, the notes didn't even come close to the actual
10 conversations that we had.

11 Q. When you say his schedule, what was there about his
12 schedule that would make it difficult sometimes to talk?

13 A. Well, he was always coming and going to one event or
14 another. He would always have some meeting to go to or had
15 to leave for D.C. or a meeting with someone or an
16 appearance to give or just work to do.

17 Q. How frequently would the Congressman go back and
18 forth from Youngstown to Washington, D.C.?

19 A. Usually once a week. He would -- he would come in on
20 Thursdays, Thursday evenings, and drive become to D.C. or
21 Sunday or Monday mornings.

22 Q. So he was driving back and forth?

23 A. Yes.

24 Q. Was he comfortable talking to you about these things
25 on the telephone when he was gone?

Sinclair - Direct

1 A. No, no, not at all. I can't even recall one
2 telephone conversation on the subject matter.

3 Q. Do you recognize the printing, handwriting on this
4 document that's been marked Exhibit 1-6?

5 A. Yes, I do.

6 Q. And can you tell us whose handwriting that is?

7 A. Congressman Traficant's.

8 MR. MORFORD: Your Honor, at this time I'd
9 like to put this on the overhead.

10 THE COURT: That's fine.

11 Q. Again, this is Government's Exhibit 1-6, and I'd
12 like, if you could, just to have you go through and read
13 that.

14 A. It starts "Allen, I found another place. I believe
15 it would be best for me to move. I do not want my
16 political focus to harm your business and associates. We
17 must discuss time table, et cetera. If I'm able to stop
18 back Sunday night, I will. I want to go over the --
19 something Valley case. Approximately some -- apparently
20 some issues -- I can't read the next word, but the word
21 after that is Bucheit.

22 Q. Let me stop you there a moment and ask you a couple
23 questions. You ever heard of someone John Valley?

24 A. Yes.

25 Q. And who was John Valley, and what was your

Sinclair - Direct

1 familiarity with John Valley?

2 A. John Valley was a local businessman, he owned a
3 mushroom farm where he grew mushrooms in Lima, Ohio, and I
4 knew him to be a client of Henry DiBlasio's.

5 Q. Had you ever discussed the John Valley or John Valley
6 cases with anyone?

7 A. I did some work on Mr. Valley's case at the request
8 of Mr. DiBlasio, but that was many, many years before. If
9 this would have been in the early 90's, before 1995.

10 Q. Had you ever been asked any questions about the John
11 Valley case by agents of the FBI?

12 A. My first meeting on January 21st with the agents,
13 that was one of the names that was mentioned, if I had any
14 knowledge about the case.

15 Q. How about the second name B-U-C-H-E-I-T, is that a
16 name you're familiar with?

17 A. Yes. Mr. Bucheit was a contractor, international
18 contractor, and I knew he had a situation where he
19 developed a mall in Saudi Arabia, and there was
20 difficulties with him getting paid for the job, and I did
21 some work on ancillary cases of his.

22 Q. Picking up after that sentence where it says I want
23 to go over the John Valley and Bucheit matters, if you can
24 pick up again where it starts on another note.

25 A. On another note, our staffer, Denny Johnson, also

Sinclair - Direct

1 Democratic chairman in Columbiana County, told me the
2 following: FBI contacted him several years ago regarding a
3 targeted individual, not me. They told him they had a tape
4 from this guy, saying he gave Denny J money to bribe a
5 court judge. Then he simply told them to subpoena him.
6 They continued the investigation with other people. There
7 were no tapes, simply bull shit to elicit info, if any. I
8 tell you this because it's apparent the Government is
9 trying to find something on HAD. I know you'll tell the
10 truth, but they will lie.

11 I can't read the next word.

12 MR. TRAFICANT: Deceived.

13 THE WITNESS: Deceived, something broke the
14 rules, and HAD doesn't deserve that. HAD did nothing
15 wrong, signed Jim.

16 Q. What was your understanding of why Congressman
17 Traficant was giving you this note, telling you a story
18 about another person who had been questioned by the FBI
19 with the FBI indicating they knew more things than
20 apparently they did?

21 A. Well, I guess how I understood it was he wanted to
22 bring out the fact that the FBI was basically on a fishing
23 expedition, that they were trying to contact whoever and
24 whatever to find out information, and that basically they'd
25 never got anywhere, and I guess this letter was to make me

Sinclair - Direct

1 feel better about what I was doing.

2 THE COURT: One moment, please. You want a
3 side bar?

4 MR. TRAFICANT: The only objection -- no, I
5 want to cite an objection. He cites an objection on
6 possibility, and the Court deals with probability not
7 possibilities, and I think this line of questioning is
8 irrelevant.

9 THE COURT: Okay. That objection is
10 overruled, and normally what we do is take objections at
11 the side bar, so you don't have to worry about them. So
12 I'll ask you to remember that. And the next time if you
13 stand, I'll acknowledge it, and we'll take the Court
14 Reporter over and follow the usual procedure. Thank you
15 BY MR. MORFORD:

16 Q. Next, I'd like to turn your attention to Exhibit 1-7.

17 A. Yes.

18 Q. Do you recognize the handwriting on that note?

19 A. Yes, I do.

20 MR. TRAFICANT: 1-7?

21 MR. MORFORD: 1-7. Again, your Honor, I'd
22 ask permission to put it on the overhead.

23 THE COURT: Let me hear his answer. I don't
24 think he -- you said you do recognize it.

25 THE WITNESS: Yes, I do, your Honor.

Sinclair - Direct

1 Q. And whose handwriting is it? I'm sorry.

2 A. Congressman Traficant's.

3 Q. And how did you come into possession of this
4 particular document?

5 A. Again, this was probably left on my desk as other
6 notes were.

7 Q. Who did you give this document to after you received
8 it?

9 A. The FBI agents.

10 THE COURT: You can show it.

11 MR. MORFORD: Thank you.

12 Q. If you can go ahead and read this?

13 A. Allen, it is against house rules to loan me money,
14 but you did. I don't know amount. Maybe \$1,000 over a
15 period of time. I honestly don't know.

16 Q. Did you ever loan Congressman Traficant an amount of
17 maybe \$1,000?

18 A. Not unless you want to consider part of that money a
19 loan, but, no, that was not my belief.

20 Q. Did you consider the \$32,500 you'd given him, in 13,
21 \$2500 payments to be a loan?

22 A. No.

23 Q. Did Congressman Traficant ever discuss with you any
24 aspects of the Government's investigation as to how he was
25 viewing it?

Sinclair - Direct

1 A. Well, he felt he was a target, that with his prior
2 trial back in the early 1980's, that he was a target then
3 and always will be a target. And he basically had a canned
4 speech that I heard, if not once, a hundred times, about
5 synopsis of that trial, and how he was able to
6 single-handedly defeat the Government.

7 Q. Did he ever tell you about what other potential
8 witnesses or defendants, who found themselves in your same
9 position, were doing?

10 A. Well, I don't know if it was ever discussed directly,
11 but I understood that Henry DiBlasio was basically on the
12 same page as me, with the deception of hiding the money.

13 Q. What, if anything, did the Congressman tell you,
14 Congressman Traficant tell you that Henry DiBlasio had told
15 him he was going to do?

16 A. Well, I know that when the FBI agents visited Henry
17 in Florida at his residence, that the Congressman asked
18 Henry to write him a letter explaining the situation, and
19 basically explain how intimidating and harassing the
20 meeting was.

21 Q. Did he indicate to you what Henry was going to do in
22 terms of cooperating or not cooperating?

23 A. It was my understanding that -- see, you have to
24 understand that during this time period, I think he
25 believed what he was doing was okay. I don't know. I

Sinclair - Direct

1 guess you get to a point where you can tell so many lies
2 and believe your own lies, and it was never discussed
3 openly that Henry or I were doing anything wrong.

4 So I gathered from the conversations that we had
5 together that Henry was also going to not cooperate or tell
6 him that's just not whatever the Government said or accused
7 him of, that's just not how it happened.

8 Q. When you were discussing the Government's
9 investigation with the Congressman, did the topic of the
10 Bucci brothers ever come up?

11 A. I knew of the Bucci brothers. I knew that -- no, I
12 can't specifically recall anything specific about any
13 conversations with the Buccis. I mean, I know their name
14 during that time period, but I can't recall what, if
15 anything, was the subject matter, sorry.

16 Q. You can't recall the Congressman telling you anything
17 about the Bucci situation?

18 A. I remembered him mentioning the name, but it was
19 something concerning a contract that the Buccis had. They
20 were paving contractors, street paving contractors, and had
21 something to do with -- they had a Government contract, and
22 that they were the lowest bidder and lost the contract, and
23 the Congressman needed to step in and help them, which I
24 think he was successful in doing, but I don't remember
25 anything other than that.

Sinclair - Direct

1 Q. That's the only thing you remember him telling you
2 about the Bucci aspect of the investigation?

3 A. Yes.

4 Q. When did you finally leave your employment with
5 Congressman Traficant?

6 A. Officially, my resignation was effective April 1 of
7 2000.

8 Q. I'd like you to do one last thing with a couple
9 documents for me. If you'd turn to Government's Exhibit
10 1-4, it may be out of the book sitting on the standstill.

11 A. Okay.

12 Q. Now, there's a whole group of documents, not just one
13 document in there, and I'd ask that you briefly peruse
14 those and take a look at each one, and I want to ask you a
15 couple follow-up questions.

16 A. Okay.

17 Q. Do you recognize those documents?

18 A. Yes, I do.

19 Q. What are those documents?

20 A. These are my congressional paychecks.

21 Q. And finally, if you would take a look at Government's
22 Exhibit 1-30, and in particular, the two documents that
23 have been submarked 1-30 (1), 1-30 (2). It's further back
24 towards the back of the book, 1-30?

25 A. Yes.

Sinclair - Direct

1 Q. Do you recognize those two items, the marking would
2 be on the back, probably. It should be 1-31 and 1-30 (2)?

3 A. Yes 1-30 (1) is an ATM receipt, and it is dated
4 10-12-1998.

5 THE COURT: Excuse me for the record, it's
6 1-30 (1).

7 MR. MORFORD: That's correct. Thank you,
8 your Honor.

9 THE WITNESS: ATM, and I understand a deposit
10 at an ATM machine in the amount of \$33,779.42.

11 Q. And that is -- is that the ATM deposit paycheck you
12 referred to earlier?

13 A. Yes.

14 Q. And whose record is that actually?

15 A. This is mine.

16 Q. And where did you get it?

17 A. I just keep all my bank statements, bank receipts.

18 Q. You got that out of the ATM machine when you made the
19 deposit?

20 A. Yes.

21 Q. And how about 1-30 (2)?

22 A. This is a pay stub from one of my checks for the pay
23 period of December 31, 1998, which is the breakdown of the
24 gross amount and then amount of my paycheck.

25 MR. MORFORD: May I have just a moment, your

Sinclair - Cross

1 Honor?

2 THE COURT: Yes.

3 MR. MORFORD: I have no further questions.

4 THE COURT: Thank you, sir. I need to talk
5 to the lawyers for a moment, the hour you've reached about
6 scheduling.

7 (The following proceedings were held at side bar:)

8 THE COURT: It's almost 4:00. We release
9 them at 4:30. I can put you right into the
10 cross-examination, or I can let you go for the day, all of
11 you and start fresh tomorrow morning. And it's more your
12 call than it is anyone else's because I don't know how long
13 you intend to examine.

14 MR. TRAFICANT: I'll take some time to
15 examine, and I think I should start now.

16 THE COURT: Okay. And then we'll have to
17 break at 4:30.

18 MR. TRAFICANT: Whatever you think is best.

19 THE COURT: Okay

20 (Proceedings resumed within the hearing of the jury:)

21 THE COURT: Mr. Traficant, you may examine.

22 CROSS-EXAMINATION OF ALLEN SINCLAIR

23 BY MR. TRAFICANT:

24 Q. How are you, Allen?

25 A. I'm fine, sir.

Sinclair - Cross

1 Q. Were you really afraid of me?

2 A. Yes, I was.

3 Q. Physically?

4 A. Pardon?

5 Q. Physically?

6 A. Very unpredictable at times.

7 Q. Your record shows you were under suspension by the
8 Ohio Bar Association. Could you explain what that was for?

9 A. That is inaccurate. I was on probation.

10 Q. Was it an original suspension that was converted to a
11 probation. Yes or no.

12 A. Yes, it was.

13 Q. Okay. What was the reason for the suspension of the
14 original suspension?

15 A. As I explained to you before, I practiced in the
16 field of personal injury. I'm sure you have seen many
17 yellow page ads or commercials for attorneys, and they
18 advertise that they work on a contingent fee bases. I
19 don't know if you've heard those words. They may use words
20 such as no recovery, no fee, or we don't get paid until you
21 get paid, words to that effect.

22 And as a professional, with any profession an
23 accountant, doctors, lawyers, there are certain ethical
24 rules, disciplinary rules we must follow. And there is a
25 rule that states that if you advertise, that you take cases

Sinclair - Cross

1 on a contingency fee basis, that you have to explain to the
2 potential client that they may be responsible for certain
3 case expenses out of their pocket such as I discussed to
4 you about purchasing medical records or finding experts to
5 testify on their behalf.

6 And that if for some reason the case would not turn
7 out as well as you anticipated, that the client remained
8 ultimately responsible for those expenses. This was a rule
9 that was generally followed by any attorney because no
10 attorney that practiced in this field required the clients
11 to pay this money back if the case went sour.

12 It just wasn't done, that -- it just wasn't -- it's
13 not good public relations to -- if you lose a case, to ask
14 your client to, you know, come up with money to pay for
15 these expenses, especially in personal injury work. And so
16 you -- you saw a lot of these ads on TV, said no recovery,
17 no fee, without any further explanation.

18 But actually within the disciplinary rules, there was
19 a statement that said that you shall inform your clients
20 that they may be ultimately responsible for expenses, and
21 collectively as attorneys, what we did was we made sure it
22 was in our contingent fee agreement, which meant after we
23 had the client -- after the client was interested in hiring
24 a lawyer and they would come into the office to start their
25 case, they could sign a fee agreement.

Sinclair - Cross

1 And in that fee agreement, most good attorneys would
2 have that statement in there, that they were ultimately
3 responsible for any case expenses that for some reason the
4 case didn't go good.

5 In April of 1998, there was a disciplinary action
6 taken against some Cleveland attorney by the name of Shane.
7 And basically, the Ohio Supreme Court order or the
8 disciplinary board, that's the board that kind of oversees
9 attorneys in Ohio to make sure they practice in an ethical
10 manner, and these attorneys advertise on TV, as I explained
11 to you, that they accepted cases on a contingent fee bases
12 and didn't have any disclaimers as to whether the clients
13 were responsible for expenses.

14 So the Supreme Court came out with a decision that
15 basically said we -- we understand or we're aware that most
16 attorneys are advertising this way.

17 However, that practice must stop, and that -- the
18 Supreme Court said we're putting all attorneys on notice,
19 that they have to change their advertising within a
20 reasonable period of time. Those are the exact words that
21 the court used, within a reasonable period of time.
22 Because many yellow page advertisements can't be changed,
23 once you're in the book, you're in the book until that year
24 ends.

25 One of my advertising methods in my office is we

Sinclair - Cross

1 gather a complete police report, and we send it to the
2 prospective injured party with a letter that explains to
3 them that our services are available, and if they would
4 like to call the office, they can, and of course, in the
5 letter, I talk about my contingent -- that I'm willing to
6 accept the case on a contingent fee basis.

7 In that letter, I did not have the language in there
8 that explained that the client could ultimately be
9 responsible for case expenses.

10 I -- I sent this letter out to a respective injured
11 person on June 1st of 1998. The Supreme Court just
12 released their decision in April of 1998, so approximately
13 30 days had passed. I was aware of the decision but did
14 not change my letter. Grievances were filed against me
15 with the bar association, and a grievance is where someone
16 objects to what I had done on an ethical basis with the
17 assumption that I violated a disciplinary rule.

18 I admitted that my letter violated the Shane
19 decision, and basically allowed the board to do what they
20 needed to do, and the ultimate outcome was that they
21 suspended my license to practice. However, they stayed
22 that suspension and placed me on a probationary period of
23 one year with the condition that my advertising comply with
24 the law.

25 Interestingly enough, after this happened, the

Sinclair - Cross

1 disciplinary rules have changed, and now it is not a
2 requirement that the client be ultimately responsible. It
3 is left up to the discretion of the attorney. So if that
4 were to happen today, it may or may not be a disciplinary
5 proceeding at all. But to make a long story short, that's
6 why I was placed on probation.

7 Q. I let you go with the long story, but the bottom line
8 is the words used by the Ohio Bar Association was
9 misrepresentation. Could you define misrepresentation for
10 me in a few brief terms?

11 A. No, sir. I cannot say that those are the words that
12 were used.

13 Q. What words were used?

14 A. I -- just as I explained to you.

15 Q. We'll come back to that. You had and the Government
16 had put on the board an exhibit, number is not important,
17 because I think the jury will recall, it was a transfer of
18 a deed that you say I told you to transfer.

19 Now, you are an attorney; is that correct?

20 A. Yes, sir.

21 Q. Now even though the husband may not be an owner in a
22 property, there is a dowry right to a property, is there
23 not?

24 A. That's correct.

25 Q. And when a deed is transferred, isn't it common legal

Sinclair - Cross

1 practice for any attorney of any competency to ensure that
2 that deed is free and clear, and that there's no dowry
3 right that could, in fact, convey upon the transfer of the
4 individual owning the property?

5 A. No, that's not true. This was a quit claim deed. I
6 can give you a quit claim deed for this building, Federal
7 Courthouse. All quit claim deed means is, if I own this
8 property, I convey it to you, it's not a warranty deed.
9 There's a big difference.

10 Q. But this is a Federal Building. We're talking about
11 a private owned property and had my wife, in fact, had
12 passed, would the husband not have a dowry right and
13 wouldn't be in the best interest of anybody who would be
14 conveying a deed to include the dowry rights of a husband,
15 wouldn't that be good prudent sense? Yes or no.

16 A. I'm sorry, I don't think I can answer that question.
17 I don't understand it.

18 Q. I'm not an attorney, and I thought maybe you might.

19 What I'm saying is, if my wife owns the property, I
20 do not own the property, but my wife wants to be sure that
21 the property is conveyed to her daughter, that there is the
22 potential that dowry right through the husband, whether or
23 not there is a legal issue or not, isn't it fair to assume
24 the probability that to make sure there is no dowry right
25 and no question of the transfer, that that name be listed

Sinclair - Cross

1 as it had been?

2 A. Not in the quit claim deed. It's not necessary.

3 Q. But, to any degree, it's certainly in there, and it's
4 explicit, is it not?

5 A. Your wife's name, it does appear she signed the quit
6 claim deed, yes.

7 Q. Fine.

8 Now K A S, isn't that a fact that K A S was
9 incorporated under Ohio law?

10 A. No, that's incorrect.

11 Q. Okay. But did you file with the Secretary of State a
12 company known as K A S?

13 A. Yes, I did.

14 Q. And who was the incorporator of K A S?

15 A. There is no incorporator.

16 Q. Well, then, who is the chief or who is the
17 spokesperson or who is the filer for K A S?

18 A. K A S Enterprises basically stands for my wife's
19 initials Kimberly A. Sinclair.

20 Q. Okay. Were you and your wife at the time this lease
21 was signed still married and living together?

22 A. Yes.

23 Q. As a spouse, would, in fact, payments made by the
24 federal Government go into K A S Enterprise and to the
25 benefit of the spouse as well?

Sinclair - Cross

1 A. I'm sorry. You are a going to have to repeat that.

2 Q. I really don't think it's rocket science. The
3 question was: Isn't it a fact if your wife was listed as
4 the owner of the building, 11 Overhill, it was technically
5 your building, although you put it in her name, because you
6 were not a Congressman; you are now a congressional
7 employee. Isn't it a fact the benefit of the check coming
8 from the Government is to your benefit as well as a member
9 of the family?

10 A. Are you asking for my legal opinion?

11 Q. No. I'm asking, did you benefit from this or not?

12 A. Well, as much as you benefited I guess I would say.

13 Q. Well, how would I have benefited? You received the
14 check?

15 A. If it wasn't -- if it wasn't for the entity created
16 to establish that relationship, you would not have been
17 able to maintain a presence at the Overhill address.

18 Q. Fine. But did not our staff in D.C. at some point
19 call you and tell you that K A S, they determined was your
20 wife, and that was contradictory to house rules, and could,
21 in fact, be considered a fraudulent document if it's not
22 changed?

23 A. No, that is not true.

24 Q. Did you talk with anybody from the Washington staff
25 about K A S Enterprise?

- 1 A. Yes, I did.
- 2 Q. Who did you talk to?
- 3 A. Mr. Marcone.
- 4 Q. You talked to anybody?
- 5 A. Most likely Mr. Straub.
- 6 Q. And what, if anything, did they tell you?
- 7 A. Well, basically a little history as to what was done
- 8 when the building was transferred out of the name -- out of
- 9 Henry's name, Henry DiBlasio's name, and that another
- 10 entity would need to be formed, and I was quite explicit
- 11 with how the situation was to be arranged because I felt
- 12 uncomfortable with it at the time, and it was at that time
- 13 that Mr. Marcone faxed me up a copy of your congressional
- 14 ethical considerations that dealt on the issue, and I read
- 15 those considerations, and I felt that the ethical
- 16 considerations prohibited this arrangement with a staff
- 17 employee but did not prohibit it with another entity as
- 18 long as the transaction was an arm's length transaction,
- 19 meaning that there wasn't some exorbitant amount of rent
- 20 being charged for the space. And I felt comfortable
- 21 because I recently had the building appraised, and they
- 22 also appraised what the square footage should be, which was
- 23 approximately \$6 a square foot. And I felt comfortable
- 24 that it was an arm's length transaction.
- 25 Q. You stated the building had been owned by

Sinclair - Cross

1 Mr. DiBlasio. Is that your testimony?

2 A. Yes.

3 Q. Isn't it a fact that Mr. DiBlasio did not own the
4 building, and it was in a trust, that Mr. DiBlasio checked
5 with the ethics committee and determined there could be no
6 benefit to you, to anyone who was a congressional employee
7 through such a transaction? Therefore, there was a trust,
8 and the trust was approved by the House and its rules,
9 isn't that a fact?

10 A. No, it's not. There was not a trust. I think you're
11 confusing the terms "trust" with something else. There was
12 a corporation established by Henry and someone by the name
13 of Trumbull Land Company. At that time I had no -- no
14 knowledge at that time that that entity -- I knew the
15 entity existed. I didn't know for what purpose.

16 Q. But you said that Henry DiBlasio owned the building:
17 That was your testimony here?

18 A. Yes, that's who I paid my rent to was Henry DiBlasio.
19 I did not pay it to Trumbull Land Company, so as far as my
20 understanding was, prior to all this coming to a head, I
21 made my payments to Henry DiBlasio. And as far as I was
22 concerned, that's who was the owner was and controlled the
23 building. I --

24 Q. So you assumed he as an agent was the owner, is that
25 your statement?

Sinclair - Cross

- 1 A. No. At that time, I understood him to be the owner
2 because that's who I paid my rent to, not Trumbull Land
3 Company. It wasn't until this came around that I learned
4 Trumbull Land Company existed, and that was during my
5 inquiry as to how the building could be in my name or not
6 in my name.
- 7 Q. Now, when you met with the Government, did the
8 Government discuss with you the K A S Enterprise and the 11
9 Overhill ownership situation?
- 10 A. During which time period are we talking?
- 11 Q. At any time period. First, second.
- 12 A. The matter -- the matter I'm sure came up. No, it
13 wasn't a focus of their investigation or a focus of their
14 questions to me, no.
- 15 Q. That wasn't my question. Did they bring up the K A S
16 Enterprise to you? Yes or no.
- 17 A. Only to inquire as to the basic facts.
- 18 Q. Okay.
- 19 A. Yes.
- 20 Q. You stated that you moved to a new residence?
- 21 A. Yes.
- 22 Q. You used to --
- 23 A. Not that I stated that, I said the address.
- 24 Q. When you worked for me, what was your residence
25 number?

Sinclair - Cross

- 1 A. My physical address?
- 2 Q. Yes, where you lived, 0your house.
- 3 A. 3926 Alina Avenue, Youngstown.
- 4 Q. That was off Midlothian Boulevard, would you say?
- 5 A. Yes.
- 6 Q. Moderate, median priced property?
- 7 A. Yes, very nice houses, but yes, an average family
- 8 house.
- 9 Q. How much did you pay for that house, Mr. Sinclair?
- 10 A. We purchased the house in 1991. I believe I paid
- 11 \$38,000 for it.
- 12 Q. Now, you said you moved to the Newport area?
- 13 A. Yes.
- 14 Q. And the Newport area is known as one of the trendiest
- 15 areas in Boardman, Ohio, the biggest township in all of
- 16 Ohio. Where exactly did you move in the Newport area?
- 17 A. Newport Drive.
- 18 Q. And Newport Drive, is that not, in fact, the main
- 19 drive of that exclusive area?
- 20 A. Well, I would disagree with your terms exclusive.
- 21 Maybe at one time it was exclusive. Most of the houses
- 22 that are in that area now are older and very rundown, and
- 23 they need a lot of work.
- 24 Q. When did you purchase this home?
- 25 A. In January of last your, 2001.

1 Q. How much did you pay for this home?

2 A. \$275,000.

3 Q. Now, since October of 1998, and you had some
4 involvement with the Congressman, isn't it a fact that for
5 some five or six years, you did voluntary work and had an
6 understanding of congressional business and did little
7 things for the Congressman that the Congressman requested
8 of you, that you diligently performed, voluntarily?

9 A. Yes, I would say that's fair.

10 Q. Did I ask you to undertake a significant task of
11 researching the law, and with your legal expertise, putting
12 together a recommendations to the community for a regional
13 development authority that would have the ability to raise
14 money and to make a loan to help impoverished areas and to
15 increase and better the community? Did you, in fact, do
16 that, and was that your assignment?

17 A. Yes, I did a lot of the ground work on that.

18 Q. And you did a tremendous amount of work on that,
19 didn't you?

20 A. Yes, sir.

21 Q. Good.

22 Did I ever attempt to arrange a meeting with you at
23 any time after you and I separated ways?

24 A. After you left the building in April?

25 Q. Yeah.

Sinclair - Cross

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1 A. I saw you on occasion, yes. I don't know if it was
2 an arranged meeting, but I did see you.

3 Q. Did Robert Barlow call you on several occasions,
4 asking I would like to meet with you, that I had your
5 garage door opener and wanted to meet with you?

6 A. No, I don't believe I ever received a call from
7 Mr. Barlow.

8 Q. Okay.

9 When did you first start working with the FBI,
10 cooperating with them, telling them your truthful testimony
11 that you've given here today?

12 A. That would have been in my proffer statement, January
13 31, 2000.

14 Q. And January 31, 2000. And when did I leave the
15 premises?

16 A. April 1, 2000.

17 Q. Between January 31st and April 1st, we're talking
18 three months, am I right?

19 A. Yes, sir.

20 Q. Did the federal government ever ask you to wear a
21 body recording device with me?

22 A. No, sir.

23 Q. Is there an agency in your building that rents space
24 from you known as the Gator Agency?

25 A. Yes, there is.

Sinclair - Cross

1 Q. Do they have sophisticated eavesdropping and
2 electronic devices to record and memorialize people's
3 statements?

4 A. No, the Gator Agency is merely a -- one of my
5 employees who, at that time, was an independent contractor,
6 who was -- had the task of being my office manager as well
7 as investigator of my accident cases. He also has owned an
8 investigative company called the Gator Agency.

9 Q. Fine. Are you part owners in that, Mr. Sinclair?

10 A. Yes, sir.

11 Q. Let me ask you this: Isn't it a fact he has a small
12 device, looks like a golf ball he can place right over
13 there and take pictures of the jury?

14 A. Oh, yeah, there are cameras with lenses the size of
15 less than a pinhead.

16 Q. Did you privately tape any conversations you had with
17 me?

18 A. No, sir.

19 Q. Okay. Now, you were afraid of me, you were concerned
20 about me, you were cooperating with the Government. Now,
21 as an attorney, what is a sure bank way to get Jim
22 Traficant convicted, would you say, Number 1, a confession?

23 MR. MORFORD: Objection, your Honor.

24 THE COURT: You can continue.

25 MR. TRAFICANT: I didn't hear you.

Sinclair - Cross

1 THE COURT: You can continue.

2 Q. Would you say a confession would be a real killer
3 here? If I were to confess and say to the jury man I did
4 this with you, wouldn't you think that would be a killer,
5 be all over?

6 A. Of course it would.

7 Q. Well, then, let me ask you this: You said I did not
8 know that you were cooperating with the FBI. There were
9 three months. Would you say that the next most damaging
10 thing for any Defendant in a criminal trial would be their
11 own voice of an admission of guilt that had been attained
12 through some device or somebody's expertise in attaining
13 that so-called admissible so-called confession? Would you
14 agree that would be very damaging?

15 A. I think you're asking me to speculate, but there were
16 no conversations that I taped regarding conversations --

17 Q. I didn't ask you that. I asked you this question
18 specifically, Number 2?

19 THE COURT: But he answered the question when
20 you asked him if he had done any taping.

21 MR. TRAFICANT: No, I didn't ask about the
22 taping. I was asking, wouldn't a tape --

23 THE COURT: But, he's not an expert on this.
24 You can't acquaint this kind of inquiry. This is
25 cross-examination. What you can do is challenge the

Sinclair - Cross

1 statements that he's made, but you can't just go off on
2 your own and ask a whole lot of speculative questions.

3 MR. TRAFICANT: Well, the first question was
4 a confession would be a killer.

5 THE COURT: Okay. Well, you got that out.
6 You can move along.

7 Q. As an attorney, wouldn't the second killer be there
8 would be --

9 THE COURT: No, Mr. Traficant, don't ask him
10 that question. You have someone here you can
11 cross-examine.

12 Q. So your testimony is the Government never asked you
13 to wear a body device to me?

14 A. No, they did not.

15 Q. And the original statement, you said you had all
16 these concerns about Henry DiBlasio, but they were loans,
17 and then at some point, you realized that you said they
18 were kickbacks. Was that your testimony?

19 A. I'm sorry. Repeat that again.

20 Q. In your original testimony, you said it started out
21 as loans, but at some point, you realized they were, quote
22 unquote, kickbacks?

23 A. They were "loan" was the word you used with me, in
24 our initial car ride when you offered the job to me, and at
25 that time, I -- I may have believed that they were actually

1 loans.

2 Q. So as an attorney of the law, having been suspended,
3 having gotten lifted, being on probation -- are you still
4 on probation, by the way?

5 A. No, sir.

6 Q. Your testimony today says that you, knowingly and
7 willingly from day one, engaged in the felonious act in an
8 employment situation. Is that your testimony?

9 A. I cannot -- I think you have to define that a little
10 further for me. Which period of time? And when -- what
11 point of time was my mindset when you're asking me this
12 question? Yes, there was a time I realized what I was
13 doing was wrong. That's why I did what I did.

14 Q. I didn't ask you that. I asked you -- you said at
15 some point, you realized early in the game these are not
16 loans; they were kickbacks. Is it your testimony, as an
17 attorney, that you engaged in the form of relationship
18 which was felonious on its face?

19 A. I don't think that's for me to determine. You're
20 trying to get me to step in the shoes of the Government,
21 and I don't know if I can do that.

22 Q. So you're not sure you committed a crime, is that
23 what you're saying? I mean -- and I am trying to figure
24 out what you're saying. Did you say you committed a crime
25 to this jury, and you want to bear your soul, or you didn't

Sinclair - Cross

1 commit a crime? You're saying something the Government
2 said you committed a crime?

3 THE COURT: He can answer this.

4 THE WITNESS: You're going to have to repeat
5 the question.

6 Q. Did you knowingly and willingly, as an attorney of
7 law, engage in an employment relationship, realizing that
8 it was a felony and knowingly and willingly engaged in it?

9 A. At the time the job was offered to me, no.

10 Q. Did you have a contract with Mr. DiBlasio?

11 A. You mean a partnership agreement?

12 Q. Yes.

13 A. Yes, sir.

14 Q. Did you not, in fact have, a cash vending business as
15 well?

16 A. The cash vending business was my wife's side
17 business.

18 Q. I see. Where was it located?

19 A. There was no physical location. The vending were
20 various businesses throughout the Boardman area, little
21 candy style vending machines for ancillary businesses. We
22 ran the business out of our home until I took over the
23 building.

24 Q. How much do these vending machines weigh?

25 A. How much do they weigh?

1 Q. Yeah, approximately.

2 A. Maybe 40 pounds.

3 Q. How much does your wife weigh?

4 A. That's one of those questions I never did find the
5 answer to.

6 (Laughter.)

7 Q. Well, is she small, pretty, or, you know, is she just
8 a little heavier and just beautiful? How would you rate
9 her?

10 A. She's beautiful to me, and I would characterize her
11 as being petite.

12 Q. Petite. So your wife didn't carry around 40-pound
13 machines to different locations, did she?

14 A. She certainly did.

15 Q. Did you have other employees that worked for this
16 vending business?

17 A. No. On occasion, I would ask if my -- well, it came
18 to a point where my wife could no longer service vending
19 machines because we had three children, and I would have
20 one of my secretaries go out on a monthly basis and service
21 the machines, or I would do it myself even.

22 Q. So let me ask you this: Did you have in your
23 agreement with Mr. DiBlasio a requirement to report to him
24 if you had, in fact, engaged in any other business
25 activities?

Sinclair - Cross

1 A. Yes, I believe there was a cause.

2 Q. Did you, in fact, report to Mr. DiBlasio about the
3 cash vending business?

4 A. We knew of it, yes, I remember talking to him
5 about --

6 Q. Are you now speaking for Mr. DiBlasio?

7 A. No, I'm talking personal experience. I told him we
8 went to a small business expo at the Eastwood Mall, and
9 that my wife was looking for something to occupy her time,
10 and that we decided to invest in vending machines. And I
11 actually consulted with him as to what he thought about the
12 business.

13 Q. So specifically, it is your testimony here today, you
14 notified Mr. DiBlasio, and he was completely cognizant of
15 your cash vending business, yes or no?

16 A. Yeah, that was many years before we formed the
17 partnership.

18 Q. That's fine. Okay.

19 Did you or do you still owe Mr. DiBlasio over
20 \$450,000?

21 A. No, I disagree with the amount. I do most likely
22 probably owe him money from the partnership, yes, you're
23 accurate, but not to that amount.

24 Q. Was there not both sides that took some type of
25 accounting and each side come up with numbers, and there

Sinclair - Cross

1 was a question of a lawsuit relative to a civil lawsuit
2 perhaps being filed against you by Mr. DiBlasio?

3 A. No, I don't recall that.

4 Q. You have no recollection of any of Mr. DiBlasio's
5 attorneys making requests of you for payment where they
6 would seek legal action. Is that the testimony?

7 A. No. I had not received anything from any of
8 Mr. DiBlasio's attorneys concerning partnership agreement.

9 Q. Did you ever notify Mr. DiBlasio that at some
10 particular point, you would not give him access to your
11 computer anymore. You would pay him no more money, and if
12 he was wise, he would stop bother you?

13 A. Those are multiple questions.

14 Q. Let's take one at a time?

15 A. Yes, please.

16 THE COURT: Just ask one, and let him answer
17 one.

18 BY MR. TRAFICANT:

19 Q. Did you notify -- could the reporter read it back?

20 THE COURT: No, better -- because he can't
21 answer three anyway. You choose one, and go one at a time
22 if you would. He never answered the first time.

23 Q. No attorneys of Mr. DiBlasio had contacted you and
24 discussed payments and the possibility of a civil lawsuit,
25 yes or no?

Sinclair - Cross

1 A. I take that back. I did have a meeting with Attorney
2 Alan Manevich. It was more of a -- just came to my office
3 to find out what was going on. I -- there was no demand
4 made if that's -- that's why I was confused as to what you
5 were asking me.

6 Q. Did you at some point shut Mr. DiBlasio off from the
7 computer, even though he still had a vested interest in
8 outstanding business cases as parts of his agreement?

9 A. Yes, I did.

10 Q. Okay. Did you not also notify Mr. DiBlasio by letter
11 he was not to contact you anymore, you were not going to
12 pay him any money, you felt he took advantage of you?

13 THE COURT: Oops. There we have three
14 questions, okay.

15 Q. You sent him a letter stating that basically you were
16 not going to pay him any more money, and he would be wise
17 not to bother you anymore? Did you send him that letter.
18 Yes or no.

19 A. I do recall sending him many letters, but, no, I
20 don't specifically recall that letter.

21 Q. Did you ever ask the congressional staff to help get
22 you business since you were having it so tough?

23 A. I'm sorry?

24 Q. Did you ever ask any of the congressional staff to
25 get you some referrals because you were having it so tough?

- 1 A. No, sir.
- 2 Q. Now, on your old house, you built a deck at some
3 point, did you not, before you sold it?
- 4 A. Yes.
- 5 Q. How did you pay for that deck?
- 6 A. Well, with money.
- 7 Q. Well, naturally. We all pay with money.
- 8 A. Yeah. What is your question?
- 9 Q. Was it cash?
- 10 A. No. I usually don't transact business that way. I
11 like to keep \$100 in my wallet at any given period of time.
- 12 Q. You said earlier these yellow page ads were very
13 expensive. Isn't that your testimony?
- 14 A. Yes, sir.
- 15 Q. And that were it not for Mr. DiBlasio, you wouldn't
16 have had no presence probably in the media?
- 17 A. I would disagree with that to a certain extent.
18 Before we formed our partnership, I did have yellow page
19 ads, not a full page ad.
- 20 Q. Isn't it a fact, Mr. Sinclair, you just purchased a
21 large two-page ad in the yellow pages of the Youngstown
22 phone book?
- 23 A. Yes, sir.
- 24 Q. With a photograph?
- 25 A. Yes, sir.

Sinclair - Cross

- 1 Q. Isn't it a fact you've taken out extensive
2 advertising on local media, radio, and television?
- 3 A. No, not recently. Television was done prior to our
4 partnership. Radio was done prior to our partnership. The
5 only advertising we did not do together in our partnership
6 was the phone book advertising.
- 7 Q. Now, since 1998, how many vehicles have you
8 purchased?
- 9 A. Since 1998?
- 10 Q. Yes.
- 11 A. Well, we have a mini-van, which I believe is a 1998.
- 12 Q. Where did you buy it?
- 13 A. At Youngstown Buick.
- 14 Q. How much did you pay for it?
- 15 A. \$25,000, I believe.
- 16 Q. Did you buy any other vehicles?
- 17 A. I also leased a vehicle.
- 18 Q. And what is that?
- 19 A. That is a Chrysler Sebring.
- 20 Q. And what is your payment on that?
- 21 A. Approximately \$285, \$289 a month.
- 22 Q. Did you ever enter my so-called private apartment
23 above the garage? Because it was a mess.
- 24 A. On occasion when you were there, yes.
- 25 Q. Only when I was there?

Sinclair - Cross

1 A. Yes. You had a -- a private lock on that that I did
2 not have a key of.

3 Q. So you were never in that room unless you were in
4 there with me?

5 A. Yes, sir.

6 Q. So you never entered that room without me knowing
7 about it, right?

8 A. No, sir, I couldn't. You had a dead bolt on it.

9 Q. Are you up to date on your payments relative to your
10 agreement with Mr. DiBlasio?

11 A. No, sir.

12 Q. Did you find it strange that you're -- you're such a
13 blockbuster witness, that the Government did not ask you to
14 wear a body device for me since I was unknowing?

15 MR. MORFORD: Objection.

16 THE COURT: Well, he said he wasn't wearing a
17 body device.

18 MR. TRAFICANT: But I didn't ask him that.

19 THE COURT: Whether he found it strange?

20 MR. TRAFICANT: I asked him as an attorney
21 didn't he consider it to be strange, he being such a
22 blockbuster witness evidently --

23 THE COURT: Well, a lot of assumptions in
24 your question, but I think he can answer it. You can
25 answer that.

Sinclair - Cross

1 THE WITNESS: I asked him. My opinion as an
2 attorney or as a regular person?

3 Q. Well, I think you're an attorney, and I think you
4 understand a little bit about the law and what happens when
5 people get convicted or acquitted, and --

6 THE COURT: Well, now you're asking him as an
7 expert, and he can't --

8 MR. TRAFICANT: I'm not asking as an expert.

9 THE COURT: That's the implication the way
10 you're putting the question. Just move to the next
11 question. Thank you.

12 MR. TRAFICANT: Well, I'm asking him as just
13 a witness.

14 Q. Do you find it strange --

15 THE COURT: All right.

16 Q. --that the Government, knowing that I didn't have no
17 knowledge that you were cooperating with the FBI at any
18 time, did not ask you to wear a body device? Did you find
19 that strange?

20 THE COURT: It wouldn't make any difference
21 whether he found it strange or anyone else found it
22 strange. It isn't a helpful way -- you can go to the next
23 question.

24 Q. This may get ruled out, I'm sure. But isn't it a
25 fact that the Government didn't want you to wear a body

Sinclair - Cross

1 device because it wouldn't be an exculpatory tape for the
2 Defendant?

3 THE COURT: Now you're trying to do some kind
4 of argument.

5 MR. TRAFICANT: No.

6 THE COURT: Oh, yes, you are.

7 MR. TRAFICANT: That is a question.

8 THE COURT: Sir, you're trying to do
9 something different than put a legitimate question to this
10 witness. It's almost 4:30, we'll adjourn the Court for the
11 day. Thank you. All rise for the jury.

12 (Thereupon, a recess was taken.)

13 (Proceedings in the absence of the jury:)

14 THE COURT: Okay. Congressman, I just have a
15 practical question. Do you need more examination of this
16 witness?

17 MR. TRAFICANT: Yes.

18 THE COURT: All right.

19 MR. TRAFICANT: And I'd like to address the
20 Court, if I could, within the presence of Mr. Morford.

21 THE COURT: Okay. But first let me say that
22 what we'll do is resume tomorrow morning with you guys
23 coming in at 8:30 as usual, and we'll start the proceedings
24 at 9:00 and go forward with this witness on the stand.

25 Do you anticipate which other witnesses you may be

Sinclair - Cross

1 calling, and if so, have you given the Congressman the
2 exhibits?

3 MR. MORFORD: Yes, we did. Mr. Smith gave
4 him, I believe -- what was it? -- six or seven folders --

5 MR. SMITH: Yes, your Honor.

6 MR. MORFORD: -- on Monday.

7 MR. TRAFICANT: Could you give me the names?

8 MR. SMITH: The next three witnesses will be
9 the bank custodian and bank record interpretation types of
10 witnesses, your Honor.

11 THE COURT: Okay.

12 MR. SMITH: From Key Bank, Metropolitan Bank,
13 also known as First National Bank of Pennsylvania, and Home
14 Savings and Loan Bank in the Youngstown area. Then I'm not
15 sure whether we'll call them, but we've given Congressman
16 Traficant the Jencks material for witnesses Dilereto,
17 Bobby, Kavulic, following that, so that's kind of the hit
18 parade I think for tomorrow.

19 THE COURT: Okay.

20 MR. MORFORD: One other thing: We do have an
21 IRS witness --

22 MR. SMITH: Sorry.

23 MR. MORFORD: -- to summarize some documents
24 on a chart, just basically compiling the documents. It's
25 under 1006 and also FBI agent, Special Agent Joe Bushner,

Sinclair - Cross

1 who actually obtained the cash in the envelopes and
2 evidence from Mr. Sinclair.

3 THE COURT: Okay. I think that answers your
4 question about who.

5 MR. TRAFICANT: Yeah, that was. My point is,
6 I am on cross-examination. I believe I do have some
7 leeway.

8 THE COURT: Oh, you have some leeway. You
9 used it.

10 MR. TRAFICANT: And return some individuals'
11 testimony that I believe is questionable, and --

12 THE COURT: Yeah, you do.

13 MR. TRAFICANT: I felt that I was denied that
14 opportunity here today.

15 THE COURT: Yeah, well, I think you had --
16 you had a good bit of leniency, and I intend to continue to
17 rule on things as they come up in the case, but there's --
18 there is a way you can preserve the record, and you're
19 using that, and that's what you need to do throughout the
20 trial.

21 There's always going to be differences between
22 lawyers and judges on what you can -- what you can ask and
23 what you can't. We'll resume at 8:30 in the morning. So
24 if anything comes up, we'll be able to deal with it before
25 the jury comes in. The jury will hopefully be in the box

Sinclair - Cross

at 9:00, and we'll follow the same schedule tomorrow.

Thank you very much.

MR. TRAFICANT: Thank you.

MR. MORFORD: Thank you, your Honor

(Proceedings adjourned.)

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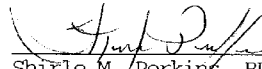
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C E R T I F I C A T E

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


Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622

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

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

TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON THURSDAY, FEBRUARY 14, 2002

Jury Trial

Volume 2

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.

Sinclair - Cross

1 Thursday Session, February 14, 2002, at an 8:30 A.M.

2 THE COURT: We have a witness? Thank you,
3 sir. You're still under oath. You may be seated.
4 Congressman

5 CROSS-EXAMINATION OF ALLEN SINCLAIR, (continued).

6 MR. TRAFICANT: Good morning.

7 THE COURT: Good morning.

8 BY MR. TRAFICANT:

9 Q. I'd like to return to some of your testimony
10 yesterday.

11 In the packet submitted by the Government were a
12 number of 302's. Do you know what 302's are?

13 A. No, I don't.

14 Q. If I can, in fact, show you one, would it better
15 explain what they are?

16 THE COURT: If you will just identify the
17 Exhibit Number, and we'll make the record clear, sir.

18 MR. TRAFICANT: I've offered it as Exhibit
19 Number S-28. It hasn't been offered into evidence at this
20 point.

21 THE COURT: Okay. Now, I'm -- I don't
22 understand your reference before.

23 MR. TRAFICANT: I am trying to ascertain from
24 this particular witness if he understands what a 302 is and
25 what the contents of that 302 would be.

Sinclair - Cross

1 THE COURT: I know, but I think you said it
2 was in a packet submitted by the Government, so I -- I
3 don't -- submitted to you by the Government?

4 MR. TRAFICANT: Yes.

5 THE COURT: Okay.

6 MR. MORFORD: The Jencks material, your
7 Honor.

8 THE COURT: Oh, all right. Very well. Yes,
9 you can bring it up and show the witness.

10 MR. TRAFICANT: Well, for the purpose of
11 time.

12 MR. MORFORD: Your Honor, we don't have a
13 copy of S-28 just for reference.

14 THE COURT: Okay. Could you provide --
15 provide it first.

16 MR. TRAFICANT: I'll be glad to.

17 THE COURT: No, but first before you give it
18 to the witness, give it to the other side so they can see
19 what it is you're giving to the witness. Thank you. And,
20 Congressman, I haven't seen it either, so if you'll hand it
21 up.

22 MR. TRAFICANT: Your Honor.

23 THE COURT: Do you have copies of your
24 exhibits for the Court?

25 MR. TRAFICANT: No, I do not. They were

Sinclair - Cross

1 given to me in discovery by the Government. I would assume
2 that they have to give to the court such material.

3 THE COURT: But as you know, under the Court
4 procedures, you have to provide exhibits to the other side
5 as well as to us what you're actually using in trial so we
6 can all know what -- what's happening. Okay?

7 MR. TRAFICANT: I wasn't sure I would use
8 that in trial until yesterday's testimony.

9 THE COURT: Okay. And then you would need to
10 provide a copy to both sides. So let me just look at this
11 so I can see what we have. Is this your marking, S-28, is
12 that the Exhibit Number you're dealing with?

13 MR. TRAFICANT: Yes, I would again file such
14 before the Court.

15 THE COURT: Okay. So we've got that?

16 MR. MORFORD: Your Honor, I think if you look
17 through it, there's some writing and notes on there. My
18 only request, it's going to be used as an exhibit, if it
19 indeed is admissible, that we have a clean copy without the
20 Congressman's notes.

21 THE COURT: Okay. On Page 2, there appeared
22 to be maybe some working notes on this from somebody. So
23 what we'll do is give you an opportunity after the break or
24 during the break, we can take this up with this witness,
25 but first, it has to be something which could actually be

Sinclair - Cross

1 handed to the witness. I don't know who made all these
2 marks on it, but if you didn't get it that way, then it
3 needs to be in its original form. Okay?

4 MR. TRAFICANT: Appreciate that.

5 THE COURT: Thank you.

6 Q. Would you please look at this now?

7 THE COURT: No. He can't look at this now.
8 You have to put it in a form so that it doesn't carry
9 things that have nothing to do with the document itself,
10 but some other person at some other time has put on it.

11 MR. MORFORD: Now that I know what it is, we
12 can find a clean copy, get a copy at the break if that will
13 help the Court.

14 THE COURT: Okay.

15 MR. TRAFICANT: Well, for the record, I was
16 admonished yesterday for not having with me those materials
17 that were purportedly evidentiary material presented on
18 discovery. This was presented to me on discovery, and I
19 would assume since this is the Government's witness, they
20 should have in their possession these documents.

21 THE COURT: He has said they have a clean
22 copy of it, and that they'll make it available to you again
23 in a clean copy that isn't marked up by some other person
24 so as to change what it is.

25 MR. TRAFICANT: Thank you.

Sinclair - Cross

1 THE COURT: Thank you.

2 BY MR. TRAFICANT:

3 Q. Now, to proceed, I asked you, do you know what a
4 federal 302 form is?

5 A. And I said I do not.

6 Q. Okay. A 302 form is when a witness meets --

7 MR. MORFORD: Objection, your Honor. That's
8 not a question.

9 THE COURT: That's right. He says he doesn't
10 know what it is, so you --

11 BY MR. TRAFICANT:

12 Q. When you meet with a federal official, did you have
13 the occasion to take notes?

14 A. Yes.

15 Q. And did you see them take notes?

16 A. Yes, on occasion.

17 Q. Is there anybody in this room that you ever met with
18 that you had seen take notes? Could you please look at the
19 courtroom?

20 A. I know that some of the agents I did meet with took
21 notes, but to the best of my recollection, I can't recall
22 who it was. Some did, some didn't.

23 Q. Well, do you agree that on January 21st of the Year
24 2000 you met with the FBI in Boardman, Ohio?

25 A. That's correct.

Sinclair - Cross

1 Q. And you say during that questioning, that you had
2 made kickbacks to the Defendant?

3 A. Yes, sir.

4 Q. In this report, evidently notes taken by the Federal
5 Bureau of Investigation, it states --

6 THE COURT: Which report, sir?

7 MR. TRAFICANT: This is what we're talking
8 about, S-28.

9 THE COURT: That's the report you need to
10 move away from until you can supply us with something that
11 could be used for this witness that isn't marked up.

12 MR. TRAFICANT: Question.

13 THE COURT: And in any event, you wouldn't be
14 able to read the content of it to him.

15 MR. TRAFICANT: I am not reading the content,
16 but he has admitted to knowing of a meeting --

17 THE COURT: Yes, he did --

18 MR. TRAFICANT: On February the -- on January
19 21, 2000, I'm asking questions about that meeting.

20 THE COURT: All right. I think you prefaced
21 this by saying in this report, it says, so just --

22 MR. TRAFICANT: I'm not talking about the
23 report.

24 THE COURT: Ask questions.

25 MR. TRAFICANT: I'm asking about the

Sinclair - Cross

1 questions.

2 THE COURT: Okay

3 BY MR. TRAFICANT:

4 Q. You had stated yesterday that you did no work for
5 Valley Foods, John Valley and Valley Foods Mart.

6 A. You said I did no work, is that what you -- I'm
7 sorry.

8 Q. Yes.

9 A. That's what you stated. That was the question?

10 Q. Was that your statement in the testimony?

11 A. No, I do not believe it was. I believe I testified
12 that I did do some work for Mr. DiBlasio on Valley Foods
13 Mart.

14 Q. Is it true that at this -- you said you did not do
15 any work for Valley Foods. Is that your testimony?

16 A. No, that's not my testimony.

17 Q. Well, did you on January 21 -- could you recall
18 having stated that you did not do any real work involving
19 Valley Foods to the FBI?

20 A. No, I don't recall saying that to the FBI on January
21 21, 2000.

22 Q. Well, if it was in the FBI notes, would the FBI be
23 wrong in assessing your statement?

24 THE COURT: Please don't answer the question.
25 Congressman, you need to move beyond whatever that document

Sinclair - Cross

1 is that you're using. You can certainly ask him questions
2 about what he did, but you can't cross-examine him on a
3 document that so far has not been put in the condition in
4 which it could be relied upon.

5 MR. TRAFICANT: Thank you.

6 BY MR. TRAFICANT:

7 Q. You met with the FBI several times, did you not?

8 A. That's a fair statement.

9 Q. You remember having met with the FBI on January 24 of
10 the Year 2000?

11 A. Yes, I did.

12 Q. Now, January 24th was before you had made your
13 agreement with the Government; is that correct?

14 A. I'm sorry, you said January 24th?

15 Q. Yes.

16 A. Question?

17 Q. Is it your recollection that you had stated that you
18 had made no kickbacks to the Defendant at that meeting?

19 A. No, I think I used the words to the effect I don't
20 know what you're talking about, and I asked to leave.

21 Q. Well, at some particular point and I am sure these
22 can be moved into evidence, I'm sure, your Honor, since
23 they were given to me on discovery by the Government.

24 THE COURT: Well, they just have to be clean
25 copies so they don't carry extra things that weren't on

Sinclair - Cross

1 them when they came, and we have to go through a process
2 that you're well aware of, which is that they have to be
3 shown to the other side. The Court has to be given copies
4 so that we can conduct these proceedings according to the
5 normal process

6 BY MR. TRAFICANT:

7 Q. So it's your testimony that on January 24th of 2000,
8 before you made an agreement with the Government, you're
9 not sure you can remember whether you told the Government
10 that you did not give kickbacks to Jim Traficant. Is that
11 your testimony? Yes or no.

12 A. No, I remember exactly what I said.

13 Q. Do you recall in any conversations you had on that
14 same date, where you had stated that for Mr. DiBlasio to
15 have had the property in his name would have been a
16 conflict?

17 A. Are you asking me if I said that on January 24th
18 before the FBI agents?

19 Q. Yes.

20 A. No, I do not remember that. I know it was discussed,
21 I can't recall if it was --

22 Q. No. You've answered the question. I thank you.

23 Do you recall in your meeting of January 24th telling
24 the Government that you had contacted the House Ethics
25 Committee, and as long as the rent was reasonable and not

Sinclair - Cross

1 usurious, that in fact, it was acceptable for both, your
2 partner and yourself to, in fact, even own the building?

3 A. I did not contact the House Ethics Committee. I
4 discussed the issue with Paul Marcone, in which I asked for
5 copies of the ethical considerations.

6 Q. And did you state at that meeting that it was clear
7 through the House Ethics Committee, as at least you were
8 made aware of by whomever in Washington; is that your
9 testimony?

10 A. That's correct, I understood it to mean that this was
11 no problem with what we were doing, and I was satisfied in
12 my mind, after reading the ethical considerations, that it
13 was an arm's length transaction.

14 Q. Now, returning to your meeting of January 21st that
15 we currently discussed, do you recall making a statement to
16 the FBI that, in fact, you were the current owner of the
17 building at 11 Overhill Road?

18 A. No, I do not recall those exact words.

19 Q. Thank you.

20 Do you recall at the meeting with the FBI on January
21 24th that you were asked was the building in the name of
22 other people? Do you recall your answer?

23 A. I explained the same way most likely as I testified
24 yesterday, but no, to answer your question, I can't
25 remember exactly what I said.

Sinclair - Cross

1 Q. The FBI said you did not comment. You made no
2 remarks, no response, you were silent.

3 A. On January 24th?

4 THE COURT: Before we go further with this,
5 that's a statement, not a question, Congressman. And you
6 can't consider that as evidence because, as you know, it's
7 a statement. It's not under oath, it can't be
8 cross-examined, and you can't put evidence into the case
9 that way. Can you disregard that? Thank you.

10 BY MR. TRAFICANT:

11 Q. So then your last question then, I think the Court
12 very clearly summed it up was, you don't remember what your
13 answer was; is that correct?

14 A. To which question was that?

15 Q. For the Court Reporter, please repeat it.

16 THE COURT: What do you want repeated? She
17 has question.

18 MR. TRAFICANT: The question was that I was
19 not being placed into or made comment about?

20 THE COURT: The question before you made the
21 statement, is that what you're asking?

22 MR. TRAFICANT: Yes, about why -- why someone
23 else's name other than his was listed as owner of the
24 building.

25 THE COURT: Okay. Do you want the reporter

Sinclair - Cross

1 to read back that question?

2 MR. TRAFICANT: Or he can answer that. To
3 the best of your knowledge -- what was your answer, give us
4 your answer.

5 THE WITNESS: I don't recall what my specific
6 answer was on that date, and that was prior to me giving
7 the proffered statement, most likely I did not answer many
8 questions on January 1st or 24th, that I felt
9 uncomfortable at the time.

10 Q. On January 31, you had occasion to meet with the FBI.
11 On that day, that was when you supposedly gave them a
12 handwritten message from the Congressman and turned over
13 some envelopes. Was there surveillance provided at that
14 meeting, supposedly that was held at the Burger King
15 restaurant, to the best of your knowledge?

16 A. Surveillance on who?

17 Q. Surveillance on the meeting, did the Government have
18 any surveillance, or were they covering that meeting?

19 A. Not that I'm aware of, sir. To say, I don't recall a
20 meeting at a Burger King.

21 Q. You don't recall something at Burger King?

22 A. No, sir.

23 Q. Thank you. Do you recall a meeting with the federal
24 government on February 4th of the Year 2000?

25 A. A meeting on February 4th, 2000 with who?

Sinclair - Cross

1 Q. Yes.

2 MR. MORFORD: Your Honor, I believe he's got
3 the wrong date that he's talking about the 302.

4 THE COURT: We'll see. He's asking about
5 it's a meeting on February 24th.

6 MR. TRAFICANT: I am now talking about
7 whether or not you, in fact, had a meeting with FBI agents
8 or contact on February 4th of the Year 2000, to the best of
9 your knowledge.

10 THE WITNESS: Yes, I believe that I did.

11 Q. To the best of your knowledge, was there surveillance
12 provided by the Government relative to that meeting?

13 A. Not that I'm aware of.

14 Q. Were you aware that there were observations made by
15 the Government of the two of us at that particular or
16 so-called meeting?

17 MR. MORFORD: Your Honor, can we approach the
18 bench, your Honor.

19 THE COURT: Yes. We'll come up to a side
20 bar. You can all just relax and look at the beautiful
21 room.

22 (The following proceedings were held at side bar:)

23 THE COURT: This is not going to work because
24 they need to have their backs around this way. This is
25 another test.

Sinclair - Cross

1 THE COURT: Okay.

2 MR. MORFORD: Your Honor, I believe there's
3 no basis for the question that he just asked, that there
4 was surveillance of a meeting between Allen Sinclair and
5 the Congressman, and I want to have it on the record what
6 his basis is for asking that question because his question
7 --

8 MR. TRAFICANT: Well, the 302.

9 THE COURT: Quiet.

10 MR. TRAFICANT: First of all, let's get
11 something on the record, these are 302's --

12 THE COURT: I'll release the jury if you
13 can't whisper.

14 MR. TRAFICANT: These are 302's that were
15 given to me by the Justice Department under discovery.

16 THE COURT: Right.

17 MR. TRAFICANT: I am currently going to ask
18 questions about it.

19 THE COURT: That's because you have marked up
20 copies of things that you haven't shown to anyone else.

21 MR. MORFORD: Can I also note, your Honor,
22 that these are 302 statements of an agent, his are
23 recollection of a meeting, and if Congressman Traficant
24 wants to call the agent and ask him about his 302, he can
25 do it, but he can't ask Allen Sinclair about the statements

Sinclair - Cross

1 in the 302.

2 MR. TRAFICANT: He can ask Allen Sinclair
3 about the information, but Allen Sinclair can't be held to
4 the 302. He has to call the agent.

5 THE COURT: Right. I think you understand
6 that.

7 MR. TRAFICANT: I am asking about the
8 information, and I was getting to a point before I was
9 interrupted.

10 THE COURT: I know. But you keep asking about
11 surveillance and the question is, what is your basis for
12 asking about surveillance?

13 MR. TRAFICANT: Did he know that that was, in
14 fact, a meeting that was being covered or was being --

15 THE COURT: Well, there's nothing in the
16 evidence -- there's nothing in the record of this case that
17 would show that there was surveillance or even raise the
18 issue. You're asking a question of assumption that you
19 make.

20 MR. TRAFICANT: Let's visit what you just
21 said.

22 THE COURT: Okay.

23 MR. TRAFICANT: Which is an absolute
24 assumption I would assume since you haven't read this.
25 Traficant was observed --

Sinclair - Cross

1 THE COURT: Whisper.

2 MR. TRAFICANT: -- a source driving with
3 Sinclair.

4 THE COURT: Okay.

5 MR. MORFORD: The source is Sinclair.

6 MR. TRAFICANT: They were both -- I was going
7 to ask if the source was Sinclair.

8 MR. MORFORD: Yes, he is.

9 MR. TRAFICANT: That's the purpose of what I
10 was going towards. Am I not allowed to do that?

11 MR. MORFORD: Your Honor, his question was,
12 was Mr. Sinclair aware that the FBI agents were surveilling
13 his meeting with Mr. Sinclair? He also --

14 THE COURT: Well, if he answers the -- I'm
15 going to let it in, and I am going to let him ask the
16 question and let him answer, and we'll live with it. But
17 this is more clear to me that you do understand that you
18 have to have the agent, who wrote this, on the stand.

19 MR. TRAFICANT: I understand that, and we'll
20 call the agent, but I do now have the witness who was part
21 and parcel to the 300, and I think it's within my rights to
22 be able to cross-examine that witness.

23 THE COURT: It is within your rights, but
24 he's not -- he didn't write the 302. He wasn't the person
25 who --

Sinclair - Cross

1 MR. TRAFICANT: I understand that.

2 THE COURT: Okay?

3 MR. TRAFICANT: I understand that.

4 THE COURT: Thank you

5 (Proceedings resumed within the hearing of the jury:)

6 BY MR. TRAFICANT:

7 Q. You were not aware of any surveillance?

8 MR. TRAFICANT: Excuse me.

9 Q. Back to this February 4, 2000 meeting, you were not
10 aware of any Government surveillance at all; is that
11 correct?

12 A. That's correct.

13 Q. But it says this was a source?

14 THE COURT: Excuse me, but you cannot read
15 from those documents until you --

16 MR. TRAFICANT: I'm not reading from the
17 document.

18 THE COURT: Well, you just said it says
19 something.

20 MR. TRAFICANT: This.

21 Q. Was there a source that reported to the Government
22 what happened at that meeting?

23 THE COURT: Congressman, we're going to take
24 a brief break, and during that time, we'll see whether we
25 can get copies of these and discuss a little more about

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1 what can and can't be put in front of the witness.

2 MR. TRAFICANT: Thank you.

3 THE COURT: We'll take a ten-minute break

4 (Proceedings in the absence of the jury:)

5 THE COURT: Gentlemen, what I'm going to ask,
6 you said something about having copies. We will make some
7 copying available if it will help resolve some of these
8 issues. So I ask you, Congressman, to talk to Mr. Morford
9 about what might get this situation clear, and I do need
10 you, for future things that you want to put in front of any
11 witness, to provide, according to the regular procedures
12 that you're aware of, copies. They need to be provided
13 copies.

14 MR. TRAFICANT: Question for the record
15 before I discuss this. I have been given a discovery
16 packet by the Government.

17 THE COURT: You all can sit down back there
18 if you want to.

19 MR. TRAFICANT: This discovery package
20 contains a number of 302's which are, in fact, written
21 reports of the agents and their opinions, whether they be
22 truthful or not, quite frankly. But nevertheless, it is
23 their written word. But when, in fact, that written word
24 pertains to a particular witness that is a Government
25 witness or my witness and subject to cross-examination, a

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1 302 is open and eligible material for cross-examination,
2 and I am glad to find out there is such a -- such a
3 questionable concern on behalf of everybody.

4 Now, if you want to go get clean copies, go get clean
5 copies, but --

6 THE COURT: Actually, sir, you're the person
7 who needs to be dealing with the copying issue right now.
8 We -- we have certain rules that we have to follow with
9 anybody. You can't hand to a witness in a case something
10 which is all marked up by some other unknown person, and we
11 don't know what it is. That was the first problem, and the
12 Government has said that they have some copies that don't
13 have any marks on them that they can give to you for use.

14 Second issue is that you do need to provide copies,
15 as the Court orders have told you, you have to provide to
16 the Government and to us when you're going to use
17 something, and it has to be something that we can all
18 concentrate on. Okay? Now, there is another -- I'll let
19 Mr. Morford respond to the other parts of this.

20 MR. MORFORD: Your Honor, the Congressman can
21 and has and we have not objected asked the witness about
22 certain statements. Did you tell the FBI this, did you
23 tell the FBI that? What he cannot do is state, didn't the
24 FBI in their 302 say this, didn't they say that? Those are
25 hearsay statements. If the Congressman -- if the

Sinclair - Cross

1 Congressman is going to put in the statements of the FBI
2 agents who interviewed Mr. Sinclair, he has to have, under
3 the Rules of Evidence, he has to have an exception to the
4 hearsay rule.

5 If he wants to call the agent to testify to something
6 inconsistent that the agent heard Mr. Sinclair say, he can
7 call the agent to do that, and the agent is then subject to
8 cross-examination as is his recollection what he reported
9 and all that. But he can't take the statement of the agent
10 as though it were the statement of the witness and then put
11 those statements into evidence because they're hearsay.

12 MR. TRAFICANT: Cannot, your Honor, the
13 Defendant here ask the witness if he remembers a question
14 of one of the agents, are relative to the following.

15 THE COURT: Yes.

16 MR. MORFORD: Yes.

17 THE COURT: You can.

18 MR. TRAFICANT: In fact, is that not what I'm
19 doing?

20 THE COURT: Well, you're stating -- you're
21 stating the content of the document.

22 MR. TRAFICANT: Well, if I ask, did an agent
23 say to you that on January 19th you dated this beautiful
24 woman by the name of Judge Wells in chief, is that true or
25 false, am I not allowed to ask that question, your Honor?

Sinclair - Cross

1 If an FBI agent asks you if you dated the court reporter in
2 the Traficant case, am I not allowed to ask that? It's on
3 the 302 that's been submitted by the Government. What kind
4 of latitude do I have here? This is a 302.

5 THE COURT: You have the latitude that the
6 Rules of Evidence permit you to have.

7 MR. TRAFICANT: And they allow me to
8 cross-examine --

9 THE COURT: They do.

10 MR. TRAFICANT: -- with wide latitude a 302
11 of the federal government. Now, if you're saying that I
12 can't repeat supposedly an FBI agent supposedly said this,
13 but I can say, did the FBI agent say this to you.

14 THE COURT: Yeah, that's what I'm saying.

15 MR. TRAFICANT: Do we understand that?

16 THE COURT: Yeah, I think you understand it,
17 too.

18 MR. TRAFICANT: I understand it. You said
19 some of us do, do you understand it?

20 MR. MORFORD: Your Honor, our objection is to
21 Congressman saying isn't it true that the FBI agent's note
22 say this or doesn't the 302 say that, that's the problem.

23 THE COURT: Right.

24 MR. MORFORD: The second problem is, for
25 instance, on the Burger King situation, the 302 says that

Sinclair - Cross

1 he met with federal agents of the FBI at Burger King to
2 receive money. Congressman then says, isn't it true you
3 met me at Burger King, and there was surveillance. That's
4 no basis for that because that's not what the 302 says, and
5 those are the nature of the two objections.

6 MR. TRAFICANT: The wording needs to be
7 cleaned up, is that about it?

8 THE COURT: No. That's not about it, but
9 with -- with this witness on the stand, you did adequately
10 up until this point describe what you're permitted to
11 develop. It's just that you need to actually do that.

12 MR. TRAFICANT: Yes, yes.

13 THE COURT: Okay.

14 MR. TRAFICANT: Fine.

15 THE COURT: Thank you.

16 MR. MORFORD: One last thing for
17 clarification. I assume the Congressman understood this
18 and talked it about it at side bar, but for the protection
19 of the witness who did have some fears for his safety, the
20 FBI treated him initially as a confidential informant and
21 would call him source. So any time it says source in the
22 302, that is what you're --

23 MR. TRAFICANT: Are you stipulating that?

24 MR. MORFORD: Yes.

25 MR. TRAFICANT: Thank you.

Sinclair - Cross

1 MR. MORFORD: So the 302 will say source of
2 this, source of that. That is Mr. Sinclair, which is why
3 we gave those over in the packet.

4 THE COURT: I think you should clarify that's
5 in all the 302's he's worried about or this one.

6 MR. TRAFICANT: All these 302's regarding Mr.
7 Sinclair.

8 THE COURT: So Mr. Sinclair in any of the
9 302's you provide to him --

10 MR. TRAFICANT: Question.

11 THE COURT: -- was in fact --

12 MR. MORFORD: Called source.

13 THE COURT: -- was called source.

14 MR. TRAFICANT: Question.

15 THE COURT: That should clarify it for you on
16 some of the other ones.

17 MR. TRAFICANT: Does that deal with all your
18 other witnesses or just talking about Mr. Sinclair?

19 MR. MORFORD: No. That's Mr. Sinclair, and I
20 don't believe that's the case with any other witness. If
21 it is, we'll note that and make sure.

22 MR. TRAFICANT: That should have been
23 something that should have been made available because they
24 put us through a big rigmarole here trying to find out how
25 sources were thus leaving my line of question of whether or

Sinclair - Cross

1 not there was surveillance.

2 THE COURT: Okay. Let me ask about the clean
3 copy issue. Can we solve that right now?

4 MR. MORFORD: Yes, your Honor, I'll give the
5 Court a copy of everything Mr. Traficant says. And every
6 time he refers to a date, they're all dated, and the Court
7 and parties can turn to it.

8 THE COURT: Okay. So that will take care of
9 this part of the case.

10 MR. MORFORD: I'll also give you a copy of
11 the Grand Jury transcript in case he refers to that because
12 I don't know what he's going do.

13 THE COURT: Okay. Have you got a copy right
14 now?

15 MR. MORFORD: Yes, I do.

16 THE COURT: All right.

17 He doesn't have a clean copy of these 302's, though,
18 I don't think. So we need to take that and make copies.

19 MR. MORFORD: I will give it to your clerk.

20 THE COURT: And we'll try to get the copies.

21 MR. SMITH: If this will help.

22 MR. TRAFICANT: Question, are you saying I
23 cannot use --

24 THE COURT: You just interrupted somebody,
25 and you promised you would follow those --

Sinclair - Cross

1 MR. TRAFICANT: Go ahead.

2 THE COURT: Thank you.

3 MR. SMITH: If the court wants, we can, as we
4 did with the exhibits, provide the Court with a copy of the
5 Jencks material at the time it was given to Congressman
6 Traficant if that will help the Court. You want us to do
7 that, we'll be happy to do it.

8 THE COURT: Well, all right. I'll be glad to
9 do that.

10 MR. TRAFICANT: Question I had is, if I did
11 make notations on the 302, it is my work product.

12 THE COURT: I understand that.

13 MR. TRAFICANT: And are you saying I cannot
14 use my work product, I have to use a clean form that they
15 have so graciously from the kindness of their hearts have
16 presented to me here today.

17 THE COURT: Congressman, think of it this
18 way, think of it this way, you take your work product, it's
19 all over a report. Okay.

20 MR. TRAFICANT: Yes.

21 THE COURT: That's yours, that's your work
22 product, you can't hand it then on the stand to a witness
23 and have him read it and review it because the witness is
24 then looking at two things. He's looking at whatever the
25 document is, and he is looking at whatever it is you're

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1 taking out of the document or writing comments on it or
2 doing anything else with it.

3 MR. TRAFICANT: I see.

4 THE COURT: And that -- understand?

5 MR. TRAFICANT: I agree, and that's been
6 settled.

7 THE COURT: There we go, okay.

8 MR. MORFORD: Your Honor, can I make one
9 more -- if it is not an objection because it hasn't
10 happened yet, but because the 302's are hearsay, I would
11 ask if the Congressman is going to offer them into
12 evidence, that it be done outside the jury's presence
13 because what I don't want is for him to offer it in front
14 of the jury and make it look like it's being withheld, if
15 it's improper to be admitted in the first place.

16 MR. TRAFICANT: Question then, were not some
17 of these 302's, in fact, leaked to the press before this
18 trial? I want that now answered, and I move.

19 THE COURT: Well, are you -- are you asking
20 me?

21 MR. TRAFICANT: It is a motion of the court
22 to determine whether any 302's were made available to the
23 press.

24 MR. MORFORD: I'll answer that, absolutely
25 not.

Sinclair - Cross

1 MR. MORFORD: Okay. And the only time any
2 documents, any evidence in this case has been discussed
3 publicly is in an answer to motions that were filed by the
4 parties in these proceedings which is perfectly acceptable.

5 MR. TRAFICANT: I take no offense to that.

6 That is not true. The January 16th communication of
7 the Government at 3:36 P.M. with the Monday following being
8 Martin Luther King, Junior day, me having a 22nd deadline
9 getting -- at 2:46, did get a fax of Mr. Pikunas as that
10 dealt with a 302 and a tape that he had taken of a
11 witness --

12 THE COURT: I think you're talking about
13 court filings. You're talking about something attached to
14 something that they filed; is that correct?

15 MR. TRAFICANT: Yes. That became widely
16 media. It was not only a 302, it was a tape.

17 THE COURT: Okay.

18 MR. TRAFICANT: That was discussed in the
19 newspaper.

20 THE COURT: Congressman, unless the Court
21 orders otherwise, which is a rare thing for the Court to do
22 because our courts are open, except in very rare occasions
23 when there's a reason justifying not being opened, anything
24 that's filed in a case is available to the public, and
25 that -- in our case, you filed a lot of documents that you

Sinclair - Cross

1 attached things to with the Court, and those are all
2 available to the public. And so did the Government filed
3 some things in support of their motions.

4 So if you filed something in the court and it's on
5 the docket and the Court has not ordered otherwise, then
6 they're available to the public, that means the press, the
7 public, anybody can see them. That's part of the open
8 process. Mr. Morford?

9 MR. MORFORD: Your Honor, just really
10 briefly, because I know this issue has been raised a number
11 of times and apparently troubling Congressman Traficant, I
12 did receive a call from Mr. O'Nesti's son, and immediately
13 I sent a letter, not a public filing, to Congressman
14 Traficant because I felt what Mr. O'Nesti told me was
15 something he needed to know. I sent that letter just to
16 Congressman Traficant. I did not CC the Court, I did not
17 do a public filing.

18 Upon receipt of the letter, he filed a motion, which
19 we had to respond to, and it was in the response to the
20 motion then that we attached the letter to show the Court
21 exactly what had happened. And that's what he references.

22 MR. TRAFICANT: In the motion, I did not, in
23 fact, put in that element of the letter that was received,
24 but let me get back to that issue. I think this is very
25 important. He said he mailed it to me, he's faxed

Sinclair - Cross

1 everything else to me.

2 THE COURT: Well, he --

3 MR. TRAFICANT: No, let me here, this is
4 important.

5 THE COURT: Congressman, I think I ruled on
6 this before, but go ahead.

7 MR. TRAFICANT: I'm sure you have, you've
8 ruled on nearly all of these things.

9 January 22nd was a very important date according to
10 the trial date schedule that you have sent to both the
11 Prosecution and defense here. Now, he takes a very
12 delicate piece of information and nearly 100 percent of the
13 time has faxed this information to me, but has it post
14 marked 3:36 P.M. in the mail. That's a Friday.

15 Now, hear me. Saturday the mail is not delivered,
16 Sunday the mail's not delivered. Monday is Martin Luther
17 King, Junior day, the 22nd, I have a 4:00 deadline, and at
18 10:46 A.M. I get what they consider to be their blockbuster
19 deal. Quite frankly, this Defendant is getting tired of
20 the blockbuster last minute fruit basket bread box ploys
21 here.

22 THE COURT: Okay.

23 MR. TRAFICANT: And I think it's time for you
24 to order and rule on this.

25 THE COURT: I did rule on it, I did.

Sinclair - Cross

1 MR. TRAFICANT: Did you allow it in?

2 THE COURT: It wasn't offered. This -- this
3 was a situation that you complained about and among other
4 things, and which I dealt with in court orders, and the
5 Court orders are available to you. We do send them to you
6 sometimes by fax as everybody does in cases that gets close
7 to trial, but we don't have to. We can -- we simply send
8 them by mail.

9 And that's the same for the Government and the same
10 with you. In any event, this is an old issue, it's a --
11 still kind of bothering you, and I've addressed it as
12 thoughtfully as I can in prior court orders, and I would
13 ask you to go back and review those, and you'd see it
14 there.

15 MR. TRAFICANT: I will, but have you decided
16 a final order on that issue is my question here?

17 THE COURT: Tell me which part of what
18 happened in that motion you needed to have a final order
19 on.

20 MR. TRAFICANT: The tape recording of the
21 dying man who they were able to tape but not make available
22 for me to tape and depose.

23 THE COURT: Well, the way you're putting it
24 has not in itself been presented to me, but we have not
25 ruled that -- I have a conditional ruling on evidence that

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1 is conditioned on the Government being able to demonstrate
2 certain things that the law requires them to demonstrate
3 under these circumstances. It was a pretty straight
4 forward ruling, and you'll see it when you go back on the
5 docket.

6 The answer, I guess the way you're asking the
7 question is, I have said certain things in that order, but
8 I have reserved ruling on it because the Government still
9 would have to do some other things in order to make that
10 evidence meet the requirements of the Rules.

11 MR. TRAFICANT: Okay. For the record,
12 Mr. Morford stated that he had a call on January the 14th.
13 He immediately then, the next day, January 15th, called the
14 FBI agent. The FBI agent then confirmed that these things
15 did happen, and even took a fruit basket with his own money
16 and felt very sympathetic to the individual and visited the
17 house unannounced. Hear me. On January 16, they sent me
18 the letter, we know all about that. But --

19 THE COURT: Why do you think he sent it --
20 wait, wait, wait, why do you think they sent you the
21 letter?

22 MR. TRAFICANT: They want this man and
23 evidence --

24 THE COURT: Congressman, they sent you the
25 letter for reasons that I'll let them state.

Sinclair - Cross

1 MR. TRAFICANT: Yep.

2 THE COURT: But as part of their
3 responsibilities.

4 MR. TRAFICANT: But I wasn't completed.

5 THE COURT: I know you weren't, but just
6 listen to this part of it. Why did you send the letter to
7 him?

8 MR. MORFORD: Your Honor, we sent the letter
9 because when I received the information, I believed it
10 could be argued that it could be exculpatory, something of
11 value to Congressman. I felt in fairness it was something
12 he should know. I think it's very important, and I get the
13 impression he's confused about this -- that in our original
14 motion regarding M O'Nesti's statements to Jackie Bobby,
15 which is what we're talking about here, we had noted that
16 interview but made it very clear we are not attempting to
17 place a tape in evidence because it's hearsay, and it's not
18 admissible.

19 And we are not attempting to put his statements made
20 in the house that day but merely felt we needed to let the
21 Court know that when he was first talked to, he initially
22 denied it and then admitted it. And we felt that was
23 something the Court should know as it considers Mr. Bobby's
24 testimony, but we made it very clear we were never going to
25 offer Mr. O'Nesti's testimony at the house that day or the

Sinclair - Cross

1 tape.

2 When I got that information, I felt that that was
3 something that the Congressman should know happened in
4 case. He had an admissible way to use it, and I wanted him
5 to know it, and the only reason that I didn't fax him the
6 letter, and the Court may remember this, is that at a
7 hearing one day, I handed him a document, letter we had
8 faxed him some early questionnaire documents, and he made a
9 big stink and said the rules require you to mail it, I
10 don't want you faxing and give me stuff. I want it to be
11 mailed, so we made the decision then to mail it to him
12 because he didn't seem to like our courtesy.

13 THE COURT: In any event, the Court has ruled
14 on this, and when I rule on something I will not revisit it
15 here.

16 MR. TRAFICANT: I'm not trying to revisit it,
17 but the point I'm making, Mr. Morford admitted with his own
18 words that he knew of Mr. Pikunas' visit on January the
19 6th. He said he knew that Mr. Pikunas --

20 THE COURT: I don't know what you -- what
21 you're talking about.

22 MR. TRAFICANT: Yes, he did.

23 THE COURT: When?

24 MR. TRAFICANT: He said he knew Mr. Pikunas
25 had interviewed --

Sinclair - Cross

1 MR. MORFORD: Yes.

2 MR. TRAFICANT: -- Mr. O'Nesti, and here's
3 the point that's been brought up -- not to argue the
4 case --

5 THE COURT: It seems like you are.

6 MR. TRAFICANT: No, I think it has to be
7 discussed because --

8 THE COURT: Sir, you are confused.

9 MR. TRAFICANT: I am not confused at all
10 here. I understand that the Government is really trying to
11 help me win this case. Let me say this: The Government
12 clearly knew that when Mr. Pikunas went in there to tape
13 them, they knew that, and that even O'Nesti's attorneys
14 called and got authority to come in and go ahead, and he
15 said even without me being there, you people have got along
16 so well, go ahead and tape him.

17 The point is, they say the confession was even
18 recanted because at some point Mr. Pikunas turned the tape
19 off. That wasn't my issue. The issue was when the
20 Government decided they had a man that was, at least,
21 cognizant enough to be interviewed by the FBI, and to be so
22 integral to a case and died ten to 11 days later, then the
23 duty and responsibility under 401, 402, 403 is to notify me
24 of a deposition opportunity.

25 MR. SMITH: The case hadn't been indicted

Sinclair - Cross

1 yet, your Honor.

2 THE COURT: I already ruled on that. All
3 these events took place long before there was any
4 indictment in this case, and so Congressman, I'm going to
5 ask you to go back and read the Court rulings and to move
6 on to something different. We have a jury of people here
7 who are ready to hear your cross-examination of a witness.

8 MR. TRAFICANT: I want them to hear that,
9 too. I don't want to be limited in that cross-examination.

10 THE COURT: Well, you're limited.

11 MR. TRAFICANT: And I do make a motion to the
12 court that I believe on these 302's I am being limited.

13 THE COURT: All right. What you can do then
14 is object on that basis, and we'll go forward.

15 MR. TRAFICANT: Thank you. I do object.

16 THE COURT: Thank you.

17 MR. MORFORD: Thank you.

18 MR. TRAFICANT: May I have a quick side bar
19 here, your Honor?

20 THE COURT: Question: Why don't we just come
21 over?

22 MR. TRAFICANT: I'm under the impression that
23 clean 302's can be shown to the Defendant -- to the
24 witness?

25 THE COURT: Not that.

Sinclair - Cross

1 MR. TRAFICANT: Or stick to the question.

2 THE COURT: Not to this witness, just stick
3 to the question.

4 MR. TRAFICANT: Okay. Thank you.

5 (Proceedings resumed within the hearing of the jury:)

6 (The following proceedings were held at side bar:)

7 THE COURT: There could be a situation in
8 which you could use a clean copy if it's needed, if there's
9 something that occurs and it's needed to refresh someone's
10 recollection in some way.

11 MR. TRAFICANT: I'm not looking to refresh.
12 I'm looking to impeach.

13 THE COURT: All right. So there may be many
14 ways you can impeach, but this witness didn't author this
15 302. There is a witness who authored it somewhere.

16 MR. TRAFICANT: The Government witness.

17 THE COURT: Right.

18 MR. TRAFICANT: An agent of the federal
19 government.

20 THE COURT: Right.

21 MR. TRAFICANT: I'm not cross-examining an
22 agent of the federal government. I'm examining a man who
23 has immunity to practice law, even though he's admitted to
24 serious felonies.

25 THE COURT: Wait a minute. That doesn't have

Sinclair - Cross

1 anything to do with whether or not you can use the 302.

2 MR. TRAFICANT: The point is the veracity of
3 this and the motives.

4 MR. MORFORD: Your Honor, there are Rules of
5 Evidence that he has to follow.

6 THE COURT: Right. In order to get it in
7 order to get it in there, they have to be followed.

8 MR. TRAFICANT: I will assure you that I will
9 follow the Rules of Evidence.

10 THE COURT: Okay.

11 MR. MORFORD: That's fine. That's all we're
12 asking.

13 MR. TRAFICANT: But I want to say this: What
14 you did on January 16th was a manipulative ploy with --

15 THE COURT: This is not a place, this is not
16 a place for that kind of thing.

17 MR. TRAFICANT: Putting it on the record. He
18 has not been honest with the criminal Rules of Evidence.

19 THE COURT: You want to know something, this
20 is not the time to put that on this record.

21 MR. TRAFICANT: You seem to never have time
22 for it, and it's critical to the Defendant.

23 THE COURT: We keep going over a lot of the
24 same ground here. You need to pay attention to what the
25 Court has already ruled on.

Sinclair - Cross

1 MR. TRAFICANT: I agree. Your Honor, I
2 didn't call for the side bar; you did.

3 THE COURT: That's right because I wanted to
4 clarify some things about --

5 MR. TRAFICANT: Are you concerned --

6 THE COURT: It's a hearsay --

7 MR. TRAFICANT: But hear me.

8 THE COURT: -- statement, and so you have to
9 find a way under the rules.

10 MR. TRAFICANT: Question --

11 THE COURT: No, don't interrupt. I'm trying
12 to help you by telling you there could be some
13 circumstances under which you might be able to do this.

14 MR. TRAFICANT: Um-hum. I understand there's
15 a Pro Se Defendant that you have no obligation to help me.
16 Number 1.

17 Number 2, are you concerned that in your limiting my
18 use of 302's and after having reconsidered this, that maybe
19 you should be granting me more latitude? That's why we're
20 here at the side bar?

21 THE COURT: No. It's just that the situation
22 that we're in right now with this witness on the stand and
23 with what it is you're trying to use and how you're trying
24 to use it, I'm trying to make as clear as I can to you that
25 I can't -- I can't -- I can't really tell always what it is

Sinclair - Cross

1 you're trying to say, so it matters that the Rules of
2 Evidence do control.

3 MR. TRAFICANT: In that regard, must an
4 attorney at every stage of the process let everybody know
5 what he may or may not be trying to accomplish? Is that an
6 issue the Court should be concerned with or not, concerned
7 with the issue at hand and that be the evidence?

8 THE COURT: Right. That's what I am
9 concerned with.

10 MR. TRAFICANT: Okay. And you've -- you've
11 now stated that under certain circumstances, this person
12 could be shown a 302, is that what you're saying?

13 THE COURT: A cleaned up copy of a 302. You
14 asked me could -- you said your understanding was, it
15 couldn't be shown to this witness, and the answer that I
16 gave you was no, but then I thought that there might be
17 some circumstance that would develop, which might lay a
18 basis for it.

19 MR. TRAFICANT: They said they have a clear
20 302. Are you saying --

21 THE COURT: No, we just sent the Court staff
22 out in order to get it for you so you'd have it available
23 to you.

24 MR. MORFORD: Your Honor, my understanding,
25 and we were up here before, was Congressman was asking to

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1 either put the 302 in evidence or show it to the witness
2 for purposes of putting those statements in the 302 into
3 evidence, which was --

4 MR. TRAFICANT: Asking questions.

5 MR. MORFORD: My understanding of the court's
6 ruling. However --

7 THE COURT: If it goes into evidence, it's a
8 little bit different than if it's not in evidence.

9 MR. MORFORD: Your Honor, I agree. The
10 Congressman may -- he asked Mr. Sinclair did you meet with
11 the FBI on such and such a date? Did they ask you this
12 question, did you give them this answer? And he says no.
13 Might it refresh your recollection if I show you something?
14 He can't tell them what he's showing. He can't say might
15 it refresh your recollection if I show you a 302.

16 THE COURT: And you can't read what it says,
17 but you can show it to him.

18 MR. MORFORD: Without saying anything, he can
19 show it.

20 MR. TRAFICANT: And he need not answer.

21 MR. MORFORD: You can ask does this refresh
22 your recollection if he says yes. You can ask the same
23 question again.

24 MR. TRAFICANT: Yes.

25 MR. MORFORD: Did he make this statement. If

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1 he says no, then you're done. That's my understanding of
2 how that rule works.

3 THE COURT: Right.

4 MR. TRAFICANT: Will I give you enough time
5 to go out and meet with him in the back room and clean that
6 up for yourself?

7 MR. MORFORD: I've not talked with
8 Mr. Sinclair since he -- since you began cross-examining.

9 MR. TRAFICANT: I understand and I am
10 completely -- I have no further interest here.

11 THE COURT: Thank you.

12 MR. MORFORD: In that you brought up that
13 rule, I would ask that the Court order the Government and
14 the Defendant that during the course of witness testimony,
15 that once the witness begins cross-examination by either
16 party, that the party that put the witness on can no longer
17 talk with the witness.

18 MR. TRAFICANT: I object to that. There may
19 be issues where you want to clarify questions you may want
20 to ask of a witness, and you must let the witness know what
21 you are trying to ascertain in their testimony, and if, in
22 fact, they're doing that understanding, I think they have
23 the right to examine what is the purpose of the question
24 that you asked, and did they understand that? You've been
25 meeting with these witnesses all along, quite frankly, I

Sinclair - Cross

1 haven't met with any.

2 MR. MORFORD: I have not met with any
3 witnesses, and I don't meet with witnesses from the time
4 you begin cross-examination until they've finished
5 testifying.

6 MR. TRAFICANT: You mean every --

7 MR. MORFORD: That's not what I just said,
8 sir.

9 THE COURT: That's not.

10 MR. TRAFICANT: I know what he said, he said
11 since they start cross-examining, he hasn't, but this
12 witness has been sitting in the back with FBI agents, and I
13 have noticed it myself, and I have gone to the restroom.

14 Let me say one thing: I know you were concerned
15 about my situation, I have been on a little carbohydrate
16 type of diet and a little too much cheese. This is no
17 excuse or ploy, but I have been informed by some people
18 there are some laxatives that are not volatile and
19 combustible, and that they do produce normalcy.

20 Let me say this to you. There have been occasions
21 where that has not been the case, and I am not trying to
22 delay this trial.

23 THE COURT: No, but we -- you brought this
24 up.

25 MR. TRAFICANT: I have to go to the restroom.

Sinclair - Cross

1 THE COURT: I know you brought this up
2 yesterday, and without getting anyone else involved except
3 my immediate court staff, we set up a system so you could
4 alert us if you needed to leave, and this was no reason for
5 you to bring it up now on the record, but there it is, we
6 took care of it. I did know.

7 MR. TRAFICANT: It's not a continuing thing
8 for a ploy, it is, in fact, a --

9 THE COURT: Well, no, that's the way we took
10 it so we said if you just give us the signal to these
11 folks, they -- we'll call a recess. That's what we've been
12 actually doing.

13 MR. TRAFICANT: Thank you very much.

14 THE COURT: You're welcome. Okay?

15 MR. SMITH: Thank you, your Honor.

16 (Proceedings resumed within the hearing of the jury.)

17 THE COURT: Mr. Traficant, they're still
18 copying these things, would it be possible for to you move
19 on to some other area you want to examine this witness on,
20 and then as soon as we get them, we'll make them available
21 to you?

22 MR. TRAFICANT: If you wish to move forward,
23 I'll be glad to move forward.

24 THE COURT: Okay. Let's get the witness
25 back.

Sinclair - Cross

1 MR. TRAFICANT: Although I would like to --
2 I'll go along with the court

3 (Proceedings resumed in the presence of the jury:)

4 BY MR. TRAFICANT:

5 Q. Welcome back, everybody.

6 You are currently the owner of 11 Overhill Drive?

7 A. No, I am not.

8 Q. Who is the owner?

9 A. My wife.

10 Q. Do you recall being asked by any FBI agent when you
11 were the owner of 11 Overhill Road?

12 A. I recall the subject matter being discussed, but not
13 specifically.

14 Q. To whom did the tenants make their checks out to when
15 they paid the rent at 11 --

16 A. KAS Enterprises.

17 Q. To whom did they make the checks out to when you were
18 a congressional staff employee?

19 A. KAS Enterprises.

20 Q. And you stated you had conversation with two D. C.
21 Staff members?

22 A. That's correct.

23 Q. And could you repeat their names again?

24 A. Paul Marcone and Charles, Charlie Straub.

25 Q. And what was the extent of the conversation you had

Sinclair - Cross

1 with Mr. Straub, for example?

2 A. I can't recall the specifics of the conversation, but
3 it dealt with the issue concerning the ownership of the
4 building.

5 Q. And did he give you a response?

6 A. Between him and Mr. Marcone, yes.

7 Q. So the two of you then had given your response?

8 A. Yes, sir.

9 Q. Did you, yourself, personally call any Government
10 entity at the House Ethics Committee or any function of the
11 House of Representatives of Congress that would have
12 jurisdiction over these issues? Did you make any personal
13 call for any further clarification?

14 A. No, I did not, outside of Mr. Marcone and Mr. Straub.

15 Q. So you relied upon their judgment in this legal
16 matter?

17 A. And my own.

18 Q. And your own?

19 A. Yes, sir.

20 Q. Fine.

21 Now, when you met with the Government, the Government
22 referred to you with a code name or some code word that
23 would automatically know that in their dealings with you,
24 that you were the one making the statements?

25 A. Not that I'm aware of.

Sinclair - Cross

1 Q. And you met with the federal government how many
2 times?

3 A. Several. I can't tell you the exact number.

4 Q. When you had conversations with the FBI, did they
5 ever relate to you whom they referred to as the, quote
6 unquote, source for their materials?

7 A. No, sir.

8 Q. So you have no knowledge of what or who the source
9 was for these informations of questions they were asking
10 you?

11 A. Well, they were asking me questions, and I was
12 answering them.

13 Q. But did they identify to you the source which was the
14 predicate for the reason why they asked you those
15 questions?

16 A. I'm sorry, I don't understand your question.

17 Q. Well, did they identify to you in any way who the
18 source was that caused them to have asked you the question
19 that you would have answered?

20 A. I think to answer your question, I have no idea what
21 you're talking about of the source.

22 Q. So you never were informed of who the source was?

23 A. I am confused with your question, sir.

24 Q. Well, let's see if we can get beyond your confusion.
25 Did the Government ever state that they had

Sinclair - Cross

1 information from a source to you?

2 A. My dealings with the FBI agents concerned information
3 that I had. I'm not aware of any other information that
4 they had outside of what we were talking about specifically
5 at the time, if that answers your question.

6 Q. So you did not know who the source was in any
7 conversation with the FBI?

8 A. If you're defining the word the source as some person
9 or entity, no, I had no idea what you're talking about.

10 Q. Thank you.

11 Did the Government or the IRS or the treasury or the
12 C I A or whoever, did they ever ask you about my horse
13 business?

14 A. No, sir.

15 Q. So the horse business was never a part of your
16 discussions with them?

17 A. No, sir.

18 Q. Did the Government ever ask you about my mental and
19 physical well-being and competency?

20 A. No, I don't think any questions were asked of me. I
21 may have offered information concerning your health.

22 Q. The Government asked you questions about my
23 relationship with Mr. Cafaro?

24 A. Well, concerning the fact that I testified that I saw
25 J. J. Cafaro's name on one of the envelopes that contained

Sinclair - Cross

- 1 money, to that respect, yes.
- 2 Q. You said you saw an envelope with his name on it?
- 3 A. Yes, sir.
- 4 Q. I see. And you saw Mr. Cafaro hand me this envelope?
- 5 A. No, I did not.
- 6 Q. And where did you see that envelope?
- 7 A. This was in my basement on the night of the 24th,
- 8 January.
- 9 Q. And did you memorialize and preserve a copy of that?
- 10 A. No. I believe those are one of the envelopes that
- 11 were completely burned.
- 12 Q. I see. You were at that time fully cooperating with
- 13 the Government; is that right?
- 14 A. That is incorrect.
- 15 Q. You were familiar with the allegations in the trial
- 16 that concerned Mr. Cafaro reportedly having given me money?
- 17 A. At which time period are you talking about?
- 18 Q. Well, at about the time you said you did go ahead and
- 19 burn the so-called envelopes?
- 20 A. No, at that time, I didn't -- I don't recall any
- 21 personal knowledge that Mr. Cafaro was involved in the
- 22 situation at all.
- 23 Q. Well, then, why did you burn the envelopes?
- 24 A. I'm sorry?
- 25 Q. Why did you burn the envelopes? You were helping the

Sinclair - Cross

- 1 Government.
- 2 A. No, I wasn't. I did it at your direction.
- 3 Q. And what day was that?
- 4 A. That was January 24 in the evening.
- 5 Q. And when did you start cooperating with the
- 6 Government?
- 7 A. I gave my proffered statement on January 31st, that
- 8 particular Friday.
- 9 Q. I see. But you had met several times previously with
- 10 the FBI about matters involving the Traficant case; is that
- 11 correct?
- 12 A. I met with the FBI on January 21st and on January
- 13 24th.
- 14 Q. On February the 4th, after having already been
- 15 cooperating with the Government, and you did get did you
- 16 not.
- 17 A. There are a couple questions there. Which would you
- 18 like me to answer?
- 19 Q. Were you working with the Government before February
- 20 the 4th?
- 21 A. Yes.
- 22 Q. Okay. When did you get -- did you get immunity?
- 23 A. Yes, I did.
- 24 Q. When exactly did you get immunity?
- 25 A. That would have been on January 31, the day I gave my

Sinclair - Cross

1 proffered statement.

2 Q. On February the 4th, did the FBI make you aware that
3 you were observed by a source in a car with the
4 Congressman?

5 MR. MORFORD: Objection, the basis --

6 MR. TRAFICANT: For what?

7 THE COURT: -- for the question.

8 MR. TRAFICANT: I'd ask a ruling.

9 THE COURT: Well, first, we'll do what we
10 always do. We take the Court Reporter over here to the
11 side, and let's talk about it, okay?

12 MR. TRAFICANT: Before we do that, your
13 Honor, could you repeat the question? I do not believe it
14 really warrants the waste of the jury's time, and I'll be
15 glad to rephrase it.

16 THE COURT: I think it deals with the content
17 of the question

18 (The following proceedings were held at side bar:)

19 THE COURT: Okay. Mr. Morford.

20 MR. MORFORD: Your Honor, the reason for my
21 objection is we just explained to Congressman Traficant
22 that when the 302 says saw Congressman Traficant or
23 Mr. Sinclair together, that it's actually Sinclair who was
24 providing the information so that Sinclair is telling the
25 FBI that he was with Congressman Traficant so, therefore,

Sinclair - Cross

1 there's no basis to ask if Sinclair was aware that a source
2 saw him.

3 MR. TRAFICANT: Please. There is -- this is,
4 although I'm not an attorney, methodology to try impeach
5 witnesses that becomes critical, and again --

6 MR. MORFORD: Keep your voice down.

7 MR. TRAFICANT: Getting back to the point,
8 did the FBI inform him that a source had seen he and I
9 together.

10 THE COURT: He is the source.

11 MR. MORFORD: That's this witness.

12 THE COURT: He is the source.

13 MR. TRAFICANT: But I want to know what his
14 answer was.

15 THE COURT: Well --

16 MR. TRAFICANT: Whether he was told by the
17 FBI or not.

18 MR. MORFORD: You have to have a basis to ask
19 the question. If you're going to put --

20 MR. TRAFICANT: Keep your voice down.

21 MR. MORFORD: If my objection is, if you're
22 going to put facts --

23 MR. TRAFICANT: Well --

24 MR. MORFORD: Please.

25 THE COURT: Listen. It's to the content.

Sinclair - Cross

1 MR. TRAFICANT: Were you informed by the FBI
2 that his source had, in fact, seen you with the Congressman
3 on February the 4th?

4 MR. MORFORD: And I object to that question.
5 If you're going put facts into a question, you have to have
6 a basis for asking those facts. You cannot pose a question
7 under false information. That's why I objected.

8 THE COURT: And he already knows he's the
9 source that's referred to.

10 MR. TRAFICANT: Yeah, but he says he doesn't
11 know who the source is.

12 THE COURT: Well, that's right. You can't
13 impeach that by using something you already know that he
14 himself is the source. How could he himself know that he
15 was the source?

16 MR. TRAFICANT: All he has to say is no,
17 what's the problem.

18 THE COURT: The problem is, it gives the
19 implication to the jury of something exceedingly different.

20 MR. TRAFICANT: Yeah, on the jury.

21 MR. MORFORD: You have no factual basis for
22 making that --

23 THE COURT: If you have a factual basis, you
24 can do that. It's a -- okay? Let's go.

25 THE CLERK: Let me add, Congressman, your set

Sinclair - Cross

1 of clean copies of the document is on the corner of the
2 table.

3 MR. TRAFICANT: Thank you.

4 (Proceedings resumed within the hearing of the jury:)

5 BY MR. TRAFICANT:

6 Q. Back to the envelope with Mr. Cafaro. What was the
7 date of that -- was that January 24th, did you say?

8 A. Yes, sir.

9 Q. Okay. And where was the Congressman, to the best of
10 your knowledge?

11 A. The spring of 2000?

12 Q. And was it not reported allegedly so-called crimes
13 were listed widely throughout the press?

14 A. After the indictment?

15 Q. Before the indictment?

16 MR. MORFORD: Can we have a date as to how
17 far before the indictment he's asking the witness?

18 BY MR. TRAFICANT:

19 Q. Once the subpoenas came out in 1999, and the records
20 of the Congressman were, in fact, subpoenaed, were you
21 concerned?

22 A. My understanding of the records that were subpoenaed
23 in 1999 were records that were public nature anyways, and I
24 was aware that they involved records concerning the
25 Overhill Road address.

Sinclair - Cross

1 Q. And they also listed records concerning other matters
2 as well; is that correct?

3 A. Yes, but I can't specifically recall what the other
4 matters were.

5 Q. So you do not recall that the matter of Cafaro U.S.
6 Aerospace was a part of the documentary evidence that was
7 sought by the Government?

8 MR. MORFORD: Your Honor, can we have a date
9 on that question?

10 Q. That would be sometime after the news broke on the
11 subpoena being public record?

12 THE COURT: So we still need to know for
13 those who don't know.

14 MR. TRAFICANT: That would be early 2000,
15 late '99.

16 THE COURT: Okay.

17 MR. MORFORD: I must object. There's no date
18 that he's asking.

19 THE COURT: Right. Well, he's asking him for
20 a period of time. Were you on the Congressman's staff, at
21 that time?

22 THE WITNESS: Yes, your Honor.

23 THE COURT: Okay. Well, he may have reason
24 to know what that refers to.

25 MR. TRAFICANT: Okay. If the Prosecutor's

Sinclair - Cross

1 going to stand and object to all these things, I think
2 we're going to be here for about four hours. I think these
3 are straight forward to the Congressman's questions.

4 THE COURT: Congressman, these are arguments.
5 Just ask the question.

6 MR. TRAFICANT: Okay. Fine.

7 BY MR. TRAFICANT:

8 Q. In late '99, it was sensational news, the former
9 Congressman once charged with bribery and acquitted, now
10 the Government sought all of its records.

11 THE COURT: What is your question?

12 Q. And the records were listed in the paper that they
13 specifically wanted --

14 THE COURT: That's your statement, sir.
15 You're trying --

16 MR. TRAFICANT: No. Did they not, in fact,
17 list specifically the type of documents they were seeking?
18 Yes or no.

19 THE COURT: We'll let you answer the
20 question, but in the future, you have to ask the question
21 so that he gives the answer that you're trying to elicit.

22 MR. TRAFICANT: Fine. Yes or no.

23 THE COURT: Can you answer that?

24 THE WITNESS: The only thing I can recall
25 personal knowledge were that the records that were

Sinclair - Cross

1 subpoenaed were of a public nature, and that a lot of the
2 documents concerned the entire agreement over the years
3 from when you first became Congressman, and to be honest
4 with you, I cannot remember any of the other details
5 concerning these subpoenas.

6 Q. So on January 24th of 2001, now having been dealing
7 with the Government, right, you weren't dealing with them
8 until the 31st; is that correct?

9 A. That's correct.

10 Q. You didn't sign the proffer until the 31st?

11 A. That's correct.

12 Q. But you met with the Government before then and had,
13 in fact, answered some of their questions, had you not?

14 A. As I stated, I met with the Government January 21 and
15 January 24th.

16 THE COURT: Would you state the year?

17 THE WITNESS: Of 2000.

18 THE COURT: Thank you. I think you said 2001.

19 MR. TRAFICANT: 2000, forgive me. I may be a
20 couple years ahead here.

21 THE COURT: Okay.

22 Q. Are you an attorney, Mr. Sinclair?

23 A. Yes, I am.

24 Q. And you just purchased ads in the Yellow Pages of the
25 phone book, two pages, for the 2002 book that will cost

Sinclair - Cross

1 between \$20 to \$30,000?

2 A. I think I answered that question yesterday, and your
3 question is correct.

4 Q. Okay. You said yesterday that you carried over some
5 old television and radio ads, is that your testimony?

6 A. I'm sorry, that I did what?

7 Q. You carried over some old radio and television ads
8 that you had, but you made no significant expense on them?

9 A. I don't understand what you mean carried over.

10 Q. Well, that you had paid before, and you had some
11 outstanding, and that it was not a money issue when I asked
12 you that question?

13 A. I said --

14 Q. Does that refresh your memory?

15 A. I still don't understand the nature of the question.

16 Q. Let me ask you this question: Did you in the Year
17 2000, buy radio and television ads?

18 A. In the Year 2000? No, I did not.

19 Q. In the year 2001?

20 A. No, I did not.

21 Q. For the upcoming year 2002, have you made a purchase?

22 A. Of what, sir?

23 Q. Media ads, television or radio?

24 A. No, sir, no television or radio.

25 Q. No cable?

Sinclair - Cross

- 1 A. No, cable.
- 2 Q. Only the Yellow Pages?
- 3 A. That is correct.
- 4 Q. Any other publications, any other expense of
- 5 advertising of your business?
- 6 A. For the coming year?
- 7 Q. Yes, and for this current year.
- 8 A. No, I believe the only advertising that I'm doing as
- 9 far as media purchase would be considered the Yellow Page
- 10 advertisements.
- 11 Q. That's a two-page with the picture?
- 12 A. Yes, sir.
- 13 Q. What is the exact cost of that?
- 14 A. I can't tell you the exact cost of that specific ad
- 15 because the cost is blended in with another area in
- 16 Columbiana County that I also have a full page ad in. The
- 17 approximate cost for those two ads are \$3500 a month.
- 18 Q. \$3500 a month?
- 19 A. Yes, sir.
- 20 Q. And see if my math is correct, \$3500 times 12, that
- 21 would be \$42,000?
- 22 A. If your math is correct.
- 23 Q. Do you believe it is?
- 24 A. Sure.
- 25 Q. Thank you. So in 2000, you made no ads?

Sinclair - Cross

- 1 A. No, that's not correct. No adds regarding, no
2 television or radio, you are correct.
- 3 Q. But in 2000, you had the Yellow Page ad?
- 4 A. I'm sorry. You confused me.
- 5 Q. In the Year 2000, did you have Yellow Page ads?
- 6 A. Yes, sir.
- 7 Q. And were they two pages?
- 8 A. Yes.
- 9 Q. And did they have your photograph?
- 10 A. Yes.
- 11 Q. And is that not quite an expensive ad?
- 12 A. I would agree with you.
- 13 Q. And how much did those ads cost you?
- 14 A. I believe I just testified to that.
- 15 Q. So it was about the same as the following year, about
16 \$3500 a month?
- 17 A. Are you referring to the Year 2000?
- 18 Q. Yes.
- 19 A. I believe in the Year 2000, I do not have what is
20 called a double impact page. The AmeriTech phone book for
21 the Youngstown Warren area runs from March to March, so
22 it -- there's some overlapping of the years.
- 23 Q. Some overlap. Nevertheless, you had presence in 2000
24 in the Yellow Page ads?
- 25 A. Yes, sir.

Sinclair - Cross

1 Q. And, in fact, did you not have it in Columbiana
2 County in that process?

3 A. Yes, I did.

4 Q. What would your guesstimate be on your cost over that
5 period of time between overlapping the coming year, which
6 would be \$42,000; guesstimate?

7 A. As I testified, the ad for Youngstown, Warren and
8 Columbiana County is approximately \$3500 a month, and there
9 may be some other charges in there for -- it's basically a
10 phone bill. It is broken down, but I cannot give you
11 accurate testimony today as the breakdown.

12 Q. How about the Cleveland Indian's ballpark figure?

13 A. About \$3500 a month.

14 Q. So another \$42,000?

15 A. You are confusing me with another \$42,000. I don't
16 understand what you mean.

17 Q. You're saying it was not a total 42 for the one year
18 and 42 for another. There's some carry-over from the last
19 year end. Is that what you're saying, or my question is
20 specifically for the new book that's coming out, is it
21 going to cost you \$42,000 in the new book of AmeriTech
22 Yellow Pages for you to run your ad?

23 A. For the year 2002 through 2003?

24 Q. Yes.

25 A. I believe that figure may have gone up a little bit.

Sinclair - Cross

1 Usually, the ads go up every year.

2 Q. How much do you project it will be for those two
3 years?

4 A. I believe it will be approximate hi \$3800 a month.

5 Q. Oh. So we're getting up close to what, \$50,000 a
6 year?

7 A. If your math is correct.

8 MR. TRAFICANT: I might ask the Court request
9 if the Government can get me drinking water here on the
10 table?

11 MR. SMITH: That's fine.

12 MR. TRAFICANT: Thank you.

13 BY MR. TRAFICANT:

14 Q. I would like to now look at a federal form, dated
15 January 24, 2000, that has been -- must apologize, cleaned
16 up by my cumbersome writing, and I brought it up to you,
17 but because I had written on it, I was not allowed to show
18 it to you. Might I present this to the Court and ask that
19 this be brought into evidence as S-27 or at least be
20 offered to be viewed by the witness at this time if not
21 entered into evidence?

22 THE COURT: You haven't -- we've been over
23 this about what it would take in order to be able to put
24 this in front of the witness.

25 MR. TRAFICANT: Fine.

Sinclair - Cross

1 THE COURT: And that has not happened here.

2 MR. TRAFICANT: Okay. Can I show the witness
3 this statement?

4 THE COURT: Not as things are right now.
5 If -- if you can't remember what we went over over this
6 last break, over the lunch, I'll be glad to go over it
7 again.

8 MR. TRAFICANT: What I remember was, if it
9 would refresh --

10 THE COURT: No, no, no, no, Congressman, ask
11 the next question of the witness. Move on to your next
12 question. We went over this extensively during the break,
13 and there's no reason right now, since it's a legal issue
14 and not an issue for the jury, for us to go over it. I'll
15 be glad to meet with you over the lunch break.

16 MR. TRAFICANT: My purpose was to refresh
17 memory. I'm sure we want to know what the witness knows.

18 THE COURT: Well, there hasn't been any kind
19 of a basis laid for that at this point. So we'll go over
20 the rules again with you some time over a break. Just go
21 to the next question, please.

22 MR. TRAFICANT: Thank you.

23 BY MR. TRAFICANT:

24 Q. Do you recall a meeting with the FBI on February 17,
25 2000?

Sinclair - Cross

- 1 A. No, sir, not specifically.
- 2 Q. Do you recall an agent asking you about the ownership
3 of the building and KAS Enterprises?
- 4 A. At what time period?
- 5 Q. As I stated earlier, February 17th. Do you need a
6 little piece of paper and pencil? I'll be glad to provide
7 it.
- 8 A. Your question, sir?
- 9 Q. My question was that the FBI, at any time and more
10 effectively on February 17th, make inquiries about your
11 wife's ownership with KAS Enterprises?
- 12 A. No, I don't recall any FBI agent making any specific
13 inquiry on February 17th concerning KAS Enterprises.
- 14 Q. At some time you informed the Government that you
15 intended to tape a party?
- 16 A. No, sir.
- 17 Q. Did you ever tape anyone involved with you or this
18 case or your partnership?
- 19 A. Can we take that one at a time? Did I ever take --
- 20 Q. You ever tape, for example, did you ever have any
21 tape on me or anyone associated with me?
- 22 A. No, sir.
- 23 Q. Did you make a tape?
- 24 A. Are you talking about video?
- 25 Q. Video or audio?

Sinclair - Cross

1 A. No, sir.

2 Q. To the best of your knowledge, did the Government ask
3 you to do that?

4 A. No, sir.

5 Q. To the best of your knowledge, do you know if the
6 Government did that?

7 A. No, I do not have any knowledge of that.

8 Q. Now, did you tape anyone who was on this staff of the
9 Congressman?

10 A. No, sir.

11 Q. Voluntarily?

12 Did you tape anyone who had any connection with you
13 in any concerns you might have in this case?

14 A. Any concerns with me?

15 Q. Yeah, that you might have in this case as it could,
16 in fact, concern you and the family?

17 A. No, sir.

18 Q. I mean, in general, did you tape somebody for any
19 purpose?

20 THE COURT: Give him a time period.

21 MR. TRAFICANT: On or about the Spring, after
22 you had reached an agreement with the Government.

23 THE WITNESS: Did I tape somebody? No, no,
24 sir.

25 Q. Okay. Is it your testimony here that you did not

Sinclair - Cross

1 tape Alan Matavich concerning Henry DiBlasio?

2 A. I did not personally tape him, no.

3 Q. You were asked if you had knowledge if there were any
4 tapes of anybody concerning your case?

5 A. You were asking me if I taped anybody. I did not
6 tape anybody.

7 Q. Do you know who, in fact, did that taping?

8 A. The FBI did tape a conversation I had with Matavich,
9 yes.

10 Q. I did previously ask you if the Government had asked
11 you if you had done any taping?

12 A. Yes.

13 Q. Okay. Did the Government come to you with the
14 appropriate paperwork to, in fact, effect the legality of
15 you to go ahead and do that?

16 MR. MORFORD: Objection. The question
17 assumes things that aren't required.

18 THE COURT: There's nothing in evidence of
19 that.

20 Q. Well, and I have testified the Government taped a
21 conversation between you and Mr. DiBlasio's attorney; is
22 that correct?

23 A. That is correct.

24 Q. Are you familiar with attorney-client privilege, Mr.
25 Sinclair?

Sinclair - Cross

1 A. Yes, I am.

2 Q. And you went along honk with the Government, and
3 on -- would you say somewhere around the middle of June,
4 you went ahead and taped Mr. Matavich?

5 A. I can't recall the specific time period, but it was
6 done, yes.

7 Q. Fine. Where did that taping occur?

8 A. In my office on 11 Overhill Road.

9 Q. So then the Government did use you to tape sides in
10 this case?

11 A. The only individual I was aware of was Attorney
12 Matavich.

13 Q. Yes. But my question was, they did use you to tape
14 witnesses in this case?

15 A. For that specific purpose, yes.

16 Q. Yes. Thank you.

17 Now, you said when they put that big thing on the
18 wall about the Congressman trying to fraudulently hide his
19 assets, if that's the exact words I think that came out of
20 this, that you put my name down as the preparer; is that
21 correct?

22 A. You're referring to the quit claim deed?

23 Q. Did you prepare it?

24 A. I typed it for you.

25 Q. Did you prepare it?

Sinclair - Cross

1 A. I typed it for you, yes.

2 Q. Did I prepare it?

3 A. You did not type it, no.

4 Q. Is Mrs. Traficant my wife?

5 A. As far as I'm aware.

6 Q. As an attorney who has a two-page ad that specializes
7 in injury, divorce, security matters, real estate
8 transaction, properties, wouldn't any prudent attorney,
9 relative to such an action, in fact, ensure that a quit
10 claim deed would carry no dowry rights, and I've asked you
11 that before, and your testimony was, you could, in fact --
12 let me quote you, quit claim this building, which we know
13 you can't because the federal government owns it.

14 Is Patricia Traficant my wife?

15 A. Yes.

16 THE COURT: There was a statement in there by
17 the Congressman about which you can't consider, because
18 the federal government owns it, you have to disregard that.
19 That's not evidence in this case. That's an opinion of
20 his.

21 MR. TRAFICANT: I think we're trying to
22 establish some understanding here.

23 THE COURT: Well, still --

24 MR. TRAFICANT: He made the statement, not
25 me.

Sinclair - Cross

1 THE COURT: Not that statement.

2 MR. TRAFICANT: He made the statement he
3 could quit claim this deed on this building yesterday.

4 THE COURT: That's right.

5 MR. TRAFICANT: And I was just returning to
6 that, your Honor. Is that objectionable?

7 THE COURT: You're also trying to state
8 something yourself on the record. He's in the witness box.
9 He's sworn to tell the truth. You're cross-examining.

10 MR. TRAFICANT: We certainly want him to tell
11 the truth.

12 THE COURT: Well, let's get on with the
13 cross-examination.

14 MR. TRAFICANT: I'm trying.

15 Q. And you said Patricia Traficant owned the farm, but
16 that she did not know about what I was really doing, was
17 that your testimony yesterday?

18 A. No, I did not testify to that.

19 Q. Okay. Did my wife sign the deed?

20 A. Yes, she did.

21 Q. Was that her property?

22 A. She has an interest in the property, yes.

23 Q. No, was that her property by title?

24 A. From the best of my recollection, the property was in
25 both of your names, I believe. I would have to look at the

Sinclair - Cross

1 deed to be positive of that.

2 Q. Okay.

3 Now, that was May 22nd of 2000, and you had already
4 been working with the Government; is that correct?

5 A. When are you referring to in your question as to what
6 I should answer? That I was no --

7 Q. The deed was made 22nd of the Year 2000, and at that
8 point, you were not working with the Government; is that
9 correct?

10 MR. MORFORD: Your Honor, I --

11 THE COURT: Can you give us the exhibit so we
12 can go to the exhibit?

13 MR. TRAFICANT: The exhibit is a deed, and it
14 was printed and put on the board yesterday, and I don't
15 think it need take that much longer to be put on the board.
16 It is a quit claim deed. Were you --

17 THE COURT: Well, just a minute. We'll find
18 it.

19 MR. MORFORD: Your Honor, I believe it's
20 Exhibit 6-11. And, your Honor, my objection is the basis
21 of his question because the date doesn't match the date on
22 the deed.

23 THE COURT: But you're not supposed to talk
24 about your objections in front of the whole jury. You're
25 supposed to say I have an objection, and we'll come over

Sinclair - Cross

1 and talk about it.

2 MR. TRAFICANT: But you see, they're getting
3 away with it, but I'm not.

4 THE COURT: Whoa, whoa.

5 MR. TRAFICANT: And I don't like that.

6 THE COURT: Would you just wait a minute,
7 please? Do we need to take a break?

8 MR. TRAFICANT: I don't need a break.

9 THE COURT: Good. Let's just take our time
10 here. This is important. Is it Government's Exhibit 611
11 that we're talking about? Congressman, is it 611 we're
12 talking about?

13 MR. TRAFICANT: I really don't have the
14 document. It was their document. Evidently -- is there
15 another page to this? This financing certificate is a
16 little problematic. I don't want to give you the finger.
17 Fine.

18 MR. MORFORD: Do you need this?

19 MR. TRAFICANT: No, I don't need it at all.

20 THE COURT: What's the date, Congressman, on
21 the deed that we're talking about?

22 MR. TRAFICANT: I would allow the Prosecutor
23 to ask that question.

24 THE COURT: No, I ask you, did you just look
25 at it.

Sinclair - Cross

1 MR. TRAFICANT: Your Honor, I don't remember
2 the date of the deed.

3 THE COURT: It appears to be dated December
4 10th of '99 on the front. It was notarized on the 7th of
5 January, '99.

6 MR. TRAFICANT: That is true.

7 THE COURT: Okay. Well, that's important so
8 that the jury doesn't have an idea that's not correct about
9 what the document says. Okay?

10 BY MR. TRAFICANT:

11 Q. Did you state at that time that you weren't sure who
12 owned the property totally, was that your statement?

13 A. What time, sir?

14 Q. When you prepared this quit claim deed?

15 A. At the time it was prepared, I believed that I had
16 done the necessary research for you to determine it was a
17 problem who was the proper owner because I believe you
18 yourself weren't sure how the property was titled.

19 Q. So you didn't do a title search, you just went ahead
20 and had a quit claim deed even though it could have been
21 owned by McDonald's Corporation. Is that your statement?

22 A. No, I did a research to see the nature of how the
23 deed that was filed before and how the names were listed on
24 that particular deed.

25 Q. Fine.

Sinclair - Cross

1 Did you find the last recorded deed and the ownership
2 of that deed?

3 A. I do remember doing that, but I don't have any
4 specific recall.

5 Q. Was it, in fact, not a part of the estate of my late
6 father?

7 A. That sounds familiar.

8 Q. All right. Do you recall having been asked by the
9 Government that question?

10 A. No, I do not.

11 Q. Do you recall making any statements to the Government
12 that Patricia Traficant was the owner?

13 A. No, I do not.

14 Q. Thank you.

15 Did you ever see your partner, Mr. DiBlasio, making
16 any trips to the bank?

17 A. Well, I knew that he would go, but to give you an
18 accurate recollection of --

19 Q. I didn't ask you that. I asked you, did you ever see
20 Mr. DiBlasio go to the bank?

21 A. Well, I -- I knew that he went to the bank.

22 Q. No, I didn't ask you that. I would please ask the
23 Court to direct this witness, yes or no, did you see Mr.
24 DiBlasio go to a bank?

25 THE COURT: Yes, no, or I don't know.

Sinclair - Cross

1 THE WITNESS: I don't know, I can't answer
2 that question.

3 Q. Did you ever see Mr. DiBlasio give me any money?

4 A. No, sir.

5 THE COURT: Congressman, these are very long
6 pauses between questions. See if you can move on to
7 another question, please.

8 MR. TRAFICANT: I'll ask the Court, this is
9 not really a walk in the park, either.

10 THE COURT: No, I understand that.

11 BY MR. TRAFICANT:

12 Q. As an attorney, you are aware that for certain
13 actions, you can be disbarred; is that correct?

14 A. That is correct.

15 Q. Could you explain some of them to the jury?

16 A. Well, there are a variety of reasons.

17 Q. Could you explain some to the jury?

18 A. Well, it can range from your actions concerning
19 clients, not representing clients zealously.

20 Q. Client misconduct?

21 A. Client misconduct, commissions of clients, drug
22 alcohol abuse, any -- anything that would involve the
23 character and fitness of being able to practice law.

24 Q. Now, you signed a proffered agreement with the
25 Government; is that correct?

Sinclair - Cross

1 A. That's correct.

2 Q. But in the beginning, you said there were no
3 kickbacks; is that correct?

4 A. No, that's not correct.

5 Q. Okay. At some point, the Government began to
6 question you about KAS Enterprises; is that correct?

7 A. No, sir, I don't believe you're correct. To me, that
8 was not really an issue.

9 Q. Okay.

10 Even though you have an immunity in this court, do
11 you have an immunity?

12 A. Yes, I do.

13 Q. Who granted it to you?

14 A. The Government.

15 Q. Whom in the Government granted it to you?

16 A. I would assume the Justice Department.

17 Q. Does anyone in the Justice Department carry a name or
18 face?

19 A. It's the United States, on behalf of the people.

20 Q. Did Uncle Sam in the red white and blue hat come to
21 you, say, my man, you have immunity?

22 A. Well, I think, of course, the answer to that question
23 would be no.

24 Q. Was this anybody in this room that offered you the
25 immunity, that proffered you the immunity?

Sinclair - Cross

1 A. Mr. Morford.

2 Q. Is he here in the room?

3 A. Yes, sir.

4 Q. Point to him and identify him.

5 A. I think everyone knows who Mr. Morford is.

6 Q. I want you to point to him and identify him.

7 A. This is Mr. Morford.

8 MR. TRAFICANT: Let the record reflect he's
9 made a positive identification of Mr. Morford.

10 THE COURT: He has.

11 Q. Do you also understand, though, that that immunity --
12 or do you understand there's immunity under those
13 circumstances that that immunity relates to your criminal
14 behavior, your purported criminal behavior?

15 A. If any, yes.

16 Q. But it does not, in fact, overlap and protect you
17 from a civil action, does it?

18 A. That's correct.

19 Q. Now, under the circumstances of your testimony here,
20 if an attorney would be offended, believing you to be
21 truthful or not, could they not raise a question with the
22 Ohio Bar and have you disbarred out of the testimony you've
23 just given?

24 A. I'm sure it could be done, yes.

25 Q. Did the Government intervene and tell you they would

Sinclair - Cross

1 intervene and protect you from disbarment and protect your
2 law license? Yes or no.

3 A. No, sir.

4 Q. Now, you started working with the Government on the
5 31st of January?

6 A. That's correct.

7 Q. Now, you and I had a lease, and what were the terms
8 of that lease relative to separation?

9 A. I would have to review that to answer that question
10 properly.

11 Q. Could I refresh your memory then and see if this
12 might help to expedite the Court process. Do you know if
13 this was a 30-day clause where either party for cause
14 could, in fact, terminate the lease?

15 A. Again, I don't specifically recall the terms of the
16 lease.

17 Q. Might I inquire of the Government if they have a copy
18 of the lease?

19 MR. MORFORD: I don't think we do.

20 MR. TRAFICANT: I will withhold that for
21 further questioning of this witness.

22 THE COURT: Fine.

23 MR. MORFORD: I think we might have it.

24 THE COURT: Okay. If you want to wait a
25 minute. They're looking.

Sinclair - Cross

1 MR. TRAFICANT: KAS, Kimberly A. Sinclair
2 Enterprises: Boy, you guys are efficient. Thank you.
3 MR. SMITH: You're welcome.
4 MR. MORFORD: Your Honor, it's in the book.
5 THE COURT: Thank you.
6 MR. TRAFICANT: Your Honor, they have -- I
7 believe you've already introduced this. Can I show this
8 lease to the witness, your Honor?
9 THE COURT: Is this the lease that --
10 MR. TRAFICANT: It is dated.
11 THE COURT: One second.
12 MR. TRAFICANT: December, 1998, there's no
13 date on it. 11th day of December, 1998.
14 MR. MORFORD: That was marked yesterday, your
15 Honor, and we have no objection to him showing it to the
16 witness.
17 THE COURT: Okay. Take it up.
18 MR. TRAFICANT: Being an attorney of law and
19 understanding this work, having performed this work, did
20 you peruse through this as expediently as possible and find
21 the salient point that, in fact, directs yourself to the
22 question I just asked?
23 THE WITNESS: Paragraph 3 states this lease
24 agreement may be terminated by either party, by giving 30
25 days notice in writing to the other party.

Sinclair - Cross

1 Q. Is that 30 days notice?

2 A. 30 days notice, that's what's stated in the lease,
3 yes, sir.

4 Q. By either party?

5 A. By either party.

6 Q. Thank you. And I want to thank you guys.

7 MR. SMITH: You're welcome, sir.

8 Q. Now, you entered into a cooperative agreement with
9 the FBI, the U.S. Attorney, and the Internal Revenue
10 Service on January 31, of 2001, correct?

11 A. I don't know if you're involving all those branches
12 of Government as one entity, but I would have to disagree.

13 Q. When did you begin cooperating with the Government,
14 whichever form they were, including the Salvation Army if
15 it's applicable here?

16 A. I made my intent to cooperate that week prior on
17 January 31st and sat down to give my proffer statement on
18 January 31st, Year 2000.

19 Q. So on January 24th, you basically had committed
20 yourself to become a Government witness and cooperate with
21 them, is that a true statement?

22 A. I don't think I can answer that a yes or no. I was
23 debating in my own mind and torn with my loyalties to you,
24 sir. Thank God I did the right thing.

25 Q. Yeah. Your loyalty is very apparent.

Sinclair - Cross

1 So from January 24th, at least, right, or let's give
2 you the benefit of the doubt, say January 31st, you were
3 now appalled, you didn't want me around you anymore.

4 THE COURT: Sir you're trying to testify, you
5 can't.

6 MR. TRAFICANT: No, he testified to this.

7 THE COURT: Just ask the question.

8 Q. Okay.

9 Did you want me around your office anymore after
10 January 31st?

11 A. The moment you asked me to lie for you, I lost all
12 respect for you, and yes, I did at that time.

13 Q. All right. That is your statement that you asked me
14 to lie?

15 A. Yes, it is my statement.

16 Q. All right.

17 Then having said so and having lost all respect, why
18 did you not exercise your right to remove me on February
19 1st?

20 A. I believe we had -- we had talked about you moving
21 out of the building many months prior even. My attempts
22 with talking, but I would get no response from you, or we
23 would talk about it later, or it was a bad time to talk
24 about this. I don't know if I had accurately answered your
25 question.

Sinclair - Cross

- 1 Q. As an attorney, what does a response have to do with
2 the legal term in a contract? Did you have in your
3 possession a contract that could have removed me as early
4 as February 1st?
- 5 A. You're correct.
- 6 Q. Could you not have mandated and evicted me February
7 1?
- 8 A. I could have placed you on notice at that time, yes.
- 9 Q. Could you have me removed by March the 1st?
- 10 A. I certainly tried.
- 11 Q. And was it not a fact that I left 11 Overhill
12 February the 1st, 90 days later?
- 13 A. Yes, sir.
- 14 Q. So there were 90 days when you said you had someone
15 you disrespected because he asked you to lie, in your
16 building, you said you didn't want him in the building, but
17 you said you did not ask the Government the permission to
18 report conversations with the Congressman. Did you ask the
19 Government permission to tape the Congressman's
20 conversations?
- 21 A. Did I ask permission of the Government to tape the
22 conversation? Was that the question?
- 23 Q. Yes, unless there's an echo, I think you hit it right
24 on the head.
- 25 A. No, I did not.

Sinclair - Cross

1 Q. Okay.

2 In this 90-day period, did the Government ask you, as
3 they had asked you to tape Attorney Matavich in a related
4 matter concerning your testimony, did they ask you to wear
5 or to, in fact, tape me?

6 A. No, sir.

7 Q. Did you ever engage in conversations with the
8 Government relative to the potential of taping the
9 Congressman?

10 A. No, sir.

11 Q. Now, you're not a criminal attorney, are you, Allen?

12 A. No, sir.

13 Q. And I must admit you are a good attorney, and your
14 work was satisfactory by the way.

15 THE COURT: That's a statement. You'll have
16 to wait until it's made somehow from the witness stand,
17 subject to cross-examination.

18 MR. TRAFICANT: But I have a number of other
19 questions now, and I don't know what the status is of the
20 court in all fairness to the jury, I do now have some other
21 questions that could take some time, and I'm letting the
22 Court know that it is 11:15 and give you your notice of
23 that. I don't know where we stand because you asked me
24 earlier what my position was.

25 THE COURT: All right. We had an early break

Sinclair - Cross

1 this morning. I still would rather recess the jury at
2 noon. It's useful for lot of reasons for us to maintain a
3 regular schedule, but let me ask the jury, we have 45
4 minutes to go. Would you like a ten-minute break now.

5 THE JURY: No.

6 THE COURT: Would anyone, any of the
7 participants like a ten-minute break now.

8 MR. SMITH: The Government does not, your
9 Honor.

10 THE COURT: Okay. You can go forward,
11 Congressman

12 BY MR. TRAFICANT:

13 Q. As an attorney, are you familiar with the Code of
14 Professional Responsibility that governs the conduct of the
15 lawyers in the State of Ohio?

16 A. Yes, I am.

17 Q. Do you agree that you have testified to violations of
18 law here?

19 A. You have asked me to step in the shoes of the
20 Government? I don't believe I can answer that question.

21 Q. Well, then, can you tell me why the Government has
22 given you immunity?

23 THE COURT: Those two things don't
24 necessarily go together, Congressman.

25 Q. Let me put it this way: You have immunity, so you

Sinclair - Cross

1 can't be what? Would you answer that?

2 A. I have immunity so that the words that I say cannot
3 be used against me.

4 Q. You can't be prosecuted for what you say here, right?

5 A. That's correct.

6 Q. You can walk out of here with a get out of
7 jail freedom ticket, right, I mean, in street terms?

8 A. I wouldn't necessarily agree with that, but if that's
9 how you'd like to term it.

10 Q. I'm not. I'm asking you if you were caught in a lie?

11 A. That's correct. One of the conditions of the
12 immunity agreement is I testify truthfully.

13 Q. But nevertheless, after you're done with this trial,
14 you can go to another courtroom, be it federal or state or
15 municipality, and you can still practice law; is that
16 correct?

17 A. I currently have a license in good standing, yes.

18 Q. Is the disciplinary counsel in the State of Ohio
19 located in Columbus, to your knowledge?

20 A. Yes, there is an office of the disciplinary counsel
21 in Columbus.

22 Q. Have they taken any action regarding your testimony
23 to this point?

24 A. No, sir.

25 Q. Has the local Bar Association, in which you are, in

Sinclair - Cross

1 fact, a member, to your knowledge, taken any action
2 relative to your testimony?

3 A. I am aware that there is an investigation, yes.

4 Q. You know if there are any complaints filed against
5 you about your conduct relative to this case?

6 A. No, sir.

7 Q. Are you aware of any complaints filed by citizens of
8 your past actions with those former clients?

9 A. Other than what we discussed yesterday.

10 Q. Only one?

11 A. The complaint that we discussed yesterday is
12 considered what is known as a formal complaint, and yes,
13 that is the only one.

14 Q. To the best of your knowledge, do you know if any
15 member of the Government met with the local bar
16 association?

17 A. No, I'm not aware of that.

18 Q. Do you know, or to the best of your knowledge, did
19 the federal Government or any of its entities meet with the
20 licensing board in Columbus?

21 A. No, I have no knowledge.

22 Q. Relative to your matter?

23 A. No, I have no knowledge.

24 Q. Does the lawyer swear an oath when they're, in fact,
25 made a member of the bar and allowed the opportunity to --

Sinclair - Cross

- 1 this great opportunity to represent the American people in
2 civil and criminal proceedings?
- 3 A. Yes, it is a privilege, and I am an officer of the
4 court.
- 5 Q. Does a lawyer have a responsibility to report
6 wrongdoings when they, in fact, discover those wrongdoings?
- 7 A. Yes, they are.
- 8 Q. Pardon?
- 9 A. Yes, they are.
- 10 Q. And do they not, in fact, have a responsibility, if
11 it's criminal, to report it to criminal authorities?
- 12 A. Depends on what context you're using that in.
- 13 Q. Well, do you understand what a crime is as an
14 attorney, Mr. Sinclair?
- 15 A. Yes, I do.
- 16 Q. And you believe there were crimes committed in this
17 case?
- 18 A. The disciplinary rules regard --
- 19 Q. That's not my question. I asked you, do you believe
20 there were crimes committed in this case? Yes or no.
- 21 A. Yes, I do.
- 22 Q. Okay. And is it not a requirement of the Code of
23 Ethics of an attorney to report immediately crimes where
24 you have, in fact, personal knowledge?
- 25 A. I would need to review the specific disciplinary rule

Sinclair - Cross

1 regarding that subject matter, but as I tried to state to
2 you before, the conduct of the disciplinary rule regards
3 actions between an attorney and his client.

4 Q. I do not want to interrupt you. I am not talking to
5 you about the Ohio disciplinary rules; I am talking to you
6 about the code and the oath that a lawyer signs. You said
7 you are an attorney. You do know what a crime is. I would
8 assure you that you know both the difference between
9 criminal and civil actions.

10 Is it not the duty of an officer of the court, which,
11 in fact, a lawyer is, to report wrongdoing or crime once
12 they have, in fact, uncovered it, yes or no?

13 A. That's exactly what I did.

14 Q. But you said in your testimony that you believed that
15 there was a crime being committed in early 1999?

16 A. Concerning what, sir?

17 Q. Concerning all the evidence on the board where they
18 claim that the withdrawals you made were given to me.

19 Did you not say that in early 1999, you had, in fact,
20 engaged in a criminal pattern of taking \$2500 out of banks
21 and handing them to me in some sort of envelopes or putting
22 them on their chairs or putting them on doors or putting
23 them on tables, wasn't that your testimony?

24 A. I testified that I took \$2500 from my paycheck and
25 gave it to you.

Sinclair - Cross

1 Q. That wasn't my question.

2 Did you not testify that you did that in early 1999?

3 A. That I took \$2500 from my paycheck in 1999 and gave
4 it to you, yes, I testified to that.

5 Q. And did you not state that with all those things you
6 put them on my table or put them on my chair, was that your
7 testimony?

8 A. I believe I stated I gave them to you, put on your
9 table or chair.

10 Q. I see. So then you knew, as an attorney, for at
11 least 12 months, if we're to assume that I am guilty, that
12 you had a guilty crook who was taking away your money, and
13 you, under oath of a lawyer, kept silent, is that your
14 testimony, yes or no?

15 A. No, it is not my testimony.

16 Q. Do you disagree that an attorney has the obligation
17 to report crime when they, in fact, discover it, if it's
18 not subject to their own attorney-client privilege, yes or
19 no?

20 A. I don't believe that specifically to the attorney but
21 as a citizen. So I don't know how you're requiring me to
22 answer that question.

23 Q. Mr. Sinclair, I'm not asking you what you believe. I
24 want you to listen to the question because I do not want to
25 belabor this jury with reading the Ohio disciplinary rules

Sinclair - Cross

1 and the conduct and the expectations of a lawyer who takes
2 an oath. Here's the question:

3 Is it not a fact that a lawyer has the obligation to
4 report crime once they discover that a crime was being
5 committed if it is not in violation of an attorney-client
6 privilege, yes or no?

7 A. Again, you're asking a question in context of an
8 attorney-client relationship. That's what the disciplinary
9 rules refer to, not as my duty as a citizen.

10 Q. So you're saying no, you didn't really think that you
11 had any obligation to report anything over that period of
12 12 months?

13 THE COURT: That wasn't his testimony. It
14 didn't come out of the witness' mouth.

15 MR. TRAFICANT: Okay then. You're saying --

16 THE COURT: Well let him say. That's why
17 he's here.

18 MR. TRAFICANT: He keeps referring to
19 disciplinary rules.

20 THE COURT: Well --

21 MR. TRAFICANT: Explain what the disciplinary
22 rules then say, or do we have to bring them out.

23 THE WITNESS: Yes, you would have to bring
24 them out for me to review them and give you my opinion as
25 an attorney.

Sinclair - Cross

1 Q. Okay.

2 Now, then, let me ask this question before we do that
3 because we will do that. We've determined you are an
4 attorney, you've taken an oath, you do know the difference
5 between right and wrong, and you do know that you are
6 required --

7 THE COURT: You're going to need to shorten
8 this sentence up. Ask him one question, and ask him --

9 Q. Were you required to report this so-called illegal
10 activity of the Congressman, yes or no?

11 A. I did report it.

12 Q. You said you reported it 12 months later, is that
13 your testimony?

14 A. 12 months later until what, sir?

15 Q. Fine. Now, if, for example, you did not accept the
16 Government's proffer, would you have lost your law license?

17 A. I can't answer that. I don't know if --

18 Q. If you did not accept the Government's proffer, would
19 you have been indicted, Mr. Sinclair?

20 A. You're asking me to step in the shoes of the
21 Government, and I can't answer that question.

22 Q. Did they ever mention that to you?

23 A. No, sir.

24 Q. Well, your previous testimony makes you feel very
25 sure, and the question is that you feel so comfortable

Sinclair - Cross

- 1 about your position, that you were able to purchase 40 some
2 thousand dollars worth of ads in next year's phone book.
- 3 A. There's no guarantees in life.
- 4 Q. \$40,000 is a lot of money.
- 5 A. I continue my practice on the assumption that I will
6 be continued -- be allowed to continue to practice law.
- 7 Q. So you consider yourself an honest citizen who came
8 forth to do the duty for the Government, and that you
9 yourself committed no crime, is that your testimony?
- 10 A. I am very disappointed in what I participated in, and
11 I know in my heart that I did the right thing in reporting
12 it.
- 13 Q. 12 months later?
- 14 A. If you're talking -- if you're referring to January
15 31, 2000?
- 16 Q. Yes.
- 17 A. That was the date I gave my proffered statement.
- 18 Q. I just want some yes or no answers from you if we
19 could.
- 20 Do you have any fear of going to jail?
- 21 A. No, sir.
- 22 Q. For any involvement in anything you've given me?
- 23 A. No, sir.
- 24 Q. Does the desire to maintain your law license play a
25 role in the testimony you gave for the Government?

Sinclair - Cross

- 1 A. No, sir.
- 2 Q. Were you concerned about the Government's questioning
3 and possible involvement of your wife in this case?
- 4 A. No, sir.
- 5 Q. Were you in a law partnership with Attorney Henry
6 DiBlasio?
- 7 A. Yes, sir.
- 8 Q. From when to when?
- 9 A. From January 1stst, 1996, until I believe somewhere
10 in the summer of 1998, when he announced his retirement.
- 11 Q. Was it DiBlasio and Sinclair?
- 12 A. No, the name of the partnership was R. Allen Sinclair
13 and Associates.
- 14 Q. Okay. But when you went and worked with Attorney
15 DiBlasio, were there not other attorneys, in fact, in that
16 firm?
- 17 A. During my time period there, yes, during my time
18 period at the office, yes.
- 19 Q. And who were they?
- 20 A. Attorney Michael Gollings rented space downstairs.
- 21 THE COURT: Can you spell it?
- 22 THE WITNESS: Michael G-O-L-L-I-N-G-S.
- 23 THE WITNESS: And Edward A. Flask.
- 24 Q. Ed Flask?
- 25 A. Yes, sir.

Sinclair - Cross

1 Q. Now, Mr. Flask, he was indicted, was he not?

2 A. Yes, he was.

3 Q. And he was under investigation for many years while
4 you were one of his law partners; is that correct?

5 MR. MORFORD: Objection.

6 THE COURT: We're going to go up to the side
7 bar here for a few minutes on this one.

8 (Sidebar resumed within the hearing of the jury:)

9 MR. MORFORD: The objection is to relevance
10 as to what Ed Flask's background has anything to do with
11 this witness.

12 MR. TRAFICANT: He said he was unaware of my
13 behavior. Mr. Flask has been the subject of this case for
14 ten years and finally convicted for having swindled
15 millions of dollars by the Mahoning Sanitary District, and
16 his name appears on the letterhead with Mr. Flask.

17 THE COURT: You can ask him questions in
18 terms of the partnership that he had with him, but your own
19 statements about how many years, whatever it was Mr. Flask
20 being convicted for doing all this stuff, we don't know.
21 We have no idea, that is not relevant to this, but
22 certainly, you can ask him questions.

23 MR. TRAFICANT: If Mr. Flask was there in the
24 office with him.

25 THE COURT: Yeah.

Sinclair - Cross

1 letterhead state?

2 THE COURT: We need to give it some kind of
3 number so the record shows what it was, Congressman.

4 MR. TRAFICANT: I don't know what my last
5 Exhibit Number is. Can we say S-35.

6 THE COURT: If you haven't already used that,
7 we can.

8 MR. TRAFICANT: Pardon?

9 THE COURT: If you haven't already used that
10 number, we can use S-35.

11 MR. TRAFICANT: I don't think we have let's
12 make it S-40.

13 THE COURT: Okay.

14 Q. Well, the reason for the question is, it states these
15 law offices of Flask -- DiBlasio Flask and Sinclair at 11
16 Overhill Road, attorneys and counselors at law, and all
17 three names are listed at the left. Now --

18 THE COURT: We need -- is this going to be a
19 question?

20 MR. TRAFICANT: No, I'm describing --

21 THE COURT: I know. But you can't testify,
22 so you need to --

23 Q. I'm sorry. It is -- is your name listed on this law
24 office stationery with that of Mr. DiBlasio and Mr. Flask?

25 A. Yes, it was.

Sinclair - Cross

1 Q. Is it listed on the same line?

2 A. Yes, it is.

3 Q. In the same bold print?

4 A. Yes, it is.

5 Q. Does it not say the law offices of all three?

6 A. Yes.

7 Q. Okay. Now Mr. Flask, you have any knowledge of
8 Mr. Flask, Attorney Flask?

9 A. Yes, I do.

10 Q. Okay. And was it not a fact Mr. Flask was convicted
11 of some embezzlement of millions of dollars of money
12 relative to the Mahoning County Sanitary District in
13 Mahoning County?

14 A. That is correct.

15 Q. Yes.

16 Did you leave that office firm when the cloud of
17 investigation surrounded and the allegations hit very hard
18 on Mr. Flask?

19 A. Mr. Flask was asked to leave the office, yes.

20 Q. And who asked him to leave the office?

21 A. I urged Attorney DiBlasio to initiate that.

22 Q. Isn't it a fact that Attorney DiBlasio asked Attorney
23 Flask to leave the office, yes or no?

24 MR. MORFORD: Objection.

25 THE COURT: I think that was his testimony.

1 Q. Mr. DiBlasio asked him to leave the office; is that
2 correct?

3 A. Yes, specifically would have come from Attorney
4 DiBlasio.

5 Q. Yes. And how many years were you in partnership with
6 Mr. Flask while this was going on? Any knowledge?

7 A. I was not in a partnership with Mr. Flask.

8 Q. But it was DiBlasio Flask, and Sinclair?

9 A. It was an office sharing arrangement. As I testified
10 before, I rented space in Attorney DiBlasio's office as did
11 Mr. Flask.

12 Q. Thank you. Did you at some point state that the
13 problem that you had with the Disciplinary Council and your
14 partnership was due to Mr. DiBlasio?

15 A. No. I am not placing blame on Mr. DiBlasio.
16 However, I relied on him for counsel.

17 Q. Did you blame Henry DiBlasio for the failure of the
18 law firm?

19 A. No, sir, it was basically business.

20 Q. Were you told by anyone associated with Mr. DiBlasio
21 that you were to be sued for half a million dollars?

22 A. I'm sorry, you have to repeat that.

23 Q. Were you told by anyone associated with Mr. DiBlasio
24 that Mr. DiBlasio was going to sue you for \$500,000 that
25 you owed him?

Sinclair - Cross

1 A. Yes. I think you told me that.

2 Q. I didn't ask you if I told you that; I said, did
3 anyone else tell you that?

4 A. Besides you, no.

5 Q. Okay. Was it your testimony yesterday you were not
6 aware of any lawsuits?

7 THE COURT: Well --

8 MR. TRAFICANT: About Mr. DiBlasio and your
9 situation.

10 THE WITNESS: There are no lawsuits.

11 Q. That you were not aware of any?

12 A. I wouldn't be aware of a lawsuit that was not filed
13 against me.

14 Q. Did there come a point when you complained to staff
15 about the bad press surrounding the 11 Overhill office
16 building and the negative media?

17 A. Did I complain to my staff?

18 Q. Did you complain to anybody about the bad press that
19 the business was getting, that your name was on the sign,
20 and that you resented this bad press?

21 A. During what period of time, sir?

22 Q. After the subpoenas and the records and all the news
23 cameras appeared relative to my case?

24 A. No, I can't recall.

25 Q. Did you make a statement that you felt that there was

Sinclair - Cross

- 1 something fraudulent about the relationship within the
2 congressional office, but you were not involved?
- 3 A. No, I don't recall making that statement.
- 4 Q. Did you ever make the statement that you weren't even
5 sure you would have a practice in six months?
- 6 A. I vaguely remember something to that effect.
- 7 Q. Do you remember who you said that to?
- 8 A. No, I don't.
- 9 Q. Now, when you talked with the federal government,
10 were you always truthful with them?
- 11 A. Yes, I was.
- 12 Q. Because you do know as an attorney it is a federal
13 crime to lie to an FBI agent, is that a fact?
- 14 A. Well, if I were under oath at the time, yes, that
15 would be perjury.
- 16 Q. I didn't ask if you were under oath. As an attorney,
17 do you or do you not know that it is a federal crime to
18 make a false statement to a FBI agent?
- 19 A. No, I honestly also don't know the answer to that
20 question.
- 21 Q. Well, isn't it true that you originally lied to the
22 Government when you said you gave no kickbacks to the
23 Congressman?
- 24 A. Again, I don't believe I made that statement.
- 25 Q. So you never made that statement to the Government?

Sinclair - Cross

1 A. I do not recall.

2 Q. Do you recall a meeting at the Burger King
3 restaurant?

4 A. I stated before that I do not remember meeting at the
5 Burger King restaurant. To the best of my recollection, I
6 can't -- I know we had meetings at several other
7 restaurants, but I don't specifically recall Burger King.

8 Q. So you don't remember meeting with me at a Burger
9 King or anywhere else, right?

10 A. No, I don't believe that we did.

11 MR. MORFORD: Your Honor, that was a compound
12 question, and I'm not sure which the answer related to.

13 THE COURT: Do you want to clarify which part
14 of that question you were answering? Or just --

15 Q. Did you have a meeting with me at the Burger King?

16 A. I don't believe that I did.

17 Q. Thank you.

18 Now, you were working with the Government since
19 January 31st?

20 A. Yes, sir.

21 Q. Did they ever ask to follow you and me to the
22 so-called destinations where nefarious acts took place?

23 A. No, sir.

24 Q. They never attempted to get a photograph of you
25 giving me money, for example?

Sinclair - Cross

1 A. Not to my knowledge.

2 Q. Did they ever request that?

3 A. No, sir.

4 Q. Did you pay the expenses for my moving from your
5 building?

6 A. Yes, I did.

7 Q. Did you pay for them, or did your wife pay for them?

8 A. I believe I paid for them.

9 Q. Did you pay for them by check or cash?

10 A. By check.

11 Q. Now, you previously stated that you did not work on
12 the Valley Foods case; is that correct?

13 A. No, I did not -- that was not my testimony. I know I
14 did some work on the Valley Foods case. At that time, that
15 was Attorney DiBlasio's associate and he had assigned
16 various assignments for me to work on. I do remember
17 working on Valley Foods case.

18 Q. So can I say that -- did you tell the Government at
19 least twice that you did work on Valley Foods?

20 THE COURT: He's been telling us in testimony
21 that he did.

22 Q. My question, though, is different.

23 Did you tell the federal government that you did work
24 on the Valley View -- on the Valley Foods case, and did you
25 tell the Government this twice?

Sinclair - Cross

1 A. Well, I told them once. I would think that's
2 sufficient.

3 Q. Did you tell them this before the immunity or after,
4 do you recall?

5 A. I believe questions regarding Valley Foods was
6 brought up in my initial meeting with the FBI agents
7 January 31st in which the questions were more geared
8 towards Attorney DiBlasio.

9 Q. You turned over a file then to the Government in the
10 Valley Foods case, right?

11 A. No, I did not.

12 Q. So you never turned over a file from the Valley Foods
13 case; you just gave them conversation, is that your
14 statement?

15 A. I advised the agents that I was aware that Attorney
16 DiBlasio had a client by the name of John Valley, and that
17 I may have done some work on the case. I believe that was
18 the extent of the questions.

19 Q. I will now show the Prosecution and the Court what
20 has been marked as both Exhibit S-11 and S-12. Are you
21 familiar with it? Could you identify this envelope, say
22 what it is?

23 A. It's an envelope, approximately eight and a half by
24 12, first class mail, the word "important," and it's
25 underlined in red.

Sinclair - Cross

1 Q. Did you write important on it?

2 A. That appears to be my handwriting, yes.

3 Q. Is that your envelope?

4 A. I wrote on it, yes.

5 Q. Would you identify what this is?

6 A. This is some research that you asked me to perform
7 for you.

8 Q. Research. Let me get back and check my notes. I'm
9 getting old.

10 You said these are notes that I asked you to
11 research?

12 A. I said the document itself was some research you
13 asked me to conduct for you, and it is a sample complaint
14 along with research regarding various federal laws.

15 Q. There are handwritings on these, is this your
16 handwriting?

17 A. I need to see that again, sir.

18 Q. There are handwritings and some -- well, yellow
19 liners and things like that. Is that your handwriting?

20 A. Yes, it is.

21 Q. And what does it state?

22 A. It says I need your address.

23 THE COURT: Congressman, we're confused about
24 the numbering, is that S-12. What's S-11?

25 MR. TRAFICANT: The envelope in which he

Sinclair - Cross

1 submitted to me.

2 THE COURT: Thank you.

3 MR. MORFORD: May I see that for just a
4 moment?

5 MR. TRAFICANT: Pardon?

6 MR. MORFORD: May I see it for just a moment?

7 MR. TRAFICANT: I thought you had a copy of
8 it.

9 MR. MORFORD: I'm not sure.

10 Your Honor, the copy that we have is three pages in
11 length, and it appears that there's several other pages.
12 So I'm not sure exactly what S-12 was. That's why I asked.

13 THE COURT: Okay. Congressman. Give us a
14 copy of the pages of S-12 so the record that will protect
15 you and the trial proceedings will be accurate.

16 MR. TRAFICANT: We'll deal with the three
17 pages.

18 THE COURT: Well, no, you have labeled
19 something, it's fine, just count the pages up so we know
20 how many pages are in it.

21 MR. TRAFICANT: Apologize, it's pretty tough
22 being here.

23 Q. I said approximately 32 because that's what it
24 appears to be. I could be wrong.

25 THE COURT: Okay. Well, I'm going to ask you

Sinclair - Cross

1 then to give the document to some of your -- one of your
2 assistants there so they can count the pages. It's
3 important to keep a record in the case.

4 MR. TRAFICANT: The Government states they
5 did not receive this on discovery.

6 THE COURT: They have a three-page exhibit.

7 MR. TRAFICANT: They didn't have these
8 attachments.

9 THE COURT: Would you just hand it to one of
10 your assistants there so they can count them? Not -- not
11 to Mr. Morford, sir.

12 MR. TRAFICANT: Pardon?

13 THE COURT: To one of your office people back
14 there so they can help you.

15 MR. TRAFICANT: What, count them?

16 THE COURT: Yes, sir. If you can't give us
17 an accurate number, we have to have an accurate number for
18 the record in the case.

19 MR. TRAFICANT: Is what's submitted S-12 I'm
20 under the impression I did submit that to the Prosecutor,
21 and if I did not, I will make it available for him.

22 THE COURT: Okay. Well, we just -- if we
23 have the numbers, it at least keeps the number straight.
24 He has something that has three pages, and that has an
25 additional amount. Let's just get it done.

Sinclair - Cross

1 THE WITNESS: 30.

2 THE COURT: Thank you, that's fine, you can
3 give it back to the Congressman.

4 MR. TRAFICANT: Well let the record reflect I
5 counted 32 so somewhere between 30 and 32.

6 THE COURT: Well, actually it's 30, I think.

7 MR. TRAFICANT: Fine.

8 THE COURT: You have a sore thumb.

9 (Laughter.)

10 Q. This is a lawsuit, a sample of a lawsuit; is that
11 right?

12 A. It's a draft of a complaint, yes, sir.

13 Q. Pursuant to an action being taken against the federal
14 government, right?

15 A. That's correct.

16 Q. Now, having looked at that, is that your writing?

17 A. Yes, it is.

18 Q. Okay.

19 Did you put that red mark on there?

20 A. Yes, I did.

21 Q. Okay.

22 There are a number of yellow citations in here. I'm
23 trying to get to them. If you can help me, I'd appreciate
24 it. Look through this thing. But in any regard, did you
25 make these yellow notations on this thing?

Sinclair - Cross

- 1 A. There are some highlighted areas, so --
- 2 Q. Is that your highlighting?
- 3 A. That I outlined for you, yes.
- 4 Q. You highlighted and outlined them all. Thanks. Do
- 5 you know if this was filed?
- 6 A. No, sir, I do not.
- 7 Q. Now, you stated yesterday that I asked you to prepare
- 8 this for me; is that correct?
- 9 A. That is correct.
- 10 Q. And you did that?
- 11 A. I'm sorry?
- 12 Q. And you did that?
- 13 A. I prepared a draft for you.
- 14 Q. And you recall when you made this draft?
- 15 A. No, I do not.
- 16 Q. Well, would it have been certainly after the
- 17 headlines had broke and all the revelations had broken
- 18 about the criminal investigation and subpoena you, is that
- 19 a fair assessment or statement?
- 20 A. No, because you had been talking about your lawsuit
- 21 against the Government long before that.
- 22 Q. I see. Well, you said that I instructed you to
- 23 prepare a lawsuit for half a million dollars, is that it?
- 24 A. If you look on the page where there is a demand or a
- 25 prayer made, I had a question mark as to what specific

Sinclair - Cross

1 damages you were to ask for.

2 Q. So you say you're saying you did not put the damages
3 in?

4 A. I put -- I think that's 1 million dollars I put it if
5 I remember correctly.

6 Q. And I instructed you to put in \$1 million or half
7 million?

8 A. I believe just through casual conversation, yes.

9 Q. Well, from the casual conversation, what, if
10 anything, do you remember, half million, one million?

11 A. If I drafted the complaint and it says a million to
12 the best of my recollection, that would have been the
13 amount I put in the prayer.

14 Q. Would you -- would you report to the court what the
15 amount is?

16 A. It's \$1 billion.

17 Q. \$1 billion?

18 A. Yes.

19 Q. I see. And I asked you to do this, that's your
20 testimony?

21 A. Yes, sir.

22 Q. And this had nothing to do with the negative press
23 around the building that you were so hot about?

24 A. Again, I cannot recall when that was prepared.

25 Q. And you did not initiate or, in fact, request that I

Sinclair - Cross

1 go ahead and sue the Government and thought I had a good
2 case?

3 A. Did I request of you to do that?

4 Q. Yes.

5 A. No, sir.

6 Q. Let me ask this question: Did you state that you
7 thought I had a good case, Number 1?

8 A. No, I thought it was ridiculous.

9 Q. Okay. Number 2, did you, in fact, advise me to sue
10 the Government?

11 A. No, I did not.

12 Q. Did you ask anybody on the staff to ask me to sue the
13 Government?

14 A. Did I ask anyone on your staff?

15 Q. Yes, anyone on the staff asking them that perhaps I
16 should is sue the Government?

17 A. No.

18 THE COURT: Congressman, this would be a good
19 time for the lunch break. I think it's a little after
20 12:00.

21 Ladies and gentlemen, enjoy your one and a half hour
22 break. We'll be back at 1:30. Remember your admonitions.
23 Don't talk about the case with each other, don't allow
24 anyone to talk to you about the case. And don't watch or
25 read or listen to anything about the case, but enjoy

Sinclair - Cross

1 yourselves over the lunch. Leave your juror notebooks
2 here. We'll take care of them. We're locking up the
3 courtroom for lunch. Thank you.

4 (Thereupon, a luncheon recess was had.)

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Sinclair - Cross

1 Thursday Session, February 14, 2002, at 1:30 P.M.

2 THE COURT: Ladies and gentlemen, the
3 question has been raised with me, properly so, about
4 whether or not we'll be in session on Monday, the 22nd, and
5 it's a court holiday, a federal holiday, and we will not be
6 in session. So you'll enjoy the time off that you're
7 entitled to enjoy off, so you will have a long weekend.
8 We're ready to proceed.

9 CROSS-EXAMINATION OF ALLEN SINCLAIR (cont.)

10 BY MR. TRAFICANT:

11 Q. I have a letter that I would like to share with all
12 the parties and show to the --

13 THE COURT: Okay. Is this something that --

14 MR. TRAFICANT: The witness.

15 THE COURT: Well, is this something that
16 you've provided?

17 MR. TRAFICANT: Yes, I did.

18 THE COURT: Could you just give us the number
19 of it?

20 MR. TRAFICANT: I have it numbered as S-24.

21 THE COURT: Okay.

22 MR. TRAFICANT: I don't know if it was given
23 in the original documents. It's a question I want to ask
24 relative to this particular letter.

25 THE COURT: So the jury will understand, as

Sinclair - Cross

1 part of the pre-trial proceedings before trial, with regard
2 to certain exhibits that either side intends to use, they
3 number them, and they assign numbers in a particular way so
4 that there always is a record of exactly what everybody is
5 referring to, and there isn't a mistake about what
6 particular document it is.

7 And in addition, just as a matter of the way all
8 proceedings go, you always show them to the other side and
9 make them available, so I only raise the question since
10 this morning there was something that had come up since you
11 had made things available, and I don't know which category
12 this is in.

13 MR. TRAFICANT: Well, these are just three
14 additional things that -- questions I'd' like to ask of
15 this witness relative to some of the testimony.

16 THE COURT: Were these made available to them
17 that we --

18 MR. TRAFICANT: I just made them available.

19 MR. MORFORD: They were not, your Honor, but
20 we have no objection to him using this.

21 THE COURT: Okay. But, I just want you to
22 remember that you need to make them available early on so
23 we don't have to take up time from the jury so they have a
24 chance to see this.

25 MR. TRAFICANT: I did it as soon as I could,

Sinclair - Cross

1 your Honor.

2 THE COURT: Thank you. Go ahead.

3 MR. TRAFICANT: Might I show this to the
4 witness?

5 THE COURT: Sure.

6 BY MR. TRAFICANT:

7 Q. I've just shown you a letter that you had submitted
8 to me. Can you describe what it is?

9 A. That was my letter of resignation to you, resigning
10 from my position on your staff.

11 Q. What was the date of the resignation?

12 A. The date of the letter or the date of the
13 resignation?

14 Q. The date of the letter and the date of resignation.
15 Perhaps I'll just give this back to you, and it might save
16 us a lot of time. I apologize for that.

17 A. It's a letter dated February 16, 2000.

18 Q. And would you read the contents of the letter?

19 A. It's addressed to Congressman James A. Traficant,
20 Junior, and it's your downtown address, "Dear Congressman
21 Traficant: Please be advised as of March 1, 2000, I must
22 resign as your administrative counsel. The time that I've
23 worked for you has been rewarding and excellent learning
24 experience. Thank you for this opportunity." And signed
25 by myself.

Sinclair - Cross

1 Q. And you did sign it?

2 A. Yes, I did.

3 Q. Thank you. May I have that back?

4 You gave me a two-week notice?

5 A. Approximately, yes. In the formal agreement, in the
6 formal letter there, yes.

7 Q. Thank you.

8 THE COURT: This is S-3.

9 MR. TRAFICANT: Pardon?

10 THE COURT: It's S-3.

11 MR. TRAFICANT: Yes.

12 THE COURT: Check to put it on the record.

13 I'm doing it for you. Okay? You can go ahead.

14 Q. Can you look at this and identify this?

15 A. This is a memorandum to Henry DiBlasio, dated April
16 21st, 1999, concerning the partnership agreement.

17 Q. Thank you.

18 You acknowledge receiving a letter from Mr. DiBlasio
19 on April 18th of 1999; is that correct?

20 A. I did not read the contents of my memo. If you are
21 going to ask me questions concerning that, I'd like it
22 back, please.

23 MR. MORFORD: Your Honor, if it saves time, I
24 can give the Congressman back his copy. We have the
25 original he gave us.

Sinclair - Cross

1 MR. TRAFICANT: Why don't you let the witness
2 use yours, and I'll take mine back.
3 Q. Would you read it through thoroughly, please.
4 A. To myself or out loud?
5 Q. Pardon?
6 A. To myself?
7 Q. Yeah, I ask you to look through it, and I will
8 perhaps ask you some questions.
9 A. I'm done.
10 Q. All right. Thank you. So you did receive his
11 letter of April 18th?
12 A. Yes.
13 Q. Could you read Paragraph 3?
14 A. Paragraph 3?
15 Q. Yes.
16 A. I'm sorry. Your voice is a little muffled.
17 Q. Paragraph 3?
18 A. "You keep talking about the interest on your lines of
19 credit. I had no idea that you were not applying the money
20 I gave you to pay off the -- pay the loans off. I assumed
21 that these loans are used for business purposes only, and I
22 had no idea that you were using the money for living
23 expenses. How can I be responsible for this? I don't
24 expect you or the partnership to pay for the years of
25 interest that have accumulated on my student loans because

Sinclair - Cross

1 I had to request deferments on the payments. This is my
2 decision and sacrifice."

3 Q. Would you now read Paragraph 4?

4 A. "You also infer that I'm not working hard enough to
5 settle claims. You have no idea how hard I work on these
6 cases, and I won't bore you with the details."

7 Q. Now, would you read the next paragraph?

8 A. "You know the cash flow is slow during certain times
9 of the year. If I had the money here to pay you, I would.
10 I have to keep the office running and pay expenses. I am
11 sorry that it has come to this. I am sorry that it has to
12 be this way. But I cannot do any more than what I am
13 already doing."

14 Q. And the next paragraph?

15 A. "I am past the point of burn out, and I have thought
16 about moving out of this area to another job. I have an
17 offer that is very enticing. I have -- I've had also
18 numerous offers in the past. Because of my dedication and
19 loyalty to you, I did not make the change. However, if
20 this becomes too much for me to handle because of finances,
21 I may have to make a decision for my own benefit and of my
22 family's. I'm near the point of bankruptcy, and I cannot
23 keep up with my bills.

24 Q. At this time, this was a contention whether you owed
25 Mr. DiBlasio \$116,000 versus \$473,000, is that a correct

1 statement?

2 A. I can't answer to the accuracy of the numbers, but I
3 think it's a fair statement to say that I owed him money,
4 yes.

5 Q. But there was a rather large discrepancy between what
6 you believe you owed on this and what he believed you owed
7 on this lease, would that be a fair question?

8 A. A discrepancy?

9 Q. Well, would this be a disagreement and opinion as to
10 how much you owed him versus how much he felt you owed him?

11 A. At the time of this memo?

12 Q. Yeah.

13 A. No, I do not believe at the time of this memo there
14 was a discrepancy.

15 Q. Now, you -- your bottom paragraph, and I'll read it,
16 it says, "please be patient. If you really need
17 disbursement sheets, I'll send them to you. However,
18 everything is in the computer. You don't understand that
19 it takes a considerable amount of time to keep track of all
20 of this, and I am handling this in the most efficient way
21 possible. You say that everything is in the computer.
22 Were your financial records in the computer?"

23 A. This is referring to the case work of the office that
24 is in the computer that Henry had access to.

25 Q. Did it also include anything involving your own

Sinclair - Cross

1 personal finances and hardship?

2 A. No, sir.

3 Q. Thank you.

4 MR. TRAFICANT: Do you have an extra S-7?

5 MR. MORFORD: I believe we do.

6 MR. TRAFICANT: Thank you.

7 THE COURT: You may proceed.

8 MR. TRAFICANT: Pardon?

9 THE COURT: You may proceed.

10 MR. TRAFICANT: Thank you.

11 Q. You want to acknowledge what that letter is?

12 A. It's a letter dated January 19th, 2000.

13 Q. From?

14 A. From myself.

15 MR. TRAFICANT: Thank you.

16 Q. Now, your last letter was April 21, 1999, correct?

17 A. That's correct.

18 Q. This is now February 16, 2000?

19 A. I'm sorry, it's not.

20 Q. This letter here is -- this letter is dated January
21 19th, 2000?

22 A. That's correct.

23 Q. Okay. Would you read the first two paragraphs?

24 A. "I received your letter dated January 10th, 2000. I
25 want you to know that I'd been working very hard to settle

Sinclair - Cross

1 cases. It seems that this has been a bad year as I have
2 many cases in for settlement that may need to be litigated.
3 I am attempting to avoid litigation at all costs.

4 "The office cash flow has not been very good either.
5 I can barely make ends meet with all the overhead. The
6 harder these insurance companies push me into litigation
7 and prolonged settlements, the more overhead I have."

8 Q. Would you then read Paragraph 4?

9 A. "In order to reduce overhead this year, I have cut
10 down on the AmeriTech advertising. This will save some
11 money. However, I am afraid that it may also reduce case
12 load. Our open cases are about 210, and we are not
13 replacing the cases we settle. This is not very
14 promising."

15 Q. Would you read the next paragraph?

16 A. "I am in a very difficult predicament because if I
17 try to pay you on a regular basis, I will not have enough
18 money to retain the office. Therefore, I can only hope
19 that I get a very good case that will solve this problem.
20 There's not much more I can do. I am attempting to operate
21 as cheaply as possible and only take enough money home to
22 maintain."

23 Q. Now, would you read the last paragraph on that first
24 page?

25 A. "Additionally, I need to be extra careful over the

Sinclair - Cross

1 next few years on advertising. You may remember the
2 agreements against by Rhonda Shure. The Board of
3 Commissioners recommended to the Supreme Court to suspend
4 my license for six months with all of the time stayed with
5 the condition I go on one-year probation and allow the
6 Mahoning County Bar Association to mentor my advertising.
7 I have enclosed a copy of the" -- it's misspelled. I
8 believe it says "recommendation. In response, I felt it
9 necessary to hire a lawyer. I asked Attorney Charles
10 Kettlewell to prepare a brief for me to object to these
11 filings. I had to give him a \$2500 retainer to get
12 started."

13 Q. When I looked originally at your case with the bar,
14 you were a pro se litigant, but in the beginning, you did
15 hire an attorney, is that what you're saying?

16 A. I was not a litigant.

17 Q. I mean, you were before the disciplinary board, and
18 you represented yourself, is that a fact?

19 A. That's correct.

20 Q. But, in the beginning, you did pay and hire an
21 attorney to write a brief or give you advice or whatever;
22 is that correct?

23 A. That is not correct.

24 Q. What is correct?

25 A. That is not correct.

Sinclair - Cross

1 Q. Pardon?

2 A. That is not correct.

3 Q. It is not correct?

4 A. You are not correct in your assumption.

5 Q. I'm not sure. I said your statement said "I asked
6 Attorney Charles Kettlewell to prepare a brief for me to
7 object to these findings."

8 A. Yes.

9 Q. And I asked you, did you hire or engage in the
10 service of anybody to help you to prepare as you
11 represented yourself in these proceedings?

12 A. And you are incorrect. You're asking me if I hired
13 an attorney prior to these proceedings? The answer is no.

14 Q. No. Well, then, let me put it to you this way. Did
15 you ask Attorney Kettlewell to prepare a trial brief for
16 you to object to the findings?

17 A. No, I did not ask him to prepare a trial brief. I
18 believe you may be confusing terms of art.

19 Q. Okay. Did you ask him to prepare a brief for you?

20 A. My words in this memo state I asked him to prepare a
21 brief for me, but actually, there was no brief prepared.

22 Q. So he did not prepare a brief for you?

23 A. No, I hired him to give me advice on the
24 recommendations and findings of the Board of Commissioners.

25 Q. Okay. So then I'm mistaken whether I say that I

Sinclair - Cross

- 1 asked Attorney Charles Kettlewell -- this is your writing.
2 Correct me if I'm wrong, I asked Attorney Charles
3 Kettlewell to prepare a brief for me to object to these
4 findings. Are those your words or not?
5 A. Those are my words.
6 Q. Fine. And now you're saying though that you didn't
7 really mean them, that way, right?
8 A. No, sir. I did ask him to prepare a brief for me,
9 but what I'm telling you was that my brief was not
10 prepared.
11 Q. I see. So he didn't prepare the brief?
12 A. No, I deferred to consultation. I decided not to go
13 that route.
14 Q. Fine. But you said you had to give him a \$2500
15 retainer to get started?
16 A. Yes, sir.
17 Q. Did you do that?
18 A. Yes, I did.
19 Q. And you didn't file a brief, he gave you advice?
20 A. He gave me advice.
21 Q. Okay. How did you pay Attorney Kettlewell?
22 A. I paid him out of my -- out of money my office
23 expense account.
24 Q. By check?
25 A. Yes.

Sinclair - Cross

1 Q. Fine.

2 I won't belabor the jury nor the Court much longer,
3 but I do have one more question. It goes back to your
4 involvement in a taped conversation of an Attorney Allen
5 Matavich. Can you tell the Court who Allen Matavich was?

6 A. My understanding Allen Matavich represented Henry,
7 Henry DiBlasio, in relation to the allegations that were
8 being made against him at the time.

9 Q. Okay. You stated at some point the Government came
10 to you and requested you to participate in a taped
11 conversation with Attorney Maravich?

12 A. That is correct.

13 Q. Did they contact you to do this?

14 A. Yes.

15 Q. And you did agree?

16 A. Yes.

17 Q. Where was this conversation held?

18 A. I believe I already testified to that. It was in my
19 office.

20 Q. All right. Forgive me. I forgot. Now, being that
21 Attorney Matavich was the attorney for your business
22 partner, you as an attorney, did you form any opinion as to
23 the attorney-client privilege element that involved this
24 taped conversation?

25 A. You're asking me to testify as an expert?

Sinclair - Cross

1 Q. I'm asking you to testify as an attorney relative to
2 an attorney-client privilege issue?

3 THE COURT: You can answer that.

4 THE WITNESS: Conversation between me and
5 Attorney Matavich involved the partnership and the reason
6 why I was not paying Henry and that I cut him out of the
7 computer, and Attorney Matavich wanted to find out more
8 details as to why regarding the other aspect of this case.
9 I don't believe that we discussed that.

10 Q. Okay.

11 As a matter of not just courtesy and privilege, but a
12 matter of due process with lawyer relationships, when one
13 attorney representing one interest is meeting with another
14 attorney representing another interest, isn't it a fact
15 that the attorney-client privilege is honored and, in fact,
16 is a credit?

17 MR. MORFORD: Objection.

18 THE COURT: You're asking a question of this
19 witness that goes beyond what you can legitimately ask this
20 witness. I understand that part of what you're trying to
21 do may be something that you could do with this witness,
22 and so I'd ask you to just think about it.

23 MR. TRAFICANT: Thank you. I'll try and
24 rephrase it.

25 THE COURT: Okay.

Sinclair - Cross

1 Q. When you come to learn that the Government wanted you
2 to tape and participate in a taped conversation with
3 Attorney Matavich, did you have any misgivings or concerns
4 about taping a fellow colleague due to your understanding
5 and knowledge of the attorney-client privilege that is
6 afforded under the due process laws of our nation?

7 A. I have no idea what you just said.

8 THE COURT: Well, I think you may be able to
9 answer the question in a way that allows you to answer part
10 of what he says. It's -- the due process part of it may be
11 set aside for a moment, and just try and ask it the way you
12 intend the question.

13 MR. TRAFICANT: Your Honor, I don't mean to
14 weigh any more on the Court. I think my question was
15 directly to the point to an attorney, and I'm going to
16 repeat it.

17 THE COURT: Well, he can answer the question,
18 and I'm asking him to answer it.

19 MR. TRAFICANT: He said he didn't understand
20 it.

21 THE COURT: Do you want him to answer the
22 question?

23 MR. TRAFICANT: Yes, I want to first clarify
24 that.

25 Q. Mr. Sinclair, are you an attorney?

Sinclair - Cross

1 A. I think that's well established.

2 Q. Are you familiar with the attorney-client privilege?

3 A. Yes, I am.

4 Q. You were asked by the Government to tape a
5 conversation with another attorney who represented a party,
6 who you had an interest with; is that correct?

7 A. I was representing myself at the time, if you want to
8 go that far. There was no attorney-client relationship
9 between me and Henry, and I think that's where you're
10 trying to go with this. You can't make that connection.

11 Q. You didn't talk with Henry, you talked with Attorney
12 Allen Matavich who was representing Henry DiBlasio?

13 A. That's correct, and I was representing myself at the
14 time.

15 Q. Fine. Were you not, in fact, then a representative
16 as an attorney of one side discussing an attorney
17 representing -- an issue with an attorney representative of
18 another side?

19 THE COURT: Well, I think -- I think this
20 witness can answer these questions. I think it's fair -- I
21 mean, if you can't, say you can't, but I'm not going to
22 prevent him from making an effort to answer the questions.
23 Well, the last -- the last question maybe needs to be read
24 back. Read back just the last question

25 (Thereupon, the record was read back by the Court

Sinclair - Cross

1 Reporter.)

2 THE COURT: I think you can answer that of
3 your own point of view, at the time is what he's probing, I
4 think.

5 THE WITNESS: No.

6 Q. Did you express any concern or opinion to the
7 Government when they asked you to tape a fellow colleague?

8 A. No.

9 Q. Did that tape take place before you entered into an
10 agreement with the Government?

11 A. No, it did not.

12 Q. Took place afterward?

13 A. Yes, sir.

14 Q. Now, in just summary, was your testimony today that I
15 asked you to prepare a lawsuit to sue the Government, is
16 that your testimony?

17 A. That you asked me to prepare a lawsuit?

18 Q. Yes, or the predicate of a lawsuit that I would
19 against the United States Government?

20 A. You asked me to prepare a draft and some research for
21 you to review, and it was my understanding that I could not
22 or would not act as your attorney on that matter.

23 Q. But you did draft it?

24 A. I did draft a sample complaint, yes.

25 Q. Fine. You also stated that at this time the bad

Sinclair - Cross

1 press surrounding the building had no bearing on any of
2 these drafting of potential lawsuits, was that your
3 testimony?

4 A. Yes, it is because the -- the issues concerning the
5 building never really did concern me. I just considered it
6 as media, media coverage.

7 Q. So now you're saying you weren't concerned about the
8 media coverage concerning 11 Overhill, is that your
9 testimony?

10 A. I would have to qualify the answer. I can't say that
11 I enjoyed coverage or that I welcomed the coverage, but it
12 wasn't such a -- such a major concern that I was incensed
13 or angered or berated about it, no.

14 Q. When you testified this morning that you never
15 complained to any congressional staff members about the bad
16 press and all the media around 11 Overhill Road, is that
17 your testimony?

18 A. That I never complained to staff?

19 Q. Any congressional staff?

20 A. Congressional staff.

21 Q. About the bad press concerning 11 Overhill Road?

22 A. No, I can't even recall discussing those matters with
23 any of them -- any of your staff.

24 Q. Was it your statement that you were never in J.T.'s
25 garage apartment without J.T. being there himself?

Sinclair - Cross

1 A. I believe there were times that you would leave your
2 door open for me to do something. There was a -- if you
3 recall, there was a bad leak in the roof where a lot of
4 your clothing and items got soaked because of the roof
5 blowing up, and I needed access at that time. That's the
6 only time I can remember me having access to your office
7 without your presence.

8 Q. And I was not there, you're saying?

9 A. No, needed access for the room to the roof, and you
10 understood that.

11 Q. Was there a member of the congressional staff there?

12 A. Mr. Barlow was there at times.

13 Q. Was he there then?

14 A. I can't recall.

15 Q. All right. Did Bob Barlow of my staff attempt to
16 arrange several meetings with you and me relative to issues
17 concerning the move and other elements involving this case?

18 A. Well, you have a couple questions there. Which would
19 you like me to answer?

20 Q. Did Mr. Barlow make several attempts to arrange a
21 meeting with you and me?

22 A. Concerning what subject, sir?

23 Q. Well, that was the first part you asked about. Did
24 he, in fact, make any attempts to arrange several meetings
25 with you and me?

Sinclair - Redirect

1 A. Well, many times Mr. Barlow would come up and say he
2 needed to talk to the Congressman about this or that, or he
3 needed to do this or that for him, in that respect, yes,
4 concerning congressional matters.

5 Q. Did you respond to any of Mr. Barlow's attempts to
6 arrange meetings with me relative to this case?

7 A. No, sir.

8 Q. Did he, in fact, not attempt several times to make
9 such arrangements?

10 A. I don't believe that he did.

11 Q. The last question, when you taped Attorney Allen
12 Matavich, did you at least discuss your concerns about it
13 with the Government and the propriety of it?

14 A. No, sir.

15 Q. And you had no reservations?

16 A. No, sir.

17 MR. TRAFICANT: Thank you very much. No
18 further questions.

19 MR. MORFORD: Thank you, your Honor.

20 REDIRECT EXAMINATION OF ALLEN SINCLAIR

21 BY MR. MORFORD:

22 Q. Mr. Sinclair, have you and I talked at all since the
23 Defendant began his cross-examination yesterday?

24 A. No, you have not.

25 Q. I'd like to ask you some questions just to follow-up

Sinclair - Redirect

1 on a series of questions Congressman Traficant just got
2 done asking you.

3 He was asking you a series of questions about the
4 attorney-client privilege, do you recall that?

5 A. Yes, I did.

6 Q. And let me ask you this: Can you tell me the
7 attorney-client privilege, what types of conversations does
8 it exist to protect, between whom and whom?

9 A. The attorney-client privilege is a privilege that you
10 have with your attorney in discussions made with your
11 attorney, not be divulged to a third party without the
12 client's consent.

13 Q. Okay. As you understand it, you're telling us it
14 protects the client's conversations with his attorney,
15 correct?

16 A. Yes, sir.

17 Q. And if those communications by an attorney or a
18 client are made to a third party, who was not the attorney
19 for the client, are those types of conversations protected?

20 A. As far as my opinion is concerned, there is no
21 privilege there.

22 Q. At the time that you were asked to tape the
23 conversation with Mr. Matavich, who did you understand
24 would be at that conversation, present at that
25 conversation?

Sinclair - Redirect

- 1 A. Just Attorney Matavich.
- 2 Q. Was Henry DiBlasio, the client, going to be present?
- 3 A. No, sir.
- 4 Q. Was he present?
- 5 A. No, sir.
- 6 Q. So, therefore, did you have any attorney-client
- 7 privilege concerns whatsoever, knowing that the client
- 8 would not be present at this conversation?
- 9 A. No, sir.
- 10 Q. Now, Congressman Traficant asked you a number of
- 11 questions about the bar disciplinary matters. There were
- 12 two sets of questions. One went to an actual bar
- 13 disciplinary matter that already occurred, correct?
- 14 A. Yes.
- 15 Q. And then there was another series of questions about
- 16 potential of future bar proceedings based on your testimony
- 17 here today; is that correct?
- 18 A. That's correct.
- 19 Q. I'd like to start with the first set, which would be
- 20 questions Congressman Traficant asked you about the 1998
- 21 advertisement infraction, okay?
- 22 A. Yes.
- 23 Q. With respect to that infraction, what did you say the
- 24 ultimate disposition was, what was the penalty for the
- 25 advertising infraction?

Sinclair - Redirect

1 A. I was on probation one year with Mahoning County bar
2 association monitoring my advertising.

3 Q. Were you allowed to continue practice law?

4 A. Yes.

5 Q. At any point, did you have any concerns that after
6 you were placed on probation, that you were still -- that
7 you were going lose your law license over that infraction?

8 A. As long as I didn't violate any terms of the
9 probation, I assumed there would be no problems.

10 Q. How great a concern was the 1998 advertising
11 infraction to you when you met with the Government agents
12 and myself on January 31st, 2000?

13 A. It was an open issue. I can't even recall how it
14 came up.

15 Q. Did the topic come up so far in that conversation?

16 A. I don't believe it did. I believe I received a phone
17 call from one of the agents when it was finally announced
18 in the newspaper approximately March of 2000.

19 Q. Prior to March of 2000, do you recall ever having any
20 discussions with anybody from the U.S. Attorney's Office,
21 any FBI agent or any IRS agent about that matter?

22 A. No, sir.

23 Q. I'll turn the focus to the second aspect of these bar
24 disciplinary questions. Those would be questions about
25 potential actions that may lie in your future as a result

Sinclair - Redirect

1 of your testimony here today. Okay?

2 A. Yes.

3 Q. To what extent were you concerned when you first met
4 with the FBI agents and then with myself and others from my
5 office to discuss testifying in this matter, to what extent
6 were you concerned about the potential that could have on
7 your ability to continue to practice law?

8 A. Well, there was no issue related to -- in my mind
9 they're two distinct problems for me, and I do not
10 commingle the two together.

11 Q. Well, did you have any concerns that if you admitted
12 to the facts you've admitted here, that that could lead to
13 bar proceedings in the future?

14 A. Personally, yes, but I never -- I never discussed
15 that.

16 Q. What was the position of my office and the Government
17 officials you talked to throughout our dealings with you as
18 to what the Government would or would not do, what position
19 it would take regarding the merits of any future bar
20 proceedings that are taken against you as a result of your
21 testimony here today?

22 A. That the Government would not get involved one way or
23 the other.

24 Q. That it would be something entirely between you and
25 the bar; is that correct?

Sinclair - Redirect

1 A. That's correct.

2 Q. And what was your understanding of our position as to
3 what, if any, action or help our office or the FBI or the
4 IRS would ever give you in the event you end up being sued
5 by Mr. DiBlasio regarding any of the matters you've
6 testified to here today?

7 A. There would be no action.

8 Q. You're on your own, correct?

9 A. That's correct.

10 Q. Congressman Traficant asked you some questions about
11 what he characterized as the January 31st, quote,
12 "cooperation agreement with the Government." Do you recall
13 that?

14 A. Yes.

15 Q. I'd like to show you what I've marked as Government's
16 Exhibit 1-36. Congressman, you were given a copy of this
17 but not a marked copy.

18 MR. TRAFICANT: Your Honor, we would request
19 a side bar, brief side bar.

20 THE COURT: Okay.

21 (The following proceedings were held at side bar:)

22 MR. TRAFICANT: On those documents that I
23 presented to Mr. Sinclair that I want on the record, do I
24 have to move to have them admitted as evidence?

25 THE COURT: You can move for the --

Sinclair - Redirect

1 MR. TRAFICANT: At any time.

2 THE COURT: Well, yeah.

3 MR. TRAFICANT: I don't need to move on them
4 now?

5 THE COURT: Pardon?

6 MR. TRAFICANT: I do not have to move on them
7 now?

8 THE COURT: No. You don't have to move on
9 them right now.

10 MR. TRAFICANT: Will I lose my right if, in
11 fact, he's not recalled?

12 THE COURT: Oh, you may need to move -- no,
13 no, you wouldn't lose your right, but if you want to, you
14 can move before he leaves.

15 MR. TRAFICANT: Okay.

16 MR. MORFORD: One more thing before we go on
17 with this witness' testimony, as long as we're over here,
18 we don't do it in front of the jury in case he has an
19 objection because Congressman Traficant brought up some
20 questions about his, quote, cooperation agreement with the
21 Government.

22 THE COURT: Um-hum.

23 MR. MORFORD: I would like to ask
24 Mr. Sinclair to read what his actual proffer letter
25 provided, and I just want to make sure rather than ask in

Sinclair - Redirect

1 front of the jury and have him object if he has an
2 objection.

3 THE COURT: You have an objection?

4 MR. TRAFICANT: I think they've already done
5 that, how many times are you going to do it?

6 THE COURT: He hasn't read it, have you?

7 MR. TRAFICANT: An original question and read
8 it but they talked about his first proffer, and he
9 discussed it and gave testimony.

10 THE COURT: Okay. Well, since you've brought
11 it into question, you have a right.

12 MR. MORFORD: One more thing. He was also
13 asked about questions, about his immunity and whether he
14 would be charged or not. I would also like to have him
15 read the actual terms of immunity order so it's clear what
16 the deals were.

17 THE COURT: Okay.

18 MR. TRAFICANT: Your Honor, I object to both.

19 THE COURT: Okay.

20 (Proceedings resumed within the hearing of the jury:)

21 BY MR. MORFORD:

22 Q. Have you had a chance to read the letter?

23 A. Yes, I have.

24 Q. And without telling us what the contents say, can you
25 tell us what this is?

Sinclair - Redirect

1 A. This is a proffer agreement dated January 31, 2000.

2 Q. And I'd like to ask you to turn to the second page,
3 and tell me whose signatures are on this document?

4 A. Your signature as the author of the letter and my
5 signature acknowledging that I've read the letter.

6 Q. What date did you sign this letter?

7 A. January 31, 2000.

8 Q. I'd like to ask you to go ahead and read the letter,
9 if you will.

10 A. "Dear Mr. Sinclair: This letter will confirm you
11 expressed an interest in participating in an interview
12 under the terms and conditions of our standard proffer
13 agreement.

14 "In order to assure that there are no
15 misunderstandings about the meaning of the term proffer,
16 I'm willing to clarify the terms and conditions of such an
17 interview. First, you must be completely candid and
18 truthful."

19 THE COURT: Excuse me, Mr. Sinclair. You're
20 reading very fast, as people frequently do, and our
21 reporters are really first rate, but slow down a little.
22 Sometimes you forget when you're reading.

23 THE WITNESS: I'm sorry. I'll start the
24 second paragraph.

25 "First, you must be completely candid and truthful

Sinclair - Redirect

1 during the proffer. Any statements you make during the
2 proffer will not be admissible against you at any criminal
3 or civil case except as expressly provided below. Third,
4 the Government may make derivative use of statements you
5 make during the proffer and may pursue investigative leads
6 suggested by any such statements. Finally, in the event
7 you ever become a witness in a judicial proceeding,
8 offering testimony before a Grand Jury and offering
9 testimony materially different from any statement made
10 during the proffer, the attorney for the Government may
11 cross-examine you and introduce rebuttal evidence
12 concerning any statements you make during the proffer.

13 "This provision is necessary in order to assure that
14 you do not abuse the opportunity for a proffer, you do not
15 make materially false statements, and you do not commit
16 perjury while testifying in any future proceedings."

17 Page 2 reads, "we trust that you will find these
18 ground rules fair and reasonable. If so, please sign this
19 letter where indicated below. Please do not hesitate to
20 call me at 216-622-3921 if you have any questions regarding
21 this matter. Very truly yours," signed Craig Morford,
22 Assistant United States Attorney.

23 Q. With the exception of the terms you just read in this
24 letter, including the term the Government promised not to
25 use the statements you were going to make at this proffer

Sinclair - Redirect

1 against you in any criminal or civil case, was any other
2 promise made to you before you gave the Government your
3 first complete statement on January 31, 2000, about your
4 dealings with Congressman Traficant?

5 A. No, sir, there were no other promises.

6 Q. Next I'd like to show you what we have marked as
7 Government's Exhibit 35 -- I'm sorry, 1-35.

8 There's a portion of the transcript from your Grand
9 Jury appearance on February 1, 2000. I'd like you to turn,
10 if you will, to the second page of this exhibit, which is
11 the 6th page of the transcript and just ask you if you
12 would read beginning at the bottom of the Page 6, through
13 Page 7 and the top of Page 8?

14 A. "Raymond Allen Sinclair will be called to testify or
15 provide other information in proceedings before the federal
16 Grand Jury."

17 Q. I'm sorry. You're on Page 6 with the second page of
18 that?

19 A. I'm now on Page 7.

20 Q. See if you can start at -- right there where it says
21 "foreperson." I'm sorry.

22 A. "On a motion of Emily M. Sweeney, the United States
23 Attorney for the Northern District of Ohio, filed in this
24 matter on the first day of February, 2000, and appearing to
25 the satisfaction of the court, one, that Raymond Allen

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1 Sinclair will be called to testify or provide other
2 information from proceedings before the Federal Grand Jury
3 in the above captioned matter and in any further
4 proceedings resulting therefrom or ancillary thereto.

5 2. That in the judgment of the United States
6 Attorney, Raymond Allen Sinclair may refuse to testify or
7 provide other information on the basis of his privilege
8 against self-incrimination.

9 3. That in the judgment of the United States
10 Attorney, the testimony or other information from
11 Raymond Allen Sinclair may be necessary to the public
12 interest.

13 And 4. That the aforesaid motion filed herein has
14 been made with the approval of the deputy assistant
15 Attorney General in charge of the criminal division of the
16 United States Department of Justice, pursuant to the
17 authority vested in him by Title 18, United States Code
18 Section 6003 and 26 CFR, 0.1785(a).

19 Now, therefore, it is ordered pursuant to Title 18,
20 United States Code, Section 6002 that Raymond Allen
21 Sinclair give testimony or provide other information which
22 he refuses to give or provide on the basis of his privilege
23 against self-incrimination, as to all matters about which
24 he may be interrogated in the above-captioned proceedings
25 and any further proceedings resulting therefrom or

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1 ancillary thereto. This order shall become effective only
2 if after the making of this order, Raymond Allen Sinclair
3 refuses to testify or provide other information on the
4 basis of his privilege against self-incrimination. As this
5 matter involves an ongoing investigation, this motion and
6 order are sealed until further order of the court."

7 Q. With the exception of this Court ordered immunity
8 that you just read, and the proffer letter that you read a
9 moment before that, has the Government ever made any other
10 promises to you whatsoever regarding your testimony in this
11 matter?

12 A. No, sir. I had --

13 Q. I'd like to go back and ask you a couple questions in
14 response to Congressman Traficant's questions to you about
15 the deed that you prepared to transfer the farm to the
16 Congressman's daughter. Do you recall those questions that
17 you were asked by the Congressman?

18 A. Yes, I did.

19 Q. Who was it who actually asked you to prepare this
20 deed?

21 A. Congressman Traficant.

22 Q. And who was it that told you why the property was to
23 be transferred and the way you were being directed to
24 transfer this deed?

25 A. The Congressman.

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1 Q. Did you ever have any conversations whatsoever with
2 Congressman Traficant's wife?

3 A. No, I did not.

4 Q. How were you paid for your services as a lawyer in
5 preparing this deed?

6 A. I was not paid.

7 Q. Were you being paid in any way by Congressman
8 Traficant at that time?

9 A. Other than being on the payroll of the congressional
10 staff, no.

11 Q. Was this something you considered as part of your
12 duties as the congressional office staff attorney?

13 A. No, sir.

14 Q. Why would you prepare this for free of charge then?

15 A. At his request.

16 Q. Are you familiar with the term nominee?

17 A. Yes.

18 Q. Just explain to the jury from a lawyer's standpoint
19 what is a nominee?

20 A. Basically, it's a minimum procedure that -- it's hard
21 to explain. Normally, it's just a nominal event. I do
22 many things for clients that I don't charge for that are
23 just a nominal matter, just for -- just for their
24 assistance.

25 Q. I'm sorry. I didn't mean nominal. I mean the term

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1 nominee as used in the ownership and title of property.

2 A. I'm sorry, nominee. No, I am not very well versed on
3 property law. A nominee is basically someone who is noted
4 within the document as having some sort of interest in the
5 proceeding or the subject matter of the document.

6 Q. Let me ask you this: In your experience as a lawyer
7 who's done some property transaction work, have you ever
8 come across a situation where someone can be listed as the
9 title holder of a property but someone else the true
10 beneficial owner of the property?

11 MR. TRAFICANT: I object.

12 THE COURT: We'll see if he can answer it.

13 THE WITNESS: I'm sorry, can you ask me that
14 question again?

15 Q. Yes. Have you ever come across a situation in which
16 a piece of property or an asset can be titled to one person
17 even though the true beneficial owner is someone else?

18 A. Yes, in situations where property is owned by a
19 corporation or some other entity.

20 Q. Well, let me ask you a question about the building 11
21 Overhill Drive. Congressman Traficant asked you some
22 questions. Setting aside all the legal documents and who
23 holds legal title to the building, in reality, who are the
24 true actual owners of the building, apart from whatever
25 legal title has been set up?

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1 A. You mean by name or just control, who has control of
2 the building.

3 Q. Who has control and ownership of the building?

4 A. Are you asking me the specific time period? I'm
5 sorry --

6 Q. Right now.

7 A. Right now?

8 Q. Yes.

9 A. On the deed, the property is titled in my wife's
10 name. I formed an entity called KAS Enterprises, merely as
11 a business or a trade name. I control the building.

12 Q. Would it be fair to say that you're one of the
13 beneficial owners of the building?

14 A. Yes, for all practical purposes, I am what's called a
15 management agreement. It is signed between KAS Enterprises
16 and my wife to give me the authority to make decisions and
17 conduct business for the building.

18 Q. With that concept in mind, in your dealings regarding
19 the farm, who did you understand to be the true beneficial
20 owner of the farm, regardless of whoever the title may have
21 been placed?

22 A. The Congressman.

23 Q. With respect to the building at 11 Overhill Drive,
24 prior to the time that you purchased it, who was it that
25 you paid rent to?

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- 1 A. Attorney DiBlasio.
- 2 Q. When you sought to purchase the building, who did you
3 negotiate the deal with?
- 4 A. Attorney DiBlasio.
- 5 Q. Who did you pay when you purchased the building?
- 6 A. I believe at that time, the documents state Trumbull,
7 T-R-U-M-B-U-L-L. The bank would have given Attorney
8 DiBlasio the money.
- 9 Q. What was your understanding as to who the true
10 beneficial owner of the building 11 Overhill Road was?
- 11 A. Attorney DiBlasio.
- 12 Q. What was your understanding of what Trumbull Land
13 Company was?
- 14 A. It was a corporation whereby Henry was one of the
15 officers.
- 16 Q. To that you, held title to the property, correct?
- 17 A. That's correct.
- 18 Q. You were asked some questions about a piece of
19 letterhead that says under the law this is DiBlasio, Flask
20 and Sinclair, you recall that?
- 21 A. Yes, I do.
- 22 Q. What period of years are we talking about when those
23 law offices at 11 Overhill Road were referred to as the law
24 offices of DiBlasio, Flask and Sinclair?
- 25 A. This would probably have been 1994, 1995, not even

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1 before that, maybe '93 or '94.

2 Q. Approximately how long had you been out of law school
3 at that point?

4 A. Two years.

5 Q. Were you actually in partnership with Mr. Flask?

6 A. No, sir.

7 Q. Who was it that brought Mr. Flask into the law
8 offices of the DiBlasio, Flask, and Sinclair?

9 A. Attorney DiBlasio.

10 Q. Of the three people in the law offices of DiBlasio
11 Flask, and Sinclair, who had the least seniority?

12 A. Myself.

13 Q. Did you and Mr. DiBlasio ever have any discussions of
14 any concerns about having what Congressman Traficant
15 described as a convicted felon working in the law offices
16 of DiBlasio, Flask and Sinclair?

17 A. Yes, we did.

18 Q. Could you describe those discussions to the jury?

19 A. I can't remember the time period, but it became known
20 that there was an investigation concerning Attorney Flask
21 and his involvement with what's called the Mahoning County
22 sanitary district. He was a board member, and there were
23 some questions that arose as to his management of the money
24 and also concerning his participation as consulting work
25 for various businesses such as Blue Cross, Blue Shield and

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1 them. It just wasn't a very -- it was just something that
2 I could see coming on down the line that was not conducive
3 to my practice, so I discussed this with Henry and urged
4 him to ask Attorney Flask to leave the office.

5 Q. Did you have the power or ability to throw him out of
6 the office yourself?

7 A. No.

8 Q. Had you brought him into the office?

9 A. No, I did not.

10 Q. Who had?

11 A. Attorney DiBlasio.

12 Q. One last question: Congressman Traficant showed you
13 a letter that you had written dated February 16, 2000,
14 where you said that you were advising him that as of March
15 1, 2000, you were going to resign as administrative
16 counsel, and you stated the time that you've worked for him
17 as being a rewarding and excellent learning experience and
18 thanked him for the opportunity.

19 At the time you sent this letter to the Congressman
20 on February 16, 2000, had you notified the Congressman that
21 you were providing information to the FBI, the type of
22 information you testified here today?

23 A. No, sir.

24 Q. Why did you state in this letter at the time that you
25 worked for him had been a rewarding, excellent learning

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1 experience?

2 A. That's merely language that's included in the lot of
3 resignation letters, laying out the terms I guess.

4 Q. Were you attempting to conceal the fact from him that
5 you were cooperating with the FBI?

6 A. I was trying to make it my best effort not to have
7 him notice my concerns at the time. I was very concerned
8 that he could see through me during that time period, yes.
9 It's -- I'm not a good liar.

10 MR. MORFORD: May I have just a moment, your
11 Honor?

12 Q. With regard to the 1998 advertising infraction, at
13 what stage was that matter when Congressman Traficant hired
14 you to go to work for his office in December -- November,
15 December, 1998?

16 A. What stage it was at?

17 Q. Had it developed yet, or had you been notified yet?

18 A. Yes, and I believe it had already developed, and I
19 may have gone through a hearing regarding it. I may have
20 been awaiting the outcome at that time.

21 Q. What, if any, discussions did you have with
22 Congressman Traficant about the fact that you had a pending
23 disciplinary matter at the time he was talking about
24 bringing you on staff to be his staff counsel?

25 A. In the car ride where he offered me the job, I

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1 disclosed that to him because I didn't want this to affect
2 him politically as the papers do pick this type of stuff
3 up, and it would be published. I wanted him to know that
4 this would be something negative that would come out, and I
5 wanted him to be aware of it so that he could make his
6 decision.

7 Q. And did you describe the nature of the proceedings
8 for him the same way you did in court today or yesterday?

9 A. Oh, I did, but I don't think he really cared or
10 listened to the subject.

11 Q. What was his reaction when you told him about that?

12 A. Really nothing. It was just a -- he really didn't
13 have any response to it.

14 MR. MORFORD: I have no further questions.

15 THE COURT: Thank you. This is a very good
16 time for an afternoon break, so we'll take an afternoon --

17 MR. TRAFICANT: Your Honor, I won't take
18 long, perhaps maybe five minutes. We can then excuse the
19 witness if that would be all right with the jury.

20 THE COURT: All right. Is that okay, five
21 minutes long? Very well, thank you Congressman
22
23
24
25

Sinclair - Recross

1 RECROSS-EXAMINATION OF ALLEN SINCLAIR

2 BY MR. TRAFICANT:

3 Q. On the document given by the Government, that Exhibit
4 35, the Grand Jury proceedings, Page 7, it reads, that the
5 aforesaid motion filed herein has been made with the
6 approval of the Deputy Assistant Attorney General in charge
7 of the criminal division of the United States Department of
8 Justice pursuant to the authority vested in that person,
9 blah, blah, blah, U.S. Code.

10 You happen to know where that person is located?

11 A. No, sir.

12 Q. Were you told that that Deputy Assistant Attorney
13 General works for the Attorney General in Washington, D.C.?

14 A. Wasn't specifically told to me but inferred that in
15 reading the sentence.

16 Q. Fine. Now you know that.

17 MR. MORFORD: Your Honor, I'll stipulate that
18 that is, in fact, where he works.

19 MR. TRAFICANT: Okay.

20 THE COURT: All right. It's agreed, both
21 sides agree.

22 MR. TRAFICANT: Okay.

23 Q. So in your proffer agreement as you read through all
24 of this verbiage, it's basically if you don't lie, you're
25 okay, and if you lie, you're subject to the wrath of the

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1 Government, true or false?

2 A. If you lie, you lie.

3 Q. Just yes or no. If you lie, you'd be prosecuted, yes
4 or no?

5 A. Yes. If my lie had been discovered, yes, I assume I
6 would be prosecuted.

7 Q. And if you didn't lie, you would not be prosecuted?

8 A. That's correct.

9 Q. That's your proffer agreement.

10 Now, isn't it a fact that Mr. Paul Marcone, and I
11 called you relative to a newspaper article when your name
12 appeared because of the fact that you worked for me,
13 because of this violation with a Mr. Shure. You recall
14 that testimony?

15 A. Yes, I remember you called me at home.

16 Q. Do you recall that Mr. Marcone and I both talked to
17 you on the phone?

18 A. No, I just recall talking to you.

19 Q. Were you not asked the severity of this charge?

20 A. Yeah, I believed your impression of it was much more
21 serious than what it was. I believe you had some idea that
22 it was somewhat of a criminal probation rather than an
23 administrative probation, and I explained to you that, you
24 know, it was -- it was not a concern.

25 Q. It was minor, it was minor?

- 1 A. Yes.
- 2 Q. And you satisfied me with that, did you not?
- 3 A. I believe so, yes.
- 4 Q. Yes. And was there any further conversation I had
5 with you on that?
- 6 A. No. You acted surprised as if you didn't know about
7 it.
- 8 Q. Perhaps did not recall it?
- 9 A. Perhaps.
- 10 Q. Okay.
- 11 But, did I treat you differently?
- 12 A. No, sir, you sounded concerned and --
- 13 Q. In fact, did I not support you through the process?
- 14 A. Well, you supported me in that whole conversation,
15 but I can't say through the process.
- 16 Q. But I mean I made no statements or when I was asked
17 by the press, did I say anything that was derogatory?
- 18 A. No. I believe you did let me know that you received
19 a call from the media concerning the issue, and I -- I
20 think you were a little taken aback because you had no idea
21 what was going on.
- 22 Q. But, I said nothing bad about you, did I?
- 23 A. No.
- 24 Q. Okay. Now, they brought up this deed business.
- 25 First of all, they bring up Mr. Flask. Mr. Flask happens

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1 to have been convicted. I only bring up the fact that you
2 were in a law partnership. In fact, Mr. Flask, even though
3 he's convicted happens to be a friend of mine, I have
4 nothing to hide about that. My point was: Were you, in
5 fact -- was your name on the letterhead with these three?

6 A. I'd like to clarify to you and for you that it was on
7 a partnership. There was no partnership between Mr. Flask,
8 myself, and Attorney DiBlasio.

9 Q. But you, as the Junior, as you said, did they not, in
10 fact, lay most of the work on you?

11 A. No, it was an office sharing arrangement. I had my
12 own practice at the time, and if there were menial jobs
13 that either attorney Flask or Mr. DiBlasio did not want to
14 perform, they felt I was capable of handling those, I
15 would -- I would conduct that work for them and charge them
16 on an hourly basis for the work that I did.

17 Q. Okay. Now, do you pay rent to your wife for your
18 office space?

19 A. I pay rent to KAS Enterprises.

20 Q. Do you know if I pay rent on the property in Green
21 Township, commonly referred to as the farm?

22 A. No, I have no knowledge of that.

23 Q. So then your answers relative to ownership that was
24 brought forth by Mr. Morford could be confusing, couldn't
25 it?

1 A. No, I think they're very clear.

2 Q. I mean, if someone would pay rent on a property, it
3 wouldn't make a difference, would it?

4 A. Well, the fact that you pay rent to an individual or
5 an entity, I think is very clear.

6 Q. Thank you.

7 MR. TRAFICANT: No further questions.

8 THE COURT: Thank you. Anything further?

9 MR. MORFORD: No, your Honor.

10 THE COURT: Very well. You can be excused,
11 sir. The jury and everybody can have a break. This will
12 be about half an hour break. I think it means we'll be
13 back here at 3:10. How's that, ready to be in the box.

14 MR. TRAFICANT: Your Honor, could we make
15 that 3:15 for cause?

16 THE COURT: 3:15, how's that? All right.
17 Thank you.

18 (Proceedings in the absence of the jury:)

19 THE COURT: Okay. If we do it now or you
20 want to do it at 3:10?

21 MR. TRAFICANT: No. I asked for a little
22 additional time for cause. Personal.

23 THE COURT: Okay, fine. What I'd like to do
24 is say a couple of things here. You can -- the rest of you
25 can be seated or take your break, do whatever you'd like to

1 do. These are things we have to take care of.

2 We have one motion before the Court, which is the
3 Government's motion to permit an IRS summary witness to
4 attend trial, view transcripts of proceedings, and I need
5 the Government to say a little more than is said in this
6 motion about what is it about this party, which is
7 essential to the presentation of your case?

8 I want to just infer that, but it's so -- it isn't
9 written with enough specificity for me, so if you do, then
10 the Congressman here, since I haven't gotten anything in
11 writing from you, if you wish, you can respond right here.

12 MR. MORFORD: The purpose of the testimony is
13 to have an IRS revenue agent review specific items that
14 could constitute income during the two taxable years that
15 are alleged in the indictment, to have false income tax
16 returns.

17 For example, he would review the testimony of Allen
18 Sinclair as to when Allen Sinclair paid the Congressman
19 specific portions of money, to determine which portions of
20 those \$2500 payments, if the jury finds those facts, should
21 have been taxable in 1998, should have been taxable in
22 1999. And so that would be one example.

23 Another example would be, he would look at the
24 testimony of J. J. Cafaro to determine what, if any,
25 payments J. J. Cafaro made and paid during 1998 and 1999,

1 would be taxable income, assuming a certain set of facts,
2 and then it's up to the jury to decide the facts, but if
3 they decide the facts a certain way, there's some timing
4 issues as to whether those items would be taxable income
5 and in what year they would be taxable. So the jury can
6 determine whether the tax returns are false as charged.

7 THE COURT: Thank you.

8 MR. TRAFICANT: Naturally, I object. I'm
9 even amazed at the motion. You have seated out here
10 Officer Denholm, FBI agent, who's scheduled to testify.

11 THE COURT: Well, you had --

12 MR. TRAFICANT: No. I want to make a
13 statement. I think I have the floor.

14 THE COURT: All right. You can make a
15 statement.

16 MR. TRAFICANT: They have Government agents
17 sitting in here listening to witness statements that they
18 can later come back and clean up, where clearly these
19 statements could be impeached were they not present.

20 Now, they have submitted evidence pursuant to a trial
21 schedule. These IRS people are highly trained. You try to
22 tell me they can't take the books and the records and
23 determine for themselves and make an assessment relative to
24 an individual status as it relates to a tax matter?

25 I believe for the Court to allow the Government to

1 have their witnesses, who will take the stand, sit in here
2 and hear testimony clearly is prejudicial to the Defense.

3 THE COURT: All right. Now you're making
4 a -- you're blending two things here, and I just want to
5 point out that the transcripts and record in this case show
6 that you acknowledged from the outset the propriety of
7 their having an agent sit -- seated at the trial table. It
8 was then you made the decision that you did not want any of
9 your assistants to sit at the trial table.

10 MR. TRAFICANT: I didn't object to them being
11 at the table.

12 THE COURT: Exactly.

13 MR. TRAFICANT: But, I objected to any of
14 their witnesses being in the courtroom. Why should their
15 witness sit at the table here? Why should an FBI agent be
16 seated here when they have 100 FBI agents? Why do they
17 need Jones, when Jones is going to testify? I mean, the
18 Court -- the Court should consider that factor where the
19 Government has the distinct advantage of listening to the
20 testimony, having an agent come up, and embellish and/or,
21 in fact, help a witness whose testimony is rather lengthy.

22 THE COURT: You have certainly changed your
23 position on the two people who from the beginning of this
24 case have been seated here. We're now talking about a
25 different situation. So I want to -- I want to assure

1 myself that you're clear that we're talking about a
2 different situation. You filed a motion for separation of
3 witnesses with the Court?

4 MR. TRAFICANT: Yes.

5 THE COURT: I granted your motion.

6 MR. TRAFICANT: They're in the room.

7 THE COURT: No, no, no. That was after we
8 already dealt with the fact that the Government has -- that
9 they could be seated at this table here, these two agents
10 here, which you acknowledged was appropriate.

11 MR. TRAFICANT: No, I --

12 THE COURT: We said you could have your
13 assistants sit at the table with you, and you said no, I do
14 not want them to sit at the table.

15 MR. TRAFICANT: Hear me out. Let's not put
16 words in my mouth.

17 THE COURT: We have a transcript.

18 MR. TRAFICANT: I know we have transcripts,
19 and transcripts --

20 THE COURT: Don't mix that issue with the
21 ones currently here. I'm giving you an opportunity to
22 argue the motion that was filed.

23 MR. TRAFICANT: Okay. First of all on this
24 motion, this person has an education, he's a tax agent.
25 Evidently, he's real good because this is a high profile

1 case for them. He should have enough understanding to be
2 able to handle the matter. Number 1.

3 Number 2, when I agreed in the beginning they could
4 have 20 people in here, it was not under the assumption
5 that 17 of them would be called as witnesses and would have
6 the benefit of having heard the testimony presented before
7 them.

8 THE COURT: Okay. Now -- now we're on
9 something else.

10 MR. TRAFICANT: No, but I want to correct
11 that to the court because I think the first issue's clear.
12 I object to that person being in this courtroom at any
13 time, that tax analyst.

14 THE COURT: This one that's the subject of
15 the motion?

16 MR. TRAFICANT: Any tax analyst who will
17 testify.

18 THE COURT: Okay. I understand. Thank you.
19 Now, I understand your position on this motion. That's why
20 I gave you an opportunity to address it.

21 MR. TRAFICANT: Thank you.

22 THE COURT: You're welcome.

23 I want to point out to you that we need you from --
24 we need you to always be able to provide us -- you can't
25 rely on the Government to always have some copy of what

1 you're going to use as exhibits.

2 And that's been gone through from the beginning of
3 this preparation of this case. We need an exhibit for the
4 Court so that we can keep a record of this case. And they
5 need a copy of an exhibit. Okay? Just so you're clear
6 about that and we don't get into difficulty about it
7 because I can't let you go forward when we don't have the
8 exhibits that are necessary to make the proceedings
9 function. Otherwise, we would have chaos in the record.
10 And that wouldn't protect you.

11 MR. TRAFICANT: I agree, but today, they said
12 they did not have certain documents, and we had to count 32
13 pages, and I was informed that it was all a part of a
14 discovery package that was sent to them, and they had it.

15 MR. MORFORD: We do not have those extra
16 pages.

17 MR. TRAFICANT: Then you misplaced them, sir.

18 THE COURT: Okay. Well, that we'll have to
19 work out. And we'll have to work it out at 4:30 so that
20 everybody gets a break now, and we will hold the lawyers
21 after we dismiss the jury today to work that out.

22 MR. SMITH: Your Honor, before we call the
23 next witness, there's an evidentiary matter that I have to
24 deal with before the next witness comes in. You want to
25 deal with it now or after the break?

1 MR. TRAFICANT: I -- I would like now that we
2 have spent this much time, I would like a little more
3 leeway on the time due to matters that I brought to the
4 attention of the court and request that we withhold any
5 more of their verbiage until after I handle some very
6 personal matters.

7 THE COURT: If we're going to have an
8 evidentiary issue with the next witness, can't you postpone
9 it until after we've had -- after we've had the afternoon
10 session, the rest of this session?

11 MR. SMITH: Well, my intention is to show
12 Exhibits 1-24 to the next witness. I don't think I can do
13 that until I lay the foundation that these are
14 self-authenticating documents, that's all I want to do.

15 THE COURT: Is there anything about that that
16 you can work out with the Congressman so that we don't have
17 to?

18 MR. SMITH: I'll try. I'll try.

19 MR. TRAFICANT: These are very complicated
20 with all these numbers, and I object to that. They should
21 have some witness in the late hour of the day.

22 THE COURT: Congressman, we'll give you a
23 break right now. I think it's time for a break. We will
24 reconvene at 3:15, at which point --

25 MR. TRAFICANT: 3:15?

1 THE COURT: Is that what I said? Yes, we'll
2 reconvene at 3:15.

3 MR. SMITH: Thank you, your Honor.

4 MR. MORFORD: Thank you, your Honor.

5 (Thereupon, a recess was taken.)

6 (The following proceedings were held at side bar:)

7 MR. TRAFICANT: I must make a strong
8 objection to the following: There are agents who will
9 testify in this trial, who have the opportunity to sit back
10 and listen to witness testimony that later will be called
11 and has the benefit of that testimony, Number 1.

12 Number 2, may have the ability to communicate with
13 someone relative to testimony. I just think in fairness
14 anybody who is to testify in this case should not be in
15 this courtroom, nor downstairs, and I move that the Court
16 remove anyone as such.

17 Now, they could have ten people at this table, but
18 not witnesses.

19 THE COURT: Do you want to respond?

20 MR. MORFORD: Yes, your Honor. First of all,
21 when Congressman Traficant raised this motion for
22 separation of witnesses, we filed something in writing,
23 noting that we were asking the two case agents to be
24 present in court, he did not object to that. Number 2 --

25 MR. TRAFICANT: I didn't know they were

1 testifying.

2 MR. MORFORD: Number 2, we indicated in
3 writing we did not intend to call them in our case-in-chief
4 unless the Court allowed Congressman Traficant to put the
5 state of mind of the Government into evidence, and if the
6 Court allowed that or if Congressman Traficant did that,
7 even over the Court's objection, that at that point, we
8 would call Agent Perkins for the sole purpose of talking
9 about the initiation of the investigation and the things
10 that caused us to focus an investigation in continuing the
11 investigation of Congressman Traficant to show the true
12 state of mind of the Government.

13 MR. TRAFICANT: All well and good. We've
14 already been over that.

15 THE COURT: Wait. Don't interrupt.

16 MR. MORFORD: And so as a result, Number 1,
17 he knew those were the parameters of which there might be
18 testimony, and he didn't object to either.

19 MR. TRAFICANT: But, there are certain 302's
20 signed by agents that have been sitting listening to this
21 testimony that may lead to some questions that could, in
22 fact, have some significance and bearing on the veracity of
23 testimony. I don't believe they should be able to sit in
24 here, then come in here and then for the purpose of
25 whatever, carry the Government's ball.

1 Why they need to be here, if they're case agents and
2 they're here to testify if they had signed memos or, in
3 fact, did 302's, what the hell do they need them for?
4 You've got the Government, they have got agents, why do you
5 need someone who could be a potential witness here? I
6 think that is ridiculous. I think it's unfair, I think
7 it's prejudicial, I think it opens up for abuse, and I
8 think that's not -- that's the last thing you want.

9 THE COURT: Why is it that you waited through
10 all this period of time, listened to the court give the
11 instructions saying that --

12 MR. TRAFICANT: Because I --

13 THE COURT: Wait, giving the instructions
14 that were based on all the issues that the Government has
15 just put on the record, and also on the fact that agents
16 have frequently been permitted to be at a table in long and
17 complex cases, why did you wait until we are this far along
18 in the case to suddenly tell us that you objected to
19 something? It was even in the instructions that I gave to
20 the jury when I talked to them that it was -- it was all
21 right for --

22 MR. TRAFICANT: Case agents.

23 THE COURT: -- to sit at the table.

24 Why did you wait until we were --

25 MR. TRAFICANT: Can I respond?

1 THE COURT: -- in the trial.

2 MR. TRAFICANT: Because I have now put faces
3 with names and have seen names on documents and seen that
4 these faces with names on documents are sitting in this
5 courtroom listening to this testimony.

6 THE COURT: Okay.

7 MR. TRAFICANT: Now, I don't have that
8 advantage, and it's clearly disadvantage and one having now
9 brought that to the attention of the court and having
10 brought it to a point where I noticed it, I think it is
11 only fair that for you to assume and come back because of
12 my statements not complaining about who sits at their
13 table, as long as they're not witnesses, I don't want
14 witnesses sitting at their table. They can have -- they
15 could have --

16 THE COURT: But they said -- they said they
17 were not going to call these people as witnesses unless,
18 unless you put something --

19 MR. TRAFICANT: I may call them.

20 THE COURT: Well --

21 MR. TRAFICANT: After what I'm seeing, my
22 God, I may call several of them. There's a lot of 302's in
23 this case.

24 THE COURT: Which one of us is going to talk?
25 You want to talk for a little while? I'll give you five

1 minutes on the record right here, and you can talk. Is
2 that what you want to do? Or can I finish a sentence?

3 MR. TRAFICANT: I'm going to apologize and
4 let you complete.

5 THE COURT: Thank you.

6 All right. What we have is a situation that you've
7 raised based on something that you apparently just saw
8 today in the 302's?

9 MR. TRAFICANT: I noticed --

10 THE COURT: Okay. What is it? Bring me a
11 302 that you just saw that you are concerned with.

12 MR. TRAFICANT: You're now having me bring my
13 defense in to you.

14 THE COURT: I'm asking you if you say --

15 MR. TRAFICANT: No. I will not do that, I
16 just put my objection on the record here, and I'm not going
17 to be giving you any more of my evidence and/or, in fact,
18 give the Government my case. You've already ruled out half
19 of it.

20 THE COURT: Okay. Are we through with this
21 issue? We're --

22 MR. TRAFICANT: I would hope you will rule.

23 THE COURT: I will rule. Are we through with
24 the discussion on this issue?

25 MR. TRAFICANT: They have a concern about

1 this IRS and his sitting through the whole thing.

2 THE COURT: That's a different issue. They
3 raised that by motion. You had a chance to respond, and
4 I'll rule on that in a minute. Mr. Smith.

5 MR. SMITH: I do have a different question if
6 you are ready to move to it.

7 The next witness before I put something on the
8 overhead --

9 MR. TRAFICANT: Could you keep it down?

10 MR. SMITH: Certainly, sir.

11 Under Rule 902 and 902 (2), and 902 (4), the Rules of
12 Evidence, I intend to show the next three witnesses, U.S.
13 treasury checks payable to Henry A. DiBlasio, under Rule
14 902 (2) and (4). The Treasury Department has given us
15 certified copies of the originals. Of course, we would
16 prefer somebody would use the originals, but we do have the
17 certified copies, which make these authentic under Rules
18 902 (2) and (4). I'll be simply showing the bank witnesses
19 and asking them to identify certain markings on the checks,
20 but I didn't know if you wanted me to issue
21 self-authenticating documents in front of a jury, if you
22 wanted that done separate.

23 THE COURT: No. It should be done here at
24 the side bar. Okay.

25 MR. TRAFICANT: I'll leave it to your

1 discretion.

2 THE COURT: Thank you. Well, those -- that
3 would be a correct application of those rules, and so
4 they're really -- you're going to bring a bank witness
5 next. Is that your next witness?

6 MR. SMITH: Yes, your Honor.

7 MR. MORFORD: The next three witnesses.

8 THE COURT: Okay. Very well.

9 MR. SMITH: One final thing: You want us to
10 wait until the end of the case to move exhibits or after
11 each witness?

12 THE COURT: You can do that as you choose,
13 or --

14 MR. MORFORD: The end of the day.

15 THE COURT: It does, of course, take time,
16 and we have to do it out of the presence of the jury.

17 MR. TRAFICANT: If I want to introduce, for
18 example, a piece of evidence on the Elmo they're bringing
19 up next and I'm going to do it three weeks from now, will I
20 still have that right?

21 THE COURT: All depends.

22 MR. TRAFICANT: I didn't hear what you said.

23 THE COURT: Well, he's going to be here if he
24 has a witness on the stand. You have a chance to
25 cross-examine.

1 MR. TRAFICANT: What if it is something that
2 I later come up with, that I believe has certain or salient
3 facts and want to offer it as evidence?

4 THE COURT: It's going to depend where we are
5 in the proceedings of the case.

6 MR. TRAFICANT: You're saying I should have
7 to file when the witness is on the stand that which I
8 intend to have given to the jury, is that you're telling me
9 now?

10 THE COURT: No.

11 MR. TRAFICANT: Because I did not hear you
12 say that earlier.

13 THE COURT: Well, I wouldn't have said that
14 earlier. I don't -- I guess you have a witness. We have
15 three witnesses potentially this afternoon, one after the
16 other. They're all bank witnesses. I think you were told
17 their names. I didn't recognize them because I haven't
18 been following that part of the case, but you want to know
19 who the next witness will be? Do you want to? You can
20 call a witnesses, you can call witnesses in your case, you
21 can call witnesses in --

22 MR. TRAFICANT: No. I'll wait until it's my
23 turn, don't I? I think it's their turn.

24 THE COURT: Right. But if you want to
25 cross-examine this witness, it's the witness available to

1 you.

2 MR. TRAFICANT: But do I have to offer a
3 piece of evidence today or tomorrow on a witness for
4 tomorrow or on a witness for Friday, or do I lose the right
5 to offer a document and in concern to that after I have
6 reviewed or perhaps studied this matter?

7 MR. SMITH: I can respond, your Honor.

8 It seems that normal practice in any trial and
9 efficiency of a trial requires that both parties, when they
10 have the witness on the stand, put on -- show that witness
11 whatever exhibits they want to show that witness, when the
12 witness is here. So you don't have constantly people being
13 recalled and recalled and recalled. That would be our
14 position. Thank you.

15 MR. TRAFICANT: That which I submitted on
16 discovery is not considered evidence unless you rule it in?

17 THE COURT: Well --

18 MR. TRAFICANT: Is that what I'm hearing
19 here?

20 THE COURT: Nothing is evidence unless it is
21 submitted to the Court. The Court makes a ruling on
22 whether or not it can be considered as evidence.

23 MR. TRAFICANT: Well, did you have a ruling
24 on the January 9th submission of evidence?

25 MR. MORFORD: It wasn't an offer of evidence.

1 THE COURT: I don't think --

2 MR. TRAFICANT: That was discovery, January
3 9th.

4 MR. MORFORD: You're mentioning discovery
5 with offer of evidence. You can't offer evidence until you
6 have a jury, so you haven't offered any of those things
7 yet.

8 MR. TRAFICANT: So I have to offer them today
9 or start offering them while the jury's seated. Is that
10 what you're telling me?

11 THE COURT: Not when the jury is in the room.
12 But it is correct, that until we have a jury to consider
13 things, we don't start offering any evidence. Sometimes
14 lawyers ask for rulings about whether evidence could be
15 offered. That might be what's confusing.

16 But there is no evidence before this jury now except
17 for the first -- what, 16 documents? -- that were -- the
18 Government decided to ask to go ahead and be admitted and
19 we did, and --

20 MR. TRAFICANT: But they did that while the
21 jury was in the room, and you admitted it while the jury
22 was in the room.

23 THE COURT: That's true.

24 MR. TRAFICANT: Now you're saying I can't do
25 that while the jury's in the room?

1 THE COURT: You know what it's like, a whole
2 course in evidence can't be taught in a side bar.

3 MR. TRAFICANT: But hear me. When we dealt
4 with challenges, there was one confusing point, and maybe I
5 should have gone further. Now I am going further.

6 Here's what you said. You cannot bring and put into
7 evidence those documents while the jury is seated. Then
8 you said that the Government put 16 of them on.

9 THE COURT: Until we have a jury seated in
10 the case, impaneled would be a better word, we have to have
11 a jury impaneled.

12 MR. TRAFICANT: You said they put 16 on the
13 record while they were in the room.

14 THE COURT: Well, they were, but first, you
15 had to have them impaneled before they would be in the
16 room, and they were impaneled. We -- we chose a jury.

17 MR. TRAFICANT: So you're saying --

18 THE COURT: The jury was selected, so nothing
19 that you put in any pleadings or anything else until we
20 had --

21 MR. TRAFICANT: So when they come in, I can
22 put some evidence on the record. Is that what you're
23 saying?

24 THE COURT: Well, it depends on what evidence
25 it is and how you want to offer it. There has to be a

1 foundation laid for most evidence.

2 MR. MORFORD: Your Honor, may I respond to
3 that last question? I would move in limine right now with
4 respect to out-of-court affidavits and tape recordings of
5 people who are not here to testify, that those matters not
6 be offered in front of the jury until a proper foundation
7 has been set.

8 THE COURT: No, that's true, a foundation has
9 to be set. Do you remember today when you asked about
10 whether or not some statements could come in regarding
11 somebody going to talk to somebody and I said I made a
12 conditional rule, first the Government would have to show
13 the trustworthiness of the statements, okay, so you don't
14 do that in front of the jury. The rules -- the jury has
15 its job, and I have my job, and my job has to do with the
16 rules and enforcing rules.

17 So what we do is, after the jury's gone, after
18 they're recessed, we see whether the Government is going to
19 be able to establish the proper foundation to admit
20 something. They may be able to, maybe they can't.

21 So I can't tell them right now if that evidence is
22 going to come in, and I can't tell you. I don't know
23 anything about what you want to bring in as evidence.

24 So that may help you understand, and evidence comes
25 in in different ways, but it isn't whether there's a jury

1 in the box or not. That doesn't determine anything. We
2 make the decisions about whether evidence would come in or
3 not come in depending on what it is, whether there are
4 objections and the rules of law. We do that work outside
5 the hearing of the jury.

6 MR. TRAFICANT: Um-hum.

7 THE COURT: Okay? Now, are we ready to bring
8 the jury in? We have a witness.

9 MR. SMITH: Yes.

10 THE COURT: Does he know.

11 Mr. Smith: Carrie Davis from Key Bank.

12 MR. TRAFICANT: What Key Bank?

13 MR. SMITH: Key Bank.

14 MR. MORFORD: One last thing: I don't know
15 whether we'll get there today --

16 THE COURT: Probably not.

17 MR. MORFORD: Well -- Congressman, we had --

18 MR. TRAFICANT: Don't call me names.

19 MR. MORFORD: We had three custodians, bank
20 custodians. I don't know how long he'll take, but if we do
21 have time, our fourth and final witness would be an IRS
22 agent who simply took bank records and did a 1006 summary
23 for separate summaries that --

24 MR. TRAFICANT: That's the guy you want in
25 the room, right?

1 MR. MORFORD: No, no. He's not in the room,
2 not watched any testimony, but there is those, are smaller
3 versions given to the court, and he'll use the wall chart
4 the jury can see.

5 MR. TRAFICANT: Fine. Before we leave, I'd
6 like you to rule on any agent that participated in the
7 investigation, wrote a 302, could possibly be called by the
8 defense for either impeachment or for purposes of
9 testimony, and/or evidence, they should not be allowed to
10 be seated in the courtroom. They should be excluded from
11 the courtroom.

12 Now, you could have -- you could bring in Mr.
13 Ashcroft. You can bring in the Assistant U.S. Attorney
14 General and put 20 chairs over here, but I am saying this
15 for the record: That anyone who may be or has written or
16 has participated in this investigation, who sits in this
17 allowed to sit in here, is prejudicial to the Defendant,
18 and I move that you restrict that and strike it now.

19 THE COURT: So far we don't have anyone in
20 that position.

21 MR. TRAFICANT: Yes, you do. You have Agent
22 Denholm sitting back there who signed several.

23 THE COURT: Who's not going to be called as a
24 witness, right?

25 MR. MORFORD: Not by the Government.

1 MR. TRAFICANT: Not by the Government, but
2 what I'm saying is, he participated in the investigation,
3 and he has contact with these witnesses for the Government.
4 Why does he have to be in here? He's done his job. Can't
5 they do their job now?

6 MR. MORFORD: I believe in our trial brief I
7 believe we cited cases that hold that it's proper to have a
8 case agent in the courtroom during the case. That's very
9 normal in the trial, and I would also like --

10 MR. TRAFICANT: You're leaving people in here
11 that are making it very unfair for a trial in this case,
12 and I'm just want to put that on the record. Do what you
13 want. I'm going to accept your ruling.

14 MR. MORFORD: I would like to put one last
15 thing on the record.

16 I assume that you are not calling Bob Barlow, despite
17 your cross-examination of Mr. Sinclair, because I was told
18 that he was downstairs watching Mr. Sinclair's testimony,
19 and you were the one that moved for exclusion of witnesses
20 so I assume you are not calling him.

21 MR. TRAFICANT: No, you can't assume
22 anything. I didn't know where the hell he was seated or
23 whether or not he should be seated.

24 THE MORFORD: You gave him a hug out of the
25 hallway.

5 MR. MORFORD: I want to note on record it's
6 your motion to separate witnesses. Any witnesses -- my
7 motion would be that any witness that you intend to call as
8 a witness in this trial, you need to police and keep them
9 from watching the witnesses in this trial.

16 MR. MORFORD: Neither can you, and I'm
17 raising it.

20 THE COURT: You do need to think about what
21 he's saying in terms of the -- I granted the separation of
22 witnesses, I granted that.

25 THE COURT: If your own witnesses whoever

1 they are --

2 MR. TRAFICANT: The Defense witnesses, and
3 allowing -- it's -- you mean --

4 THE COURT: It's such a -- I haven't --

5 MR. TRAFICANT: I can't call a Government
6 agent? Am I hearing that here at the side bar?

7 THE COURT: No, you didn't hear that.

8 MR. TRAFICANT: What I'm trying to tell you
9 is, I do plan to do so, and I want them removed from the
10 courtroom.

11 THE COURT: You're going call these two
12 witnesses?

13 MR. TRAFICANT: Anyone that's had anything to
14 do with a 302 that affects any evidence in this case will
15 probably be reviewed by the Defendant.

16 THE COURT: Well, since you have 302's, but
17 I've never seen them, if you really want me to be able to
18 rule on that motion, you need to do what I asked you to do,
19 which is to tell me which ones you're talking about, not
20 the agents, but the 302's, and you said you refused to do
21 that.

22 MR. TRAFICANT: Here's the only problem I
23 have. Let me put it on the record. I submitted questions,
24 not to get --

25 THE COURT: What did you submit?

1 MR. TRAFICANT: I submitted evidence of
2 prosecutorial misconduct.

3 THE COURT: You haven't submitted any
4 evidence in this case.

5 MR. TRAFICANT: Wait a minute. Let me make
6 my statement. I think I have the floor there now.

7 THE COURT: Well, it would not be -- it would
8 not be a representation -- well, it isn't an analogy.

9 MR. TRAFICANT: It is an analogy. It is an
10 analogy. I submitted -- you called for and had a motion
11 saying if there's prosecutorial misconduct, Congressman,
12 you submit it. I submitted four pieces, you were quoted in
13 the Youngstown Vindicator saying it was frivolous, and you
14 denied it on its face.

15 THE COURT: I actually wrote a motion about
16 that.

17 MR. TRAFICANT: Yes, you did, and it was
18 printed widely. They had four pieces of significant things
19 that I should have never submitted to you that now they
20 have some knowledge of. You have limited the Defense here,
21 and I do not like what's happening, and I don't want these
22 damn FBI agents who have submitted 302's in this courtroom
23 period.

24 THE COURT: Okay. Are you through now? Are
25 you ready for us to call witnesses?

1 MR. TRAFICANT: And I am reluctant to give
2 you the 302's because of the fact that the Government has a
3 way of simply finding out what the Defense might be about,
4 quite frankly. I am concerned about the confidentiality of
5 my defense and the tactics of the Northern District of
6 Ohio, and I want it on the record.

7 THE COURT: Okay.

8 The two agents who have been here throughout the
9 trial may stay here. They have been here throughout the
10 trial, and there's no reason so far that I've been given
11 that would make me change that. As to the other one, it's
12 a motion, you responded to it, and after --

13 MR. TRAFICANT: If they sit here, if they're
14 going to sit here.

15 THE COURT: After the afternoon is over --
16 well, then you put your people at the table.

17 MR. TRAFICANT: I don't have any people here.
18 I have no people here that are legal advisors, paralegals,
19 or have anything to do with this investigation at all.

20 THE COURT: Okay.

21 MR. TRAFICANT: And if they're going to be
22 here, put them at the damn table, or move them out because
23 I don't want to see their facial expression.

24 MR. MORFORD: You're saying on the record you
25 have no one assisting you with this trial in the courtroom?

1 MR. TRAFICANT: I'm saying I have people that
2 do prepare notes for me and do things at my direction, but
3 I have no help in that regard, and whether I do or not,
4 that's not important, and if you want those two people
5 removed, I'll have them removed. But, for the sake of
6 expedience of this trial, not knowing who's going to be
7 called and to give me the files I need or go to a car,
8 that's what much of this has been about, but I'm talking
9 about a different matter.

10 If you're going to leave Denholm and these other
11 agents here who are significant in this case, put them at
12 this table and remove them, that's the recommendation, and
13 I'm recommending they be removed.

14 MR. MORFORD: And our request is that if the
15 trial assistants are going to be in court today, sit at the
16 trial -- that all trial assistants for both sit at the
17 table and if they --

18 MR. TRAFICANT: I have no assistants.

19 THE COURT: Who are the people who you've
20 been having help you?

21 MR. TRAFICANT: Two young women here have
22 helped me, and they can go downstairs, they need not be in
23 the courtroom.

24 THE COURT: Who are they, just tell us their
25 names.

1 MR. TRAFICANT: One is Ernestine, I forget
2 her last name, and one is Donnette Palmer.

3 THE COURT: Donnette works with you, right?

4 MR. TRAFICANT: Yes.

5 THE COURT: There's no trouble if Donnette
6 stays here and takes notes, I don't have any problem with
7 that. That's what she's been doing, helping you.

8 MR. TRAFICANT: What's the problem?

9 THE COURT: Who is the other person?

10 MR. TRAFICANT: Ernestine, the black woman,
11 and she's very friendly, who happens to like me, and her
12 name escapes me at this particular point.

13 MR. MORFORD: Where does she work?

14 MR. TRAFICANT: I think she works for the
15 Cleveland Symphony. She has some legal background, but I
16 have not, in fact, used any legal advice from this person.
17 But I'll be glad to have them be sent downstairs. But I'm
18 going tell you this, if a witness comes in here and I need
19 a file, I need someone to go get it. I'll have to go find
20 somebody or get the file myself.

21 THE COURT: If they're sent downstairs,
22 they're seeing the whole trial, I mean, that was his point
23 with anyone who is -- who you were going to call as a
24 witness who you then sent downstairs to watch. They're
25 watching it, it's an audio visual feed.

1 MR. TRAFICANT: Which I objected to in the
2 first place.

3 THE COURT: Well, I understand you may have
4 objected.

5 MR. TRAFICANT: And there's an awful lot of
6 empty seats in this courtroom that I don't think
7 necessitated a need for a video closed circuit by the way.

8 THE COURT: We have a potpourri of objections
9 here, okay. Now, we have witnesses to be called, so we're
10 going to go with the witnesses.

11 MR. TRAFICANT: What about those agents?

12 THE COURT: Denholm and I can't remember
13 who's the other one.

14 MR. MORFORD: The IRS case Agent Chuck
15 Perkins.

16 THE COURT: They only get one from each
17 agency.

18 MR. TRAFICANT: Then I wanted seated at the
19 table, and I'm going to look at the facial expressions.

20 THE COURT: Okay. We'll have to accommodate
21 that somehow. You have to find space for them to come up.

22 MR. TRAFICANT: You want me to have the other
23 two removed downstairs?

24 THE COURT: What two removed downstairs?

25 MR. TRAFICANT: The two women.

1 THE COURT: Your two women, I think it's much
2 better, Congressman, if you let them come up, help you out.

3 MR. TRAFICANT: They will not be at my table,
4 I don't want anybody at my table.

5 THE COURT: Okay. If they're seated back
6 here.

7 MR. TRAFICANT: Yes. One of them could
8 possibly be called as a witness, and maybe I should, in
9 fact, remove that person then or not have that person sit
10 in downstairs, at least.

11 THE COURT: Well, if you don't want them.

12 MR. TRAFICANT: They're only here for the
13 purpose of facilitating my --

14 THE COURT: Your case?

15 MR. TRAFICANT: No, my needs.

16 THE COURT: Okay.

17 MR. TRAFICANT: Paperwork, my files.

18 THE COURT: Well, you're entitled to have
19 them at your table.

20 MR. TRAFICANT: I want no one at my table.

21 THE COURT: Okay. It's your call.

22 MR. TRAFICANT: But I may call one of those
23 witnesses so in that regard, I should separate them, is
24 that your call?

25 THE COURT: If these are -- if these folks

Davis - Direct/Smith

1 are your helpers, they've been here all the way through
2 this.

3 MR. TRAFICANT: I don't plan to, but if
4 something comes up they may have knowledge of and I may
5 need to call them, then it would be of significant
6 difference, but right now, there is no plan for me to call
7 them.

8 THE COURT: Okay. Then that's fine.

9 MR. TRAFICANT: So, therefore, if it becomes
10 that, I would notify you. Would that be fair.

11 THE COURT: Yes. That would be fair and
12 basically the same position the Government has.

13 MR. TRAFICANT: Thank you.

14 (Proceedings resumed in the presence of the jury:)

15 THE COURT: The Government's calling their
16 next witness.

17 MR. SMITH: Carrie Davis.

18 CARRIE DAVIS,
19 of lawful age, a witness called by the Government,
20 being first duly sworn, was examined
21 and testified as follows:

22 DIRECT EXAMINATION OF CARRIE DAVIS

23 BY MR. SMITH:

24 THE COURT: Will you speak loudly enough so
25 everyone can hear you.

Davis - Direct/Smith

1 THE WITNESS: Okay.

2 THE COURT: There's a microphone, too.

3 BY MR. SMITH:

4 Q. Would you please state your name, spelling your last
5 name for the Court Reporter?

6 A. Carrie Davis, D-A-V-I-S.

7 Q. What city do you live, ma'am?

8 A. Twinsburg, Ohio.

9 Q. Where do you work?

10 A. Key Bank.

11 Q. And what do you do at Key Bank?

12 A. I'm a financial investigator for Key Bank.

13 Q. Please describe the duties as a financial
14 investigator for that bank?

15 A. I'm a senior manager, and I supervise five other
16 investigators in investigations for Northeast Ohio for Key
17 Bank and investigations internally and externally.

18 Q. What city is your office located?

19 A. Parma Heights, Ohio.

20 Q. Are you familiar with the process by which checks are
21 negotiated at various Key Bank locations?

22 A. Yes, I am.

23 Q. Do you have personal knowledge concerning the
24 meanings of markings that employees at Key Bank place on
25 checks when they negotiate them?

Davis - Direct/Smith

1 A. Yes.

2 Q. When Key Bank negotiates a check and gives the
3 customer cash, is any marking placed upon the check that
4 signifies that fact?

5 A. Yes.

6 Q. How does the bank employee physically go about
7 placing that marking on the check?

8 A. It's actually done with a computer that is located at
9 each teller station.

10 Q. Are you familiar with such markings that the tellers
11 use?

12 A. Yes.

13 MR. SMITH: Your Honor, may I use the
14 overhead?

15 Q. Showing you Exhibit -- if you look at Exhibit 124 on
16 the counter before you, is that a series of checks from the
17 United States Treasury, all made payable to Henry A.
18 DiBlasio, the series of checks in Exhibit 1-24?

19 A. That's correct.

20 Q. If you would look at the check dated November the
21 30th, 1998, which is on the first page, do you see that
22 check?

23 A. Yes.

24 Q. And are you able to tell from examining markings on
25 that check whether it was negotiated by Key Bank?

Davis - Direct/Smith

1 A. Yes.

2 Q. Was it negotiated by Key Bank?

3 A. Yes.

4 Q. And what side of the check are you looking at to
5 determine, the front or the back?

6 A. The back.

7 Q. And would you explain to the jury what markings on
8 the back of that particular check allow you to say that
9 check was negotiated by Key Bank?

10 A. The bottom line on the top check, the bottom line is
11 a teller validation line, and basically what that is, the
12 first letters on there would be the teller, who cashed the
13 check. There would be some numbers to indicate what branch
14 that teller's located, the date of the check transaction,
15 the amount of the check, and then all the way over, those
16 letters indicate check cashed, not on us, indicating it's
17 not drawn off of Key Bank.

18 Q. All right. Have I pointed to the correct line of
19 typed information that you have just referred to on the
20 overhead?

21 A. That's correct.

22 Q. All right.

23 Now, is there any way you can tell from that line of
24 type that you have just read whether the customer deposited
25 the check into an account or took cash?

Davis - Direct/Smith

1 A. By the latter part of that validation line, that
2 indicates that this was a check which was cashed.

3 Q. Have I pointed to the correct piece of typewritten
4 material that indicates this was negotiated for cash?

5 A. That's correct.

6 Q. All right.

7 If you would turn to the check that bears the date
8 July the 31st, of 1998, and that would be on the third page
9 in this series of exhibits, and if you would -- was that
10 check negotiated by Key Bank?

11 A. Yes.

12 Q. And from the markings on the back of that particular
13 check, can you tell whether the person who negotiated it
14 received cash or if it was deposited into an account?

15 A. Again, this was a check cashed, not on Key Bank.

16 Q. All right. The person received cash when they
17 negotiated this check; is that correct?

18 A. That's correct.

19 Q. And is the line of typed information similar in this
20 check as it was on the other one, in terms of the marking
21 that allows you to determine it?

22 A. Yes.

23 Q. All right.

24 If you would now turn to the check and if you would
25 turn to the next page, the check bearing the date February

Davis - Direct/Smith

1 27, 1998, you have that check before you?

2 A. Yes.

3 Q. And turning to the back of that check, are you able
4 to determine whether that check was negotiated by Key Bank?

5 A. Yes.

6 Q. And did the person who negotiated that check receive
7 cash when they did so?

8 A. That is correct.

9 Q. And was -- did the mark -- are the markings similar
10 to the other checks that you had seen that allow to you
11 make that determination?

12 A. Yes.

13 MR. TRAFICANT: Excuse me. Are we using the
14 overhead or not?

15 MR. SMITH: I'm not going to do it on every
16 one, your Honor, to save time.

17 THE COURT: Okay.

18 Q. Turning to check Number -- excuse me -- check bearing
19 the date of October the 31st, 1997, you might have to flip
20 a couple pages to get there.

21 A. Okay.

22 Q. All right? And if you'd turn -- if you stay on the
23 front of that particular check, are there any markings on
24 that check that would indicate whether that one was cashed
25 by Key Bank?

Davis - Direct/Smith

1 A. Yes.

2 Q. All right. And specifically where are those markings
3 located on this particular check?

4 A. This would be on the front top of the check.

5 Q. And is the actual material that allows to you make
6 this determination actually printed upside down on the
7 check?

8 A. That's correct.

9 Q. So if we flip it over, the check for 10-31, am I
10 pointing to the correct line of type here with my pen?

11 A. Yes.

12 Q. All right. And was this check cashed by Key Bank?

13 A. Yes.

14 Q. Did the customer who cashed it receive cash when they
15 did so rather than depositing the check?

16 A. That's correct.

17 Q. Turning next to the check bearing the date September
18 the 30th of 1997, can you tell whether that check was
19 cashed by Key Bank, looking at the back?

20 A. Yes.

21 Q. All right.

22 And there's a similar line of print on that
23 particular check that allowed you to make that
24 determination?

25 A. That is correct.

Davis - Direct/Smith

- 1 Q. All right. And was this particular check cashed or
2 deposited to an account?
- 3 A. Again, this was a check cashed.
- 4 Q. All right. And have I pointed with my pen to the
5 correct place on the check that allowed you to make that
6 determination?
- 7 A. That's correct.
- 8 Q. Turning to the check bearing the date -- excuse me --
9 August 29, 1997, do you have that in front of you?
- 10 A. Yes.
- 11 Q. All right. And can you tell whether that check was
12 cashed by Key Bank by looking at the back of the check?
- 13 A. Yes.
- 14 Q. All right. And was it -- was it cashed by Key Bank?
- 15 A. That's correct.
- 16 Q. And did the customer receive cash when they did so?
- 17 A. Yes.
- 18 Q. If you will direct your attention to the next page in
19 that series of documents to the check bearing the date of
20 May the 30th, 1997, and turning to the back of that check,
21 do you have that there?
- 22 A. Yes.
- 23 Q. All right. Are you able to determine whether that
24 check was negotiated at Key Bank?
- 25 A. Yes.

Davis - Direct/Smith

1 Q. And what happened in that transaction?

2 A. Again, this is a check cashed, not on us.

3 Q. Did the customer receive cash?

4 A. Correct.

5 Q. Turning to the check that had -- and you'll have to
6 turn, I believe to the next page, to the check bearing the
7 date April the 30th of 1997, at the bottom of that
8 particular page, do you have that check before you?

9 A. Yes.

10 Q. And was that check negotiated at Key Bank?

11 A. Yes.

12 Q. And staying on the front of that particular check,
13 are there markings on there that allow you to determine how
14 it was negotiated?

15 A. Yes.

16 Q. Would you please explain what happened based upon
17 those markings?

18 A. On the top front of this check, again, it's the
19 teller validation line, which indicates the teller, the
20 branch, the date, the amount, and cash, check not on us.

21 Q. Is that teller validation line also printed actually
22 upside down as that other check was that we displayed?

23 A. Correct.

24 Q. When the person who negotiated this check did so, did
25 they receive cash, based upon the markings on the check?

Davis - Direct/Smith

- 1 A. Yes.
- 2 Q. Turning your attention to the check right above that,
3 the check dated March the 31st of 1997 and if you'd turn to
4 the back of that particular item, did Key Bank negotiate
5 that check?
- 6 A. Yes.
- 7 Q. And does the teller validation line substantiate that
8 when the customer negotiated the check, the cash -- the
9 customer received cash in return?
- 10 A. That's correct.
- 11 Q. Turning to the check bearing the date of February the
12 28th, 1997, and again, turning to the back of that
13 particular item, was that check negotiated at Key Bank?
- 14 A. Yes.
- 15 Q. And what does the teller validation line tell you
16 about how that was negotiated?
- 17 A. Again, it's a check cashed, not on us.
- 18 Q. And did the customer receive cash when they
19 negotiated that check as opposed to depositing it to the
20 account?
- 21 A. That's correct.
- 22 Q. Turning your attention to the next page in the series
23 at the bottom of that page, do you have before you a check
24 bearing the date January the 31st of 1997?
- 25 A. Yes.

Davis - Direct/Smith

1 Q. And turning to the back of that check, directing your
2 attention to the teller validation line, can you tell us
3 what happened on that check?

4 A. Again, this is a check which was cashed out, cashed
5 not on us.

6 Q. Did the customer receive cash on that particular
7 check when it was negotiated?

8 A. That's correct.

9 Q. Finally, turning your attention, you'll have to turn
10 the page, one page to the check in the middle of the next
11 page, September the 30th of 1996, check, do you have that
12 one in front of you?

13 A. Yes.

14 Q. And directing your attention to the front of that
15 check, is there a teller validation line printed upside
16 down like the other two?

17 A. That's correct.

18 Q. And what does that teller validation line tell you
19 about how this check was negotiated?

20 A. Again, it's a check cashed, not on us.

21 Q. All right. And did the customer receive cash as
22 opposed to depositing that check to the account?

23 A. That's correct.

24 Q. Now, if you would direct your attention to Exhibit
25 1-1(9) on the counter before you, do you have that item

Davis - Cross

1 before you?

2 A. Yes.

3 Q. Do you recognize any printed material on that
4 particular item?

5 A. Yes, the Key Bank logo as well as our customer
6 service phone number.

7 Q. Thank you.

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

9 THE COURT: Yes.

10 BY MR. SMITH:

11 Q. With respect to all the checks that I've shown you
12 here during your examination, were all of those checks
13 cashed for cash and not deposited to an account?

14 A. That's correct.

15 MR. SMITH: Thank you, your Honor. Nothing
16 additional.

17 THE COURT: Any questions, Congressman?

18 MR. TRAFICANT: Yes

19 CROSS-EXAMINATION OF CARRIE DAVIS

20 BY MR. TRAFICANT:

21 Q. Is it Miss Davis or Mrs. Davis?

22 A. Mrs.

23 Q. And you live in Parma?

24 A. Now.

25 Q. Where in Parma?

Davis - Cross

- 1 A. Parma Heights.
- 2 Q. You live in Twinsburg work in Parma?
- 3 A. Correct.
- 4 Q. Do you know who I am?
- 5 A. Yes.
- 6 Q. Who am I?
- 7 A. Mr. Traficant.
- 8 Q. Have I ever visited Key Bank in Twinsburg, in Parma?
- 9 A. Parma? I do not know.
- 10 Q. Is this any record of any accounts of Jim Traficant
- 11 in Key Bank in Parma?
- 12 A. I do not know.
- 13 Q. Are you subject to find out by computer if Jim
- 14 Traficant has any accounts with Key Bank?
- 15 A. I am able to do that, yes.
- 16 Q. Yes. And could you do that for the Court and make
- 17 that available to us and make that in the form of a motion?
- 18 MR. SMITH: Objection.
- 19 THE COURT: You may be able if you wish, to
- 20 subpoena a witness or to bring a witness down and to tell
- 21 her what you wish her to bring.
- 22 Q. Did you ever see me in your bank?
- 23 A. No.
- 24 MR. TRAFICANT: No further questions.
- 25 MR. SMITH: Just briefly, your Honor.

Davis - Redirect

1 REDIRECT EXAMINATION OF CARRIE DAVIS

2 BY MR. SMITH:

3 Q. Are any of fully of the checks that I've made -- that
4 I showed you made out to Congressman Traficant?

5 A. No.

6 Q. They are made out to a person named Henry DiBlasio;
7 is that correct?

8 A. That is correct.

9 MR. SMITH: No other questions, your Honor.

10 THE COURT: Thank you. Congressman?

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Davis - Recross

1 RECROSS-EXAMINATION OF CARRIE DAVIS

2 BY MR. TRAFICANT:

3 Q. If a person, instead of depositing a check, cashes a
4 check, does that imply to you that there's something wrong
5 with the behavior of that individual?

6 MR. SMITH: Objection.

7 THE COURT: She can answer the question.

8 THE WITNESS: No, it does not.

9 MR. TRAFICANT: No further questions.

10 THE COURT: Thank you.

11 MR. SMITH: None, your Honor.

12 THE COURT: Thank you. You're excused.

13 THE WITNESS: Thank you.

14 MR. TRAFICANT: Your Honor, I move to --

15 MR. SMITH: Object.

16 THE COURT: We'll -- you want a break?

17 MR. TRAFICANT: No, I want to make a motion.

18 THE COURT: Okay. We have a witness coming
19 down the hall. Can it wait until after the witness has
20 been called?

21 MR. TRAFICANT: It dealt with this last
22 witness.

23 THE COURT: Okay. You can still make the
24 motion at a time when the jury isn't here.

25 MR. TRAFICANT: Fine.

Findley - Direct/Smith

1 THE COURT: Would you raise your right hand
2 VALERIE FINDLEY,
3 of lawful age, a witness called by the Government,
4 being first duly sworn, was examined
5 and testified as follows:

6 DIRECT EXAMINATION OF VALERIE FINDLEY

7 BY MR. SMITH:

8 Q. Would you please state your full name, spelling your
9 last name for the Court Reporter?
10 A. Valerie M. Findley, F-I-N-D-L-E-Y.
11 Q. And where do you work, ma'am?
12 A. I work for a customer service center.
13 Q. Okay. Of what company?
14 A. It's -- it's for the FMB Corporation.
15 Q. And in what city do you work?
16 A. Parma, in Parma, Pennsylvania.
17 Q. What, if any, relationship does FMB Corporation bear
18 to Metropolitan Bank and also First National Bank of
19 Pennsylvania?
20 A. They're both part of the corporation.
21 Q. Are you appearing here today as a custodian of
22 records of -- for documents relating to Metropolitan Bank
23 and First National Bank of Pennsylvania?
24 A. Yes, I am.
25 Q. As the custodian of record, did you have personal

Findley - Direct/Smith

1 knowledge concerning the meaning of markings that employees
2 of those financial institutions place on checks when they
3 negotiate checks?

4 A. Yes.

5 Q. With respect to First National Bank of Pennsylvania,
6 does that bank offer checking account services to its
7 customers?

8 A. Yes.

9 Q. After a customer writes a check on an account that
10 they have at that bank, does the bank have occasion to
11 process that check?

12 A. Yes.

13 Q. And would you please describe the -- how the check
14 was processed.

15 A. If a teller receives the bundle of checks, she,
16 bundles it together and sends it to our proof department,
17 and our proof department processes it through a sorter, and
18 that's where it is -- the information is read off the
19 check, and the check is also microfilmed.

20 Q. After the check is microfilmed -- withdrawn.

21 Is the check microfilmed at or about the time the
22 processing occurs?

23 A. Yes, it is.

24 Q. Is it the regular business practice of First National
25 Bank of Pennsylvania to make a copy of all negotiated

Findley - Direct/Smith

1 customer checks?

2 A. Yes, it is.

3 Q. And after making those copies, are such copies then
4 kept in the course of the bank's regularly conducted
5 business activities?

6 A. Yes.

7 Q. If you would direct your attention to exhibits 736 --
8 7-36?

9 A. Um-hum.

10 Q. And also 7-37 (1) and 7-37 (2) on the counter before
11 you. Should be stacked up there.

12 A. I have a -- oh, okay I'm sorry. Yes, I have them.

13 Q. All right.

14 Now, does Exhibit 7-36 contain a number of -- a
15 series of checks which are copies of checks?

16 A. Yes.

17 Q. All right. And are they all payable to a particular
18 person?

19 A. Yes.

20 Q. And his name is David Matavich?

21 A. Yes.

22 Q. Are the series of checks contained in Government's
23 Exhibit 7-36 taken from microfilm records made and
24 maintained in the ordinary course of the bank's business as
25 you described earlier?

Findley - Direct/Smith

- 1 A. Yes.
- 2 Q. Now -- and is that true of all the checks in this
3 series of exhibits 7-36?
- 4 A. That's correct.
- 5 Q. All right. If you now direct your attention to
6 Exhibit 7-37 (1) and 7-37 (2), does that exhibit contain
7 two particular checks?
- 8 A. Yes.
- 9 Q. All right.
- 10 And were those checks also made and maintained by the
11 First National Bank of Pennsylvania in accordance with the
12 regular procedures that you've already described?
- 13 A. Yes.
- 14 Q. If you would set those aside, and I'll direct your
15 attention to Exhibit 1-24 on the counter before you.
- 16 A. Um-hum.
- 17 Q. And with respect to Metropolitan Bank, you're also
18 appearing as custodian for them; is that correct?
- 19 A. Yes, that's correct.
- 20 Q. When a teller negotiates a check at Metropolitan Bank
21 and gives the customer cash, is any marking placed upon
22 that check that signifies that fact?
- 23 A. Yes. A teller will stamp it, and it has the branch
24 name and branch number and the teller number and the date.
- 25 Q. Would you please describe what that stamp looks like.

Findley - Direct/Smith

1 A. It says Metropolitan National Bank, Market Street,
2 which would be the branch, and this is December 28, 1998.

3 Q. All right. I'll get the particular checks in a
4 minute, but please generically describe the stamp.

5 A. Sorry. There is -- they're stamped and read, and
6 they have notification that they are Metropolitan's checks.
7 They stamp them.

8 Q. Okay.

9 A. They're teller stamped.

10 Q. Okay. If you would direct your attention to the
11 first page of Exhibit 1-24, do you have before you a check
12 dated December the 18, 1998?

13 A. Yes.

14 Q. All right.

15 MR. SMITH: May I put this up, your Honor?

16 THE COURT: Yes.

17 BY MR. SMITH:

18 Q. And with respect to that particular check, is there
19 any stamp on there that you -- such as you have described?

20 A. Right.

21 Q. All right. And if have I pointed to the correct
22 place on the check where that stamp is.

23 A. That is correct.

24 Q. And on the copy -- or the original that you have in
25 front of you, is this stamp actually red in color?

Findley - Direct/Smith

1 A. Yes, it is.

2 Q. What does that stamp signify?

3 A. It signifies that -- or Metropolitan Bank at Market
4 Street cashed that check, teller Number 8 cashed that.

5 Q. All right. And by cashed it, did the customer obtain
6 cash or deposit to some kind of account? Can you tell that
7 from the stamp?

8 A. She received -- the customer received cash for it.

9 Q. All right. Directing your attention next to the next
10 page of that exhibit 1-24, specifically the check dated
11 September the 30th of 1998, do you have that before you?

12 A. Yes.

13 Q. And on the front of that particular check, is there
14 any marking on there that indicates whether Metropolitan
15 Bank negotiated this check?

16 A. Yes, there is.

17 Q. The same stamp we referred to earlier?

18 A. Yes, just a different teller number, that's all.

19 Q. Did the customer who negotiated this check receive
20 cash in return as opposed to depositing to an account?

21 A. Yes.

22 Q. All right.

23 You'll have to now turn to the next page if you
24 would, in the middle of that page, a check bearing the date
25 June the 30th of 1998, do you have that one in front of

Findley - Direct/Smith

- 1 you?
- 2 A. Yes.
- 3 Q. On the front of that check, is there any marking
- 4 indicating whether Metropolitan Bank negotiated this item?
- 5 A. Yes, there is.
- 6 Q. And is it the same stamp we referred to?
- 7 A. Yes, it is.
- 8 Q. Did the customer receive cash when they negotiated
- 9 this check as opposed to depositing it to an account?
- 10 A. Yes, they did.
- 11 Q. If you would now turn to the next page of documents
- 12 in that series, at the bottom of the page, is there a check
- 13 there dated April the 30.
- 14 Th of 1998?
- 15 A. Yes, there is.
- 16 Q. And was that check negotiated by Metropolitan Bank?
- 17 A. Yes, it was.
- 18 Q. And did the customer receive cash when they
- 19 negotiated it as opposed to depositing it to the account?
- 20 A. Yes, they did.
- 21 Q. Right above that April check is a check dated March
- 22 the 31st of 1998; is that correct?
- 23 A. Yes.
- 24 Q. Was that check negotiated by Metropolitan Bank?
- 25 A. Yes, it was.

Findley - Direct/Smith

- 1 Q. It's the same stamp affix today that check?
- 2 A. Yes.
- 3 Q. Did the customer receive cash when they negotiated
- 4 that check as opposed to depositing it to an account?
- 5 A. Yes.
- 6 Q. And if you would kindly turn to the next page, which
- 7 is at the bottom, is there a check dated January the 30th
- 8 of 1998 on that page?
- 9 A. Yes, there is.
- 10 Q. All right. And was that check negotiated by
- 11 Metropolitan Bank?
- 12 A. Yes, it was.
- 13 Q. And is the same stamp affixed to that check?
- 14 A. Yes, it is.
- 15 Q. Did the customer receive cash when they negotiated
- 16 the check as opposed to depositing the check to an account?
- 17 A. Yes.
- 18 Q. Moving onto the check right above that one, bearing
- 19 the date of December 19th, 1997, in Exhibit 1-24, do you
- 20 have that check before you?
- 21 A. Yes.
- 22 Q. And was that check negotiated by Metropolitan Bank?
- 23 A. Yes, it was.
- 24 Q. Does it bear the same stamp as the other ones we
- 25 discussed?

Findley - Direct/Smith

- 1 A. That's correct.
- 2 Q. Did the customer receive cash when they negotiated
3 that check as opposed to depositing it into an account?
- 4 A. Yes.
- 5 Q. If you would stay on that same page and look at the
6 check bearing the date November the 28th of 1997, do you
7 have that one in front of you?
- 8 A. Yes.
- 9 Q. Was that check negotiated by Metropolitan Bank?
- 10 A. Yes, it was.
- 11 Q. Does it bear the same stamp as the other checks we've
12 described?
- 13 A. Yes, it does.
- 14 Q. Okay. And did the customer receive cash when they
15 negotiated that check as opposed to depositing it into an
16 account?
- 17 A. Correct.
- 18 Q. Finally, moving to Exhibit -- withdrawn. If you
19 will, if you'd turn a couple pages to the check dated June
20 30thth of 1997?
- 21 A. Um-hum.
- 22 Q. Do you have that one in front of you?
- 23 A. Yes.
- 24 Q. Was that check negotiated by Metropolitan Bank?
- 25 A. Yes, it was.

Findley - Cross

1 Q. Bear the same stamp indicating as such?

2 A. Yes, it does.

3 Q. And did the customer receive cash when they
4 negotiated the check as opposed to depositing it into an
5 account?

6 A. Yes.

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

8 THE COURT: Yes.

9 MR. SMITH: No further questions, your Honor.

10 THE COURT: Thank you. Congressman?

11 CROSS-EXAMINATION OF VALERIE FINDLEY

12 BY MR. TRAFICANT:

13 Q. Good afternoon.

14 A. Good afternoon.

15 Q. Is it Valerie M. Simbley, S-I-M-B --

16 THE WITNESS: Findley, F-I-N-D-L-E-Y.

17 Q. F-I-N-D --

18 A. L-E-Y.

19 Q. Thank you. And you said you live in --

20 A. I live in Sharon Hill, Pennsylvania.

21 Q. And the FMB Corporation is located in Hermitage,
22 Pennsylvania?

23 A. The corporate office is in Naples, Florida.

24 Q. But you work out of Hermitage?

25 A. Yes, I do.

Findley - Cross

- 1 Q. Now, Metropolitan Bank was discussed here. What
2 Metropolitan Bank is that?
- 3 A. It was originally in Youngstown, Ohio.
- 4 Q. On?
- 5 A. It used -- it was currently -- it was called
6 Metropolitan Savings and Loan. It is currently called
7 Metropolitan National Bank.
- 8 Q. I see. Do you know who I am?
- 9 A. Yes.
- 10 Q. Who am I?
- 11 A. Jim Traficant.
- 12 Q. Do I have an account with FMB?
- 13 A. Not to my knowledge.
- 14 Q. Do I have an account with Metropolitan Bank?
- 15 A. Not to my knowledge.
- 16 Q. Have you ever seen me at any of your banks?
- 17 A. No.
- 18 Q. Have you ever heard of me being at any of your banks?
- 19 A. No.
- 20 MR. TRAFICANT: No further questions.
- 21 MR. SMITH: No questions, your Honor.
- 22 THE COURT: Thank you. You may step down.
- 23 THE WITNESS: Thank you.
- 24 MR. TRAFICANT: You know Steve Kesmis?
- 25 (Laughter.)

Davies - Direct/Smith

1 MR. SMITH: The Government calls Melinda
2 Davies.

3 THE COURT: Kind of thread your way up here
4 behind the court reporter. Would you raise your right
5 hand.

6 MELINDA M. DAVIES
7 of lawful age, a witness called by the Government,
8 being first duly sworn, was examined
9 and testified as follows:

10 DIRECT EXAMINATION OF MELINDA DAVIES

11 BY MR. SMITH:

12 Q. Ma'am, if you would please state your full name,
13 spell your last name for the court reporter?

14 A. My name is Melinda Mincher Davies, D-A-V-I-E-S.

15 Q. Where do you work, ma'am?

16 A. Home Savings and Loan in Youngstown, Ohio.

17 Q. And for how long have you worked for Home Savings and
18 Loan?

19 A. Two years.

20 Q. How long have you worked in the banking industry?

21 A. Another 25 years at another institution.

22 Q. What is your job title with Home Savings and Loan?

23 A. Assistant administrator, deposit services.

24 Q. What are your duties there?

25 A. I work in deposit-related functions, checking,

Davies - Direct/Smith

1 savings, certificates, research, check clearing.

2 Q. Are you appearing today as custodian of records for
3 Home Savings and Loan?

4 A. Yes, I am.

5 Q. Do you have knowledge about the meaning of markings
6 that employees of Home Savings place on checks when they
7 negotiate them?

8 A. Yes, I do.

9 Q. Does Home Savings and Loan offer checking account and
10 savings account services to customers?

11 A. Yes, we do.

12 Q. When a customer negotiates a check at Home Savings,
13 are any records created when that is done?

14 A. Yes, they are.

15 Q. As to the check itself that is negotiated, does any
16 bank employee place any marking on the check indicating
17 that it's been negotiated at Home Savings and Loan?

18 A. Yes.

19 Q. When is that marking affixed to the check?

20 A. The marking is affixed as the teller transacts the
21 process right at the teller window.

22 Q. After that occurs, does the bank maintain a copy of
23 that negotiated check?

24 A. Yes, sir.

25 Q. When is that copy made?

Davies - Direct/Smith

- 1 A. In the evening, all the checks are sent to a central
2 location, item processing, and those checks then are run
3 through machinery that captures the image of all the checks
4 that are processed.
- 5 Q. Talking the same business day in the evening?
- 6 A. That's correct.
- 7 Q. Is it the regular business practice of Home Savings
8 and Loan to make such a copy of all negotiated customer
9 checks?
- 10 A. Yes, it is.
- 11 Q. And are those copies then kept by Home Savings and
12 Loan in the ordinary course of its business?
- 13 A. Yes, they are.
- 14 Q. If you would direct your attention to Exhibit 1-4 (1)
15 on the counter before you, would you pull those out of
16 there.
- 17 Is that a series of 12 checks?
- 18 A. Yes, they are copies of 12 checks.
- 19 Q. Are they all made payable to a gentleman named Allen
20 Sinclair?
- 21 A. Yes, they are.
- 22 Q. Did Home Savings and Loan negotiate all of those
23 checks?
- 24 A. Yes.
- 25 Q. How do you know?

Davies - Direct/Smith

1 A. There's a stamp on the back of the check that has an
2 endorsement of Home Savings and Loan Youngstown, Ohio.

3 Q. And were all 12 of those checks made and maintained
4 in accordance with the procedures you already described?

5 A. Yes, they were.

6 Q. Do some bear the notation "for deposit only"?

7 A. Yes, they do.

8 Q. Some or all of them?

9 A. All of them.

10 Q. All right.

11 And at Home Savings and Loan, does the notation "for
12 deposit only," signify that necessarily all the proceeds of
13 the check had been deposited?

14 A. No. That check stamp indicates the endorsement of
15 the company as we process the checks and deposit them at
16 our account at Federal Reserve bank.

17 Q. So is it possible for a customer to receive cash back
18 on a check bearing "for deposit only" at your bank?

19 A. Yes, yes.

20 Q. If you would next direct your attention to 1-30 on
21 the counter before you and specifically I want to take --
22 you may have to remove it from the glassine, Exhibit 1-30
23 (5).

24 MR. SMITH: May I come forward, your Honor?

25 Q. Can you find an item that's submarked 1-30 (5)?

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- 1 A. Yes, I do.
- 2 Q. And what is that item?
- 3 A. It's a copy of a U.S. Treasury check payable to R.
- 4 Allen Sinclair.
- 5 Q. Dated?
- 6 A. Dated 12-18-98.
- 7 Q. And was that check negotiated at your bank?
- 8 A. Yes, it was.
- 9 Q. And did you -- did your bank make and maintain a copy
- 10 of that check in accordance with the procedures that you've
- 11 already described?
- 12 A. Yes.
- 13 Q. All right. If you'd now direct your attention to
- 14 Exhibits 1-30 (3) and 1-30 (4) and you may have to look at
- 15 the back to find exhibit stickers, do you have those two
- 16 documents before you?
- 17 A. Yes, I do.
- 18 Q. All right.
- 19 Do you know what those two documents are?
- 20 A. Yes, they are the receipts for transactions.
- 21 Q. All right. Issued by what institution?
- 22 A. Home Savings and Loan.
- 23 Q. And how can you tell that?
- 24 A. They are stamped with the Home Savings and Loan stamp
- 25 on both the documents.

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1 Q. And what happens to one of those documents after it's
2 stamped by Home Savings and Loan? What is done with them?

3 A. This is a receipt that would be given to the customer
4 to confirm the transaction they've just -- that just
5 occurred at the teller window.

6 Q. Thank you.

7 If you would now direct your attention to Exhibit 1-3
8 on the counter before you, it's in a different envelope.
9 Would you pull those out of there, please? And could you
10 tell us what -- do you recognize what those items are on
11 Exhibit 1-3?

12 A. They are deposit slips for funds being deposited into
13 an account listed under the name of R. Allen Sinclair and
14 Kimberly A. Sinclair.

15 Q. Did Home Savings and Loan process those series of
16 deposit slips in the ordinary course of this business?

17 A. Yes, they were all processed.

18 Q. How can you tell?

19 A. There's a stamp of Home Savings and Loan on every
20 document.

21 Q. If you would set those aside and turn to Exhibits 1-4
22 (2), 1-4 (3) and 1-4 (4), do you recognize those items?

23 A. Yes, they are statements from Home Savings and Loan.

24 Q. And let me backtrack. A -- whether a customer has an
25 account, either savings account or checking account, are

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1 periodic statements created with respect to that account?

2 A. Yes, they are.

3 Q. How are those statements prepared and generated?

4 A. Checking account statements are prepared monthly and
5 mailed out to the customers.

6 Q. And are they mailed out to the customer at or about
7 the time that they are prepared?

8 A. At or about the time they are prepared, yes.

9 Q. And is the regular practice of Home Savings and Loan
10 to make and distribute these monthly customer account
11 statements?

12 A. Yes, it is.

13 Q. And does the bank keep a copy of such statements in
14 the ordinary course of this business?

15 A. Yes, we do.

16 Q. Were exhibits -- the documents in Exhibit 1-4 (2),
17 1-4 (3) and 1-4 (4) made and maintained in accordance with
18 the procedures you just described?

19 A. Yes.

20 Q. Moving on to Exhibit 1-29, if you can find that.

21 Does 1-29 contain a series of documents?

22 A. Yes, it does.

23 Q. If you'd just take a moment and scan through that.

24 When a customer deposits a check into his or her
25 account, does the bank make records of that?

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1 A. Yes, we do.

2 Q. All right.

3 And specifically what types of records are made on
4 deposit transactions?

5 A. The deposit would be posted to the customer's account
6 and reflected on the books of the bank and on the
7 customer's statement.

8 Q. Does the bank keep any copies of deposit items such
9 as checks?

10 A. We keep copies of the deposited items, yes, sir.

11 Q. And when are those copies made?

12 A. The day the check is negotiated.

13 Q. Is the regular business practice of your bank to make
14 and -- make a copy of each and every check that is
15 deposited into an account by a customer?

16 A. Yes, sir.

17 Q. And are they then maintained by the bank in the
18 ordinary course of business?

19 A. Yes, they are.

20 Q. And are all of the documents contained within
21 Exhibits 1-29 made and maintained in accordance with those
22 procedures?

23 A. Yes.

24 Q. And can you tell us whose account it was that all of
25 these documents in Exhibit 1-29 were deposited into?

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1 A. They were deposited into an account for Allen
2 Sinclair.

3 Q. Thank you. If you would set those aside?

4 MR. SMITH: Your Honor, I'm about to move to
5 a new area. You want me to continue?

6 THE COURT: We have a little time here.

7 MR. SMITH: All right.

8 Q. Turning to 1-24 on the counter before you, is that a
9 series of checks made payable, all made payable to a person
10 named Henry DiBlasio?

11 A. Yes, they are.

12 Q. And from the markings on those checks, are you able
13 to determine whether some of those checks were negotiated
14 at Home Savings?

15 A. Yes, I am.

16 Q. Next, in conjunction with this exhibit, I need you to
17 look at Exhibit 1-28 (1) through (6) inclusive, which will
18 be in a different envelope. You have that in front of you?

19 A. Yes, I do.

20 Q. All right. And generically, what are Exhibits 1-28
21 (1) through (6)?

22 A. They are copies of the monthly checking account
23 statement for H. A. DiBlasio.

24 Q. Do some of those statements that you've just
25 identified, are they accompanied by deposit or withdrawal

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1 items relating to particular transactions?

2 A. Yes. There are copies of some of the items with this
3 statement.

4 Q. Are Exhibits 1-28, (1) through (6) inclusive, copies
5 of records of your bank made and maintained in the ordinary
6 course of business?

7 A. Yes, they are.

8 Q. Pursuant to the procedures we described earlier?

9 A. Yes, they are.

10 Q. Now, if you would turn back to Exhibit 1-24 and
11 locate a check toward the back of the pack dated June the
12 28th, 1996, do you have that one before you?

13 A. Yes, I do.

14 Q. Does that -- was that check -- are you able to tell
15 whether or not that check was negotiated at Home Savings
16 and Loan?

17 A. It was negotiated at Home Savings and Loan. I see
18 the stamp.

19 Q. And where is that stamp located?

20 A. The reverse of the check.

21 MR. SMITH: May I use the overhead, your
22 Honor?

23 Q. All right. Is this the check we're talking about,
24 June 28th, '96 check, that I put on the overhead?

25 A. Yes, sir.

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1 Q. We flip it over to the back, that stamp that you just
2 referred to, have I accurately pointed to it with my pen?

3 A. Yes, you have.

4 Q. All right. Would examining a bank statement in the
5 Exhibit 1-28 series allow you to determine if the proceeds
6 of this check were deposited at the time it was negotiated?

7 A. Yes.

8 Q. All right. And if you would turn to Exhibit 1-28
9 (1), and is that one of those monthly statements we were
10 talking about earlier?

11 A. Yes. It is a monthly statement of the checking
12 account.

13 Q. And what period does it cover, that statement,
14 Exhibit 1-28 (1)?

15 A. Covers a period of time from June 25, 1996, through
16 July 25th, 1996.

17 Q. All right. And what was the date that the June 28,
18 1996, check was negotiated in Exhibit 1-24?

19 A. That check was negotiated June 29th.

20 Q. Of what year?

21 A. 1996.

22 Q. And so would this statement, Exhibit 1-28 (1) cover
23 the time period in which the check dated June the 28, 1996,
24 in Government's Exhibit 1-24 was negotiated?

25 A. Yes, this statement would cover that time period.

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1 Q. Were any deposits made to this account at all by the
2 customer during that month?
3 A. No, sir.
4 Q. Were the -- from the bank statement, are you able to
5 determine were the proceeds of the June 28, 1996 check
6 deposited when the check was negotiated?
7 A. No, sir.
8 Q. All right. So the -- I may have misworded that.
9 Tell us whether the proceeds were negotiated or not.
10 A. The proceeds were not deposited into the checking
11 account.
12 Q. All right. And you can tell that how?
13 A. There is no deposit to the checking account.
14 Q. In the entire month?
15 A. Correct.
16 Q. All right.
17 Let's move on to Exhibit 1-24, the check dated July
18 the 31st, of 1996.
19 MR. TRAFICANT: What exhibit was that?
20 MR. SMITH: 1-24, the check dated July the
21 31st of 1996. Have you found that one?
22 A. Yes, I found the check.
23 Q. Okay. And from markings on that check, can you
24 determine whether that check was negotiated by your
25 financial institution?

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1 A. That check was negotiated at Home Savings and Loan,
2 yes.

3 Q. All right.

4 And does that -- we're talking about this check here
5 at the top, 7-31-96, correct?

6 A. Yes, sir.

7 Q. We flip it over, there's a -- there's your stamp
8 again; is that correct?

9 A. That's correct.

10 Q. All right.

11 When was this particular check negotiated by your
12 bank, what date?

13 A. July 31st, 1996.

14 Q. Now, if you'd turn your attention to Exhibit 1-28.2,
15 do you have that before you?

16 A. Yes, I do.

17 Q. And what time period is covered by Exhibit 1-28.2?

18 A. From July 25th, 1996, through August 23, 1996.

19 Q. So is the check dated July the 31st, 1996, in Exhibit
20 1-24, negotiated during the time period covered by the
21 statement, which is Exhibit 1-28.2?

22 A. Yes, it is.

23 THE COURT: Mr. Smith, let me ask how much
24 longer you think it would take?

25 MR. SMITH: I have to go through four more,

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1 your Honor.

2 THE COURT: Four more checks?

3 MR. SMITH: Yes, in addition to this one.

4 THE COURT: Jurors, would you just as soon be
5 recessed right now?

6 THE JURY: No.

7 THE COURT: You want -- yes, yes.

8 THE JURY: Go ahead and finish.

9 THE COURT: All right. We would have to
10 bring the witness back tomorrow.

11 MR. SMITH: Very well, your Honor.

12 THE COURT: We're going to recess. First, I
13 have to explain that this tells something about my age.
14 President's Day is Monday. It's a national holiday. It is
15 not the 22nd, I was thinking about one president we used to
16 get to celebrate each individual old time presidents. Now
17 they collapsed it all into one day. Monday is the 18th. I
18 didn't want to leave you with that confusion because I'm
19 told that I said the 22nd, and I'm sure I did, thinking of
20 George.

21 The admonitions, remember them all, as you go home.
22 And we'll be in recess beginning tomorrow at the same time
23 just the same as we did today, and you can expect the same
24 sort of day. I'm told we may have harsher weather. That's
25 something that you should pay attention to, too, and give

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1 yourselves enough time to get down here in case it turns
2 out there really is harsher weather. All right? Very
3 well. Thank you.

4 (Proceedings in the absence of the jury:)

5 THE COURT: Congressman, you said you had a
6 motion. Would you like to submit it in writing, or do you
7 want to raise the motion now?

8 MR. TRAFICANT: The motion relative to the
9 FBI agents involved in any court proceeding?

10 THE COURT: I don't know after the bank
11 witness the first bank witness testified, you said that you
12 had a motion that you wanted to make, and I don't know what
13 it was related to, but I want to give you an opportunity to
14 make it orally.

15 MR. TRAFICANT: I was going to -- I was going
16 to make a motion to go ahead and put those things into
17 evidence. I did not object to them.

18 THE COURT: Okay. Very well. Thank you.
19 Then we're in recess, and we'll see you tomorrow at 8:30.


20 MR. SMITH: Yes, your Honor.

21 (Proceedings adjourned.)
22
23
24
25

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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.



Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622

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

4 UNITED STATES OF AMERICA,)
5)
6 Plaintiff,) Judge Wells
7) Cleveland, Ohio
8 vs.)
9) Criminal Action
10 JAMES A. TRAFICANT, JR.,) Number 4:01CR207
11)
12 Defendant.)

13 - - - - -
14 TRANSCRIPT OF PROCEEDINGS HAD BEFORE
15 THE HONORABLE LESLEY WELLS
16 JUDGE OF SAID COURT,
17 ON FRIDAY, FEBRUARY 15, 2002

18 **Jury Trial**

19 **Volume 3**
20 - - - - -

21 APPEARANCES:

22 For the Government: CRAIG S. MORFORD,
23 BERNARD SMITH,
24 MATTHEW KALL,
25 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.

1 Friday Session, February 15, 2002, at 8:30 A.M.

2 (Proceedings in the absence of the jury:)

3 MR. TRAFICANT: Your Honor.

4 THE COURT: Just a second. Congressman.

5 MR. TRAFICANT: Yes, I have a few documents
6 I'd like to enter into as evidence.

7 THE COURT: I'm sorry? I couldn't hear you.

8 MR. TRAFICANT: I have three documents I
9 would like to introduce into evidence. Is this the time to
10 do that?

11 THE COURT: No, this isn't the time to do it,
12 I don't think, but let me see what they are. These are
13 marked as S-7, this is a letter from Henry -- no, to Henry
14 DiBlasio from Allen Sinclair.

15 MR. TRAFICANT: Yes.

16 THE COURT: This is marked as S-3. It's an
17 office memo, dated April 21, 1999, to Henry from Allen. So
18 I assume we're talking about the same parties. Then
19 there's one marked S-24, which is a February 16, 2000,
20 letter, to you from Mr. Sinclair.

21 MR. TRAFICANT: Yes.

22 THE COURT: Okay. Just a moment. I'll let
23 the Government respond.

24 MR. MORFORD: I would like to see those for a
25 moment. I don't think we have an objection. No objection,

1 your Honor.

2 THE COURT: Mr. Traficant, these will be
3 admitted.

4 MR. TRAFICANT: Further motion and order of
5 business at side bar.

6 THE COURT: Okay. The jury isn't present so
7 I think we can just go down where --

8 MR. TRAFICANT: That would be fine.

9 THE COURT: All right

10 (The following proceedings were held at side bar:)

11 MR. TRAFICANT: Now is the time to decide on
12 the issue of the hearsay motion that I submitted relative
13 to the January 6th taping of one Charles O'Nesti and
14 information gathered from same, and they intend now to use
15 witnesses supposedly who had conversation with Mr. O'Nesti,
16 and I clearly had stated in my motion under the hearsay act
17 that 402, I think (C) (3) deemed the statements to be
18 trustworthy because they were statements made against
19 interest. The document clearly states that Mr. O'Nesti
20 heard the fact, he's about ten days from death. Army
21 doctors were discussed. Medical emergencies and facilities
22 hospitals he could be placed into, and there was a whole
23 dialogue involving that. Now --

24 THE COURT: Let me go back to your original
25 statement where you made the request of the Court. I think

1 it was a request. You said now is the time for me to
2 admit -- tell me what it is, so I'm clear about it. It's a
3 tape that you have?

4 MR. TRAFICANT: No, for you to, in fact, rule
5 whether or not this hearsay evidence from this man who is
6 on his death bed and who's supposedly years ago had made
7 statements now being stated by people here should be
8 allowed admissible.

9 THE COURT: Okay.

10 MR. TRAFICANT: I believe they clearly fall
11 within the hearsay Rules of Evidence, and I believe it is
12 clearly prejudicial to the Defense to allow this.

13 THE COURT: Okay. So let me let the
14 Government respond.

15 MR. SMITH: Yes, your Honor.

16 THE COURT: To the request you're making of
17 the court.

18 MR. SMITH: After the custodian, who's on the
19 stand, gets done, the next witness will be Jacqueline
20 Bobby. Ms. Bobby is one of two witnesses who will testify,
21 if allowed by the Court, to statements admissible under 804
22 (B)(3)), statements against interest.

23 I want to make clear the Government is not going to
24 attempt to put into evidence the January 6th, 2000, tape
25 through Ms. Bobby's testimony or through Ms. Kavulic's

1 testimony either who will appear next week.

2 We are not putting the tape in through those two
3 witnesses. All we seek to elicit are the statements that
4 Mr. O'Nesti and Mr. DiBlasio made, some in the 19 -- as
5 early as the 1980's, and others throughout the early and
6 mid 1990's, well before the investigation began, well
7 before the January 6th, 2000, incident occurred.

8 So I want to make that distinction, your Honor, that
9 we do not seek through these two witnesses to elicit that
10 tape. We are simply seeking to elicit the testimony of
11 what the witnesses themselves heard, in the Congressman's
12 office as they were working with their co-employees, Mr.
13 DiBlasio and Mr. O'Nesti.

14 Further, your Honor, as part of the Government's
15 burden on this issue, we, of course, have to show that
16 these two witnesses, Mr. DiBlasio and Mr. O'Nesti, are not
17 available. The Court and Defendant have previously been
18 given in binders Exhibit 1-31 which, is a
19 self-authenticating death certificate of Charles O'Nesti,
20 and based upon the Congressman's statements at side bar
21 yesterday and other times, I believe he has no serious
22 objection with the factual proposition that Mr. Charles
23 O'Nesti is deceased.

24 Secondly, your Honor, we have given the Congressman a
25 copy of a letter dated February the 5, 2002, from Mr. James

1 M. Kersey, who is the attorney for Henry DiBlasio in
2 criminal case Number 1:02CR003, which is a case that is
3 pending before your Honor against Mr. DiBlasio. And
4 Mr. Kersey has informed the Government that his client will
5 refuse to testify on Fifth Amendment grounds and has sent
6 us a letter to that effect, which I would share with the
7 court at this time.

8 The Government, of course, since Mr. DiBlasio has
9 Sixth Amendment right to counsel and cannot contact Mr.
10 DiBlasio directly, the Government honored that Sixth
11 Amendment privilege of Mr. DiBlasio, and we contacted his
12 attorney to obtain his client's views and whether or not he
13 would testify.

14 MR. TRAFICANT: Mr. DiBlasio has not yet
15 taken the Fifth Amendment and still a possibility after my
16 conversation with counsel yesterday that they will be
17 reconsidering whether or not Mr. DiBlasio will be made
18 available for cross-examination, but that's not the issue
19 here. The issue --

20 THE COURT: They've taken you to a
21 different -- they're actually making a different response.

22 MR. TRAFICANT: Okay, okay.

23 THE COURT: To you. I think what they're
24 saying, we've got these two things we need to talk about,
25 and you've raised the issue that we need to talk about,

1 something that's related to these.

2 MR. TRAFICANT: Yes.

3 THE COURT: Okay.

4 MR. MORFORD: One other thing, your Honor, as
5 to the statements that Mr. O'Nesti made to Agent Pikunas as
6 in our original motion, we made it clear that is hearsay,
7 and that cannot be used to prove the truth of the matter
8 asserted. However, we also noted that to the extent that
9 Congressman Traficant puts the Government's state of mind
10 at issue in the case, that it can be admitted as evidence,
11 not to prove the truth of the matter asserted, but to show
12 the mental state of the Government, and I would note for
13 the Court that I don't want to raise that now, but that we
14 will file a supplemental motion on that.

15 There's a Sixth Circuit case that just came out this
16 week involving the Adventures Motorcycle Gang where the
17 Sixth Circuit approved that specific type of evidence and
18 that specific situation. We'll brief that with the court.

19 I don't want to get into that now, but I want to note
20 for purposes of clarity on the record so Congressman
21 Traficant is not confused by what we're saying, that while
22 we agree that the statements of O'Nesti on his death bed
23 are hearsay and we're not offering them for the truth of
24 the matter asserted and it's not an issue with regard to
25 the next witness or Ms. Kavulic, it may come up later. And

1 that's the only reason I mention it, not to litigate it at
2 this point but to make sure he understands that.

3 MR. TRAFICANT: Let me see what I understand.
4 First they say, they're not going to use any of those tapes
5 from the fruit basket ploy. Now they're saying they may
6 bring up an issue to even make that possible.

7 THE COURT: Well, actually, they did say that
8 in their responses going way back, more than once, I think.
9 They -- they made the point -- they made the point in the
10 papers they filed before we even started the trial, that it
11 wasn't their intent to call this person. They recognize
12 that there are hearsay issues. They're going forward now
13 to try and establish a foundation.

14 MR. TRAFICANT: Yes.

15 THE COURT: On two separate witnesses and two
16 separate circumstances. One of them -- let me deal with
17 the one with the letter from the attorney first. And that
18 is that I understand this is the letter, and I don't take
19 any issue with it, but this person would still have to come
20 forward and actually come into court. A letter is not
21 sufficient.

22 MR. MORFORD: Your Honor, most judges that
23 I've been before will usually have the witness in a voir
24 dire situation outside the jury's presence.

25 THE COURT: Right.

1 MR. MORFORD: Indicate whether they're going
2 to take the fifth. We would have no issue.

3 THE COURT: I guess what I need to say to
4 you, so that it's clear also to the Congressman, that the
5 letter itself is not sufficient, okay. So let's -- let's
6 leave this issue for now because they have to do more.

7 MR. TRAFICANT: Let's get to the issue that I
8 have at point. Let's say witness A comes in and says Jim
9 Traficant is a transvestite. That's their statement.

10 THE COURT: That's right.

11 MR. TRAFICANT: They can come in and say
12 anything. Mr. O'Nesti is dead, the Government clearly
13 shows from their correspondence and the documentation to
14 the court that they went to him January the 6, several
15 weeks before he died, they felt he was coherent, and they
16 had a distinct, willful, knowledgeable purpose to visit
17 him, and that was to, in fact, attain a statement to
18 further their case.

19 I believe under the Rules of Evidence, 401, 402, 403,
20 this business about making statements against favor, that
21 they're saying that's why I did not want to bring it in,
22 clearly required them, if they were to do that, knowing his
23 significance in this case, and he was near death, to allow
24 the Defendant at that time, who was the key target, an
25 opportunity to be present and to depose -- on these issues

1 now being salient to the case.

2 THE COURT: Congressman, I know this has
3 bothered you for quite awhile, and we talked about it
4 several times, not quite in this context, but about -- I
5 think it's important for you to also deal with the timing
6 of all of this. And I'm going to let the Government
7 respond to what you're now saying because this is an issue,
8 which has concerned you about whether or not the Government
9 is doing something unfair here or something that --

10 MR. TRAFICANT: Illegal.

11 THE COURT: -- ought not to allow. I was
12 going to say that, but you --

13 MR. TRAFICANT: You said unfair.

14 THE COURT: Well, that was --

15 MR. TRAFICANT: It's illegal.

16 THE COURT: That was the middle of my
17 sentence. If you interrupt me, it makes it difficult to
18 know what I was saying.

19 Would you like to respond just to this issue?

20 MR. MORFORD: Yes.

21 Your Honor, we understood Mr. O'Nesti had cancer.
22 Obviously, we had no idea when he would die, when he would
23 not die, just as with Mr. Williams who has cancer. We
24 don't know when he may or may not die. We have no way of
25 knowing that.

1 But under the rules of criminal procedure, we cannot
2 institute a deposition until there's a case. Mr. O'Nesti
3 died on February 29, 2000. This case was not indicted
4 until over a year and a half later.

5 THE COURT: That's the point, Congressman,
6 that although we've talked about it in orders and we've
7 actually ruled on this a couple different ways, that's the
8 point that you should also focus on because although you
9 may feel unfairness, there was no obligation on their part
10 until we actually had a lawsuit. So you're asking them to
11 have done something which they weren't in a position to do.

12 MR. TRAFICANT: Let me make my statement for
13 the record. I understand how you're going to rule now.
14 You've previously ruled, in which I'm going to object to in
15 advance knowing how you are going to rule.

16 The Government clearly knew that this was the
17 foundation of their case. They waited until the very last
18 minute with the fruit basket ploy to pigeon hole this
19 fellow and to get something they thought would even be more
20 incriminating, and furthermore, tried to say he was making
21 an interesting -- a statement against his own interest,
22 then at some particular point, they don't feel there was a
23 statement made against interest, and that, in fact, it
24 looked like he was trying to curry favors to not have to go
25 to a medical facility.

1 So what he said was not necessarily relevant. So all
2 of a sudden they take a different tact. Now they're taking
3 that Joe Blow was told by this individual, who is now dead,
4 and I have no opportunity to examine this person, but to
5 accept what somebody says is clearly hearsay from somebody
6 who is now deceased. I object to that, and furthermore,
7 the timing of this is insignificant.

8 Records will show, as early as 1996, they had a
9 strong investigation going where they had more than several
10 witnesses. They already discussed the Traficant case and
11 was clearly a target and focus of the Traficant matter,
12 five, six years before Mr. O'Nesti died. They could have
13 had at some particular point, and even at that point,
14 knowing that the Traficant case was clearly a target, and
15 after the Traficant matter had been -- records had been
16 subpoenaed, now goes to Mr. O'Nesti at the last minute and
17 puts in their language that their attorney, Mr. O'Nesti's
18 attorney, proves it because he got along so well with the
19 Government, and the agent appeared in a sympathetic manner
20 with a fruit basket, with a quotation that was even
21 purchased with his own money, as if the Government had no
22 knowledge.

23 Now, second of all, I get a notice as I said on
24 January 16th, after delay of the mail and all of this other
25 crap, but the point of the matter is clear that when Mr.

1 Pikunas went on January 6thth, he went in the direction of
2 the United States Attorney's Office. I have corroborated
3 that and will present evidence, but the problem is you're
4 allowing people to bring hearsay into this trial from dead
5 people that I have no opportunity to cross. And all I have
6 to do is be subject to any damn thing they might say.

7 MR. MORFORD: Your Honor, these aren't rules
8 that were created for Congressman Traficant's trial. These
9 rules apply to every single American in this country. And
10 all we're asking the Court to do is to apply the same rules
11 to this Congressman that the courts apply to every other
12 Defendant. The Rules of Evidence are clear. We've
13 addressed those rules. That's Number 1.

14 Number 2, this investigation did not start until the
15 fall of 1999 period.

16 Number 3 --

17 MR. TRAFICANT: That is your statement for
18 the record.

19 MR. MORFORD: Yes, it is.

20 MR. TRAFICANT: Fine.

21 MR. MORFORD: Number 3, regardless of the --
22 if the interview with Mr. O'Nesti had never been done, just
23 set that aside and assume for a moment that for the purpose
24 of this argument there was no further contact with
25 Mr. O'Nesti, that Mr. O'Nesti died before we ever had a

1 chance to talk to him, these statements would come in under
2 the Rules of Evidence and those later statements, and that
3 later interview has nothing to do with this issue
4 whatsoever.

5 MR. TRAFICANT: I believe that the matter of
6 hearsay under the rules of criminal evidence of hearsay do
7 apply. And I believe --

8 THE COURT: Well, they do apply in this case,
9 and we are applying them, and so we'll -- I'll rule on this
10 one consistently with what I've said before in terms of the
11 timing of this. We will accept the death certificate of
12 Mr. O'Nesti. On the other issue, we'll reserve every
13 ruling on that until somebody brings this gentleman before
14 us so that we can actually have an inquiry.

15 Now, as I understand it, we have continuing testimony
16 from bank witness who we recessed in the middle of
17 yesterday, and I'd like to go forward with that. At the
18 conclusion of that testimony, we may or may not be at a
19 place where we can take a break. Who are your next
20 witnesses so he knows?

21 MR. MORFORD: I told him this morning, Jackie
22 Bobby.

23 THE COURT: Okay, Jackie Bobby.

24 MR. MORFORD: She is actually in Florida for
25 this month. We brought her up yesterday.

1 THE COURT: Okay.

2 MR. MORFORD: She's here today. I think what
3 it sounds like we're going to have to do is bring Mr.
4 DiBlasio in Florida up on Tuesday, and what we'll probably
5 do is have to put on all of Ms. Bobby's testimony except
6 for that point and bring her back on Tuesday, I guess and
7 bring Mr. DiBlasio back on Tuesday.

8 THE COURT: The jury's only going to be here
9 until noon, but we -- we have to be here as long as it
10 takes today. So it may be that something like this issue
11 with Kersey's letter, Jim Kersey's letter could be resolved
12 this afternoon if you bring somebody over this afternoon.
13 I don't know, but we -- we should be in --

14 MR. MORFORD: The problem is, if we have to
15 bring Mr. DiBlasio in, he's in Florida, we're going to have
16 to fly him up to do this or do it by teleconference.

17 THE COURT: No, you need to bring the witness
18 up.

19 MR. MORFORD: That's what I thought, so we
20 would have to complete this witness' testimony and bring
21 this witness back on Tuesday and have Mr. DiBlasio here
22 before she completes her testimony, I guess.

23 THE COURT: Okay. All right. Well, let's go
24 with the bank witness, and then we'll stop after the bank
25 witness and see where we are with the day.

1 MR. MORFORD: Okay.

2 MR. TRAFICANT: So you have yet to rule on
3 their motion to allow this witness, or you are going to
4 rule?

5 THE COURT: Which witness?

6 MR. TRAFICANT: Jacqueline Bobby, you're
7 going to allow them to bring this witness, that's your
8 decision?

9 THE COURT: There hasn't been any objection
10 to bringing Jackie Bobby.

11 MR. TRAFICANT: I have objected to it.

12 THE COURT: You're objecting I think to a
13 part of her testimony.

14 MR. TRAFICANT: I'm objecting to her being a
15 witness relative to anything stated by Mr. O'Nesti.

16 THE COURT: Okay. Well, that may be part of
17 her testimony. I assume they're bringing her up for other
18 things as well; is that right?

19 MR. MORFORD: Yes.

20 THE COURT: Okay. So she's here to testify.

21 MR. TRAFICANT: But are we here to say her
22 statements relative to Mr. O'Nesti would not be admissible,
23 is that what you're ruling or not?

24 THE COURT: That's what we're going to take a
25 break for after we hear the bank witness, and we'll deal

1 with that, and if we can, with anything from Kersey.

2 MR. MORFORD: Your Honor, I think based on
3 your prior ruling, there is some foundation that will have
4 to be set by Ms. Bobby regarding --

5 THE COURT: That's right.

6 MR. MORFORD: The circumstantial guarantees
7 of trustworthiness issue, I don't think the Court would be
8 able to make that determination until you've heard that
9 portion of Mrs. Bobby's testimony. What I don't know is if
10 the Court wants to do a voir dire on that issue outside the
11 presence of the jury or just go ahead and have it in front
12 of the jury, then take a break, and address the issue,
13 however the Court wants to do it.

14 THE COURT: All right. But she's here?

15 MR. MORFORD: Yes, she is.

16 THE COURT: So we can do either one.

17 MR. TRAFICANT: I object. Once you do it in
18 front of the jury, it's entertained it, and the purpose of
19 whether it's ruled yes or no, the jury's already had the
20 benefit of hearing the damaging remarks.

21 THE COURT: You're talking about one segment
22 of testimony.

23 MR. TRAFICANT: I object to her testimony,
24 which is hearsay relative to anything she heard from either
25 Henry DiBlasio or Charles O'Nesti period.

1 MR. MORFORD: And, your Honor, that's why I
2 suggested we put on a voir dire outside the presence of the
3 jury on that issue.

4 THE COURT: That's right.

5 MR. TRAFICANT: I believe we're supposed to
6 close at noon.

7 THE COURT: The jury goes home at noon, sir.

8 MR. TRAFICANT: Yes, but I believe the jury
9 goes home at noon, and I'm able to stay until 7:00, but the
10 point is, I object to any testimony being offered in front
11 of a jury relative to anything said by either Henry
12 DiBlasio or Chuck O'Nesti to any of my staff.

13 THE COURT: I think we all understand that.
14 Okay? Thank you.

15 MR. TRAFICANT: Thank you.

16 (Proceedings resumed in the presence of the jury:)

17 THE COURT: Good morning.

18 THE JURY: Good morning.

19 THE COURT: Good morning.

20 THE WITNESS: Good morning.

21 THE COURT: You're still under oath.
22
23
24
25

Davies - Direct/Smith

1 DIRECT EXAMINATION OF MELINDA M. DAVIES (cont.)

2 BY MR. SMITH:

3 Q. Ms. Davies, when we broke yesterday, were we
4 examining in Government's Exhibit 124, a series of checks
5 to Henry DiBlasio, a particular check dated July 31st of
6 1996? You have that before you?

7 A. Yes, I do.

8 Q. All right.

9 And from any markings on that particular check, are
10 you able to determine whether that was negotiated by Home
11 Savings and Loan?

12 A. It was negotiated by Savings and Loan.

13 THE COURT: Can everyone hear this witness?

14 THE JURY: Yes.

15 THE COURT: Okay. Thank you.

16 Q. Would you keep your voice up, please?

17 A. Yes.

18 Q. And where are those markings up on this particular
19 check?

20 A. On the back of the check.

21 Q. And can you tell from those markings on what date the
22 check was negotiated by your bank?

23 A. July 31, 1996.

24 Q. Now, if you would turn in conjunction with that
25 exhibit to Exhibit 1-28(2) on the counter before you, what

Davies - Direct/Smith

1 is that particular document?

2 A. This is a checking account statement for H. A.
3 DiBlasio, and the time period is July 25th, 1996, through
4 August 23, 1996.

5 Q. Does this bank statement, Government's Exhibit
6 1-28(2), cover the time period in which the check of July
7 31, 1996, in Government's Exhibit 1-24, was negotiated?

8 A. Yes, it does.

9 Q. Now, may I use the overhead, your Honor?

10 THE COURT: Yes.

11 BY MR. SMITH:

12 Q. Showing you Government's Exhibit 1-28.2 -- we'll
13 continue on while it warms up -- are you able to determine
14 from Exhibit 1-28.2 whether the check negotiated on July
15 the 31 of 1996 in Government's Exhibit 1-24, was deposited
16 on the day that it was negotiated?

17 A. It was not.

18 Q. All right. And from Exhibit 1-28-2, tell us how you
19 were able to determine that.

20 A. There is no deposit for July 31, 1996, upon that
21 checking account statement.

22 Q. On that checking account statement, which is
23 Government's Exhibit 1-28.2, is there a deposit on July the
24 30th of 1996, the day before?

25 A. Yes, sir.

Davies - Direct/Smith

1 Q. And what is the amount of that particular deposit?

2 A. \$5,178.

3 Q. Now, turning to Page 3 --

4 MR. TRAFICANT: Excuse me, what Check Number
5 was that? For \$5,178?

6 MR. SMITH: I have not asked that question,
7 your Honor.

8 MR. TRAFICANT: Okay.

9 THE COURT: Please don't ask the question in
10 the middle of his examination.

11 MR. TRAFICANT: Thank you.

12 THE COURT: Thank you.

13 Q. On Page 3 of the Exhibit 1-28.2, is there a deposit
14 item corresponding to that July 30, 1996, deposit of
15 \$5,178?

16 A. Yes, sir.

17 Q. And is that item on Page 3 also a record of your bank
18 maintained in the ordinary course of business?

19 A. Yes, it is.

20 Q. And am I displaying on the overhead that particular
21 deposit item?

22 A. Yes.

23 Q. All right. And what is that deposit item?

24 A. It's a check from the auditor of the State of Ohio
25 for \$5,178, payable to Henry A. and Norma O. DiBlasio.

Davies - Direct/Smith

1 Q. Based upon the three pages of Government's Exhibit
2 1-28.2 and the check dated July the 31st of 1996 in
3 Government's Exhibit 1-24, are you able to determine
4 whether the check bearing the date of July 31, 1996, was
5 any part that have July 30th deposit?

6 A. It was not a part of that July 31 -- July 30th
7 deposit.

8 Q. Directing your attention next in that series of
9 checks constituting Government's Exhibit 1-24, would you
10 please find a check dated October the 31, 1996. It should
11 be at the bottom of the same page we were just looking at.
12 Do you have that before you?

13 A. Yes, I do.

14 Q. And are you able to determine whether or not that
15 check was negotiated by Home Savings?

16 A. Yes, it was.

17 Q. And where are the markings that so indicate?

18 A. On the back of the check.

19 Q. On what date was that particular check negotiated?

20 A. November 2, 1996.

21 Q. Showing you Government's Exhibit 1-28.3 on the
22 counter before you, do you recognize that document?

23 A. Yes, I do. It's a copy of a checking account
24 statement for H. A. DiBlasio.

25 Q. And what period does it cover?

Davies - Direct/Smith

- 1 A. It covers a time period from October 25, 1996,
- 2 through November 25, 1996.
- 3 Q. Does that checking account or statement cover the
- 4 time period during which the -- October 31, 1996, check was
- 5 negotiated?
- 6 A. Yes, sir, it does.
- 7 Q. Directing your attention to that checking account
- 8 statement, is there, in fact, a deposit of the check dated
- 9 October 31, 1996, reflected on that checking account
- 10 statement?
- 11 A. No, sir, I don't see that deposit.
- 12 Q. All right.
- 13 If you would please note on Exhibit 1-24 the check
- 14 dated 10-31-96, what is the amount of the check?
- 15 A. \$4,20.41.
- 16 Q. That check was negotiated on what date?
- 17 A. On November 2.
- 18 Q. Now, if you'll look at the Exhibit 1-28.3, a
- 19 statement, is there a deposit on November the 2nd?
- 20 A. Yes.
- 21 Q. And what is the amount?
- 22 A. \$4,200.41.
- 23 Q. Does that amount match exactly the amount on the
- 24 check, which bears the date of October 31, 1996?
- 25 A. Yes, sir, it does.

Davies - Direct/Smith

- 1 Q. Now, if you'd go to the next entry on the checking
- 2 account statement, Government's Exhibit 1-28.3, is there a
- 3 check drawn on the account two days later on November the
- 4 4th?
- 5 A. Yes, sir, there is.
- 6 Q. In the amount of what?
- 7 A. \$1,000 even.
- 8 Q. And turning to the last page of Government's Exhibit
- 9 1-28.3, do you have that before you?
- 10 A. Yes, I do.
- 11 Q. And what is that item?
- 12 A. It's a copy of check Number 852 for \$1,000.
- 13 Q. And is that a photocopy of the check that was drawn
- 14 on the account, which is reflected as on the statement
- 15 that's being the November the 4th check?
- 16 A. Yes, sir, it is.
- 17 Q. Based upon the statement that you have in Exhibit
- 18 1-28.3 and the corresponding \$1,000 check, would you please
- 19 describe for the jury what happened in that transaction,
- 20 from the paperwork?
- 21 A. From the paperwork, this check was cashed by H. A.
- 22 DiBlasio, and it's in the amount of \$1,000.
- 23 Q. Who was the check made out to?
- 24 A. That's difficult to read on this copy.
- 25 Q. Are you unable to read it?

Davies - Direct/Smith

- 1 A. I'm unable to read it.
- 2 Q. Moving on to Government's Exhibit 1-24, if you could
- 3 find in the pile, the check dated November the 29th, 1996,
- 4 do you have that before you?
- 5 A. Yes, I do.
- 6 Q. And from the markings on the check, are you able to
- 7 determine whether or not it was negotiated by Home Savings?
- 8 A. It was negotiated at Home Savings.
- 9 Q. And what date was it negotiated on, I'm sorry?
- 10 A. December 2, 1996.
- 11 Q. And directing your attention to Exhibit 1-28(4), do
- 12 you recognize that evidence?
- 13 A. Yes, it's a copy of the checking account statement
- 14 for H. A. DiBlasio.
- 15 Q. And what time period does it cover?
- 16 A. November 25, 1996, through December 24, 1996.
- 17 Q. Does this statement cover the time period during
- 18 which the November 29, 1996 check was negotiated?
- 19 A. Yes, sir, it does.
- 20 Q. Does the checking account statement, Exhibit 1-28.4,
- 21 reflect any deposit on December the 12 of 1996 -- excuse
- 22 me, November the -- withdrawn.
- 23 Does the checking account statement 1-28.4 reflect
- 24 any deposit on the date December the 2nd, 1996?
- 25 A. No, sir, it does not.

Davies - Direct/Smith

1 Q. Were the proceeds of the November 29, 1996 check,
2 deposited into the account on the date it was negotiated?

3 A. No, sir.

4 Q. Moving on to Government's Exhibit 1-24, and if you
5 will find a check dated December the 20 of 1996, from
6 markings on that check, are you able to determine whether
7 or not it was negotiated by Home Savings?

8 A. Yes, sir, it was.

9 Q. And on what date was that check negotiated?

10 A. January 8th, 1997.

11 Q. Directing your attention to Government's Exhibit
12 1-28.5 on the counter before you, do you recognize that
13 document?

14 A. Yes, it's copy of the checking account statement for
15 H. A. DiBlasio.

16 Q. And what is the time period covered by that
17 statement?

18 A. December 24, 1996, through January 24, 1997.

19 Q. Now, first of all, going back to the check dated
20 December the 20th, 1996, in Government's Exhibit 1-24, what
21 is the amount of that check?

22 A. \$4,367.84.

23 Q. Are there any deposits to the account on January the
24 8th, 1997, the date that particular check was negotiated?

25 A. Yes, sir.

Davies - Direct/Smith

1 Q. All right. And what is the amount of that deposit?

2 A. \$2,147 even.

3 Q. All right.

4 And from the other documents that are part of
5 Government's Exhibit 1-28.5, are you able to determine what
6 the deposit items were that composed that January 8, 1997,
7 deposit?

8 A. Yes, sir, I am.

9 Q. All right. Would you please describe what those
10 deposit items were that comprised the January 8, 1997,
11 deposit?

12 A. There were three separate checks. The one amount was
13 for \$1,750, a second check was for \$125, and a third check
14 was for \$272, those three added together total \$2,147.

15 Q. Now, in Government's Exhibit 124, that check dated
16 December the 20, 1996, the back of that check indicates
17 that it was also negotiated on January 8, 1997; is that
18 correct?

19 A. That's correct.

20 Q. From the documentation you have, are you able to
21 determine whether the December 20, 1996, payroll to Henry
22 DiBlasio was at any part the deposit reflected on
23 Government's Exhibit 1-28.5 on January 8th?

24 A. It was not any part of that deposit.

25 Q. Or it was the three other items constitute that

Davies - Direct/Smith

- 1 deposit?
- 2 A. That's correct.
- 3 Q. So were the proceeds of December 20, 1996, check, in
- 4 Government's Exhibit 1-24, were the proceeds of that check
- 5 deposited at the time it was negotiated?
- 6 A. No, sir.
- 7 Q. Finally, turning to Government's Exhibit 1-24, a
- 8 check dated August the 31st of 1998, you'll have to come
- 9 forward several pages in your exhibit.
- 10 Do you have that check before you?
- 11 A. Yes, I do.
- 12 Q. Are you able to determine from markings on that
- 13 check, whether or not it was negotiated by Home Savings?
- 14 A. Yes, it was.
- 15 Q. And on what date was it negotiated?
- 16 A. On September 1st, 1998.
- 17 Q. Directing your attention to Government's Exhibit
- 18 1-28(6), do you recognize that item?
- 19 A. Yes, it's a copy of a checking account statement for
- 20 H. A. DiBlasio.
- 21 Q. And what time period does it cover?
- 22 A. It covers the time period August 25, 1998, through
- 23 September 25th, 1998.
- 24 Q. Does that statement cover the time period during
- 25 which the August 31, 1998, check was negotiated?

Davies - Cross

1 A. Yes, sir, it does.

2 Q. Looking at that statement, are you able to determine
3 whether the proceeds of the August 31, 1998, check were
4 deposited to the account at the time that the check was
5 negotiated?

6 A. They were not deposited.

7 Q. And how can you tell?

8 A. There was no deposit during this time frame on his
9 account.

10 Q. What time frame are you talking about?

11 A. August 25 through September 25th, 1998.

12 Q. So were there any deposits at all to the account that
13 entire month?

14 A. No, sir.

15 MR. SMITH: May we have a moment, your Honor?
16 No further questions, your Honor.

17 THE COURT: Congressman, you can inquire.

18 MR. TRAFICANT: Good morning.

19 THE WITNESS: Good morning.

20 CROSS-EXAMINATION OF MELINDA M. DAVIES

21 BY MR. TRAFICANT:

22 Q. And you are Melinda Davies?

23 A. That's correct.

24 Q. You work for the Home Savings and Loan?

25 A. That's correct.

Davies - Cross

- 1 Q. What branch of Home Savings Loan do you work for?
- 2 A. I work at the main office.
- 3 Q. And where is that located?
- 4 A. In downtown Youngstown.
- 5 Q. Do you know if I have an account with Home Savings
- 6 and Loan?
- 7 A. I'm not aware of that, sir.
- 8 Q. Have you ever seen me in the Home Savings and Loan
- 9 building?
- 10 A. No, sir.
- 11 Q. Do you know if Mr. DiBlasio has any other banking
- 12 accounts anywhere else?
- 13 A. I'm aware of the accounts at Home Savings. And I am
- 14 not -- I don't know of other accounts.
- 15 Q. And your testimony is that he just cashed his checks,
- 16 he didn't just deposit them, is that your testimony?
- 17 A. My testimony is that he cashed checks, and he
- 18 maintained an account at Home Savings, yes, sir.
- 19 Q. Yes, but instead of depositing these checks, he
- 20 basically cashed them and took cash, is that what you're
- 21 saying?
- 22 A. That's correct.
- 23 Q. And what was the usual amount of those checks?
- 24 A. They appear to range from about \$3,800 to \$5,000.
- 25 Q. Okay.

Davies - Cross

1 Now, I had a question mark here and things were going
2 so fast I wasn't quite sure. They talked to you about
3 three checks that were made out, had signatures on them,
4 and hard to read. You said they were hard to read.

5 Do you know who those signatures were, to the best of
6 your knowledge, in trying to now figure them out?

7 A. There were three checks that were deposited at one
8 point in time to his account. I can pull those out and
9 look at those.

10 Q. Would you please?

11 A. I have them in front of me.

12 Q. And?

13 A. They are three separate checks. One check is from
14 drawn on the Mahoning National Bank, the maker is Anthony
15 Vivo, Clerk of Courts. That particular check was for
16 \$1,750, and it was payable to Henry A. DiBlasio.

17 Q. Okay.

18 A. The second check is written on the cash -- cash
19 resource trust, on an account of Henry A. and Norma
20 DiBlasio. That particular check was for -- that particular
21 check is the \$1,750 check.

22 The third check is difficult to read. The copy is
23 very difficult to read. I can't make out who the maker of
24 the check is.

25 Q. What was the --

Davies - Cross

1 A. Endorsed by H. A. DiBlasio.

2 Q. Everything endorsed by him and deposited.

3 You have any record of a \$3,000 cashier check --
4 first of all, do you know who I am?

5 A. Yes, sir, Congressman Traficant.

6 Q. Did you vote for me?

7 MR. SMITH: Objection.

8 MR. TRAFICANT: I apologize.

9 THE COURT: Thank you.

10 BY MR. TRAFICANT:

11 Q. I wish you did, but anyway, did you have -- or did
12 Mr. DiBlasio cash a cashier check made out in the amount of
13 \$3,000, paid to him by Jim Traficant?

14 A. I have no knowledge of his checks, sir.

15 Q. Could you, in fact, inquire and look into your
16 records and report back to the Court if, in fact, the
17 cashier check notice amount of \$3,000, paid to Henry
18 DiBlasio, by Jim Traficant was ever deposited or in fact
19 cashed?

20 MR. SMITH: I'll object.

21 THE COURT: This is cross-examination. This
22 is the time to do something that a person or a lawyer can
23 do in a regular court. It's nothing to prevent the
24 Defendant from calling this witness or from subpoenaing her
25 for some reasons in his own case if he wishes to.

Davies - Cross

1 MR. TRAFICANT: I can reserve --

2 THE COURT: He cannot direct her to do
3 something in front of the court.

4 MR. TRAFICANT: Then I could ask the
5 Defendant --

6 THE COURT: No, we will do this, -- talk
7 about it at the break if you want me to clarify what your
8 understanding may be or what your you're concerned about in
9 terms of the Rules of Evidence or something. We'll handle
10 those during the break. Let's go forward with the
11 testimony of this witness now.

12 MR. TRAFICANT: Okay.

13 THE COURT: Thank you.

14 BY MR. TRAFICANT:

15 Q. Are there other individuals who cash their checks at
16 your bank?

17 A. Yes, sir.

18 MR. TRAFICANT: No further questions. Thank
19 you.

20 MR. SMITH: No redirect.

21 THE COURT: Thank you. You're excused.

22 MR. TRAFICANT: I would request a side bar
23 before the next witness, please.

24 THE COURT: Okay.

25 THE COURT: She can come up. If you'll take

1 the stand, we have a request for a side bar so it'll be
2 just a few minutes. You need to sit up here as well. Just
3 have a seat. Thank you.

4 (The following proceedings were held at side bar:)

5 MR. TRAFICANT: Number 1, I would request of
6 my staff member Donnette Palmer be removed and not hear the
7 testimony of her witness.

8 THE COURT: You just tell her to leave.

9 MR. TRAFICANT: Yes, I want it placed upon
10 the record.

11 THE COURT: Okay.

12 MR. TRAFICANT: And second of all, I want to
13 reaffirm my objection to this individual testifying.

14 THE COURT: Okay.

15 MR. TRAFICANT: On anything relevant to
16 statements of Mr. DiBlasio or Mr. O'Nesti.

17 THE COURT: All right.

18 MR. MORFORD: May I inquire on the record as
19 to why he needs to remove something for a particular
20 witness' testimony when they've been here through other
21 witness' testimony?

22 MR. TRAFICANT: I can respond.

23 THE COURT: Because he wants to do that, he
24 wants to remove his own staff people from the courtroom.

25 MR. TRAFICANT: I'd like to respond. The

1 other testimony that was in this case was not relevant or
2 had nothing to do with the knowledge of a staff member.
3 This staff member may have --

4 THE COURT: Look at the ceiling. Don't
5 listen, okay.

6 (Laughter.)

7 MR. TRAFICANT: This staff member may have
8 specific knowledge and may be called as a witness to
9 testimony given and do not want her to hear such testimony.

10 THE COURT: That's your decision about
11 whether you take her out or not. Let me just let him
12 respond now, and we'll try and get this straight at lunch,
13 this business about who's in and who's out of the
14 courtroom. Go ahead, but you can have her go.

15 MR. TRAFICANT: But the reason was, she may
16 be called as a witness in reference to something this
17 witness may, in fact, testify to.

18 THE COURT: Okay.

19 MR. TRAFICANT: And I do not want the Court
20 to say, well, she had listened to the testimony, therefore,
21 she -- she has made such statements just notifying the
22 Court I'm going to remove her.

23 THE COURT: Thank you.

24 MR. MORFORD: The reason I asked the question
25 is Congressman Traficant moved to sequester all witnesses

1 inside this case in response to his motion. We requested
2 permission to have two case agents present during the
3 trial, he did not object. That's why they were in this
4 courtroom. Yesterday, he admitted on the record that one
5 of his witnesses he intends to call was in the downstairs
6 room watching.

7 MR. TRAFICANT: No, I didn't admit to that.
8 I didn't know they were, if they were at all.

9 MR. MORFORD: Okay. Well, and we made a
10 point that he needs to inform his employees. Now, he has
11 known this was someone we might call, and he's had her in
12 the courtroom throughout the trial, even though it was his
13 motion to sequester witnesses. He refused to provide the
14 Court with a list of names that could be read to the jury
15 to see if they might recognize any of those people. And
16 the Court allowed him to do that because he didn't want to
17 show his defense. But he has moved.

18 MR. TRAFICANT: I object to that.

19 MR. MORFORD: I'm talking. He has moved to
20 keep all witnesses that are going to testify in this case
21 from hearing any testimony, his motion, we did not object,
22 and now he has violated his own request of the ruling the
23 Court gave him, and I just want it on the record, and I
24 want him to police any witnesses as we have no idea who
25 they are. He has a duty because it's his motion to keep

1 his witnesses out of this trial because it's his motion.

2 MR. TRAFICANT: Your Honor, the witness that
3 was in here had at that particular time no relevant
4 information on anybody to offer.

5 THE COURT: Who is that so I know who it is?

6 MR. TRAFICANT: Donnette Palmer. Now, what I
7 am --

8 THE COURT: This is your secretary or staff
9 member?

10 MR. TRAFICANT: One of my staff assistants,
11 but now there is a situation where she could be called
12 relative to certain statements that would be made, and I
13 am notifying the Court of such.

14 THE COURT: Well, good, and you're removing
15 her.

16 MR. TRAFICANT: I'm going to remove her.

17 THE COURT: Fine.

18 MR. TRAFICANT: Yes, but I also want to place
19 on the record that I have two people of my staff that
20 delivered pictures to me yesterday that I did not use
21 yesterday, and now I did not instruct them to go
22 downstairs, and I'm under no impression they were
23 downstairs, and if they were, they were not to be there,
24 and I will notify my staff they should not do it, but --

25 THE COURT: Well, if you're going to call

1 them -- if you're going to call them as witnesses, that's
2 the point.

3 MR. TRAFICANT: Let me say this.

4 THE COURT: None of us know who you're going
5 to call except you.

6 MR. TRAFICANT: I objected to having a
7 closed-circuit video in the first place. I was the man
8 that objected to this because it opened up that process, I
9 didn't want it.

10 THE COURT: It is an open process, we have an
11 open court. It's to protect the Defendant as well as the
12 Government.

13 MR. TRAFICANT: Now it becomes problematic
14 where one can accuse someone of having the FBI sitting down
15 there, I don't know who they are, so I couldn't identify
16 them.

17 MR. MORFORD: My point here, your Honor, is
18 if he moves to sequester witnesses, you have a duty to tell
19 anyone who you might potentially call to stay out of the
20 trial and to stay out of that room. It's not hard to do.
21 He knows who his staff members are, and he has a pretty
22 good idea who he is a going to call based on questions he
23 has asked and opening statement.

24 All we're asking him to do is to tell anybody that's
25 a potential witness of his that they cannot sit in the

1 trial, or he needs to remove his motion to sequester
2 witnesses.

3 MR. TRAFICANT: You're assuming that I did
4 not do that, and you're, in fact, accusing me that I have
5 not done that.

6 MR. MORFORD: Did you do that?

7 MR. TRAFICANT: I object to that.

8 MR. MORFORD: Did you?

9 MR. TRAFICANT: No. I have notified him.
10 Yes, they should not come into the trial. I don't know if
11 I said don't go downstairs, I never thought about
12 downstairs, quite frankly, but I said do not come into the
13 trial. You can't come into this trial.

14 THE COURT: Well, you'll need to tell them
15 then about the overflow room. Okay. Tell them.

16 MR. TRAFICANT: Yeah, but I, once again,
17 raise an objection to the overflow room.

18 THE COURT: I know -- I know.

19 MR. TRAFICANT: There are more than enough
20 seats here, your Honor, to accommodate any interest in this
21 jury and in this trial, and I think you should eliminate
22 that, and let's save us from that.

23 THE COURT: Well, actually, there are a lot
24 of people using the overflow court room for different
25 reasons. They can leave when they want to, they can be

Bobby - Direct

1 more relaxed down there, and so both the public and the --

2 MR. TRAFICANT: With that, I'm going to
3 remove Donnette. I want to let you know the reason why,
4 and that I have.

5 THE COURT: All right. Thank you.

6 (Proceedings resumed within the hearing of the jury:)

7 THE COURT: I need to swear the witness.
8 Would you raise your right hand?

9 JACQUELINE M. BOBBY,
10 of lawful age, a witness called by the Government,
11 being first duly sworn, was examined
12 and testified as follows:

13 DIRECT EXAMINATION OF JACQUELINE M. BOBBY

14 BY MR. SMITH:

15 Q. Ma'am, would you please state your full name spelling
16 your last name for the Court Reporter?

17 A. Jacqueline M. Bobby, B-O-B-B-Y.

18 Q. What city do you currently reside?

19 A. Poland, Ohio.

20 Q. Where is that at?

21 A. It's south of Youngstown.

22 Q. How far?

23 A. Five miles.

24 Q. Ma'am, did you ever work at the Mahoning County
25 Sheriff's Office?

Bobby - Direct

- 1 A. Yes, I did.
- 2 Q. And what years did you work at the Mahoning County
3 Sheriff's Office?
- 4 A. 1981 to 1984.
- 5 Q. And who was the sheriff during the time period you
6 worked there?
- 7 A. Jim Traficant.
- 8 Q. How did you initially meet Congressman Traficant?
- 9 A. I met him through a friend of mine. I was asked to
10 come to a campaign meeting and consequently got involved as
11 politics at that point.
- 12 Q. And who hired you in the Sheriff's Office?
- 13 A. Jim Traficant.
- 14 Q. What were your duties at the Sheriff's Office?
- 15 A. I was the office manager, which included, you know,
16 managing the office, of the mail, taking care of the office
17 equipment, taking care of logging time for the employees.
- 18 Q. In 1985, did your employment change?
- 19 A. Yes, I was employed by Congressman Jim Traficant.
- 20 Q. After he was elected?
- 21 A. Yes.
- 22 Q. And how long were you on Congressman Traficant's
23 staff?
- 24 A. Until May, 1998, yes.
- 25 Q. And what duties did you perform at Congressman's

Bobby - Direct

1 office from 1985 until 1998?

2 A. I was the office manager there as well, which
3 involved again taking care of the office equipment,
4 maintaining it, opening the incoming mail, distributing
5 mail and case work to the employees. I also was involved
6 with typing outgoing mail for the employees and myself.

7 I was in charge of the nominations for the academy.
8 I was to take care of the congressional art contest,
9 employee records, vacation time, sick time.

10 Q. You mentioned academies. Will you explain more to
11 the jury what you mean by that.

12 A. The -- service academies for the United States and
13 Naval Academy, West Point, they had not -- the Congressman
14 was allowed to appoint so many students per year to
15 compete, to enter this academy, so we had a committee that
16 I was in charge of that we interviewed students prior to
17 them being accepted at the academies.

18 Q. Were you involved at all in constituent service
19 matters as part of your duties?

20 A. Yes.

21 Q. Would you tell us what that was.

22 A. Constituent service is -- well, any federal
23 government agency that people were having problems with,
24 say social security, if the checks were lost, they couldn't
25 get the right amount of benefits for that month, they would

Bobby - Direct

1 contact us. The IRS, if they were having problems with
2 their tax return or not getting a tax return, the Veteran's
3 Administration, Government loans, student loans, any agency
4 of the federal government, we were liaison between the
5 people in the district and the federal government agencies.

6 Q. How much of that type of work did the district office
7 in Mahoning County do, typical week?

8 A. The district office?

9 Q. Right.

10 A. Probably about 90 percent of it, because the -- the
11 constituents were in the district, and it was an
12 understanding that Washington took care of legislation, and
13 the district offices took care of constituent concerns.

14 Q. During the time you worked for Congressman Traficant
15 at his constitutional office, where was his residence at?

16 A. His residence was in Poland, Ohio.

17 Q. And was there any other real estate which you
18 associated with the Congressman Traficant during that time
19 period?

20 A. Okay. He had -- he owned, I believe, a farm out in
21 Greenford.

22 Q. Where is Greenford located to Youngstown?

23 A. Also south of Youngstown. It's a farm area probably
24 about ten miles from the city, 15 miles from the city of
25 Youngstown.

Bobby - Direct

- 1 Q. During the time you worked for Congressman Traficant,
2 does the telephone number Area Code 202-225-5261 mean
3 anything to you?
- 4 A. Yes, that was his Washington, D.C. office.
- 5 Q. His D.C. office?
- 6 A. Traficant, Congressman Traficant's office.
- 7 Q. Did the telephone Number 330-743-1914 mean anything
8 during the time you worked for him?
- 9 A. That was the downtown Youngstown congressional
10 office.
- 11 Q. Did the telephone Number 330-757-8891 mean anything?
- 12 A. I think that was the Congressman's personal
13 residence.
- 14 Q. And the telephone Number 330-533-0959?
- 15 A. I believes that was the farm out in Greenford.
- 16 Q. All right.
- 17 When you started working for the Congressman in 1985,
18 at which office location did you work?
- 19 A. Overhill Road in Boardman.
- 20 Q. And how far is that office from downtown Youngstown,
21 approximately?
- 22 A. Two to three miles.
- 23 Q. How many story building is this building on Overhill?
- 24 A. On Overhill?
- 25 Q. Yeah.

Bobby - Direct

1 A. Two floors, it's a basement floor and a main floor.

2 Q. Would you describe the layout of this building,
3 starting at the bottom floor and the upper floor?

4 A. We came in in the door, you could either go up a set
5 of stairs, on to the main floor, or down a set to the
6 basement area. The bottom floor, cellar floor.

7 Q. What was on the bottom?

8 A. Congressional office was on the bottom floor. You
9 walk in, and there was a little hallway a waiting room,
10 about three offices, and if you would go upstairs, the
11 Attorney's offices were above the congressional office.

12 Q. All right. Whose Attorney's Office are you talking
13 about?

14 A. Attorney DiBlasio, and there were a couple partners
15 in with him at various times.

16 Q. Anybody else from that office up on the second floor?

17 A. In with --

18 Q. No, any other offices?

19 A. Congressman had an office, and in the rear part of
20 the second floor, attorney office space.

21 THE COURT: Let me just interrupt for a moment
22 and say that we just had an occasion where two people were
23 talking at one time, and as you can imagine, it's very hard
24 for the reporters to put down two conversations at once.
25 So I want to ask everybody who's talking here, also it's

Bobby - Direct

1 harder for the jury to understand when there are two voices
2 talking alternate one time, so let's just slow down.

3 MR. SMITH: I apologize, that was my fault.

4 THE COURT: Thank you.

5 Q. What was below that -- that second floor offices of
6 Congressman Traficant's?

7 A. A garage.

8 Q. And who had parking privileges in that garage?

9 A. Attorney DiBlasio and Congressman Traficant.

10 Q. Was there any security or locks on Congressman
11 Traficant's second floor office?

12 A. Yes.

13 Q. Who had the keys to that office?

14 A. Congressman Traficant.

15 Q. Did you or any of the staff members down in the lower
16 floor have the keys to that office?

17 A. Not that I'm aware of.

18 MR. TRAFICANT: I didn't hear that answer.

19 THE WITNESS: No, not that I'm aware of.

20 Q. As part of his duties, was it necessary for
21 Congressman Traficant to travel out of state?

22 A. Yes, to Washington.

23 Q. Where did he go?

24 A. Washington.

25 Q. How often?

Bobby - Direct

1 A. When the House was in session, he travelled there
2 weekly, back and forth.

3 Q. Were any other employees required to travel from
4 Youngstown to the Washington D.C. office during the time
5 that you worked for the Congressman?

6 A. At the very beginning, it was Chuck O'Nesti and Henry
7 DiBlasio's job. They were going back and forth with him.
8 It was their responsibility.

9 Q. At the 11 Overhill office, what were the procedures
10 for exchanging or giving mail to the Congressman that he'd
11 get?

12 A. His -- when we needed to give him mail because he was
13 not there every week, we would put it in a yellow
14 congressional envelope, manila envelope, and put it
15 upstairs in his -- there was like a doorway, there was one
16 door that was not locked, a little hallway area, and then a
17 locked door. We would leave it there in the -- between the
18 two door ways.

19 Q. When Congressman Traficant was in the district, did
20 you ever have need to contact him when he was not at the
21 office?

22 A. Yes.

23 Q. And where were places you would typically contact him
24 at?

25 A. At his home or at his farm.

Bobby - Direct

1 Q. And how would you do that? How would you contact
2 him?

3 A. We would call him on the telephone.

4 Q. Did there come a time when your congressional office
5 at Overhill Road moved?

6 A. Yes, we moved down to the city of Youngstown in the
7 Federal Building.

8 Q. And if you would direct your attention to
9 Government's Exhibit 1-13 on the counter before you, do you
10 recognize that item?

11 A. Yes.

12 Q. What is it?

13 A. It's a memo that I sent to him, Mr. DiBlasio, prior
14 to our move to the Federal Building downtown.

15 Q. When did this move occur?

16 A. January 4, 1994.

17 Q. At the time of the move from Overhill to downtown,
18 who went downtown?

19 A. The employees when -- you want me to name them all?

20 Q. To the degree you recall them, yes?

21 A. Chuck O'Nesti went downtown, Grace Yavorsky, Sonny
22 Drummond, Anthony Traficanti, Josephine Hulett, that's
23 who -- the Congressman did have an office reserved for him,
24 a personal office downtown, and let's see, Bob Barlow
25 stayed on Overhill Road.

Bobby - Direct

1 Q. Did anybody else besides --

2 MR. TRAFICANT: Excuse me. I didn't hear the
3 last response.

4 THE WITNESS: I said Bob Barlow stayed on
5 Overhill Road.

6 Q. What about Mr. DiBlasio, what did he do?

7 A. Mr. DiBlasio stayed on Overhill Road.

8 Q. And what about that second floor office of
9 Congressman Traficant, what happened to that on Overhill
10 Road?

11 A. He stayed -- was still there.

12 Q. After the move to Overhill Road, was there any
13 incident concerning Mr. DiBlasio that occurred within a
14 year or so thereafter at the downtown office?

15 A. Well, yes. It was -- it was -- we laughed about it
16 at the time because Mr. DiBlasio went into the Federal
17 Building, and they wouldn't let him in because they said
18 that they didn't recognize him.

19 Q. Directing your attention back to Government's Exhibit
20 1-13, first of all, you testified you prepared this
21 document; is that correct?

22 A. Yes.

23 MR. TRAFICANT: The document -- what document
24 number is that?

25 MR. SMITH: Exhibit 1-13.

Bobby - Direct

1 Q. What date does that document bear?

2 A. December 6, 1993.

3 Q. Did you prepare this document on or about December
4 6th, 1993?

5 A. I believe so, yes.

6 Q. And did you maintain a copy of this document, the
7 records of the congressional office?

8 A. I'm sure I did.

9 Q. It was your regular practice to maintain memos such
10 as this in the files of the congressional office?

11 A. Yes.

12 Q. Now, in this memorandum, did you express any concerns
13 to Mr. DiBlasio, particularly directing your attention to
14 Paragraph 2 and 4?

15 A. Yes.

16 Q. What were the nature of your concerns?

17 A. Well, one was the cost for employee parking here. As
18 it said, if anyone wants a side spot, it was going to be
19 expensive. And in Number 4, we were talking about the
20 expenses for our office. You know, we had a budget we had
21 to abide by here, and with the move, we had to get
22 additional office equipment and furniture. So we had to be
23 very frugal with this, stay within the budget.

24 Q. So money was an issue in terms of the office needed
25 to stay within its budget during the time of this move?

Bobby - Direct

- 1 A. Yes.
- 2 Q. Thank you. You may set that aside.
- 3 In the Youngstown district office, who was the
- 4 highest ranking congressional staffer?
- 5 A. Attorney DiBlasio.
- 6 Q. And what was his title?
- 7 A. Administrative assistant.
- 8 Q. And who was the second highest ranking staffer at the
- 9 Youngstown district office during the time that you worked
- 10 there?
- 11 A. Chuck O'Nesti.
- 12 Q. And what was his title?
- 13 A. He had a few titles at various times. He was a
- 14 liaison between Washington, D.C. and Youngstown district
- 15 director liaison, mostly district director assigned.
- 16 Q. Who was the highest paid staffer at the Youngstown
- 17 district office?
- 18 A. I believe it was Henry DiBlasio.
- 19 Q. Who was the second highest paid staffer at the
- 20 Youngstown district office?
- 21 A. Chuck O'Nesti.
- 22 Q. When did you first meet Charles O'Nesti?
- 23 A. I met him probably some time when -- at the Sheriff's
- 24 Department. He was head of the reserve offices, probably
- 25 in 1981.

Bobby - Direct

1 Q. And what duties did Mr. O'Nesti perform with respect
2 to the Mahoning County Sheriff's Office?

3 A. I think he was in charge of the reserve deputies.

4 Q. Do you know?

5 A. Auxiliary deputies.

6 Q. Do you know what a reserve deputy was or at that
7 time?

8 A. Yes.

9 Q. Please explain --

10 A. They were a volunteer police officer that worked for
11 the Sheriff's Department.

12 Q. And was Mr. O'Nesti acting in this capacity at the
13 time the Congressman was sheriff?

14 A. I don't remember if he was -- I don't remember.

15 Q. All right.

16 Was Mr. O'Nesti on the staff of the Sheriff's Office
17 at any time between the years 1981 and 1984, if you
18 remember?

19 A. Well, yes, he was in charge of the reserve deputies.

20 Q. During the years 1981 through 1984?

21 A. Yes.

22 Q. And was Congressman Traficant the sheriff between the
23 years 1981 and 1984?

24 A. Yes, yes.

25 Q. Can you describe the nature of the relationship as

Bobby - Direct

1 you observed it between Congressman Traficant and Charles
2 O'Nesti during the time that you worked for the
3 Congressman?

4 A. Well, Charlie -- Chuck O'Nesti was, I would say, the
5 Congressman's right-hand man and went with him, accompanied
6 him to most events after the Congressman had to attend
7 speaking engagements or -- he was probably the closest
8 employee to him.

9 Q. Who was closest to who?

10 A. Congressman Traficant, Chuck O'Nesti were probably
11 the closest.

12 Q. Closest in --

13 A. To each other.

14 Q. In comparison to the other employees at the office,
15 is that what you're comparing it to?

16 A. Yes, yes.

17 Q. And you say they were closest. In what way would you
18 say they were closest?

19 A. Well, Chuck O'Nesti accompanied the Congressman to
20 most of the speaking engagements that he had to do outside
21 the office and even during working times. He was with him,
22 I would say, 90 percent of the time when he was in the
23 district or majority of the time.

24 Q. When did Charles O'Nesti come on the staff of the
25 congressional office?

Bobby - Direct

- 1 A. When the Congressman took office in 1985.
- 2 Q. And when did Mr. O'Nesti leave the congressional
- 3 staff, approximately?
- 4 A. 1998, the spring, I think March, around his birthday.
- 5 Q. In the last couple of years of Mr. O'Nesti's life ,
- 6 did he have any health issues?
- 7 A. Mr. O'Nesti had cancer. He suffered for about the
- 8 last two, maybe three years before he retired.
- 9 Q. Did Mr. O'Nesti's illness -- withdrawn.
- 10 Approximately when did this illness of Mr. O'Nesti
- 11 manifest itself, in terms of how many years before he
- 12 retired?
- 13 A. I would say the year before he retired, he was -- he
- 14 was getting chemotherapy more frequently, and he was -- he
- 15 lost weight. He wasn't feeling as well as he had been
- 16 prior to that.
- 17 Q. Did that have any effect on his ability to perform
- 18 his duties in that last year?
- 19 A. Yes, a lot. He was tired a lot, and he would have
- 20 chemotherapy, and he would come into the office maybe an
- 21 hour that day and then the next day just a few hours.
- 22 It -- it -- he was at home a lot at night.
- 23 Q. And were other employees required to take up some
- 24 portion of his duties as a result of that?
- 25 A. Yes, we did, yes. I -- I think I probably took up

Bobby - Direct

1 most of his responsibilities because Chuck and I had a
2 close working relationship, and it was easy for me to do
3 the work that he was doing.

4 Q. During the time that you were employed by Congressman
5 Traficant from 1985 until the spring of 1998 at his
6 congressional offices, did Mr. O'Nesti ever discuss his pay
7 situation with you?

8 A. Yes, he did. He --

9 Q. When did he first begin discussing his pay situation
10 with you?

11 A. He discussed his pay situation with me off and on
12 from 1985 until he left because he talked about --

13 Q. Don't go into that yet. I'm just getting the time
14 frame.

15 A. Okay.

16 Q. You stated the time frame; is that correct?

17 A. Yes.

18 Q. Where would these conversations occur?

19 A. In his office on -- on Chuck O'Nesti's office on
20 Overhill and at the Federal Building.

21 Q. Who was present when these conversations between you
22 and Mr. O'Nesti occurred?

23 A. Probably the only other person that I can recall
24 would have been -- was Grace Yavorsky, Kavulic.

25 Q. Who was Grace Yavorsky Kavulic?

Bobby - Direct

1 A. She was Congressman's personal secretary.

2 THE COURT: I want to make sure the spelling
3 comes through here for the reporter, can you Grace.

4 THE WITNESS: Grace Yavorsky,
5 Y-A-V-O-R-S-K-Y, and Kavulic, K-A-V-U-L-I-C.

6 THE COURT: Thank you.

7 Q. When was the last time before -- withdrawn.

8 Before Mr. O'Nesti retired, how long before that was
9 the last time that you recall discussing his pay situation
10 with him?

11 A. Probably within six months, prior to his retirement.

12 Q. On the occasions Mr. O'Nesti discussed his pay wages
13 with you, what did Mr. O'Nesti say?

14 A. Originally when he talked about renting the apartment
15 in Washington, D.C., that he had to pay part of the rent
16 and then when --

17 MR. SMITH: Your Honor, may we have a side
18 bar for a second?

19 THE COURT: Yep. When that happens for a
20 witness, you just have to kind of stop in the middle of a
21 sentence, and the jury knows that that sometimes happens
22 because they've been here, but there's no way the witness
23 can know that. Just sit back and relax and now what's
24 happening, the lawyers and I have to talk about something
25 that has to do with the law, and so we tell the jury this,

Bobby - Direct

1 and this applies to you, too, you can stand up, stretch,
2 move around, whatever you want, and we'll be back as soon
3 as we can. Okay, just don't pay any attention to us

4 (The following proceedings were held at side bar:)

5 MR. SMITH: Your Honor, the Government has
6 laid the foundation for circumstantial guarantees of
7 trustworthiness so we understand we need to instruct me
8 that I did not hear you order me to come to side bar before
9 she answered the question I had put to her, but I figure I
10 better come over here in case.

11 THE COURT: No, I think we need to handle
12 this at a break without the jury present, and so you were
13 very carefully putting the questions, and you were not
14 doing anything improper. But now we get to an area where
15 you could. So we need to hold a hearing outside the
16 hearing of the jury. So I'm going to ask you to move on to
17 some other topic.

18 MR. SMITH: Okay.

19 MR. TRAFICANT: Comment, comment. I did not
20 object in front of this jury, but I now object to any
21 question of this witness relative to hearsay conversations
22 she had about paychecks.

23 THE COURT: That's what we're going to handle
24 it at the break, and that's -- that's -- I think you
25 understand this.

Bobby - Direct

1 MR. TRAFICANT: Also, advise this jury --
2 this Prosecutor that when he seems to find himself with an
3 answer that doesn't look too good, he seems to sort of
4 change his mind, that I think he should go through with his
5 questions.

6 THE COURT: Well, we would have to instruct
7 the jury to not pay attention. What we're going to do now
8 is go to some other topic, right?

9 MR. SMITH: I can do that, sure.

10 THE COURT: Do that, sure. And what we'll do
11 is have a hearing outside the hearing of the jury, and I
12 think you've got these rules down, now, Congressman?

13 MR. TRAFICANT: I do?

14 THE COURT: I know, I know.

15 MR. TRAFICANT: I'm talented. Thank you

16 (Proceedings resumed within the hearing of the jury:)

17 MR. SMITH: I need to backtrack.

18 BY MR. SMITH:

19 Q. While you worked at Overhill Road, did you experience
20 any maintenance problems, anything of that nature at that
21 location?

22 A. Yes, we -- yeah.

23 Q. What were the nature of those maintenance problems?

24 A. A few times we had to have locks changed on the
25 buildings, on the doors, and the roof on top of the

Bobby - Direct

1 Congressman's office because it leaked.

2 Q. With respect to those sorts of maintenance problems,
3 who was responsible for taking care of those kinds of
4 problems?

5 A. Well, we would notify Henry DiBlasio.

6 Q. Based upon your observations, who appeared to you,
7 during the time you worked at the 11 Overhill Road, to be
8 responsible for the building management problems at that
9 location on a day-to-day basis?

10 A. Henry DiBlasio.

11 Q. Do you recall approximately when Henry DiBlasio came
12 on the staff?

13 A. January, 1985.

14 Q. And when you left in the spring of '98, was Mr.
15 DiBlasio still working there?

16 A. Yes.

17 Q. During your tenure at the Congressman's office, did
18 Mr. DiBlasio have any employment other than his position as
19 the Congressman's administrative assistant?

20 A. He had a law practice.

21 Q. And was that a full-time or part-time law practice?

22 A. I believe it was full-time. He was there most of the
23 time.

24 Q. There, meaning where?

25 A. In his legal office, law offices.

Bobby - Direct

1 Q. Which was on which floor of the building?

2 A. The second floor.

3 Q. How often would you see Henry DiBlasio working
4 downstairs in the congressional office?

5 A. He didn't have an office there. He would come down
6 if there was a press conference or --

7 Q. How often did you see him down on the first floor?

8 A. Maybe once a week, if that.

9 Q. How much congressional office work product of Mr.
10 DiBlasio did you observe during your tenure?

11 A. I -- compared to everybody else?

12 Q. Sure.

13 A. I would probably say 1 percent.

14 Q. 1 percent of what other people were producing, is
15 that what you're saying?

16 A. Well, out of 100 percent, everybody else was doing 99
17 percent, and he was doing 1 percent.

18 Q. On a scale of -- who in the hierarchy of the
19 structure of the office, was Mr. DiBlasio above you or
20 below you or equivalent with you?

21 A. He was above me.

22 Q. Okay.

23 Was his position a supervisory position?

24 A. Yes, yes.

25 Q. How often did you receive supervision and guidance

Bobby - Direct

1 from Mr. DiBlasio during the time that you were working in
2 the office?

3 A. Not often.

4 Q. Did you ever have to perform any of Mr. DiBlasio's
5 duties?

6 A. Yes.

7 Q. How often?

8 A. It came to -- well, I would say -- I mean an example
9 is the move -- well.

10 Q. Which?

11 A. I don't know, I don't know how to explain that. I
12 don't know what his -- his duties were, but I was in charge
13 of the district office, and a lot of times I was asked to
14 make decisions regarding the other two district offices,
15 which I don't know if that was my job or not. I didn't
16 think it was, but I did it because I was asked to.

17 Q. All right.

18 Was Mr. DiBlasio your supervisor; is that correct?

19 A. Yes.

20 Q. And as you sit here today, are you unable to
21 articulate what his specific duties were?

22 A. Yes.

23 Q. Were there any other employees in the office besides
24 yourself, called upon to perform work for Mr. DiBlasio?

25 A. Yes, Chuck O'Nesti did quite often.

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1 Q. And what was his attitude toward having to do so?

2 A. I think Mr. O'Nesti was a little resentful there
3 because he felt that he was -- it wasn't shared work, that
4 he and Mr. DiBlasio should be sharing that, and I think
5 Mr. O'Nesti felt that he had more of the responsibility.

6 Q. During the time you worked at the congressional
7 office, did you ever encounter unexpected amounts of cash
8 at the office?

9 A. Yes, I did on -- at the Federal Building downtown.

10 Q. So that's after the move?

11 A. Yes, with probably the last -- within the last three
12 years or two years I was working there.

13 Q. Would you please describe what happened the first
14 time that you encountered unexpected cash at the office?

15 A. Well, we were -- we were shocked, and I'll explain
16 how this happened. This -- the Congressman -- as I said
17 before, personal mail went back and forth, hand delivered,
18 in a manila envelope, which was stapled shut so that -- and
19 they have little notes in there, give this to Chuck,
20 stapled envelopes, and give this to Grace to do, and give
21 this to Jackie to do.

22 And one day, there was a stapled envelope that said
23 give to Grace, and so it was sorted in the mail, and this
24 is Grace Kavulic. She opened the envelope and went, oh, my
25 God, look at this, all this money she showed me, we were

Bobby - Direct

1 both shocked.

2 Q. Now, do you recall how much money was in the envelope
3 on that occasion?

4 A. I don't know because I didn't count it.

5 Q. Did you see any -- I'm sorry, I thought you were
6 done. Are you finished with your answer?

7 A. I gave the money to Grace, and she took care of that.

8 Q. Did you see any of the denominations of any of the
9 bills?

10 A. I can't remember. I don't remember.

11 Q. At the time that this happened, you were both at the
12 office downtown?

13 A. Yes.

14 Q. At that particular time, how was mail transmitted to
15 and from the Congressman's office at Overhill Road?

16 A. Personal mail was hand delivered in a large size
17 manila envelope. We would -- somebody would take it up to
18 Overhill, say on a Thursday night, because he would be
19 coming home from Washington, D.C. for the weekend to get
20 all his mail in, and in return, he would also get the mail
21 in an envelope, and somebody would pick it up and bring it
22 down to the Youngstown Federal Building.

23 Q. This first envelope that had cash in it, from where
24 had that envelope come?

25 A. It came from the Overhill Road office.

Bobby - Direct

1 Q. On this first occasion with this cash, what was done
2 with the cash?

3 A. Grace Kavulic made a deposit into the Congressman's
4 account.

5 Q. Do you know at which bank that was?

6 A. Bank One, downtown.

7 Q. How do you know that?

8 A. Because she -- somebody had to walk with her. It was
9 a large amount of money, so she asked somebody to accompany
10 her. So I either walked with her or say Anthony Traficanti
11 or all three of us would walk to the bank with her.

12 Q. After this initial episode with this amount of cash,
13 were there any other large cash amounts received in the
14 interoffice mail thereafter from the 11 Overhill office?

15 A. Yes, there were, and -- it wasn't routinely, but it
16 was, you know, periodically, there was, within a year and a
17 half, two-two year span.

18 Q. And on those additional occasions, what was done with
19 that cash?

20 A. The same thing. She would make a deposit slip out
21 and ask someone to walk to the bank with her.

22 Q. Who was she?

23 A. Grace Kavulic.

24 Q. And which bank?

25 A. Bank One downtown Youngstown.

Bobby - Direct

1 Q. Did any employees, to your knowledge, other than
2 yourself, walk with Grace Kavulic down to Bank One to
3 deposit this cash?

4 A. Right now Anthony Traficanti did.

5 Q. Who is Anthony Traficanti?

6 A. He was a member of the staff, case worker that worked
7 with us on billing.

8 Q. During your tenure on the congressional staff, did
9 you ever encounter somebody by the last name of Bucci,
10 B-U-C-C-I?

11 A. Yes, they were contractors.

12 Q. You've used the word "they."

13 A. They're brothers, because we used -- I -- we used to
14 refer to them as the Bucci brothers. I think there were
15 three of them.

16 Q. Do you happen to remember their first names at this
17 point?

18 A. Anthony, Robert, and I can't remember the third one.

19 Q. What was the usual method of contact that you had
20 with any of these Bucci brothers?

21 A. I had contact with them by telephone. If they called
22 or if the Congressman needed to talk to them, it was --
23 would I make a phone call or something with some --

24 Q. On an incoming call from one of the Buccis, what
25 would you do with that call?

Bobby - Direct

1 A. Take the message and give it to the Congressman if he
2 needed a return phone call.

3 Q. Did any of the Buccis ever show up at the district
4 office in Youngstown?

5 A. I think one of them came to visit with Chuck O'Nesti
6 because I know that somebody said that was one of the
7 Buccis in there, but I did not visit with them. I don't
8 know. I -- that's -- I heard that that was them.

9 Q. Did you perform any other duties with respect to the
10 Bucci brothers, contacts with the congressional office?

11 A. Well, it's sitting right here. I typed a letter for
12 one of the Bucci brothers to go to a halfway house.

13 Q. All right.

14 And are you referring to Government's Exhibit 2-30 on
15 the counter before you?

16 A. Yes.

17 Q. All right. Do you recognize that document?

18 A. Yes.

19 Q. All right. What is it?

20 A. Well, this is a fax cover sheet that I sent to Robert
21 Bucci for Anthony.

22 Q. And if you'd flip the document over on the back of
23 Government's Exhibit 2-30, do you recognize the document on
24 the back?

25 A. Yes. It's a letter that I typed to Dr. Rick Billak

Bobby - Direct

1 in regard to -- I assume -- it's -- I assume about Bob.

2 Q. All right. Now, this letter that you typed, first of
3 all, did you prepare this personally?

4 A. Yes.

5 Q. And what typewritten indicator is there on the
6 document that allowed you to draw that conclusion?

7 A. The bottom left hand, there are my initials after the
8 front slash indicating that I typed it.

9 Q. Who was Richard Billak?

10 A. He runs the community association, which is a halfway
11 house, of prerelease prisoners.

12 Q. After you typed this document, did you make a copy of
13 it and maintain it in the files, the ordinary course of
14 your office's business?

15 A. I'm sure I did, it's normal.

16 Q. Does it indicate a file copy on the upper right-hand
17 corner? No?

18 A. That was not our stamp.

19 MR. TRAFICANT: I didn't hear that answer.

20 THE WITNESS: That's not our stamp.

21 Q. Do you know who would have affixed that stamp?

22 A. No.

23 Q. Is this document copied to anybody?

24 A. Yes, it's copied to Anthony Bucci.

25 Q. Did you do anything else with respect to Mr. Anthony

Bobby - Direct

1 Bucci in issue of the Federal Bureau of Prisons?

2 A. Not that I can recall.

3 Q. During your tenure at the Congressman's office, were
4 any employee or employees absent from the office more often
5 than others?

6 A. Yes, they were.

7 Q. And can you name any of those employees who were
8 absent more often?

9 A. Well, Anthony Traficanti, George Buccella when he was
10 on the Overhill Road office, and I say that, but I can also
11 say Henry DiBlasio because he took longer vacations than
12 everyone else, but he was the administrative assistant, so
13 he may have been entitled to that. I don't know.

14 Q. George Buccella, who is he?

15 A. George Buccella, he's our staff person that worked
16 for the Congressman Traficant since 1985.

17 Q. And back up, how many office locations did the
18 Congressman's district office in Mahoning County or his
19 district have?

20 A. Originally, we had two offices, one in Mahoning
21 County and one in Trumbull County, and then after the last
22 redistricting, they added another office in Columbiana
23 County.

24 Q. All right.

25 When George Buccella started out working, where was

Bobby - Direct

1 he working?

2 A. On Overhill Road office, in Mahoning County.

3 Q. And during the time that he worked at the Overhill
4 Road office, did you have any responsibilities as office
5 manager for documenting his time of attendance?

6 A. Yes, I had to keep track of his sick and vacation
7 time.

8 Q. Did Congressman Traficant's congressional office have
9 a written vacation sick time policy?

10 A. No, it -- sick and vacation time were at the
11 discretion of Congressman Traficant, but we developed an
12 unwritten policy, based on tenure for how many vacation
13 days and sick days you had. If you were there since 1985,
14 we gave you, say after a few years, we increased it, and
15 the max I think anybody ever had was four weeks vacation.

16 MR. TRAFICANT: Your Honor --

17 THE COURT: Up until the point I left.

18 THE WITNESS: Excuse me, I didn't see you
19 were on your feet. Let's stop for a minute.

20 MR. TRAFICANT: I didn't rise to object. I
21 didn't hear her beginning that who wrote the policy.

22 THE COURT: Fine. I'll have the --

23 MR. TRAFICANT: I didn't hear that.

24 THE COURT: I'll have the reporter read the
25 question or the answer -- the question and the answer back.

1 THE COURT: It is 10:30. This is a good time
2 for a brief break. We won't give you a whole half hour
3 because you'll be released at noon today, so we'll give you
4 a ten minute break which allows you to have put your mind
5 on other things. Thank you for all your attention.

6 (Thereupon, a recess was taken.)

7 (Proceedings in the absence of the jury:)

8 THE COURT: I have a question. Mr. Kersey is
9 apparently here. I don't know if he's here now. He
10 represents Mr. DiBlasio.

11 MR. MORFORD: I'll see if I can find him,
12 your Honor.

13 THE COURT: Yeah, our staff asked him to
14 please wait but didn't see him when they went out in the
15 hall.

16 MR. TRAFICANT: Side bar, your Honor.

17 THE COURT: We don't have -- let's just wait
18 and see about Mr. Kersey because he's representing somebody
19 who may be involved in this immediate proceeding, and it
20 would be good if we can accomplish one thing at a time.

21 MR. TRAFICANT: I would not want that issue
22 made as a part of the official public record at this point.

23 THE COURT: What issue is that?

24 MR. TRAFICANT: The issue dealing with
25 Mr. Kersey.

1 THE COURT: I don't know what issue there is
2 dealing with Mr. Kersey except he represents somebody
3 who's --

4 MR. TRAFICANT: Yes, and I am going to
5 request a side bar relative to that representation.

6 THE COURT: Okay. Let's just wait until
7 Mr. Morford's back, and then we'll give you a side bar.
8 Meanwhile, he's just trying to find -- he was here a few
9 moments ago in the hall, but I didn't have occasion to see
10 him. I was told that he was present.

11 All right. Very well. Then we could proceed
12 with questioning, if you have some more questioning, and
13 bring the jurors out instead of wasting more of their time.

14 MR. SMITH: All right.

15 THE COURT: Can you go on with more
16 questioning before we address this evidentiary issue?

17 MR. SMITH: Sure I can do that, your Honor.

18 THE COURT: I think that would be a good
19 idea, and then when we resolve the issue of whether or not
20 Mr. Kersey is just going to the law library or something,
21 which would be understandable, or whether he's left the
22 building, then we'll deal with that. Thank you. Okay.

23 MR. SMITH: Yes, your Honor.

24 (Proceedings resumed in the presence of the jury:)

25 THE COURT: Mr. Smith, you may proceed.

Bobby - Direct/Smith

1 MR. SMITH: Thank you, your Honor

2 BY MR. SMITH:

3 Q. With respect to Mr. Buccella, we were talking about
4 Mr. Buccella, is that correct, before the break?

5 A. Pardon me?

6 Q. Were we talking about George Buccella before the
7 break.

8 A. Yes, yes.

9 Q. All right. And were we also talking about an
10 unwritten vacation sick time policy, do you recall that
11 question and answer?

12 A. Yes.

13 Q. Did Mr. Buccella follow that unwritten sick and
14 vacation time policy?

15 A. Mr. Buccella took more vacation than the rest of the
16 staff. So I guess he did not follow it.

17 Q. Did you ever initiate any discussions with
18 Congressman Traficant about George Buccella's absences from
19 the office?

20 A. Yes, I did, there was a time when I -- I complained
21 to the Congressman that Mr. Buccella was spending an
22 obviously too much time out of the office, and the other
23 employees were even aware of it and complained a little
24 bit, and he said mark it on the -- mark it on a calendar as
25 vacation, and that's it.

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1 Q. Who said that?

2 A. Congressman Traficant.

3 Q. Did you ever have any conversation with the
4 Congressman about Mr. Buccella's whereabouts when he wasn't
5 in the office?

6 A. Yes, there were many times that we assumed when
7 whether Mr. Buccella wasn't in the office, that he was out
8 at the farm, at the Greenford Inn. There are many
9 occasions that he was supposed to be out there and hadn't
10 shown up yet to meet people or whatever was going on out at
11 the farm.

12 Q. And did you have any conversations with Congressman
13 Traficant about that?

14 A. There was -- well, a few times, he called and wanted
15 to know if George went out to the farm that day, and I said
16 yeah, he's not here. He's supposed to be out at the farm,
17 and like he said, I called out there, he wasn't gone out,
18 or something to that effect.

19 Q. Okay. You refer again to he?

20 A. He as Congressman Traficant.

21 Q. All right.

22 You referred to I called out to the farm. Who is the
23 I you're referring to there?

24 A. The Congressman Traficant. He was looking for
25 George. George was supposed to be out at the farm on

Bobby - Direct/Smith

1 various occasions, and George was either late, or he didn't
2 show up there.

3 Q. These times that Mr. Buccella was absent from the
4 office and out at the farm, were these during normal
5 working hours?

6 A. Yes.

7 Q. Did the Congressman ever inform you of any limit on
8 the amount of time that George Buccella was allowed to have
9 to work outside the office at the farm?

10 A. Well, all he did was tell me to mark it on the
11 calendar, whenever he said that George was going out to
12 vacation, and don't worry about it. Unlimited time, yeah,
13 the Congressman said don't worry about how much time George
14 Buccella took.

15 Q. Did the Congressman impose any limit on the amount of
16 such vacation time?

17 A. No.

18 MR. TRAFICANT: Can you repeat that question?

19 THE COURT: We'll have it read back

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

22 BY MR. SMITH:

23 Q. When Mr. Buccella went out to work at the farm,
24 how -- how much time would he be gone in terms of days?

25 MR. TRAFICANT: Object.

Bobby - Direct/Smith

1 THE COURT: Okay. Don't answer. Would you
2 come over?

3 (The following proceedings were held at side bar:)

4 MR. TRAFICANT: First of all, the Government
5 I understand what they're doing, but they're assuming any
6 time he was not office he was at the farm. They're trying
7 to get this woman to actually --

8 THE COURT: You can cross-examine her.

9 MR. TRAFICANT: No, hear me. They're
10 assuming that Mr. Buccella was only at the farm perhaps for
11 farm work.

12 THE COURT: Oh, well.

13 MR. TRAFICANT: There were times when maybe
14 Mr. Buccella was to meet with constituents or people who
15 had complaints in that area, and the point I'm trying to
16 make is, they're drawing assumptions by the nature of their
17 questions, which I find objectionable.

18 THE COURT: That's why you get to
19 cross-examine. You can straighten it out.

20 MR. TRAFICANT: But I do, but I did object to
21 that because they're beginning to get to the point where
22 they're trying to set a pattern that is not necessarily the
23 case.

24 THE COURT: Okay.

25 MR. SMITH: The response, your Honor, is that

Bobby - Direct/Smith

1 the witness has already testified that the Congressman told
2 Ms. Bobby to put Mr. Buccella on vacation time when he was
3 not in the office. So the notion was he was out at the
4 farm meeting constituents.

5 THE COURT: Gentlemen, you both want to argue
6 your case, and you can't do it now.

7 MR. TRAFICANT: I'm not trying to.

8 THE COURT: Yes, you are, both of you.

9 MR. TRAFICANT: I'm not trying to.

10 THE COURT: Both of you are arguing.

11 MR. TRAFICANT: I'm trying to establish the
12 relationship at the beginning of the hiring of
13 Mr. Buccella.

14 THE COURT: Okay.

15 MR. SMITH: I can rephrase, your Honor, maybe
16 if I ask.

17 THE COURT: You can rephrase.

18 MR. TRAFICANT: That's fine, that's fine.

19 THE COURT: Okay.

20 (Proceedings resumed within the hearing of the jury:)

21 BY MR. SMITH:

22 Q. On occasions when Mr. --

23 MR. TRAFICANT: Could you please hold for
24 just one minute while I make a note. Your Honor? Thank
25 you.

Bobby - Direct/Smith

1 THE COURT: Mr. Smith.

2 BY MR. SMITH:

3 Q. On occasions when Mr. Buccella was absent from the
4 office, how long would he be gone?

5 A. The day, the whole day, maybe a day or two.

6 Q. And how often did this occur?

7 A. It -- well, quite -- I can't pinpoint exactly so many
8 days out of the week, but it occurred more often when the
9 Congressman was on break. I would say an average of one
10 day a week, and which day during the year, I can't say
11 exactly. I don't --

12 Q. Over what period of time are you talking here? How
13 many weeks?

14 A. We're talking from the time he started working for
15 the Congressman until he went -- he went to the Trumbull
16 office, Trumbull County. I think that was about 1994.
17 After that, I didn't keep track of his time. Somebody else
18 did.

19 Q. All right. So -- you have identified approximately a
20 ten-year period of time there; is that correct?

21 A. Yes.

22 Q. Did -- what was Mr. Buccella's attitude about having
23 to be outside the office like this?

24 MR. TRAFICANT: Objection.

25 THE COURT: It's very hard for this witness

Bobby - Direct/Smith

1 to testify about that attitude based on the question. The
2 objection is well taken.

3 Q. Were there any other employees who were frequently
4 absent from the office during the working hours?

5 A. There was a period when Anthony Traficanti was
6 absent.

7 Q. And in relation to the time that you left the office,
8 how far prior to that was that?

9 A. Probably about -- see, two years prior to that,
10 Anthony did not -- Anthony liked working in the office. He
11 didn't like to go outside the office to work.

12 Q. Did you experience any -- withdrawn.

13 Did you have responsibilities for tracking Anthony
14 Traficanti's time and attendance as office manager?

15 A. Yes, I did.

16 Q. Did you experience any difficulties in doing so in
17 connection with Mr. Traficant's absence from the office?

18 A. Yes. There was quite often Anthony would not call in
19 prior to being absent the day before -- the next day, and
20 the policy was if you're -- you were going to be off the
21 next day, at least you have the courtesy to call the night
22 before, and there were times when Anthony just would not
23 show up at work, and the question was, you know, where was
24 Anthony, and then I was told -- Congressman Traficant told
25 me that he directed Anthony to call me the night before,

Bobby - Direct/Smith

1 when he was going to not be in the office, he would be with
2 him at the farm.

3 Q. Did Mr. Anthony Traficanti thereafter comply with the
4 Congressman's directive that he call?

5 A. Yes, he did.

6 Q. Backtracking one moment to Exhibit 2-30 again, could
7 you pick that up? Turning to the back half of that page,
8 this is a letter that you prepared; is that correct?

9 A. Talking about the one with Dr. Billak, yes.

10 Q. At whose behest or directive did you prepare that
11 letter?

12 A. Well, at -- I don't -- I don't know if Congressman
13 Traficant directed me or if I -- I did. I believe somebody
14 else did. It may have been to Congressman Traficant or
15 Chuck O'Nesti because I didn't have that much contact with
16 the Buccis in regard to their problems, and there's more --
17 I only remember what a past approval is, so I wasn't real
18 familiar with the situation so that's why I'm going to
19 guess that I just directed to type this letter and formed
20 it.

21 Q. Would you normally have written such a letter to Dr.
22 Billak on your own authority?

23 A. Yes, there's times when we did. This -- there was a
24 lot of situations that we could have asked for federal
25 prisoners to be released to a halfway house.

Bobby - Direct/Smith

1 Q. Was that the subject matter of this letter?

2 A. Yes.

3 Q. Okay.

4 Directing your attention to Government's Exhibit
5 6-21, 6-22, 6-23, 6-24, 6-25, 6-26, and 6-27 on the counter
6 before you, would you look at all those briefly, please?

7 MR. TRAFICANT: Can the court reporter please
8 read the exhibit numbers, again?

9 MR. SMITH: 6-21, 6-22, 6-23, 6-24, 6-25,
10 6-26, and 6-27.

11 Q. Have you had a chance to look at them, just look at
12 them, please.

13 THE COURT: Congressman, you have all these
14 in your exhibit books, I think.

15 MR. TRAFICANT: Yeah.

16 Q. Do you recognize what that entire series of documents
17 is?

18 A. Yes, I do. It's financial disclosure that
19 Congressman has to fill out yearly.

20 Q. And do those documents cover the time period, 1990,
21 1990 through 1996 inclusive?

22 A. Yes.

23 Q. Who physically typed out and prepared these forms,
24 Government's Exhibit 6-21 through 6-27 inclusive?

25 A. I did up until 1998.

Bobby - Direct/Smith

1 Q. All right. And the 1998 form is in the stack that
2 I've given you; is that correct?

3 A. No, no.

4 Q. All right.

5 So did you prepare all the forms that you have there
6 in front of you?

7 A. I can't read this -- the dates on this -- on this top
8 one here. If it's '91 or '97, I don't know.

9 Q. All right.

10 A. But I think in 1997, I directed -- I showed Grace
11 Kavulic how to do it, but I probably still prepared it.

12 Q. All right.

13 Let's go to Exhibit 6-21.

14 A. Okay, that's the one.

15 Q. You have that in front of you?

16 MR. TRAFICANT: 6-21?

17 BY MR. SMITH:

18 Q. All right. Did you prepare that document?

19 A. Yes.

20 Q. All right. Is the information reported in that
21 document concerning the calendar year 1990?

22 A. I don't know. I can't read the -- the dates.

23 Q. All right. If you look at the very top of the
24 document, does it indicate what year -- what calendar year
25 this financial disclosure form is for?

Bobby - Direct/Smith

- 1 A. For 1990.
- 2 Q. Okay.
- 3 So is that the 1990 disclosure form?
- 4 A. Yes.
- 5 Q. And all right.
- 6 When was the disclosure form required to be filed?
- 7 A. By May of 1991.
- 8 Q. And is that true in every subsequent year that the --
- 9 A. Yes.
- 10 Q. The form is filed in the spring, following the
- 11 calendar year?
- 12 A. Yes.
- 13 Q. On Exhibit 6-21, through 6-27 inclusive, all of those
- 14 forms, who actually physically typed in information on the
- 15 form?
- 16 A. I did.
- 17 Q. Who signed those forms?
- 18 A. Congressman Traficant.
- 19 Q. Where did you obtain the information that went into
- 20 those forms? Let's start with Exhibit 6-21, where did you
- 21 obtain the information to complete the financial disclosure
- 22 form for year 1990, Government's Exhibit 6-21?
- 23 A. The -- it was either from Grace Kavulic, she kept
- 24 records of his speaking engagements. I would call the IRS
- 25 to get an update on his liabilities, and I would give the

Bobby - Direct/Smith

1 form to the Congressman after I typed it for him to verify
2 it to include any additions or corrections and sign it and
3 return it so I could mail it.

4 Q. Whose responsibility was it to give you the
5 information that went into this form? Whose form is this?

6 A. This is the Congressman's personal disclosure, it's
7 his responsibility to make sure it's -- that the
8 information is correct and I have all the information.

9 Q. When you submitted these forms to the Congressman,
10 what, if anything, did you ask him to do?

11 A. I put on a yellow sticker on them and told him to
12 please review it, correct it, make sure it was right, and
13 sign it, and return it, sign two copies and return it.

14 Q. When you got those documents back signed, what did
15 you do with those various copies? Explain where they went.

16 A. I mailed two signed copies to the clerk of the House,
17 and kept one in his personal file.

18 Q. Where is that personal file?

19 A. That personal file was at our office on Overhill and
20 then at the office at the Federal Building in Youngstown.

21 Q. And was it your regular practice to do that each
22 year?

23 A. Yes.

24 Q. Now, if you will take a look at 6-21 -- can I use the
25 overhead, your Honor?

Bobby - Direct/Smith

1 THE COURT: Yes.

2 Q. Is there a section on that document that refers to
3 liabilities? Do you have to pull it out of the sleeve? Go
4 ahead and do so.

5 A. Oh, okay, this is the whole document?

6 Q. If you'd look at Page 4 to that.

7 A. Yes.

8 Q. Do you have that in front of you?

9 A. Yes.

10 MR. SMITH: May I use the overhead, your
11 Honor?

12 THE COURT: Yes

13 BY MR. SMITH:

14 Q. And is that Section 5 of the document liabilities?

15 A. Yes.

16 Q. And does the document identify which liabilities are
17 required to be reported?

18 A. Yes.

19 Q. All right. And which liabilities are on this?

20 A. The internal -- the ones that were reported were
21 Internal Revenue Congressional Federal Credit Union.

22 Q. Right, but in the print above that, right below the
23 word liabilities, does it indicate which liabilities have
24 to be reported?

25 A. Yes.

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1 Q. All right.

2 Could you read that language?

3 A. "Report liabilities over \$10,000 owed to any one
4 creditor at any time during the reporting period by you,
5 your spouse, or dependent child. Check the highest amount
6 owed during the reporting. Exclude a mortgage or your
7 personal residence, unless it is rented out, loan secured
8 by automobiles, household furniture or appliances, and
9 liabilities owed to a spouse, child, parent, or sibling."

10 Q. All right.

11 And for the year 1990, the Congressman reported two
12 such liabilities; is that correct?

13 A. Yes.

14 Q. Did he report to you any other liabilities exceeding
15 \$108,000 in the year 19 -- for the year 1990?

16 A. No.

17 Q. Turning your attention to Exhibit 6-22, you can pull
18 it out and go to the liability section. Are there any
19 other -- you have it?

20 A. Okay.

21 Q. Are there any other -- withdrawn.

22 Are the same two liabilities reported that year?

23 A. Yes.

24 Q. Did the Congressman report any other liability
25 exceeding \$10,000 to you for that year?

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1 A. No.

2 Q. So you could put it on the form?

3 A. No.

4 Q. If you'd move to Exhibit 6-23 --

5 A. Am I supposed to put these back?

6 Q. No, that's okay. Just set them to the side. Thank
7 you.

8 Do you have 6-23?

9 A. Yes.

10 Q. If you'd pull that out. First of all, is that for
11 the 1992 calendar year reporting period. Withdrawn.

12 A. It's signed, it was black on top but signed May 14,
13 1992, so I'm going to assume it was for 1992.

14 Q. And the reason for that is what?

15 A. Is because it's always done in May of the following
16 year.

17 Q. Okay. And if you'd turn to the liability section,
18 which is the third last page?

19 A. Yes.

20 Q. Are the same two liabilities to the Internal Revenue
21 Service and the Congressional Federal Credit Union the same
22 two liabilities reported for that year?

23 A. Yes.

24 Q. Did the Congressman report to you any other
25 liabilities over \$10,000 for that year?

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- 1 A. No.
- 2 Q. If you would next turn to Exhibit 6-24, is that true
- 3 reporting form for the calendar year 1993?
- 4 A. Yes.
- 5 Q. And again, if you'd turn to the liability section.
- 6 A. Yes.
- 7 Q. All right. Are the same two liabilities over \$10,000
- 8 reported?
- 9 A. Yes.
- 10 Q. In 19 -- for the year 1993, did the Congressman
- 11 inform you about any liability exceeding \$10,000 to a
- 12 gentleman named Bernard Bucheit?
- 13 A. No.
- 14 Q. How about David Manevich?
- 15 A. No.
- 16 Q. How about Greg Tyson?
- 17 A. No.
- 18 Q. How about Big G Construction?
- 19 A. No.
- 20 Q. Or Capital Ready Mix?
- 21 A. No.
- 22 Q. Turning your attention -- how about Anthony Bucci or
- 23 Tony Bucci, for that year?
- 24 A. No.
- 25 Q. Turning to Exhibit 6-25, is that the financial

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1 disclosure form for the period calendar year 1994?

2 A. Yes.

3 Q. And turning to the liability section.

4 A. Yes.

5 Q. Which is the third last page, is there any change in
6 the liabilities reported for that year as opposed to the
7 previous years?

8 A. Yes, there's only one to the IRS.

9 Q. And how did you know to reduce the number of
10 reportable liabilities from two to one in that year?

11 A. Oh, man. I may have kept track of his automobile
12 loan, or he may have told me. I don't remember.

13 MR. TRAFICANT: Would you please repeat the
14 question?

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

17 Q. Moving on to 6-26, was that the financial disclosure
18 statement for calendar year 1995?

19 A. Yes.

20 Q. All right.

21 And again, turning to liabilities section, third last
22 page.

23 A. Yes.

24 Q. How many liabilities reported that year over \$10,000?

25 A. One.

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1 Q. And is that the same one to the Internal Revenue
2 Service?

3 A. Yes.

4 Q. Did the Congressman report any other reportable
5 liabilities over \$10,000 to you to put on that form in that
6 year?

7 A. No.

8 Q. And finally, Exhibit 6-27, is that the financial
9 disclosure statement for calendar year 1996?

10 A. Yes.

11 Q. And is this the last one that you prepared for the
12 Congressman during your tenure?

13 A. I may have assisted Grace the following year to show
14 her how to do it for 1997.

15 Q. Let me ask you this: Is this the last one you
16 prepared by yourself?

17 A. Yes.

18 Q. For the Congressman?

19 A. Yes.

20 Q. All right.

21 And again, turning to that liability section, third
22 page in the back, is there again one liability reported for
23 that year?

24 A. Yes.

25 Q. And is it the same liability to the Internal Revenue

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1 Service?

2 A. Yes.

3 Q. Did the Congressman report to you any liabilities
4 over \$10,000 to you other than that one?

5 A. No.

6 Q. Throughout this time period, 1990 through 1996, did
7 the Congressman ever ask you to report any reportable gifts
8 on any of these forms?

9 A. No.

10 Q. You indicate you asked the Congressman to sign these
11 particular forms.

12 A. Yes.

13 Q. And turning to Exhibit 6-27, on the first page, is
14 this a signature at the bottom?

15 A. Yes.

16 Q. And whose signature is that?

17 A. Jim Traficant.

18 Q. And is there some printed material below the word
19 "certification" on that particular document? See the word
20 certification, 6-27, Page 1 toward the bottom of the
21 document, do you see the word "certification"?

22 A. Yes.

23 Q. All right. Below that, is there any small type?

24 A. Yes.

25 Q. Okay. And can you please just read that type?

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1 A. The financial disclosure statement is required by the
2 Ethics --

3 THE COURT: When people read, they tend to
4 read much faster than when they just talk.

5 THE WITNESS: Okay.

6 THE COURT: She has to make a record of every
7 single word, so this happens almost always with witnesses
8 reading. We have to ask you to read slower than your eyes
9 go across the page.

10 A. The financial disclosure statement is required by the
11 Ethics and Government Act of 1978 as amended.

12 "The statement will be available to any requesting
13 person upon written application and will be reviewed by the
14 committee on standards of official conduct or its designee.

15 Any individual who knowingly and willfully falsifies
16 or who knowingly and willfully fails to file this report
17 may be subject to civil penalties and criminal sanctions.
18 See 5 U.S.C. (f), is it (f), 4104 and 18 U.S.C. 1001.

19 MR. SMITH: Thank you.

20 Q. When you left your employment in the spring of 1998,
21 were you in any way discontented with your employment
22 situation at that time?

23 A. Yes, that's the reason I left.

24 Q. Would you please explain briefly the source of that
25 discontent?

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1 A. Chuck O'Nesti who we said before was suffering from
2 cancer, so therefore, I had been helping him in doing, you
3 know, most of his work last year and a half. Then he was
4 resigning effective in March of 1998. Chuck O'Nesti was
5 residing. So I sent a letter to Congressman Traficant
6 asking him basically to replace Chuck O'Nesti with me,
7 giving me Chuck O'Nesti's title, salary, et cetera. I did
8 list various reasons why I felt I was entitled to that
9 letter, I mean, to that position, and I sent the
10 Congressman that letter.

11 Q. Did you receive any response?

12 A. I -- no, I did not receive a response, and I had
13 asked him about it after that, and he said when he gets
14 in -- back to the district, we will discuss this, the
15 letter, which we never did, then -- do you want me to
16 explain to you why I left? I was discontent with my job,
17 and I'll just continue to tell you why I left.

18 Q. Why did you leave?

19 A. Okay.

20 And then it had to have been like in -- like in May,
21 I sent the Congressman this letter in March, never did get
22 a response from him. He said we'll talk about it when he's
23 back in the district. I got a phone call one evening in
24 May, and the Congressman was on the phone calling from
25 Washington, and he said to me, he said I would like to tell

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1 you before you hear it on the 6:00 news that he is hiring
2 Claire Maluso, in our district office. She will be paid
3 the same salary as I am getting, and he expected me to
4 train her to do the job. I said thank you, and I hung up
5 the phone.

6 I went and I said to my husband, I said, well, here's
7 what happened --

8 Q. Don't get into your husband, okay. Did you discuss
9 Henry DiBlasio at any time with the Congressman during this
10 process of your leaving your employment?

11 A. After I told him that I quit, I discussed Henry
12 DiBlasio with him, with the fact that he said that he would
13 get Henry DiBlasio to start taking a more active role in
14 the congressional office if I could -- if I would stay.

15 Q. Who's the he that made that statement about Henry
16 DiBlasio?

17 A. Congressman Traficant.

18 Q. And how long after this conversation with the
19 Congressman did you quit?

20 A. I quit before that conversation.

21 Q. I'm sorry. How far before the conversation with the
22 Congressman did you quit?

23 A. Probably a week.

24 Q. After you quit, did you file a claim for unemployment
25 compensation?

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1 A. Yes.

2 Q. And what was the ruling on that claim that you
3 received?

4 A. It was denied because I -- I quit, and I did appeal
5 it, and it was denied.

6 Q. Your testimony here today, is that given today under
7 grant of use of immunity?

8 A. Immunity, yes.

9 Q. And would you please explain to the jury your
10 understanding of what having immunity means?

11 A. Having immunity means that I cannot be prosecuted for
12 anything that I say under oath as long as I'm telling the
13 truth.

14 MR. SMITH: Your Honor, may I come to the
15 side bar?

16 THE COURT: Yes

17 (The following proceedings were held at side bar:)

18 MR. SMITH: Your Honor, other than the areas
19 upon which you have reserved ruling, I am done with the
20 witness, and therefore, I need to ask how you want me to
21 proceed at this point.

22 THE COURT: Okay. Well, we've also been
23 notified Mr. Kersey is in the hallway waiting to find out
24 what's going to go on, and I don't know why he wasn't here
25 in the first place exactly. So we can send these guys home

1 a little early, and then we can -- we can decide.

2 MR. TRAFICANT: I agree.

3 THE COURT: What we're dealing with Kersey
4 and then we can have lunch maybe and do our afternoon work
5 or however much time it takes, or if it's not going to take
6 very much work after the jury is gone, we can do it and not
7 have any afternoon.

8 MR. TRAFICANT: I would hope we would not.

9 MR. MORFORD: I don't think it'll take long.

10 THE COURT: I don't think it will either, but
11 I don't know what Mr. Kersey has on his mind.

12 MR. TRAFICANT: No. But I think that
13 Mr. Kersey should be brought in and the jury should be
14 dismissed, and all of our salient points of concerns should
15 be brought forward for you to decide.

16 MR. SMITH: Can I ask the witness to stay in
17 case you want to hear --

18 THE COURT: I have to keep her because I
19 think she may need to be under voir dire.

20 MR. MORFORD: Before we do --

21 (Counsel and Defendant conferring off the record.)

22 MR. TRAFICANT: Why would you have to keep
23 the witness under voir dire? She would not be hearing what
24 Mr. Kersey says; is that correct?

25 THE COURT: See, it's two separate things,

1 really. It's two separate things really.

2 MR. TRAFICANT: She would not be in the room
3 when we discuss Mr. Kersey's thing, would she?

4 THE COURT: No, we can have her wait
5 somewhere.

6 MR. TRAFICANT: Yeah.

7 THE COURT: They're asking me to hold her in
8 the witness room basically until we decide whether or
9 not -- and I think it will probably be the case -- she
10 needs to be subjected to further questioning in order to
11 lay the foundation to see whether or not they have
12 something that can be introduced here.

13 MR. TRAFICANT: Well --

14 THE COURT: Okay. So I need her not to go
15 home, we'll send the jury home.

16 MR. TRAFICANT: Why can't we do that Monday
17 morning?

18 THE COURT: And Kersey can be separate from
19 that because we have two people, and we're supposed to work
20 on Friday here, and we're going to do our work.

21 MR. MORFORD: Just so the Court knows, I did
22 explain to her because we had to fly her up from a vacation
23 in Florida and fly her back today and bring her back
24 Tuesday, I did explain to her what was going on.

25 THE COURT: That's right. We won't be here

1 Monday. Okay. In any event, let me just send the jury
2 home, okay, and then we'll deal with our work.

3 MR. TRAFICANT: That's fine with me.

4 THE COURT: All right.

5 (Proceedings resumed within the hearing of the jury:)

6 THE COURT: This is a wonderful time to send
7 you away on your extended weekend, so we're going to send
8 the jury home first and worry about all these other
9 problems that don't really involve you after that.

10 I want to remind you of a couple of things. This
11 will be a substantial period of time where you can put this
12 case out of your minds and go on with your -- resume your
13 lives. You are under all these strange rules, and I just
14 want to go over them with you one more time.

15 The things we tend to call in the old language
16 admonitions because they've been around for a long time. I
17 think you know them once I have all of you sort of talk
18 them out when you were in a larger pool of people. You did
19 a very good job, but let me just go over them with you
20 again.

21 You can't watch or listen to or overhear or be
22 exposed to any information about this case. More
23 importantly, if anyone tries to approach you or contact you
24 or talk to you about this case, you need to tell them that
25 you're not allowed to do that, and you have a 24-hour

1 number to call for the U.S. Marshals.

2 I want to you use it if you are put under any
3 pressure by any person. That's not really the end of the
4 admonitions, though. That's the most important part. You
5 can't let -- you've heard part of the evidence in this
6 case, you haven't heard it all. You've got a couple days
7 here, a day -- two days and a half. Don't go out and
8 investigate this case on your own, okay?

9 That's another admonition, and it's -- it's hard not
10 to resist it. We've had a lot of testimony. You may go by
11 a place that triggers some memory from something said here
12 in the courthouse. Just keep on going by. Your obligation
13 is a heavy obligation. As part of this Court, you're the
14 sole and exclusive judges of the facts in the case, of the
15 credibility and believability of the witnesses, and you're
16 going to end up being responsible for returning verdicts in
17 this case under the law as I give it to you.

18 So you also want to be careful that nobody tries to
19 start teaching you the law outside of the courtroom. You
20 probably have heard a lot about the law. Some of you may
21 know a lot about the law, but you're looking at the person
22 who has the job to tell you the law. I can't do all of
23 that. I told you some -- until I've also heard the
24 evidence in the case because you're listening to it and I'm
25 listening to it, and until you've heard it all, you don't

1 get your final instructions in the law.

2 A good thing to do that judges are schooled in and
3 you are judges of the facts of the case, is that you do
4 what you do in your normal lives with important
5 responsibilities. You suspend your judgment until you've
6 got all the facts, until you know where you're going and
7 how to make a decision. And that is not something that's
8 new to people.

9 I tell you these strange rules, and maybe they're new
10 the way you have to conduct your lives, which you've all
11 been in that kind of circumstance before. So it's a great
12 pleasure to be serving with you, enjoy yourselves, thinking
13 about all the other things in your lives while you're gone,
14 and we'll see you at 9:00 in this box on Tuesday. Okay?
15 Thank you.

16 (Proceedings in the absence of the jury:)

17 THE COURT: I'm going to ask the clerk to
18 find Mr. Kersey and have him come in so we can find out
19 what his concerns are.

20 MR. TRAFICANT: I would ask for a side bar,
21 your Honor.

22 THE COURT: There's no jury present. So
23 whatever happens here, unless there's some compelling
24 reason for it, would be --

25 MR. TRAFICANT: I object -- I believe that

1 the connotation of what Mr. Kersey may say may have a
2 prejudicial effect, and it should be taken into
3 consideration as a side bar.

4 THE COURT: Okay. Mr. Kersey.

5 MR. KERSEY: Yes, ma'am, your Honor, nice to
6 see you.

7 THE COURT: Would you please come forward?

8 MR. KERSEY: Yes.

9 THE COURT: And let me just explain that at
10 a -- at a break that we took earlier, I was notified that
11 you were here, and we are -- we have recessed the jury for
12 the day, and we have in front of us some issues, which may,
13 in fact, concern you or your client, and we will not go
14 forward with those without you present.

15 I just want to tell you what it is that we're looking
16 at, and I will also give you an opportunity to let us know
17 what brought you to the courthouse in the first place
18 because I haven't had a chance to look at that.

19 MR. KERSEY: What brought me here was to hear
20 testimony of Allen Sinclair, one, and also, two, to get
21 transcripts that have testimony so I can be -- I mean
22 that's just prudent lawyerism.

23 THE COURT: No. That's fine.

24 MR. KERSEY: That's why I was here today to
25 pick up a transcript George prepared.

1 THE COURT: That's fine. We were under the
2 impression that you were concerned about some of the
3 proceedings that might go on while we have the current
4 witness on the stand, and I don't know if that's not your.

5
6 MR. KERSEY: No.

7 THE COURT: We're not worried, but we did
8 receive a letter on your letterhead this morning, which was
9 given to me by the Government, that related to your
10 client's intention regarding his Fifth Amendment rights,
11 and I told the Government at that time that we would need
12 to arrange to actually do more than just have a letter but
13 to have your client present at some time and thought of the
14 possibility since our jury goes home, 12:00 noon, seeing if
15 that might be arranged for this afternoon. So let me raise
16 that question with you.

17 MR. KERSEY: Judge, as you know, he's in
18 Florida. He's in retirement. He is in one of the
19 conditions of the bond that he stays in this district or
20 the southern district. He is at home in Riviera Beach.
21 He's almost a semi-invalid with a cane. He doesn't get
22 around very much.

23 So getting him here immediately, your Honor, in all
24 due respect would be virtually impossible unless I can fly
25 an F-116 or something, and then I would guarantee you he

1 would get here.

2 MR. KERSEY: Judge, I will do this for the
3 Court. We've had cases before and I always comply with
4 your wishes. I would get him if the Court wants him here
5 in person, if for some reason and the letter doesn't
6 suffice, then Mr. Grant and I will get him up here as fast
7 as we can. I was in my office preparing to call Mr.
8 DiBlasio and tell him there's a new development.

9 THE COURT: Right. So what we have here is
10 that we've recessed the jury until Tuesday morning, so we
11 have some time here for you to decide how you and your
12 client want to respond.

13 The -- the law of the Sixth Circuit doesn't permit me
14 to simply go forward on a letter, and you probably know
15 that, but what -- what I would like to do is to see whether
16 you can work out with the Government here some kind of an
17 arrangement that would allow us to go forward on that
18 aspect of this.

19 MR. TRAFICANT: Your Honor --

20 THE COURT: Yes.

21 MR. TRAFICANT: Your Honor --

22 THE COURT: Congressman Traficant.

23 MR. TRAFICANT: I understand the nature of
24 Mr. Kersey's letter, and I know Mr. DiBlasio, and he is
25 very ill. And I will not subject Mr. DiBlasio to coming up

1 here under that illness, under that situation, and will
2 allow the Kersey letter as representation for his client to
3 be admitted and to further impose one more hardship on Mr.
4 DiBlasio.

5 THE COURT: Thank you, Congressman. I don't
6 know that that will resolve the issue. I have to think
7 about that. That's a different approach onto it, but thank
8 you.

9 MR. KERSEY: Well, if I --

10 THE COURT: With us one moment.

11 MR. KERSEY: All right.

12 MR. MORFORD: Two things, your Honor, Number
13 1, because this is a question of admissibility under Rule
14 104, the Court can consider hearsay if the Court deems that
15 to be reliable, and given that Mr. Kersey has indicated in
16 direct conversations with his client that his client will,
17 if brought here, will do nothing more than get on the stand
18 and assert the Fifth Amendment, and given the fact it
19 sounds like Congressman Traficant can stipulate to the fact
20 under 104, the Court may be able to do what I thought --

21 THE COURT: We may, I would need a little
22 more from Mr. Kersey about all that, and I think there is
23 some consideration of the fact that he's not well, but now
24 Mr. Traficant's on his feet again. In -- you'll remember
25 this, that when someone gets on their feet, I have to pay

1 attention to them.

2 MR. KERSEY: I'm sitting here going up and
3 down. You know how polite I am over the years. My
4 goodness.

5 MR. TRAFICANT: Okay.

6 THE COURT: But he jumped up first,
7 Mr. Kersey, because he's been having to do that all through
8 this.

9 MR. TRAFICANT: I would allow Mr. Kersey to
10 go first.

11 MR. KERSEY: Judge, I notice one thing I can
12 say this with all deference, if I could, you have -- and
13 this is the first time I've been before you in this
14 glorious courtroom. We've had murder cases in two -- I
15 remember May Company and what not. We've had trials. You
16 have maintained your -- I've watched as you maintained the
17 best judicial temperament, I mean this, always said this
18 about you, and you've kept your cool, and I have -- I've
19 even noticed Mr. Traficant is showing some humility, your
20 Honor, I might say. Judge --

21 THE COURT: Wonderful. Lawyers are really a
22 special group of people.

23 MR. TRAFICANT: I'm not a lawyer.

24 THE COURT: No, but you are in this case.
25 You are.

1 MR. KERSEY: I will do whatever the Court --
2 you know feel comfortable with.

3 THE COURT: This is your client. Both the
4 Government and Defendant are both suggesting to me given
5 all the circumstances here, that it would be sufficient to
6 go forward simply on the letter, and if there were some
7 additional representations that you could make that would
8 permit me to do that, let me suggest what they might
9 involve.

10 MR. KERSEY: Judge, if I could have a
11 medical, not with me -- I ran over here. I have some
12 medical records that are about oh, an inch and a half thick
13 and there's -- he's had heart problems and a number --
14 numerous problems, he's been operated on I believe in June
15 or July. Mr. Morford has the whole litany.

16 Judge, I can show you really I have that, I can
17 provide that to the Court, and it would make it perfectly
18 clear this is an ill man to come up here. He has trouble
19 getting up the stairs, Judge.

20 THE COURT: We have a -- we have some law in
21 the Sixth Circuit that says that the privilege can't be
22 asserted before questions are asked and is things like that
23 so I clearly have to look at it, and I'll be able to do
24 that. There aren't that many cases for the Sixth Circuit.
25 I can go back and review this with this factual situation

1 in mind and do that briefly. It won't take me long.

2 MR. KERSEY: All right.

3 THE COURT: I think probably we have enough
4 on the record on that issue.

5 MR. KERSEY: And I'll provide the Court,
6 convenience the Court with the medicals that I have. I'll
7 bring them over here after the lunch break if the Court so
8 desires.

9 THE COURT: All right. Thank you.
10 Congressman.

11 MR. TRAFICANT: Your Honor, I know this man.
12 He is very ill, and under the circumstances that Mr. Kersey
13 in my conversations with him has been very reliable, and I
14 think for him to travel up here would be an endangerment to
15 his life, and that's why I do not object, and, in fact,
16 encourage the Court to allow Mr. Kersey's record that
17 reflects the intentions of his client to be now admissible
18 and for that matter to be disposed of expeditiously.

19 THE COURT: All right. Well, let me just add
20 one thing, and this is really speaking to you as a lawyer
21 representing yourself, and that is that one of the issues
22 that you raised this morning, appropriately enough, was
23 that statements may be hearsay, and because you raised that
24 issue and you raised it appropriately, what the Government
25 did was to rely on certain sections of the rules that deal

1 with witnesses who are unavailable.

2 We have two varieties of that that we're
3 looking at in the absence of the jury. One has to do with
4 a gentleman who is no longer alive, and the other has to do
5 with a gentleman who has notified the Court that he intends
6 to assert his Fifth Amendment privilege.

7 In order for me to understand whether or not -- and
8 there are other inquiries that go with this, that have to
9 do with trustworthiness and so forth, but on this issue, is
10 the witness unavailable for this particular witness, he
11 could only become unavailable if I can make certain
12 findings regarding his assertion of a Fifth Amendment
13 right.

14 And then he becomes unavailable by virtue of the fact
15 that in asserting that right, he no longer is, quote,
16 available to testify, so the rules recognize that as an
17 exception to the hearsay argument that you were making. So
18 although I know you're being thoughtful about a person and
19 concerned about a person, you are now taking a position
20 that eats away at the objection that you made earlier this
21 morning. That was a proper objection to make, and the
22 Government properly is going forward now in an effort to
23 show this person is unavailable.

24 I have to make findings and test the law that
25 requires, and I may well be able to do it in this case, but

1 I don't want you to misunderstand that just because you're
2 being thoughtful and concerned about this person, you
3 are -- that's -- that's the personal -- person you are
4 representing, and you also have an obligation as your own
5 lawyer to consider that in light of what it may do to your
6 earlier argument.

7 MR. TRAFICANT: Let me respond.

8 Mr. O'Nesti, regardless of what has been said, is a
9 friend, he is dead, and I believe part of that in my own
10 opinion was due to extreme pressure. Mr. DiBlasio's a very
11 good friend of mine, whatever his testimony says or does
12 not say, is not my concern. But I don't want him to die
13 under these circumstances.

14 But on hearsay, what is good for the goose is good
15 for the gander. Now, when you make that decision, is the
16 only point I'm making, that the Defendant be then thus
17 allowed under the rules brought forward and under the
18 statutes brought forward by this Prosecution, that he be
19 given the same latitude. But as far as Mr. O'Nesti's
20 concerned, I, in no way, regardless of the problems that it
21 poses to me, want to subject him to any further harm
22 because of his health period. And I ask that he be then
23 released, knowing that it may not be in my best interest,
24 but I believe Attorney Kersey has been an honorable man,
25 worked with me in an honorable form and fashion. He's

1 conferred with his attorney, he's stated today this Court
2 about a medical record that's about a half a -- inch and a
3 half long. I have deferred Mr. DiBlasio, and I don't think
4 under the circumstances even though it may hurt me that I
5 want him here because of his Fifth Amendment rights I
6 believe he should be granted that.

7 THE COURT: I think now we sort of explore
8 the dimensions of the issue here. I will give thought to
9 whether or not I could even accept a stipulation on this,
10 and I'll try and get that resolved while other people are
11 having lunch or something.

12 We have another part of this, and that has to do with
13 the second part of the analysis that would go forward
14 regarding testimony of this witness as to any of the
15 witnesses currently on the stand, as to any conversations
16 or statements that might have been made by either of these
17 two people, one of whom again is your client. Now, I can
18 reserve ruling on part of this, and we can go ahead and
19 have voir dire of this witness on the reliability issues,
20 if you want to.

21 MR. SMITH: Yes, your Honor, we may as well.
22 The witness is here.

23 THE COURT: Okay.

24 MR. TRAFICANT: I prefer not to, and I want
25 to give an explanation for that.

1 They knew this woman was in Florida, this case was to
2 start taking testimony early, they could have brought this
3 woman up first, they could have gone into the issue of
4 hearsay. She knew she had to travel. They bring her in at
5 late hour, then confuse us with having to have the expense
6 of having to bring her back and all this expense business.

7 And, quite frankly, I think that they could have put
8 other witnesses on before her knowing her situation.
9 Therefore, I don't believe the Government's request should
10 be honored.

11 THE COURT: See, we have six hours left.
12 When you and I and the other lawyers here are available,
13 and you knew you would be available to do something about
14 this. So my real question is a much more practical one.
15 This is an ideal day in which to do this. The jury always
16 knew they were going home at noon, and it's an ideal time
17 for us to address these legal issues.

18 My only question is: Do people want to break for
19 lunch before we do that, or do you want to try and go
20 forward now? That's all.

21 MR. TRAFICANT: Your Honor, I would like to
22 not break for lunch. I have a family as well, I would like
23 to see them, and wouldn't recommend that we go forward.

24 THE COURT: Okay. Then we'll do that.
25 Mr. Kersey, you may stay or not as you like, although I

1 think that it will -- here's what I will try and do. I
2 will try by the end of the day to not only rule on a couple
3 of the outstanding motions that we've got in this case,
4 which I'm almost ready to rule on, but I will also try to
5 get this other issue of whether or not we have a sufficient
6 platform on which a Pro Se Defendant and Sixth Circuit law
7 can accept a letter that makes a general statement about
8 asserting Fifth Amendment rights or whether we need to
9 bring the person up here. I'll make that decision also
10 this afternoon.

11 Right now what I want to focus on is something
12 different. We have the whole issue of trustworthiness and
13 so forth, and you may want to be here for a voir dire on
14 that. I don't know. It's up to you.

15 MR. KERSEY: Judge, if I could, I'll go back
16 to my office. As you know, this isn't the only thing. I
17 have to tell you I told somebody today I have -- right now
18 there's a woman that's hiring me with a murder case, with
19 the Arabs that burned the store, and I have a livee, as I
20 say, in the office, and I would like to get back and have
21 her sign on a contract so I can pay my taxes to the
22 Government, your Honor. And I'll be --

23 THE COURT: Mr. Kersey, you are free to
24 leave.

25 MR. KERSEY: Judge, I will be there, and I

1 really enjoyed this very much, but I will be there and be
2 waiting for a phone call.

3 THE COURT: Thank you.

4 MR. SMITH: The Government thanks Mr. Kersey
5 for paying his taxes.

6 MR. TRAFICANT: I, too, want to thank
7 Mr. Kersey.

8 (Laughter.)

9 THE COURT: Okay. Now, do you want to put
10 some questions to this witness?

11 MR. SMITH: Yes, your Honor.

12 THE COURT: Go and get her, please.

13 MR. SMITH: I will summarize what that will
14 be.

15 THE COURT: That will be good. Congressman,
16 this may help you with this. This is a voir dire for a
17 special purpose here, and it operates under a little bit
18 different rules.

19 MR. SMITH: Your Honor, I have already on
20 direct asked this witness a number of the questions
21 relating to Charles O'Nesti, as to circumstantial
22 guarantees of trustworthiness having to do with closeness
23 where the statements were made and the circumstances they
24 were made and what not, and how long you worked.

25 I would have to, of course, develop those similar

1 questions with respect to Attorney DiBlasio.

2 THE COURT: Right.

3 MR. SMITH: And then I would then ask the
4 witness simply to identify to the court what it was that
5 Mr. O'Nesti and what Mr. DiBlasio said to her since you
6 know what the answer is going to be, if you allow it to
7 come in. That's what I would propose to do.

8 THE COURT: Okay.

9 MR. SMITH: But -- and I have already covered
10 a lot of it with respect to O'Nesti.

11 THE COURT: Okay.

12 MR. TRAFICANT: So my understanding, you're
13 going to allow the hearsay in?

14 THE COURT: No, I haven't decided yet. What
15 this is is a -- is an opportunity for the lawyers, who are
16 proposing that this particular -- these particular
17 witnesses, these two, who they are asserting are
18 unavailable, meet another standard, which I discussed
19 pretty fully in my orders that I issued on this, which were
20 conditional orders, you may remember that I -- they wanted
21 me to say in advance whether this evidence could come in,
22 and you objected to that one, I think.

23 But in any event, and that was correct, and I said,
24 well, we're going to have to wait and see. We're going to
25 have to get into the trial and find out whether or not they

1 can satisfy some issues about this, and this voir dire goes
2 to a particular kind of question that the rules require me
3 to explore along with the law -- just a minute. I'm almost
4 finished.

5 I want you to listen because this is what they're
6 looking for. They're looking to see whether or not they --
7 their witness will answer questions in a way that will
8 satisfy the Court that there are these guarantees of
9 trustworthiness that the law has set up are required.

10 MR. TRAFICANT: Now, having said that, now
11 we're talking about two different potential persons, whose
12 hearsay may be admissible for whatever reason.

13 Mr. DiBlasio is under indictment. Mr. DiBlasio, the
14 indictment by taking the stand, could expose himself to
15 incidents outside of this case that could have an impact on
16 his future. What I object to is you having this open to
17 the public with the inference that the objections or the
18 Fifth Amendment is taken simply because of any acts that
19 might have been done with Jim Traficant.

20 This is a man who's under indictment. Mr. O'Nesti
21 was not under indictment. He was about ten days away from
22 death when they come in with a fruit basket ploy, so I
23 think they are completely different. But it is the
24 connotation that concerns the Defendant and the prejudicial
25 atmosphere.

1 I know Mr. DiBlasio is definitely sick, and he may
2 die. Mr. O'Nesti has already died. Now, I don't want
3 anybody else to die in this case. But I do not want the
4 connotation to be read into this matter that because the
5 Fifth Amendment right has been taken on someone who's been
6 indicted has to deal simply with the matter that deals with
7 the Defendant. That is very prejudicial.

8 THE COURT: Well --

9 MR. TRAFICANT: Who knows what Mr. DiBlasio
10 may have in his background or may be subject to under
11 cross-examination.

12 THE COURT: This isn't cross-examination.

13 MR. TRAFICANT: Or under scrutiny when he's
14 on the stand.

15 THE COURT: Well, he's not coming on the
16 stand right now.

17 MR. TRAFICANT: Okay. Mr. DiBlasio's been
18 excused.

19 THE COURT: Whoa, whoa, whoa. The witness
20 you were hearing about and we were examining this morning
21 on direct examination is the witness who's being brought
22 back on the stand. You have been concerned properly with
23 whether or not certain statements that the Government
24 indicated before trial they might want to use in their case
25 were hearsay.

1 There is -- there are some exceptions to the hearsay
2 rule. One of those exceptions to the hearsay rule is what
3 we've concerned with right here. I have not ruled whether
4 or not they meet that exception. That's all we're talking
5 about. And the witness on the stand is not going to be
6 Mr. DiBlasio, who's in Florida. It's going to be the
7 witness who's been on the stand most recently here, who
8 also lives in Florida, but who has been brought up for
9 examination in this case.

10 So that's what we're doing, and the voir dire out of
11 the hearing of the jury does not mean that we're having an
12 in-camera hearing. In fact, I can't imagine an in-camera
13 hearing could be -- could be appropriate for this. We have
14 open, public courts in the United States, and they are to
15 protect all of us so that things don't go on in star
16 chambers or secret rooms. This is what we're doing here
17 today, and in spite of your strenuous objections to it, I
18 will not close these -- this voir dire. There's absolutely
19 no justification.

20 MR. TRAFICANT: For the record, I want it
21 placed in my first trial, I subpoenaed mobsters. The
22 Government didn't, and the Judge did not allow the jury or
23 anyone to have them take the Fifth. She made them take the
24 Fifth in her chambers where no one knew they took the
25 Fifth, and their Fifth Amendment could not be discussed. I

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1 was the guy who, in fact, subpoenaed the mobsters, not the
2 Government.

3 THE COURT: Okay. Well, this is not 1983.

4 MR. TRAFICANT: This is highly prejudicial.

5 THE COURT: All right. But you're going
6 to --

7 MR. TRAFICANT: And I object.

8 THE COURT: You're going to live with the
9 open court system. That's the law we have. So if you want
10 to bring your witness down and -- we'll put questions to
11 her.

12 (Pause.)

13 THE COURT: You're still under oath, this is
14 a limited kind of inquiry out of the presence of the jury,
15 and the lawyers will ask you certain questions about
16 certain areas of what may be your testimony.

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1 JACQUELINE M. BOBBY,
2 resumed the witness stand out of the presence of the
3 jury and testified further as follows:

4 VOIR DIRE

5 DIRECT EXAMINATION

6 BY MR. SMITH:

7 Q. During your testimony before the jury, you were asked
8 a series of questions about the nature of the relationship
9 between Congressman Traficant and Charles O'Nesti, do you
10 remember that series of questions and answers?

11 A. Yes.

12 Q. And during that testimony, did you describe the
13 nature of the relationship between the Congressman and
14 Mr. O'Nesti as being a close relationship?

15 A. Yes.

16 Q. Would you restate again how long it was that
17 Mr. O'Nesti worked in the congressional office as one of
18 Congressman Traficant's employees start?

19 MR. TRAFICANT: Objection, asked and
20 answered.

21 THE COURT: Overruled. You can answer it.

22 THE WITNESS: I can answer?

23 THE COURT: Yeah.

24 THE WITNESS: He started working in 1985, and
25 he retired in 1998.

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1 Q. All right.

2 A. Chuck O'Nesti.

3 Q. And was Mr. O'Nesti's position, as a district
4 director, a supervisory position in the office?

5 A. Yes.

6 Q. Now, there was a series of questions asked to you
7 about the circumstances, under which Mr. O'Nesti discussed
8 his pay situation with you. Do you remember that series of
9 questions and answers?

10 A. Yes.

11 Q. And do you recall testifying these conversations were
12 periodic from sometime in the mid 1980's up to
13 approximately six months before Mr. O'Nesti retired?

14 A. Yes.

15 Q. And where did these conversations take place again?

16 A. In Mr. O'Nesti's office.

17 Q. All right.

18 And besides you and Mr. O'Nesti, were there ever any
19 other people present when these types of conversations were
20 made?

21 A. Yes, Grace Kavulic.

22 Q. And Grace Kavulic was who?

23 A. She was Congressman's personal secretary.

24 Q. All right. She a full-time person?

25 A. Full-time employee.

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1 Q. How long -- when did she come on staff?

2 A. For the Congressman, in 1985.

3 Q. All right. And when you left in the spring of 1998,
4 was Ms. Kavulic still on that staff?

5 A. Yes.

6 Q. Was any Government Prosecutor official, such as
7 Assistant United States Attorney, present for any of these
8 conversations?

9 A. Yes.

10 Q. No, no. With Mr. O'Nesti.

11 A. Oh, no.

12 Q. In the office?

13 A. No.

14 Q. The conversations you had with Mr. O'Nesti when he
15 discussed his pay situation in front of you and Ms.
16 Kavulic, those are the conversations we're talking about
17 between 1985 and before he left in 1998, was any Government
18 Prosecutor present at any of those conversations?

19 A. No.

20 Q. Was any FBI agent present during any of those
21 conversations?

22 A. No.

23 Q. Any IRS agent present during any of those
24 conversations?

25 A. No.

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1 Q. Any Government agent of any kind that you were aware
2 of present during any of those conversations?

3 A. No.

4 Q. Were you aware of any investigation of Congressman
5 Traficant that was ongoing at that point during any of
6 those conversations?

7 A. No.

8 Q. Did Mr. O'Nesti give any indication that he was aware
9 of any ongoing investigations of Congressman Traficant at
10 that point?

11 A. No.

12 Q. All right. During these periodic conversations with
13 Mr. O'Nesti about his pay, what did he say?

14 A. He complained because he had to give so much money to
15 the Congressman monthly, and he had -- Chuck O'Nesti had to
16 pay the income tax on that money first.

17 Q. What about that disturbed him?

18 A. The fact that he, Number 1, he had to pay the tax
19 prior to giving money to Congressman Traficant, and Number
20 2, that he worked very hard for his money and thought he
21 deserved all of it.

22 Q. Did Mr. O'Nesti indicate how much money that he was
23 paying back to Congressman Traficant from his salary?

24 A. No. Sometimes he -- excuse me. At one time, I think
25 he said a thousand dollars, but I cannot say that that's

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1 what it was every time.

2 Q. All right. But there was at least one occasion upon
3 which he said it was a thousand dollars that he had to give
4 back?

5 A. Yes.

6 Q. Is that correct?

7 A. Yes.

8 Q. And did he give any indication about how often he was
9 giving this money back?

10 A. Yes, monthly.

11 Q. In discussing this with you, did Mr. O'Nesti say
12 anything about Mr. DiBlasio?

13 A. Yes.

14 Q. What did Mr. O'Nesti say --

15 MR. TRAFICANT: Objection.

16 THE COURT: Overruled.

17 Q. What did Mr. O'Nesti say about Mr. DiBlasio?

18 A. He said had a that Mr. DiBlasio was also giving back
19 money to Congressman Traficant, but he wasn't working as
20 hard for that money compared to Mr. O'Nesti.

21 Q. All right.

22 Now, turning then to Mr. DiBlasio, when did he come
23 on staff?

24 A. 1985.

25 Q. And when you left the staff in the spring of 1998,

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1 was he still there?

2 A. Yes.

3 Q. He had a supervisory position, at least, as far as
4 title is concerned; is that correct?

5 A. Yes.

6 Q. Where was his office in relation to the Congressman's
7 office at Overhill Road?

8 A. Mr. DiBlasio's office was at his law practice office
9 adjacent to the Congressman's office on Overhill Road.

10 Q. What floor was that office?

11 A. On the top floor.

12 Q. And all the other congressional offices were on the
13 lower floor; is that correct?

14 A. Yes.

15 Q. What was the nature of the relationship between the
16 Congressman and Mr. DiBlasio as you observed it?

17 A. I -- I don't know. Mr. DiBlasio would appear at
18 various press conferences, perhaps at the very beginning of
19 the congressional tenure would accompany him to some
20 speaking engagements, but after that, I don't think -- I
21 don't know about what the relationship was.

22 Q. Okay.

23 When -- did you ever have a conversation with Mr.
24 DiBlasio in a restaurant in the mid 1980's about his pay?

25 A. Yes.

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- 1 Q. All right.
- 2 Where was that restaurant at?
- 3 A. It was in Niles somewhere, Niles, Ohio, and I -- I
- 4 don't remember which restaurant it was.
- 5 Q. And while you were at this restaurant, who was
- 6 present at the table?
- 7 A. Mr. DiBlasio and I.
- 8 Q. Was any Prosecutor with the Government present at
- 9 that point?
- 10 A. No.
- 11 Q. Was any Government agent, whether it would be the
- 12 FBI, the IRS, or any other Government agency present?
- 13 A. No.
- 14 Q. To your knowledge, as you sat at that table, were you
- 15 aware of any investigation of Congressman Traficant that
- 16 was ongoing at that time?
- 17 A. No.
- 18 Q. Did Mr. DiBlasio give any indication that he was
- 19 aware of any investigation of Congressman Traficant ongoing
- 20 at that time?
- 21 A. No.
- 22 Q. As you were sitting at that table at that restaurant,
- 23 what did Mr. DiBlasio say about his pay?
- 24 A. Mr. DiBlasio said that he was supposed to -- he has
- 25 to -- or is giving back so much money a month to Jim

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1 Traficant from his congressional salary.

2 Q. Did Mr. DiBlasio indicate any amount of money?

3 A. No.

4 Q. Now, were you questioned about these matters by the
5 FBI in November of 1999?

6 A. Yes.

7 Q. Did you tell the FBI these things about what
8 Mr. O'Nesti said about his pay, and what Mr. DiBlasio had
9 said about his pay, did you tell the FBI that in November
10 of 1999?

11 A. Yes.

12 Q. Were you also questioned before the Grand Jury in
13 January of 2000 about these?

14 A. Yes.

15 Q. Did you tell the Grand Jury about these statements of
16 Mr. O'Nesti about what he said about his pay?

17 A. Yes.

18 Q. Did you tell the Grand Jury about the statements that
19 Mr. DiBlasio had made about his pay before the Grand Jury?

20 A. Yes.

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

22 THE COURT: Yes.

23 MR. SMITH: No further questions of this
24 witness, your Honor, at this time.

25 MR. TRAFICANT: Your Honor, this is voir

Bobby - Voir Dire/Cross

1 dire, this is not a cross-examination, is it, under court
2 law?

3 THE COURT: Well, you can ask her questions,
4 if you wish. Sometimes -- I think if you go forward the
5 way you've been going forward on cross-examination, that
6 will be fine, but you still have a whole cross-examination
7 of this witness ahead of you. If you wish to cross-examine
8 the witness after the Government concludes its direct
9 examination, and they -- they're doing this sort of at the
10 end of their other examination, but you will have a full
11 opportunity to do a cross-examination of the witness on all
12 of her testimony today as to what we're talking about here
13 now.

14 You can examine her as if it were cross-examination
15 right on the issues that we're talking about, but not about
16 other issues. This is a limited hearing in that sense

17 VOIR DIRE

18 CROSS-EXAMINATION OF JACQUELINE M. BOBBY

19 BY MR. TRAFICANT:

20 Q. Jackie, did you ever see Chuck giving me money/?

21 A. No.

22 Q. You ever see Henry give me any money?

23 A. No.

24 Q. Were you particularly close with Henry?

25 A. No.

Bobby - Voir Dire/Cross

1 Q. Isn't it a fact that you resented that Henry was at
2 Overhill with me and did not work downtown?

3 A. I did not resent it.

4 Q. Did you not mention it?

5 A. I didn't resent it?

6 Q. No. Did you not make mention that Henry was up in --
7 Jim was up there and not downtown?

8 A. No, I never mentioned where Henry was.

9 Q. Okay.

10 Now, on this so-called money that you said was
11 cashed, did you count the money?

12 A. No.

13 Q. Did Grace count the money?

14 A. Yes.

15 THE COURT: Are we talking about -- what are
16 we talking about here? I think that's part of her regular
17 examination before we got into this. This is about
18 conversations against statements.

19 MR. TRAFICANT: Okay. Let's just let that go
20 then.

21 THE COURT: Okay. Well, you can raise that
22 later.

23 BY MR. TRAFICANT:

24 Q. Now, they brought up -- I don't know if they brought
25 that up on your direct examination or your voir dire, but

Voir Dire - Cross

1 they brought up something about your workmen's compensation
2 case. Was that in the voir dire or was that examination?

3 A. I didn't file for Workmen's Compensation.

4 Q. What did you file the complaint with the Government,
5 what did you file?

6 THE COURT: That was part of her earlier.

7 MR. TRAFICANT: That was earlier?

8 THE COURT: Yeah, I know it's hard to
9 separate.

10 MR. TRAFICANT: That was fine. I'll leave
11 that.

12 Q. Did you ever go out to dinner with Henry DiBlasio and
13 his wife?

14 A. No.

15 MR. TRAFICANT: No further questions.

16 THE COURT: Thank you. Anything further?

17 MR. SMITH: Only one document but not this
18 witness, your Honor.

19 THE COURT: Okay. Very well. Okay? So
20 you're through.

21 MR. SMITH: Right. You want to speak in
22 front of the witness or --

23 THE COURT: No, I just want to make sure.
24 So -- you now are through with this part of the
25 proceedings, and my understanding is that we'll resume

1 again on Tuesday at 9:00 in the morning, and you will be
2 the witness, the first witness.

3 I'm not sure quite yet whether you'll be on direct or
4 cross, but we can work that out, but you'll need to be able
5 to come back to court and be ready to go at 9:00 on
6 Tuesday. Between now and then, enjoy yourself, you don't
7 have to think about all of this, and you're released.
8 Okay, until then. Thank you.

9 (Witness excused.)

10 MR. SMITH: Your Honor, there is one other
11 document that you may wish to consider on the issue of
12 circumstantial guarantees of trustworthiness, specifically
13 the nature of the relationship between Henry DiBlasio and
14 Congressman Traficant, and I'm referring to -- actually to
15 Defendant's Exhibit he gave in discovery, Defendant's
16 Exhibit D-12 and then the envelope that it came in,
17 apparently, D-12 (a), and we would ask the Court to examine
18 those two exhibits going to the nature of the relationship.

19 MR. TRAFICANT: Can you possibly give them to
20 me? I think I have been compliant with everybody so far.

21 MR. SMITH: There they are, sir.

22 MR. TRAFICANT: I thought they were supposed
23 to be copies so we not waste time.

24 MR. MORFORD: They're your exhibits.

25 THE COURT: That's an exhibit, Congressman.

1 MR. TRAFICANT: Excuse me.

2 THE COURT: Okay. Thank you. For the record,
3 these are 2-12 and D-12 A, which apparently appears to be
4 the envelope that goes with D-12, a letter to Congressman
5 Traficant from Henry DiBlasio, and it's dated September 18,
6 1999, so now I have -- I am going to read it not out loud.

7 MR. TRAFICANT: Who is the letter from again?

8 THE COURT: From Henry DiBlasio.

9 MR. TRAFICANT: Okay. I thought you said it
10 was from the Defendant to Henry DiBlasio.

11 THE COURT: I didn't mean to if I did.

12 MR. TRAFICANT: Okay.

13 THE COURT: All right. I'll take that into
14 consideration, and I'll rule today, this afternoon on this
15 issue so that you know. Now, is there anything -- I
16 have -- I know I have other pending motions. You should be
17 able to get a ruling docketed some time today.

18 MR. TRAFICANT: Your Honor.

19 THE COURT: Just one second.

20 On the issue regarding deposition in Florida, we'll
21 give you a ruling on that today. I just can't give it to
22 you from the bench because I have been out here with you.
23 Okay. But that will pop up. We'll fax that --
24 Congressman, where should we fax copies of rulings for you
25 today, to Youngstown?

1 MR. TRAFICANT: I'd like for you to fax them
2 at 702-1230.

3 THE COURT: Okay. And we'll also, of course,
4 docket them, and you can -- you or your staff can access
5 the docket at any time. Anything further?

6 MR. MORFORD: Yes, your Honor, two things. I
7 apologize for this. I just happen to think of that letter
8 and pulled it out of my original copies of what Congressman
9 Traficant gave us. At some point, if I can get those back,
10 those are my only copies, I didn't know I would need those
11 today.

12 THE COURT: Right. I think what we'll do is
13 have these copies, and I can send them out to be copied
14 now, they're just two sheets.

15 MR. MORFORD: I'm sorry. The second thing,
16 as a housekeeping matter, I would like to move for the
17 admission of some exhibits that we went through yesterday.
18 I don't know if you want me to do that now or not, but it's
19 better --

20 THE COURT: It's a good idea while we're
21 here, we knew we would be working, and it shouldn't take a
22 long time. Congressman, in this part of the process, they
23 will read a list of exhibits that they are submitting to be
24 admitted, and I'll ask for your response to those and then
25 I'll rule on them, either admitting or not admitting them,

1 and --

2 MR. TRAFICANT: Your Honor --

3 THE COURT: Just a second. And then we'll
4 have taken care of some admissions, but it doesn't mean
5 that everybody has to offer things right now for admission.
6 I know you're concerned about whether you can offer things
7 for admission. But the Government has some ready to go.
8 So if you could turn your attention to these, we can
9 perhaps get these done without the jury here.

10 MR. MORFORD: These will all be exhibits that
11 have already been shown to a witness and marked and
12 testified to in open court, but before I do that, just so
13 the record will reflect, I think it does, but I want to
14 make sure that exhibits we just gave the Court, the
15 Defendant's Exhibits, would be moved into court's evidence,
16 not jury evidence for purposes -- limited purpose of the
17 legal issue on appeal.

18 THE COURT: That's right.

19 MR. MORFORD: Okay. And then the following
20 exhibits -- and I don't know if Congressman Traficant has
21 his exhibit books so he knows what we're talking about --

22 MR. TRAFICANT: I really don't. I apologize.

23 MR. MORFORD: If he doesn't, I will give him
24 a copy of this to look at.

25 THE COURT: Hey, it's Friday at noon. Just

1 relax we have a whole three-day weekend. Okay?

2 MR. MORFORD: They usually don't allow me to
3 handle originals because I tend to lose documents.

4 THE COURT: Okay.

5 MR. MORFORD: Your Honor, the first set of
6 exhibits we would offer would be Government's Exhibit 1
7 (11) through (17).

8 THE COURT: 1-1 through 1-16 have been
9 admitted already.

10 MR. MORFORD: That's correct, your Honor, I'm
11 sorry. It's just 1-1 (17).

12 THE COURT: Okay.

13 MR. TRAFICANT: Are we going over things that
14 have already been admitted or not? I'd like someone to
15 note that.

16 THE COURT: What we're going over now are
17 things that have not already been admitted but which the
18 Government is proposing to have admitted, and they're going
19 to read out the numbers, and they are providing you with
20 their copies of those exhibits as I understand it because
21 you didn't bring yours today, but you should -- you should
22 be aware of what they are.

23 MR. MORFORD: What I'm going to do, your
24 Honor, is point out to him each exhibit so he knows what it
25 is we are doing.

1 THE COURT: Okay. But the representation was
2 made, Congressman, all these exhibits were used with
3 witnesses that you've already heard testify in the court,
4 and that may help.

5 MR. MORFORD: Your Honor, 1-1 (17) was the
6 final envelope that we showed to Allen Sinclair, and if the
7 Court will recall, his testimony was that that was an
8 envelope he received from Congressman Traficant on a later
9 occasion brought to the FBI containing \$6,000.

10 THE COURT: Okay.

11 MR. TRAFICANT: Is that the back of the
12 envelope that was supposedly burned?

13 MR. MORFORD: No. This envelope right here.

14 MR. TRAFICANT: I see. Any writing on it?

15 MR. MORFORD: This is the front of back.

16 MR. TRAFICANT: Could you identify the agents
17 who had witnessed that? You have the numbers there, sir.

18 THE COURT: I think this was a -- was this a
19 bank person, a bank witness?

20 MR. TRAFICANT: No, he just told me it was a
21 federal agent.

22 MR. MORFORD: No, your Honor. He asked me if
23 there was any writing on the envelope. I told him there
24 was no -- this had no writing on the envelope at the time
25 of Mr. Sinclair. There are some agent initials regarding

1 the custody of the evidence on the back of the envelope,
2 and in answer to this, his question, he was given 302's and
3 FBI reports regarding who obtained the evidence from Mr.
4 Sinclair, but there's been no testimony about it.
5 Mr. Sinclair's testimony was this was --

6 MR. TRAFICANT: I know what his testimony is.
7 My question is, do you know the names of the agents who
8 had, in fact, been responsible for the custody and chain of
9 evidence?

10 MR. MORFORD: Those are all in the 302's
11 you've been given.

12 THE COURT: You've been given a whole series
13 of 302's. Okay?

14 MR. TRAFICANT: Yes, I submitted to the Court
15 a number of things that I wanted relative to Mr. Sinclair.
16 And I'm looking for them, and I don't know if I left them
17 with the court or to review later or you had returned them.

18 THE COURT: I don't know what you're talking
19 about. Do you know what he's talking about?

20 MR. TRAFICANT: You were to review them or --
21 well, in any regard, I could submit --

22 THE COURT: I'd like to know what we're
23 talking about. I have not been given anything to review.

24 MR. TRAFICANT: They were a couple of letters
25 of Mr. Sinclair, I think three specific things.

1 THE CLERK: These?

2 MR. TRAFICANT: Yes, there will be more, but
3 these were the three things I think I gave them to all
4 parties.

5 MR. MORFORD: You offered those, we did not
6 object, and I believe they've been admitted.

7 THE COURT: You've got to tell the record
8 here what those mean. Just read the numbers off. I know
9 it seems picky, but if you don't do this, you won't have a
10 good record.

11 MR. TRAFICANT: I was under the instruction
12 you were going to look at them, and you would not decide
13 until later.

14 THE COURT: What are they, read them.

15 MR. TRAFICANT: S-24 is, in fact, a
16 resignation of Mr. Sinclair. S-24 is a letter to Henry
17 DiBlasio from Allen Sinclair relative to his partnership of
18 his slow cash flow, and --

19 MR. MORFORD: Sorry. That was the wrong
20 number.

21 MR. TRAFICANT: S-3, your Honor.

22 THE COURT: Sorry what?

23 MR. TRAFICANT: S-7 was the one relative to
24 all those financial problems and why he can't pay his money
25 owed to Mr. DiBlasio.

1 THE COURT: All three of those have been
2 admitted.
3 MR. TRAFICANT: They have?
4 THE COURT: Yes.
5 MR. TRAFICANT: Well, thank you.
6 THE COURT: You're welcome.
7 MR. TRAFICANT: That concludes my business.
8 THE COURT: Okay. Now, I want you to listen
9 because he's going say what he would like to have admitted,
10 and you may want to respond to this. You don't have to,
11 but you may want to. So we're starting with 1-1 (17),
12 right?
13 MR. MORFORD: Yes, your Honor.
14 THE COURT: Okay. Congressman, do you want
15 to respond to that?
16 MR. TRAFICANT: I really don't have it in
17 front of me. I can't use it as an excuse and will not.
18 THE COURT: But you can't say you don't have
19 it in front of you. The Government has put --
20 MR. TRAFICANT: Now that they have, I
21 appreciate that. And these are pictures of cash?
22 THE COURT: No, this is the envelope.
23 MR. TRAFICANT: No, this is the envelopes.
24 THE COURT: 1-1(17) that's the exhibit.
25 MR. TRAFICANT: I don't object to that.

1 THE COURT: Thank you. It'll be admitted
2 without objection.

3 MR. MORFORD: Next, your Honor is 1-3(1),
4 (2), (3), (4), (5), (6), (7), (8), (9), (10), and (11)
5 which are a series of --

6 MR. TRAFICANT: I have no objection to them.

7 THE COURT: They'll be admitted.

8 MR. MORFORD: Next, your Honor is 1-4(1),
9 which are a series of --

10 MR. TRAFICANT: I have no objection to them.

11 MR. MORFORD: The series of checks of Mr.
12 DiBlasio, the bank records, showing the checks,
13 congressional -- sorry -- of Allen Sinclair. I misspoke.

14 THE COURT: And --

15 MR. TRAFICANT: I have no objection.

16 THE COURT: Thank you. Those will be
17 admitted without objection.

18 MR. MORFORD: Next, your Honor, will be
19 1-4(2), bank records of Mahoning Savings and Loan.

20 MR. TRAFICANT: I have no objection to that.

21 THE COURT: That will be admitted.

22 MR. MORFORD: 1-4.3 are Home Savings and --

23 MR. TRAFICANT: I have no objection to it.

24 THE COURT: The exhibit 1-4(3) will be
25 admitted.

1 MR. MORFORD: The next Exhibit is 1-4.4.
2 MR. TRAFICANT: I have no objection to it.
3 THE COURT: It will be admitted, 1-4.4.
4 MR. MORFORD: Next is Exhibit 1-5(1) and
5 1-5(2).
6 MR. TRAFICANT: I have no objection to them.
7 THE COURT: Exhibits 1-5(1) and 1-5(2) are
8 admitted without objection.
9 MR. MORFORD: Next is 1-6.
10 MR. TRAFICANT: I have no objection to that.
11 THE COURT: 1-6 will be admitted without
12 objection.
13 MR. MORFORD: 1-7.
14 MR. TRAFICANT: I have no objection.
15 THE COURT: 1-7 is admitted without
16 objection.
17 MR. MORFORD: 1-8.
18 MR. TRAFICANT: I have no objection.
19 THE COURT: 1-8 is admitted without
20 objection.
21 MR. MORFORD: We're going to jump.
22 MR. TRAFICANT: Might I ask the date of this
23 picture for clarification? This picture was taken on -- I
24 do not object to it, but I do ask for when the picture was
25 taken and if the Government could respond, please.

1 MR. MORFORD: There was testimony from Allen
2 Sinclair that that was taken at the time of Mr. DiBlasio's
3 retirement. He gave a month and a year approximate as best
4 he can recall.

5 MR. TRAFICANT: And that was late '99?

6 MR. MORFORD: I think so, but -- no, late
7 '98.

8 MR. TRAFICANT: I have no objection.

9 THE COURT: Okay. It'll be admitted.

10 MR. MORFORD: Next would be Exhibit 1-21,
11 which is the lease agreement.

12 MR. TRAFICANT: I have no objection to it.

13 THE COURT: 1-21 will be admitted without
14 objection.

15 MR. MORFORD: And 1-22.

16 MR. TRAFICANT: I have no objection to it.

17 THE COURT: 1-22 is admitted without
18 objection.

19 MR. MORFORD: 1-23.

20 MR. TRAFICANT: I have no objection to it.

21 THE COURT: 1-23 is admitted without
22 objection.

23 MR. MORFORD: Also --

24 MR. SMITH: Oh, they're out, Craig. They're
25 still laying here.

1 MR. MORFORD: 1-24 are the series of
2 congressional paychecks for Henry DiBlasio.
3 MR. TRAFICANT: I have no objection.
4 THE COURT: 1-24, the series will be admitted
5 without objection.
6 MR. MORFORD: And finally, Exhibit 6-11,
7 which was the transfer deed by Mr. Sinclair.
8 MR. TRAFICANT: I have no objection to that.
9 THE COURT: Exhibit 6-11 will be admitted
10 without objection.
11 MR. MORFORD: That is all for now, your
12 Honor.
13 THE COURT: Thank you very much. Anything
14 further, gentlemen?
15 MR. TRAFICANT: Have a nice weekend.
16 THE COURT: Thank you very much. Same to
17 you. Thank you very much.
18 MR. SMITH: Have a good weekend, your Honor.
19 (Proceedings adjourned.)
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21
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23
24
25

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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.

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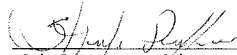
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Shirlé M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622

Bobby - Direct Continued

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

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

TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON TUESDAY, FEBRUARY 19, 2002

Jury Trial

Volume 4

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.

Bobby - Direct/Smith

1 Tuesday Session, February 19, 2002, at 8:30 A.M.

2 THE COURT: You're still under oath. You can
3 proceed.

4 MR. SMITH: Thank you, your Honor.

5 DIRECT EXAMINATION OF JACQUELINE M. BOBBY(cont.)

6 BY MR. SMITH:

7 Q. Ms. Bobby, when you testified last week, do you
8 recall a series of questions and answers that were asked to
9 you about the relationship between Charles O'Nesti and
10 Congressman Traficant? You recall that series of questions
11 and answers?

12 A. Yes.

13 Q. And did you -- you further recall a series of
14 questions and answers concerning statements that Charles
15 O'Nesti made to you about his pay situation?

16 A. Yes.

17 MR. TRAFICANT: Objection, hearsay.

18 THE COURT: There was an order issued by the
19 court related to that objection.

20 MR. TRAFICANT: Just for the record.

21 THE COURT: Congressman. Okay, as you know,
22 we usually take up objections at side bar. Thank you.

23 BY MR. SMITH:

24 Q. And again, approximately when did Charles O'Nesti
25 start making these kind of statements to you about his pay

Bobby - Direct/Smith

1 situation?

2 A. About early 1985, '86.

3 Q. And when did he quit making such statements to you?

4 A. I think probably about December of 1997, about six
5 months before he retired.

6 Q. And how often during that time period did he make
7 such statements to you?

8 A. Most every so often and once -- twice a year.

9 Q. All right.

10 And where did he make such statements to you?

11 A. In his office.

12 Q. And what did Mr. O'Nesti say to you about his pay
13 situation?

14 A. Mr. O'Nesti basically complained that he had to give
15 back so much money a month, and he -- and he was more upset
16 because of the fact that he had to pay tax on the money and
17 then give back so much money to Jim Traficant.

18 Q. Give back money from what, and out of what?

19 A. His paycheck.

20 Q. Did Mr. O'Nesti say anything else to you about his
21 pay situation in that regard?

22 A. Anything? Well, he just made the comments that he
23 was upset about it because he was working. He felt he
24 deserved all his paycheck because he worked hard for his
25 money, and he felt he deserved the whole thing.

Bobby - Direct/Smith

1 Q. Did Mr. O'Nesti ever, ever mention an amount of money
2 that he was paying back to Congressman Traficant?

3 A. I think one time he mentioned a thousand dollars.

4 Q. Thousand dollars what time period?

5 A. Per month.

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

7 BY MR. SMITH:

8 Q. Ma'am, approximately when did you first speak to the
9 FBI about this case?

10 A. It was in November of 1999.

11 Q. And did they contact you, or did you contact them?

12 A. They contacted me.

13 MR. SMITH: Your Honor, may we approach side
14 bar briefly?

15 THE COURT: All right

16 (The following proceedings were held at side bar:)

17 MR. SMITH: Your Honor, in light of your
18 ruling, which I received this morning, I am not going -- I
19 am not going into the restaurant conversation with the
20 police at this time because your Honor has indicated there
21 needs to be a further demonstration of unavailability.

22 THE COURT: Right.

23 MR. SMITH: Accordingly, I wanted to find out
24 if you just want me to tender --

25 MR. TRAFICANT: I didn't hear.

Bobby - Direct/Smith

1 MR. SMITH: -- wish me to tender her for
2 cross-examination now and pick that up at a later time, or
3 how do you want to proceed? Otherwise, I am done other
4 than that other.

5 THE COURT: Congressman, if you're prepared
6 to go forward on the foundation for the other statement, it
7 would seem the easiest thing would be to recess the jury
8 and see what that is. If you're not, then --

9 MR. SMITH: Your Honor, we don't have
10 anything right now to offer in addition to what we stated
11 last week, which is the Congressman indicated he was not
12 going to require Mr. DiBlasio to be brought up here from
13 Florida.

14 THE COURT: Okay. Then, I -- what I guess we
15 have to do is you go ahead and give her to him for
16 cross-examination, but then you be able to recall her on
17 direct regarding that, if you ever establish it.

18 MR. SMITH: All right. Very good, your
19 Honor.

20 THE COURT: And he can cross-examine her
21 then.

22 MR. TRAFICANT: Let me see if I understand
23 this. You -- you're going to conclude with this witness
24 now because of the Judge's order pending relative to
25 DiBlasio. Is that what you're saying?

Bobby - Direct/Smith

1 MR. SMITH: Yes.

2 MR. TRAFICANT: And the Judge is going to
3 allow you to quit now and let me cross-examine. Is that
4 where we are?

5 THE COURT: Yes, but if they bring her back
6 and in order to do that, they have to do some further --
7 they have to show foundation for unavailability. If they
8 do that, then we'll let them call her on direct, and you
9 would get another chance at cross-examining her on
10 whatever.

11 MR. TRAFICANT: You mean another shot of
12 unavailability? Isn't it a fact the Court accepted a
13 motion? Everybody agreed yesterday we wouldn't require Mr.
14 DiBlasio to travel all the way up here.

15 THE COURT: I can't do things just because
16 you guys stipulate to them in a criminal case.

17 MR. TRAFICANT: No, but you also ruled on
18 that yesterday, didn't you?

19 THE COURT: I ruled on the --

20 MR. TRAFICANT: Fifth Amendment.

21 THE COURT: I issued it this morning. You
22 have it, right? That's the --

23 MR. TRAFICANT: I just got it, I read it.

24 THE COURT: Everyone just got it.

25 MR. TRAFICANT: Yeah.

Bobby - Direct/Smith

1 THE COURT: I issued it about 8:30 this
2 morning, but this would allow you to -- if they would call
3 her back on direct, because they've been able to lay a
4 foundation, you can cross-examine her again on that.

5 MR. MORFORD: Your Honor, has the court given
6 any further consideration of the possibility of having him
7 assert the Fifth by way of teleconference instead of having
8 him travel, or you want him actually here in the courtroom?

9 THE COURT: We might be able to do it by
10 teleconference. I don't think we talked about him on the
11 telephone. It has to be -- there has to be an opportunity
12 for him to view him and so forth.

13 MR. TRAFICANT: I was under the agreement
14 that yesterday we had agreed he wanted to take the Fifth,
15 you got the letter, I didn't bring the letter. I agreed
16 that I wouldn't force him because of his health. You said
17 his health was bad.

18 THE COURT: I know. They --

19 MR. TRAFICANT: We were going to take another
20 three-day trip. I mean, what's going on here?

21 THE COURT: What's going on here is that the
22 Court has an independent obligation I have to fulfill
23 regarding this unavailability issue. It may be that they
24 have medical records on him that would satisfy 804 under
25 that rule. I don't know what they have, but they just got

Bobby - Cross

1 the record a few minutes ago. So did you.

2 MR. TRAFICANT: Okay.

3 THE COURT: So that's where we are.

4 MR. TRAFICANT: That's fine.

5 MR. MORFORD: One other request, your Honor.

6 If we do establish unavailability and have to call her
7 back, will there be an explanation to the jury as to why
8 she was brought back?

9 THE COURT: I don't know, I don't know.

10 Let's cross that when we get to it.

11 MR. TRAFICANT: How much more prejudicial are
12 we going to get in this case? I object to that, and I
13 object to even this business here.

14 THE COURT: You are going to get to
15 cross-examine this witness.

16 MR. TRAFICANT: I think we should let that
17 witness say what she had to say.

18 THE COURT: I did, I did do that.

19 MR. TRAFICANT: Conditionally.

20 THE COURT: Right.

21 MR. SMITH: I'm going to tender her for
22 cross-examination then at this time, your Honor.

23 THE COURT: Okay very well.

24 (Proceedings resumed within the hearing of the jury:)

25 MR. SMITH: Your Honor, at this time, the

Bobby - Cross

1 Government does not have any further questions, thank you.

2 THE COURT: Thank you.

3 MR. TRAFICANT: May I take a couple minutes?

4 I didn't think they'd be so quick, your Honor.

5 CROSS-EXAMINATION OF JACQUELINE M. BOBBY

6 BY MR. TRAFICANT:

7 Q. How are you doing, Jackie?

8 A. Great.

9 Q. You miss working for me?

10 A. No.

11 Q. How many years did you work for me?

12 A. 17.

13 Q. That's with the Sheriff's Department?

14 A. Yes.

15 Q. When I went on trial the first time, you took a leave
16 of absence; is that correct?

17 A. Yes.

18 Q. And after I was acquitted, you came back?

19 A. No, I came back while you were on trial.

20 Q. Oh, you did come back while I was on trial?

21 A. Yes.

22 Q. Okay. Good.

23 THE COURT: Everyone remember to keep your
24 voices up. It's hard to hear in this big old room.

25 BY MR. TRAFICANT:

Bobby - Cross

- 1 Q. Now, you came to -- you come to know Chuck O'Nesti
2 over a period of years, did you not?
- 3 A. Yes.
- 4 Q. And you said yesterday that you were not necessarily
5 close to Chuck; is that a correct statement?
- 6 A. I don't recall.
- 7 Q. Were you close to Chuck?
- 8 A. I was close, yes.
- 9 Q. Did you associate with him?
- 10 A. At work, yes.
- 11 Q. Did you ever go out to dinner with him in the
12 evening?
- 13 A. No.
- 14 Q. Did you have occasion to discuss Mr. O'Nesti in a
15 former trial where Mr. O'Nesti was a principal as you were
16 a principal in a criminal trial held in Cleveland?
- 17 A. Yes.
- 18 Q. What trial was that?
- 19 A. It was Phil Chance's trial.
- 20 Q. Would you explain who Mr. Chance was?
- 21 A. Mr. Chance was Mahoning County Sheriff.
- 22 Q. At the time, did I offer any instructions to the
23 staff about involvement in the Chance trial?
- 24 A. In the Chance trial, no.
- 25 Q. No. In the Chance campaign?

Bobby - Cross

- 1 A. Repeat your question.
- 2 Q. Did I give you any instructions to the staff, my
3 congressional staff, as to whether or not they should be
4 involved in that sheriff campaign?
- 5 A. I don't know if you gave it to the staff. You gave
6 it to me.
- 7 Q. And what, if anything, did I say to you?
- 8 A. You told me not to get involved with another person's
9 campaign.
- 10 Q. Okay. And do you know if I told that to anybody
11 else?
- 12 A. I don't know.
- 13 Q. And I didn't tell that to the staff, the best you can
14 recall?
- 15 A. I don't remember if you did or not.
- 16 Q. Okay. All right. Do you recall testifying that
17 Mr. O'Nesti was not very credible and was not telling the
18 truth relative to Mr. Chance's supposedly getting money
19 from mob boss Lenny Strollo, you remember that testimony?
- 20 A. I testified to -- I didn't have anything to testify
21 regarding getting money from the mob. They asked me about
22 Mr. O'Nesti, if he was credible. And they asked me if Mr.
23 O'Nesti lied. I said apparently he did because he was
24 indicted for lying to the Grand Jury.
- 25 Q. That was your testimony?

Bobby - Cross

- 1 A. Yeah.
- 2 Q. But, he was still your friend at that time?
- 3 A. Yes.
- 4 Q. Now, isn't it a fact that Mr. Morford on
- 5 cross-examination said that the reason you were supporting
- 6 Mr. Chance was because a Mrs. Claire Maluso was hired, and
- 7 you were very bitter, and she made as much money as you
- 8 made, is that a correct statement?
- 9 A. I don't believe it was. I don't remember.
- 10 Q. So you don't recall any questions that Mr. Morford
- 11 questioned you about your testimony regarding this support
- 12 of Sheriff Chance that he was prosecuted?
- 13 A. Not that question that you asked me about Claire
- 14 Maluso.
- 15 Q. Did you make the statement during that trial that
- 16 Mr. O'Nesti was not credible and could not be believed?
- 17 A. I said Mr. O'Nesti was not credible. He had a
- 18 reputation for being not credible. And yes, he was -- he'd
- 19 asked if he lied. I said apparently he did. He was
- 20 indicted for lying to the Grand Jury.
- 21 Q. Okay. Did Mr. Morford ask you about a trip made to
- 22 Atlantic city?
- 23 A. Yes.
- 24 Q. Wasn't that a fact that mob boss Lenny Stollo paid
- 25 for that trip to Atlantic city?

Bobby - Cross

- 1 A. I had no idea he paid for that trip.
- 2 Q. Was that brought up during the trial?
- 3 MR. SMITH: Object.
- 4 THE WITNESS: I don't know, I wasn't there.
- 5 MR. TRAFICANT: Foundation, your Honor.
- 6 THE COURT: She's answered that she wasn't
- 7 there, and she doesn't know. So that doesn't lay a
- 8 foundation.
- 9 MR. TRAFICANT: Okay.
- 10 Q. Did you ever come to read in the paper or come to
- 11 learn at a later time Lenny Strollo had financed that trip
- 12 to Atlantic city?
- 13 MR. SMITH: Object.
- 14 THE COURT: She stated she doesn't know.
- 15 MR. TRAFICANT: No, but I -- this is a
- 16 different question. I asked if she came to learn later
- 17 through a news article.
- 18 THE COURT: The objection is still sustained.
- 19 Q. You did go on a trip to Atlantic city, did you not?
- 20 A. I went on a few trips to Atlantic City.
- 21 Q. Okay. Was one of them with Mr. Chance and his wife?
- 22 A. Yes.
- 23 Q. Was one with -- was Mr. O'Nesti also on that trip to
- 24 Atlantic City?
- 25 A. Yes.

Bobby - Cross

1 Q. And the best of your knowledge, Mr. Morford did not
2 bring that up during the trial?

3 A. I don't know if it was Mr. Morford or Mr. Smith.

4 Q. But someone did bring it up?

5 A. I think they asked me if I went on a trip to Atlantic
6 City, yes.

7 Q. Okay. Now, when we talked earlier, I usually used
8 the word workmen's compensation, and that was a misnomer,
9 wasn't it?

10 A. Yes.

11 Q. You really filed after you resigned, and you did
12 resign, didn't you?

13 A. Yes.

14 Q. Okay. And it was -- you were seeking unemployment
15 compensation from the Government; is that correct?

16 A. Yes.

17 Q. And you recall that you had a three-way conversation
18 with a member of the House counsel dealing with
19 unemployment compensation of Mr. Marcone?

20 A. I don't know -- it was Mr. Marcone, but I thought it
21 was another person from the Unemployment Bureau, not from
22 the House counsel.

23 Q. Someone who dealt with the unemployment issue dealing
24 with your complaint?

25 A. It was with the State of Ohio, yes.

Bobby - Cross

1 Q. Or the State of Ohio?

2 A. Yes.

3 Q. Was it the State of Ohio?

4 A. Yes.

5 Q. And they asked you if you were mistreated, didn't
6 they?

7 A. I don't remember.

8 Q. Oh. Did they ask you if you were ever treated
9 discourteously?

10 A. I don't remember.

11 Q. Did they ever ask you if you were abused in any way?

12 A. I don't remember.

13 Q. Okay. Our memory when we get old gets a little
14 tough.

15 MR. SMITH: Objection.

16 THE COURT: Well, that's a comment, not a
17 question.

18 Q. The bottom line is, what was the ruling of the action
19 taken by you?

20 A. It was denied.

21 Q. And why was it denied?

22 A. Because I quit.

23 Q. And what was the reason you stated that you quit?

24 A. I quit -- the reason I stated was because I -- I quit
25 because I was not getting the amount of money for the job

Bobby - Cross

575

1 that I was required to perform.

2 Q. Um-hum. And you did not mention Mrs. Claire Maluso?

3 A. I don't remember. I just mentioned that I wasn't
4 getting the money that I was doing the job for.

5 Q. Now, during that conversation, were you not told by
6 Mr. Marcone that after the election, the Congressman was
7 going to reorganize his office?

8 A. In the conversation with the unemployment?

9 Q. Yeah. During all that time in the conversation that
10 was with Mr. Marcone and the unemployment people or with
11 Mr. Marcone, were you ever informed by Mr. Marcone that the
12 Congressman was going to make no decisions on employment
13 until after the election was over because you wanted to
14 reorganize, do you remember that?

15 A. It was probably after I quit.

16 Q. Oh?

17 A. Yeah, it wasn't before that.

18 Q. Did you ever make the statement to Mr. Marcone that
19 you wanted Chuck's job. You wanted Chuck's job now. You
20 wanted \$10,000 for being the campaign treasurer, and if you
21 didn't get the job now, you were going to quit. Yes or no.

22 A. No.

23 Q. Okay. Fine.

24 Now, have you ever seen Mr. O'Nesti give me any
25 money?

Bobby - Cross

1 A. No.

2 Q. Now, you were with me for a long time, and after the
3 Chance trial, you were asked if Mr. O'Nesti was an honest
4 person, do you recall that question?

5 A. After the Chance trial, no.

6 Q. You do not recall answering that question?

7 A. Repeat your question, please.

8 Q. After the Chance trial, were you asked by the press,
9 was Mr. O'Nesti an honest person?

10 A. Oh, asked by the press. You didn't say that the
11 first time.

12 Q. Yes, yes.

13 A. Do I recall that? Yes.

14 Q. And what did you say?

15 A. I said Mr. O'Nesti had a reputation as being the bag
16 man or not credible.

17 Q. Did you make the statement that he was not honest, he
18 was not an honest person?

19 A. I probably did. I can't remember exactly.

20 Q. Did they not ask you a question if Mr. Traficant was
21 dishonest?

22 A. I think -- I don't know, I don't remember that.

23 Q. So you do not recall your answers to that, is that
24 your testimony?

25 A. To that question?

Bobby - Cross

1 Q. Yes.

2 A. I don't recall the question.

3 Q. Oh, I see. Now, you maintain in your testimony that
4 for some ten years you had evidence of a crime, a felony,
5 kickbacks, is that your testimony?

6 A. Yes.

7 Q. But you did not report that?

8 A. No.

9 Q. Was that because you were angry with me and didn't
10 want to see me hurt in the campaign?

11 A. Well, I was loyal to you, plus I -- I really had it
12 in the back of my mind, how did you do something like that
13 after you kept telling me that the FBI and the IRS were out
14 to get you.

15 Q. Thank you. Now, did we often get calls to our office
16 to help constituents with the myriad of problems, Jackie?

17 A. Yes.

18 Q. Did I refer a lot them to you?

19 A. Yes.

20 Q. And isn't it a fact you addressed yourself diligently
21 to those matters?

22 A. Yes.

23 Q. Did you at times delegate those matters?

24 A. Not if you gave them to me. I did what you told me
25 to do.

Bobby - Cross

1 Q. Did I ask you to personally do it, you would
2 personally look into it, wouldn't you?

3 A. Yes.

4 Q. And they would normally be -- what you consider to be
5 something significant relative to congressional action?

6 A. Yeah, everything was significant.

7 Q. Yes, but I mean to a greater or lesser degree, I
8 would assign -- if I ever made personal assignments, would
9 it not be to people I felt could handle specific
10 assignments?

11 A. What was your question again.

12 Q. When I made these delegations and I made -- I just
13 didn't, say, have the staff look into Joe Blow, and I asked
14 for a specific member to look into it, more than likely
15 there was significant aspect to it that I thought maybe the
16 ability of the individual handling it would probably handle
17 it the best and probably most expeditiously, would that be
18 a fair statement?

19 A. Yes.

20 Q. And I did a lot of that with you?

21 A. Yes.

22 Q. And I did a lot of that with Grace, to the best of
23 your knowledge?

24 A. Yes.

25 Q. Did we get a lot calls from people who asked us about

Bobby - Cross

1 people who were incarcerated and hoping that they could be
2 moved closer so the family could visit them?

3 A. We -- what's a lot? We got calls, yes.

4 Q. Yes, we would get calls. Would we handle those
5 calls?

6 A. Yes.

7 Q. Yes. Did we discriminate as to any of those people
8 that ever called?

9 A. No.

10 Q. Thank you.

11 By the way, when we were sheriff, wasn't it a fact we
12 were only sheriff every year to succeeding to drop crime in
13 Mahoning County to a great degree each succeeding year?

14 A. I believe so.

15 Q. Did you play a part in that?

16 A. Probably.

17 Q. Now, Mr. O'Nesti, he was involved with the Sheriff's
18 Department, wasn't he?

19 A. Yes.

20 Q. And what was his involvement?

21 A. My understanding, he was in charge of volunteer
22 officers.

23 Q. What were the volunteer officers known as under Ohio
24 law, if you would know?

25 A. At that time, they were reserve officers.

Bobby - Cross

1 Q. And what were their powers?

2 A. They had all police powers that regular police
3 officers have.

4 Q. And isn't it a fact that I had fewer staff than a
5 sheriff that served 20 years before me. Did we not have a
6 very small staff?

7 A. You had a small budget, yes.

8 Q. And did I not have a number of reserved deputy
9 sheriffs?

10 A. Yes.

11 Q. Did I use them in a number of ways for street
12 activity and psychological warfare of street activity,
13 would you say?

14 A. Yes.

15 Q. Was it -- was it successful?

16 A. Yes.

17 Q. Did you have occasion to send me any notes?

18 A. Yes.

19 MR. TRAFICANT: I can give this?

20 THE COURT: Yes.

21 Q. Would you read the bottom words, if you can read
22 them?

23 THE COURT: While she's reading, would you put
24 the number of this exhibit on the record.

25 MR. TRAFICANT: Yes. I would like to place

Bobby - Cross

1 on the record what is known as JB-2 as evidence of defense.

2 THE WITNESS: JB-2.

3 MR. TRAFICANT: JB-2.

4 Q. What is the date on that?

5 A. March 18, 1998.

6 Q. And you sent this from where?

7 A. From my home.

8 Q. And could you, in fact, read the letter for us?

9 A. Okay. "Honorable James A. Traficant, 11 Overhill
10 Road, Youngstown Ohio, 44512."

11 Q. Would you please withhold one second and maybe slow
12 down for the Court Reporter and me as well?

13 THE COURT: Just read slowly.

14 THE WITNESS: Yes.

15 "Dear Mr. Chairman: If I don't ask, I'll never know.
16 I handle the majority of Chuck's response as district
17 director. My reputation and credibility are impeccable. I
18 have had total responsibility for your campaign with no
19 complaints. I donated many, many hours to the campaign. I
20 think you should give me the position of district director
21 and a salary increase because you could justify it, and I
22 deserve it. I will fulfill any obligation Chuck had,
23 parentheses, let's talk about this one.

24 "You won't be sorry because I don't want to be,
25 quote, a big shot. If you don't fill Chuck's position, I'm

Bobby - Cross

1 afraid it will look truly like he had a token job. Thanks
2 for listening, and I await your response. Sincerely
3 Jackie. P.S. I trust you won't share this letter with
4 anyone."

5 Q. When you said that you would trust I wouldn't share
6 this letter with anyone, did you have any specific person
7 in mind?

8 A. No.

9 Q. Wasn't it a fact you were concerned I was going to
10 get the district director job to Grace Yavorsky?

11 A. No.

12 Q. Let's go back to the line where you said "I will
13 fulfill any obligation Chuck had." Then you have in
14 parentheses, "let's talk about this one"?

15 A. Okay. What about it?

16 Q. You just testified that he said he was giving me
17 kickback's since 1985, was that what you were talking
18 about.

19 A. Yes.

20 Q. And you wanted to talk about that?

21 A. Let's talk about this one. I wasn't going to do it.

22 Q. Oh, I see. Let's talk about this one. But you
23 weren't going to do anything?

24 A. I wasn't going to give you money back like Chuck
25 O'Nesti did. That wasn't part of the job.

Bobby - Cross

1 Q. No. But your statement was "I will fulfill -- I will
2 fulfill any obligation Chuck had." Did you put any
3 conditions that there's some conditions that you may not
4 fulfill, or was your statement "I will fulfill" -- I want
5 you to read that sentence again to me. Read it again.

6 A. "I will fulfill any obligation Chuck had. Let's talk
7 about this one." Exclamation point.

8 Q. Just let me ask this question: You said since 1985
9 to '86, you had knowledge of this felony crime. Now you're
10 saying you would have nothing to do with any paybacks, and
11 that's what you were going to talk about. But in the
12 letter, it says "I will fulfill any obligation Chuck had."

13 What obligation did you have knowledge supposedly
14 that Chuck had told you?

15 A. Chuck had a title called district director. He had
16 an obligation that he was being paid to do, a job he was
17 being paid to do. That's the job I applied for. I was not
18 going to fulfill the -- let's talk about this one. It
19 meant I wasn't going to kickback money to you.

20 Q. Oh, I see. Although it says "I would fulfill any
21 obligation Chuck had," and you've testified here now for
22 two days that Chuck had an obligation to kickback money,
23 but now you're saying, that that was written here on March
24 18, 1998, when you were after the job, was mistaken now by
25 me or the Court or everybody, perhaps the jury? Is that

Bobby - Cross

- 1 your testimony? You didn't mean it that way, right?
- 2 A. What's the question?
- 3 Q. Yeah. You wouldn't fulfill any obligation not
- 4 dealing with money, that money wasn't part of it. It
- 5 didn't?
- 6 A. The kickback money?
- 7 Q. Yeah.
- 8 A. Absolutely. I wasn't going to kickback money to you.
- 9 Let's talk about it. But you don't know what it was
- 10 because you never talked about it.
- 11 Q. Well, first of all, now when we got this, did Paul
- 12 and I give you a call at some point and talk about your
- 13 future, and, in fact, ask to you stay on because we thought
- 14 you were a valuable stock person?
- 15 A. What's the question?
- 16 Q. Did Paul and I ever call you and ask you to stay on
- 17 because we felt you were valuable and would like to keep
- 18 you?
- 19 A. You called me and asked me to come back because I had
- 20 already quit by then.
- 21 Q. Yes. I mean, at some point after you quit.
- 22 A. Okay, yes.
- 23 Q. Yes.
- 24 And you quit over the hiring of Claire Maluso, is
- 25 that right?

Bobby - Cross

- 1 A. I quit when you told me that you hired Claire Maluso?
- 2 Q. Yes.
- 3 A. Yes.
- 4 Q. And you objected to the Congressman's hiring of this
- 5 woman?
- 6 A. I objected to the fact she was going to get paid the
- 7 same salary I was getting, and you asked me to train her.
- 8 Q. Yes. Did I also not tell you that she was up in her
- 9 70's years old, never made a whole lot of money,
- 10 volunteered for me for seven years?
- 11 A. Yes.
- 12 Q. Do you recall that?
- 13 A. Yes.
- 14 Q. And that in the future, there would be a revaluation
- 15 of staff, and there would be changes made as far as pay was
- 16 made, but she would start at that level so that she might
- 17 earn at her age a reasonable pension. Were you told that?
- 18 A. Yes.
- 19 Q. Okay. You were angry about the hiring of her at that
- 20 wage, were you not?
- 21 A. Yes.
- 22 Q. And you said I'm out of here. Is that about it?
- 23 A. You were forewarned.
- 24 Q. Yeah, but you told me if I did that, I'm gone, right?
- 25 A. I never told you that. I told that to Chuck O'Nesti

Bobby - Cross

1 a year before that.

2 Q. Yeah, but did you ever tell us at some point you quit
3 and did you not tell us that you quit because you just
4 would not tolerate Claire Maluso being hired at the same
5 rate of pay you were being paid?

6 A. I told you that I quit, and -- when you told me
7 Claire Maluso -- if you want -- I didn't say I quit because
8 of her. I told you I quit when you told me I would have to
9 train her and pay her the same salary as me.

10 Q. Was she being hired to do the same thing you were
11 doing?

12 A. I have no idea.

13 Q. Wasn't she hired to be an economic development
14 specialist?

15 A. I don't know.

16 Q. Were you an economic development specialist?

17 A. I don't know. I probably was if I was doing most of
18 Chuck's job at that point.

19 Q. What was your job title?

20 A. My job title was office manager.

21 Q. Was it economic development specialist?

22 A. No.

23 Q. Is there anything that you have in any document that
24 said you were to be involved in economic development?

25 A. In my job description?

Bobby - Cross

1 Q. Yeah.

2 A. I didn't have a job -- no.

3 Q. No. So, you don't know if Claire Maluso was hired
4 specifically as an economic development specialist to work
5 with the community on economic matters. You don't know
6 that?

7 A. I mean that after the fact.

8 Q. You knew -- you came to learn that after the fact?

9 A. After I quit.

10 Q. After you quit. Okay.

11 A. Yeah.

12 Q. Now, when -- hold on one minute.

13 THE COURT: JB.

14 MR. TRAFICANT: I admit into evidence JB.

15 MR. SMITH: You want to take the time to look
16 at that, Jackie?

17 Q. Would you explain to the jury what this is?

18 A. I have to read it first.

19 Q. Fine.

20 THE COURT: While she's reading that, you
21 would have to offer it before you get a response. We can
22 do that at a break.

23 MR. TRAFICANT: Pardon?

24 THE COURT: You'd have to offer something,
25 and we have to see what the response is, and we'll do that

Bobby - Cross

1 at the break so we don't take up the jury's time. I think
2 what you said you admit something, and I have to admit it.

3 MR. TRAFICANT: No, I said I offered it into
4 evidence. I would offer to admit it.

5 THE COURT: Okay. Well, you can do that at a
6 break because that -- the jury doesn't need to hear that.

7 MR. TRAFICANT: Thank you.

8 THE COURT: You're welcome.

9 BY MR. TRAFICANT:

10 Q. Have you had time to review it?

11 A. Yes.

12 Q. You were basically responding to a co-worker?

13 A. Yes.

14 Q. And this co-worker was in a -- an area that was
15 formally not represented by us, is that not right?

16 A. Yes.

17 Q. And -- could you explain the original district?

18 A. It was basically -- what? -- Mahoning and Trumbull
19 County.

20 Q. At some point after ten years of census, they
21 redistrict, and we picked up most of what?

22 A. Picked up most of Columbiana County.

23 Q. And that was to the south of us?

24 A. Yes.

25 Q. And do you have any knowledge of what Carrie Davis

Bobby - Cross

- 1 did before she came to work for me?
- 2 A. She worked for Congressman Applegate.
- 3 Q. Yeah.
- 4 Did we ever have any relationship with Carrie Davis
- 5 before then?
- 6 A. I didn't.
- 7 Q. No. But I hired her, right?
- 8 A. Yes.
- 9 Q. And I hired Claire Maluso, yes?
- 10 A. Yes.
- 11 Q. Doesn't the Congressman have the right to hire and
- 12 fire?
- 13 A. Yes.
- 14 Q. Or does his staff tell him who to hire and fire?
- 15 A. I don't know.
- 16 Q. Well, then, let's look at this. This was relative
- 17 to she was concerned about political campaigns, and you
- 18 were the treasurer of the campaign. What did you instruct
- 19 Carrie Davis?
- 20 A. Basically, I told Carrie Davis campaigning was to be
- 21 left out of the congressional office. It had to go through
- 22 my home and my personal residence.
- 23 Q. And that's basically the way they handled it; is that
- 24 correct?
- 25 A. Yes.

Bobby - Cross

1 Q. Okay. Fine.

2 Was there a time we had an issue with an employee by
3 the name of Linda Kovachick?

4 A. An issue? Yes.

5 Q. Was that issue a problem?

6 A. Yes.

7 Q. Who brought it to my attention?

8 A. I believe I did.

9 Q. And did I ask you to try and resolve these problems
10 with her, and did you try and do that?

11 A. I can't even remember the details of it right now,
12 but if you asked me to, I'm sure I did.

13 Q. Okay. And what was the problem that you presented to
14 me relative to Ms. Kovachik, as a staff representative, one
15 of my employees?

16 A. You know, I -- to be honest with you, I can't
17 remember what I -- I can't remember.

18 THE COURT: Can you spell her name for the
19 record?

20 THE WITNESS: I think it was
21 K-O-V-A-L-C-H-I-K.

22 Q. So you're saying you do not remember that much about
23 her, right?

24 A. I don't remember what I told you.

25 Q. Did you make any recommendations to me about Linda

Bobby - Cross

1 Kovachik?

2 A. Yes. I recommended she be -- you let her go because
3 she was not helping your cause.

4 Q. Do you know if she was fired?

5 A. I don't know if she was fired or asked to resign.

6 Q. Do you know whom, if anybody, had made that action
7 and had informed her of the decision made by the
8 Congressman?

9 A. No.

10 Q. Okay. Was it you?

11 A. I don't think so.

12 Q. Okay. Now --

13 THE COURT: JB-3.

14 MR. TRAFICANT: JB-3.

15 Q. Jackie, could you direct yourself to the top, and
16 where did this come from?

17 MR. SMITH: I'm going to object to the
18 document, your Honor.

19 THE COURT: We'll go over to the side bar
20 (The following proceedings were held at side bar:)

21 MR. SMITH: Your Honor, my objection is that
22 I do not see any relevance of this document to the charges
23 that are pending in this case, or on how to defend those
24 charges, I don't see any relevance.

25 MR. TRAFICANT: The relevance is simply this:

Bobby - Cross

1 That she had a close relationship with Mr. Marccone, and she
2 called Mr. Marccone on every matter, and when there were
3 problems, she would call him, and she hasn't admitted to
4 much conversation with Mr. Marccone.

5 THE COURT: Um-hum.

6 MR. TRAFICANT: Mr. Marccone would be up for a
7 future witness, and this would be to show that she did have
8 communication with Mr. Marccone, and there would be issues
9 of that of concern in the district. She would take it upon
10 herself to call Mr. Marccone, and that is the relevance of
11 it.

12 THE COURT: But this is from him to her.

13 MR. TRAFICANT: Yes, here's the thinking.

14 THE COURT: I know, but it's not from her to
15 him -- we don't know that -- if somebody's going to call
16 Marccone, that's how you can elicit this. The objection is
17 well taken that he --

18 MR. TRAFICANT: I want to show --

19 THE COURT: It's not showing anything that's
20 relevant.

21 MR. TRAFICANT: --- communication from Paul
22 Marccone and Jackie Bobby.

23 THE COURT: Just ask her about it. Just ask
24 her about it. Okay.

25 MR. TRAFICANT: I could ask her about a good

Bobby - Cross

1 full communication.

2 THE COURT: Sure. Talk to her about that,
3 but don't use this document for that because this doesn't
4 refer to anything that's relevant to the case, at least, so
5 far as we can see.

6 MR. TRAFICANT: You are not allowing me to
7 use this document?

8 THE COURT: You can't use it at this point.
9 If you have Marcone who prepared and wrote it. I don't
10 know it says to Traficant on the top.

11 MR. TRAFICANT: Okay.

12 THE COURT: You might be able to use it with
13 Marcone.

14 MR. TRAFICANT: Okay. Well I object to the
15 fact that I cannot establish the close relationship.

16 THE COURT: Well, you can just ask her about
17 her relationship.

18 MR. TRAFICANT: Thank you

19 (Proceedings resumed within the hearing of the jury:)

20 BY MR. TRAFICANT:

21 Q. You've seen the document, correct?

22 A. Yes.

23 Q. You had a pretty good relationship with Paul, did you
24 not?

25 A. Yes.

Bobby - Cross

1 Q. And you would communicate with him quite regularly,
2 if it was necessary?

3 A. Yes.

4 Q. And how did this particular -- what was the genesis?
5 How did this thing develop?

6 A. I have no idea.

7 MR. SMITH: Objection.

8 THE COURT: Are you referring now to the
9 document?

10 MR. TRAFICANT: This memo.

11 THE COURT: We -- the objection was sustained
12 as to that memo.

13 Q. But in any regard, you contacted Mr. Marcone quite
14 often, didn't you?

15 A. Yes.

16 Q. And you confided in Mr. Marcone, did you not?

17 A. Confided in Mr. --

18 Q. I mean, you would confide about business and discuss
19 business of congressional concerns, and you would do it on
20 a regular basis when you called Washington. You called the
21 head man, and that was Paul, right?

22 A. Yes.

23 Q. Okay. And Paul called you many times, didn't he?

24 A. Yes.

25 THE COURT: Could you read the number on the

Bobby - Cross

1 top? I can't tell.

2 MR. TRAFICANT: Defendant's Exhibit JB-20,
3 2-0.

4 THE COURT: Okay. Are you reading it,
5 Mr. Traficant?

6 MR. TRAFICANT: No. Are you allowing it to
7 be given to the witness?

8 THE COURT: We haven't had an objection to
9 this yet. What it appears to me to be is a statement --
10 State of Ohio Unemployment Compensation Review
11 Commissioner's decision relating to Jacqueline Bobby. Is
12 that right?

13 MR. TRAFICANT: Do you have the document in
14 your possession, ma'am?

15 THE WITNESS: Yes.

16 Q. Does it list your social security number?

17 A. Yes.

18 Q. And what is the date of this document?

19 A. I don't know.

20 Q. Okay. Could you refer to the last page, Page 3, and
21 where it says appeal rights, read that first sentence under
22 that.

23 A. Oh, this decision was -- is mailed on October 20th,
24 1998.

25 Q. But, you don't know exactly -- you're saying when the

Bobby - Cross

1 meeting was held. Will you read the first statement of who
2 the employer representative was?

3 A. Okay. "Frederick M. Herrera, an attorney, U.S. House
4 of Representatives, Office of House Employ Counsel, 433
5 Cannon House Office Building, Washington, D.C. 20515-5532.

6 Q. Okay. Can you read the first line under case
7 history?

8 A. "Claimant Jacqueline M. Bobby filed an application
9 for determination of benefit rights on July 8th, 1998, for
10 a benefit here beginning July 5, 1998."

11 Q. Could you read then from there down to the fourth one
12 starting with "claimant filed a timely request"?

13 A. "Claimant filed a timely request for reconsideration
14 by decision mailed September 3, 1998. The administrator
15 affirmed the initial determination."

16 Q. Excuse me. That was September 2, not September 3?

17 A. Sorry.

18 Q. Okay.

19 Then on September 21, you filed the timely appeal, as
20 it says, with the review commission; is that correct?

21 A. Yes.

22 Q. And it says a telephone hearing was held. Was that
23 telephone hearing held? Would you read that last
24 paragraph?

25 A. "Telephone hearing was held by Hearing Officer Robert

Bobby - Cross

1 S. Bush, on October 19th, 1998. Claimant appeared.
2 Congressman James Traficant was represented by attorney
3 Frederick M. Herrera with Paul Marcone, chief of staff for
4 Congressman Traficant as a witness."
5 Q. Now, you stated earlier that it was the Ohio
6 Unemployment people that conducted the hearing; is that
7 right?
8 A. Yes.
9 Q. Okay.
10 THE COURT: It is a State of Ohio Review
11 Commissioner's decision.
12 MR. TRAFICANT: Yes, I know that.
13 Q. You said you had no knowledge of anybody other than
14 Mr. Marcone?
15 A. I said I didn't remember.
16 Q. You didn't? Okay.
17 Now, on the second page, would you read Paragraph 4,
18 starting with the word instead of?
19 A. "Instead of replacing the district director,
20 Congressman Traficant chose to split the position among
21 several employees and hire a new employee to handle
22 community outreach and economic development. When the
23 claimant discovered that she was not chosen to fill the
24 position as district director, she chose to resign her
25 position with Congressman Traficant."

Bobby - Cross

1 Q. Does it state in here that Mr. Traficant instructed
2 Mr. Marccone to try to get the claimant to return to work at
3 a small increase at that point?

4 A. I don't know. I haven't read the paper.

5 Q. Could you read the second to the last paragraph on
6 Page 2?

7 A. Where it says claimant's last day?

8 Q. Yes.

9 A. "Claimant's last day of work was May 14, 1998. She
10 was paid her vacation pay and sick leave through June 30th,
11 1998. During this time period, Congressman Traficant
12 instructed Mr. Marccone to try to get the claimant to return
13 to work at the increased salary of \$45,000 a year."

14 Q. Would that have been an increase over what you'd been
15 paid?

16 A. Yes.

17 Q. Would you read the last paragraph, claimant had not
18 found, et cetera, et cetera?

19 A. "Claimant had not found subsequent employment at the
20 time she resigned her position with Congressman Traficant.
21 Claimant's salary of approximately \$41,000 per year was
22 characterized by her as being a good salary for women in
23 the Youngstown, Ohio, area."

24 Q. Now, that \$45,000 would have made you the highest
25 paid woman in the district and in Washington, would it not?

Bobby - Cross

- 1 A. What was the question?
- 2 Q. Would that \$45,000 offered, would that not have made
- 3 you the highest paid woman employee in my congressional
- 4 office?
- 5 A. I don't know.
- 6 Q. Oh, okay. Who was in the district office?
- 7 A. I don't know.
- 8 Q. You didn't know anybody what anybody else was being
- 9 paid?
- 10 A. I know what Grace and I were being paid the same, and
- 11 clarify.
- 12 Q. Which was?
- 13 A. When I left, it was \$41,000.
- 14 Q. So Grace was being paid \$41,000?
- 15 A. Grace was being \$41,000, yes.
- 16 Q. You don't know if Grace was offered a raise, do you?
- 17 A. No, I don't.
- 18 Q. Was this denied?
- 19 A. The unemployment appeal?
- 20 Q. Yes.
- 21 A. Yes.
- 22 Q. And now, in closing, did you ever make the statement
- 23 to Mr. Marcone as follows:
- 24 "I want Chuck's job. I want Chuck's pay. I want
- 25 \$10,000 for being the campaign treasurer, and I want it

Bobby - Redirect

1 now, or I won't come back"?

2 A. No.

3 MR. TRAFICANT: No further questions.

4 THE COURT: Mr. Smith?

5 REDIRECT EXAMINATION OF JACQUELINE M. BOBBY

6 BY MR. SMITH:

7 Q. You recall being asked on cross-examination about
8 Defense Exhibit JB-2?

9 A. Yes.

10 Q. Do you still have that in front of you?

11 Now, showing you JB-2, do you recall a series of
12 questions being asked of you about the words, quote
13 unquote, any obligation in that document?

14 A. Yes.

15 Q. What were the -- when you wrote that letter, what
16 were the obligations of Charles O'Nesti that you were
17 referring to when you wrote the letter?

18 A. His job as the district director, the words were what
19 he did in the office.

20 Q. And what did that job of district director entail by
21 way of duties?

22 A. Representing Congressman Traficant at various
23 meetings, as a liaison between Washington D.C. and all the
24 other district offices. Mr. O'Nesti was basically a
25 troubleshooter for the office. He was a political liaison

Bobby - Redirect

1 between Congressman and the other political Government
2 offices.

3 Mr. O'Nesti also handled some of the constituent case
4 work. Off the top of my head right now, I can't remember
5 everything that he was obligated to do.

6 Q. And in the last couple of years that you were in the
7 Congressman's office, what was Mr. O'Nesti's health
8 situation?

9 A. Mr. O'Nesti had cancer, and he was going through a
10 series of radiation and chemotherapy treatments.

11 Q. And during that time, who -- were there times when
12 Mr. O'Nesti was unable to perform all of his duties because
13 of his illness?

14 A. Yes.

15 Q. And who was performing his duties while he was ill?

16 A. I was -- I was probably doing the majority of the
17 work for him.

18 Q. Do you know what Mr. O'Nesti was being paid as
19 district director during this last couple of years when he
20 was ill?

21 A. Not exactly.

22 Q. Do you know if it was more or less than you were
23 being paid?

24 A. Yes, I know that.

25 Q. Was it more or less?

Bobby - Redirect

- 1 A. Yes, it was more.
- 2 Q. Do you have any idea approximately how much more?
- 3 A. I think at one point it was -- he was getting paid
- 4 \$70,000.
- 5 Q. And you were being paid how much?
- 6 A. \$41,000.
- 7 Q. When you asked to take over Mr. O'Nesti's job when he
- 8 left, what duties of Mr. O'Nesti's that he had previously
- 9 performed did you expect to undertake if you took his job?
- 10 A. The same duties that I had been performing for the
- 11 last two years in the office.
- 12 Q. And did you request a salary commensurate with what
- 13 Mr. O'Nesti had received for performing those district
- 14 director types of duties?
- 15 A. Yes.
- 16 Q. And was that salary that Mr. O'Nesti had been making
- 17 significantly more than the \$45,000 that had been offered
- 18 to you?
- 19 A. Yes.
- 20 Q. You were asked a series of questions about who had
- 21 authority to hire and fire, do you remember in the office,
- 22 do you remember that?
- 23 A. Yes.
- 24 Q. Did you of your own authority have authority to hire
- 25 or fire any employee?

Bobby - Redirect

- 1 A. No.
- 2 Q. Who did?
- 3 A. Congressman Traficant.
- 4 Q. There were -- you were asked a couple of questions
- 5 about Mr. O'Nesti's reputation for truthfulness. You
- 6 recall that series of questions and answers?
- 7 A. Yes.
- 8 Q. And you indicated what concerning Mr. O'Nesti's
- 9 reputation for truthfulness in the community?
- 10 A. Well, I -- I said that Mr. O'Nesti had a reputation
- 11 of not being very credible, and he had been indicted
- 12 recent -- prior to his retirement, he had been indicted for
- 13 lying to the Grand Jury.
- 14 Q. And for how long had he had that bad reputation for
- 15 credibility?
- 16 A. As long as I knew him.
- 17 Q. And when did you meet him?
- 18 A. Probably -- I think like in 1981, '82.
- 19 Q. Did Mr. O'Nesti have a bad reputation for
- 20 truthfulness back then?
- 21 A. Yes.
- 22 Q. And when was he hired on the congressional staff?
- 23 A. 1985.
- 24 Q. Who hired him?
- 25 A. Congressman Traficant.

Bobby - Redirect

- 1 Q. You indicated that Mr. O'Nesti was charged by the --
2 with lying to a Grand Jury; is that correct?
- 3 A. Yes.
- 4 Q. Do you know what the result of that case was?
- 5 A. I think he -- I think he pled guilty.
- 6 Q. Do you know if he was ever sentenced or not?
- 7 A. Yes. I know he was -- he -- I don't know if he was
8 ever sentenced. He never went to jail.
- 9 Q. Do you know why he was never sentenced?
- 10 A. I don't know if he was sentenced. I can't say that
11 he was sentenced. I know he pled guilty. I don't know if
12 he was ever sentenced.
- 13 Q. Do you know -- where is he today?
- 14 A. Mr. O'Nesti died.
- 15 Q. In the series of questions and answers given, do you
16 recall any answer in which you referred to Mr. O'Nesti as
17 the bag man during your cross-examination?
- 18 A. Yes.
- 19 Q. What did you mean by that term when you used it?
- 20 A. Mr. O'Nesti had a reputation -- and they called it
21 the bag man because he would -- he had a reputation for
22 delivering money from politicians, from the mob figures in
23 our town to politicians.
- 24 Q. For how long did he have that reputation?
- 25 A. I don't know, but he -- when I met him, he had the

Bobby - Redirect

1 reputation.

2 Q. And you met him when?

3 A. 1981.

4 Q. Do you recall a series of questions and answers
5 concerning contact on behalf of people who wished to be
6 moved from one federal prison facility to another, do you
7 recall being asked about that on cross-examination?

8 A. Yes.

9 Q. And did you indicate there were multiple people over
10 the years that called to make such requests?

11 A. Yes.

12 Q. Was the Bucci brothers one of those people that made
13 such a call?

14 A. I -- I don't know. I can't say yes or no.

15 Q. Did you perform any duties in connection with any
16 effort to have Anthony Bucci moved from one facility to
17 another in the prison system?

18 A. Yes.

19 Q. And at whose direction or behest did you do that?

20 A. I don't -- I don't know. I don't know if it was the
21 Congressman's or Chuck O'Nesti's.

22 MR. SMITH: May I have one moment, your
23 Honor?

24 I don't have any further questions, your Honor.

25 THE COURT: Thank you. Congressman

Bobby - Recross

1 RE CROSS-EXAMINATION OF JACQUELINE M. BOBBY

2 BY MR. TRAFICANT:

3 Q. I want you to turn back to this document that you had
4 looked at. It's not marked for an exhibit -- do you have a
5 copy of it, do you need it?

6 MR. SMITH: I'll take a look at it.

7 MR. TRAFICANT: But I probably will put an
8 exhibit number on it and ask it be brought in later. But
9 had you seen it before?

10 THE COURT: Right. I have a copy up here. I
11 think we actually did put a number on this.

12 MR. TRAFICANT: Can we go forward with this?

13 THE COURT: Yes. Looks like it's Defendant's
14 Exhibit JB-20. Looks like it's written on this one.

15 Q. Yeah, can you refer to Page 2?

16 Now, would you direct your attention to paragraph 4
17 and take a look at that?

18 A. Instead?

19 Q. Yes.

20 A. Okay.

21 Q. Could you read that again?

22 A. Instead of replacing the district --

23 MR. SMITH: Object.

24 THE COURT: She can read it. Go ahead. Read
25 it.

Bobby - Recross

- 1 THE WITNESS: "Instead of replacing the
2 district director, Congressman Traficant chose to split the
3 position among several employees and hire an employee to
4 handle community outreach and economic development."
5 Q. That's fine.
6 At that point, the Congressman made a decision rather
7 than put one person into a position, to hire another person
8 and split up duties to do other things, was that your
9 interpretation?
10 A. Interpretation of this statement?
11 Q. Yeah, that he split up -- instead of hiring one
12 district director, he chose to hire additional staff so as
13 to do other things?
14 A. This is what Mr. Marcone said to the -- to the
15 employment bureau.
16 Q. Okay.
17 A. I don't know what he did.
18 Q. Okay. That's what he said.
19 Now, you said yesterday and today that you're pretty
20 good friends with Chuck, or did I hear you wrong?
21 A. What's the question?
22 Q. Were you pretty good friends with Chuck?
23 A. Yes.
24 Q. And you associated with him?
25 A. Yes.

Bobby - Recross

1 Q. Okay.

2 Now, the Government just asked you a number of
3 questions. They asked you if Chuck had a bad reputation as
4 early as 1981 and 1982, didn't they?

5 A. Yes.

6 Q. Did they ask you that, and what was your response?

7 A. Yes.

8 Q. You knew he had a bad reputation. Yes?

9 A. Yes.

10 Q. And they said he was hired in '85 by Jim Traficant,
11 and that was a true statement, wasn't it?

12 A. Yes.

13 Q. Who also was hired in 1985 by Jim Traficant?

14 A. About 19 other people.

15 Q. Yeah, but they're not here. Were you hired?

16 A. Yes.

17 Q. In 1985? Okay. And then they said that Mr. O'Nesti
18 had a reputation of being a bag man?

19 THE COURT: No, they didn't say. The witness
20 testified --

21 MR. TRAFICANT: The witness said that.

22 Q. Well, they asked you about your testimony where you
23 said he had a reputation of being a bag man. And was it
24 not your testimony that he had a reputation of being a bag
25 man since 1981, 1982?

Bobby - Recross

1 A. Yes.

2 Q. Um-hum.

3 But you still associated with him, and he was still
4 your friend in jury testimony?

5 A. He was my friend. I did not go out to dinner with
6 him. I associated with him in the office.

7 Q. But he was your friend?

8 A. Sure he was my friend.

9 Q. Fine.

10 When they asked you about the Bucci case, you said
11 you didn't know how that totally came about, right?

12 A. Yes.

13 Q. Because we had a lot of those type of cases, right?

14 A. We had some, I said -- I didn't know what a lot was.

15 Q. We had some that even were involved with murder
16 technicalities and tried to be moved closer to home, wasn't
17 that a fact?

18 A. I don't know what the charges were on them.

19 Q. But there were some very serious charges where their
20 family wanted to move closer to home?

21 A. Yes.

22 Q. Did you ever know of me ever instructing you to
23 refuse looking into any of those cases?

24 A. No.

25 Q. I always looked into all of them, didn't I?

Bobby - Recross

1 A. Yes.

2 Q. And it says that you -- they asked you, did you
3 perform any duty in having Anthony Bucci move, and you
4 said --

5 A. Yes.

6 Q. And then they said who told you to do it, and you
7 said -- do you remember your answer?

8 A. Yeah, I said it was either Chuck O'Nesti or
9 Congressman Traficant.

10 Q. Yeah.

11 Was Anthony Bucci moved to a halfway House, closer to
12 home?

13 A. I don't remember if he did get moved.

14 Q. We made requests, and we did what we could, and you
15 may remember, you may not, is that a correct statement to
16 make on these cases?

17 A. Yes.

18 Q. Was there anything unusual about a request being made
19 to look into a constituent's family's request to have them
20 moved closer to home?

21 A. No.

22 Q. And you found nothing unusual in that matter, did
23 you?

24 A. In which matter?

25 Q. The Bucci matter?

Bobby - Recross

1 A. No.

2 Q. Thank you, Jackie.

3 MR. TRAFICANT: How's your father by the way?

4 THE WITNESS: Fine.

5 MR. TRAFICANT: Good.

6 MR. SMITH: Nothing, your Honor.

7 THE COURT: Thank you very much. This is a
8 good time to take the morning recess. And so that's what
9 we're going to do. I'd like the lawyers to stay for a few
10 minutes. You can step down, but stay around. Okay.

11 (Proceedings in the absence of the jury:)

12 THE COURT: If you'll come back about five
13 minutes early, we can deal with anything that -- if there
14 is anything we need it to deal with. Go ahead and take a
15 break now.

16 MR. TRAFICANT: Excuse me, this may require a
17 side bar.

18 THE COURT: Okay. We don't need a side bar
19 because --

20 MR. TRAFICANT: When would I move these
21 things as exhibits?

22 THE COURT: You can do that when you come
23 back, five minutes early, you can offer them.

24 MR. TRAFICANT: Does the jury have to be
25 impaneled?

1 THE COURT: No, the jury shouldn't be in here
2 when you offer exhibits.

3 MR. TRAFICANT: Okay. All right.

4 THE COURT: But you have to let the
5 Government respond to anything you offer.

6 MR. TRAFICANT: All right. Thank you.

7 (Thereupon, a recess was taken.)

8 (Proceedings in the absence of the jury:)

9 THE COURT: We are going to do some things
10 before the jury comes out. You can be seated.
11 Mr. Traficant, you had some exhibits?

12 MR. TRAFICANT: Yes, I would like to offer
13 four documents, JB-3.

14 THE COURT: I'm sorry?

15 MR. TRAFICANT: JB-3.

16 THE COURT: Okay.

17 MR. TRAFICANT: JB-2, JB-20, and JB-4.

18 THE COURT: Thank you. Has the Government
19 seen all those?

20 MR. SMITH: Yes, your Honor, as to JB-2, the
21 Government has no objection, your Honor.

22 THE COURT: It'll be admitted without
23 objection.

24 MR. SMITH: As to JB-3, your Honor, we
25 objected at the side bar to the content of this document as

1 being irrelevant, and we still have the same objection to
2 it.

3 THE COURT: Okay. This document at this
4 point anyway is not going to be admitted.

5 MR. TRAFICANT: It's still open in other
6 words.

7 THE COURT: Well, if, for example, the author
8 of the document were here, it might be appropriate.

9 MR. TRAFICANT: Okay. Thank you.

10 THE COURT: So that's JB-3, which will not be
11 admitted at this point.

12 THE COURT: JB-20.

13 MR. SMITH: We have no objection to the --

14 THE COURT: It will be admitted. That's the
15 State of Ohio Unemployment Compensation Review Commission
16 decision.

17 MR. SMITH: As to JB-4, your Honor, again, as
18 to the content of this particular document, we don't see
19 the relevance of it, how the handling of campaign monies or
20 materials affects the case. There is no allegation in the
21 case about misuse of campaign funds, as I understand it.

22 THE COURT: Congressman.

23 MR. TRAFICANT: I didn't hear the
24 Prosecutor's statement, could you please repeat that?

25 MR. SMITH: My objection, your Honor, is to

1 the relevance of this particular document. This has to do
2 with the handling, as I understand the document, of
3 political campaign materials, and the Government just does
4 not see the relevance of that particular document. It was
5 established that Carrie Davis is a fellow staff member in
6 one of the other offices, but you don't need this document
7 to show that, and indeed, this document does not indicate
8 who Carrie Davis was, so it doesn't support it that way
9 either.

10 MR. TRAFICANT: I object to their
11 interpretation. It was a letter written by the witness,
12 and it speaks to the fact that she was a campaign treasurer
13 and did, in fact, set certain ground rules, and did set
14 those ground rules outside the work hours, and second of
15 all brought in a whole new district work office and the
16 relationship with new staff that was hired and new area
17 that was not previously represented by the Congressman.

18 THE COURT: Okay. I think this actual
19 document doesn't say anything about her being campaign
20 treasurer, but I think you did examine her on it, and she
21 was on the stand, and I will admit it, over objection.

22 MR. TRAFICANT: Thank you.

23 THE COURT: Anything from the Government
24 before the jury comes in?

25 MR. SMITH: No. During the break, we tried

1 to get a hold of Mr. Kersey, and I don't think we were able
2 to do that so it was pushed ahead for now.

3 THE COURT: Very well.

4 THE COURT: Okay. Let's put that on the
5 record, if you will.

6 MR. SMITH: I may have been misinformed about
7 Mr. Grant, sorry.

8 THE COURT: Okay. I don't know if the record
9 shows what my deputy bailiff said to me. So let her put
10 that on the record first.

11 THE CLERK: Mr. Grant had left me a voice
12 mail message during the break, and he indicated that he was
13 in court. He understood what the Government was trying to
14 do with the telephone conferencing, and he wanted to know
15 what our schedule was so he can work it out.

16 THE COURT: Okay. So I suggested that over
17 the lunch hour you pursue that with Mr. Grant. If you need
18 the help of the deputy clerk for the phone number or
19 whatever he left as a return number, that's fine.

20 MR. MORFORD: For purpose of the record, I
21 was going to note Mr. Grant is the law partner of
22 Mr. Kersey, and they're both co-counsel for Mr. DiBlasio.

23 THE COURT: Yeah, that's my understanding,
24 he's co-counsel for Mr. DiBlasio. Okay. Ready for the
25 jury? Thank you.

DiLoreto - Direct/Kall

1 (Proceedings resumed in the presence of the jury:)

2 THE COURT: Proceed.

3 MR. KALL: The Government calls Lisa
4 DiLoreto.

5 THE COURT: Thank you.

6 LISA DILORETO,
7 of lawful age, a witness called by the Government,
8 being first duly sworn, was examined
9 and testified as follows:

10 DIRECT EXAMINATION OF LISA DILORETO

11 THE COURT: We'll need you to speak up
12 clearly so everyone in the room can hear you.

13 BY MR. KALL:

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

16 A. Lisa DiLoreto, D-I-L-O-R-E-T-O.

17 Q. And where do you currently work?

18 A. At Rivertree Christian School.

19 Q. How long have you worked there?

20 A. Since June.

21 Q. Where did you work prior to that?

22 A. Well, first, I was a stay at home mom, then the State
23 home office for three and a half years, and before I had my
24 duty here, I worked for Attorney Tim Dousaksic, Nick
25 DiLoreto, John Stead.

DiLoreto - Direct/Kall

- 1 Q. Before that, where did you work?
- 2 A. Attorney Henry DiBlasio's office.
- 3 Q. How long did you work for Attorney DiBlasio?
- 4 A. For six years.
- 5 Q. What did you do for Mr. DiBlasio?
- 6 A. I was his legal secretary.
- 7 Q. What six years did you work for him timewise?
- 8 A. 1989 to 1995.
- 9 Q. As a legal secretary, what were your duties?
- 10 A. From answering the phones, setting up appointments,
- 11 filing, sorting the mail, typing of all legal documents. I
- 12 did all the book work, the payroll monthly, federal taxes,
- 13 paid all the bills.
- 14 Q. During the six years you worked for Mr. DiBlasio, did
- 15 you ever see his handwriting?
- 16 A. Yes, I did.
- 17 Q. How often?
- 18 A. Everyday he was there.
- 19 Q. Why would you see it?
- 20 A. He would write notes and sign things, and he would
- 21 write out legal documents for me to type.
- 22 Q. As a result of the time that you spent there, did you
- 23 become familiar with this handwriting?
- 24 A. Yes, I did.
- 25 Q. This was prior to the time you realized you might be

DiLoreto - Direct/Kall

1 called as a witness in this case?

2 A. Correct.

3 Q. If you could look in front of you, there are a number
4 of exhibits. Right on top Exhibit 1-11, do you see that?

5 A. Yes.

6 MR. TRAFICANT: Excuse me.

7 THE COURT: Just a moment.

8 MR. TRAFICANT: Are they under any obligation
9 I can look at other than looking at the screen?

10 THE COURT: I think you have been given all
11 the exhibit books. We went over that before. You have the
12 Government send you all exhibits in advance of the trial.

13 MR. TRAFICANT: All right. Thank you.

14 THE COURT: Do you have them with you?

15 MR. TRAFICANT: No, I don't, I'll watch the
16 screen.

17 THE COURT: Okay. They're these large books.

18 MR. TRAFICANT: Yes, I don't have it.

19 MR. MORFORD: Your Honor, we may have a
20 second working copy.

21 THE COURT: I know, but that -- they can
22 supply you those if they wish to, but this takes a lot of
23 extra time here.

24 MR. TRAFICANT: No, just go ahead.

25 THE COURT: I would like you to bring them

DiLoreto - Direct/Kall

1 in.

2 MR. TRAFICANT: Just go on.

3 MR. MORFORD: That's fine, Congressman.

4 MR. TRAFICANT: That's okay.

5 BY MR. KALL:

6 Q. Looking at Exhibit 1-11 you see any writing on that
7 document?

8 A. Yes, I do.

9 Q. Is that what I'm pointing to on the screen right now?

10 A. Yes.

11 Q. Do you recognize the handwriting on 1-11?

12 A. Yes.

13 Q. Whose handwriting is that?

14 A. Henry DiBlasio's.

15 Q. Turning now to Exhibit 1-1(2), you see any writing on
16 that document?

17 A. Yes.

18 Q. Do you recognize that handwriting?

19 A. Yes.

20 Q. Whose handwriting it?

21 A. Henry DiBlasio's.

22 Q. Turning to Exhibit 1-1(3), you see any writing on
23 that document?

24 A. Yes.

25 Q. Do you recognize the handwriting?

DiLoreto - Direct/Kall

- 1 A. Yes.
- 2 Q. Whose handwriting is it?
- 3 A. Henry DiBlasio's.
- 4 Q. Turning it Exhibit 1-1(4), look down to the bottom of
- 5 that. Do you see any handwriting there?
- 6 A. Yes.
- 7 Q. Do you recognize that handwriting?
- 8 A. Yes.
- 9 Q. Whose handwriting is it?
- 10 A. Henry DiBlasio's.
- 11 Q. Turn to Exhibit 1-1(5). Do you recognize that
- 12 handwriting?
- 13 A. Yes.
- 14 Q. Whose handwriting is it?
- 15 A. Henry DiBlasio's.
- 16 Q. Turning to Exhibit 1-1(6), you see any handwriting on
- 17 that document?
- 18 A. Yes.
- 19 Q. Do you recognize that handwriting?
- 20 A. Yes.
- 21 Q. Whose handwriting is that?
- 22 A. Henry DiBlasio's.
- 23 Q. Turning to Exhibit 1-1(7), do you see any handwriting
- 24 on that document?
- 25 A. Yes.

DiLoreto - Direct/Kall

- 1 Q. What I'm pointing to with my pen?
- 2 A. Yes, below it I can actually see the personal. You
- 3 can't see it on there.
- 4 Q. Do you recognize that handwriting?
- 5 A. Yes.
- 6 Q. Whose handwriting is that?
- 7 A. Henry DiBlasio's.
- 8 Q. If you could turn to Exhibit 1-1(8). You may need to
- 9 turn it upside down. You recognize the handwriting on that
- 10 document?
- 11 A. Yes.
- 12 Q. Whose handwriting is that?
- 13 A. Henry DiBlasio's.
- 14 Q. Can you read what it says on Exhibit 1-1(8)?
- 15 A. "J.T. personal" is Henry DiBlasio's handwriting. The
- 16 J.S. is not.
- 17 Q. Okay. What I'm pointing to with my pen?
- 18 A. Yes.
- 19 Q. Is Mr. DiBlasio's handwriting?
- 20 A. Yes.
- 21 MR. TRAFICANT: Could you please put that
- 22 back?
- 23 Q. Ms. DiLoreto, was it common for Mr. DiBlasio to write
- 24 "personal" on documents?
- 25 A. Yes.

DiLoreto - Direct/Kall

1 Q. How often would you see him do it during the course
2 of the time you worked for him?

3 A. Whenever he would do a letter to somebody, a client
4 or friend personal, he would write "personal" on the
5 envelope.

6 Q. If you'd turn to Exhibits 1-40, 1-41, and 1-42, if
7 you'd look at Exhibit 1-40, do you recognize the
8 handwriting on that?

9 A. Yes.

10 Q. Whose handwriting?

11 A. Henry DiBlasio.

12 Q. Same question as to Exhibit 1-41, do you recognize
13 the handwriting on that?

14 A. Yes.

15 Q. Whose handwriting?

16 A. Henry DiBlasio.

17 Q. And if you could look at Exhibit 1-42, it's a little
18 harder to make out. Do you recognize the handwriting on
19 that document?

20 A. Yes.

21 Q. Whose handwriting is that?

22 A. Henry DiBlasio.

23 Q. Turn to Exhibit 1-16. Do you recognize the
24 handwriting on that document?

25 A. Yes.

DiLoreto - Direct/Kall

1 Q. Whose handwriting is that, please?

2 A. Henry DiBlasio.

3 MR. TRAFICANT: Can I see a copy of that?

4 MR. KALL: If you'd flip in the book, it's
5 1-16.

6 Q. Finally, if you could look at Exhibit 1-20, do you
7 recognize the handwriting on that document? .

8 A. Yes.

9 Q. Whose handwriting is that?

10 A. Henry DiBlasio.

11 Q. Where was Mr. DiBlasio's law office?

12 A. 11 Overhill Road.

13 Q. Could you describe briefly who else was in the
14 building?

15 A. There was a couple of attorneys that were upstairs
16 with two other secretaries, and then there was Congressman
17 Traficant's office was in the back on the upper level with
18 the law offices, and then his staff was located on the
19 lower level of the building.

20 Q. Now, you testified before that you were employed by
21 Mr. DiBlasio. Did you do work for him, for his law office,
22 or for his employment with the Congressman?

23 A. For his law office. There might have been a couple
24 of exceptions in -- six-year period I was there. Might
25 have typed a congressional thing. If he had dictated it,

DiLoreto - Direct/Kall

1 in dictation, sometimes he would maybe throw in a letter or
2 something.

3 Q. How often did that happen?

4 A. Not very often.

5 Q. Was there much interaction between the law office
6 staff and the congressional staff?

7 A. As far as myself?

8 Q. Yes.

9 A. No.

10 Q. Who was in charge of the building's operation at 11
11 Overhill?

12 A. It was in the name of a corporation, entitled Newport
13 Professional Center.

14 Q. Who ran the building, what person?

15 A. As far as like if something would break or the leases
16 for the new attorneys moving in, Henry DiBlasio would.

17 Q. And you testified earlier that you assisted Mr.
18 DiBlasio with finances for the office. Did that include
19 the building?

20 A. Yes.

21 Q. What types of things did you assist him with finances
22 for the building?

23 A. I would collect the rent every month and deposit it
24 into the corporation account, and I would pay utility
25 expenses out of that account.

DiLoreto - Direct/Kall

- 1 Q. At whose direction did you do this?
- 2 A. Henry DiBlasio's.
- 3 Q. Did you ever see any -- did you ever write any checks
- 4 to Mr. Jerry for the office?
- 5 A. No.
- 6 Q. Did you ever write any checks for a man named Mr.
- 7 Terraci for the office?
- 8 A. No.
- 9 Q. Did you also assist Mr. DiBlasio with his office and
- 10 personal finances? Let me break that up. Did you also
- 11 assist him with his office finances?
- 12 A. Yes.
- 13 Q. What about his personal finances?
- 14 A. He would have me pay for a lot of his personal
- 15 expenses out of the law office account.
- 16 Q. How would you do this?
- 17 A. He would -- when the bills would come in, he would
- 18 dictate pay so much on this charge card, pay his lease for
- 19 his automobile, pay his insurances, and then I would go
- 20 through and see how much money I needed that day to pay the
- 21 particular bills, and I would -- if there wasn't enough
- 22 money in the law office account, I would ask him for money,
- 23 and he would write me a personal check to deposit into the
- 24 law office account.
- 25 Q. Did Mr. DiBlasio ever give you any cash to be

DiLoreto - Direct/Kall

1 deposited into the account?

2 A. No.

3 Q. Did you ever cash any paychecks for Mr. DiBlasio?

4 A. A paycheck? No.

5 Q. Did you ever make deposits for Mr. DiBlasio into any

6 of his accounts?

7 A. Into the business accounts?

8 Q. Any of his accounts.

9 A. Into all the business accounts, I did.

10 Q. Did he ever give you cash to be deposited?

11 A. No.

12 Q. Were there ever occasions you needed more money in an

13 account to cover checks Mr. DiBlasio asked you to write?

14 A. Yes.

15 Q. What did you do when that happened?

16 A. If he was there, I would ask him for the money or

17 write him a note.

18 Q. What was his reaction?

19 A. He would scream.

20 Q. Do you know why he screamed?

21 A. He would just get upset and say he'd have to come up

22 with the money, and right before I resigned, he had come

23 out and screamed at me because I needed -- he was leaving

24 to go on vacation, and I needed like \$6 to \$7,000 to cover

25 the bills, and where am I going to get that money from, he

DiLoreto - Cross

1 would just scream.

2 Q. When did you resign from your employment with Mr.
3 DiBlasio?

4 A. I believe it was in May of 1995.

5 Q. Why did you resign?

6 A. Because I figured he was going to be retiring in the
7 next few years, and he would come out and just scream at me
8 when I would ask for money to pay his bills.

9 MR. KALL: May I have a moment, your Honor?
10 No further questions, your Honor.

11 THE COURT: Thank you. You may inquire,
12 Congressman.

13 CROSS-EXAMINATION OF LISA DiLORETO

14 BY MR. TRAFICANT:

15 Q. How are you doing, Lisa?

16 A. Hi, good.

17 Q. You saw a number of exhibits put on the board?

18 A. Yes.

19 Q. And some of them were, for example, Government's
20 Exhibit 1-42, it was a -- well, let me show it to you.

21 MR. KALL: Congressman, she has a copy.

22 THE WITNESS: 1-42? I have that one.

23 MR. TRAFICANT: Thank you for your
24 assistance.

25 Q. Although it's hard to read, who is it addressed to?

DiLoreto - Cross

- 1 A. Congressman James Traficant.
2 Q. Where?
3 A. Pardon me?
4 Q. Where was it addressed to Congressman James
5 Traficant?
6 A. Washington, D.C.
7 Q. What did it say on the bottom left?
8 A. Personal.
9 Q. Was that his writing?
10 A. Yes.
11 Q. Did he do that on letters?
12 A. Um-hum, yes.
13 Q. Now, you have another one here marked Government's
14 Exhibit 1-40. Can you describe what that is?
15 A. 1-40?
16 Q. Yeah.
17 A. It is -- it an envelope typed.
18 Q. Yeah, I guess it's an envelope. 1-40?
19 A. Yes, I have it.
20 Q. Yes. Where did that originate from?
21 A. The return address is inked out.
22 Q. Where was the post mark?
23 A. West Palm Beach.
24 Q. Where was it sent?
25 A. To Youngstown, to you.

DiLoreto - Cross

- 1 Q. And what address?
- 2 A. 11 Overhill.
- 3 Q. What was marked on it?
- 4 A. Personal.
- 5 Q. Was this a standard size envelope, from the best you
- 6 can tell?
- 7 A. Appears to be, yes.
- 8 Q. Post marked?
- 9 A. Yes, it appears to be.
- 10 Q. Okay. Now, Government's Exhibit 1-41, what was that?
- 11 A. An envelope handwritten to you.
- 12 Q. And was it post marked? Was there a stamp on it?
- 13 A. Yes.
- 14 Q. And was there a return address on it?
- 15 A. Yes.
- 16 Q. And was there a word written on it?
- 17 A. Yes.
- 18 Q. What was it?
- 19 A. Personal.
- 20 Q. Now, the times that you worked for Attorney DiBlasio,
- 21 did he represent a number of people?
- 22 A. Yes.
- 23 Q. Did he often have you type letters for him?
- 24 A. Yes.
- 25 Q. And then after you sealed the letters, did he write

DiLoreto - Cross

- 1 "personal" on them?
- 2 A. Yes.
- 3 Q. Did he do that quite often?
- 4 A. Not on the business letter, only if it was something
- 5 that was personal.
- 6 Q. It was personal?
- 7 A. Um-hum.
- 8 Q. But I mean, was it a client or a relative or son or
- 9 daughter, would you say?
- 10 A. I don't recall seeing things to son or daughter, but
- 11 to a client that was a friend, if it was something
- 12 personal, he would write personal on it.
- 13 Q. Yeah. So it's not unusual for him to write personal?
- 14 A. No.
- 15 Q. Now, Mr. DiBlasio complained about money to you?
- 16 A. Yes.
- 17 Q. And he'd scream about money?
- 18 A. Yes.
- 19 Q. But you quit because he was going to leave, and you
- 20 thought he's going to retire, I'd better start looking for
- 21 a job now, right?
- 22 A. No.
- 23 Q. Okay. Why did you quit?
- 24 A. Mainly because he came out screaming at me about
- 25 money.

DiLoreto - Cross

1 Q. He needed money, didn't he?

2 A. Um-hum. I just didn't feel appreciated. They
3 weren't my bills. I didn't think he should be screaming at
4 me. I was just doing my job.

5 Q. You know if at that time he was in the business
6 partnership with anybody?

7 A. Yes.

8 Q. Who was it?

9 A. R R. Allen Sinclair.

10 Q. You know if, in fact, the obligations of that
11 agreement were being met?

12 A. The obligations of the agreement?

13 Q. Yes, payments.

14 A. They had a line of credit that Henry would use to
15 advance expenses for the advertising in the partnership,
16 and --

17 Q. Did you have any knowledge that Mr. Sinclair had
18 fallen behind in payments for Mr. DiBlasio and became quite
19 concerned?

20 A. No.

21 Q. Now, you said you didn't have much contact with the
22 congressional staff, but on occasion, you had an urgent
23 matter, and you worked as a volunteer; is that correct?

24 A. As -- under the directive of Henry DiBlasio, yes.

25 Q. Yes, you would go ahead and take the letter in a

DiLoreto - Cross

1 congressional matter; is that right?

2 A. Yes.

3 Q. And it was urgent and that was rather rare, wasn't
4 it?

5 A. Yes.

6 Q. Did you ever see Mr. DiBlasio give me any money?

7 A. No.

8 Q. You consider yourself --- you worked for him what you
9 say?

10 A. 1989 to 1995.

11 Q. '89 to 1995. Would you consider that Mr. DiBlasio
12 and I were very good friends?

13 A. Yes.

14 Q. Isn't it a fact that he worked very hard on the
15 matters that I instructed him to work on?

16 A. When you were in town in the few matters I was
17 involved in typing things but seemed like whenever you were
18 there, he would devote his time to you, but I don't know
19 what was worked on because usually your staff worked on
20 this.

21 Q. But I might be in town on a Friday and may be a
22 Monday and through the weekends, and you'd even have notice
23 of me working through the weekends and Mr. DiBlasio and I
24 working through the weekends, is that a fact?

25 A. I can't recall specific.

DiLoreto - Cross

1 Q. When I was there, he and I worked closely together,
2 is that a fact?

3 A. Yes.

4 Q. And other staff did come up and confer with Mr.
5 DiBlasio on occasions, is that a fact?

6 A. Yes.

7 Q. Mr. DiBlasio on occasion went down the stairs and
8 conferred with staff on occasions, did he not?

9 A. On occasion.

10 Q. But basically, his office was both his law office and
11 his congressional office, was that a fact?

12 A. Correct.

13 Q. And my office was on the same floor as Mr. DiBlasio,
14 is that a fact?

15 A. Yes.

16 MR. TRAFICANT: Good to see you. No further
17 questions.

18 THE COURT: Thank you. Any questions?

19 MR. KALL: No further questions, your Honor.

20 THE COURT: Thank you. You're excused.

21 MR. TRAFICANT: Your Honor?

22 THE COURT: Just a second. Let's us excuse
23 the witness.

24 THE COURT: Yes, sir, break?

25 MR. TRAFICANT: Yes. I would appreciate one.

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1 THE COURT: Okay. Take a five, ten-minute
2 break. Thank you.

3 (Thereupon, a recess was taken.)

4 MR. SMITH: The Government calls Grace
5 Kavulic.

6 THE COURT: Thank you.

7 GRACE YAVORSKY KAVULIC,
8 of lawful age, a witness called by the Government,
9 being first duly sworn, was examined
10 and testified as follows:

11 DIRECT EXAMINATION OF GRACE YAVORSKY KAVULIC

12 BY MR. SMITH:

13 Q. Ma'am, would you please state your full name, and
14 spell your last name for the Court Reporter.

15 A. My name is Grace Yavorsky Kavulic, and the last name
16 is spelled Y-A-V-O-R-S -- K-A-V-U-L-I-C.

17 Q. Spell your middle name, also.

18 A. Y-A-V-O-R-S-K-Y.

19 Q. What city do you reside?

20 A. I live in Liberty Township Girard mailing address.

21 Q. Did you ever work at the Mahoning County Sheriff's
22 Office?

23 A. Yes, sir.

24 Q. And during what years?

25 A. I worked at the Sheriff's Office from 1981 to 1985.

Kavulic - Direct/Smith

1 Q. Who was the sheriff at that time?

2 A. James A. Traficant, Junior.

3 Q. How did you initially meet James A. Traficant,
4 Junior?

5 A. My children played on a baseball team, and
6 Mr. Traficant was running for sheriff at that time and was
7 the sponsor of the team, and he came to a few of the games.
8 I met him there.

9 Q. Who hired you to work at the Sheriff's Office?

10 A. Mr. Traficant.

11 Q. And what were your duties at the Sheriff's Office?

12 A. I was a secretary for awhile, and at one point, I
13 became the administrator at the Sheriff's Department.

14 Q. After leaving the Sheriff's Office in 1985, how did
15 you then become employed?

16 A. I was employed by Mr. Traficant in the United States
17 House of Representatives when he became a Congressman.

18 Q. And when specifically did you join the staff in the
19 year 1985?

20 A. January of 1985.

21 Q. Would you -- and for how long did you continue to
22 work at the Congressman's office in the Youngstown area?

23 A. Until 1998. I left my employment in October of that
24 year.

25 Q. And what was your job title while you worked in the

Kavulic - Direct/Smith

1 congressional office?

2 A. I was a staff representative and the Congressman's
3 scheduling secretary. I did some personal work for the
4 Congressman, also.

5 Q. Okay. Why don't you go ahead and describe with some
6 completeness what your duties were as a staff
7 representative and secretary to Congressman Traficant?

8 A. I was as staff representative I would deal with
9 constituents calling the office that needed assistance with
10 any problems they were having within the federal government
11 or within the State of Ohio. I also did Congressman's
12 travelling to speaking engagements, arranged his travel
13 plans, paid his bills -- well, mailed his bills. I should
14 say that. I did some of his banking deposits, communicated
15 with his staff in Washington as far as scheduling was
16 concerned.

17 Q. This paying of -- or mailing of bills of the
18 Congressman, are you referring to office bills or personal
19 bills?

20 A. Personal bills.

21 Q. You referred to banking matters. Is that personal
22 banking or office banking that you were doing for the
23 Congressman?

24 A. It was personal.

25 Q. Did you have any responsibilities with respect to

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1 horses?

2 A. I typed some letters, yes, correspondence with the
3 American Saddlebred Horse Association.

4 Q. Would you describe what type of correspondence that
5 was?

6 A. I would just write to them if the Congressman
7 instructed me to write and send for a blood testing kit or
8 to mail a title or, you know, horse ownership papers or
9 something down there and to find out when the horse shows
10 were, things like that.

11 Q. This American Saddlebred Horse Association you
12 referred to --

13 A. Yes.

14 Q. --you have any recall as to where that was located,
15 where you were sending the correspondence to?

16 A. I believe it was in Kentucky.

17 Q. With respect to constituent service matters,
18 throughout the time period you worked for Congressman
19 Traficant, approximately how many such constituent matters
20 would the Youngstown District Office handle in --

21 A. Quite a few. People -- people would call the office
22 whenever they had a problem. I mean, if the garbage wasn't
23 picked up, sometimes they called us. And they called for
24 social security matters, Veteran's matters, any problem
25 within the realm -- somewhere in the state, and we would

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1 try to direct them to the proper people.

2 Q. During the time that you worked for Congressman
3 Traficant, do you know where his residence was located?

4 A. His residence?

5 Q. Yes.

6 A. It was on Main Street in Poland, Ohio.

7 Q. And how far is Poland from Youngstown?

8 A. I'm not very good at mileage, but I approximate about
9 three to five miles.

10 Q. Was there any other real estate that you associated
11 with Congressman Traficant during the time that you worked
12 for him?

13 A. Yes. There was also a farm in Green Township.

14 Q. When you started working for the Congressman in 1985,
15 at what office address did you work?

16 A. I worked at 11 Overhill Road in Boardman.

17 Q. Where was your personal -- withdrawn.

18 Where was your office within that complex?

19 A. On 11 Overhill Road, it was in the basement. My
20 office was the first office behind the receptionist's desk.
21 It was the reception area.

22 Q. And on what level of the building was the
23 Congressman's office?

24 A. That was upstairs, it was over the garage actually.

25 Q. Did you have the keys to the Congressman's office?

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- 1 A. There was a period of time -- no. I didn't have a
2 key to it, but there was a period of time when the
3 Congressman had a door put on that only he had a key to.
- 4 Q. Did you have any responsibilities in connection with
5 your official duties for handling Congressman's
6 congressional paycheck?
- 7 A. Yes, yes.
8 When we moved downtown to the Federal Building, I
9 deposited the Congressman's paycheck monthly.
- 10 Q. And how did you receive that paycheck?
- 11 A. It came through the mail to the office on Market
12 Street, 125 Market Street. And when I got the check, I
13 would write for deposit only on the back of it and make out
14 a deposit slip ticket, go to the bank and deposit it.
- 15 Q. You recall which bank you made the deposits.
- 16 A. Yes, at Bank One.
- 17 Q. Did -- you said that part of your duties included
18 travel arrangements?
- 19 A. Yes.
- 20 Q. Would you describe what -- in a little more detail
21 what that involved?
- 22 A. Well, various groups in the State of Ohio and around
23 the country would to request the Congressman as a speaker
24 at one of their functions. You know, they'd have meeting
25 like that. I forget the name of all the organizations, but

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1 I used to make his flight arrangements, his hotel
2 arrangements, and deal with the people that were having him
3 as their guests as to paying for his flights. They paid
4 his expenses to go.

5 Q. How often did the Congressman go to Washington D.C.?

6 A. When they were in session, he was there weekly.

7 Q. Did you make those travel arrangements for him?

8 A. No.

9 Q. Okay. Who did?

10 A. Well --

11 Q. If you know.

12 A. Well, he usually drove to Washington. If he needed a
13 flight, yes, I arranged the flight. If he drove, he just
14 drove on his own and then -- and gave the turnpike receipts
15 to me, and I forwarded them to the Washington office.

16 Q. During the time that you worked for Congressman
17 Traficant, was there any telephone communication between
18 the Youngstown District Office where you worked and the
19 office in Washington, D.C.?

20 A. Yes, sir.

21 Q. How frequently would there be telephone
22 communications between the Youngstown office and Washington
23 D.C.?

24 A. I think daily.

25 Q. How about mail communication between the Youngstown

Kavulic - Direct/Smith

1 office and the Washington, D.C. office?

2 A. Once a week. We'd mail the envelope down once a
3 week.

4 Q. Other than the office at 11 Overhill Road, did the
5 Congressman maintain any other offices within the district?

6 A. There was an office in Niles. That office moved a
7 couple times during the course of my employment. It was in
8 Niles, that was Warren then back at Niles, and there was an
9 office in Columbiana and East Liverpool.

10 Q. Niles is what County?

11 A. Pardon me --

12 Q. Niles is what County?

13 A. That is in Trumbull County. And there was an office
14 in East Liverpool and the one in Washington.

15 Q. Earlier in your testimony, did you refer to the
16 office moving someplace?

17 A. Yes.

18 Q. All right. Go ahead.

19 A. The office moved from Overhill Road down to the new
20 Federal Building that was built in downtown Youngstown.

21 Q. Do you recall approximately when that happened?

22 A. It was January of 1994.

23 Q. Did any congressional employees remain at the 11
24 Overhill location when that move occurred?

25 A. Yes, sir. The Congressman remained there, Mr. Henry

Kavulic - Direct/Smith

1 DiBlasio remained there, and Mr. Bob Barlow remained there.

2 Q. After that move, was this any interoffice mail
3 between the 11 Overhill location and downtown?

4 A. Yes.

5 Q. How often did that happen?

6 A. About once a week. I would get an envelope or --
7 either I or Jackie would get an envelope from the Overhill
8 office.

9 Q. You indicated earlier in your testimony that you
10 provided secretarial services to the Congressman?

11 A. Yes, sir.

12 Q. Was any explanation ever given to you by him as to
13 why he was staying back at 11 Overhill, but you were going
14 downtown even though you were his secretary?

15 A. He just didn't want to go downtown.

16 Q. Who is the highest ranking staffer in the Youngstown
17 District Office?

18 A. Mr. DiBlasio.

19 Q. What was his title?

20 A. He was the administrative assistant to the
21 Congressman.

22 Q. And who had -- who was next highest in the order?

23 A. Mr. Charles O'Nesti.

24 Q. And what was his title?

25 A. He was the district director.

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- 1 Q. Do you know a person named Jackie Bobby?
- 2 A. Yes, sir.
- 3 Q. Who was she?
- 4 A. Jackie Bobby was my co-worker. I worked with Jackie
- 5 for a total of 17 years.
- 6 Q. What was her title?
- 7 A. She was the office manager.
- 8 Q. Who was the highest paid staffer in the Youngstown
- 9 District Office?
- 10 A. Mr. DiBlasio.
- 11 Q. How about -- who was the second highest paid staffer
- 12 in the Youngstown District Office?
- 13 A. Mr. O'Nesti.
- 14 Q. Was there anyone on the staff who appeared to you to
- 15 be more personally close to the Congressman than other
- 16 staffers?
- 17 A. Mr. O'Nesti.
- 18 Q. And would you describe the nature of the relationship
- 19 between the Congressman and Mr. O'Nesti?
- 20 A. Well, Mr. O'Nesti used to at one point drive the
- 21 Congressman back and forth to Washington, and he would stay
- 22 down there with him. Anything that the Congressman needed
- 23 done, personally when he was out of the district,
- 24 Mr. O'Nesti would handle some of his personal matters, you
- 25 know, if there was a problem with the plumbing at his house

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1 or something.

2 Q. And what were Mr. O'Nesti's duties as district
3 director?

4 A. Well, the duties, he dealt with the politicians,
5 anything that the Congressman wanted him to do.

6 Q. When did M O'Nesti come on staff at the Congressman's
7 congressional office?

8 A. He came on staff in 1985.

9 Q. When did he leave?

10 A. 1998, I believe, yes.

11 Q. Did M O'Nesti ever discuss his pay situation with
12 you?

13 A. Yes, Mr. O'Nesti complained to me.

14 Q. All right. And let me ask you, when was the first
15 time that he talked to you about his pay situation with
16 you?

17 A. I don't remember exact date. I know it was a couple
18 times over the years that we were employed together. He
19 used to complain about having to pay money to the
20 Congressman, and he had to pay taxes on it, and then he had
21 to give him money.

22 Q. Did Mr. O'Nesti identify the source of this money
23 that he was having to pay back?

24 A. This money from his paycheck.

25 Q. His congressional paycheck?

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1 A. His congressional paycheck, yes.

2 Q. And where did these conversations with Mr. O'Nesti
3 occur, where he made these remarks to you?

4 A. Usually, he called me or called us in his office,
5 Jackie and I, and then he'd complain about things, and that
6 was when he complained about those.

7 Q. While you work at 11 Overhill Road, did the building
8 ever experience any maintenance problems?

9 A. Yes.

10 Q. Would you describe the nature of that maintenance
11 problem?

12 A. There was a time that the roof over the Congressman's
13 office was leaking. It was a flat roof, and water was
14 leaking into the Congressman's office.

15 Q. Who was responsible for taking care of that problem?

16 A. Well, it was the landlord, Mr. DiBlasio, so I knew
17 about the complaint about having him fix it.

18 Q. Based upon your observations, who was responsible for
19 the building at 11 Overhill Road on a day-to-day basis?

20 A. Mr. DiBlasio.

21 Q. When did Mr. DiBlasio come on staff?

22 A. In 1985 as a congressional employee.

23 Q. From 1985 until you left, did Mr. DiBlasio have any
24 employment other than his position as the Congressman's
25 administrative assistant?

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- 1 A. Not to my knowledge. Oh, he was an attorney. I
2 mean, he was always employed as an attorney. He was an
3 attorney.
- 4 Q. And where was his law practice located?
- 5 A. His 11 Overhill Road.
- 6 Q. Was it full or part-time?
- 7 A. Full time, sir.
- 8 Q. How often did you see Henry DiBlasio working in the
9 downstairs congressional office at 11 Overhill Road?
- 10 A. Rarely, maybe once or twice.
- 11 Q. How much congressional office work product did you
12 see that Mr. DiBlasio produced or that you observed?
- 13 A. Not much.
- 14 Q. Were you ever asked to fill in or pinch hit for Mr.
15 DiBlasio in performing any duties?
- 16 A. Well, I thought it would have been Mr. DiBlasio's
17 responsibility to go out and represent the Congressman at
18 different political events and candidates, but most of the
19 other staff did that, myself included. The Congressman
20 would choose the people and --
- 21 Q. Who were other people who did such things in addition
22 to yourself?
- 23 A. Jackie Bobby would have gone out a few times, and Mr.
24 George Buccella had gone out a few times, Betty Manente,
25 various staff members.

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1 Q. Was Mr. DiBlasio --

2 THE COURT: I didn't get Betty's last name.

3 THE WITNESS: Manente.

4 THE COURT: Can you spell it?

5 THE WITNESS: M-A-N-E-N-T-E.

6 THE COURT: Thank you.

7 Q. Who was Betty Manente?

8 A. She was a staffer in the Niles office.

9 Q. What did she do there?

10 A. She was the office manager.

11 Q. All right. Did she perform a similar function at
12 Niles as Ms. Bobby performed in Youngstown?

13 A. Yes, sir.

14 Q. Was Mr. DiBlasio's position supervisory one?

15 A. I don't know how to answer that very honestly because
16 I didn't see Mr. DiBlasio that often.

17 Q. Did you receive any supervision or guidance from Mr.
18 DiBlasio on a day-to-day basis?

19 A. No, most of my supervision came from the Congressman.

20 Q. Did you ever encounter any unexpected cash while
21 working at the congressional office?

22 A. Yes, I did.

23 Q. And which location are we talking about, 11 Overhill
24 or downtown after the move?

25 A. The downtown office.

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1 Q. And would you please describe what happened the first
2 time that you encountered unexpected cash in the office?

3 A. Well, I -- I got my mail because we get -- he put
4 little stickers on everything as to who it was to go to,
5 and I opened my envelope, and there was all this money in
6 there, and I just said, "Oh, my God, look at this," and
7 I -- there was a deposit slip with it that the Congressman
8 had written the amount on, and there was no date. So I
9 filled in the date. I recounted the money to be sure that
10 it was all there, that the amount that was on the deposit
11 slip.

12 Q. How much money was in that envelope?

13 A. \$2000.

14 Q. Do you remember the denominations of any of the
15 bills?

16 A. That was all brand new \$100 bills in that envelope,
17 sir.

18 Q. And was there anyone else present when you
19 encountered this cash?

20 A. Yes, Mrs. Bobby was there. She worked right beside
21 me in the work station beside me.

22 Q. What, if anything, did you do with this cash?

23 A. I deposited it in his personal account.

24 Q. Which bank?

25 A. Bank One.

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- 1 Q. Whose personal account?
- 2 A. The Congressman's personal account.
- 3 Q. Anybody go with you to the bank?
- 4 A. Ms. Bobby walked me to the bank, Anthony would walk
- 5 me into the bank sometimes, depended who was available.
- 6 Q. After that first instance of receiving this cash at
- 7 the office, did that ever happen again?
- 8 A. Yes, intermittently, there were cash envelopes that I
- 9 would receive.
- 10 Q. And for how long a period of time did this go on?
- 11 A. I'd say two to three years or more. I don't really
- 12 remember.
- 13 Q. All right.
- 14 When did you quit working there?
- 15 A. In 1998.
- 16 Q. When was the cash deposit that you can recall of this
- 17 nature before you quit?
- 18 A. I don't recall the exact date. I'm sorry.
- 19 Q. And when you received these other cash amounts,
- 20 describe the procedure or the -- or the circumstances under
- 21 which you received those cash envelopes?
- 22 A. They usually came down in the envelope. We had kind
- 23 of a courier system that the Congressman's office was on
- 24 Overhill and whoever was up on Overhill Road. Mr. Barlow
- 25 most of the time would bring the envelope down to the

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1 office. Sometimes it was Mr. O'Nesti that brought it down,
2 and the envelope would be opened, and there were little
3 stickens on everything that said who were -- they were to
4 go to, and that's how I received the cash most of the time,
5 all of the time.

6 Q. You mentioned the name Anthony Traficanti a few
7 minutes ago; is that correct?

8 A. Yes, sir.

9 Q. What role did he play in this -- these amounts of
10 cash that were deposited at the bank?

11 A. Well, when I get that large of an amount of cash, I
12 didn't want to walk to the bank downtown by myself, so I
13 would ask Anthony if he would walk me to the bank.

14 Q. And what was Mr. Anthony Traficanti's position within
15 the office?

16 A. He was just a staff representative.

17 Q. Doing what kind of work?

18 A. Constituent work.

19 Q. At the time that you were receiving these amounts of
20 cash in the envelope from 11 Overhill, were you still
21 separately processing the Congressman's paycheck?

22 A. Yes, sir.

23 Q. Were you still depositing that paycheck?

24 A. Yes, I was.

25 Q. Were these amounts of cash you were receiving in the

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1 envelope from 11 Overhill separate and apart from his
2 paycheck?

3 A. Yes, sir.

4 Q. Did you ever ask Congressman Traficant about this
5 cash that you were receiving in the interoffice mail?

6 A. No, sir.

7 Q. Why not?

8 A. Because he wasn't going to tell me anyhow. I mean,
9 he knew -- you could ask -- you knew what you could ask and
10 couldn't ask, and I didn't ask.

11 Q. All right.

12 If you would turn your attention to the counter in
13 front of you, to a group of exhibits, Exhibit 1-27(2)?

14 A. Yes.

15 MR. TRAFICANT: What number was that?

16 MR. SMITH: 1-27(2).

17 Q. Do you see that document?

18 A. Yes, I do.

19 Q. How many pieces of paper compose 1-27(2)?

20 A. Two.

21 Q. Do you recognize either of those documents?

22 A. Yes, I do.

23 Q. Which one do you recognize?

24 A. It's a deposit slip with my handwriting.

25 Q. And what -- have you ever seen that document before?

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1 A. Yes. It's one of the Congressman's deposit slips for
2 his personal account, and it's dated 9-18-95 for \$2000.

3 Q. Is that a currency deposit?

4 A. Yes, sir, it is.

5 Q. And the -- thank you.

6 If you would move to Exhibit 1-27(3)?

7 A. Yes.

8 Q. Okay. Do you recognize that?

9 A. Yes, I do, sir.

10 Q. All right.

11 Specifically are you looking at the front first page
12 of Exhibit 1-27(3)?

13 A. Yes.

14 Q. And what is that?

15 A. It's a deposit slip for Mr. Traficant's personal
16 account, dated 5-20-96.

17 Q. And whose handwriting is that?

18 A. That is my handwriting, sir.

19 Q. All right.

20 And how much currency did you deposit on that
21 occasion?

22 A. \$2000.

23 Q. Turning your attention to 1-27(4), looking at Page 1
24 of that exhibit, do you recognize the item at the bottom of
25 that page?

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- 1 A. Yes, it's a deposit slip for Mr. Traficant's personal
2 account.
- 3 Q. And is this -- did you do this deposit?
- 4 A. Yes, I did.
- 5 Q. All right. Whose handwriting is that deposit slip?
- 6 A. That is my handwriting, sir.
- 7 Q. How much was the deposit of the currency portion of
8 the deposit?
- 9 A. \$2000.
- 10 Q. Moving to Government's Exhibit 1-27(5), do you
11 recognize the bottom document on that particular exhibit?
- 12 A. Yes, sir, that is deposit slip for Mr. Traficant's
13 personal account.
- 14 Q. Okay.
15 Did you do this deposit?
- 16 A. Yes, I wrote the date in, and the Congressman wrote
17 the amount.
- 18 Q. All right. What's the amount of the currency deposit
19 in that transaction?
- 20 A. \$2500.
- 21 Q. Moving on to Exhibit 1-27(6), do you recognize the
22 bottom document in that exhibit on the first page?
- 23 A. Yes, I do.
- 24 Q. And what is it?
- 25 A. It's a deposit slip for Mr. Traficant's personal

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1 account.

2 Q. And did you do that deposit?

3 A. I made the deposit, but it's in the Congressman's
4 writing \$2000.

5 Q. Is that a cash line of that particular deposit slip
6 for \$2000?

7 A. Yes.

8 Q. Moving to Exhibit 1-27(7), do you recognize the
9 bottom document on Page 1 of that exhibit?

10 A. Yes, I do, sir, it's a deposit slip for the
11 Congressman's personal account, in the amount of \$1400.
12 That's in his handwriting.

13 Q. And does that indicate cash deposit?

14 A. Yes, sir.

15 Q. Moving on to Exhibit 1-27(8), do you recognize the
16 document at the bottom of Page 1 of that document?

17 A. Yes, sir.

18 Q. And what is that?

19 A. A deposit slip for the Congressman's personal
20 account.

21 Q. Whose handwriting is that in?

22 A. That is in my handwriting, sir.

23 Q. Did you do that deposit?

24 A. Yes.

25 Q. And what is the cash amount of that deposit?

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- 1 A. \$800.
- 2 Q. Turning to Exhibit 1-27(9), do you recognize the
- 3 bottom document of Page 1 of that exhibit?
- 4 A. Yes, sir. It's a deposit slip for Mr. Traficant's
- 5 personal account, in the amount of cash deposit \$500.
- 6 Q. And do you recognize any of the handwriting on that
- 7 document?
- 8 A. Yes, the -- where it says cash amount, that's the
- 9 Congressman's handwriting. I wrote in the date and the
- 10 total.
- 11 Q. Turning to Exhibit 1-27(10), do you recognize the
- 12 bottom document on Page 1 of that exhibit?
- 13 A. Yes, sir. It's a deposit slip for Mr. Traficant's
- 14 personal account. I wrote in the date, there's a cash
- 15 amount for \$1500 and in the Congressman's handwriting and I
- 16 wrote in the total.
- 17 Q. Finally, moving to Exhibit 1-27(11), document of Page
- 18 1 of that exhibit, do you recognize that exhibit?
- 19 A. Yes, I do. It's a deposit slip for Mr. Traficant's
- 20 personal account.
- 21 Q. Whose handwriting is that in?
- 22 A. That's in the Congressman's handwriting, sir. It's
- 23 at \$2000 cash amount.
- 24 Q. How about the date?
- 25 A. The date is on July 5, '98.

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1 Q. Whose handwriting is the date?

2 A. That's in Mr. Traficant's handwriting.

3 Q. How is it that you recognize Congressman's
4 Traficant's handwriting?

5 A. Well, I've been -- I worked for him for 17 years, so
6 I recognize it.

7 Q. How often did you see his handwriting while you were
8 working?

9 A. Daily.

10 Q. You can set that aside.

11 During your tenure as an employee in the
12 Congressman's office, did you ever encounter a person or
13 persons with the last name of Bucci?

14 A. Yes.

15 Q. All right. Who was this person or persons named
16 Bucci?

17 A. They had a business in Girard, Ohio.

18 Q. And you refer to they, more than one Bucci?

19 A. Pardon?

20 Q. Is there more than one Bucci?

21 A. Yes, this was Robert Bucci, and I can't -- oh,
22 Anthony, Robert and Anthony Bucci.

23 Q. What -- with respect to the work in the congressional
24 office, what dealings did you have with either of the two
25 Buccis?

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1 A. I talked to them over the telephone. They would call
2 the office for the Congressman, and I would forward
3 messages to him to call them, to return their call. They'd
4 call looking for him and tell him he was in Washington, or
5 I would try to reach the Congressman and tell him that they
6 were looking for him.

7 Q. Did you ever discuss the Buccis with the Congressman?

8 A. No.

9 Q. Did you ever perform any actions on the Buccis'
10 behalf while you worked for the Congressman's office?

11 A. There was a time that we had to make a telephone call
12 down to the State of Ohio, Department of Transportation,
13 because of a problem that the Buccis were having with the
14 state Government.

15 Q. And specifically what did you do in connection with
16 that phone call to the Ohio Department of Transportation?

17 A. Asked them to consider the Buccis, what the problem
18 was, to find out, get to the bottom of it so they could
19 again contract with the State of Ohio.

20 Q. At whose direction did you make the call to the Ohio
21 Department of Transportation?

22 A. The Congressman's direction.

23 Q. What did he tell you to say to the Ohio Department of
24 Transportation when you made the call, what kind of
25 instructions did you get?

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- 1 A. The instructions, I called to find out what's going
2 on down there and tell them, you know, to consider this,
3 and --
- 4 Q. Consider?
- 5 A. --they are, you know, a good business in my area as
6 such.
- 7 Q. What were you trying to accomplish on behalf of the
8 Buccis in this conversation or conversations?
- 9 A. Just to get them to be able to work with the State of
10 Ohio again.
- 11 Q. If you would turn to Exhibit 2-21 on the counter
12 before you, do you have that document?
- 13 A. Yes, sir.
- 14 Q. And toward the top of the document, you see the word
15 "hello" written over somebody's name on that document?
- 16 A. Yes, I do.
- 17 Q. And whose handwriting is the word hello?
- 18 A. That's in the Congressman's handwriting, sir.
- 19 Q. Okay. If you'd direct your attention to the bottom
20 left-hand corner of the document, do you see some language
21 -- I would appreciate your help?
- 22 A. Yes.
- 23 Q. Whose handwriting is that in?
- 24 A. That's the Congressman's handwriting.
- 25 Q. During your tenure, did you ever encounter someone by

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- 1 the name of Tyson?
- 2 A. Yes.
- 3 Q. Do you remember?
- 4 A. Greg Tyson.
- 5 Q. I'm sorry?
- 6 A. Greg Tyson.
- 7 Q. Who was Greg Tyson?
- 8 A. He had a construction company, that is called big G,
- 9 Big G.
- 10 Q. G as in the letter G?
- 11 A. Yes, sir.
- 12 Q. And what, if any, dealings in the congressional
- 13 office did you have with Greg Tyson?
- 14 A. This was one time that I recall talking to Mr. Tyson
- 15 that there was a problem out at the farm in Green Township,
- 16 that he was to repair a water tank, furnace, I don't recall
- 17 exactly what it was. I thought I dealt with water, with
- 18 the water tank, and he was supposed to have it fixed, get
- 19 it fixed.
- 20 Q. All right. What farm are you referring to?
- 21 A. I'm referring to the Congressman's farm out in Green
- 22 Township on South Grange Road.
- 23 Q. Did you talk to Mr. Tyson on that occasion?
- 24 A. I talked to him and told him that he wanted to -- I
- 25 guess arrangements for -- it was prearranged that he wanted

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1 to do this, and I was to call and say, you know, go ahead,
2 go do it.

3 Q. During your tenure in the Congressman's office, were
4 there any employees who were absent more often than others?

5 A. Yes.

6 Q. Who?

7 A. Mr. George Buccella and Anthony Traficanti.

8 Q. Who was George Buccella?

9 A. George Buccella was another staff representative who
10 worked -- he worked with the Overhill office. Before that,
11 he was in the Niles office, then he came to Overhill, and
12 then he went back to Niles.

13 Q. The first time that Mr. Buccella worked in Niles, was
14 there anything that happened in Niles that resulted in his
15 working in the Youngstown office for awhile?

16 A. I don't recall.

17 Q. Did you ever have discussions with the Congressman
18 about Mr. George Buccella's absences from the office?

19 A. Yeah, it was mentioned to the Congressman. Mr.
20 Buccella was gone frequently, and sometimes he was supposed
21 to be at the farm, and I would get a phone call, where's
22 George.

23 Q. Who was that phone call from that you just referred
24 to?

25 A. Phone call would be from the Congressman, where's

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1 George, and I said I thought he was supposed to meet you at
2 the farm, and he'd say, oh, well, I don't know, you know,
3 or he isn't here, or something, he used to get angry.

4 Q. Do you ever recall the phrase, quote unquote, down
5 south occurring when you talked to the Congressman about
6 Mr. Buccella?

7 A. Yes.

8 Q. What did -- what did that mean?

9 A. That was frequently used. And it was known to me
10 down south was down at the farm.

11 Q. How often was Mr. Buccella absent from the office?

12 A. Depended on what time of the year it was. Sometimes
13 through the year he was absent more so than others.

14 Q. Was there any part of the year he was more absent
15 than the rest of the year?

16 A. Spring, summer.

17 THE COURT: Mr. Smith, it's very close to
18 noon, so we'll come to place where you can stop and recess.

19 MR. SMITH: Very well, your Honor. I can
20 stop here, sure.

21 THE COURT: All right. Very well.

22 We're going to give you your lunch recess. We'll
23 reconvene with you at about 1:30. So we'd like you to be
24 ready to come down at 1:30. Remember your admonitions.
25 You still haven't had this case really submitted to you.

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1 You haven't heard all the evidence in the case, so think
2 about other things. Don't let anyone talk to you. Don't
3 talk to anyone. Don't make up your mind. Don't read
4 listen or watch anything about the case. And enjoy your
5 lunch. Thank you.

6 MR. MORFORD: I've asked the agents to try to
7 touch bases with Mr. DiBlasio. I haven't been able to talk
8 to him but asked them to set something up for the lunch
9 hour, if possible.

10 THE COURT: Okay. Then you'll need to be in
11 touch with the Congressman over lunch, too, I take it,
12 right?

13 MR. MORFORD: Yeah, but I don't know how to
14 do that, so --

15 THE COURT: Okay. That's what we need to
16 work out.

17 (Proceedings in the absence of the jury:)

18 THE COURT: I don't know if you're contacted
19 over the noon hour somehow by the lawyers for Mr. DiBlasio,
20 Congressman, how would they be able to reach you? Over the
21 noon hour?

22 MR. TRAFICANT: Well, I believe in the law
23 library, in the restroom, or out to lunch. I've given a
24 number with the assistant who's a liaison and in the area,
25 so I guess call that.

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1 THE COURT: Okay. I'm thinking maybe if we
2 get back here ten minutes before the jury does, then
3 whatever happens, we can discuss it together. So if you
4 would all be back ten minutes before, which means 20 after
5 1:00, 1:20, then we can see where we are.

6 We may have to use the afternoon break rather than
7 the lunch break in order to do whatever it is you may come
8 up with. I don't know where that's all going, but we can
9 talk about it for the ten minutes preceding the afternoon
10 session, okay? Very well. We'll see you. Enjoy your
11 lunch.

12 (Thereupon, a luncheon recess was had.)
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1 Tuesday Session, February 19, 2002, at 1:20 P.M.

2 (Proceedings in the absence of the jury:)

3 THE COURT: Mr. Traficant.

4 MR. TRAFICANT: Your Honor, I have conferred
5 with the Prosecution, and three of their exhibits are also
6 three of mine, and we want to make them joint exhibits.
7 The Defense exhibits would be numbered G-90, G-91 and G-92.

8 THE COURT: So would these be joint exhibits?

9 MR. MORFORD: Yes, they would, your Honor.
10 We have no objection to that.

11 THE COURT: Fine, thank you. And so you have
12 no objection to their admission?

13 MR. MORFORD: That's correct.

14 THE COURT: All right. They'll be admitted.
15 Thank you.

16 MR. TRAFICANT: Thank you.

17 MR. MORFORD: One other thing, your Honor.

18 THE COURT: Yes.

19 MR. MORFORD: The next witness after Mrs.
20 Kavulic, will be an IRS summary agent that's going to do
21 some summary charts, and we have two. Charts -- now the
22 other two are in the office just three doors down. And I
23 don't know if we need to do anything in between the two
24 witnesses, or we can put those up, but I want to alert the
25 Court before we have the jury out when the next witness

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1 comes, we would ask to put those charts up there in his
2 testimony.

3 THE COURT: Okay. Has he -- has the
4 Defendant seen the charts?

5 MR. MORFORD: He has copies, small copies of
6 the charts, and we've made the larger charts available as
7 well.

8 THE COURT: All right.

9 MR. TRAFICANT: I've had some copies of some
10 minuscule things. I think these are rather large. Maybe
11 I'll be able to see them this time. But they were
12 submitted in a timely fashion; is that correct, sir?

13 MR. MORFORD: Yes.

14 MR. TRAFICANT: Under the rules of the
15 deadline dates?

16 MR. MORFORD: Yes, they were.

17 THE COURT: Only submitted between the
18 parties so I don't know. I just --

19 MR. MORFORD: They're also in the court's
20 evidence book marked as exhibits --

21 MR. TRAFICANT: So --

22 THE COURT: So they're in his exhibits books
23 as well as my exhibit books?

24 MR. MORFORD: Yes.

25 THE COURT: Okay.

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1 MR. MORFORD: The only other thing I bring up
2 now is, I didn't know if the Congressman was going to ask
3 for an opportunity to look at the charts. We told them
4 they were coming. We have them available, but if you want
5 to do that between the witnesses and give the jury a
6 five-minute break or something, I just wanted you to know
7 before the jury came in so we don't have to take a side
8 bar.

9 MR. TRAFICANT: I would request when we
10 complete with this jury, 300 seconds might be enough for me
11 to look at them, your Honor.

12 THE COURT: All right. We'll give you an
13 opportunity.

14 MR. TRAFICANT: Thank you.

15 THE COURT: Ready for the jury?

16 MR. SMITH: Yes, your Honor.

17 (Proceedings resumed in the presence of the jury:)

18 THE COURT: You're still under oath

19 DIRECT EXAMINATION OF GRACE YAVORSKY KAVULIC (continued)

20 BY MR. SMITH:

21 Q. Before the lunch break, you recall being asked a
22 series of questions about a man named George Buccella?

23 A. Yes.

24 Q. And do you recall the questions and answers about
25 seasons of the year where he was more or less absent?

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- 1 A. Yes, sir.
- 2 Q. Okay. When George Buccella was absent from the
3 office, was that during normal office working hours?
- 4 A. Yes, it was.
- 5 Q. How did the office keep track of when Mr. Buccella
6 would be absent?
- 7 A. The office manager kept track of that, sir. I don't
8 know.
- 9 Q. All right. That would be Ms. Bobby?
- 10 A. Yes.
- 11 Q. Now, prior to the break, you mentioned another
12 employee other than George Buccella who was absent more
13 often than others?
- 14 A. Yes, Mr. Anthony Traficanti.
- 15 Q. And how often was he absent?
- 16 A. He wasn't absent as often as George was but a few
17 days here and there.
- 18 Q. Was that during normal office working hours as well?
- 19 A. Yes, it was.
- 20 Q. You indicated earlier in your testimony that part of
21 your job was to handle some of Congressman Traficanti's
22 personal bills, things like that?
- 23 A. Yes, sir.
- 24 Q. Did you ever have as part of your responsibilities
25 the duty to put checks in the mail and mail those checks

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1 out and pay the Congressman out of those personal checks?

2 A. Yes.

3 Q. During your tenure working for the Congressman, did
4 you ever observe any check written by the Congressman to
5 Mr. Buccella and Mr. Traficanti for personal services
6 rendered by them to the Congressman?

7 A. No, sir.

8 Q. Did you ever see any invoices or bills from
9 Mr. Buccella or Mr. Traficanti to the Congressman for
10 personal services rendered requesting payment?

11 A. No.

12 Q. If you would turn your attention to Government's
13 Exhibit 6-28 on the counter before you.

14 MR. TRAFICANT: Would you repeat that?

15 MR. SMITH: 6-28. You can pull it right out
16 of the sleeve, if you would.

17 THE WITNESS: Okay.

18 Q. Do you recognize that document?

19 A. Yes, it's a financial disclosure.

20 Q. Financial disclosure for whom?

21 A. This is Congressman Traficant's financial disclosure
22 for -- that I had filled out.

23 Q. Okay. Let me ask you a couple questions. First of
24 all, on the bottom of Page 1 of that document, is there a
25 signature Page?

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1 A. Yes.

2 Q. Do you recognize that signature?

3 A. Yes, I do.

4 Q. Whose is it?

5 A. That is Congressman Traficant's signature.

6 Q. What's the date of the document upon which he signed
7 it?

8 A. April 10, 1998.

9 Q. All right. Now, would you please describe the
10 circumstances under which you came to prepare this
11 document?

12 A. Okay.

13 Jackie had asked me to do this particular disclosure.
14 She said that she wanted me to learn how to do the
15 financial disclosure for the House. So I filled it out,
16 and she assisted me.

17 Q. Jackie is Jackie who?

18 A. Jackie Bobby.

19 Q. And where did you get the information from to fill
20 out this form?

21 A. Well, from the records that I kept for his speaking
22 engagements and the records that we had on hand, plus the
23 information that the Congressman would give us.

24 Q. All right.

25 Now, the information that you had for travel; is that

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1 correct?

2 A. Yes, sir.

3 Q. And is that information reflected on Page 6 out of 7
4 of this document, on the sixth page?

5 A. Yes.

6 Q. After you fill out this form, what -- filling it out,
7 what did you do with it?

8 A. After I filled it out, I would put a note on it to
9 the Congressman that he should review the document, and
10 that he should make any additions, deletions, you know,
11 just check it over to make sure it was correct, that all
12 the information was on there that was supposed to be.

13 Q. All right.

14 A. And then I would, you know, send it to his office.

15 Q. Did you --

16 A. For signature.

17 Q. -- did you send it to his office for signature?

18 A. Yes.

19 Q. All right. Did you ever see the document again after
20 you sent it for his signature?

21 A. Yes. He signed it and sent it back to the office,
22 and at that point, I sent it to the Office of the Clerk of
23 the United States House of Representatives.

24 Q. And did your local office retain a copy of this
25 document, Government's Exhibit 6-28?

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1 A. Yes, sir.

2 Q. In the section of that document, which would be on
3 the -- it says Page 5 of 7 at the top right-hand corner of
4 the page?

5 A. Okay.

6 Q. You have that page before you?

7 A. Page 5 of 7?

8 Q. Says 5 of 7 up in the right-hand corner. You have
9 that?

10 A. Yes, I have it.

11 Q. Is there a schedule 5, liabilities, on that page?

12 A. Yes, sir.

13 Q. All right. How many liabilities are reported for
14 that calendar year?

15 A. There's only one listed, sir, the Internal Revenue
16 Service.

17 Q. Did Congressman Traficant inform you of any other
18 liabilities exceeding \$10,000 for that reporting period?

19 A. No, sir.

20 Q. In the next schedule, schedule 6, gifts, were any
21 reportable gifts reported to you by Congressman Traficant?

22 A. No, sir.

23 Q. If you would set that one aside and turn to
24 Government's Exhibit 1-5(1) on the counter before you, do
25 you have that?

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1 MR. TRAFICANT: Could you repeat that?

2 MR. SMITH: 1-5(1).

3 Q. And I'll ask you, do you recognize any handwriting or
4 hand printing on that document?

5 A. Yes, I do. I recognize the Congressman Traficant's
6 handwriting on here.

7 Q. If you would move to Government's Exhibit 1-5(2), do
8 you have that in front of you?

9 A. Yes, sir.

10 Q. Do you recognize any handwriting or hand printing on
11 that document?

12 A. Yes, I -- I recognize Congressman Traficant's
13 writing, sir.

14 Q. On the entire document?

15 A. Yes.

16 Q. Okay. If you would move to Government's Exhibit 1-6,
17 do you have that?

18 A. Yes, I do.

19 Q. And do you recognize the handwriting on that
20 document?

21 A. Yes, I do. I recognize it as Congressman Traficant's
22 handwriting.

23 Q. And is all the handwriting on that page his?

24 A. Yes, sir.

25 Q. And moving to Government's Exhibit 1-7?

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1 A. Okay.

2 Q. All right. First of all, is there a page of that, if
3 you flip it over, it says Allen?

4 A. I see that, yes.

5 Q. All right.

6 And the words Allen, A-L-L-E-N, whose handwriting is
7 that, if you know?

8 A. That is in Congressman Traficant's writing, sir.

9 Q. And flipping the document over, is there a
10 handwritten note on the other side of that document?

11 A. Yes, there is.

12 Q. And whose handwriting is that?

13 A. That is Congressman Traficant's handwriting.

14 Q. If you would turn to Government's Exhibit 2-11.

15 A. Okay.

16 Q. First of all, do you recognize the type of document
17 that that is?

18 A. Well, it's Congressman's handwriting on part a place
19 mat from a restaurant.

20 Q. Do you have any idea which restaurant by looking at
21 the place mat?

22 A. It looks familiar to me to be from the Newport Deli,
23 which is across from the office on Overhill.

24 THE COURT: Your voice is dropping. So at
25 the end of the sentence, whatever you said, Overhill,

Kavulic - Direct/Smith

1 right.

2 THE WITNESS: Yes.

3 THE COURT: Okay. I need you to keep your
4 voice up.

5 THE WITNESS: Okay.

6 Q. And how much of the handwriting on that Exhibit 2-11
7 is the Congressman's handwriting?

8 A. It's all Congressman's handwriting.

9 Q. Are there numbers on that particular Exhibit 2-11?

10 A. Yes, there are.

11 Q. Specifically Number 1 through 8; is that correct?

12 A. Yes, sir.

13 Q. Did you ever receive any other -- did you receive any
14 handwritten notations during the time that you worked for
15 the Congressman with itemized lists of this sort?

16 A. Yes, yes. On occasion, I would. They would be on
17 place mats, napkins, different things.

18 Q. Thank you.

19 If you would move to Government's Exhibit 2-65 on the
20 counter before you.

21 A. Okay.

22 Q. And on the front of that document, is there
23 handwriting along the left-hand column, with Number items 1
24 through 9?

25 A. Yes, there are, sir.

Kavulic - Direct/Smith

1 Q. And with respect to that left-hand column of writing,
2 itemized 1 through 9. Do you recognize that handwriting?

3 A. Yes. I recognize it as Congressman Traficant's
4 handwriting, sir.

5 Q. Now, toward the bottom of the document, do you see
6 another column of handwriting in the -- kind of left center
7 at the bottom of that document?

8 A. Yes, I do.

9 Q. Starts with the word Poles, P-O-L-E-S and ends
10 with --

11 A. Yes.

12 Q. A line at the bottom, last word, sides of the bottom
13 line, you see that column?

14 A. Yes, I do.

15 Q. Do you recognize the handwriting in that column of
16 written material?

17 A. Yes, I recognize that as Congressman Traficant's
18 handwriting, sir.

19 Q. Moving to Government's Exhibit 3-5.

20 A. Okay.

21 Q. Referring to Page 1 of that exhibit, is there
22 handwriting at the top center of the document that runs
23 down the right-hand side of the document?

24 A. Yes, this is, sir.

25 Q. And do you recognize that handwriting?

Kavulic - Direct/Smith

- 1 A. Yes. I recognize that as Congressman Traficant's
2 handwriting.
3 Q. Moving to Government's Exhibit 5-8.
4 A. Okay.
5 Q. For what kind of a document is that that you have in
6 your hand?
7 A. It's a check.
8 Q. And do you recognize -- I'm sorry. Do you recognize
9 the handwriting of the date, the payee line, and the
10 handwritten numerals and the filling out in handwriting of
11 the amount line, do you recognize that handwriting?
12 A. Yes.
13 MR. TRAFICANT: Can we -- can we break those
14 questions down, maybe one at a time? There are about three
15 or four there and pretty hard to keep track of.
16 MR. SMITH: I'll do that, your Honor.
17 Certainly.
18 THE COURT: Thank you, sir.
19 BY MR. SMITH:
20 Q. With respect to the date line on that check, do you
21 recognize whose handwriting the date is in?
22 A. Yes, that's Congressman Traficant's writing.
23 Q. And there's a line saying "pay to the order of." Do
24 you see that?
25 A. Yes, sir.

Kavulic - Direct/Smith

- 1 Q. And who is the -- in whose handwriting is the payee?
2 A. Congressman Traficant's.
3 Q. And to the right of that payee, is there some
4 handwritten numerals 1142 and then 00 for cents?
5 Q. Who's handwriting is that?
6 A. Congressman Traficant's.
7 Q. Is there some handwriting \$1142, then get to the
8 dollar thing, whose handwriting is that?
9 A. Congressman Traficant's writing, sir.
10 Q. Finally, the signature line, you recognize the
11 handwriting?
12 A. Yes. That's Congressman Traficant's.
13 Q. If you would move along to Government's Exhibit 7-21.
14 A. Okay.
15 Q. All right.
16 First of all, toward the top of that document, do you
17 see the word written "hello" over the salutation line?
18 A. Yes, I do.
19 Q. Whose handwriting is that, if you know?
20 A. That's the Congressman's, Congressman Traficant's
21 handwriting sir.
22 Q. Directing your attention to the lower left-hand
23 corner of the same document, there are words reading, "in
24 this case, our Government should be ashamed." Do you
25 recognize that handwriting?

Kavulic - Direct/Smith

1 A. Yes, I recognize it as Congressman Traficant's
2 handwriting.

3 Q. If you would move to Government's Exhibit 6-1 and
4 pull it out of the pack there, if you would.

5 A. Okay.

6 Q. If you would turn to Page 2, what generically -- what
7 type of document is that?

8 A. Looks like a tax return.

9 Q. All right. And if you'd -- on the third page of that
10 exhibit, which would be the second page of the tax return,
11 if you'd go to the bottom, do you see there at the bottom?

12 A. Yes.

13 Q. Are there several signatures down there at the
14 bottom?

15 A. Yes, sir.

16 Q. All right.

17 Where it says your signature, is there a signature
18 there?

19 A. Yes.

20 Q. Do you recognize that signature?

21 A. Yes. I recognize it to be Congressman Traficant's
22 signature.

23 Q. And moving to Government's Exhibit 6-2, again,
24 generically, can you describe what type of document this
25 appears to be?

Kavulic - Direct/Smith

- 1 A. It's a tax return.
- 2 Q. Looking at the third page of the Exhibit, the second
3 page of the return, are there signature lines at the bottom
4 of Page 2 of the return?
- 5 A. Yes, there are.
- 6 Q. And by the words "your signature," is this a
7 signature there?
- 8 A. Yes, sir.
- 9 Q. Do you recognize that signature?
- 10 A. Yes, I recognize it to be the signature of
11 Congressman Traficant.
- 12 Q. During the time that you worked in the congressional
13 office, did the phone Number 202-225-5261 mean anything to
14 you?
- 15 A. Yes. That was the number of our Washington D.C.
16 office.
- 17 Q. And how about the telephone Number 330-743-1914?
- 18 A. That was the telephone number of our office in the
19 Federal Building downtown Youngstown.
- 20 Q. And how about the phone Number 330-757-8891?
- 21 A. That was the phone number of the Congressman's
22 personal residence.
- 23 Q. You indicated you left the Congressman's employment
24 when?
- 25 A. In 1998, in October.

Kavulic - Direct/Smith

1 Q. And when you left, were you a discontented employee
2 in any way?

3 A. Yes. I was upset with the Congressman when I left my
4 employ.

5 Q. And would you please explain the source of that
6 discontentment?

7 A. Congressman Traficant had called my home one evening
8 and told me that he would be hiring an another person to
9 our staff, and that she would be starting at the same
10 salary that I was receiving, and he wanted to call and let
11 me know before he made the press release. So I continued
12 to go to work.

13 I asked him if he was calling the other employees to
14 let them know, and I continued to go to work, and June --
15 this happened in May -- in fact, I had gotten married. I
16 had just got back from my honeymoon, and it was June when
17 he brought in the new employee.

18 Q. And it was something about that employee being
19 brought on that ultimately resulted in your resignation?

20 A. Well, yes. He brought the employee in one day, and
21 he called me into his office. And we sat and we talked,
22 and he told me that he wanted me to help her because she
23 was not able to use the computers or to type, and that he
24 wanted me to work with her and help her out and do the
25 typing stuff. And I told him no, I don't think I can do

Cross - Kavulic

1 that. I'm sorry, but if she is going to make the wage that
2 has taken me 13 years to attain, then I think she should be
3 able to do the job that she was hired to do. I won't do
4 her work for her.

5 Q. Is your testimony here given under granted use of
6 immunity?

7 A. Yes.

8 Q. What do you understand the terms of that immunity to
9 mean?

10 A. The terms of that immunity, just to protect myself
11 and make sure that I tell the truth here. I -- I have done
12 nothing wrong.

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

14 No further questions, your Honor.

15 THE COURT: You can inquire, Congressman.

16 MR. TRAFICANT: Thank you.

17 CROSS-EXAMINATION OF GRACE YAVORSKY KAVULIC

18 BY MR. TRAFICANT:

19 Q. How are you doing, Grace?

20 A. I'm fine. Thank you.

21 Q. You started out working in the Sheriff's Department;
22 is that correct?

23 A. Yes, sir.

24 Q. And isn't it a fact that we reduced crimes all four
25 years I was sheriff?

Cross - Kavulic

- 1 A. You know, I don't know. Did we? I don't know.
- 2 Q. At some point, did I put you in charge of that
- 3 office?
- 4 A. Yes, you did.
- 5 Q. Towards the end of my term as sheriff, I made you
- 6 technically the boss; is that correct?
- 7 A. No -- well, you gave me a promotion, sir, in 1984, I
- 8 believe.
- 9 Q. Okay.
- 10 A. But nobody in the department was ever boss.
- 11 Q. I was boss, technically. You were under me as the
- 12 civilian who was in charge of all other civilians, am I
- 13 correct?
- 14 A. As the administrative assistant?
- 15 Q. Yes.
- 16 A. All other civilians, yes.
- 17 Q. But you didn't have any control or authority over law
- 18 enforcement officers, did you?
- 19 A. Oh, no, sir.
- 20 Q. I had a lot of trust in you, didn't I?
- 21 A. You said you did.
- 22 Q. Well, did I do any of my personal banking at all, or
- 23 did you do it for me?
- 24 A. Which question do you want me to answer?
- 25 Q. First one: Did you do all my personal banking for

Cross - Kavulic

1 me?

2 A. To my knowledge, I don't know. I don't know if I did
3 all of your personal banking for you.

4 Q. Did I send you down to make every month deposits and
5 other paraphernalia and things for you to do like to go to
6 the bank, et cetera, make deposits, et cetera, as you
7 testified to?

8 A. Yes, you sent checks and cash for deposit.

9 Q. And you did that since 1981 until 1998?

10 A. No.

11 Q. When did you start doing that, do you remember?

12 A. I started doing your deposits, sir, when we moved out
13 to the Federal Building, as I remember. I don't recall
14 doing anything before that.

15 Q. And that was -- what was the date we moved down
16 there?

17 A. In 1994.

18 Q. You remember the month?

19 A. January.

20 Q. So from January, '94, to October, '98, you basically
21 did all the depositing?

22 A. Yes.

23 Q. When you visited the bank, did they ever intimate to
24 you -- or did you ever find out that I had done some
25 banking there myself?

Cross - Kavulic

1 A. I never asked.

2 Q. Did you conclude that you did my personal banking?

3 A. Some of it.

4 Q. Now, when you did write a letter, that was not
5 necessarily as the Government has stated, might have been
6 business related, for example, relative to a blood kit for
7 a horse. Did you use the mail?

8 A. Yes.

9 Q. You put stamps on it, didn't you?

10 A. Yes.

11 Q. Okay. You did not violate the law and use the
12 privilege of the professional frank where -- a Congressman
13 does not have to pay postage, does he?

14 A. No, we didn't use the frank for personal, no.

15 Q. Now, you said when we were there, we were deluged
16 with a myriad of problems. Is that truthful testimony?

17 A. In what time period are you talking about?

18 Q. When we were in the Congressional staff, I mean,
19 people would call us for everything; is that correct?

20 A. Oh, yes, that's true, yes.

21 Q. An insurance claim, garbage, you even mentioned
22 garbage; is that correct?

23 A. Yes.

24 Q. They had a high regard for our office?

25 A. Yes.

Cross - Kavulic

1 Q. And did our office perform well for those
2 constituents?

3 A. Yes.

4 Q. Did I go to bat for those constituents?

5 A. Well, I can only speak for the ones I know about,
6 yes.

7 Q. Basically, the people were very satisfied with our
8 constituent service?

9 A. Yes.

10 Q. Okay. Now, when there were specific concerns I might
11 have relative to a particular case, might I send down in
12 that weekly envelope and direct someone that I felt
13 personally was attuned to handle it the best to do it?

14 A. Yes.

15 Q. Okay.

16 Now, there was a time when you said that certain
17 people went out to speak for me, and certainly, people did
18 not go out to speak for me for political purposes; is that
19 right?

20 A. Yes.

21 Q. You went out, didn't you?

22 A. Yes.

23 Q. And you said Jackie went out, didn't you?

24 A. Yes.

25 Q. Okay. So evidently, the people that I selected to go

Cross - Kavulic

1 out I felt represented me at that time, would you agree, in
2 the best interest of, for example, my reelection campaign?

3 A. Yes.

4 Q. I mean, I wouldn't have sent you, for example, to a
5 group that, say, hated women, would I?

6 A. No.

7 Q. All right.

8 So it's not unusual for a member of Congress when
9 they are in Washington or on other business to ask
10 representatives of their staff to represent them even after
11 hours, is that a fair statement?

12 A. Yes, that's a fair statement.

13 Q. What is the amount of time pursuant to federal law
14 that a full-time worker must, in fact, put in to justify
15 their paycheck?

16 MR. SMITH: Objection.

17 THE COURT: You're going to have to lay some
18 basis for her to know the answer to that

19 BY MR. TRAFICANT:

20 Q. Are you familiar with the federal law of how many
21 hours are required of a full-time worker?

22 A. As I understood it, 40 hours a week.

23 Q. You understood it to be 40?

24 A. Yes.

25 Q. And we scheduled 40, right?

Cross - Kavulic

- 1 A. In the office, yes.
- 2 Q. Yes. And what were those hours?
- 3 A. The hours were 8:00 to 4:30.
- 4 Q. And we gave a break for lunch, did we not?
- 5 A. Half hour.
- 6 Q. And also gave breaks in between, did we not?
- 7 A. Well, I didn't even get the lunch break most of the
- 8 time.
- 9 MR. TRAFICANT: Yeah, I'll agree to that.
- 10 Q. But would you be surprised to find out a full-time
- 11 worker is required to put in 32 hours a week, by law?
- 12 A. Yes.
- 13 Q. You would be surprised?
- 14 A. Yes.
- 15 Q. Now, you said that I lived in Poland, Ohio, about
- 16 three to five miles away. That was a guesstimate?
- 17 A. Yeah, it was a guess.
- 18 Q. More like seven, but five and seven is not much a
- 19 difference, right?
- 20 A. Away from Youngstown?
- 21 Q. Yeah.
- 22 A. No.
- 23 Q. Now, when we were at 11 Overhill Road, did I not
- 24 maintain, from day one, my administrative office on the
- 25 second floor upstairs?

Cross - Kavulic

- 1 A. Yes.
- 2 Q. Okay. Did I not also use the downstairs when
- 3 necessary for press conferences?
- 4 A. Yes.
- 5 Q. Is it not a fact that Mr. DiBlasio maintained his
- 6 congressional office on the second floor with me?
- 7 A. You shared the office?
- 8 Q. No. Was his office on the second floor where mine
- 9 was located?
- 10 A. Yeah. His was upstairs, yes.
- 11 Q. And mine was upstairs?
- 12 A. Yours was upstairs, yeah. I'm confused. I'm sorry.
- 13 Q. Well, we had the whole basement sort of filled up,
- 14 didn't we?
- 15 A. Yes.
- 16 Q. Okay.
- 17 A. Mr. DiBlasio had his congressional office and his law
- 18 office on the second floor.
- 19 Q. His law office was also used as his congressional
- 20 office, and I had my office up on the second floor, too, is
- 21 that a correct statement?
- 22 A. Yes.
- 23 Q. Fine.
- 24 Now, you said my paychecks came through the mail and
- 25 came to where?

Cross - Kavulic

1 A. They came to -- well, when we were downtown on 25
2 Market Street, the Federal Building.

3 Q. And what, if anything, did you do when you got those
4 checks exactly?

5 A. Exactly what I did was, I would -- there was with
6 your deductions and such on it, I separated that from the
7 check stub. I'd write out a deposit slip, make a copy of
8 the deposit slip, attach it to your pay stub, and take your
9 paycheck, write "for deposit" on the back and deposit it at
10 Bank One in your personal account.

11 Q. So I didn't really sign it, did I?

12 A. No.

13 Q. No. And then you sent a copy to me for my records,
14 correct?

15 A. A copy of the deposit slip and your pay slip, yes,
16 sir.

17 Q. Yes, my pay slips.

18 Now, you said you made travel arrangements, and there
19 were times when I was asked to speak around the country,
20 and you made the flight arrangements. You'd make the
21 arrangements with the hotel, and also, you would work with
22 the people who had made the request and facilitated all the
23 arrangements for my appearance; is that correct?

24 A. Yes, sir.

25 Q. Was that fairly often?

Cross - Kavulic

1 A. Yes. The last few years, yes.

2 Q. Now, when I was in the Washington office, did I
3 maintain communication with you?

4 A. Yes.

5 Q. On a fairly regular basis?

6 A. Yes.

7 Q. Would you say that I relied on you for your judgment?

8 A. Sometimes, yes.

9 Q. Grace, would you agree you were my most trusted
10 employee or not?

11 A. No.

12 Q. Fine.

13 Now, you mentioned that J.T. drove basically to D.C.;
14 is that correct?

15 A. Yes.

16 Q. First couple years I was flying; is that right?

17 A. Yes.

18 Q. Now, when you fly, who pays for that expense?

19 A. The Government pays for your transportation to
20 Washington.

21 Q. And if you drive, then what is the difference in
22 compensation between driving and, for example, flying?

23 A. Well, you were allowed certain amount for mileage on
24 the car when you drove, and your turnpike expenses. When
25 you flew, it was the cost of an airplane.

Cross - Kavulic

- 1 Q. For example, 31 cents a mile. Is that what you
2 recall?
- 3 A. I believe so.
- 4 Q. And Youngstown was about 320 miles or 300 miles,
5 whatever?
- 6 A. Yeah, it -- round trip, yeah, 600 something, yes.
- 7 Q. So I would drive, and I would get reimbursed at
8 approximately \$6 to \$800 a month in expenses for driving,
9 wouldn't I?
- 10 A. Yes.
- 11 Q. But now, if I had taken the plane, I wouldn't have
12 got any money. They would have just paid for the plane
13 fare, right?
- 14 A. Right.
- 15 Q. Do you know how many years I drove back and forth to
16 Washington, D.C.?
- 17 A. I don't really don't recall. I have to stop and
18 think about that. I don't.
- 19 Q. It would have to be a long time ago that I flew for
20 you to remember, wouldn't it, in all honesty?
- 21 A. Yes.
- 22 Q. I basically drove, didn't I?
- 23 A. Yes, I think you did drive.
- 24 Q. All right. Thank you. Did I at times take members
25 of ATF to Washington?

Cross - Kavulic

1 A. Yes.

2 Q. Did I ever take you to Washington?

3 A. No, sir.

4 Q. When people went to Washington, members of the staff,
5 did they come back with an identification badge showing
6 they had been a congressional staffer, to the best of your
7 knowledge?

8 A. Yes. I -- I saw a couple that had those, yes, sir,
9 um-hum.

10 Q. Are you familiar with Washington, D.C.? Have you
11 ever been there?

12 A. I was there one time when they were sworn in the
13 first time. I have not been back.

14 Q. Do you remember how long it took you to get to
15 Washington D.C.?

16 A. No.

17 Q. Did you drive or fly, Grace?

18 A. A few of us drove down, my daughter and some friends.
19 I don't remember.

20 Q. When would you say -- it's a fair estimate if you get
21 caught in the rush hour, it would be a seven to eight-hour
22 trip?

23 A. Yeah, that's possible.

24 Q. So, for example, if I were to speak, just as an
25 example, as a probability, for example, in northern

Cross - Kavulic

1 Trumbull County at a banquet, say, the new lease on life,
2 did I not speak there?

3 A. Yes, you did.

4 Q. And that was usually on a Monday night, and that
5 concluded about 11:00, did it not?

6 A. Yes.

7 Q. And I'd have folks starting the following morning on
8 a Tuesday and be required to be in Washington by noon, is
9 that a correct statement?

10 A. It depended what legislation we were before. I mean
11 it was --

12 Q. Yes. But -- let me ask you this. Did I not take
13 advantage of the opening session of Congress to make
14 one-minute speeches, and was I not, in fact, almost
15 everyday on the House floor when the House opened its
16 doors?

17 A. Yes.

18 Q. So now having left at 11:00 or 11:30 from Northern
19 Trumbull County?

20 THE COURT: I'm not sure if she is in a
21 position to testify to this. This sounds like something
22 you're trying to establish, but this isn't a witness who's
23 made the trip.

24 MR. TRAFICANT: Well, maybe if you give me a
25 little more time, you could have understood why I was doing

Cross - Kavulic

1 that.

2 THE COURT: Okay.

3 MR. TRAFICANT: Will you allow it?

4 THE COURT: You want a little more time?

5 MR. TRAFICANT: Yes, to explore that for
6 purposes of an explanation.

7 THE COURT: I think she's now testified that
8 you left for Washington at 11:00 after a meeting at 11:00.

9 Q. Well, let me put it this way: If someone had driven
10 me, would they not have spent perhaps six to seven hours
11 driving all night with me to get to D.C.?

12 A. I don't know. I suppose so.

13 Q. And weren't there times that did occur?

14 MR. SMITH: Objection.

15 THE COURT: If you know.

16 THE WITNESS: I mean, I wasn't there. I
17 don't know. You know, it's possible, I guess.

18 THE COURT: We have to deal with --

19 MR. TRAFICANT: We can only deal with what
20 you know. That's fine.

21 THE COURT: Thanks.

22 BY MR. TRAFICANT:

23 Q. Now, in moving downtown, you said that Jim did not
24 want to move downtown. That was your testimony, right?

25 A. I believe I said he said you weren't going.

Cross - Kavulic

- 1 Q. Yeah.
- 2 A. That's all he said. I'm not going, that's right.
- 3 Q. Did I maintain an administrative office?
- 4 A. Where?
- 5 Q. Did I maintain one of my offices as an administrative
- 6 office?
- 7 A. Yes.
- 8 Q. Where was it located?
- 9 A. It was located in downtown Youngstown, in the Federal
- 10 Building.
- 11 Q. No. That was the district service office, Grace.
- 12 Did I not have an administrative office?
- 13 A. Yes.
- 14 Q. Where was my administrative assistant located, where
- 15 was I located?
- 16 A. Oh, you were on Overhill Road.
- 17 Q. I see. Now, are you pretty good friends with Chuck
- 18 O'Nesti?
- 19 A. Chuck and I had an up and down relationship as
- 20 co-workers. We used to get into arguments a lot, you know,
- 21 but we basically got along.
- 22 Q. Yeah.
- 23 And did you discuss with other workers his
- 24 reputations and things like that?
- 25 A. No, not really.

Cross - Kavulic

1 Q. It didn't bother you at all?

2 A. I mean Chuck had a reputation all over. Not just --
3 so I just didn't discuss that, no.

4 Q. Okay. Now, other than Henry DiBlasio and Chuck
5 O'Nesti in the district, who were the next two highest paid
6 employees?

7 A. I believe it was Jackie and I.

8 Q. Okay. We did not -- did we not discuss on or about
9 the time the Claire Maluso hiring, when I paid you the
10 courtesy call, that I was going to reorganize a staff after
11 the election?

12 A. You told me -- in your call, your courtesy call,
13 you -- I discussed we did not have an office manager, who
14 was going to be your office manager, because I didn't
15 realize at that time, sir, if you realized the function of
16 the office and the need for an office manager.

17 Q. Who was the office manager?

18 A. You told me you were. Jackie Bobby had been the
19 office manager. Jackie was no longer there. I stayed on
20 when Claire came on.

21 Q. Yes.

22 A. And I asked you who was going to be office manager so
23 that the daily operation of the office could go on
24 smoothly. And you told me you were going to reorganize
25 after the beginning of the year, and I said well, I need to

Cross - Kavulic

1 know now. I need an office manager. What are we going to
2 do? And you said I'm the office manager. And that was the
3 end of the conversation.

4 Q. Well, did you not say that you resented the fact that
5 I was hiring a woman at the same rate of pay as you?

6 A. I resented the fact that being only one of two people
7 who operated the computers, did any of the typing, opened
8 the mail, had to do the scheduling, that there now was
9 another person that I would have to do the typing for, run
10 the computer for, and if she was making my salary, she
11 should be able to do the job.

12 Q. Did Anthony Traficanti handle the computer and do
13 some typing?

14 A. I started teaching Anthony how to type on a computer,
15 yes, sir. He had some knowledge of the computer, and I
16 helped him as best I could so that he could do his own
17 work, but I had the rest of the staff to take care of.

18 Q. Did I inform you Claire Maluso was not computer
19 trained; is that correct?

20 A. Yes, sir.

21 Q. But, she was being hired as an outreach worker and an
22 economic development specialist. Is that not what I told
23 you?

24 A. Yes, sir.

25 Q. Now, you said that we had a Niles office; is that

Cross - Kavulic

1 correct?

2 A. Yes.

3 Q. In the beginning, where was that office located, do
4 you recall?

5 A. It was on Youngstown-Warren Road. There was a
6 building -- I think it was right by Niles Road and a
7 tornado came in 1985, and the building was damaged.

8 Q. Completely destroyed the building, didn't it?

9 A. It damaged it pretty bad, but it's still standing
10 there.

11 Q. Yeah, they finally refixed it. But it took them some
12 time, did it not?

13 A. Yes.

14 Q. And we then found additional space. Where was that
15 space, do you know?

16 A. On Mahoning Avenue in Warren.

17 Q. And more specifically, was it not, in fact, with the
18 City of Warren, Ohio, in their municipal building?

19 A. I believe so. I don't recall the details of that.

20 Q. Okay.

21 But at some point, that was crowded, and we took up
22 new residence and took up new space. You know when we
23 rented that space?

24 A. At the Eastwood Mall.

25 Q. You know who owns the Eastwood Mall?

Cross - Kavulic

- 1 A. Yes, the Cafaro company.
- 2 Q. Okay.
- 3 And we rent up there -- what? -- the second floor?
- 4 A. Yes. You're on the second at first.
- 5 Q. And Betty Manente was the manager in Niles?
- 6 A. Yes.
- 7 Q. And she basically performed the same duties up in
- 8 Niles that Jackie performed in Youngstown. Would you say
- 9 that's a fair assessment?
- 10 A. She ran the office in Niles, yes, but the Niles
- 11 office didn't get into as much, I don't believe, as the
- 12 Youngstown office.
- 13 Q. You felt --
- 14 A. We had a bigger influx of constituents.
- 15 Q. You felt you had more work in the Youngstown office
- 16 than you had in Niles office?
- 17 A. Yes, because I -- I understood that that was the
- 18 administrative office in the district, sir.
- 19 Q. Yeah, but the administrator and the Congressman
- 20 wasn't located there, was he?
- 21 A. No.
- 22 Q. Okay. We've established that.
- 23 Do you recall an incident with an employee by the
- 24 name of Linda Kovachik?
- 25 A. Yes, I do.

Cross - Kavulic

1 Q. What, if anything, do you recall about that
2 situation?

3 A. Linda, when you -- when we were on Overhill?

4 Q. No. I believe when we were in the downtown office,
5 wasn't she working in the downtown office?

6 A. No, sir, not when I was there.

7 Q. She worked at the Overhill office?

8 A. Yes, sir.

9 Q. Okay.

10 Was there recommendation made to me relative to her
11 work performance?

12 A. I don't recall.

13 Q. Well, do you know if she was terminated?

14 A. I know she was terminated, but I don't remember when.

15 Q. And you do not know what the reason was --

16 A. Oh, I know the reason why you terminated her.

17 Q. And what was that reason?

18 A. The reason was because Linda would come into my
19 office, and she'd start talking about the office manager,
20 and she's doing this and that, you know. It was just one
21 of those things where it's -- you know, I'm going to go
22 into Jackie's office, and I'm going to sit there and tell
23 her that Grace's daughter is applying for a job, and she's
24 doing this and that, sticking the knife in your back and
25 then come back and tell me, and I thought this is

Cross - Kavulic

- 1 ridiculous, and I went in and sat down and confronted it.
- 2 Q. Yeah.
- 3 A. And that came to you.
- 4 Q. Basically you did what?
- 5 A. Then we came to you.
- 6 Q. And what, if anything, did -- what, if anything, did
- 7 you recommend to me?
- 8 A. I recommended that you should fire her.
- 9 Q. Okay. Well, a little bit earlier, you weren't quite
- 10 sure of that, but now, okay, now we've established that you
- 11 do remember, and that's fine.
- 12 Did I take the recommendation?
- 13 A. Yes.
- 14 Q. Do you know, in fact, who did the termination of
- 15 Linda Kovachik?
- 16 A. Well, I imagine you did because you're the boss.
- 17 Q. So I had then, as all Congressmen do and with the
- 18 separation of power, the complete power over my staff; is
- 19 that correct?
- 20 A. Well, you're the bottom line.
- 21 Q. Yeah, I mean, I hire, or I could fire?
- 22 A. Yeah.
- 23 Q. Have I fired many people over the years that you
- 24 worked with me, that you can recall?
- 25 A. No.

Cross - Kavulic

1 Q. Did you recommend that I fire anybody else other than
2 Linda Kovachik?

3 A. No.

4 Q. But at some point, I was questioned by you about a
5 hiring I was making, and that I asked you to help this
6 person become sort of computer capable; is that correct?

7 A. I don't know who you're talking about..

8 Q. Claire Maluso?

9 A. Oh, okay, yeah.

10 Q. Is it not a fact that Claire Maluso worked for
11 several years as a volunteer, working with me on different
12 community projects?

13 A. Yes.

14 Q. And she worked pretty hard, didn't she?

15 A. I don't know.

16 Q. Would you happen to know what she was paid by the
17 city by any chance, if you would know?

18 A. No.

19 Q. Did you know how many days she was hired,
20 approximately?

21 A. She was seven days, I believe.

22 Q. And isn't it a fact that I told you that I started
23 her at that rate so that maybe she could have a reasonable
24 pension for all the work she'd put in the community, did I
25 make that statement to you, Grace?

Cross - Kavulic

- 1 A. No, you did not, sir.
- 2 Q. Fine.
- 3 Now, when was the first time you saw any cash
- 4 deposits that I sent down to you?
- 5 A. A couple years, a year or two after we moved into the
- 6 Federal Building, somewhere in there.
- 7 Q. '94, '95?
- 8 A. Yeah, '94 I would say.
- 9 Q. When you moved in, right? Now, you're on 11 Overhill
- 10 Road. I didn't give you these things to do?
- 11 A. I don't recall making your deposits then. I may have
- 12 made a couple, but I don't recall making as frequent
- 13 deposits of anything that --
- 14 Q. I mean, when you went downtown, you got them all
- 15 every month, right?
- 16 A. Yes, sir.
- 17 Q. Even the ones that had cash in them came to you,
- 18 right, that you testified to?
- 19 A. Yeah, they were in the envelope, and they had my
- 20 name, you know, little stickens you put, you staple.
- 21 Q. You had the deposit slip, and what did it say?
- 22 A. The deposit slip?
- 23 Q. Yeah, said?
- 24 A. It would have the amount of the deposit.
- 25 Q. Basically instruct you to do what?

Cross - Kavulic

1 A. Deposit it.

2 Q. Deposit it.

3 Now, were there times when we got calls that I had
4 overruns and overdrafts in my checking account?

5 A. Oh, that was awhile back, yeah. I don't think that's
6 when we were on -- in the Federal Building, though. I
7 could be wrong, but --

8 Q. Okay. Now, I want to go over specific documents, and
9 the Government laid them out for you and in such good
10 chronological order for you that we'll be able to follow
11 them easily. If you want to get some water, if you don't
12 mind, I'd like to get some for myself. Is that all right?

13 THE COURT: That's fine.

14 MR. TRAFICANT: You might direct yourself to
15 the exhibits that the Government brought in as evidence and
16 asked you to answer questions about cash deposits while I'm
17 getting me some water.

18 And if you could get them in chronological order if
19 you could. If you can't, I will go back to my notes and
20 see if I can, in fact, revisit some of those.

21 And the Government has been so helpful, I'd
22 appreciate it, perhaps they'll assist.

23 THE COURT: You will, however, need to
24 identify the exhibits you're questioning the witness about.

25 MR. TRAFICANT: I understand that.

Cross - Kavulic

- 1 THE COURT: Go in any order you please.
- 2 MR. TRAFICANT: I understand that.
- 3 Q. Now the first was 1-27(2). It was two pages. Have
- 4 you found that document?
- 5 A. Not yet. 1-27 --
- 6 Q. 1-27, Government's Exhibit (2), the notes I have say
- 7 two pages?
- 8 A. Oh, here it is. Yeah. Okay.
- 9 Q. What was the exact date of that deposit?
- 10 A. 9-18-95.
- 11 Q. Now, direct yourself to 1-27(3).
- 12 A. Okay.
- 13 Q. What was the date, exact date of that deposit?
- 14 A. 5-20-96.
- 15 Q. Now, you recall 1-27(4), what was the exact date of
- 16 that deposit?
- 17 A. 7-22-96.
- 18 Q. Now, direct yourself to 1-27(5). You have the exact
- 19 date of that deposit?
- 20 A. 8-27-96.
- 21 Q. Now, directing yourself to 1-27, do you have the
- 22 exact date on that deposit (1-27(6))?
- 23 A. 10-96, I can't make out anything, 10-96 -- oh, on the
- 24 cash, yeah, that's 10-22.
- 25 Q. 10-22?

Kavulic - Cross

- 1 A. '96, yes.
- 2 Q. Thank you.
- 3 Now, directing yourself to 1-27(7), is there an exact
- 4 date on that?
- 5 A. Yes.
- 6 Q. What was that date?
- 7 A. That is April the 14th, '97.
- 8 Q. Directing yourself to 1-27(8), is there an exact date
- 9 on that check?
- 10 A. On the check?
- 11 Q. No, I mean on the deposit?
- 12 A. 1-8-98.
- 13 Q. Now, directing yourself to 1-27(9), is this an exact
- 14 date on that check?
- 15 A. 3-17-98.
- 16 Q. Now, directing yourself to 1-27(10) is there an exact
- 17 date on that check?
- 18 A. 3-17-98.
- 19 Q. So there were two on the same day?
- 20 A. Yes.
- 21 Q. And you got them both in the same envelope. Is that
- 22 what you're saying, with just one deposit slip or two
- 23 deposit slips?
- 24 A. It's one deposit slip, two deposit slips, there's two
- 25 deposit slips.

Kavulic - Cross

1 Q. One for 500 and one for what, 1500?

2 A. Yes, sir.

3 Q. Okay.

4 Now, on 1-27(11), was there an exact date on that?

5 A. Yes, 7-6-98.

6 Q. Grace, do you happen to know when real estate taxes
7 are due and payable? Are they due by the half in Mahoning
8 and Trumbull County?

9 A. Yes.

10 Q. Now, you have testified that this was -- see if I'm
11 mistaken here -- \$16,700 worth of checks over a period of
12 what was this, let's try to figure out these months. About
13 35 months?

14 A. Yeah, approximately. I have --

15 Q. Now if we divide \$16,700 by 35 months, roughly,
16 without getting a calculator out or a computer trained --

17 THE COURT: She has to supply the answer, not
18 you.

19 MR. TRAFICANT: Okay.

20 Q. What roughly is the approximate amount of money cash
21 that you deposited over that period of time, if you average
22 it per month?

23 A. Oh, I wish I had a calculator. That's not fair. And
24 I'm not that good in math.

25 Q. I think you are. Well, do you have a pencil, can I

Kavulic - Cross

1 give you one?

2 A. 30 -- no, 35 months? \$16,700?

3 Q. Yeah, roughly?

4 A. 6, 7.

5 Q. How about \$521 per month, does that sound about
6 right?

7 A. No, I thought about \$600. Okay.

8 Q. Shall we do the math?

9 THE COURT: Well, one of you is a witness,
10 and the other one is asking questions, and so --

11 Q. Okay, you will admit then --

12 THE COURT: Congressman, it's not a joint
13 project. Now go on to another question, would you?

14 MR. TRAFICANT: Okay.

15 Q. In any regard, you agree it was not more than \$550
16 per month on an average. Would that be a fair statement?

17 A. I don't know.

18 Q. Okay. Fine.

19 A. I don't know.

20 Q. Now, did you know when George Buccella was hired that
21 he owned a pizza shop?

22 A. Yes, I do.

23 Q. Did you know that there was specific arrangements
24 made with him he would be allowed to start late?

25 A. Would you repeat that?

Kavulic - Cross

1 Q. Did you know that there was a specific arrangement
2 made with George Buccella that he could come in at a later
3 hour to work?

4 A. Yes.

5 Q. Isn't it a fact that George Buccella personally
6 helped his family make pizzas to give to the schools for
7 lunches?

8 A. Yes.

9 Q. Weren't there times when I called and inquired where
10 George Buccella was?

11 A. Yes.

12 Q. Were there times that I called and inquired where
13 Anthony Traficanti was?

14 A. Yes.

15 Q. Well, then, would you assume then that they were
16 evidently not with me?

17 A. I would assume not.

18 Q. But I inquired wanting to know where they were.

19 A. Yeah, I don't know why you asked me that.

20 Q. Okay. Fine. Do you have any knowledge of either of
21 these two fellows saying they were going to be with the
22 Congressman, but the Congressman had no knowledge of it,
23 and they simply did not go to work? Yes or no.

24 A. Would you repeat that question?

25 Q. Did you have any knowledge that if they called and

Kavulic - Cross

1 said I'm going to be with the Congressman and they weren't
2 to be with the Congressman, how would you know?

3 A. If they -- if they --

4 MR. SMITH: Objection.

5 MR. TRAFICANT: Let me rephrase the question.

6 THE COURT: Thank you.

7 Q. Let me rephrase the question. I'm George Buccella,
8 and I call the office and say I'm going to be with the
9 Congressman, I won't be in today.

10 A. Okay.

11 Q. Okay. Did you guys get on the phone and call me and
12 say is George Buccella going to be with you?

13 A. No, but there wasn't time to. When you called the
14 office and said where is George and I said he was supposed
15 to be with you down south, and you'd say well, he ain't
16 here. I mean, you got mad a couple times.

17 Q. But where did the "down south" come from? Who said
18 down south, George?

19 A. George, yeah.

20 THE COURT: Just supply the answer. Just ask
21 her the questions.

22 MR. TRAFICANT: I did.

23 THE COURT: Okay. But you gave the answer,
24 and I can't consider that. Just she gives the answer.

25 Q. You want to give me the answer again?

Kavulic - Cross

1 A. It came from George, but you used the phrase, Anthony
2 used the phrase, I mean, he wasn't the only one that used
3 the phrase, sir.

4 Q. So the phrase "down south" refers to the farm. We'll
5 agree to that?

6 A. That's -- yes.

7 Q. Okay. Now, did you ever go out to the farm and check
8 and see if they were there at the farm?

9 A. No.

10 Q. Now, you said Buccella was absent more than Anthony;
11 is that correct?

12 A. Yes.

13 Q. And how did you find that out because he worked out
14 of the Niles office?

15 A. Well, I'm talking about when he worked at the
16 Overhill office. When he worked in the office where I was,
17 I -- I knew he was absent.

18 Q. Okay.

19 A. I mean, it was obvious when he wasn't there.

20 Q. How long did he work at the Overhill office, do you
21 recall?

22 A. No. I don't remember the length of time that was.

23 Q. Well, he lived up in Trumbull County; is that
24 correct?

25 A. Yes.

Kavulic - Cross

- 1 Q. North, pretty far away from Youngstown?
- 2 A. He lived in Middle Ridge.
- 3 Q. Nevertheless, it was a pretty good drive to
- 4 Youngstown, more closer to the Niles office, wouldn't you
- 5 say?
- 6 A. Yes.
- 7 Q. Okay. But at the time, we needed more help in
- 8 Youngstown, is that a fair question?
- 9 A. I don't know why he was transferred to that office.
- 10 I have no idea.
- 11 Q. No. I said he was located at the Youngstown office?
- 12 A. Yes.
- 13 Q. Okay.
- 14 And you testified earlier that we had more problems
- 15 with the Youngstown office?
- 16 A. Well, yeah, we got --
- 17 Q. More calls?
- 18 A. Right.
- 19 Q. Okay. So you said when you did the disclosure form,
- 20 you did so because Jackie says you'd better learn how to do
- 21 it, I won't be doing it anymore?
- 22 A. Well, she told me that I should be learning how to do
- 23 it, yeah. She wasn't going to do it anymore, right.
- 24 Q. She informed you she was quitting?
- 25 A. No, no, no. That disclosure was done in April.

Kavulic - Cross

1 Q. When did she first inform you?

2 THE COURT: Don't talk across her answer,
3 please.

4 MR. TRAFICANT: Okay. Go ahead.

5 THE WITNESS: I had no knowledge that she was
6 quitting her job in April.

7 Q. When did you first get the knowledge that she was
8 quitting her job?

9 A. When she didn't show up for work one day.

10 Q. She just didn't call. She just didn't show up, did
11 she?

12 A. Well, she didn't call me, but then I wasn't her boss.

13 Q. Do you know if she called anybody?

14 A. No, I don't.

15 Q. How long was she missing before she called you?

16 A. Well, how long she -- she wasn't going to work how
17 long --

18 Q. Yes.

19 A. She didn't call me; I called her.

20 Q. And you remember how long after you called her?

21 A. Oh, about three days approximately.

22 Q. And what, if anything, did she say?

23 A. I am a not coming back to work.

24 Q. Did she give you a reason?

25 A. No. She had discussed that with you, no.

Kavulic - Cross

1 Q. So she never told you that she was quitting because
2 of --

3 MR. SMITH: Objection.

4 THE COURT: Sustained.

5 Q. Did you ever have any discussions with Jackie Bobby
6 relative to the hiring of Claire Maluso?

7 A. Yeah. There was a point when I did discuss it with
8 Jackie.

9 Q. And what, if anything, was said?

10 A. Well, basically, Jackie and I felt the same way about
11 it, that you were hiring someone that was earning our
12 salary after we had been there for awhile.

13 Q. For completely different duties, was that not clear?

14 A. It was clear, but the problem with that,
15 Mr. Traficant, is that I had to train her to do her -- I
16 mean, she had to have access to computers, typewriters and
17 such to do her work. And she wasn't able to do that. I
18 would have had to have trained her or somebody would have
19 had to have trained her, and I -- I didn't think it was
20 fair. I didn't think it fair of you to do that. So it was
21 principle, and I said I'm not going to do it.

22 Q. Did I force to you do it?

23 A. No, because I --

24 Q. Did I mention it anymore?

25 A. No.

Kavulic - Cross

1 Q. And did Claire not have to tremble and stumble and
2 bumble and learn to handle the computer?

3 A. I don't know. I left. I don't know what she did.

4 Q. How long after she was employed did you quit?

5 A. I quit in October, sir. I left at the end of July.

6 Q. And?

7 A. I left by my doctor's orders.

8 Q. Okay.

9 And at approximately when you left on your doctor's
10 orders, how long had Claire been employed?

11 A. Six weeks approximately.

12 Q. She was there six weeks?

13 A. Approximately.

14 Q. Did we not have a meeting between the three of us,
15 try to resolve this, and so we could go forward and --

16 A. You had a meeting and called me in, yes. You -- you
17 had brought Claire into the office and into your office
18 downtown and called me in.

19 Q. And did I not try to sort of like put things together
20 and explain I'd be reorganizing the staff in the future,
21 and I'd like to get through this election, was that
22 discussed?

23 A. You know, you said to me that you wanted to
24 reorganize. I don't remember it being about the election.
25 It was about the end of the year you were going to

Kavulic - Cross

1 reorganize.

2 Q. Did Jackie ever intimate to you that she was
3 concerned I was going to make you the district director?

4 A. No.

5 Q. When I was sheriff and made the head civilian
6 administrative officer in my office, who was that person?

7 A. Repeat that.

8 Q. At the end of my sheriff's administration, were you
9 and Jackie both on staff?

10 A. Yes.

11 Q. Okay.

12 Did I at that time make a decision to name one the
13 administrative assistants who would have some authority
14 over civilian affairs?

15 A. Yes.

16 Q. Who was it?

17 A. Me.

18 Q. Isn't it a fact, Grace, you were my closest and most
19 trustworthy employee? Yes or no.

20 MR. SMITH: Objection.

21 THE COURT: She can answer that.

22 THE WITNESS: I dispute that, sir, because I
23 felt that if I was your most trusted employee, that you
24 would have done better than give me a phone call one night
25 and say I'm making a press release I'm hiring this woman at

Kavulic - Redirect/Smith

1 your salary, with no prior discussion. So, therefore, I
2 determined myself not to be one of your most trusted
3 employees. I mean, you are the boss.

4 Q. Okay.

5 A. You were the boss. However, the trusted employee
6 stuff just didn't jive.

7 Q. Okay.

8 But you did get a courtesy call, didn't you?

9 A. Yes.

10 Q. And you didn't have to read it in the paper, did you,
11 Grace?

12 A. No, um-um.

13 MR. TRAFICANT: No further questions.

14 MR. SMITH: Briefly, your Honor.

15 THE COURT: Thank you.

16 REDIRECT EXAMINATION OF GRACE YAVORSKY KAVULIC

17 BY MR. SMITH:

18 Q. During cross-examination, do you recall a series of
19 questions and answers about hours per week and office hours
20 and that sort of thing, do you recall being asked that?

21 A. Yes, about working hours?

22 Q. Yes.

23 A. Yes, sir.

24 Q. And you mentioned the figure 40 hours a week during
25 your testimony. Do you recall that answer?

Kavulic - Redirect/Smith

1 A. Yes.

2 Q. Were there weeks you worked more than 40 hours a
3 week?

4 A. Yes.

5 Q. How often?

6 A. Our -- how often? It wasn't all that often, but
7 there were times, yes, maybe once a month.

8 Q. Were there other employees that occasionally worked
9 on 40 hours a week?

10 A. Yes.

11 Q. When -- you recall being asked a series of questions
12 by the Congressman about driving to Washington, D.C. and
13 back and reimbursement for mileage and such for that. Do
14 you recall that?

15 A. Yes, sir.

16 Q. Now, was the reimbursement by check, cash, what form?

17 A. He was reimbursed. He got that through the
18 Washington office so it was by check I would imagine. I
19 don't know.

20 Q. But that came from the Washington office?

21 A. Yeah. I'm trying to recall, sir, and there -- it
22 may -- it was by check, I believe, because there may have
23 been one time -- it's been awhile since I worked there. I
24 think there may have been a time where the Washington
25 office may have forwarded it to our office.

Kavulic - Redirect/Smith

1 Q. Let's -- how about most of the time, where did the
2 reimbursement come from, which office?

3 A. Washington.

4 Q. All right.

5 And whose choice was it to drive or fly to go to
6 Washington?

7 A. That was the Congressman's choice.

8 Q. Do you recall being asked a couple of questions about
9 Charles O'Nesti's reputation when you discussed that with
10 people? You recall being asked a couple questions about
11 that?

12 A. Yes, sir.

13 Q. And did your answer say that, something to the
14 effect, that Charles O'Nesti had a reputation all over or
15 words to that effect?

16 A. Yes, sir.

17 Q. What reputation are you referring to?

18 A. He -- he had a reputation of being called a bag man.

19 Q. Do you recall going through a series of deposit
20 slips, Government's Exhibit 1-27(2) through (11) inclusive
21 with the Congressman?

22 A. Yes, sir.

23 Q. And you were asked about a monthly average, you
24 recall that?

25 A. Yes, I do.

Recross - Kavulic

- 1 Q. Were you making such deposits on a monthly basis?
- 2 A. No.
- 3 Q. All right.
- 4 Did you receive this cash and these envelopes from 11
- 5 Overhill Road, every month?
- 6 A. No.
- 7 Q. On direct examination, do you use the word
- 8 intermittent to refer to that?
- 9 A. Intermittent, yes.
- 10 MR. SMITH: May I have a moment, your Honor?
- 11 THE COURT: Yes.
- 12 MR. SMITH: No further questions, your Honor.
- 13 THE COURT: Congressman.
- 14 RECROSS-EXAMINATION OF GRACE YAVORSKY KAVULIC
- 15 BY MR. TRAFICANT:
- 16 Q. When the Government just reopened their examination
- 17 of you, they talked about this 40-hour business you said
- 18 you did, and you worked more than 40 hours probably once a
- 19 month. And there were other staff you said worked more
- 20 than 40 hours once a month or more; is that correct?
- 21 A. I didn't say a lot. I may have mentioned there were
- 22 some.
- 23 Q. Some that you knew of?
- 24 A. Yeah.
- 25 Q. Weren't there times when the Congressman with several

Recross - Kavulic

1 members of his staff spent four full days locked up on a
2 school strike? Do you remember those events?

3 A. Yes.

4 Q. Wasn't it a fact that Henry DiBlasio was one of the
5 people involved in that?

6 A. Yes.

7 Q. Wasn't it a fact that George Buccella was one of the
8 people involved in that?

9 A. I don't remember George.

10 Q. Wasn't it a fact that George Buccella was the guy
11 that drove me to Washington after because I didn't sleep
12 for 96 hours and didn't you, in fact, know that, Grace?

13 MR. SMITH: Objection.

14 THE COURT: Sustained.

15 Q. Now, certain times of the year you pay taxes, don't
16 you?

17 A. Yes, sir.

18 Q. Is it unusual for people to borrow money to pay taxes
19 or if, in fact, their checks are in arrears?

20 MR. SMITH: Objection.

21 THE COURT: Sustained. It's not a question
22 to put to this witness.

23 Q. Did you ever have a check bounce?

24 MR. SMITH: Object to that.

25 THE COURT: You don't have to answer that

Recross - Kavulic

1 question. Sustained.

2 MR. TRAFICANT: Okay.

3 BY MR. TRAFICANT:

4 Q. Do you know if I ever had a check bounce, Grace?

5 A. Yeah, yes, I do.

6 Q. Did you also know that I rented stalls at the farm
7 for income?

8 MR. SMITH: Object.

9 THE COURT: There's no foundation for this
10 witness. If you want to ask these questions of somebody
11 who would have knowledge of that.

12 MR. TRAFICANT: I just asked if she had that
13 knowledge.

14 Q. Do you have any knowledge that I had, in fact, people
15 who rented stalls at the farm and paid by cash?

16 A. No.

17 MR. TRAFICANT: No further questions.

18 MR. SMITH: Nothing additional, your Honor.

19 THE COURT: Thank you. You may step down.

20 We're going to take the afternoon break now. It's
21 about half an hour, and it's 3:00 -- not quite 3:00, right?
22 We'll be back at 3:25. Thank you very much.

23 (Thereupon, a recess was taken.)
24
25

1 THE COURT: This is a telephonic hearing, and
2 it is arranged by consent of the parties due to the
3 illness, and frailty, I guess, of this particular witness;
4 is that correct, that we're doing it telephonically?

5 MR. TRAFICANT: They arranged --

6 MR. MORFORD: The Judge's question: Is it
7 the consent of both parties?

8 MR. TRAFICANT: Well, I was satisfied as we
9 had already agreed to the letter that I thought resolved
10 the matter. Evidently, they want more publicity for the
11 press, so let's get on with it.

12 THE COURT: Actually, that mischaracterizes
13 what this is about. As I told you when we started the
14 hearing this afternoon, the Court has an independent duty,
15 and the lawyers on both sides cannot in a criminal matter
16 simply stipulate to things that are required under the
17 rules.

18 I have to go further than that, and I have to follow
19 the case law as to the unavailability of this particular
20 witness. There are potentially two different issues. One
21 has to do with one provision of the rule, which I think is
22 (a) (1), 804, and the other has to do with 804 (a) (4), which
23 is one that has to do with illness or incapacity or so
24 forth.

25 So before we do this telephonically, I just want the

Teleconference - DiBlasio

1 record to reflect what the actual situation of the parties
2 is in regard to doing it by phone rather than having the
3 gentleman come up to Cleveland. It was my understanding
4 that everybody was concerned about his health.

5 MR. TRAFICANT: I think I stated earlier I
6 didn't want to see him put through that. I thought that
7 had solved it, however. I didn't think we were going into
8 a soap opera here, and I object to this as a soap opera.

9 THE COURT: Well, you can call it a soap
10 opera, but it's required under the law --

11 MR. TRAFICANT: Fine.

12 THE COURT: -- to do some inquiry. So this
13 is an opportunity to do that. I don't know whether we'll
14 start right this minute or when. Do we make the phone
15 call?

16 THE CLERK: Yes.

17 THE COURT: Okay. Very well.

18 Yes, this is Lynn from Judge Wells' chambers
19 for the telephone conference.

20 MR. KERSEY: Yes, Lynn.

21 THE CLERK: Just a minute, Mr. Kersey.

22 MR. KERSEY: Yes, ma'am.

23 THE CLERK: Mr. DiBlasio?

24 MR. DiBLASIO yes.

25 THE COURT: This is Lynn from Judge Wells'

Teleconference - DiBlasio

1 chambers.

2 MR. DiBLASIO: Wait until my answering device
3 goes off. Okay.

4 THE CLERK: Mr. Kersey.

5 MR. KERSEY: Yes, ma'am.

6 THE CLERK: And Mr. DiBlasio.

7 MR. DiBLASIO: Yes.

8 THE COURT: We're going to have -- this is an
9 open court proceeding. The Defendant in this case is
10 present as well as lawyers for the U.S. Attorney's Office,
11 and Mr. Kersey has presented the Court with a letter, which
12 the Court can't act alone on. We need to have specific
13 questions asked of this witness and see what he asserts
14 then, and then do it question by question, and see where we
15 are.

16 So this is really a hearing to determine whether or
17 not this witness is unavailable under any provision of Rule
18 804(a).

19 MR. KERSEY: Yes, Judge, I can hear you well.
20 But not great.

21 THE COURT: Did you hear what I was -- what I
22 said?

23 MR. KERSEY: Yes, your Honor, I can hear you.

24 THE COURT: Okay. And your client's on the
25 other line; is that right?

Teleconference - DiBlasio

1 MR. KERSEY: That's right, if you hear the
2 Court, Henry?

3 MR. DiBALSIO I can hear your Honor sort of
4 very, very lightly, but can I -- can you hear me?

5 THE COURT: Yes, we can hear you very well,
6 sir.

7 MR. DiBLASIO: What she says, yes.

8 MR. KERSEY: She can hear you.

9 MR. DiBLASIO your Honor, on advice of
10 counsel, Jim Kersey and Dave Grant, I decline to answer any
11 questions in accordance with the protection offered to me
12 under the Fifth Amendment of the constitution of the United
13 States. Is that enough, your Honor?

14 THE COURT: Well, let's -- let's -- let's
15 have the Government pose a couple of questions to you, and
16 then you can respond to those questions.

17 MR. DiBLASIO: I didn't hear that.

18 MR. KERSEY: She'll post a couple questions
19 to you, and you can respond.

20 MR. DiBLASIO: You tell me if I can't hear.

21 MR. KERSEY: Okay.

22 MR. SMITH: Mr. Kersey and Mr. DiBlasio, my
23 name is Bernard Smith. I'm assistant United States
24 Attorney with the U.S. Attorney's Office for the Northern
25 District of Ohio.

Teleconference - DiBlasio

1 MR. DiBLASIO: Okay.

2 MR. SMITH: I'm going to ask a few questions.

3 MR. DiBLASIO: Certainly.

4 MR. SMITH: All right.

5 Sir, first of all, would you please state your full
6 name?

7 MR. DiBLASIO: Henry A. DiBlasio spelled
8 D-I-B as in boy, L-A-S-I-O.

9 THE COURT: Mr. DiBlasio, do you know a man
10 by the name of James A. Traficant, Junior.

11 MR. DiBALASIO: I certainly do.

12 MR. SMITH: And have you ever worked for him
13 in any fashion?

14 MR. DiBLASIO: Well, yes, I did. Everybody
15 knows that for about 15 years or so before I retired.

16 MR. SMITH: And do you know Congressman
17 Traficant's office manager by the name of Jackie Bobby?

18 MR. DiBLASIO: Well, yes. Am I supposed to
19 answer these, Jim or --

20 MR. KERSEY: Would start taking the Fifth
21 Amendment now.

22 MR. DiBLASIO: I'm going take the Fifth
23 Amendment.

24 MR. TRAFICANT: Are we determining his
25 medical capability. I object. Do we determine his medical

Teleconference - DiBlasio

1 capability to be here, or are you letting him examine a
2 witness here today? What are you doing? I -- I now want
3 to know.

4 THE COURT: We're doing exactly what we told
5 you we were going to do.

6 MR. TRAFICANT: No, you're not. He's
7 questioning on relevant matters pursuant to testimony
8 that's been brought forth in this trial.

9 THE COURT: He's questioning him, and he's
10 allowed to ask questions, and now he's just said that he
11 wants to assert his Fifth Amendment privilege.

12 MR. SMITH: Your Honor, I'll ask one more
13 question.

14 MR. KERSEY: All right.

15 MR. SMITH: All right. The -- Bernard Smith
16 back on the line again.

17 MR. DiBLASIO: Go ahead.

18 MR. SMITH: The question is in the mid
19 1980's, did you ever tell Jackie Bobby that you were paying
20 part of your congressional salary back to Congressman
21 Traficant?

22 MR. DiBLASIO: Jim, what shall I do? Would
23 I take the Fifth to answer?

24 MR. KERSEY: That's correct.

25 MR. DiBLASIO: Okay.

Teleconference - DiBlasio

1 MR. TRAFICANT: What was the answer?
2 THE COURT: He refuses to answer.
3 MR. TRAFICANT: Now, can I ask him questions.
4 THE COURT: You can ask a couple questions.
5 MR. TRAFICANT: Mr. DiBlasio, Henry.
6 MR. DiBLASIO: I can't hear too well.
7 MR. TRAFICANT: This is Jim Traficant. Can
8 you hear me?
9 MR. DiBLASIO: No.
10 THE COURT: Come closer to the phone,
11 Congressman.
12 MR. DiBLASIO: No. It's very fuzzy.
13 MR. TRAFICANT: This is Jim Traficant. Can
14 you hear me now?
15 MR. DiBLASIO: Yes.
16 MR. TRAFICANT: Yeah.
17 Are you in ill health, Henry?
18 MR. DiBLASIO: Very badly. I'm -- I don't
19 even want to go into details, but I've had five coronary
20 bypasses, and three angioplasty. You need to know anymore?
21 MR. TRAFICANT: You notified me the
22 Government pressured you so bad you almost died.
23 MR. KERSEY: You would take the Fifth
24 Amendment to that.
25 MR. DiBLASIO: I'm going to take the Fifth

1 Amendment. I'm sorry, Jim.

2 MR. TRAFICANT: No further questions.

3 THE COURT: Thank you.

4 MR. SMITH: No additional questions from the

5 Government, your Honor.

6 THE COURT: Very well. This is a witness who

7 is unavailable by reason of his assertion of the Fifth

8 Amendment privilege and so we can close this hearing.

9 Thank you.

10 THE COURT: Mr. Morford?

11 MR. MORFORD: Your Honor, when we ended the

12 questioning, Mr. Smith said he had no further questions.

13 This witness is now going to be brought back, and we would

14 request that without getting into detail. But would the

15 Court indicate there were some matters that the Court had

16 to address outside the jury's presence with this witness,

17 and that's why the witness is being brought back?

18 THE COURT: All right.

19 MR. MORFORD: Thank you.

20 THE COURT: Are you bringing her back now?

21 MR. SMITH: Yes, your Honor.

22 THE COURT: That's good because the jury's

23 ready to go. It's 3:30. We only have an hour with the

24 schedule.

25 (Proceedings resumed in the presence of the jury:)

Bobby - Direct/Smith

1 THE COURT: Thank you. You're still under
2 oath. Just so the jury understands, we're bringing a
3 witness back around. We had an opportunity while you were
4 on break to take care of something I needed to take care
5 of. And so the lawyers knew beforehand that we might
6 recall this witness, and now we're recalling her briefly,
7 and we've done our work, and now you get to hear testimony.

8 JACQUELINE BOBBY,
9 of lawful age, a witness called by the GOVERNMENT,
10 being previously duly sworn, was examined
11 and testified as follows:

12 DIRECT EXAMINATION OF JACQUELINE BOBBY

13 BY MR. SMITH:

14 Q. Ms. Bobby, on your prior examination today, were you
15 asked some questions about Henry DiBlasio?

16 A. Yes.

17 Q. All right.

18 Did during the time that you worked for Congressman
19 Traficant, did Henry DiBlasio ever talk to you about his
20 pay situation?

21 A. Yes, he did.

22 MR. TRAFICANT: Objection, as to hearsay.

23 THE COURT: I issued an order in this case,
24 which covered your objection, and now --

25 MR. TRAFICANT: Just for the record, just for

Cross - Bobby

1 the record.

2 THE COURT: That's fine. Thank you.

3 BY MR. SMITH:

4 Q. And approximately when did this conversation occur?

5 A. It was in early tenure when the Congressman took
6 office. So it was sometime between 1985 and 1987.

7 Q. Where did this conversation occur?

8 A. In a restaurant in Niles, Ohio, at a lunch.

9 Q. Who was present at the table at that lunch?

10 A. Henry DiBlasio and myself.

11 Q. And what did Mr. DiBlasio say to you about his pay
12 situation?

13 A. He told me -- he said to me that he was working here
14 with Congressman Traficant, and he had -- he was giving him
15 back so much money per month out of his congressional
16 salary.

17 Q. Did Mr. DiBlasio indicate any amount to you that he
18 was giving back?

19 A. I can't remember the amount.

20 MR. SMITH: No further questions, your Honor.

21 THE COURT: Thank you. You can inquire

22 CROSS-EXAMINATION OF JACQUELINE BOBBY

23 BY MR. TRAFICANT:

24 Q. Jackie, you in your testimony, you more or less
25 intimated you resented the fact he did no work, and you did

Cross - Bobby

1 most of the work; is that correct?

2 A. No, I never said I resented him.

3 Q. Oh.

4 But, you're saying an attorney at law met with you in
5 a restaurant in Niles, Ohio, which is approximately 25
6 miles from Youngstown, and gave you information of a
7 felonious act, is that your testimony?

8 A. We went together. He didn't meet me there. We went
9 together and stopped for lunch, yes, and then he told me
10 that.

11 Q. But he didn't say any amounts, right?

12 A. No.

13 Q. He just said he gave paybacks, was that your word you
14 used?

15 A. Yes.

16 MR. TRAFICANT: No further questions.

17 THE COURT: Thank you.

18 MR. SMITH: No redirect.

19 THE COURT: Thank you. You're excused.

20 THE WITNESS: Thank you very much.

21 THE COURT: Remember how I told you the
22 climate would change in here? I think it changed, didn't
23 it? It's beginning to feel like a sauna. We really have
24 to come prepared.
25

Semesky - Direct/Morford

1 DONALD SEMESKY, JR.

2 Of lawful age, a witness called by the GOVERNMENT,

3 being first duly sworn, was examined

4 and testified as follows:

5 DIRECT EXAMINATION OF DONALD SEMESKY, JR.

6 BY MR. MORFORD:

7 Q. Good afternoon.

8 A. Good afternoon.

9 Q. Could you please state your name for the jury and
10 spell your last name?

11 A. My name is Donald Charles Semesky, Junior, spelled
12 S-E-M-E-S-K-Y.

13 Q. And what do you do for a living, Mr. Semesky?

14 A. I'm employed as a Special Agent with the IRS Criminal
15 Investigation Division.

16 Q. How long have you been a Special Agent with the IRS
17 Criminal Investigation Division?

18 A. Approximately 28 and a half years.

19 Q. And as part of your duties as a Special Agent, were
20 you assigned the task of reviewing and summarizing
21 information contained on some financial records that relate
22 to this case?

23 A. Yes, I was.

24 Q. And as part of that process, did you review the
25 congressional paychecks of Allen Sinclair?

Semesky - Direct/Morford

1 A. Yes, I did.

2 Q. Did you also review deposit slips, cash withdrawal
3 slips, and bank account statements with respect to the bank
4 account of Allen Sinclair?

5 A. That's correct.

6 Q. And did you prepare a summary chart of some kind that
7 would list out the paychecks and what banks the paychecks
8 were deposited into and what, if any, cash was received
9 back from each of those paychecks?

10 A. That's correct.

11 MR. MORFORD: Your Honor, at this time, I
12 would ask to be able to display to the jury Government's
13 Exhibit 1-9.

14 THE COURT: Thank you.

15 BY MR. MORFORD:

16 Q. Special Agent Semesky, are you familiar with the
17 chart that has just been displayed to the jury?

18 A. Yes, I am.

19 Q. And can you tell us who actually prepared that chart?

20 A. I prepared the chart, a smaller version of the chart
21 blown up by our trial illustration section.

22 Q. Okay. And can you walk us through the different
23 items at the top, and tell us what the chart reflects?

24 A. Sure.

25 The chart is made to reflect Mr. Sinclair's

Semesky - Direct/Morford

1 negotiation of his congressional salary checks, and all the
2 chart does is explain income levels, Mr. Sinclair's receipt
3 of the check, the date he negotiated the check, and how he
4 negotiated the check and what, if any, cash he received
5 back, going across the top, the column, check date is the
6 actual date of the check, and that would be the treasury
7 salary check and the congressional salary check. If you'll
8 notice Lines 2 and 6 do not relate to a congressional
9 salary check. They're cash withdrawals from his account,
10 and I'll explain that shortly.

11 The second column is the Check Number, the number of
12 the congressional salary check, the third column is the
13 amount of the check, the fourth column is the date that
14 Mr. Sinclair negotiated the check at his bank, which is
15 reflected in the fifth column, Home Savings and Loan
16 Company, and the sixth column is the cash generated from
17 those checks, with the last column explaining what happened
18 and what type of negotiation it was.

19 Q. Okay. If we start -- there's a glare on there, but
20 if we start to the very first item, says check dated
21 December 18, 1998. Can you tell us what the bank records
22 showed happened with respect to the negotiation of the
23 December 18, 1998, check of any cash that was generated?

24 A. The bank records show that Mr. Sinclair received --
25 negotiated that check on the 21st of December, of 1998, at

Semesky - Direct/Morford

- 1 Home Savings and Loan Company, by depositing it to his
2 account, and 230361036, I believe.
- 3 Q. Okay. And then was there a time when there was a
4 cash withdrawal?
- 5 A. Yes, if you look on Line 2 of the chart on the 28th
6 of December, 1998, Mr. Sinclair withdrew \$2500 from that
7 same account.
- 8 Q. Okay. How about the January 29, 1999, paycheck?
- 9 A. The -- that paycheck was only partially deposited
10 into the -- into Mr. Sinclair's account. And if you look
11 in the last column where it says split deposit, what that
12 means is that part of the paycheck was deposited and part
13 was returned in cash.
- 14 Q. And that would be the \$2500 amount?
- 15 A. That's correct.
- 16 Q. And how about the third check, this one dated
17 February 26, 1999?
- 18 A. The third check was negotiated at Home Savings and
19 Loan Company by Mr. Sinclair on March 8, 1999. And he
20 received \$2500 in cash, the remainder deposited to his
21 account.
- 22 Q. How about the next check, March 31, 1999?
- 23 A. On that -- on that date, he -- the bank records
24 reflect that he deposited that check and on the same date
25 withdrew \$2500 from the account.

Semesky - Direct/Morford

- 1 Q. How about the April --
- 2 A. In cash.
- 3 Q. The April 30, 1999, paycheck?
- 4 A. The bank record shows that on May 3, 1999,
- 5 Mr. Sinclair, again split his deposit at Home Savings and
- 6 Loan and received \$2500 in cash, the rest going into the
- 7 account.
- 8 Q. How about the May 1999 paycheck?
- 9 A. The May check was negotiated on June 2, 1999, at Home
- 10 Savings and Loan. Again, Mr. Sinclair received \$2500 in
- 11 cash. The rest was deposited to his account.
- 12 Q. June 1999 paycheck?
- 13 A. June '99, was negotiated on June 29th, 1999, at Home
- 14 Savings and Loan Company. Mr. Sinclair received \$2500 in
- 15 cash and deposited the remainder to his account.
- 16 Q. How about the July 1999 paycheck?
- 17 A. July was negotiated on August 2, 1999, at Home
- 18 Savings and Loan Company. Mr. Sinclair received back \$2500
- 19 in cash, the remainder was deposit today his account.
- 20 Q. How about the August paycheck?
- 21 A. The August paycheck was negotiated by Mr. Sinclair
- 22 again at Home Savings and Loan, on September 1, 1999. He
- 23 received back \$2500 in cash. The remainder was deposited
- 24 to his account.
- 25 Q. The September paycheck?

Semesky - Direct/Morford

- 1 A. September was negotiated on October 5, 1999, at Home
2 Savings and Loan Company. Mr. Sinclair received back \$2500
3 in cash, and deposited the remainder to his account.
- 4 Q. And the October paycheck?
- 5 A. The October paycheck was negotiated on November 2,
6 1999, at Home Savings and Loan Company. Mr. Sinclair
7 received \$2500 in cash and deposited the remainder to his
8 account.
- 9 Q. The November paycheck?
- 10 A. The November paycheck was negotiated on November
11 30th, 1999, at Home Savings and Loan Company. Mr. Sinclair
12 received \$2500 in cash and deposited the remainder to his
13 account.
- 14 Q. And finally the December 1999 paycheck?
- 15 A. The December '99 paycheck was negotiated on December
16 29, 1999, at Home Savings and Loan Company. Mr. Sinclair
17 received back \$2500 in cash and deposited the remainder to
18 his account.
- 19 Q. Based on your analysis then, would Mr. Sinclair have
20 had access to \$2500 cash from every one of his paychecks
21 from December 1998 through December of 1999?
- 22 A. Yes, he would.
- 23 Q. Next I would like to ask you, did you also attempt to
24 review congressional paychecks for Henry DiBlasio?
- 25 A. Yes, I did.

Semesky - Direct/Morford

1 Q. And how far back were you able to obtain and review
2 congressional paychecks for Henry DiBlasio based on the
3 records that were available?

4 A. In -- back to 1996, I believe it was June or
5 somewhere around there.

6 Q. And in reviewing those checks, were you able to
7 determine from those checks which banks the checks were
8 actually negotiated at?

9 A. Yes, I was. The bank stamp was reflected on the back
10 of the check.

11 Q. And was there one bank or more than one bank?

12 A. I believe there were four banks.

13 Q. And have you prepared a summary of the amount of
14 those checks and the bank where each of those checks were
15 negotiated?

16 A. Yes, I have.

17 MR. MORFORD: And, your Honor, at this point,
18 I'd like to display what's been marked Government's Exhibit
19 1-25.

20 THE COURT: Fine.

21 MR. TRAFICANT: What is that Exhibit Number
22 there.

23 MR. MORFORD: The first was 1-9.

24 MR. TRAFICANT: Thank you.

25 BY MR. MORFORD:

Semesky - Direct/Morford

1 Q. Again, can you walk us through just what is on the
2 chart?

3 A. This chart is very similar to the chart of
4 Mr. Sinclair's salary checks. Again, the check date is
5 reflected for the congressional salary check along with the
6 Check Number in column 2, column 3, the amount of the
7 check. 4 is the date that the check was negotiated by Mr.
8 DiBlasio. 5 is the identification of the name of the bank
9 where the check was negotiated. And column 6 is comments
10 of what happened or what did not happen to that check. If
11 you notice, it says -- many of the columns it was not
12 deposited into the account.

13 Q. Okay. In fact, do all of the checks indicate they
14 were not deposited to any -- to an account Mr. DiBlasio had
15 at that bank except for one?

16 A. That's correct.

17 Q. Okay. Let's just focus on the one, and particularly
18 I'm drawing your attention to the check dated 11-4-1996.

19 A. Actually, that is not salary check. That check is a
20 check drawn by Mr. DiBlasio on his -- on the account, which
21 was -- the check was dated 11-4 of 1996, payable to cash in
22 the amount of \$1,000.

23 Q. Okay. Going right above that check then, check 852
24 you're referring to; is that correct?

25 A. That's correct.

Semesky - Direct/Morford

1 Q. And that's the check of \$1,000?

2 A. Drawn on Mr. DiBlasio's account, that's correct.

3 Q. And you said the account was drawn to cash?

4 A. Yes.

5 Q. Okay.

6 Just above that, there's an entry October 31, 1996,
7 you see that?

8 A. Yes.

9 Q. And what was that?

10 A. That was a congressional salary check, and it was in
11 the amount of \$4200.41. Mr. DiBlasio deposited that check
12 to his account at Home Savings and Loan Company on November
13 2, 1996.

14 Q. Is that the only check that from the checks you saw
15 that was actually deposited into the account at --

16 A. That's correct.

17 Q. And what happened then five days later?

18 A. Well, actually, two days later, from the deposit, the
19 deposit was on November 2. On the 4th, the check -- Check
20 Number 852 drawn to Mr. DiBlasio's account.

21 MR. TRAFICANT: What day are we talking
22 about?

23 MR. MORFORD: 11-2-96.

24 THE WITNESS: Was negotiated at Home Savings
25 and Loan.

Semesky - Direct/Morford

1 Q. Now, from the checks themselves, are you able to tell
2 on those checks that were not deposited to the account Mr.
3 DiBlasio had at the bank where the check was negotiated,
4 whether or not he actually received cash for the check?

5 A. The -- the banks differ on the way they cancel a
6 check and the notations they put on the check. One of the
7 banks -- and I believe it was Key Bank -- actually their
8 cancellation line showed the check was cashed. The other
9 banks, I could not tell from their stamps. The banks
10 themselves would be able to identify how the check was
11 negotiated.

12 Q. So we'd have to hear from a representative of the
13 bank itself to identify the stamp to indicate whether it
14 was cashed?

15 A. That's correct. It did not go into the account,
16 however.

17 Q. Now, that you also prepared a summary chart regarding
18 congressional salaries that were being paid to employees of
19 Congressman Traficant during the years 1996, 1997, 1998,
20 and 1999?

21 A. Yes, I did.

22 Q. And from what source of information did you prepare
23 the figures that are listed on that summary chart?

24 A. It was a public record, the statement of
25 disbursements from the House of Representatives.

Semesky - Direct/Morford

1 Q. Is this a publication that the House of
2 Representatives puts out every year?

3 A. That's correct.

4 Q. And are these official figures of the House of
5 Representatives?

6 A. I believe so, yes.

7 Q. And so then you summarize those figures on the chart;
8 is that correct?

9 A. Yes, I did.

10 MR. MORFORD: Your Honor, at this time, I
11 would ask to display what has been marked as Government's
12 Exhibit 1-26(1).

13 THE COURT: Very well.

14 Q. Do you recognize this chart?

15 A. Yes, I do.

16 Q. Okay. And can you tell us again, just taking us
17 through the columns, what the chart represents?

18 A. This chart represents a congressional salary that
19 were disbursed to Congressman Traficant's staff as
20 reflected in the statement of disbursements published by
21 the House of Representatives, and it covers years 1996
22 through 1999. The statements actually are issued on a
23 quarterly basis or reflected on a quarterly basis, and what
24 I did was had each of the four quarters for each of the
25 years to get the figures reflected on the chart.

Semesky - Direct/Morford

1 Q. Starting with 1996, who were the four highest paid
2 staff members of the congressional office of Congressman
3 Traficant during 1996 by name, position, and then the
4 amount of their income?

5 A. In 1996, they were Paul P. Marcone, chief of staff,
6 and he received a salary of \$88,416.66, Henry A. DiBlasio,
7 administrative assistant, the salary of \$80,000.04.,
8 Charles Patrick O'Nesti district director, salary
9 \$72,124.96. And Daniel Ross Blair, legislative director,
10 salary \$46,991.65.

11 Q. Turning your attention, do you see two additional
12 names, Jackie Bobby and Grace Maria Yavorsky?

13 A. Yes, I do.

14 Q. Those would be here?

15 A. Yes.

16 Q. And what were their salaries in 1996?

17 A. Their salaries were \$38,216.65 for Jackie Bobby, 66
18 cents, for Grace Yavorsky.

19 Q. Turning to 1997, who were the four highest paid
20 employees in 1997, and what were their positions and
21 salaries?

22 A. In 1997, the four highest paid were Paul P. Marcone,
23 salary of \$91,338.92; Henry A. DiBlasio, salary was
24 \$80,472.22, Charles Patrick O'Nesti, salary \$74,961.14 and
25 Daniel Ross Blair salary \$48,968.77.

Semesky - Direct/Morford

1 Q. And Mr. Blair was the legislative director; is that
2 correct?

3 A. That's correct.

4 Q. And how about 1998?

5 A. 1998, the four highest paid salaries were Paul P.
6 Marcone, \$101,511.09; Henry A. DiBlasio, \$86,538.93, and
7 you'd have to go to --

8 Q. What's the three lines? That's fine.

9 A. In that particular, Daniel Blair would be the third
10 highest \$51,966.69.

11 Q. And in 1998, is there a new employee that shows up
12 the first time named R. Allen Sinclair?

13 A. Yes, there is.

14 Q. Now, turning to 1999, who were the three highest paid
15 staff employees of Congressman Traficant's office in 1999?

16 A. Paul P. Marcone, at \$109,195.59; R. Allen Sinclair,
17 \$60,169.40, and Daniel Ross Blair \$54,700.

18 Q. Next I'd like to ask you if you've reviewed the
19 records of Bank One, account Number 400900018 and the name
20 of James A. Traficant, Junior?

21 A. Yes, I did.

22 Q. And for what purpose did you review the records of
23 that account?

24 A. To see if there were any cash deposits reflected to
25 that particular account.

Semesky - Direct/Morford

1 Q. And what did you find when you looked at the bank
2 records for that particular account?

3 A. There were some cash deposits, yes.

4 Q. And did you prepare a summary chart reflecting the
5 cash deposits into that account?

6 A. Yes, I did.

7 MR. MORFORD: And, your Honor, at this point,
8 I'd like to ask permission to display that chart.

9 Q. Once again, can you walk us through the different
10 columns of that chart, explain what that shows?

11 A. This chart has four columns, first being the date of
12 the deposit of currency, the second, the name of the bank,
13 which is all Bank One, third, the Account Number is all the
14 same account, 400900018, and the fourth column is the
15 amount of currency that was deposited on that particular
16 day.

17 Q. Okay. And the Exhibit number on this particular
18 chart is Exhibit 1-27.1; is that correct?

19 A. I believe so, yes.

20 Q. Now, is there any way for you to determine the actual
21 source of the cash that's being deposited into this account
22 through this period of September 19, 1995, through November
23 9th, 1999?

24 A. No. Cash by its nature does not leave a financial
25 footprint. So it's very difficult, if not impossible, to

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1 determine source of cash.

2 Q. As a Special Agent with the IRS, do you, as part of
3 your duties, do you try to track financial transactions?

4 A. Yes, I do.

5 Q. And what particular difficulties do you have when
6 you're presented with the use of cash as opposed to checks
7 or other bank transactions?

8 A. As I just explained, cash doesn't leave a financial
9 footprint or an audit trail, and the best analogy or
10 comparison would be to the checks that we just showed you
11 on the other three charts, and that -- those checks, you
12 could see a lot of information through the check was
13 payable to the date of the transaction -- the date of the
14 check, the date that the check was negotiated, who
15 negotiated the check, where the check went, what account it
16 went into. All that is available, all that information is
17 available.

18 Cash on the other hand, because of its nature being
19 really bare form, as soon as cash is transferred from one
20 party to the next, there's no trail, there's no historical
21 evidence that an investigator can go back to a
22 document-wise to trace where that cash went.

23 Q. So as far as your analysis, once the cash leaves this
24 account, that's as far as you can take it?

25 A. That's as far as I can take it backwards. Forwards,

Semesky - Cross

1 once it's in the account, I can trace it out of the
2 account. Backwards, it's very difficult independent of any
3 corroborating testimony or other documents telling where
4 that cash came from.

5 MR. MORFORD: Just one moment, your Honor.

6 No further questions.

7 THE COURT: Thank you. Congressman

8 CROSS-EXAMINATION OF DONALD SEMESKY, JR.

9 BY MR. TRAFICANT:

10 Q. Is it Semesky?

11 A. Yes, sir.

12 Q. 28 and a half years?

13 A. That's correct, sir.

14 Q. You have a lot of background in criminal
15 investigation work of IRS matters, don't you?

16 A. Yes, sir.

17 Q. Are you familiar with my legislation that would
18 abolish the IRS, sir?

19 A. Abolish the IRS?

20 Q. Yes. And create national sales tax?

21 A. No, sir.

22 Q. Have you dealt on any matters concerning me in
23 previous years?

24 A. No, sir, I haven't.

25 Q. Who, in fact, asked you to do this summary?

Semesky - Cross

1 A. Mr. Morford.

2 Q. Is he in the room?

3 A. Yes, sir.

4 Q. Point to him.

5 A. (Indicating).

6 MR. TRAFICANT: Let the Court reflect he's
7 made a positive identification.

8 THE COURT: That is Mr. Morford

9 BY MR. TRAFICANT:

10 Q. Did you audit Jim Traficant for the last seven years
11 as you're entitled to under law?

12 A. Did I? No, sir, I did not.

13 Q. Did the Government ask you to audit me?

14 A. No, sir.

15 Q. Did you do a net worth on me?

16 A. No, sir.

17 Q. Did you check my assets and what I own?

18 A. I did not, no.

19 Q. Do you know if any IRS agent was asked to, in fact,
20 perform a net worth on Jim Traficant?

21 A. I know there was an investigation of you,
22 Congressman, that I believe began in 1999. Sure, as part
23 of that investigation, there was investigation into assets
24 that you owned. I don't know if there was any net worth
25 computation done of that investigation. I know -- I know

Semsky - Cross

1 the computation that the Special Agent used was what we
2 call specific items, which they took individual items and
3 income and added them up instead of doing the other type of
4 net worth --

5 Q. Did you interview anybody about Jim Traficant?

6 A. No, sir, I did not.

7 Q. All you did is you looked at numbers?

8 A. That's correct.

9 Q. Right?

10 A. Yes, sir.

11 Q. Okay.

12 And there was no audit to the best of your knowledge?

13 A. There was -- this particular case involved a criminal
14 investigation. It was not an audit.

15 Q. Well, let me ask you this: If the IRS is going to go
16 after somebody, wouldn't they audit him if, say, he's
17 spending a lot of cash, wouldn't they go to a neighbor,
18 wouldn't they go to the grocer, wouldn't they go to a car
19 dealer, wouldn't they go and see if he, in fact, spent and
20 expended some cash, or would they just give us a report on
21 a bulletin board?

22 A. No, sir, the IRS -- again, it depends on the
23 allegations that are made and what the IRS is looking into
24 and which division, whether it's a civil examination or a
25 criminal investigation, and again, depending on the type of

Semsky - Cross

1 evidence that's uncovered, it could proceed and in several
2 different ways to determine what yours or anybody else's
3 income is for a particular year.

4 One would be to determine value of assets through a
5 net worth computation. The other would be a specific item
6 computation wherein we would take items of income and add
7 them up and compare that to the report on the return.

8 Q. And you did none of that?

9 A. I personally did none of that, no, sir.

10 Q. Do you know if anybody at the IRS did any of that?

11 A. I'm sure that Special Agent Chuck Perkins did.

12 Q. You believe there was then an audit. Is that your
13 testimony?

14 A. No, sir, there was a criminal investigation.

15 Q. I see. So you have no knowledge of an audit?

16 A. No, sir.

17 Q. No knowledge of a net worth?

18 A. No.

19 Q. No knowledge after asset statement?

20 A. No, sir.

21 Q. No knowledge of a cash expenditure trail?

22 A. There's always -- there's evidence of all of that,
23 but the way your income was computed for this investigation
24 was specific items, specific items of income and added it
25 up.

Semesky - Cross

1 Q. Let me ask you this: Were you in a vacuum, or did
2 you meet with Mr. Perkins?

3 A. I met with Mr. Perkins, yes.

4 Q. How many times did you meet with Mr. Perkins?

5 A. A number of times. I've been in Cleveland five
6 times.

7 Q. Did you have occasion to visit anybody with
8 Mr. Perkins relative to the investigation of Jim Traficant?

9 A. No, sir, I did not.

10 Q. Did Mr. Perkins disclose to you that, in fact, he had
11 these assets and other elements of investigation performed?

12 A. He would have performed them, and he did --

13 Q. Excuse me. I didn't ask you that. I asked you, did
14 Mr. Perkins inform you that he had these items performed
15 relative to net worth, cash expenditure flow, visitation to
16 people where cash could have been expended?

17 THE COURT: It's a lot of questions. You
18 need to ask him one question.

19 MR. TRAFICANT: Let's ask the first one.

20 Q. Did Mr. Perkins say to you that he did an asset
21 survey and study of Traficant?

22 A. We don't -- you're using a term that is not used
23 in --

24 Q. Go ahead and use your term.

25 A. The term would be a net worth computation.

Semesky - Cross

- 1 Q. Did he say he did a net worth computation to you?
- 2 A. No, sir, he did not.
- 3 Q. Did he ask you at any point would you assist in doing
- 4 such a thing?
- 5 A. No, sir, he did not.
- 6 Q. Did he state to you that he, in fact, did a cash flow
- 7 expenditure review of Traficant's activities?
- 8 A. He did not state that, no.
- 9 Q. Did he ask you to assist in that?
- 10 A. No, sir.
- 11 Q. You've been an agent for 28 and a half years, and you
- 12 work in the criminal division?
- 13 A. That's correct.
- 14 Q. And you're working with the lead IRS agent evidently,
- 15 which is Mr. Perkins in the Traficant case; is that
- 16 correct?
- 17 A. Yes, sir.
- 18 Q. And he gave you no information other than he wanted
- 19 you to put together a summary chart?
- 20 A. That was all I was asked to do in this trial.
- 21 Q. Were you in any one of those banks?
- 22 A. I spoke to people over the phone at those banks, but
- 23 I was not -- I did not visit any of those banks.
- 24 Q. So you then did some investigation relative to it so
- 25 you just didn't put what the Government gave you in a

Semsky - Cross

1 summary chart; is that correct?

2 A. Well, where there was a note for additional
3 information, I did as requested.

4 Q. And naturally, did you do that with subpoena, or did
5 you do that with warrant?

6 A. I believe the -- excuse me.

7 Q. Help yourself.

8 A. I believe the banks were already subpoenaed, and this
9 is just a follow-up contact.

10 Q. So you then called the bank, and you said I'm the guy
11 that the IRS is sending out to talk to. Is that about it?

12 A. Well, what I did, I requested additional information
13 for them to recheck their records to see if there was --
14 additional documents of certain transactions.

15 Q. Did you have occasion to meet with Treasury
16 Department agents relative to this case, other than IRS?

17 A. No, sir.

18 Q. Did you visit a fellow by the name of George Hooker
19 in Ohio?

20 A. No, I don't know who he is.

21 Q. Did Mr. Perkins ever discuss with you income activity
22 generated by a piece of property owned by the Traficant
23 family?

24 A. No, sir.

25 Q. And you never heard about that legislation that would

Semesky - Redirect/Morford

1 abolish your job?

2 A. No, Congressman, I haven't.

3 MR. TRAFICANT: No further questions.

4 THE COURT: Thank you.

5 MR. MORFORD: Just a couple, your Honor.

6 REDIRECT EXAMINATION OF CHARLES SEMESKY, JR.

7 BY MR. MORFORD:

8 Q. I'm going to ask a couple follow-up questions on the
9 book end questions that Congressman Traficant started with,
10 on the bill to abolish the IRS.

11 Even if there was a national sales tax, who would see
12 to it it was enforced fairly?

13 A. Unless there was another agency created, I would
14 imagine the IRS.

15 Q. What exactly are the functions of the IRS, what
16 function does it serve?

17 A. The IRS really serves two functions: It is the
18 processing agent for all the millions of tax returns and
19 tax revenues that are collected by the Government, and it
20 also serves a function of servicing the tax paying public;
21 that is, to assist taxpayers with their filing of tax
22 returns, and to, as part of that also, the operational
23 functions would be to administer and enforce the Internal
24 Revenue laws, and the purpose of that is to help ensure and
25 instill a confidence in the public that the IRS is

Semesky - Redirect/Morford

1 attempting to make sure that all Americans pay their fair
2 share of income tax, and that the tax burden is not put on
3 the shoulders of any of the honest taxpayers where other
4 taxpayers are not paying their fair share, are shifting
5 that burden.

6 Q. Shift -- you're saying somebody that doesn't pay
7 their fair share of taxes would be shifting it to whom?

8 A. They'd be shifting it to taxpayers who are reporting
9 all of their income. The Government's bill continuum has
10 to be paid by someone.

11 Q. Does the IRS actually set the tax rates and determine
12 how much people have to pay in taxes?

13 A. No, it's done by Congress.

14 Q. Now, you were asked questions about audits and net
15 worth and cash flow analysis. Are those things that are
16 done in every criminal investigation?

17 A. Part of the -- or not part of each, but one of the
18 others is done, and at times, both in every criminal
19 investigation. The criminal investigation attempts to
20 determine a taxpayer's true income for any particular
21 year. There are a number of methods that we use to do
22 that. The most direct and the best is the specific items
23 where we can identify specific items of income. They're
24 simply after they're identified, documented, added up,
25 compared to the tax return, to see if there's an

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1 understatement of income for that particular year. There
2 are other methods, such as the net worth computation where
3 if we're unable to identify specific items of income, say
4 if somebody in the cash business, then we would attempt to
5 determine how much money -- either how much money that
6 person expended during the -- or how much they brought in
7 by way of assets. Those expenditures would represent
8 income. From that, we would subtract any non-income type
9 items, such as loans or gifts to arrive at that person's
10 income for that particular year.

11 MR. MORFORD: Just one moment, your Honor.
12 Nothing further.

13 THE COURT: Congressman.

14 RE CROSS-EXAMINATION OF DONALD SEMESKY, JR.

15 BY MR. TRAFICANT:

16 Q. Well, you know, since the Prosecutor brought it up,
17 it's fair game under recross, you know, this matter of bill
18 to abolish the IRS.

19 THE COURT: I think you brought that out.

20 MR. TRAFICANT: I did, but the Prosecutor did
21 bring that out, and he says is it not a fact that the IRS
22 would be in fact the enforcer of whatever the tax law would
23 be. And what was your answer.

24 THE WITNESS: My answer was absent the
25 creation of another agency or some other method of

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1 collecting processing the tax, I would imagine it would be.

2 Q. Well, actually, you see the bill would abolish the
3 16th amendment, kill all income taxes, abolish the IRS, and
4 have a small treasury unit that would go out after
5 retailers, not people. Did you know that?

6 A. No, sir.

7 Q. Did you know that the complete IRS would be fired?

8 THE COURT: He said he didn't know anything
9 about the bill.

10 MR. TRAFICANT: He brought it up.

11 Q. Now, you said you had several functions; basically to
12 assist the taxpayers, make sure they're not getting ripped
13 off.

14 Am I wrong in the interpretation of Government
15 witnesses who testified that 60 percent of the calls that
16 go to the IRS go unanswered, and it's one of the biggest
17 complaints that caused the IRS reform bill two years ago,
18 is that assistance, sir?

19 A. That assistance at the IRS is continuing to try to
20 upgrade, and assistance that the IRS has agreed with
21 Congress is lacking, and believe me, they're doing
22 everything they can to upgrade that.

23 Q. Okay.

24 Now, are you familiar with the fact that I did change
25 IRS law, the burden of proof in a civil tax case, are you

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1 familiar with that?

2 A. I did not know that you did it. I know that it was
3 changed.

4 Q. And the change means that before these jurors were
5 guilty, and they had to prove themselves innocent.

6 THE COURT: Whoa, whoa, whoa. Wait a minute,
7 whoa.

8 Q. No, I'm asking a question. Do you know that the
9 change in the burden of proof would mean that, for example,
10 these jurors in a civil tax course would be considered
11 guilty under the old law; yes or no?

12 MR. MORFORD: Objection.

13 THE COURT: Sustained.

14 Q. Do you have any knowledge of the old burden of proof
15 law, Mr. Semesky?

16 A. In a civil contest?

17 Q. Yes.

18 A. Yes, sir.

19 Q. What is the burden on?

20 A. The burden was placed on the taxpayer, which meant
21 that the IRS would require the taxpayer to produce records
22 to prove any income or deductions that they questioned, as
23 opposed to the new burden, which falls on the IRS, where
24 IRS, I believe, cannot force a production of those records
25 and must document it themselves.

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1 Q. Would that answer be simply to say the IRS now has
2 the burden of proof?

3 A. Yes.

4 Q. Now, was there also not a provision in there that
5 dealt with property liens; are you familiar with that?

6 MR. MORFORD: Objection.

7 THE COURT: Sustained. I don't know what
8 this has to do with this case.

9 MR. TRAFICANT: I think it has a lot to do
10 with the case.

11 THE COURT: Well, you will have to
12 demonstrate that to me.

13 MR. TRAFICANT: Okay.

14 THE COURT: And we'll do that after the jury
15 is recessed for the day because I can't see what that has
16 to do --

17 MR. TRAFICANT: I won't be that much longer
18 then, and I don't want to belabor the jury.

19 THE COURT: Thank you.

20 BY MR. TRAFICANT:

21 Q. You say many IRS investigations aren't necessarily to
22 do audit and net worth or cash flow type of activities, is
23 that your testimony?

24 A. It depends on the evidence that's available,
25 Congressman. The preferable method in a criminal

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- 1 investigation would be -- and even in a civil contest, if
2 the IRS is determining income, would be where we can
3 identify, specifically identify types -- amounts of income,
4 that's direct, and it's very accurate. And net worth is
5 more circumstantial in that we're determining how much a
6 person spent as opposed to how much they earned, and then
7 taking away any amounts of money that can come from a
8 non-taxable source, we arrive at income that way. So we do
9 net worth cases. It's preferable to do it the other way.
- 10 Q. So 28 and a half years, it is your testimony that you
11 have, for example, Jim Traficant, on trial, you're familiar
12 with that for sure, right?
- 13 A. Yes, sir.
- 14 Q. Okay. And the allegations are that he has taken an
15 awful lot of money from his staff illegally, isn't that
16 part of the investigation?
- 17 A. Yes, sir.
- 18 Q. And you are feverishly working on a paper trail to in
19 fact document through evidence the conclusive evidence that
20 would get this jury to say guilty; is that what you're
21 working on?
- 22 A. That's what the Government was working on, yes.
- 23 Q. And you would not want to know whether or not Jim
24 Traficant, between the years 1981 and 2002 went to anybody
25 and bought something for cash, is that your testimony here

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1 today?

2 A. Congressman, I --

3 Q. Yes or no.

4 A. It would depend on the --

5 Q. I didn't ask what it depended on, I asked yes or no.

6 THE COURT: Well, let him answer that.

7 MR. TRAFICANT: Answer it.

8 THE WITNESS: Congressman, it would depend on
9 how the income was being documented. And in this case --

10 Q. You didn't answer my question.

11 THE COURT: And you interrupted him again.

12 MR. TRAFICANT: Well, I apologize for the
13 interruption, but I think it's time that you answer my
14 question.

15 THE COURT: Well, then --

16 Q. I'm on trial, and you know I'm on trial for cash and
17 a lot of cash; is that correct, sir?

18 A. That's correct.

19 Q. And you're saying for 28 and a half years of
20 experience in criminal investigation work, you were not
21 asked to participate, to go out and find somebody that Jim
22 Traficant paid cash for, yes or no?

23 A. I was not asked to do that, no, sir.

24 MR. TRAFICANT: No further questions.

25 THE COURT: Anything further?

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1 MR. MORFORD: One second, your Honor. One
2 question, your Honor.

3 REDIRECT EXAMINATION OF DONALD SEMESKY

4 BY MR. MORFORD:

5 Q. If the subject you're investigating received cash in
6 envelopes but held on to those envelopes and wasn't out
7 spending the cash, would any net worth or cash flow
8 analysis help you in any way?

9 A. Not at all.

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1 RECROSS-EXAMINATION OF DONALD SEMESKY

2 BY MR. TRAFICANT:

3 Q. Mr. Semesky, your experience of 28 and a half years
4 as a criminal investigator, over 20 years, wouldn't someone
5 slip and make one cash purchase?

6 A. Congressman, every case is different. There are --
7 there could be, and -- but, to answer -- to go back to
8 Mr. Morford's question, if certain things were done, then
9 no, but if -- there could be cash expenditures, but as I
10 explained earlier, cash does not leave a trail. I could
11 take your checking account, and I could find all your
12 expenditures if you spent cash. I may or may not be able
13 to find where you spent it.

14 Q. Are you familiar with the legal term known as corpus
15 delicti?

16 A. No. Could you explain it to me?

17 THE COURT: It's okay. We really haven't had
18 an issue that would require us to explain it.

19 Q. It's about a body of crime, proving the body of a
20 crime. The body of crime here surrounds cash. Now
21 Mr. Morford stood up --

22 THE COURT: I'm sorry, but I have to tell you
23 about the law in this case. You need to ask questions of
24 the witnesses. Thank you.

25 MR. TRAFICANT: Okay. Thank you, thank you.

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1 Okay.

2 BY MR. TRAFICANT:

3 Q. At some point after 20 years, a reasonably prudent
4 investigator would feverishly be working, would you not
5 agree, to find cash expenditures on behalf of a defendant?

6 A. If I had a witness that would sit on the stand and
7 say I gave the Defendant cash, then probably not.

8 Q. You would just take the word of that witness?

9 A. I'd corroborate it with the method he said was paid
10 to the extent possible.

11 Q. If that witness was under protection from the Court
12 and made an agreement with the Government, you'd just take
13 his word and wouldn't corroborate it at all?

14 A. As I said, sir, I said I would corroborate it to the
15 extent possible, with independent documents.

16 Q. Okay. Did Mr. Perkins ever mention anything to you
17 about attempting to arrange a wire or a microphone or a
18 bugging of the Defendant?

19 A. No, sir.

20 Q. Did you suggest that to him?

21 A. I did not get involved in this case until the last,
22 probably three months ago, four months ago.

23 Q. So really you don't know that much about this case,
24 do you?

25 A. That's correct.

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1 MR. TRAFICANT: No further questions.

2 THE COURT: Thank you, sir.

3 THE WITNESS: Thank you, your Honor.

4 THE COURT: We're going to recess for the
5 day. We'll come in at the usual time tomorrow and begin at
6 the usual time tomorrow. Remember all your admonitions,
7 rules you have to live by. Enjoy yourselves this evening.
8 It's been nice weather for us. I'm really glad. So I hope
9 it holds up. We'll see you.

10 (Proceedings in the absence of the jury:)

11 I'm not aware of anything we need to handle
12 this evening. Is there anything?

13 MR. MORFORD: The only thing would be details
14 of the deposition so we can get that set.

15 THE COURT: Well, that's right. I did give
16 you a deadline, didn't I?

17 MR. TRAFICANT: Your Honor, I'd like to make
18 the suggestion --

19 THE COURT: You all can be seated or you can
20 get up and leave if you want to.

21 MR. TRAFICANT: -- on this deposition. I
22 don't know what their thinking is on flying down, where
23 they're flying down from, but I'm assuming they're paying
24 my expenses.

25 THE COURT: You asked them, they said they

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1 would.

2 MR. TRAFICANT: And I would make my own
3 arrangements.

4 THE COURT: What I need to do is hear from
5 them. They were supposed to report back to the Court, and
6 so let's listen to them, and I'll listen and you listen,
7 and then we'll discuss it further.

8 MR. KALL: Your Honor, we spoke to
9 Mr. Williams. He indicated that his treatments are hardest
10 on him earlier in the week, specifically Monday, then it
11 gets better as the week goes on. He indicated he goes in
12 every morning around 9:00 A.M. for radiation treatments, so
13 any deposition he would strongly prefer be done in the
14 afternoon.

15 That being said, we've got our office working on
16 making arrangements for the deposition to occur on the
17 Thursday, which I believe is the 28th, at 2:00 in the
18 afternoon. They're trying to get a conference room
19 reserved for doing that. We would make Mr. Traficant's
20 travel arrangements or have his assistant contact our
21 office, and those arrangements could be made. If an
22 overnight stay is required, he may have to pay for it and
23 we would reimburse him for it at the Government rate.

24 THE COURT: They're going to reimburse you.

25 MR. TRAFICANT: That's not the question.

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1 What will next week's schedule be? I --

2 THE COURT: That's what we're listening to.
3 We're listening to it.

4 MR. TRAFICANT: What day would we depart?

5 MR. KALL: It's up to you, Congressman.

6 Assuming we can do it Thursday at 2:00, you could fly down
7 Thursday morning. If you'd like to fly down Wednesday, we
8 can make that arrangement for you.

9 MR. TRAFICANT: I'd like to fly down there
10 Tuesday because I'm investigating this matter as well, and
11 this has been brought to me at the last minute, and I think
12 I need some time to prepare for this deposition.

13 THE COURT: I don't know how it's brought to
14 you in the last minute, but in any event, what I -- what we
15 try to do is to set this up during -- it was suggested that
16 we do it on the holiday, and we decided -- I decided we
17 needed to do it during trial days so that --

18 MR. TRAFICANT: Three days.

19 THE COURT: During -- well, I said we would
20 give them a three-day period. They could choose where it
21 was going to be, depending on what they learned about the
22 witness' needs because he's in treatment. And I allowed
23 the three-day period. I don't mean you have to do three
24 days, but I did allow a three-day period. And the reason
25 for that is that you've got other responsibilities, and I

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1 understand that, and so I didn't want to take time that
2 wasn't in what was our regular court time.

3 So once they had firmed up whether this witness could
4 be deposed, then they can go ahead and make travel
5 arrangements, and your secretary or whoever makes your
6 arrangements can call them and make them parallel. But,
7 there are -- there is a three-day period here. I don't
8 know how long it will take to depose him. I don't know how
9 well he is, how much energy he has. And so I would -- I
10 expected when I said three days that there would be travel
11 time and also that you might need to have some flexible
12 time for this particular witness because of his treatment.

13 MR. TRAFICANT: Also, your Honor -- not to
14 interrupt, also may use a little bit of rest. This is
15 going to be a flight. This is their witness.

16 THE COURT: Okay. Well, let's wait and see
17 what they come up with in terms of his availability, and
18 then you can talk to me about whatever your concern is
19 about how much time you'll have, but I've allowed three
20 days. I just don't know which three they are.

21 MR. KALL: It would be our preference to do
22 it Wednesday, Thursday, Friday, with the deposition to
23 happen on the Thursday.

24 THE COURT: Okay.

25 MR. TRAFICANT: I would much rather do it on

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1 the Tuesday, Wednesday, Thursday, come back to the court
2 for the half day Friday.

3 THE COURT: But, see --

4 MR. TRAFICANT: A weekend at least.

5 THE COURT: Well, if you -- yes, but the
6 problem with that is his treatment schedule. If he's doing
7 chemo -- I have enough experience with this from family
8 members, if he's doing chemo and radiation, he needs a
9 recovery period after his treatment. And so that's what
10 they're trying to coordinate with.

11 MR. KALL: Your Honor -- excuse me.

12 THE COURT: He needs not to be doing it
13 having a deposition in the morning and needs not be doing
14 this the earlier part of the week, what I understand.

15 MR. TRAFICANT: Let me inquire then. If we
16 flew down there Friday, then both sides will at least have
17 one evening at least to organize their thoughts and prepare
18 for the deposition.

19 THE COURT: You can go down there on
20 Wednesday. I imagine you could fly down ahead of them.
21 You could leave on Tuesday night if you wanted. I mean the
22 Court proceedings under this schedule would be only two
23 days; Monday and Tuesday.

24 MR. TRAFICANT: We will not be in session
25 Friday, then?

Semesky - Recross

1 THE COURT: Well, I would say if you -- if
2 you're going to be down there, depose him on Thursday, you
3 might want Wednesday, Thursday and Friday to travel in, to
4 do whatever you want to do, but those are the days we would
5 let you off, and then you can stay over that weekend if you
6 want down there and do whatever you need to do down there,
7 but the point is we need to meet his medical problems so
8 that you have somebody with enough energy to do a
9 deposition.

10 MR. TRAFICANT: Well, I just want on the
11 record I want to be back by Friday.

12 MR. KALL: Your Honor, it's our anticipation
13 the deposition could be completed in the course of one
14 afternoon. So it's --

15 THE COURT: There's no reason you would have
16 to stay down there then.

17 MR. TRAFICANT: One other question. You have
18 reduced these graphic arts into small exhibits that were
19 given to me?

20 THE COURT: Yes.

21 THE COURT: We usually schedule attorneys in
22 at 8:30 so we can handle anything that comes up, and we'll
23 begin the proceedings at 9:00. Thank you.

24 MR. TRAFICANT: I would like to fly Tuesday
25 afternoon.

Semesky - Recross

1 THE COURT: We need a full court day. We
2 need Monday/Tuesday or Tuesday/Wednesday, but you can go
3 down Tuesday night. Once court's out at 4:30, you can go.

4 MR. TRAFICANT: Thank you.

5 THE COURT: And then you'd have all day
6 Wednesday.


7 (Proceedings adjourned.)
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Semsky - Recross

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

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

4 UNITED STATES OF AMERICA,)
5 Plaintiff,)
6 vs.)
7 JAMES A. TRAFICANT, JR.,)
8 Defendant.)
9 Criminal Action
10 Number 4:01CR207

11 -----
12 TRANSCRIPT OF PROCEEDINGS HAD BEFORE

13 THE HONORABLE LESLEY WELLS

14 JUDGE OF SAID COURT,

15 ON WEDNESDAY, FEBRUARY 20, 2002

16 **Jury Trial**

17 **Volume 5**
18 -----

19 APPEARANCES:

20 For the Government: CRAIG S. MORFORD,
21 BERNARD SMITH,
22 MATTHEW KALL,
23 Assistant U.S. Attorneys
24 1800 Bank One Center
25 600 Superior Avenue, East
26 Cleveland, Ohio 44114-2600
27 (216) 622-3600

28 For the Defendant: Pro Se

29 Official Court Reporter: Shirle M. Perkins, RDR, CRR
30 U.S. District Court - Room 539
31 201 Superior Avenue
32 Cleveland, Ohio 44114-1201
33 (216) 241-5622

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

Jeran - Direct/Kall

1 Wednesday Session, February 20, 2002, at 8:30 A.M.

2 THE COURT: You may proceed.

3 MR. KALL: The Government calls Richard
4 Jeran, your Honor.

5 RICHARD JERAN,
6 of lawful age, a witness called by the RICHARD JERAN,
7 being first duly sworn, was examined
8 and testified as follows:

9 DIRECT EXAMINATION OF RICHARD JERAN

10 BY MR. KALL:

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

13 A. Richard R. Jeran, J-E-R-A-N.

14 Q. What do you do for a living?

15 A. I am a retired educator, secondary school principal.

16 Q. How long have you been retired?

17 A. Since 1987.

18 Q. Mr. Jeran, do you know a man named Henry DiBlasio?

19 A. Yes, I do.

20 Q. How do you know him?

21 A. I became involved with Attorney DiBlasio back in
22 1959. I had a case against a contractor who built our
23 home, and he was the attorney who handled the case.

24 Q. Has your relationship with Mr. DiBlasio always just
25 been attorney-client?

Jeran - Direct/Kall

- 1 A. No. As the years went on, he and I became friends,
2 and I went to school and picked up a real estate license
3 and I became involved with him as he was a broker, real
4 estate broker for Newport Realty so he held my license.
5 Q. You mentioned a company named Newport Realty, is that
6 a business that you started with Mr. DiBlasio?
7 A. No. He had that Newport Realty, being a lawyer. I
8 understood that in the State of Ohio, if you were an
9 attorney, you could be a broker, and he had this license
10 for many, many years. But he was never very active.
11 Q. What was your role with Newport Realty?
12 A. I was a sales agent, and we both worked it a very,
13 very little, I being the principal of a school, and he
14 being an attorney, and all the years that I was associated
15 with him, I don't think we had more than -- or we probably
16 had less than six different sales in all that time.
17 Q. The six sales you mentioned, were there any
18 commercial sales, or were they residential properties?
19 A. Mostly residential and one commercial.
20 Q. Did Newport Realty get involved with managing or
21 operating any pieces of property?
22 A. Not that I can recall.
23 Q. I'd like to ask you some questions about a building
24 at 11 Overhill Road in Boardman. Are you familiar with
25 that building?

Jeran - Direct/Kall

- 1 A. Yes.
- 2 Q. How did you first become familiar with it?
- 3 A. Well, that's the building that Attorney DiBlasio had
- 4 his office, and that's the building that he owned.
- 5 Q. Did Attorney DiBlasio ever ask you to have any
- 6 involvement with the building at 11 Overhill?
- 7 A. Yes, he did. When he became involved with the
- 8 Congressman, he told me that he could not own the building
- 9 and be part of the Congressman's staff. He said that he
- 10 had no one else to ask, and he asked me if I would put our
- 11 name on the building. I was very reluctant to do that. He
- 12 assured me that everything would be on the up and up and
- 13 everything handled judiciously, and I agreed to do it.
- 14 Q. You said put our name on the building. Who's the
- 15 "our"?
- 16 A. My wife.
- 17 Q. And yourself?
- 18 A. Yes.
- 19 Q. If you'd look down in front of you, there's a number
- 20 of documents. I believe the second one is marked
- 21 Government's Exhibit 1-11. Did you find that document?
- 22 A. Yes.
- 23 Q. Do you recognize this document?
- 24 A. Yes, I do.
- 25 Q. What is it?

Jeran - Direct/Kall

- 1 A. This is the document for the building.
- 2 Q. Doing what with the building?
- 3 A. Transferring it over to me, to my wife.
- 4 Q. From?
- 5 A. Henry DiBlasio.
- 6 Q. When was this document executed?
- 7 A. It looks like January 17, 1985.
- 8 Q. Are you aware when Congressman Traficant took office
- 9 as Congressman?
- 10 A. No, I don't.
- 11 Q. Okay.
- 12 Did you pay anything for the building, Mr. Jeran?
- 13 A. No, I did not.
- 14 Q. Did you ever make any mortgage payments to any
- 15 mortgage company for the building?
- 16 A. Attorney DiBlasio handled all the finances as far as
- 17 the building was concerned. When he asked me to put our
- 18 name on the building, he said I wouldn't have to worry
- 19 about anything. He would take care of all the finances of
- 20 the building and all the operation of the building. I was
- 21 nothing more than a figurehead.
- 22 Q. How long did you have the building in your name?
- 23 A. I can't recall. The records probably will show.
- 24 After several years, we became very uncomfortable having
- 25 our name on that building, and I asked the -- asked Henry

Jeran - Direct/Kall

1 DiBlasio to remove our name from the building, which he did
2 immediately.

3 Q. If you could please turn to the next exhibit, it
4 would be Government's Exhibit 1-12. Do you recognize this
5 exhibit?

6 A. No, I do not.

7 Q. Does your name appear at the top of this exhibit?

8 A. Yes.

9 Q. Is the exhibit dated?

10 A. Is this 1-12?

11 Q. Yes.

12 A. Yes, it's dated January 31st at the recorder's
13 office, 1992.

14 Q. If you could take the exhibit, it's in a little
15 plastic sheet, if you could take it out and turn to the
16 second page, it comes out from the top.

17 On the second page, do you see lines that say Richard
18 R. Jeran and Theresa B. Jeran?

19 A. Yes.

20 Q. Is that your signature on there?

21 A. I don't recall ever signing this document.

22 Q. Does that appear to be your signature, or can't you
23 say for sure?

24 A. That doesn't appear to be my signature.

25 Q. Can you explain how your signature then -- or your

Jeran - Direct/Kall

- 1 name and what purports to be your signature came to appear
2 on this document?
- 3 A. Well, if I didn't sign it, somebody else did.
- 4 Q. When the building was in your name, who collected the
5 rent?
- 6 A. I had nothing to do with any of the finances of the
7 building, nothing at all. I've never seen anything at all.
8 The Government checks that came in for the building, some
9 of them I endorsed and just gave to the secretary, and that
10 was the end of it.
- 11 Q. To whom did you endorse the checks?
- 12 A. To sign my name.
- 13 Q. Do you know who the checks were given to?
- 14 A. I have no idea. The secretary took care of that.
- 15 Q. Whose secretary?
- 16 A. Henry DiBlasio's secretary.
- 17 Q. Who was in charge of negotiating the leases for the
18 building?
- 19 A. Henry DiBlasio.
- 20 Q. Who paid the utilities on it?
- 21 A. He did.
- 22 Q. Mr. DiBlasio?
- 23 A. Mr. DiBlasio did.
- 24 Q. Who paid for things like new carpeting?
- 25 A. Mr. DiBlasio made all those arrangements.

Jeran - Direct/Kall

1 Q. Did tenants ever call you when there were any
2 problems with the building?

3 A. No.

4 Q. Other than signing that -- other than having the
5 building in your name, did you have any involvement with
6 the operation of the building?

7 A. None whatsoever.

8 Q. At any time in which this building was in your name,
9 did you receive any monies from Mr. DiBlasio?

10 A. Not at all, I did not.

11 Q. You indicated that you and your wife asked Mr.
12 DiBlasio to take the billing out of your name at some
13 point; is that correct?

14 A. That's correct.

15 Q. When that happened, did you receive any money as a
16 result of the sale of the building?

17 A. Absolutely not. In fact, I didn't know when the
18 building was sold until just recently in the witness room.
19 I found out who the man was that took over the building for
20 me.

21 Q. Prior to that --

22 A. I never knew who it was.

23 Q. At the time that the building was sold, did it have
24 any tax effects on you?

25 A. Yes, it did.

Jeran - Cross

1 Q. Could you explain that, please?

2 A. Each year, I would receive from Henry DiBlasio,
3 Attorney DiBlasio, a list of all of the expenses for the
4 building, any money that was spent on the building, and
5 when I filled out my IRS statements, why, I took it to a
6 CPA, and I gave it to him, and he, of course, did whatever
7 was necessary to fill out the forms. When the building was
8 sold, the CPA told me that IRS wants \$5 or \$6,000 from the
9 sale of the building. So I went to Attorney DiBlasio, and
10 I said to him, I said, you're going to have to come up with
11 this money because this is what they want.

12 He wrote me a check for that amount, and of course, I
13 used that as part of the payment that I owed to IRS taxes.

14 Q. Other than receiving that \$6,000 to cover the taxes,
15 did you receive any money from Mr. DiBlasio?

16 A. At no time.

17 MR. KALL: Just a moment.

18 No further questions, your Honor.

19 THE COURT: Congressman, you may inquire.

20 CROSS-EXAMINATION OF RICHARD JERAN

21 BY MR. TRAFICANT:

22 Q. Good morning, Richard.

23 A. Good morning, Jim.

24 Q. How are you doing?

25 A. Fine, thank you. How are you?

Jeran - Cross

1 Q. I could do better. Good to see you.

2 The Government asked you a number of questions. In
3 the beginning, you evidently had conversation with Henry
4 DiBlasio?

5 A. Yes.

6 Q. Relative to the status of ownership of this building;
7 is that correct?

8 A. That's correct.

9 Q. Okay. Now, when you discussed that with Mr.
10 DiBlasio, did he and you discuss the fact that there were
11 certain Government rules and regulations that had to be
12 met?

13 A. Yes. The only thing I understood was that he could
14 not own the building if he was going to be on his staff and
15 receive rental payments for that building.

16 Q. And when this conversation came about, was it about
17 the time I was elected, is that --

18 A. Pardon me?

19 Q. When this conversation occurred or these types of
20 conversations were happening, is that when I had been
21 elected Congressman for the first time?

22 A. Yes, that's correct.

23 Q. Yes. And then did Henry DiBlasio confer with you
24 that he had called the House Ethics Committee and discussed
25 this with the Government authority?

- 1 A. I don't recall that.
- 2 Q. Did you ever ask him that?
- 3 A. No, so --
- 4 Q. So Mr. DiBlasio says I can't have it in my name,
- 5 you're my friend, and I have to put it in somebody's name,
- 6 will you participate, will you do this?
- 7 A. That's correct.
- 8 Q. And you did have reservations?
- 9 A. Yes, I did.
- 10 Q. Did you go forward finally because of your past
- 11 relationship with Mr. DiBlasio and your reputation of him
- 12 and, in fact, he represented you?
- 13 A. He was a trusted friend.
- 14 Q. He was a trusted friend?
- 15 A. Yes.
- 16 Q. Okay. So then you not only signed it, you agreed to
- 17 have your wife sign it?
- 18 A. Right.
- 19 Q. And you understood from the beginning that you would
- 20 not be getting any money; is that correct?
- 21 A. That's correct.
- 22 Q. And you didn't ask for any money, did you?
- 23 A. No, I did not.
- 24 Q. And you did this as a courtesy for him to meet the
- 25 rules and regulations that he was subjected to; is that

Jeran - Cross

1 correct?

2 A. That's correct.

3 Q. Okay. And at some particular point, the building was
4 sold; is that correct? No, at some particular point, you
5 said you wanted your name off?

6 A. That's correct.

7 Q. Is that about the time the building was sold to
8 someone else?

9 A. Well, as I recall -- and I don't recall the exact
10 date -- I went to him, and I said we want our name off the
11 building, and there was no two ways about it. He knew how
12 I felt about it, and he made arrangements to get someone
13 else to put their name on the billing.

14 Q. But did he ever, you know, contest that, or did you
15 have any arguments or anything?

16 A. No, no.

17 Q. And was he completely agreeable to do that for you?

18 A. Yes.

19 Q. Yes. All right.

20 Were there not, in fact, times you came in early in
21 the morning I'd be there washing my car?

22 A. Right.

23 Q. Were there times when I --

24 A. Or I'd be washing my car.

25 Q. Yes, I was just going to say. And was there times I

- 1 even washed your car?
- 2 A. Well, I don't remember that.
- 3 Q. Were there times you washed my car?
- 4 A. Yes, there were times.
- 5 Q. But, it was very early in the morning, wasn't it?
- 6 A. Yes.
- 7 Q. And was it not a fact Mr. DiBlasio as well was there
- 8 as well?
- 9 A. I don't know. I don't recall. He may have been
- 10 there.
- 11 Q. Okay. But normally, Mr. DiBlasio and I would meet
- 12 when I was in town on the weekends to the best of your
- 13 knowledge when you were there?
- 14 A. To the best of my knowledge.
- 15 Q. Okay.
- 16 You and Mr. DiBlasio still friends?
- 17 A. I have not had any contact with Mr. DiBlasio for
- 18 years and years and years.
- 19 Q. Was there a falling out?
- 20 A. No, it just happened. Once I was out of the
- 21 building, and that was the end of it. We didn't have too
- 22 much in common.
- 23 Q. You didn't have all that much in common other than
- 24 the fact he previously had represented you, right?
- 25 A. That's correct.

Jeran - Cross

- 1 Q. Okay.
- 2 Now, at some particular point you were notified by
- 3 the Internal Revenue Service, hey, Buddy, you owe us some
- 4 money?
- 5 A. That's right.
- 6 Q. You were involved in a transaction with a piece of
- 7 property here, and you owe us -- what is it? -- \$6,000?
- 8 A. I think it was \$5 or \$6,000, I don't recall exactly.
- 9 Q. And what, if anything, did you do? Did you confer
- 10 with your wife?
- 11 A. Pardon me?
- 12 Q. Did you confer with your wife at that time?
- 13 A. Yes, I told her.
- 14 Q. And what did you two decide to do?
- 15 A. At that time, I told her I was going to go see
- 16 Attorney DiBlasio and tell him he had to come up with that
- 17 money.
- 18 Q. Okay. And did you go see Mr. DiBlasio?
- 19 A. Yes, I did.
- 20 Q. Was there any reservation on Mr. DiBlasio's part to
- 21 pay the taxes?
- 22 A. No.
- 23 Q. Did he pay the taxes?
- 24 A. Yes, he did.
- 25 Q. Did he write the check to you?

Jeran - Cross

1 A. He wrote the check to me.

2 Q. Okay.

3 Did you, in fact, then go back to your CPA and let
4 him know that, in fact, this transaction had occurred?

5 A. I don't recall. The forms were already made out, and
6 I showed Attorney DiBlasio the forms, and so that he knew
7 exactly where I was coming from.

8 Q. Okay.

9 But, in any regard, at some point, you -- you recall
10 if it was you or your CPA that sent the money and the forms
11 to the Internal Revenue Service?

12 A. I sent them in.

13 Q. You sent them yourself.

14 Was this any return from the Internal Revenue Service
15 relative to that action?

16 A. I don't recall.

17 Q. Well, did they call you on the phone and -- or did
18 they write you any further letters regarding that?

19 A. No.

20 Q. Was the matter as far as that was concerned moot and
21 dead?

22 A. Yes, it was.

23 Q. Okay. Now, having said that and when you went to Mr.
24 DiBlasio, was he courteous?

25 A. Yes. I was a little upset that he had to come up

Jeran - Cross

1 with the money, but he agreed.

2 Q. I mean, you didn't want to see him have to pay the
3 money, did you?

4 A. No, I didn't want to see it. I didn't want to pay
5 the money, and I was unhappy he had to pay the money, but
6 that's what the IRS wanted.

7 Q. Well, there was a legal obligation, and you had
8 agreed to sign on into an agreement of ownership; is that
9 correct? Was it in the form of a trust, or was it just in
10 you and your wife's name?

11 A. In my -- me and my wife's name.

12 Q. So you were technically the owners?

13 A. That's right.

14 Q. But you understood from the beginning that you would
15 have no financial responsibilities?

16 A. That's correct.

17 Q. You would not have to pay the utilities?

18 A. Right.

19 Q. You would not be liable for any accidents, damages,
20 or repairs?

21 A. That's right.

22 Q. You had insurance and protections to that effect?

23 A. I don't know. Henry handled everything.

24 Q. Okay.

25 A. As far as the insurance on the building or any --

Jeran - Cross

- 1 anything else referring --
- 2 Q. But you had use of the building, did you not?
- 3 A. Yes, I did.
- 4 Q. And you would come in and, for example, wash your
- 5 car?
- 6 A. Right.
- 7 Q. Or you might make repairs on the car?
- 8 A. Well, I don't know about --
- 9 Q. Or whatever, minor things on your car. You would do
- 10 that, wouldn't you?
- 11 A. Sure.
- 12 Q. And you had access to the rooms where you could get
- 13 the materials you needed to do whatever you wanted to do?
- 14 A. That's true. I had a key to the building.
- 15 Q. Yeah.
- 16 And you could come and go as you please?
- 17 A. That's correct.
- 18 Q. And no one ever stopped you?
- 19 A. No.
- 20 Q. Do you know that I maintained an office there?
- 21 A. Yes, I do.
- 22 Q. But you were concerned about the propriety of this,
- 23 was that your concern, how it looked, how it appeared?
- 24 A. Yes.
- 25 Q. Okay. And at some point, you said look, why don't

Jeran - Cross

1 you get somebody else? Was that about the way it was?

2 A. That's the way it was.

3 Q. Okay. And there was no objection to that?

4 A. No.

5 Q. Okay.

6 Did Henry DiBlasio ever threaten you in any way?

7 A. No.

8 Q. Did he try to intimidate you to keep you on?

9 A. No. In fact, he wrote me a letter, and he thanked me
10 for our having our name on the billing after we decided
11 that we no longer wanted it on the building.

12 Q. But when you first started, he assured you that he
13 had made some calls relative to ownership of the building;
14 is that correct?

15 A. Explain that.

16 Q. Well, when you first got this thing started, when it
17 generated in the beginning, he explained he couldn't own
18 it, right?

19 A. Right.

20 Q. There were some rules?

21 A. Right.

22 Q. And that's why he then asked you if you would then
23 put the building in your name to satisfy the requirements
24 that he had to meet?

25 A. That's correct.

Jeran - Cross

- 1 Q. And you went willingly and knowingly at that point?
- 2 A. Reluctantly.
- 3 Q. Went along, even though it was reluctant?
- 4 A. Right.
- 5 Q. But at some point, you and your wife had a discussion
- 6 about the reluctance. Is that a correct statement?
- 7 A. We both felt uncomfortable from the very beginning.
- 8 Q. Okay. But at some point, you came to a decision?
- 9 A. That's correct.
- 10 Q. And what was that decision?
- 11 A. We no longer wanted our name associated with the
- 12 building.
- 13 Q. But I'm talking now about the beginning. You were
- 14 also a little bit -- you said reluctant at the beginning
- 15 when he first talked to you, were you not?
- 16 A. Yes.
- 17 Q. And at that time, I assume you conferred with your
- 18 wife?
- 19 A. Yes, I did.
- 20 Q. And did you two discuss this reluctance?
- 21 A. Yes, we did, and I said look, he's -- I've known
- 22 Henry since 1959, he's a personal friend, and I'm going to
- 23 do this as a favor for him.
- 24 Q. And your wife agreed?
- 25 A. Right.

Jeran - Recross

1 Q. And you -- you did this as a favor for him?

2 A. That's correct.

3 Q. And you expected nothing?

4 A. That's correct.

5 Q. And you were promised nothing?

6 A. Right.

7 MR. TRAFICANT: No further questions.

8 THE COURT: Thank you.

9 REDIRECT EXAMINATION OF RICHARD JERAN

10 BY MR. KALL:

11 Q. Mr. Jeran, aside from what was written on this piece
12 of paper, Exhibit 1-11, who was at all times the real true
13 beneficial owner of the property at 11 Overhill?

14 A. Would you repeat that?

15 Q. Setting aside what may be written on this piece of
16 paper, who was the true beneficial owner of the building at
17 11 Overhill?

18 A. Attorney DiBlasio.

19 MR. KALL: No further questions.

20 THE COURT: Thank you.

21 RECROSS-EXAMINATION OF RICHARD JERAN

22 BY MR. TRAFICANT:

23 Q. You have that document in front of you, Mr. Jeran?

24 A. Which one is that, sir?

25 Q. Exhibit 1-11?

Chuirazzi - Direct/Kall

- 1 A. Yes.
- 2 Q. You're not a lawyer, are you?
- 3 A. No, sir, I'm not.
- 4 Q. Can I look at that -- can we look at that together?
- 5 A. Yes.
- 6 Q. Who on this document is listed?
- 7 A. Me and my wife.
- 8 Q. And did you know when you signed that you would be
- 9 listed as the owner of that building?
- 10 A. Yes.
- 11 MR. TRAFICANT: Thank you, Richard. No
- 12 further questions.
- 13 MR. KALL: We have nothing further for this
- 14 witness, your Honor.
- 15 THE COURT: Sir, thank you very much. You
- 16 may step down.
- 17 THE WITNESS: Thank you.
- 18 MR. KALL: Government calls Nicholas
- 19 Chuirazzi.
- 20 THE COURT: Thank you
- 21
- 22
- 23
- 24
- 25

Chuirazzi - Direct/Kall

1 NICHOLAS CHUIRAZZI,
2 of lawful age, a witness called by the NICHOLAS CHUIRAZZI,
3 being first duly sworn, was examined
4 and testified as follows:

5 DIRECT EXAMINATION OF NICHOLAS CHUIRAZZI.

6 THE COURT: Will you speak up loudly so
7 everyone can hear you?

8 THE WITNESS: Okay

9 BY MR. KALL:

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

12 A. My name is Nicholas Chuirazzi, C-H-U-I-R-A-Z-Z-I.

13 Q. Do you normally go by a nickname?

14 A. Yes, Gigs G-I-G-S.

15 MR. TRAFICANT: Pardon? I didn't hear that.

16 THE WITNESS: Gigs, G-I-G-S.

17 Q. Mr. Chuirazzi, what do you do for a living?

18 A. I was -- my last occupation was a trucking business
19 for the last 25, 30 years.

20 Q. What are you doing now?

21 A. I'm retired.

22 Q. Do you know a man by the name of Henry DiBlasio?

23 A. Yes, I do.

24 Q. How did you come to meet Mr. DiBlasio?

25 A. Mr. DiBlasio was an attorney for the company I was

Chuirazzi - Direct/Kall

1 working for, which was Santizzi Trucking Company.

2 Q. Approximately when did you meet him?

3 A. About in the middle 70's, to late 70's.

4 Q. Mr. Chuirazzi, are you familiar with a company called
5 Trumbull Land Company?

6 A. Yes, I do.

7 Q. What is it?

8 A. It's a licensed company that was set up to run a
9 rental deal for an office for Overhill Avenue.

10 Q. When was that set up?

11 A. In approximately early 90's.

12 Q. Who set it up?

13 A. Henry DiBlasio.

14 Q. What was your role, if any, with Trumbull Land
15 Company?

16 A. Only thing I was supposed to be president of the
17 company, and that's all I did.

18 Q. As president of this company, what involvement did
19 you have in this operation?

20 A. Nothing.

21 Q. When did Mr. DiBlasio ask you to get involved with
22 Trumbull Land Company?

23 A. It was in the early 90's, sir. It was that date, I
24 know.

25 Q. Did he tell you why he wanted you to become involved?

Chuirazzi - Direct/Kall

1 A. He said that he was right in an office where
2 Mr. Traficant was, and he could not be the owner of the
3 building to rent -- to collect the rent from. And he asked
4 me if he would -- if I would take the responsibility of
5 renting -- having this rental go through Trumbull Land
6 Company.

7 Q. If you look down in front of you, there is a number
8 of pieces of paper. You find one labeled Government's
9 Exhibit 1-12 on the yellow sticker?

10 A. Yes.

11 Q. Do you recognize this document?

12 A. No, I don't.

13 Q. There's an address listed on there of 357 Warren
14 Avenue, Southeast. Do you recognize that address?

15 A. Yes, that's my home address.

16 MR. TRAFICANT: Excuse me. What was that
17 address?

18 THE WITNESS: 3571 Warren Avenue, Vienna,
19 Ohio, 44473.

20 Q. Do you see the company named Trumbull Land Company on
21 there, just above the address?

22 A. Yes, I do.

23 Q. When?

24 THE COURT: Excuse me. Excuse me, would you
25 state the town again for the reporter so she --

Chuirazzi - Direct/Kall

1 A JUROR: V-I-E-N-N-A.

2 MR. TRAFICANT: Excuse me, your Honor. Would
3 the -- would the Prosecutor speak up a little bit too so I
4 can hear the questions?

5 THE COURT: Thank you.

6 BY MR. KALL:

7 Q. You were president of Trumbull Land Company, correct?

8 A. Yes, sir.

9 Q. But you're stating you never saw this document?

10 A. No, I didn't.

11 Q. From the time period -- well, this document is dated
12 January 31, 1992, correct?

13 A. Yes, it is.

14 Q. From that time forward, do you know how long Trumbull
15 Land Company owned the building at 11 Overhill?

16 A. No, I didn't know.

17 Q. Do you know whether the building at 11 Overhill was
18 transferred out of the name of the Trumbull Land Company?

19 A. I do now, but I didn't at that time.

20 Q. How do you know now?

21 A. Because when I was -- had a visit by FBI, they had
22 told me it was sold, that he was investigating me.

23 Q. Prior to the time that that happened, did you have
24 any involvement in the operation of 11 Overhill?

25 A. No, I didn't.

Chuirazzi - Direct/Kall

1 Q. Who negotiated the leases for 11 Overhill?

2 A. Mr. DiBlasio.

3 Q. Who collected the rent for 11 Overhill?

4 A. Mr. DiBlasio.

5 Q. Who paid the utilities on 11 Overhill?

6 A. Mr. DiBlasio.

7 Q. Did Trumbull Land Company, to your knowledge, ever
8 receive any money as a result of its owning the building on
9 paper at 11 Overhill?

10 A. No, sir.

11 Q. I'm going to ask you to turn to Exhibit 1-17. Do you
12 recognize this document?

13 A. No, I don't.

14 MR. TRAFICANT: What document is that?

15 MR. KALL: Government's Exhibit 1-17.

16 Q. The name Trumbull Land Company and the address 357
17 Warren Avenue Southeast appears on this document, correct?

18 A. Yes, it does.

19 Q. Did you ever see this document prior to the
20 investigation beginning?

21 A. No, sir.

22 Q. Did you ever receive any funds from the United States
23 House of Representatives for rent on the building?

24 A. No, I never did.

25 Q. Did you ever see any payments for utilities from the

Chuirazzi - Direct/Kall

1 House of Representatives for the building?

2 A. No, I didn't.

3 Q. Did you ever get any paperwork in the mail at your
4 home at 357 Warren Avenue about the building at 11
5 Overhill?

6 A. When it was first opened, the first couple checks
7 came to my house, and I was brought right from the same
8 envelopes Mr. DiBlasio's office, never opened them up, and
9 I told him at that time, he had told me that everything
10 would be mailed right to his office on Overhill, and about
11 after the third time, I never did see him again.

12 Q. I'll ask you to flip forward to Exhibit 1-22.

13 MR. TRAFICANT: Could we sort of slow down a
14 little bit in the questioning so I can keep up with the
15 numbers here?

16 THE COURT: Congressman, did you bring your
17 exhibits today?

18 MR. TRAFICANT: Your Honor, I don't have
19 these exhibits.

20 THE COURT: But you were given these
21 exhibits. We've been over that again and again. You need
22 to bring your exhibit books to the courthouse.

23 MR. TRAFICANT: I know that. I don't have
24 them with me. I will bring them in the future. I
25 apologize.

Chuirazzi - Direct/Kall

1 THE COURT: Thank you.

2 MR. TRAFICANT: I just ask maybe we can slow
3 the questions down so that even though if I had the
4 exhibits, I could prepare some cross-examination. I'm just
5 asking for the Prosecutor to maybe slow down his
6 questioning so I can hear him.

7 THE COURT: Right. But, we also need the
8 trial to go forward in an orderly way, and if you had your
9 exhibits, we wouldn't need to slow it down.

10 MR. TRAFICANT: I agree and apologize.

11 BY MR. KALL:

12 Q. Do you have Exhibit 1-22 in front of you now?

13 A. Yes, I do.

14 Q. If you'd take it out of the plastic from the top, and
15 turn to the second page of that exhibit, do you see a line
16 on the second page that says "Trumbull Land Company by
17 Nicholas Chuirazzi, President"?

18 A. Yes, I do.

19 Q. Is that your signature on that line?

20 A. No, it isn't.

21 Q. Did you ever sign any paperwork involving the
22 building?

23 A. No, I didn't.

24 Q. Can you explain how your -- what purports to be your
25 signature came to appear on this document?

Chuirazzi - Cross

1 A. I didn't sign it. What I thought it was the power of
2 attorney to Mr. DiBlasio, he was going to sign all the
3 papers, that was what he was, he had told me, he was going
4 to do.

5 Q. This document purports to transfer the building to a
6 Kimberly A. Sinclair. Did you receive any money as a
7 result of this transfer?

8 A. No, I didn't.

9 Q. Did you even know at the time that this document was
10 dated that the building was sold?

11 A. No, I didn't.

12 Q. Do you know who handled the details of the building
13 sale?

14 A. No, I don't.

15 MR. KALL: Just a moment, your Honor. No
16 further questions at this time.

17 THE COURT: Thank you. Congressman

18 CROSS-EXAMINATION OF NICHOLAS CHUIRAZZI

19 BY MR. TRAFICANT:

20 Q. Good morning, Mr. Chuirazzi.

21 A. Good morning.

22 Q. Could I call you Gigs?

23 A. Yes, you could.

24 Q. Do we know each other?

25 A. No.

Chuirazzi - Cross

- 1 Q. Have we ever previously met?
- 2 A. No, we never did.
- 3 Q. You were in the trucking business?
- 4 A. Yes, I am.
- 5 Q. My dad was a trucker. Did he work for you?
- 6 A. No, he didn't.
- 7 Q. You work for the Santizzi Corporation?
- 8 A. Yes, I did.
- 9 Q. And that's where you met Attorney DiBlasio?
- 10 A. Yes.
- 11 Q. Could you describe what Mr. DiBlasio did for the
- 12 Santizzi Corporation?
- 13 A. He did all of their legal paperwork, leases, anything
- 14 that had to be legal papers had to go through Henry
- 15 DiBlasio.
- 16 Q. Was the company satisfied with Mr. DiBlasio, to the
- 17 best of your knowledge?
- 18 A. Pardon? I didn't hear you?
- 19 Q. Was the company satisfied to the best of your
- 20 knowledge --
- 21 A. Yes.
- 22 Q. -- with his services?
- 23 A. Yes, it was.
- 24 Q. Did you ever have occasion to talk with him while he
- 25 was their attorney?

Chuirazzi - Cross

- 1 A. Yes.
- 2 Q. Did he ever represent you in any matters that you
- 3 had?
- 4 A. Personally?
- 5 Q. Yes.
- 6 A. No.
- 7 Q. Did you ever ask him for legal advice on any
- 8 occasions?
- 9 A. Not for personal, no, just strictly always the
- 10 business.
- 11 Q. Always business?
- 12 A. Yes.
- 13 Q. Would you consider yourself to be a friend of Mr.
- 14 DiBlasio?
- 15 A. Well, you knew people that long, you could be a
- 16 friend, yes.
- 17 Q. You knew him how many years?
- 18 A. I would say approximately 20 years maybe.
- 19 Q. Had Mr. DiBlasio ever done anything that made you
- 20 suspect him to be of an untrustworthy nature?
- 21 A. No, not that I know of.
- 22 Q. Now, there come a time when Mr. DiBlasio came to you
- 23 and said that he had a situation involving ownership of the
- 24 building, 11 Overhill Road; is that correct?
- 25 A. Yes.

Chuirazzi - Cross

1 Q. And you recall that conversation?

2 A. He told me he'd like to know if I would do him a
3 favor by having that property, that he would put it into a
4 land company so that actually when -- that he would be able
5 to still be able to cut the rent for the building that he
6 was renting to the House of Representatives.

7 Q. Did he say there were certain rules and regulations
8 that prevented him from having his name on it, do you
9 recall that?

10 A. The only thing he said, him being a Representative,
11 that he could not have it in his name.

12 Q. I see. So you at that point then engaged in
13 conversation relative to whether or not you would become a
14 part of Trumbull Land Company?

15 A. I didn't follow your question.

16 Q. You at that point then were asked to become a part of
17 what was to become known as Trumbull Land Company?

18 A. Yes.

19 Q. And did you have reservations?

20 A. Reservations?

21 Q. Yes.

22 A. No.

23 Q. No? You trusted Mr. DiBlasio?

24 A. Yes, I did.

25 Q. You knew the situation he was in?

Chuirazzi - Cross

1 A. Oh, yes, I did, yes, but he had told me at that time
2 that it was something that was okay through the Government,
3 and that he was told that he could do it that way?

4 Q. So you had no worries or concerns at that point?

5 A. No, I didn't.

6 Q. And you willfully and knowingly and with complete
7 cognizance and intent, you went forward?

8 A. Yes.

9 Q. So you became known as the President of Trumbull Land
10 Company?

11 A. Yes.

12 Q. And you signed your name to that effect?

13 A. Only thing I ever signed was a power of attorney.

14 Q. So you signed the power of attorney that empowered
15 Mr. DiBlasio to conduct the business?

16 A. I signed my name, yes.

17 Q. You empowered Mr. DiBlasio to collect the rent?

18 A. Yes.

19 Q. You empowered Mr. DiBlasio to operate and manage the
20 building?

21 A. Yes.

22 Q. You empowered Mr. DiBlasio to make any decisions
23 relative to 11 Overhill Avenue?

24 A. Well, meaning he never asked me for any decision. He
25 went ahead and done what I asked him.

Chuirazzi - Cross

- 1 Q. But you gave him the authority to do that?
- 2 A. Well, that piece of paper means that, yes.
- 3 Q. Yes. And you also empowered him through your power
- 4 of attorney to even sign your name; is that correct?
- 5 A. Yes.
- 6 Q. Now, when you came to find out there was a sale of
- 7 the building, how did you come to find that out?
- 8 A. It was when I was being asked to investigate, come
- 9 down and visit me about the situation, the year of 2000.
- 10 Q. And who came to you?
- 11 A. Federal agent.
- 12 Q. Do you remember the name of that agent?
- 13 A. Householder.
- 14 Q. Okay.
- 15 You know if he happens to be in the room here?
- 16 A. Not that I know of, no.
- 17 Q. Would you remember him if you would see him?
- 18 A. Probably not because I only seen him within the time,
- 19 probably not.
- 20 Q. Do you know if he took notes?
- 21 A. Yes, he did.
- 22 Q. Did he ask to audio or videotape your conversation?
- 23 A. No, he didn't. He was listening.
- 24 Q. Did he state who and what he was investigating?
- 25 A. Yes.

Chuirazzi - Cross

- 1 Q. And what was he investigating?
- 2 A. He was investigating Mr. Traficant.
- 3 Q. He was investigating Mr. Traficant?
- 4 A. Yes. And he asked me if I knew anything about a
- 5 Trumbull Land Company.
- 6 Q. And then were you asked a series of questions about
- 7 whether or not Jim Traficant was involved with anything to
- 8 do with Trumbull Land Company?
- 9 A. No. Only thing he ever asked me was if I knew of a B
- 10 and T Trucking Company, and I told him only thing I knew
- 11 was the name, and they weren't in the same kind of business
- 12 I was in in trucking.
- 13 Q. Okay. So he said he was not there investigating Mr.
- 14 DiBlasio?
- 15 A. He was investigating Trumbull Land Company.
- 16 Q. In regards to?
- 17 A. The rental of Trumbull Land Company.
- 18 Q. As it related to?
- 19 A. You.
- 20 Q. Jim Traficant. So clearly, you knew at that point
- 21 that I was their target; is that correct?
- 22 A. Well, I guess.
- 23 Q. Was that a yes?
- 24 A. I guess, yes.
- 25 Q. Okay.

Chuirazzi - Cross

1 Now, you said you came to learn at some point that
2 the property was sold?

3 A. Yes.

4 Q. How did you come to -- and you learned that from the
5 FBI agent, right?

6 A. Yes, that it was sold, yes.

7 Q. Who did the FBI agent tell you bought the property?

8 A. He didn't tell me. He did not tell me.

9 Q. Okay. When did you find out who bought the property,
10 if, in fact, you did ever find out?

11 A. Well, by reading it in the paper.

12 Q. What did you find out through the paper?

13 A. Just that there was a Sinclair had bought it.

14 Q. Pardon?

15 A. That a Sinclair -- someone Sinclair bought the
16 property.

17 Q. Do you know who the Sinclairs were?

18 A. No, I don't.

19 Q. Do you know if they were law associates of Attorney
20 DiBlasio?

21 A. They were in the same building, yes.

22 Q. And you knew they were law partners?

23 A. Well, that I did not know, but he was in the same
24 building.

25 Q. Okay. And that who, to the best of your knowledge,

Chuirazzi - Cross

1 owned the building after Mr. DiBlasio owned the building?

2 A. To my knowledge, it was the Sinclairs.

3 Q. You say the Sinclairs?

4 A. Yes, or Sinclair period.

5 Q. Did they say man, woman, boy, whom?

6 A. They said a woman.

7 Q. Said a woman?

8 A. Yes.

9 Q. Do you know who the woman was?

10 A. No. I didn't know it, but I found out later who it
11 was.

12 Q. Well, what did you learn, come out to find out later?

13 A. I didn't follow you there.

14 Q. What did you learn?

15 MR. KALL: Objection.

16 Q. What did you find out later who the woman really was?

17 A. When did I find out?

18 Q. Yes.

19 MR. KALL: Objection.

20 THE COURT: Overruled. You can answer.

21 THE WITNESS: I read it here in the
22 newspaper.

23 Q. You read it in the newspaper?

24 A. Yeah.

25 Q. When you read the name, you recall having read what

Chuirazzi - Cross

1 the name was?

2 A. No, I don't.

3 Q. You just knew it was Mrs. Sinclair?

4 A. I think it said Linda Sinclair.

5 Q. You thought it was Linda?

6 A. Yeah, I think.

7 Q. Okay.

8 But the last name was Sinclair?

9 A. Sinclair, yes.

10 Q. Did it say anything in the paper that she was related
11 to the associate in Henry DiBlasio's law office?

12 THE COURT: Sustained. You can't -- you
13 can't ask a question that way. You are providing the
14 answer to the witness.

15 Q. Okay. When you read the article, did you come to
16 learn anything else about Mrs. Sinclair?

17 A. No, I didn't.

18 MR. KALL: Objection.

19 THE COURT: Overruled.

20 THE WITNESS: No, I didn't.

21 Q. Okay.

22 Did you come at any time to learn of the relationship
23 of this Mrs. Sinclair to anyone in Henry DiBlasio's office?

24 A. No.

25 Q. Okay. So right now, you don't know who or what she

Chuirazzi - Cross

1 is?

2 A. Only thing I know that she is -- from what I read,
3 she is the husband of Attorney Sinclair, and anybody in
4 DiBlasio's office, no, I don't.

5 Q. Was Mr. Sinclair in DiBlasio's office?

6 A. He's in the same building.

7 Q. Same building?

8 A. Yes.

9 Q. And you're saying you come to find out that she was
10 the wife of Mr. Sinclair?

11 A. Yes.

12 Q. Yeah. Now, my question was, where did you find that
13 out?

14 A. Where did I find out?

15 Q. Yeah.

16 A. I found out by reading about it.

17 Q. Okay.

18 A. That's what I said before.

19 Q. Maybe that's where we got confused.

20 THE COURT: That's the problem because that's
21 not personal knowledge, and that's why they're concerned
22 about it.

23 MR. TRAFICANT: Okay.

24 THE COURT: Okay? A witness has to testify
25 from his own knowledge, and I think that's maybe a fairer

Chuirazzi - Cross

1 explanation of how the rules work with witnesses. They
2 have to have personal knowledge so that they can be tested.
3 Reading something in a newspaper doesn't add up to personal
4 knowledge. They now have information, but they weren't
5 there, they didn't see it, firsthand knowledge, okay.

6 MR. TRAFICANT: On the rephrasing of my
7 question, you didn't overrule that objection and allow the
8 question?

9 THE COURT: Well, I'm not going to allow you
10 to go any further with this because it's apparent that what
11 you're tapping in this witness is something that they have
12 the right to object to, which is that he doesn't -- he
13 hasn't shown any personal knowledge of this, so --

14 MR. TRAFICANT: But you allowed his last
15 answer to stand; is that correct?

16 THE COURT: This is precisely the kind of
17 discussion we should have off the record to clarify this
18 rule, but I think -- I think what we ought to do now is
19 move on to something else instead of taking up the jury's
20 time --

21 MR. TRAFICANT: All right.

22 THE COURT: -- with this issue.

23 BY MR. TRAFICANT:

24 Q. You still consider yourself a friend of Henry
25 DiBlasio?

Chuirazzi - Cross

- 1 A. Well, how -- what was your definition of a friend?
- 2 Q. Well, you like him or not like him?
- 3 A. Well, my definition of friend is someone you know and
- 4 run along. A friend is someone that you know that you do
- 5 things with.
- 6 Q. All the time, though?
- 7 A. Yes. Henry was just a friend that I knew because of
- 8 a business.
- 9 Q. Society of associate friend?
- 10 A. Right, because --
- 11 Q. You still consider him to be sort of associate
- 12 friend?
- 13 A. Well, I guess if I see him, I'd say hello to him.
- 14 Q. Do you harbor any ill feelings toward him?
- 15 A. No, I don't. I never have hard feelings against
- 16 anybody. That's the way my life is. I probably if I had
- 17 hard feelings, I probably wouldn't be here today.
- 18 Q. Now, when the FBI interviewed you, did they ask you
- 19 any questions about the new owner, Mrs. Sinclair?
- 20 A. No, he didn't.
- 21 Q. Did the FBI intimate to you or lead you to believe
- 22 that this was a fraudulent activity?
- 23 A. No, he didn't.
- 24 Q. Now, you said the first checks came to your house,
- 25 was that correct?

Chuirazzi - Cross

1 A. Yes, I did.

2 Q. And was it your testimony that you called Mr.
3 DiBlasio about that?

4 A. I got the check, was still in the envelope, unsealed,
5 brought it to his office and left it there to him.

6 Q. And what, if anything, did you say to him at that
7 time?

8 A. I didn't see him. I left it there to a girl. The
9 second check came. I brought it there. Then I told him
10 that he had told me that there would be no correspondence
11 of any mail coming to my house. And he said he would take
12 it and write a letter to, I guess, Washington to tell them
13 to mail it directly to his office, and I -- that was the
14 last I seen it.

15 Q. Did you object to the fact that it was not going to
16 go to your house anymore?

17 A. I didn't want it to.

18 Q. So you told him that?

19 A. Yes.

20 Q. And he agreed to that?

21 A. Yes.

22 Q. When you entered into this agreement, was there any
23 understanding you were going to get any money out of this?

24 A. At no time at all did he ever say I would get any
25 money, and I never asked for any money.

Whitehead - Direct/Smith

1 Q. You simply did this as a favor for -- what you
2 considered to not call associate?

3 A. Yes. Just a favor, yes.

4 Q. Thank you, Gigs?

5 A. You're welcome.

6 MR. TRAFICANT: No further questions.

7 MR. KALL: No further questions, your Honor.

8 THE COURT: Sir, thank you. You can step
9 down.

10 THE WITNESS: Thank you.

11 MR. SMITH: Christopher Whitehead, your
12 Honor.

13 THE COURT: Okay.

14 MR. KALL: Your Honor, may I grab the
15 exhibits?

16 THE COURT: Yes.

17 MR. KALL: Thank you.

18 CHRISTOPHER WHITEHEAD

19 of lawful age, a witness called by the CHRISTOPHER
20 WHITEHEAD,

21 being first duly sworn, was examined

22 and testified as follows:

23 DIRECT EXAMINATION OF CHRISTOPHER WHITEHEAD

24 BY MR. SMITH:

25 Q. Sir, would you please state your full name, and spell

Whitehead - Direct/Smith

1 your last name for the Court Reporter?

2 A. Christopher S. Whitehead, last name
3 W-H-I-T-E-H-E-A-D.

4 Q. Where do you live now, sir?

5 A. New Jersey.

6 Q. And what do you do for a living?

7 A. I work for AT&T.

8 Q. What do you do there?

9 A. I am a manager AT&T in marketing, marketing analyst.

10 Q. During the time period 1989 to 1994, were you
11 employed in that time period?

12 A. Yes.

13 Q. Where did you work?

14 A. For Congressman Traficant.

15 Q. And at what location did you work for Congressman
16 Traficant?

17 A. I worked in his Washington office.

18 Q. And were you a full or a part-time employee?

19 A. I was full-time for probably three out of the five
20 years that I worked with Congressman Traficant. I was
21 part-time -- I went to school part-time for two years.

22 Q. During your full-time employment, how many hours was
23 that?

24 A. Probably 40 to 50 hours a week.

25 Q. And during your part-time employment, how many hours

Whitehead - Direct/Smith

1 a week was that?

2 A. Probably 30.

3 Q. At what school were you attending during the time you
4 were part-time?

5 A. University of Maryland, outside of Washington.

6 Q. What was your title as you started out with the
7 Congressman's office?

8 A. As I started out, I was legislative correspondent.

9 Q. And what duties did that entail?

10 A. That entailed responding to constituent mail.

11 Q. Did your duties ever change?

12 A. Yes. I was -- I became a legislative assistant,
13 probably a year later.

14 Q. And what duties did that position entail?

15 A. It entailed focusing on issues, business related
16 issues, such as budget, trade, social security, and other
17 issues within the Ways and Means Committee and working with
18 Congressman on those issues.

19 Q. How much contact did you have with the Youngstown
20 District Office of the Congressman?

21 A. Very little.

22 Q. So most of your time was spent in Washington?

23 A. All of my time was spent in Washington; very little
24 contact with the Youngstown office.

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

Whitehead - Direct/Smith

1 Q. Who were your supervisor or supervisors in
2 Washington, D.C.?

3 A. Wes Richard was my supervisor from 1989 to, I think,
4 early 1993. I could be wrong, and then Paul Marcone was my
5 supervisor until I left the office in 1994.

6 Q. What title did Mr. West Richards hold, if you recall?

7 A. Either office manager or chief of staff. I'm not
8 sure. He was head of the Washington office.

9 Q. How about Mr. Marcone?

10 A. Same title.

11 Q. Okay.

12 A. I'm not exactly sure on what title it was, but they
13 were -- certainly chief of staff in the Washington office.

14 Q. Was Mr. West Richards employed there the whole time
15 you worked there?

16 A. No, he wasn't. He -- he left in, I think, early
17 1993, and I continued to stay in the office until 1994.

18 Q. And who succeeded Mr. Richards in his position?

19 A. Paul Marcone.

20 Q. Did you ever have occasion to visit a boat docked in
21 the Washington D.C. area?

22 A. Yes.

23 Q. And with whom did you associate that boat?

24 A. Congressman Traficant's boat.

25 Q. And would you describe this boat.

Whitehead - Direct/Smith

1 A. It was docked off the Potomac River. He lived on the
2 boat, and he came down to Washington every week.

3 Q. What did this boat look like?

4 A. It was a white boat, about 20 to 25 feet long. It
5 had sleeping quarters inside.

6 Q. How many times did you go out to this boat?

7 A. I think I was there once.

8 Q. And what time of day was it?

9 A. It was during mid day hours.

10 Q. Was this a workday or a weekend?

11 A. It was a workday. It was a Friday, I think.

12 Q. Who, if anyone else, did you see at the boat that
13 day?

14 A. Several members from the staff, Congressman
15 Traficant, and I -- I think there were a few members from
16 the Youngstown office as well.

17 Q. All right.

18 Can you name as many of those staff members that you
19 can now recall who were there that day?

20 A. From the Washington office, it was West Richards,
21 Charles McCradden, Daniel Blair. West Richards, Jim, and I
22 don't remember Jim's last name, and there could have been a
23 few others, but that's as many as I -- I think any of the
24 male members within the Washington staff. In the
25 Youngstown staff, I think it was Chuck O'Nesti, and Anthony

Whitehead - Direct/Smith

1 Traficanti may have been there. It's difficult to
2 remember.

3 Q. What were you -- what were the group of you doing at
4 the boat that day?

5 A. I think we were touching up the boat. Myself, I
6 don't know what everybody was doing, but I know for myself,
7 I did a little bit of scraping on the side of the boat.
8 Some of the paint was chipping.

9 Q. This maintenance work on the boat that you're doing
10 basically?

11 A. Maintenance work, yeah.

12 Q. Do you know whether any of these people who worked on
13 the boat that day went out more than one day to do so?

14 A. Not sure, I'm not sure. I -- I think some of the
15 members from the Traficant -- some of the members of the
16 Youngstown office may have. I'm not sure because I wasn't
17 there for more than one day.

18 Q. This was on a workday you did this?

19 A. It was on a Friday.

20 Q. During business hours?

21 A. I worked Monday through Friday, and it was on a
22 Friday.

23 Q. During business hours?

24 A. It was afternoon, from lunch time, a couple hours,
25 maybe from lunch time to 3:00, 4:00.

Whitehead - Cross

1 MR. SMITH: Thank you. No further questions.

2 THE COURT: Congressman.

3 CROSS-EXAMINATION OF CHRISTOPHER WHITEHEAD

4 BY MR. TRAFICANT:

5 Q. Good morning, Chris.

6 A. Good morning, Jim.

7 Q. You did pretty well after working for me?

8 A. We all did. We all have.

9 Q. I hire people usually smarter than I was, didn't I?

10 A. We've gone out and done well.

11 Q. Well, it was pretty easy for me to do that, wasn't
12 it?

13 A. Yeah.

14 Q. Sorry.

15 A. I'm just nervous up here, Jim.

16 Q. Pardon?

17 A. Nothing.

18 Q. Go ahead and speak up, don't be afraid. Understand
19 I'm a target under federal investigation again.

20 A. Yes, I do.

21 Q. Now, you now live in New Jersey. Are you married by
22 the way?

23 A. I am. I have two daughters, twins.

24 Q. The names?

25 A. Emily and Rachel. They're a year old.

Whitehead - Cross

- 1 Q. Yeah?
- 2 A. Yeah.
- 3 Q. Did you meet your wife in D.C. by the way?
- 4 A. I did. I met her at the University of Maryland while
- 5 I was working for you.
- 6 Q. What degrees have you accomplished?
- 7 A. I have an undergraduate degree from Wright State
- 8 University in business, and I have an MBA, Masters in
- 9 Business from the University of Maryland that --
- 10 Q. And Wright State is in Ohio, right?
- 11 A. Dayton, Ohio.
- 12 Q. And did you contact me about working with me, or did
- 13 I contact you?
- 14 A. I contacted you, and --
- 15 Q. And how did you first get involved with me?
- 16 A. Basically, I -- when I moved to Washington, I walked
- 17 in your office, and Wes happened to be standing there, and
- 18 I handed him my resume, and he -- we talked for a few
- 19 minutes, and he took me in to see you, and we talked for
- 20 probably an hour, and you said you're hired.
- 21 Q. We were short of staff, weren't we?
- 22 A. You had two people that were leaving, yes.
- 23 Q. They were both going to school?
- 24 A. Yes.
- 25 Q. Now, you're a manager in marketing for AT&T?

Whitehead - Cross

1 A. Yes.

2 Q. Now, you -- you exclusively worked in D.C., wasn't
3 that correct?

4 A. That is correct.

5 Q. And could you describe usually, other than a hectic
6 appropriation schedule -- by that I mean when the
7 Government has to pass a bill so the courthouse can run and
8 the IRS can pay their bills, would you describe Monday and
9 Friday as usually off days?

10 A. Typically, they were. Typically, Tuesday through
11 Thursday, we worked long hours, and it was very hectic
12 while they were in session because that's when you were in
13 town.

14 Q. Did you have any knowledge how many hours a
15 congressional worker had to put in?

16 A. We put in a lot of hours.

17 Q. Did you know what the federal requirement was?

18 A. No. We worked -- we did what we had to to get the
19 job done, so, no, I -- I have no sense of when -- I mean,
20 we worked on Saturdays and Sundays when we would have to.
21 When you were in town, we were working on the weekends.

22 Q. Even some of the people that may have gone down to
23 the boat occasionally, they come in Saturday and Sunday and
24 worked, didn't they?

25 A. Yes.

Whitehead - Cross

1 Q. Did I ever force anybody to go down to the boat and
2 work?

3 A. No.

4 Q. Did people want to help me with my rundown boat?

5 A. Yes, we did.

6 Q. Did you talk about it as a staff?

7 A. Want to go help you?

8 Q. Yes.

9 A. Yes.

10 Q. Wasn't it a fact when people from the Youngstown
11 office came, that we would drive in early in the morning
12 and hit the rush hour usually Tuesday morning?

13 A. Yes.

14 Q. Now, when you hit that rush hour coming in Tuesday
15 morning on 270, and you're coming from back in the
16 Youngstown area, could it not, in fact, take up to seven to
17 eight hours just to get there?

18 A. Definitely.

19 Q. And when you leave, like if Congress adjourns on a
20 Thursday, which they many times do about 3:00 or 4:00 and
21 members start getting out of town if you're driving and you
22 hit that traffic on 495, could you not be tied up for two
23 hours before you even got out of Bucasville?

24 A. At least.

25 Q. So it would take you seven to eight hours to get

Whitehead - Cross

1 back?

2 A. Yes.

3 Q. So when people --

4 THE COURT: Oh, this is fine, except you're
5 providing all the answers, and they can't consider what
6 comes from you as evidence.

7 MR. TRAFICANT: Okay.

8 Q. How many hours would it take if you were confronted
9 with the rush hour in D.C. to get back to Youngstown?

10 A. I know if we're getting out of D.C., it could take up
11 to three or four hours, depending on the day, any day. If
12 there's an accident, it could take several hours to get
13 out. But normal rush hour traffic is heavy.

14 Q. Yes. Okay.

15 So when the people from Youngstown came down, do you
16 know who drove back and forth? Would you know?

17 A. No. When I was in the office, I would know who drove
18 you in.

19 Q. Yeah?

20 A. Because they would come in and work.

21 Q. Right.

22 A. But there were different people that drove you down
23 from the Youngstown office.

24 Q. Now, when the people came from the Youngstown office,
25 did they come into the office and work in D.C.?

Whitehead - Cross

1 A. Yes.

2 Q. Did they handle any matters between the district and
3 Washington, D.C., for example?

4 A. I think that was their function.

5 Q. Yeah.

6 To get around in Congress and to go through the
7 different security measures, must you have identification?

8 A. Yes.

9 Q. Do you know if the Youngstown people that came down
10 got those identification badges?

11 A. Yes, they did.

12 Q. And did that have to be arranged specifically and
13 approved?

14 A. Yes.

15 Q. Did someone have to take them down to, in fact, get
16 that?

17 A. Yes.

18 Q. Did they, in fact, acquire those things?

19 A. They would have to.

20 Q. They would have to, or they couldn't go anywhere,
21 could they?

22 A. That's correct. You could not get in any of the
23 areas that you needed to go.

24 Q. Now, did I get in the office early?

25 A. Everyday.

Whitehead - Cross

1 Q. Would you happen to know why I would get in the
2 office early?

3 A. You were in the office early everyday preparing for
4 what you needed to do either on the House floor or
5 amendment we were preparing or a speech you were going to
6 make.

7 Q. Was I one of the most active members of the House of
8 Representatives?

9 A. Yes.

10 Q. Was there an opening to the House of Representatives
11 had something peculiar about it?

12 A. You did the one-minute speeches everyday.

13 Q. The House -- and you can speak on -- what was -- what
14 were the rules of it?

15 A. You could speak on -- I think you could speak on any
16 issue you felt was relevant that you wanted to bring up.

17 Q. Over the period of years you were there, were you
18 involved with ways and means activities?

19 A. Yes, very much so.

20 Q. Did I make any speeches relative to the IRS at that
21 time?

22 A. Yes, many.

23 Q. Would you say at least once or twice a week?

24 A. You may have, a lot.

25 Q. And would I talk about my legislation?

Whitehead - Cross

1 A. Yes, you would.

2 Q. And what legislation was I pushing? Do you recall?

3 A. You were pushing a lot of buy American amendments,
4 you talked a lot about the IRS in setting up a council to
5 oversee the Bill of Rights for the consumer, and other --
6 many other tax related issues.

7 Q. Do you remember legislation dealing with the burden
8 of proof?

9 A. Yes, burden of proof.

10 Q. Do you recall legislation dealing with ways
11 attachments?

12 A. Yes.

13 Q. You remember legislation dealing with property liens?

14 A. Yes.

15 Q. You remember legislation that would allow taxpayers
16 to sue the IRS up to \$1 million?

17 A. Yes.

18 Q. Do you know if I passed that legislation?

19 A. I think after I left, you passed several of those,
20 I'm not sure, or you got amendments into some bills.

21 Q. Usually, my legislation -- how was usually my
22 legislative impact made in D.C.?

23 A. By banging on every other Congressman, every single
24 day until they --

25 Q. Was it through the bills that I passed or the action

Whitehead - Cross

1 on the House floor?

2 A. The action on the House floor.

3 Q. In the form of what?

4 A. One-minute speeches and speeches while the bill was
5 being discussed on the floor. Would you also be
6 involved -- you would typically be involved in that
7 discussion.

8 Q. And how would I effect a piece of legislation or
9 change a piece of legislation?

10 A. You add amendments to legislation.

11 Q. Who would draft those amendments?

12 A. Your staff would help you draft it, but typically,
13 you would give the direction on what you wanted, and we
14 would go off and work with legal counsel to draft the
15 amendment.

16 Q. Now, was the Congressman allowed to take his own
17 staff associates to the floor with him on a specific
18 amendment?

19 A. He would -- you would typically bring a staff member
20 down with you to the area right outside of where you had
21 entered the House floor.

22 Q. I had the right to bring them into the House floor,
23 did I not?

24 A. You did.

25 Q. But I did not do that, is that a fact?

Whitehead - Cross

1 A. No, you did not.

2 Q. I basically handled it myself, right?

3 A. Yes, you did.

4 Q. Were there some pretty vicious -- or the best every
5 your knowledge, you know if there were any harsh
6 conversation between myself and the Chairman of the Ways
7 and Means Committee?

8 MR. SMITH: Objection.

9 THE COURT: Let me hear the question again.

10 Q. Do you have any knowledge of there being any harsh
11 conversations or disagreements that I had with the Chairman
12 of the Ways and Means Committee, that had jurisdiction over
13 tax issues?

14 MR. SMITH: Objection.

15 THE COURT: Sustained.

16 MR. TRAFICANT: All right.

17 Q. Now, you worked part-time and full-time. Now, when
18 the part-time came, how did that develop?

19 A. I let you know that I was planning on going To
20 University of Maryland full-time, and you let me know that
21 we have a lot of work to do, and the hours -- you know,
22 we'll fit it in during the week how you get your 30 or so
23 hours out of that week, and basically, I tried to be around
24 when you were around.

25 So we were -- we were flexible in that I was able to

Whitehead - Cross

1 go to my classes, but I worked with you heavily during the
2 day, or sometimes I would stay late if you were staying
3 late to get my hours in.

4 Q. But I did not object to you going and did not require
5 you to leave the staff, did I?

6 A. Absolutely not.

7 Q. Now, when the Government interviewed you, do you
8 remember what that date was?

9 A. I do not remember the exact date.

10 Q. Was it last year?

11 A. It was early last year. I would think in the first
12 quarter, but I do not remember the exact date.

13 Q. Would there be some business dealings that people
14 would call us about, and I would ask you to look into?

15 A. Yes.

16 Q. Would I not delegate to different people different
17 issues?

18 A. Yes.

19 Q. Did I sometimes select people that I thought were
20 perhaps maybe more capable of doing one thing versus
21 another person?

22 A. Yes.

23 Q. Did I call on you a lot?

24 A. Yes, you did.

25 Q. Now, do you recall the Government or any conversation

Whitehead - Cross

1 with the Government where you told the Government that
2 people were required to work on Traficant's boat?

3 A. No.

4 Q. So, for example, if, say, someone interviewed you and
5 said you were told that you had to work on Traficant's
6 boat, would they be lying?

7 MR. SMITH: Objection.

8 THE COURT: Sustained. He just testified
9 nobody put him in that position. So that would be
10 completely hypothetical.

11 MR. TRAFICANT: I'd like a side bar.

12 THE COURT: Fine

13 (The following proceedings were held at side bar:)

14 MR. TRAFICANT: Okay. This is 302. I didn't
15 mark it.

16 THE COURT: Okay.

17 MR. TRAFICANT: I believe --

18 THE COURT: Does it have a number from you?

19 MR. MORFORD: No, it doesn't.

20 THE COURT: Okay. Have you had a chance to
21 read it?

22 MR. TRAFICANT: This is a significant point I
23 was talking about, yeah, I didn't go through the whole
24 thing, just a part that says that Whitehead recalls that he
25 and several other staff members were told to help to do

Whitehead - Cross

1 work on Traficant's boat.

2 MR. SMITH: Your Honor, this witness has
3 testified as to the circumstances under which he went out
4 there, so reading from the 302 is not impeaching, and it
5 has no impeaching values. I don't understand why he wants
6 to read from the 302.

7 MR. TRAFICANT: Objection. He said he was
8 never instructed nor anyone ever was asked to help. They
9 did it as a favor, and they wanted to help me.

10 Now, look, I do have a set of ears here.

11 MR. SMITH: So he can call the FBI agent and
12 ask him about what -- because this is the FBI agent's
13 report. This isn't Whitehead's statement. He's asked
14 Whitehead, and he's answered the question.

15 THE COURT: You can use this with the FBI
16 agent.

17 MR. TRAFICANT: You keep giving them a lot of
18 latitude, and you keep just denying me a chance to go after
19 the untruthfulness of some of the employees of these
20 investigations.

21 THE COURT: I think the person you're
22 challenging is not this witness, but this witness --
23 because this witness has said he was never asked to do
24 that. This is your witness talking for you.

25 MR. TRAFICANT: For the record, I object to

Whitehead - Cross

1 not being able to proceed with this 302 any further.

2 THE COURT: With this witness?

3 MR. TRAFICANT: But I accept it.

4 THE COURT: With this witness? You can use
5 it.

6 MR. TRAFICANT: I can talk about -- I can ask
7 questions, but I can't make any quotes, but I can use it in
8 the form of if I have a question that pops up, can I ask
9 questions?

10 THE COURT: But if the person who prepared
11 this gets on the stand, then you can use --

12 MR. TRAFICANT: Well, but --

13 MR. MORFORD: Keep use voice down, please.

14 MR. TRAFICANT: I can't ask a question, look,
15 is the boat blue?

16 THE COURT: You can ask that.

17 MR. TRAFICANT: And if the -- but you're
18 saying if the FBI agent said the boat was red, you're
19 saying now I can't ask if the boat was blue? Let's try to
20 understand what I can and can't do here.

21 THE COURT: Okay.

22 MR. SMITH: You cannot -- what the
23 Congressman's trying to do is to show the FBI --

24 MR. TRAFICANT: Don't put words in my mouth.

25 MR. SMITH: It is clear what the Congressman

Whitehead - Cross

1 is attempting to do is to impeach FBI agents with a 302.

2 THE COURT: But they haven't been called yet.

3 MR. SMITH: The issue is not to impeach an
4 FBI agent at this point. It's not impeachment of this
5 witness.

6 MR. TRAFICANT: You're attempting to put
7 words in my mouth. What I am saying is, can I ask
8 questions relative to the investigation and the questions
9 he was asked by the Government?

10 THE COURT: As to this question that you just
11 asked about, this witness testified by saying that you
12 never -- he never heard anyone on the staff being forced to
13 go down and work on the boat. The jury's heard that.
14 That's a witness that supports your position.

15 MR. TRAFICANT: Okay.

16 THE COURT: So there's nothing to use this
17 against him on. And he didn't prepare the report.

18 MR. TRAFICANT: But my question was --

19 THE COURT: If this witness comes on --

20 MR. TRAFICANT: He said that -- he said that
21 a Government agent said that he said that they were told to
22 go to work on Traficant's boat.

23 THE COURT: You mean because of the 302?
24 Because of the 302?

25 MR. TRAFICANT: Yes.

Whitehead - Cross

1 THE COURT: Wait until whoever prepared the
2 302 is here, and you can challenge.

3 MR. MORFORD: Your Honor, before we -- we
4 want to notify the Court the next witness West Richards, is
5 going to assert that. We need to do that outside the
6 jury's presence. If you want to take the break, we can do
7 it during the break.

8 THE COURT: Okay.

9 MR. MORFORD: But just so the Court knows.

10 THE COURT: All right.

11 (Proceedings resumed within the hearing of the jury:)

12 Q. Did I ever ask you to perform any duties other than
13 your official duties, Chris?

14 A. No. You did not directly ask me -- if you're asking
15 me if you directly asked me to work on the boat, you did
16 not directly do that.

17 Q. I never asked you to work on the boat, is that your
18 testimony?

19 A. You did not directly ask me to work on the boat.

20 Q. Thank you. The time you worked in Washington D.C.,
21 did you see any type of wrongdoing or impropriety performed
22 by me or any of my staff?

23 A. No, I didn't.

24 MR. SMITH: Objection.

25 THE COURT: Sustained.

Whitehead - Redirect/Smith

1 Q. How would you consider your history of having worked
2 in D.C. with me?

3 A. It was a great experience, I learned a lot. I mean
4 I --

5 Q. You own a home now?

6 A. No, I don't. We're purchasing right now.

7 Q. Okay.

8 MR. TRAFICANT: Thank you. Good luck, Chris

9 REDIRECT EXAMINATION OF CHRISTOPHER WHITEHEAD

10 BY MR. SMITH:

11 Q. Mr. Whitehead, on cross-examination, you stated that
12 you were not directed by the Congressman to go work on the
13 boat, correct?

14 A. Yes.

15 Q. How did you happen to come to be down there working
16 on the boat?

17 A. The chief of staff, West Richards at the time, asked
18 us if we would work on the boat.

19 Q. Was he your supervisor?

20 A. Yes, he was.

21 Q. So was it necessary for the Congressman to ask you to
22 go work on the boat?

23 A. No.

24 Q. Your own supervisor asked you to work on the boat,
25 correct?

Whitehead - Recross

1 A. Yes.

2 Q. Did you work on anybody else's boat during the time
3 you were working in Washington D.C.?

4 A. No, I did not.

5 Q. The Congressman was your boss, correct?

6 A. Yes.

7 Q. Was it part of your official duties to work on a
8 boat?

9 A. No.

10 MR. SMITH: No further questions.

11 THE COURT: Thank you.

12 RE-CROSS-EXAMINATION OF CHRISTOPHER WHITEHEAD

13 BY MR. TRAFICANT:

14 Q. Now, West talked to you about going to work on the
15 boat. Was it in line with that business the staff wanted
16 to help me out?

17 A. I think that's the way he presented it, that we would
18 help Jim out, the Congressman out, and work on his boat.

19 Q. Did he say that I asked him to ask you guys to do
20 this?

21 A. No.

22 MR. SMITH: Objection.

23 THE COURT: Overruled. You can answer that.

24 THE WITNESS: He did not say that.

25 Q. In your opinion, it was Wes who more or less asked

Whitehead - Recross

1 you people to give me a hand, is that your testimony,
2 Chris?

3 A. Yes.

4 MR. TRAFICANT: No further questions.

5 MR. SMITH: Nothing, your Honor.

6 THE COURT: Thank you. You're excused.

7 This is a good time to break for the morning, and
8 we're going to give you close to 30 minutes, at least 30
9 minutes. Maybe a few more minutes on there.

10 So you should be ready to be back in here at 10 of
11 11:00. Okay? Thank you.

12 (Proceedings in the absence of the jury:)

13 MR. MORFORD: Your Honor, last night I was
14 contacted by our next witness, who informed me that he had
15 talked to a lawyer friend of his, who suggested that he
16 should get immunity, and that the lawyer friend had read
17 some articles and realized other employees of Congressman
18 Traficant had testified under immunity.

19 We made calls this morning, and my understanding is
20 that the paperwork should be here by now. I need to check
21 with the agent who's in the witness room. But as soon as
22 we have that paperwork, what I would like to propose to the
23 court is that we do a voir dire outside the presence of the
24 jury, whereby this person can assert his Fifth Amendment
25 right, and we can enter the immunity prior to the jury

Whitehead - Recross

1 being seated and begin his testimony.

2 THE COURT: Congressman.

3 MR. TRAFICANT: This is the first I've heard
4 of this, and this was not presented to me earlier, and I
5 just state for the record that is the purpose of my
6 objection. I thought I should be notified of this earlier
7 this morning.

8 THE COURT: Mr. Morford?

9 MR. MORFORD: If I can respond, your Honor.
10 We did talk about this general topic with -- several times
11 within the last two weeks, and I specifically asked the
12 Court the procedure the Court wants to use when a witness
13 is going to invoke the Fifth Amendment privilege, and so
14 that is not something that requires advance notice, as long
15 as the Congressman knows prior to the end of the testimony
16 that the person has some sort of immunity and what the
17 understanding of the witness is. So --

18 THE COURT: All right. Well, what I'd like
19 you to do on both sides is to reconvene ahead of when the
20 jury has its break end, so we'll know whether that's the
21 time to go forward with this witness or not. It does need
22 to be done in the manner that we've already been through
23 with another witness, and that is out of the hearing of the
24 jury.

25 So this is a convenient time in the proceedings. I

Alteiro - Direct/Kall

1 think what we should do is hear -- have both of you back
2 about 20 of. That'll give us ten minutes. That should be
3 enough time.

4 MR. TRAFICANT: Could you make that 15
5 minutes, your Honor, give me a little time to look at some
6 notes?

7 THE COURT: All right. We'll do it 15
8 minutes before.

9 MR. TRAFICANT: Thank you.

10 THE COURT: Quarter of 11:00, we'll resume
11 without the presence of the jury.

12 MR. MORFORD: Thank you
13 (Thereupon, a recess was taken.)

14 MR. TRAFICANT: That would be without the
15 press and the jury.

16 THE COURT: No. Without the presence of the
17 jury.

18 (Laughter.)

19 (Thereupon, a recess was taken.)

20 MR. KALL: The Government calls Joe Altiero.

21 THE COURT: Thank you.
22
23
24
25

Altiero - Direct/Kall

1 JOSEPH ALTIERO,
2 of lawful age, a witness called by the JOSEPH ALTIERO,
3 being first duly sworn, was examined
4 and testified as follows:

5 DIRECT EXAMINATION OF JOSEPH ALTIERO

6 BY MR. KALL:

7 Q. Would you please state your name, and spell your last
8 name?
9 A. My name's Joseph, last name Altiero A-L-T-I-E-R-O.
10 Q. Where do you live, Mr. Altiero?
11 A. I live in -- I reside in Warren, Ohio.
12 Q. What do you do for a living?
13 A. Right now, I am a taxi driver.
14 Q. How long have you been doing that?
15 A. I've been doing it a little over eight months.
16 Q. Prior to that, what did you do?
17 A. Prior to that, I worked for a security firm.
18 Q. And prior to that?
19 A. Prior to that, I was working for Prime Construction
20 Company.
21 Q. And Prime Construction Company, who was that company
22 owned by?
23 A. It was owned by Robert and Anthony Bucci.
24 Q. What type of business was it?
25 A. They were a blacktop company that went out and did

Altiero - Direct/Kall

1 servicing of roads for the State, and they also did
2 construction on parking lots and driveways.

3 Q. When were you hired to work for Prime Contractors?

4 A. I was hired to work for them in later part of '94 and
5 '95.

6 Q. What were you hired to do there?

7 A. They hired me as a mechanic to work in the garage.

8 Q. Do you have training to do that type of work?

9 A. Special schooling or anything?

10 Q. Yes.

11 A. No, I didn't have any schooling or anything. I
12 just -- as I was raised up from a boy, I worked on
13 equipment.

14 Q. After you were hired by the Buccis, did you ever have
15 occasion to meet Congressman Traficant?

16 A. Yes, I did.

17 Q. How did that happen?

18 A. They had asked me to go out to Jim Traficant's farm
19 and go out there and work.

20 Q. You said they asked you to go out there. Who are
21 they?

22 A. Robert and Anthony Bucci.

23 Q. Approximately when did this occur?

24 A. It was in the later part of '95 there when this
25 occurred.

Altiero - Direct/Kall

1 Q. What did the Buccis ask you to do out at the farm?

2 A. Well, at first, I was told to go out there and fix
3 equipment that they had and just help out with whatever
4 else he needed.

5 Q. Was there equipment there that needed repairing?

6 A. There was a couple of farm tractors there, yes.

7 Q. And did you do those repairs?

8 A. Um-hum.

9 Q. You need to say yes or no?

10 A. Yes.

11 Q. Okay.

12 Did you do any other work out at the Bucci -- excuse
13 me -- Congressman Traficant's farm?

14 A. Yes, I did.

15 Q. What else did you do out there?

16 A. We had put in a subfloor in his barn there, and we
17 also fixed fence posts, took care of the horse stalls, did
18 some of the landscaping outside of the area there, and put
19 a roof on.

20 Q. The initial work that you discussed, repairing the
21 pieces of machinery, how long did that take?

22 A. Just a matter of a couple of days.

23 Q. The other work that you mentioned doing, how long did
24 that take you to do?

25 A. That lasted several months, the other work that they

Altiero - Direct/Kall

1 had out there.

2 Q. During those several months, how often were you out
3 at the farm?

4 A. It wasn't consistent on a daily basis. I was out
5 there on and off, a period of six months.

6 Q. Who told you to go out there?

7 A. Robert Bucci.

8 Q. Who gave you the instructions on what needed to be
9 done out at the farm?

10 A. That was by Jim and Sandy.

11 Q. Who was Sandy?

12 A. That was Jim's former girlfriend.

13 Q. And why was she giving you instructions?

14 A. Because she had lived out there on the farm most of
15 the time, and Jim wasn't there.

16 Q. When you say Jim, you mean Congressman Traficant?

17 A. Yes.

18 Q. Did you ever meet Congressman Traficant's father out
19 at the farm?

20 A. No.

21 Q. Were you ever given instructions by anyone that
22 claimed to be Congressman Traficant's father?

23 A. No.

24 Q. You mentioned you installed a wood floor. Can you
25 describe in detail what that involved.

Altiero - Direct/Kall

1 A. What we had to do there was we had to take up the old
2 flooring that was there because it was rotted out, the
3 barn. We replaced it with new wood and reinforced the
4 floor.

5 Q. Do you know where that wood came from?

6 A. I don't know exactly where it was purchased from.
7 All I know is that it was delivered out there by Robert.

8 Q. Robert Bucci?

9 A. Yes.

10 Q. You also mentioned earlier you had to do shoring up
11 of horse stalls; is that correct?

12 A. Yes.

13 Q. Can you describe what that involved?

14 A. The structure of that was where you reinforce the
15 sidewalls of the stalls so that he could use it for
16 breeding the horses.

17 Q. You also mentioned that there were times that you
18 repaired fences out there; is that correct?

19 A. Yes.

20 Q. What did that involve?

21 A. It wasn't -- wasn't no more than about a day's work
22 repairing fences out there, barb wire, putting in posts.
23 That's all it consisted of.

24 Q. Did you tend to the horses at all while you were out
25 there?

Altiero - Direct/Kall

- 1 A. Yes, I did.
- 2 Q. What did that involve?
- 3 A. Just basically cleaning the stalls and taking care of
- 4 the feeding the horses, that's all.
- 5 Q. Were you ever involved in baling hay out at the farm?
- 6 A. Yes.
- 7 Q. How long would that take?
- 8 A. That wasn't consistent. It was whenever hay season
- 9 was in. I was to go out and help bale hay, hay in the
- 10 barn.
- 11 Q. Can you describe for the jury the process of baling
- 12 hay?
- 13 A. You mean the procedure of it?
- 14 Q. Yes. How do you do it?
- 15 A. Well, I'm not actually a farmer myself, but the
- 16 procedure is they have to run the tractor down to the field
- 17 and trash it, the machine behind the tractor, and then you
- 18 run a baler behind the tractor to bale it up, and from
- 19 there, it comes into the barn.
- 20 Q. How does it get from the machine into the barn?
- 21 A. By hand.
- 22 Q. Is that part of what you were doing?
- 23 A. Um-hum.
- 24 Q. Is that a yes or --
- 25 A. Yes.

Altiero - Direct/Kall

1 Q. The Court Reporter -- I'm sorry -- can't take down an
2 um-hum or um-um?

3 A. Right.

4 Q. Baling hay, is that particularly enjoyable work, or
5 is that work that is work that can get messy or dirty?

6 A. No. I won't say it's enjoyable work. It's hot work
7 because you're doing it during the summer time, and it's --
8 yeah, it is dirty work.

9 Q. You mentioned several times that "we were doing that
10 work." Who are the other people that were doing this work
11 with you?

12 A. The other person that was there was a gentleman named
13 Butch.

14 Q. Did you know Butch?

15 A. That's his nickname.

16 Q. Did you know Butch's full name?

17 A. George Buccella.

18 Q. Who did you understand George Buccella to be? Do you
19 know if he was employed anywhere?

20 A. I know that he was. I didn't know he was employed
21 anywhere at the time until we got to talk while I was out
22 there with him, and he had told me that he worked as a
23 trustee out in Wethersfield Township, and he also told me
24 that he had -- he worked at Congressman Traficant's office
25 in Niles there.

Altiero - Direct/Kall

- 1 Q. How long was Butch out at the farm?
- 2 A. Butch worked out there everyday at the farm.
- 3 Q. What kind of work was he doing out there?
- 4 A. He was doing the same type of work I was doing out
- 5 there, helping out on the farm there, feeding horses,
- 6 working on the barn, construction part of it.
- 7 Q. Did you ever see Butch meeting with any constituents
- 8 when he was out at the farm?
- 9 A. Business associates.
- 10 Q. Did you ever see him doing any work meeting with
- 11 people out at the farm?
- 12 A. There were people that would come out there all the
- 13 time. But I don't know what they discussed.
- 14 Q. For what percentage of the time that you were out
- 15 there did you spend doing this manual labor?
- 16 A. I'd say it was around 60 percent of the time, doing
- 17 manual labor.
- 18 Q. Was this during the week or on the weekends?
- 19 A. No, it was during the week.
- 20 Q. You recall what hours of the day you were out there?
- 21 A. That Butch was out there?
- 22 Q. I'm asking you first, what hours were you out there?
- 23 A. Well, I was out there from -- sometimes I was out
- 24 until sunrise until dark.
- 25 Q. What hours was Butch out there?

Altiero - Direct/Kall

1 A. Butch would -- he wouldn't come out there that early.
2 He was usually out there around 10:00 or 11:00 in the
3 afternoon.

4 Q. And how long did Butch stay out there?

5 A. He'd usually be out until maybe about 4:00.

6 Q. How are you paid for the work that you did out at
7 Congressman Traficant's farm?

8 A. All the pay that I had received from the -- for going
9 out there was paid through the Prime Construction Company.

10 Q. That would be the Buccis?

11 A. Bucci, yes.

12 Q. Were you ever paid at all by Congressman Traficant
13 for the work you did out at the farm?

14 A. No.

15 Q. Did you ever complain to the Buccis about having to
16 work out at the farm?

17 A. Yes, I did. I had questioned them not so much about
18 going out there, but what I was questioning them about was
19 my pay. There was a discrepancy of my -- things that were
20 being taken out of my paycheck, and I had inquired about --
21 to both of them, and they basically told me that I didn't
22 need to be concerned about what I was asking about, and I
23 told them I said, well, yes, I would like to be concerned
24 about it because it's stuff that's being taken out of here
25 that shouldn't be.

Altiero - Direct/Kall

1 Q. What types of things were being taken out of your
2 paycheck?

3 A. They were taking out for child support, and they were
4 taking out for some -- supposedly I was supposed to have a
5 wife, and I wasn't married at the time.

6 Q. Did you have any obligation to pay child support?

7 A. No.

8 Q. As a result of this, what did you do?

9 A. As a result of it, I had sat down one night and
10 talked to Jim about it. I mentioned to him while we were
11 inside the residency of the farm there, and he asked me
12 what he could do, you know what he could do to help. And I
13 said if there's anything you can do to possibly help me
14 with this, maybe talk to them, find out what they're doing
15 here, I would appreciate it, because I wasn't getting any
16 straight answers from them on why they were doing this. So
17 he told me that he would look into it.

18 Q. Do you know if he ever did?

19 A. No. I never did get a reply back from him or the --
20 I did get a reply from the Buccis. They told me I
21 shouldn't be bringing up questions like that to him, and I
22 don't need to know about what's going on with my pay.

23 Q. Did those things continue to be taken out of your
24 paycheck?

25 A. Yeah.

Altiero - Direct/Kall

1 Q. As a result, did you contact anyone else?

2 A. Yes, I did.

3 Q. Who did you contact?

4 A. After I got done, I talked to myself, well, if I
5 don't hear anything by -- from Jim, Congressman Traficant,
6 I was -- I would have to take further steps.

7 MR. TRAFICANT: Excuse me, would you reread,
8 read-

9 BY MR. KALL:

10 Q. What further steps did you take?

11 A. That's when I went to the IRS office in Youngstown
12 and contacted two agents over there.

13 Q. Did anything happen as a result of that?

14 A. As far as my paychecks, no. They were still taking
15 stuff out. The two investigators just told me that they
16 were going to investigate it.

17 Q. And to your knowledge, were the Buccis ever
18 investigated for this?

19 A. Yes, they were.

20 Q. And what happened as a result of that?

21 A. Well, several months later went by, and the -- the
22 two investigators came back and told me, yeah, there
23 definitely was a series of people's paychecks being -- the
24 wages were, you know, being cut, and money was being taken
25 out of their paychecks. Social security numbers were being

Altiero - Direct/Kall

1 changed, they told me -- also told me that they were adding
2 kids that didn't exist.

3 Q. Are you aware of the Buccis ever being charged with
4 any crime as a result of this?

5 A. Am I aware of them being charged with any crimes?
6 Well, yeah, they -- the officers told me they were going to
7 be charged with several different things.

8 Q. Do you know what the outcome of that was personally?

9 A. No.

10 Q. Okay.

11 How long did you continue to work for the Buccis?

12 A. I worked for them for a year and a half.

13 Q. How did your employment with them end?

14 A. Well, I just got tired of them taking money out of my
15 paycheck, so I finally told them one day that I was just
16 going to quit.

17 Q. Did you continue to provide information to the IRS
18 regarding the Buccis?

19 A. Yes.

20 Q. During the time that you worked out at the farm, did
21 Congressman Traficant ever indicate to you that he was
22 unhappy or dissatisfied with the work that you'd done out
23 there?

24 A. No.

25 Q. Did he ever indicate to you that he was happy or

Altiero - Direct/Kall

1 pleased with the work that you'd done out there?

2 A. He told me several times that he was happy to have
3 somebody out here that was able to -- able to use a hammer
4 and handy with tools.

5 Q. When did you stop going out to the farm?

6 A. I quit going out there after I found out that I
7 wasn't going to get paid anymore.

8 Q. Did you have any discussions with Congressman
9 Traficant about continuing to work out at the farm?

10 A. Yes, we did. I had -- Jim had mentioned to me that
11 if I was interested in coming out there and living as a
12 boarder and helping with the -- you know, do the chores out
13 there at the farm. And we didn't discuss too much into
14 detail about how I was going to get paid for it. He told
15 me, he said he would be able to pay me about \$100 a month
16 for doing this work out there. And he said the rest of it
17 would be just free room and board.

18 Q. Did you agree to go out and do it for that?

19 A. Not right offhand I didn't, no. I told him that I
20 was going to have to think about making some kind of a move
21 like that.

22 Q. Did you continue to ask for Congressman Traficant's
23 assistance with the Buccis?

24 A. Run that by me again.

25 Q. Let me rephrase it. Did you continue to ask

Altiero - Direct/Kall

1 Congressman Traficant for his assistance with your paycheck
2 with the Buccis?

3 A. We only discussed it that one time because after I --
4 after I didn't hear anything from Jim after that, I just
5 assumed that, you know, maybe this wasn't anything that he
6 could do.

7 Q. Did you end up going out to the farm to board there,
8 live there and to work there?

9 A. I had went out there several times after that, but it
10 wasn't to live there, no.

11 Q. What was it to do?

12 A. It was just to do basically cleanup out there.

13 Q. Were you paid for that work?

14 A. No.

15 Q. Were you told you were going to be paid?

16 A. There was mention of it, yeah.

17 Q. Mention by whom?

18 A. Sandy had mentioned, she said as soon as Jim came
19 back into town, he would pay.

20 Q. And were you ever paid for that work?

21 A. No, no. We kind of lost contact with each other
22 after that.

23 Q. Other than what you received from the Buccis, were
24 you ever paid for the work that you did out at Congressman
25 Traficant's farm?

Altiero - Cross

1 A. No.

2 MR. KALL: If I may have a moment. No
3 further questions, your Honor.

4 THE COURT: Congressman, you may inquire.

5 CROSS-EXAMINATION OF JOSEPH ALTIERO

6 BY MR. TRAFICANT:

7 Q. How are you doing, Joe? You said you live in Warren,
8 Ohio. You didn't give an address, where do you live in
9 Warren, Ohio?

10 A. Where do I live at?

11 Q. Yes.

12 A. I live right on Fifth Street.

13 Q. What's the address?

14 A. 1394.

15 Q. And is it a house, apartment or --

16 A. It's an apartment.

17 Q. Apartment. You're now driving taxis; is that
18 correct?

19 A. Yes.

20 Q. Now, your testimony was that the Buccis sent you out
21 to the farm to help them?

22 A. Yes.

23 Q. That was the beginning. Wasn't it a fact that you
24 came to the farm and asked me to look into the paycheck
25 scam of the Buccis, and was that not the first time we met?

Altiero - Cross

1 Think back, you're under oath.

2 A. No, it wasn't the first time.

3 Q. You just came out to the farm because the Buccis told
4 to you come to the farm?

5 A. I was -- yes, I was told to come out there.

6 Q. Uh-huh.

7 A. I mean, it wasn't -- it wasn't a question that they
8 asked me. I was told.

9 Q. Okay.

10 A. You either went or you didn't have a job.

11 Q. Did you tell me and anybody else -- or did you tell
12 me that you were having it so bad that you were eating out
13 of garbage of Burger King's and McDonald's. Yes or no.

14 A. No.

15 Q. Okay. So you were hired by the Buccis. Did you ever
16 tell me that the Buccis were paying you to work at my farm?

17 A. Did I ever tell you that the Buccis were paying me?
18 Yes, I did tell you that.

19 Q. You said you told me they were paying you to work at
20 my farm?

21 A. Um-hum.

22 Q. That's your testimony?

23 A. Yes.

24 Q. Now, you said you did a subfloor in the barn. What
25 barn was that?

Altiero - Cross

- 1 A. It wasn't the arena. It was a smaller barn that you
2 had off to the side.
- 3 Q. A small barn?
- 4 A. Yeah.
- 5 Q. Will you describe what it looked like?
- 6 A. The barn?
- 7 Q. Yeah. How big was it?
- 8 A. Well, I'd say it was the size of this courtroom.
- 9 Q. Okay. And what exactly did you do in there?
- 10 A. What we did was we ended up putting down a subfloor
11 in the barn. We had to take out the old two by fours, and
12 two by twelves because they were rotted, and the
13 entranceway of the barn there, we replaced it with new wood
14 and reinforced it.
- 15 Q. Uh-huh.
- 16 A. We didn't do the whole floor that way. This was just
17 the entranceway going into the barn, if you remember.
- 18 Q. Oh, I see. You said -- you asked me to talk to the
19 Buccis; is that right?
- 20 A. Um-hum.
- 21 Q. And you asked me to see what I could do about these
22 paycheck problems?
- 23 A. Yes.
- 24 Q. But you said --
- 25 A. We were sitting there having dinner.

Altiero - Cross

1 Q. Yeah.

2 A. You, me and Sandy, and I had mentioned that to you,
3 but it wasn't the first night. This was several times that
4 I came out thereafter that.

5 Q. Okay.

6 But at some point, you confided in me you had these
7 problems and what, if anything, did I say?

8 A. You told me that you would look into it. You said
9 that you don't know -- you didn't understand why they were
10 doing that, but you said you would look into it for me.

11 Q. But then you said that the Buccis told you why did
12 you tell Traficant. Was that a correct statement?

13 A. Um-hum.

14 Q. So was it reasonable to assume that I had addressed
15 the Buccis about your paycheck problem?

16 A. I don't know if you did or if you didn't. That's
17 what I'm saying. I never heard from you after that, so I
18 assumed that evidently you discussed it with them, or maybe
19 you felt that it wasn't your need to.

20 Q. But nevertheless, they told you not to question
21 Traficant. That was your testimony, right?

22 A. Right.

23 Q. Who told you that?

24 A. Robert told me.

25 Q. Robert told you that. And they said Jim was not

Altiero - Cross

- 1 there a lot of the time; is that correct?
- 2 A. Yes.
- 3 Q. Who was there?
- 4 A. George Buccella was there.
- 5 Q. He was there?
- 6 A. Sandy was there.
- 7 Q. Intermittently. And who else was there?
- 8 A. Sandy was the only other person there.
- 9 Q. Sandy. Who told you what to do then?
- 10 A. Sandy had gave me a note with a list of things for me
- 11 to do on it.
- 12 Q. Did you save that note?
- 13 A. Pardon?
- 14 Q. Did you save that note?
- 15 A. Well, no, I didn't save it.
- 16 Q. Okay. But you went ahead and tried to do those
- 17 things?
- 18 A. Right.
- 19 Q. When you were there, was there a dinner provided for
- 20 you?
- 21 A. Dinners?
- 22 Q. Food.
- 23 A. Yeah. On a few occasions, you even took me out to
- 24 dinner at a restaurant.
- 25 Q. But at some point, when you lost your job, you came

Altiero - Cross

1 to me, is that correct, or you quit, whatever it was?

2 A. No. When I quit -- yeah, I did come to you. And I
3 had asked you if you needed any work on the farm.

4 Q. Okay. I offered that you could live there for free,
5 you'd have all your food free, and I could be able to pay
6 you perhaps \$100 a month, is that your testimony?

7 A. Yes.

8 Q. Okay. So you said Buccella came. When he came,
9 sometimes it would be 10:00 or 11:00, could even be later,
10 couldn't it?

11 A. Could have been, yes.

12 Q. And you said as much as 60 percent of the time there
13 were people that would stop at the farm and talk?

14 A. Yeah.

15 Q. But you didn't know who those people were?

16 A. No.

17 Q. Okay. Now, you said you cleaned horses and worked
18 with horses; is that correct?

19 A. Yes.

20 Q. Did you ever have any experience working with horses
21 ever?

22 A. Yes, I did. I had -- when I worked down at the
23 fairgrounds in Columbus, I worked with horses, just
24 basically washing them, cleaning them.

25 Q. What kind of horses were they?

Altiero - Cross

- 1 A. Some of them were stallions and some were geldings.
- 2 Q. What were basically the horses at the Greenford farm,
- 3 what kind of horses were they?
- 4 A. Well, I couldn't name them right offhand what they
- 5 were.
- 6 Q. You know their gender?
- 7 A. No, no. I didn't get into horses that much.
- 8 Q. I see.
- 9 A. To know what breed they were or anything like that.
- 10 Q. But you do know the difference between a stallion and
- 11 a gelding, do you not?
- 12 A. Yes.
- 13 Q. What is a gelding?
- 14 A. What is a gelding.
- 15 Q. Yes.
- 16 A. It's a male horse.
- 17 Q. And what is peculiar about this male horse?
- 18 A. It is his legs.
- 19 Q. Its what?
- 20 A. Its legs and its teeth.
- 21 Q. Uh-huh. Anything other than that that distinguishes
- 22 it from, for example, a mare?
- 23 A. I wouldn't answer that because I wouldn't know on
- 24 that part.
- 25 Q. Well -- you said you had some understanding of

Altiero - Cross

1 horses.

2 A. Yes.

3 Q. And you worked on stallions. What does a stallion
4 have between its legs?

5 A. What's a stallion have between its legs?

6 Q. His back legs?

7 A. It has genitals.

8 Q. And what does the mare have?

9 A. A mare doesn't have that.

10 Q. I see. So a stallion and geldings are different than
11 mares, aren't they?

12 A. Yes, some aspect.

13 Q. Yeah. And that aspect is that they have a different
14 temperament and teeth and fire, and they're more
15 unpredictable, aren't they?

16 A. I would assume.

17 Q. You'd really have to watch them, wouldn't you?

18 A. Yes.

19 Q. But basically, stallions and geldings are similar,
20 right?

21 A. I couldn't answer it, Jim, on that.

22 Q. Well, you see a gelding doesn't have a set of
23 testicles?

24 THE COURT: He said he couldn't answer the
25 question. Let him answer the questions.

Altiero - Cross

- 1 MR. TRAFICANT: Okay. Let me rephrase the
2 question.
- 3 Q. You said you were familiar with horses, and you
4 worked with horses, and you even cleaned horses, and you
5 even cleaned stallions, but now, your testimony is you
6 couldn't identify a gelding from a stallion. So evidently,
7 you didn't know all that much about horses, did you?
- 8 A. I cleaned horses.
- 9 Q. Oh.
- 10 A. Wash them down, you know.
- 11 Q. But, you weren't afraid of horses?
- 12 A. No.
- 13 Q. Horses that were locked up, stallion horses, and
14 confined, and not turned out, you were not concerned about
15 that, and you went in their stalls and cleaned up in their
16 stalls?
- 17 A. No, we had to move the horses out of the stalls.
- 18 Q. And who moved those horses out of the stalls?
- 19 A. I did when I was there.
- 20 Q. And when you moved them out of the stalls, where did
21 you put them?
- 22 A. Where did we put the horses?
- 23 Q. Yeah.
- 24 A. Usually out on the field.
- 25 Q. You put the horse -- a stallion out on the field and

1 cleaned him?

2 A. Yeah.

3 Q. Did you know if there was, in fact, a stall in the
4 barn, what is called a wash stall that has heavy chains, so
5 you can chain the horse in and control him so he doesn't
6 run out and perhaps breed a Volkswagen, Mr. Altiero?

7 A. Right.

8 Q. Did you ever use the wash stall on a stallion horse?

9 A. Yes.

10 Q. But, you said you took the horse outside and cleaned
11 him first, are you now saying you now remember using the
12 wash stall?

13 A. We're talking about I cleaned the horse stalls, what
14 did we do with the horses?

15 Q. You said you turned them outside the field?

16 A. When I cleaned the stalls, I cleaned one stall at a
17 time.

18 Q. And what did you do with the horse?

19 A. Just set that one out on the field.

20 Q. In the field. You put a stallion in the field?

21 A. Right.

22 Q. What kind of fences did I have, Mr. Altiero?

23 A. You had barb wire fencing.

24 Q. Barb wire fences and these were stalled horse, right,
25 kept in stalls?

Altiero - Cross

- 1 A. Right.
- 2 Q. And they were stallions, in fact? Weren't all of
- 3 them stallions in the big barn?
- 4 MR. KALL: Objection.
- 5 THE COURT: I think he's -- I think he can
- 6 try and answer this.
- 7 MR. TRAFICANT: Yes.
- 8 Q. Weren't all of them in the big barn stallions, so
- 9 they would be separated from the mares?
- 10 A. Right.
- 11 Q. Because when a mare comes in to season, a stallion
- 12 smells the mare, right?
- 13 A. Right.
- 14 Q. And they can be vicious, can't they?
- 15 A. Yes.
- 16 Q. So you're saying that when you went to clean the
- 17 stall -- and this was in the spring and summer?
- 18 A. Yes.
- 19 Q. When do people normally breed horses?
- 20 A. Usually do it in the fall.
- 21 Q. Do you know when a registered horse's birth date is,
- 22 officially?
- 23 A. No.
- 24 Q. You happen to know when most breeders breed mares?
- 25 A. No.

Altiero - Cross

- 1 Q. Okay. Did you see me breed mares at the farm?
- 2 A. Yeah, I did.
- 3 Q. Did you see mares come in to be bred?
- 4 A. Yes.
- 5 Q. Now, how were those mares bred; were they turned out
- 6 in the field?
- 7 A. No.
- 8 Q. What, if anything, do you remember?
- 9 A. When you had one mare that was going to be bread,
- 10 they're usually put -- you usually put it in the stall, one
- 11 particular stall and that was the one that we had to
- 12 reinforce walls on.
- 13 Q. And the two were just put in the stall?
- 14 A. Yes.
- 15 Q. And they were just let go in there?
- 16 A. Yeah, for a day or two.
- 17 Q. Um-hum. Well, in your knowledge of horses, don't you
- 18 test the mare to make sure she doesn't kick and kill the
- 19 stallion if she wouldn't accept the stallion?
- 20 A. Yes.
- 21 Q. Um-hum. Isn't it a fact, Mr. Altiero, that every
- 22 horse bred on my farm is bred by hand, by Jim Traficant?
- 23 A. I don't remember that part, Jim.
- 24 Q. Oh, I see. You just remember them being put into a
- 25 stall?

Altiero - Cross

- 1 A. Yeah, that's all.
- 2 Q. Now, a stallion in the spring and summer, that you
- 3 said was to be bred when you were cleaning those stalls,
- 4 you turned them out into a field, right?
- 5 A. Not both horses, no, just one.
- 6 Q. And you turned them out into the field?
- 7 A. Yes.
- 8 Q. And it was a barb wire field?
- 9 A. Yes, the fence was made out of barb wire.
- 10 Q. Um-hum.
- 11 Isn't it very dangerous, unless a horse is familiar
- 12 with barb wire, for someone to just turn that animal out
- 13 into a field with such dangerous fencing? As a person who
- 14 understands horses, isn't that a dangerous thing to do?
- 15 A. Yeah.
- 16 Q. So you were lucky then, right?
- 17 A. Right.
- 18 Q. The horse didn't get hurt?
- 19 A. Right.
- 20 Q. Then you said the Buccis were taking things not only
- 21 from your pay but other people's pay?
- 22 A. Yes.
- 23 Q. And when you discussed those options with me, did I
- 24 not tell you you had rights?
- 25 A. Yes, you did.

Altiero - Cross

1 Q. And what, if anything, do you recall about that
2 conversation?

3 A. What, if anything, I recall on it?

4 Q. Yeah.

5 A. I don't remember a whole lot about the conversation
6 that we had, other than you told me that you were going to
7 look into the matter, and that you would let me know one
8 way or the other whether you could do anything.

9 Q. But, you did have rights?

10 A. Yes.

11 Q. And I was not a law enforcement officer, did I not
12 tell you that?

13 A. Right.

14 Q. I was a Congressman?

15 A. Right.

16 Q. So you do not know whether I contacted the Buccis or
17 not, is that your testimony?

18 A. I don't know if you did or if you didn't. That's --

19 Q. But, after we had that conversation, is that when
20 Robert Bucci told you not to question Traficant about your
21 pay?

22 A. Right, that's when he had told me about it. He said
23 don't go to Jim anymore and question him about your
24 paychecks.

25 Q. Did you have problems at the time with your wife or

Altiero - Cross

1 your live-in girlfriend and had a rough place to stay? Did
2 you relay that to me?

3 A. Yes, I did.

4 Q. Did I make an offer to you early on that if you
5 needed a place to stay, you could have a place to stay?

6 A. That's the offer that you had gave me, yeah. You
7 told me I was -- I was welcome to come out there and live,
8 work out there on the farm. This way, it would help you.
9 And I had told you at that particular time that I would
10 have to think about it because I was still working for them
11 at the time.

12 Q. But, would you say in essence, I did everything I
13 could to try and help you as a person?

14 A. Yeah, I would say you did. I mean I wasn't expecting
15 the world from you. I mean I -- I would say you probably
16 did what you could.

17 Q. Okay.

18 Now, when you say the Buccis were paying you to work
19 at the farm, was the amount they totally owed you, the
20 money they paid you for what you said was work for you to
21 do at the Traficant farm, did they finally clean up their
22 bill with you?

23 A. No, they didn't. They -- they roughly owed me about
24 \$1500.

25 Q. So then you quit?

Altiero - Cross

1 A. Yeah.

2 Q. And you finally despaired?

3 A. Right.

4 Q. But, they didn't want you hanging around their office
5 space too much, did they? Is that a fact?

6 A. True.

7 Q. Did they feel that you were a bad influence in
8 discussing this with other employees?

9 MR. KALL: Objection.

10 THE COURT: He doesn't have personal
11 knowledge of that, Congressman.

12 Q. Did you have any personal knowledge of them asking
13 you not to associate and discuss your paycheck problems
14 with other employees?

15 THE WITNESS: Well, at the time I didn't even
16 know who else was having their money taken out until I had
17 found out later on through the investigators that were
18 investigating them.

19 Q. Did you let the Buccis know that?

20 A. Did I let them know that they --

21 Q. About the other people.

22 A. No.

23 Q. Okay.

24 Now, when you met with these two IRS agents, they
25 focused in on the Buccis problems; is that correct?

Altiero - Cross

- 1 A. Yes.
- 2 Q. Did they ask you a lot of questions about me?
- 3 A. They asked me several different questions about you,
- 4 and I basically just told them what I had did at the farm,
- 5 that's it.
- 6 Q. Did they take notes?
- 7 A. Yes, they did.
- 8 Q. Did they videotape or audio tape you when you talked
- 9 to them?
- 10 A. No.
- 11 Q. Now, you said at some particular point, I did owe you
- 12 some money. And was it your testimony that Sandy told you
- 13 when Jim gets back, he'll pay, is that it?
- 14 A. Yeah.
- 15 Q. And then you said we lost contact?
- 16 A. You were in Washington, D.C. at the time, and she had
- 17 told me that when Jim comes back from out of town, that he
- 18 would pay you, and it wasn't very much that you owed me for
- 19 doing the work.
- 20 Q. Was it billed? When you sent me a bill, did I know
- 21 what it was?
- 22 A. No, I didn't send you no bill. All it was was just
- 23 cleaning up around the farm there.
- 24 Q. Okay.
- 25 A. That's all.

Altiero - Cross

- 1 Q. But, at the time, you needed a little bit of help,
2 didn't you?
- 3 A. Yes.
- 4 Q. And didn't you ask Sandy is there some things I can
5 do to make a few bucks?
- 6 A. Yes, I did.
- 7 Q. All right. And did we try to do that for you?
- 8 A. As far as giving me extra work?
- 9 Q. No, as far as that one incident at least and then we
10 lost contact?
- 11 A. Well, yeah, you told me that if there was anything
12 that you could do, that you would. But, you didn't have
13 anything afterwards, and that's when we had lost contact
14 with one another.
- 15 Q. But, I did say that if you had no place to live, you
16 could live in the basement, free of charge, is that right?
- 17 A. Well, I don't recall the basement. Now this was --
- 18 Q. An apartment, whatever it was?
- 19 A. This was an apartment that you had adjacent to the
20 house there.
- 21 Q. Okay. So, it was an apartment?
- 22 A. Because I remember you --
- 23 Q. But, it would be free of charge?
- 24 A. I remember you taking me upstairs and showing me the
25 apartment.

Altiero - Cross

1 Q. Okay. It was the upstairs, okay, fine. Was that not
2 a nice apartment?

3 A. Yeah, it was a nice apartment. I'd have to say yes
4 on that.

5 Q. And did you have to take anything into it? Did it
6 have a stove and refrigerator and everything else that was
7 needed?

8 A. Well, when we went in it, there wasn't any -- there
9 wasn't any furniture in it. I don't remember a stove or --

10 Q. Okay.

11 Now, were you understanding that you would not have
12 to pay rent?

13 A. No, not -- well, you had told me the \$100 would
14 include the room and board, free room and board.

15 Q. And board meant what?

16 A. Well, usually room and board is when you're living
17 there, you -- you're going to be fed somehow.

18 Q. You would get three squares, too, wouldn't you,
19 Mr. Altiero?

20 A. I would assume, yes.

21 Q. And it was your decision just to -- you found -- you
22 went back with your wife or girlfriend, is that what
23 happened?

24 A. No, she had went back to Pennsylvania after that,
25 after the -- we had talked.

Altiero - Redirect/Kall

1 Q. Did you, at some point in any of this time, live in a
2 home for people who didn't have homes or need shelters?

3 A. Did I ever live in a home like that?

4 Q. Yes.

5 A. No, I haven't.

6 Q. Best of your knowledge?

7 MR. TRAFICANT: Thank you, Joe.

8 REDIRECT EXAMINATION OF JOSEPH ALTIERO

9 BY MR. KALL:

10 Q. Mr. Altiero, you were asked a few questions about the
11 horses at the Congressman's farm. Do you recall that?

12 A. Yes, I do.

13 Q. Do you know how many horses he had out there?

14 A. I was told that he had 25 horses. They weren't all
15 actually out there at the farm all at one time because you
16 didn't have that many stalls.

17 Q. How many horses were out at the farm?

18 A. I would say you had about seven at that time.

19 Q. Other than what's involved with breeding the horses,
20 can you describe what kind of maintenance and upkeep is
21 necessary on horses?

22 A. The maintenance is they have to be fed everyday, and
23 those -- the stalls have to be cleaned at least once a day
24 for them. And normally, they generally have to have -- be
25 washed down and combed, brushed.

Altiero - Redirect/Kall

1 Q. During the time that you were out there, who did
2 that?

3 A. When Jim wasn't there, sometimes Sandy would do it.
4 When Sandy wasn't there, I'd wash down the horses and brush
5 them.

6 Q. How often was Congressman Traficant not out there?

7 A. Well, there were periods of times that he wasn't
8 there, off and on. I'd say sometimes it would go maybe two
9 weeks at a time.

10 Q. You were asked some questions about a conversation
11 that you had with Robert Bucci. Do you recall those
12 questions?

13 A. Yes.

14 Q. Did you ever tell the Buccis that you would talk to
15 Congressman Traficant about your own paycheck?

16 A. Did I ever tell the Buccis I was going to talk to
17 Congressman Traficant? No, I never did tell them that.

18 Q. You were asked a series of questions about George
19 Buccella and his time out at the farm. You recall those
20 questions?

21 A. Yes.

22 Q. During the time that you saw George Buccella out
23 there, did you ever see him cleaning the horse stalls?

24 A. He might have done maybe once or twice.

25 Q. Did you ever see George Buccella assisting in laying

Altiero - Redirect/Kall

1 the floor in the barn that you just discussed?

2 A. Yeah, and he helped us with that.

3 Q. Did George Buccella help bale the hay?

4 A. Yes.

5 Q. Did George Buccella help repair the fence?

6 A. No.

7 Q. Did George Buccella assist in reinforcing the stalls?

8 A. No, he wasn't there that day. He didn't do that.

9 Q. Did George Buccella help in moving the horses,
10 washing them down, that type of thing?

11 A. He might have.

12 Q. Congressman Traficant asked you questions regarding
13 if he did everything he could to help you when you were
14 down. Do you recall those questions?

15 A. Yes, I do.

16 Q. Let me ask you this: Did Congressman Traficant ever
17 offer to pay you for the work you had already done at the
18 farm?

19 A. Did he offer to pay me for the work I did at the
20 farm?

21 Q. Yes.

22 A. No, other than the money I was told that I was going
23 to receive, that was it.

24 Q. Why didn't you take the job that he had offered you
25 with room, board, and \$100 a month?

Altiero - Recross

1 A. Why didn't I take the job? I was still working for
2 the Bucci brothers at the time, and I didn't feel that was
3 the right time to relocate because my former girlfriend had
4 cancer, and she was going into remission of that.

5 Q. What was your understanding of how many hours you
6 would be required to work if you accepted that position?

7 A. We didn't discuss hours on it. I -- I knew it was
8 probably going to be at least an eight to ten-hour-day job
9 here. Jim never actually came out and told me how many
10 hours a day I would be working there.

11 Q. When you left there, did Sandy know how many hours
12 you had worked?

13 A. Yeah.

14 MR. KALL: Just a moment, please. No further
15 questions, your Honor.

16 THE COURT: Thank you.

17 THE COURT: You can proceed, Congressman.

18 RE-CROSS-EXAMINATION OF JOSEPH ALTIERO

19 BY MR. TRAFICANT:

20 Q. You said there were only 25 horses at the breeding
21 farm?

22 A. Yes.

23 Q. That's about it? And they had to be fed and the
24 stalls had to be cleaned and combed and brushed, correct?

25 A. Yes.

Altiero - Recross

- 1 Q. And when I was there, I did that?
- 2 A. Yeah, you -- you did it most of the time.
- 3 Q. When I was there, did I clean stalls, Joe?
- 4 A. Pardon?
- 5 Q. When I was there, did I clean stalls?
- 6 A. No, I never seen you clean stalls when you were
- 7 there.
- 8 Q. Okay.
- 9 Now, in the making of this hay, who drove the
- 10 tractors?
- 11 A. You did.
- 12 Q. And then who ran the machine to get it ready so it
- 13 could be baled?
- 14 A. As far as the baler, you're talking about?
- 15 Q. Yeah.
- 16 A. That was all driven off by the tractor.
- 17 Q. Who was on the tractor?
- 18 A. Well, you were on the tractor.
- 19 Q. So I did all of that and then had people help put the
- 20 hay really in the barn, right?
- 21 A. Yes.
- 22 Q. Okay. That's a tough job, isn't it?
- 23 A. Well, I'd say so, yes.
- 24 Q. It's a muscle builder?
- 25 A. Yeah, if you are not used to throwing 50-pound bales

Altiero - Recross

1 of hay.

2 Q. That basically happens two months of the year,
3 doesn't it?

4 A. Sometimes three.

5 Q. Maybe three. Yeah, that's true.

6 A. Depending on the weather.

7 Q. Yeah, depending on the weather. In our area,
8 sometimes it's two, two and a half, I'll agree with that.

9 And you say that you may have cleaned some stalls?

10 A. Yes.

11 Q. And he may have helped with the baling?

12 A. Yes, he was there for the baling.

13 Q. Okay.

14 A. As a matter of fact, I remember you saying you'd like
15 to get as many people as you could so it would go faster.

16 Q. Yeah, you get it done and get out of there, right?

17 A. Right, about -- right, because it was hot, and you
18 were frustrated because of the heat, and everything that
19 was going on in Washington, so.

20 Q. And we had to do this basically at a time when I was
21 in the area, right?

22 A. Yeah.

23 Q. And hay needs a couple of days to dry. You can't put
24 wet hay in the barn, can you?

25 A. No.

Altiero - Recross

- 1 Q. If you put wet hay in the barn, what happens?
- 2 A. It mildews.
- 3 Q. What else might happen?
- 4 A. It spoils or get sour, as they call it.
- 5 Q. And when it gets sour, does it not also cause
- 6 ignitable combustion and cause fires?
- 7 A. Right.
- 8 Q. So it takes time to make hay, doesn't it?
- 9 A. Right.
- 10 Q. One thing you're always doing when you're making hay
- 11 is you're trying to do it when the sun is shining, right?
- 12 A. Yes.
- 13 Q. And you want to beat the rain?
- 14 A. Right.
- 15 Q. And George did nothing with fences?
- 16 A. No.
- 17 Q. And nothing with stalls?
- 18 A. No. Like I said, he may have cleaned a stall maybe
- 19 when I went there.
- 20 Q. You never saw him clean a stall, did you?
- 21 A. Pardon?
- 22 Q. You never saw George Buccella clean a stall, is that
- 23 your answer, period?
- 24 A. No, I'm saying that he may have cleaned a stall when
- 25 I wasn't there.

Altiero - Recross

1 Q. Okay. Let me rephrase that.

2 A. He worked out there --

3 Q. Yes, but when you were there, did you see George
4 Buccella in a stall cleaning his stall?

5 A. Yes.

6 Q. You did? Okay then. On many occasions?

7 A. On numerous occasions.

8 Q. Okay. Now, you said you didn't take the job or the
9 arrangement that I offered you because you were still
10 working with the Buccis?

11 A. Yes.

12 Q. And where were you living at that time?

13 A. I was living in Niles.

14 Q. In your own apartment?

15 A. Well, it was my own little house, yes.

16 Q. Okay.

17 And you thought it would be an eight to
18 ten-hour-a-day job, and that really was the reason you
19 didn't take it, right?

20 A. No, I didn't think it was going to be an eight to
21 ten-hour job. You and I had never discussed how many hours
22 I would be working out there.

23 Q. Well, didn't we discuss that the horses had to be
24 fed?

25 A. Yes.

Altiero - Recross

1 Q. The stalls had to be cleaned?

2 A. Yes.

3 Q. And if a fence was down, it had to be fixed?

4 A. Yes.

5 Q. And if a horse kicked the door down, we had to hang
6 the door back up?

7 A. Right.

8 Q. And we had to cut grass?

9 A. Right.

10 Q. And then when it came to be hay season, you would be
11 required to help me with hay?

12 A. Right.

13 Q. All right.

14 When you make hay, sometimes those could be 12,
15 14-hour days, couldn't it?

16 A. Yes, because you can't stop in the middle of it and
17 say we'll wait for another day.

18 Q. Now, you were asked by the Government, when you left,
19 did Sandy know how many hours you worked, and you answered
20 yes?

21 A. Yes, she did.

22 Q. She had an understanding of --

23 A. She had an understanding of it because I -- after I
24 finished doing what I did, I went up to the house and told
25 her I was done, and that I told her -- I said just tell Jim

Altiero - Recross

1 that this is the hours I have for being out here and that
2 was it.

3 Q. And you expected, by giving her the hours, to be
4 paid?

5 A. Yeah.

6 Q. By whom?

7 A. Well, either by her or you. She just told me that
8 Jim would pay you when he would come back.

9 Q. Well, the question I have here in finality is why
10 would I pay you anything if the Buccis were paying you?
11 You were still on the payroll, and you said you told me the
12 Buccis were paying you to work out there.

13 A. This is after I quit out there, when I came out to
14 work out there.

15 Q. Oh, this is after you quit?

16 A. Yes.

17 Q. After all this, would you consider the two of us to
18 be at least friendly associates?

19 A. Well, I would assume so. I mean I haven't, you know,
20 we haven't drawn enemies that I know of. There was no
21 bitterness between you and I, if that's what you're saying.

22 Q. But, you never told the Buccis that you talked with
23 me, did you?

24 A. No.

25 Q. No, that was between you and I?

Altiero - Recross

1 A. Yes.

2 Q. But, the Buccis did -- after we talked, the Buccis
3 did tell you not to question Traficant about your paycheck;
4 is that correct?

5 A. Yes.

6 Q. No further questions?

7 A. Somehow or other they found out I had mentioned it to
8 you. I don't know if -- who they found it out from, but
9 that's what I was told.

10 Q. Well, then let me ask you this. Did you tell anybody
11 other than me to help intervene with the Buccis?

12 A. No.

13 Q. Never mentioned it to anybody else? But, somehow
14 they found out?

15 A. Um-hum.

16 Q. Isn't it a fact, Joe, that's why they told you don't
17 tell Traficant anything else?

18 A. As far as --

19 Q. Be truthful.

20 A. Pardon?

21 Q. Isn't that why they told you don't tell Traficant
22 anything about your paychecks?

23 MR. KALL: Objection, your Honor.

24 THE COURT: He can answer.

25 THE WITNESS: They had told me -- it was

Altiero - Recross

1 almost like a threat is what they was telling me.

2 Q. About telling me anything?

3 A. Yeah.

4 Q. Specifically, Traficant?

5 A. It was like a threat. They said don't go asking
6 questions to Jim about your paycheck.

7 MR. TRAFICANT: No further questions.

8 THE COURT: Thank you.

9 MR. KALL: No further questions, your Honor.

10 THE COURT: Thank you sir, you're
11 excused. You can step down. We're going to recess for the
12 lunch period now. I need the lawyers to stay briefly.
13 Enjoy your lunch, remember the admonitions, and we'll see
14 you back here 1:30 ready to go again.

15 MR. TRAFICANT: Could we have an additional
16 five minutes on break for a little longer than -- I have
17 some things I need to take care of.

18 THE COURT: You may be able to do that. But
19 before the lawyers and the Defendant pro se break, we have
20 some work to do, and so I'm not sure how long it'll take,
21 but I want you to -- yes, you can go whatever you need to
22 do, and come right back because there's some other work we
23 need to do.

24 MR. MORFORD: I just didn't know if you
25 wanted to cover both of those at the same time. I'll be

1 right back.

2 (Proceedings in the absence of the jury:)

3 THE COURT: Gentlemen, we have an issue that
4 I want to address with both of you. We have a phone call
5 that we're going to take from Mr. DiBlasio and his lawyers
6 because yesterday, when we took his statement, he was not
7 under oath, and so we're simply going to put him under oath
8 and retake -- re-ask the questions so that the questions
9 will be taken under oath.

10 And then you have something, can you explain what
11 that will be, please?

12 MR. MORFORD: Yes, your Honor. As I
13 explained before, last night a witness that was to come
14 into town explained he had spoken to a lawyer friend who
15 suggested that because other congressional employees had
16 obtained immunity as part of their testimony, that he would
17 like the same, and given the late hour and our inability to
18 do the full statutory immunity, Matthew Cain, the chief of
19 our criminal division, has wrote a letter to this witness
20 explaining that the United States Attorney for the Northern
21 District of Ohio agrees that the United States will not use
22 the trial testimony or any leads therefrom against this
23 witness in any criminal matter, and I would like to proffer
24 a copy of that.

25 THE COURT: Okay. You gave a copy of that to

1 the Congressman?

2 MR. MORFORD: Yes, I did.

3 THE COURT: Okay. Let's see whether we can
4 take care of this DiBlasio old matter first. That should
5 not take very much time.

6 (Teleconference)

7 THE CLERK: Hi, this is Lynn from Judge
8 Wells' chambers calling for Mr. Kersey.

9 SECRETARY: Sorry?

10 THE CLERK: Judge Wells.

11 SECRETARY: One moment.

12 SECRETARY: Have you been helped?

13 THE COURT: Waiting for Mr. Kersey.

14 SECRETARY: Your name?

15 THE CLERK: Lynn from Judge Wells' chambers.

16 SECRETARY: Thank you, Lynn.

17 MR. KERSEY: Hello.

18 THE CLERK: Mr. Kersey, can you hold until I
19 get Mr. DiBlasio? Hello?

20 MR. KERSEY: Hello?

21 THE CLERK: Can you hold until I get Mr.
22 DiBlasio?

23 MR. KERSEY: We're on the speaker phone here,
24 Dave Grant and myself, but --

25 THE CLERK: Just a minute, please.

1 MR. DiBLASIO: Hello.
2 THE CLERK: Hi, Mr. DiBlasio.
3 MR. DiBLASIO: Yes.
4 THE CLERK: This is Lynn from Judge Wells'
5 chambers, hold on just a minute. Do I have Mr. Kersey?
6 MR. KERSEY: Mr. Grant's here.
7 THE CLERK: And Mr. DiBlasio?
8 MR. DiBLASIO: Yes.
9 MR. KERSEY: We're here.
10 MR. DiBLASIO: I'm here.
11 THE COURT: All right. And now from the --
12 from the East courtroom with the Defendant present and the
13 attorneys for the Government, this is Lesley Wells, the
14 Judge in this case, and I'm sorry to get back to you again,
15 but we need to put you under oath.
16 MR. DiBLASIO: I can't hear whatever that is.
17 THE COURT: Okay. Mr. DiBlasio?
18 MR. DiBLASIO: Yes.
19 THE COURT: Can you hear me now?
20 MR. DiBLASIO: Yes.
21 THE COURT: This is Judge Wells.
22 MR. DiBLASIO: Yes, ma'am.
23 THE COURT: Sorry to bother you again, but we
24 need to put you under oath or affirmation and --
25 MR. DiBLASIO: All right. I'll raise my

1 hand.

2 THE COURT: All right. In the testimony
3 you're about to give, do you affirm or swear that you will
4 tell the truth, the whole truth, and nothing but the truth
5 under the pains and penalties of perjury?

6 MR. DiBLASIO: I do.

7 THE COURT: Thank you, sir.

8 And now we're going to put this phone down so that
9 you can be asked a couple of questions.

10 MR. DiBLASIO: Okay.

11 THE COURT: Your lawyers are on the phone,
12 correct.

13 MR. KERSEY: Yes, your Honor.

14 MR. GRANT: Yes, your Honor.

15 THE COURT: Thank you.

16 MR. SMITH: Mr. Kersey, Mr. DiBlasio, my name
17 is Bernard Smith, I'm an Assistant United States Attorney
18 for the Northern District of Ohio.

19 Mr. Kersey, I am going to ask the same questions I
20 asked yesterday.

21 Question Number 1, Mr. DiBlasio, do you know a man by
22 the name of James A. Traficant, Junior.

23 MR. DiBLASIO: On advice of counsel, I
24 respectfully decline to answer under the provisions of the
25 Fifth Amendment of our constitution.

1 MR. SMITH: Question Number 2, Mr. DiBlasio,
2 did you ever work for or were you ever employed by James A.
3 Traficant, Junior?

4 MR. TRAFICANT: Object.

5 MR. DiBLASIO: On advice of counsel, I
6 respectfully decline to answer under the provisions of the
7 Fifth Amendment of our constitution.

8 MR. SMITH: Last question.

9 MR. TRAFICANT: Objection.

10 THE COURT: Are you objecting to the
11 questions, Congressman?

12 MR. TRAFICANT: He's already stated his Fifth
13 Amendment. How many times is he going to do it in this
14 case, 20 times?

15 THE COURT: No, not 20, you can proceed.

16 MR. SMITH: My last question is, Mr. DiBlasio,
17 in the mid 1980's, did you ever tell Jacqueline Bobby that
18 you were having to pay back part of your congressional
19 salary to James A. Traficant, Junior?

20 MR. DiBLASIO: On advice of counsel, again, I
21 respectfully decline to answer under the provisions of the
22 Fifth Amendment of our constitution.

23 MR. SMITH: Your Honor, I have no further
24 questions.

25 THE COURT: Thank you. Mr. Traficant?

1 MR. TRAFICANT: How are you, Henry? This is
2 Jim Traficant.

3 MR. DiBLASIO: I'm fine.

4 MR. TRAFICANT: I have a couple questions.
5 Number 1, how's your health?

6 MR. DiBLASIO: Not good, but on advice of
7 counsel, I respectfully decline to answer under the
8 provisions of the Fifth Amendment of our constitution.

9 MR. TRAFICANT: If you were to have to travel
10 up here and be subject to it, would it be of serious harm
11 to you?

12 MR. DiBLASIO: My medical condition is bad,
13 but on advice of counsel, I respectfully decline to answer
14 under the provisions of the Fifth Amendment of our
15 constitution.

16 MR. TRAFICANT: No further questions.

17 MR. DiBLASIO: I want to --I don't want to
18 waive that privilege.

19 MR. TRAFICANT: No further questions, and
20 good luck with your health, Henry.

21 MR. DiBLASIO: Thank you.

22 THE COURT: Thank you. And that satisfies the
23 requirements of this witness.

24 MR. KERSEY: Judge, is that all?

25 THE COURT: This witness is unavailable. It

1 is all, Mr. Kersey. Thank you very much.

2 MR. KERSEY: Thank you, your Honor, Mr. Grant
3 is here, too.

4 THE COURT: Mr. Grant, Mr. DiBlasio, thank
5 you.

6 MR. DiBLASIO: Are we finished?

7 THE CLERK: Yes.

8 MR. DiBLASIO: Thank you very much. Sorry
9 for the inconvenience.

10 MR. KERSEY: All right.

11 THE CLERK: All right. Bye.

12 MR. TRAFICANT: Your Honor, for the record, I
13 want to object to this whole process. There was a letter
14 that was sent here, both parties agreed to and stipulated,
15 Mr. DiBlasio was sick and was going to cite his Fifth
16 Amendment. Mr. Kersey appeared, and we had an agreement.
17 Then we've gone through now not one but two separate
18 questionings that are highly inflammable and prejudicial to
19 the Defendant. Quite frankly, I don't give a damn what he
20 would have said here, but the point is you've allowed three
21 times for a Fifth Amendment invocation of a person who is
22 very ill, whose doctor said he is very ill, and the
23 Government brought the letter to us and asked Mr. Kersey to
24 bring the letter. And that is my objection for the record.

25 THE COURT: Thank you, Congressman. We now

1 have a set -- separate issue to address. For the
2 Government?

3 MR. MORFORD: Yes, your Honor, given the
4 nature of this immunity, which is a promise by the
5 Government in a letter, I do not believe that we need to do
6 the normal statutory immunity step and then have the Court
7 invoke an order because there is no order. We have our
8 office promised him, the United States, would not use his
9 testimony in any way against him, and so I think that's
10 sufficient.

11 THE COURT: Is this a witness you're going
12 call?

13 MR. MORFORD: Yes, someone we would call
14 after the lunch break, our next witness.

15 THE COURT: Okay.

16 MR. TRAFICANT: I do object to this, not the
17 normal process, and I do object to the fact that they did
18 not notify me of this until a late hour. I was under the
19 impression that Mr. Richards was going to testify. They
20 gave me his package, and now they have all the paperwork
21 completed, and I object to the fact that not only for
22 myself but for the rights of Mr. Richards be protected.

23 And for the Government's assurances that that will be
24 the same in spite of the fact that they do not have all the
25 paperwork they normally have, with all these immunized

1 witnesses.

2 MR. MORFORD: Your Honor, that's a just a
3 mischaracterization of what I said. There are several
4 different ways to provide immunity. There are some we use
5 more often than not when we get into these kinds of
6 situations in trial. It's very typical to use a letter of
7 immunity. It is an acceptable practice, and it's done to
8 keep the jury from sitting around while we try to get
9 papers to people in Washington.

10 There's nothing unusual about this, it's just not the
11 way we prefer to do it. That's nothing that changes the
12 nature of the immunity, and it has nothing to do with the
13 Congressman. It has to do with a witness who wants to make
14 sure that nothing he says here is going to come back to
15 haunt him.

16 MR. TRAFICANT: My problem is: Is this the
17 only immunized witness who will have been treated this way?

18 MR. MORFORD: Not necessarily.

19 THE COURT: We don't know. People -- people
20 during a trial sometimes take the Fifth Amendment when
21 nobody anticipated they were going to take it. And --

22 MR. TRAFICANT: Up to this --

23 THE COURT: -- sometimes are granted immunity
24 at times that neither the Court nor you has anything to do
25 with.

1 MR. TRAFICANT: Okay. My question is: Up to
2 this point, have all of the other witnesses that have
3 invoked their Fifth Amendment and then with the proffer
4 made from the Government, accepted immunity, his -- is he
5 the first to be treated differently in process as they have
6 been?

7 MR. MORFORD: He's the first witness that at
8 a late hour the night before he was to testify told us he
9 wanted something that we -- he had never told us before,
10 and we've handled it appropriately. But I would note, your
11 Honor, that we believe we are not -- this is not something
12 that's required to be brought out until direct examination.
13 The point is we gave it to him this morning before the
14 witness testified. He knows the witness is testifying
15 under immunity. There's nothing magical about that.

16 THE COURT: Now enjoy your lunch, and I'll
17 give you the extra five minutes you wanted.

18 MR. TRAFICANT: I have a motion to make, and
19 I would like to know if I can make it.

20 THE COURT: It would be good to make it right
21 now.

22 MR. TRAFICANT: Do I have to make it in
23 writing, or could I make the motion orally?

24 THE COURT: You can -- most motions you can
25 make orally.

1 MR. TRAFICANT: Okay. I would request and
2 the Court to order that the personnel files and the
3 personnel history of Mr. Tom Williams, who will be deposed
4 in Florida and his supervisor, Mr. David Dreger, be made
5 available to me in a timely manner so that I can review
6 their case history and personnel history.

7 THE COURT: You want to respond?

8 MR. MORFORD: Your Honor, I don't believe we
9 have those records. Congressman Traficant has the power
10 through the Court to issue a subpoena, and he has known
11 since some time -- well, for quite sometime that we would
12 be going down to talk to Mr. Williams. We don't have those
13 records to the best of my knowledge.

14 MR. TRAFICANT: Being that we both don't have
15 them, wouldn't it be expeditious, rather than file a
16 subpoena and go through all that process with the limited
17 period of time that we have, to make available those
18 personnel records for both of us. I'm sure they have time
19 to clean them up for you guys.

20 THE COURT: What I would suggest is that you
21 talk with the -- with the other lawyers in this case, as a
22 lawyer, and get yourself straight about what you can and
23 can't agree about this whole process of going to Florida.
24 You're going to do depositions in Florida, and these
25 depositions are important to both of you.

1 So work out whatever you can, but the Government has
2 said they don't have what it is you want, and I also don't
3 know yet which day you're going down. Is that settled yet?

4 MR. KALL: Your Honor, we made arrangements
5 for a Court Reporter in a conference room in Cape Canaveral
6 next Thursday, the 28th.

7 THE COURT: Does that meet with the witness'
8 needs?

9 MR. KALL: Yes, it does, as long as it
10 happens in the afternoon.

11 THE COURT: So I can now tell the jurors that
12 they will not need to be here Wednesday, Thursday, and
13 Friday of next week?

14 MR. KALL: Yes, your Honor.

15 THE COURT: Okay. Very well.

16 MR. TRAFICANT: For the record, this is the
17 first I've heard of the Thursday, February scheduling.

18 THE COURT: Right.

19 MR. TRAFICANT: They said they were going to
20 try.

21 THE COURT: They were going to try.

22 MR. TRAFICANT: I'll give them that, but they
23 didn't give me any specific, second of all. Back to the
24 original issue --

25 THE COURT: Okay.

1 MR. TRAFICANT: Okay.

2 THE COURT: You have all kinds of things?

3 MR. TRAFICANT: The motion I have, and I'm
4 asking the Court to order for the purpose of expedience
5 because of this time frame, is that the personnel folders
6 and all documents of personnel history on Mr. Williams and
7 Mr. Dreger be made available to both parties, very fairly.

8 THE COURT: I can't make such an order. You
9 have -- you have the right to subpoena whatever you think
10 is what you need. Okay. The Government doesn't have
11 these. There's nobody for me to order this against, and
12 it's not the kind of work that the Court does on behalf of
13 parties.

14 So what I suggest you do is to get yourself focused
15 on what it is you need to do before you depose this man
16 next Thursday. It's more than a week away, and you have
17 lot of time, and you should concern yourself with that
18 because you're representing yourself.

19 MR. MORFORD: Two quick notes, your Honor,
20 these are State records. I don't know what the State
21 Privacy Act rules would be --

22 THE COURT: I have no idea, either. I don't
23 even know against whom such an order would run, if I were
24 to grant one, and I'm denying your motion.

25 MR. TRAFICANT: Okay.

1 THE COURT: Thank you.

2 MR. TRAFICANT: Finally it's 12:20, your
3 Honor. Could we have a couple extra minutes maybe convene
4 approximately at 2:00?

5 THE COURT: I think we'll take -- we'll take
6 a full hour and 15 minutes for ourselves. We used up about
7 15 minutes and so wherever that leaves us. Yeah, 1:30
8 we'll reconvene. Thank you.

9 (Thereupon, a luncheon recess was taken.)

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Richards - Direct

1 Wednesday Session, February 20, 2002, at 1:30 P.M.
2 HAYDEN WEST RICHARDS,
3 of lawful age, a witness called by the HAYDEN WEST RICHARDS
4 being first duly sworn, was examined
5 and testified as follows:
6 DIRECT EXAMINATION OF HAYDEN WEST RICHARDS
7 BY MR. MORFORD:
8 Q. Good afternoon.
9 A. Hi.
10 Q. Could you please state your full name and spell your
11 last name for the Court Reporter?
12 A. Yes, it's Hayden West Richards.
13 Q. Actually, I should ask you to spell the first name?
14 A. H-A-Y-D-E-N.
15 Q. Go ahead with the last name as well.
16 A. R-I-C-H-A-R-D-S.
17 Q. Wes or West?
18 A. West with a "T."
19 Q. Okay.
20 And, Mr. Richards, are you testifying today under a
21 letter promise of immunity?
22 A. Yes.
23 Q. And could you explain to the jury what your
24 understanding is of that immunity, the items of the
25 immunity?

Richards - Direct

- 1 A. Simply that an outcome of the case, information and
2 so forth as a result of my testimony will not hold me
3 liable for any future problems.
- 4 Q. Your words won't be used against you?
- 5 A. Basically, right.
- 6 Q. And could you tell us, do you know the Congressman
7 James Traficant?
- 8 A. Yes.
- 9 Q. And how did you first come to know Congressman
10 Traficant?
- 11 A. There was a -- an internship in Washington, an
12 internship program in 1985 when I was in college that my
13 father had heard about, and I think it was my father's boss
14 who actually knew Henry DiBlasio, and through that contact,
15 I was able to apply for the internship.
- 16 Q. Where were you going to college at that time?
- 17 A. Carnegie Mellon University in Pittsburgh.
- 18 Q. And what year are we talking?
- 19 A. This would have been 1985.
- 20 Q. And did you end up serving an internship with the
21 office of Congressman James Traficant?
- 22 A. Yes.
- 23 Q. And how long was the internship?
- 24 A. It was a full semester.
- 25 Q. And where did you serve that internship, which

Richards - Direct

1 office?

2 A. We, at that time, were in the Cannon Building.

3 Q. So this was in Washington, not back in Youngstown?

4 A. Correct.

5 Q. And when did you end up graduating from college?

6 A. 1987.

7 Q. And what did you do upon graduating from college?

8 A. After graduation, I took a little time off in the
9 summer. And then I volunteered in the Youngstown office, a
10 couple days a week for three months.

11 Q. For what purpose did you agree to serve as a
12 volunteer worker in the Youngstown office for a couple
13 months, what were you trying to accomplish?

14 A. I was just trying to volunteer in the office and to
15 help out and to basically get visibility again and learn a
16 little bit about how the district offices worked.

17 Q. What was your ultimate goal, employment wise, in
18 doing that volunteer work? Did you have a plan?

19 A. Yes. I was hoping that would open up a Washington
20 office.

21 Q. For Congressman Traficant?

22 A. Correct.

23 Q. And how badly did you want to get back to Washington
24 and work as a paid staffer with the office of Congressman
25 Traficant back in Washington?

Richards - Direct

1 A. It was a pretty strong goal. At that time, I was --
2 I'll say that I was also entertaining the idea of looking
3 at journalism type opportunity at CNN and NBC television
4 actually. But that was -- it was -- it would be like a
5 second option. The main thing I wanted to do was work on
6 Elm.

7 Q. What happened at the end of the months you worked as
8 a volunteer in the Youngstown office?

9 A. This was an office management position that opened
10 up, sort of a part-time position.

11 Q. And that was in which office of Congressman
12 Traficant, the Youngstown office or the Washington office?

13 A. The Washington office.

14 Q. And then did there come a time you actually went on
15 paid staff?

16 A. Yes.

17 Q. And when was that?

18 A. It was either in February or March of 1988.

19 Q. And can you then describe for the jury the different
20 positions you held and the length of time that you worked
21 with the office of Congressman Traficant? Take us through
22 that progression if you would, please.

23 A. I started off basically with office management duties
24 part-time for a very short time then that turned into a
25 full-time position. I held that position for a number of

Richards - Direct

1 months, and then I took on some legislative correspondent
2 responsibilities. Legislative correspondents are more or
3 less in charge of responding to the mail that would come
4 in. I held that position for a number of months. Then I
5 became a legislative assistant and press secretary, and I
6 think that was in 1989, after Paul Marcone left.

7 And once Paul Marcone left, there was a period of
8 time where we did not have a chief of staff in the
9 Washington office. And then later on, late 1989, I became
10 more or less like an acting chief of staff. And I still
11 had legislative responsibilities and press secretary
12 responsibilities. And then sometime in 1990, I had, I
13 think, formal title change to, you know, full-time chief of
14 staff.

15 Q. For how long a period of time did you serve as the
16 actual named full-time chief of staff?

17 A. I think it would have been part of 1990 and then all
18 of '91, '92, and '93 up until my departure on September
19 15th of '93.

20 Q. Approximately how old were you when you became chief
21 of staff for Congressman Traficant's Washington office?

22 A. I was about 27.

23 Q. And when did you ultimately leave the office?

24 A. When did I ultimately leave?

25 Q. Yes.

Richards - Direct

- 1 A. September 15th of 1993.
- 2 Q. Why did you leave the office?
- 3 A. I had a job offer to become special assistant to the
- 4 president of Georgia Tech University in Atlanta.
- 5 And one of the responsibilities was preparing public
- 6 relations activities for The University prior to the
- 7 Olympic games of 1996.
- 8 Q. Did you leave on good terms with the Congressman
- 9 Traficant?
- 10 A. Yes.
- 11 Q. And how would you describe your relationship with
- 12 Congressman Traficant during the years that you served in
- 13 his office?
- 14 A. Very good.
- 15 Q. In light of that relationship, is it difficult for
- 16 you to testify here today?
- 17 A. Yes.
- 18 Q. In what way is it difficult?
- 19 A. Well, the -- the Congressman was responsible for my
- 20 first job out of college and basically responsible for
- 21 launching my career and giving me a what I think was quite
- 22 an excellent opportunity to work on Capitol Hill.
- 23 Q. Do you have anything personally to gain or lose in
- 24 testifying here today?
- 25 A. No.

Richards - Direct

1 Q. When you talked in the very beginning of immunity
2 the, at whose request did you seek immunity for your
3 testimony?

4 A. I worked for a law firm for about a year, and I had
5 some -- I mean, a lot of friends who were attorneys, and I
6 had a couple conversations with one attorney friend in
7 particular, and one or two others, and explained to them
8 the case, to the best of my knowledge, and they wanted me
9 to find out if other congressional staffers were taking
10 immunity. And basically, if the answer was yes, then the
11 recommendation was that I would, as well, or should as
12 well, simply as a best practice in situations like these.

13 Q. When you were first -- when you had your very first
14 conversations with anyone from the Prosecution, not just
15 lawyers, but to include FBI, IRS agents, anyone from what
16 we usually refer to as the Government, who initiated that,
17 was that by your initiation or theirs?

18 A. Theirs.

19 Q. Has anybody from the Government ever threatened you
20 or attempted to intimidate you or attempted to mold or
21 shape your testimony in any way?

22 A. No.

23 Q. Has anyone ever asked or even suggested to say that
24 you say anything that's not true?

25 A. No.

Richards - Direct

1 Q. I'd like to ask you some questions about your duties
2 during the six years or so that you were with the office of
3 Congressman Traficant, and let me start with this: Are you
4 familiar with something called constituent services?

5 A. Yes.

6 Q. And in a nutshell, without getting into much detail,
7 just in general, what are constituent services?

8 A. It is constituent services, typically deal with case
9 work that's being done, typically in the district office,
10 where people in the congressional district have various
11 issues with social security or, you know, some have
12 Medicaid, you know, Medicare problems, and a lot of times,
13 those people feel that the only way they can get any action
14 is to contact their member of Congress.

15 Q. Were there times during your tenure with Congressman
16 Traficant that you personally handled constituent service
17 matters?

18 A. I would -- if they were brought to my attention in
19 the Washington office, then I may have some involvement.

20 Q. Were there times in your tenure as chief of staff
21 when people, who you were supervising, handled constituent
22 service matters?

23 A. Yes, yes.

24 Q. And when someone in the congressional office is
25 making phone calls or writing letters and taking other

Richards - Direct

1 actions like that on behalf of the constituent, is that
2 considered part of your official duties for which you're
3 paid your congressional salary?

4 A. Sure.

5 Q. Describe your duties, if you would, during the time
6 that you were chief of staff of the Washington office?
7 What were you in charge of, and what were your duties?

8 A. Well, I was in charge of media relations. I was in
9 charge of responding to mail, in charge of the legislative
10 assistants that had the responsibility for their various
11 areas of assignment. I was responsible for the budget for
12 the D.C. office. I think that pretty well covers it. I
13 mean, there's probably some other things too, but --

14 Q. In terms of hierarchy of authority, who was the
15 highest position of authority within the Washington office
16 ultimately?

17 A. The Congressman.

18 Q. Okay. And then who came next after the Congressman?

19 A. In the Washington office?

20 Q. Yes.

21 A. That would be the chief of staff.

22 Q. And that would have been you during the time you held
23 that job?

24 A. Correct.

25 Q. Now, were there ever times when you, as the head of

Richards - Direct

1 the Washington office, the chief of staff of Washington
2 office, ever had to make contact with people in the
3 District Office?

4 A. Yes.

5 Q. And what if any responsibilities did you have as the
6 chief of staff of the Washington office that involved the
7 District Office? Were there times your duties overlapped?

8 A. Very seldom.

9 Q. You talked earlier about constituent service matters.
10 Were there ever times when a constituent service matter
11 started in the district and got passed off to Washington?

12 A. Yes, yes.

13 Q. Were there ever times there were budget issues that
14 would cause you to connect with people in the District
15 Office?

16 A. Yes.

17 Q. On the times that you would have to touch base with
18 someone in the District Office, who did you deal with in
19 the District Office?

20 A. Mostly Charles O'Nesti.

21 Q. And what was Mr. O'Nesti's position as you understood
22 it?

23 A. He was the district director.

24 Q. Now, you testified there was a time period of four
25 months or so where you did free part-time work in the

Richards - Direct

1 District Office, correct?

2 A. Um-hum.

3 Q. In addition to that, were there ever times after you
4 went to Washington that you ever went back and worked in
5 the District Office?

6 A. Yes.

7 Q. Explain to the jury how that would come about?

8 A. Well, my parents lived in Youngstown and still do.
9 And sometimes when I would come up and visit, I felt it was
10 probably a good idea to maybe spend a Friday or a Monday in
11 the District Office, just to kind of get in tune with some
12 case work that's going on and figure out if there's
13 anything relevant or pertinent to the Washington office.
14 You know, having some face time with the case workers and
15 so forth was pretty important. You could do a lot over the
16 phone, but the Washington office and the District Offices
17 were very separate, you know.

18 Q. Based on the time that you spent working as a
19 volunteer for four months in the Youngstown office, the
20 times you spent in the Youngstown office when you were back
21 home to visit your parents, any dealings that you had to
22 have as chief of staff from time to time with the District
23 Office, who in actual practical terms appeared to you to be
24 the person running the District Office?

25 A. In practical terms, that would be Charles O'Nesti

Richards - Direct

1 did.

2 Q. Did he have the -- you said he was district director.
3 Was that the highest ranking position in the District
4 Office on paper?

5 A. The highest ranking position of the staffer was
6 administrative assistant, and after administrative
7 assistant was based in Youngstown.

8 Q. And who held that position?

9 A. Henry DiBlasio.

10 Q. And as administrative assistant, how did that
11 position that he held as administrative assistant relate in
12 terms of your position as chief of staff of the Washington
13 office, at least in theory?

14 A. He was my superior.

15 Q. And as a practical matter, in your day-to-day
16 dealings as chief of staff and your day-to-day dealings in
17 the District Office, did you ever see Henry DiBlasio
18 serving the role as your supervisor?

19 A. I had -- I had contact with Henry DiBlasio, but I
20 never really, you know, interacted that much with him as
21 his role as my superior.

22 Q. How would you characterize it? Was it frequent
23 contact, rare contact?

24 A. Rare contact.

25 Q. Who actually served the true role as your direct

Richards - Direct

1 supervisor?

2 A. The Congressman.

3 Q. Who actually owned the building at 11 Overhill Road,
4 as you understood it?

5 A. Henry DiBlasio.

6 Q. And as chief of staff, were you aware of any
7 restrictions on congressional employees renting space to a
8 Congressman?

9 A. Yes.

10 Q. And what was your understanding of that rule?

11 A. My understanding of the rule was that it was not a
12 typical practice, and B, that it was -- it was viewed as a
13 conflict of interest.

14 Q. Given that understanding, did you ever attempt to
15 discuss with Congressman Traficant the rental of the
16 congressional office space in the Henry DiBlasio building?

17 A. I think on one occasion, maybe two.

18 Q. Okay. Tell us about that. What caused you to bring
19 the topic up with the Congressman in the first place?

20 A. Well, before Paul Marcone left as chief of staff, he
21 had made that -- he had identified that as a concern and
22 something that I needed to be aware of.

23 Q. And in what way was it a concern, and in what way did
24 you need to be made aware of it?

25 A. It was his understanding that there was a potential

Richards - Direct

1 conflict there.

2 Q. Based on that conversation with Mr. Marcone, what did
3 you say to the Congressman?

4 A. I remember bringing it up, just in conversation, as
5 to what his take was on what the role was, and whether it
6 was a gray area or, you know, what -- what the -- what his
7 position was on it.

8 Q. Why did you raise it at all?

9 A. Well, I -- if it was -- if it was an issue, I wasn't
10 100 percent sure that he was sure of what the -- what the
11 role was if there was an issue, Number 1. Number 2, you
12 know, I felt that, you know, it was something that needed
13 to be brought up.

14 Q. Was that a difficult topic for you to raise?

15 A. A little bit, yes. I was a little -- it's a -- it
16 was could have potentially been a little bit of a touchy
17 area.

18 Q. How old were you at the time?

19 A. 20's.

20 Q. How old was Mr. DiBlasio?

21 A. Late 50's, 60.

22 Q. And aside from his work as the, quote, administrative
23 assistant with Congressman Traficant's office, were you
24 aware of anything else Mr. DiBlasio did?

25 A. He was an attorney; had his own law practice.

Richards - Direct

- 1 Q. When you brought the topic up to Congressman
2 Traficant, what was his response and direction to you as to
3 how you should or shouldn't handle the situation?
- 4 A. Basically, you know, I recall his reaction being it
5 was something that had been, you know, structured a long
6 time ago. It was fairly open information, and just
7 basically that, you know, really a different issue, and you
8 know my focus needs to be -- needed to be Washington.
- 9 Q. Now, who was responsible for determining the number
10 of employees who would work for the office of Congressman
11 Traficant at any given time?
- 12 A. The Congressman.
- 13 Q. And who would determine the level of pay that any
14 particular employee would receive?
- 15 A. The Congressman.
- 16 Q. Who would determine the duties to be performed or not
17 be performed by any given staff member?
- 18 A. For the most part, the Congressman.
- 19 Q. Who was the highest paid staff member during the
20 years that you worked for Congressman Traficant?
- 21 A. Henry DiBlasio.
- 22 Q. Now, did there ever come a time when you as the chief
23 of staff of the Washington office raised any concerns with
24 Congressman Traficant about the work and duties of Henry
25 DiBlasio?

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1 A. Yes, I believe so.

2 Q. And what was it that caused you to raise that topic
3 with the Congressman?

4 A. There were a number of staffers who had expressed to
5 me their confusion or concern that Mr. DiBlasio was paid so
6 handsomely.

7 Q. Did they mention anything about -- was it just the
8 pay, or was it also the duties?

9 A. I think it was the duties as well. They -- a number
10 of staffers seem to have concerns or were confused about
11 exactly what his role was.

12 Q. Who were some of the staffers that brought this to
13 your attention?

14 A. I can remember at the time he was my superior, Paul
15 had a concern about it. I believe Chuck O'Nesti had on one
16 or two occasions mentioned that he had concerns about it.
17 There were probably two or three Washington staffers and
18 you know, one or two other District Office staffers as
19 well.

20 Q. Was this a difficult issue for you to raise with the
21 Congressman?

22 A. Yes, because, I mean, he was responsible for
23 deciding, you know, who was -- what everyone's duties were
24 and what they were paid.

25 Q. As somebody who had served some time working in the

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1 District Office and also had been working as chief of
2 staff, what was your understanding as to whether or not
3 Henry DiBlasio was actually serving the normal function of
4 an administrative assistant for a congressional office?

5 A. Can you restate the question again?

6 Q. Yes. As somebody who had spent time in the
7 Youngstown office and then served as chief of staff in the
8 Washington office, what was your understanding, based on
9 your experience, of whether Henry DiBlasio was truly
10 serving as the administrative assistant of the office as
11 that term is commonly understood in Congress?

12 A. Are you asking what the typical role is of
13 administrative assistant?

14 Q. Let me ask it simply: What was your understanding
15 whether Henry DiBlasio was actually serving the function of
16 administrative assistant?

17 A. My understanding of Henry's role was -- actually, I'd
18 say my perception of it was actually two-fold. One, I
19 understood that Henry was the only attorney that we had as
20 a resource on staff. I understood that he had a -- a long
21 relationship with the Congressman. A good relationship. I
22 understood that he -- you know, provided a resource for our
23 office when it came to some of the local issues that
24 Congressman would get involved with, meetings and so forth,
25 that Henry was a resource that provided insights into those

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1 areas.

2 On the other hand, the role of an administrative
3 assistant is typically to be highly visible and for the
4 most part interacting with all offices and all staff, and
5 that is something that Henry did not do.

6 Q. You indicated that in the first part of that that he
7 was a resource, being a lawyer. Was it your understanding
8 that that was a resource that was being well used by the
9 office?

10 A. Perhaps at times, but overall, I wouldn't know. I
11 mean, I wouldn't -- he may have been -- since I was not
12 working in the Youngstown office, I wouldn't necessarily
13 know firsthand.

14 Q. But what was your perception that caused you to go to
15 Congressman Traficant to raise this issue in the first
16 place?

17 A. My perception was, I think I basically shared some of
18 the concerns that some of the other staffers had. My sense
19 was that he -- that Mr. DiBlasio was, although an excellent
20 resource, was not necessarily as active as he should be in
21 his role as administrative assistant.

22 Q. Turning aside from the complaints you received
23 regarding Henry DiBlasio, did you ever receive complaints
24 from any other staff members about work outside the office
25 that they were being asked to do?

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- 1 A. Yes.
- 2 Q. And let's start with the farm. Did any staff
- 3 employee ever approach you and complain about anything
- 4 regarding the farm?
- 5 A. Yes.
- 6 Q. And who was it that approached you and complained?
- 7 A. The person that comes to mind first would be George
- 8 Buccella.
- 9 Q. What did Mr. Buccella tell you?
- 10 A. Just that he felt that he was spending too much time
- 11 out at the farm, and that he felt that he needed to be
- 12 spending most of his time in the office.
- 13 Q. And did he tell you what kind of work he was doing
- 14 out at the farm?
- 15 A. I think I recall him saying something about --
- 16 helping to bale hay or something like that. But --
- 17 Q. Basically farm chores?
- 18 A. Yes, farm chores.
- 19 Q. Now, after Mr. Buccella complained to you about
- 20 having to spend too much time doing farm chores, did you
- 21 raise the issue with Congressman Traficant?
- 22 A. Yes.
- 23 Q. And what was his response?
- 24 A. Again, I mean, that was really --- you know, a
- 25 District Office staff issue and not a Washington office

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1 staff issue, and that I didn't need to be necessarily
2 concerned about the -- you know, what -- what the people as
3 the district staffers were doing.

4 Q. Did Congressman Traficant ever talk to you just in
5 general about the farm and his feelings toward the farm?

6 A. Yes.

7 Q. And what kinds of things would he tell you about the
8 farm?

9 A. That he had horses there and some stables, and I
10 think he enjoyed going to the farm. I think it was a
11 sanctuary for him. I mean, he kept it very busy, very high
12 busy schedule, and when he wasn't in Washington, he was
13 working in the district, and he was working weekends. As a
14 matter of fact, the farm was somewhere he could go and
15 decompress.

16 Q. Now, setting aside typical errands, running to get
17 dry cleaning or pick up a lunch, those type of things,
18 setting those aside, did Congressman Traficant ever can ask
19 you personally to perform any personal labor for him?

20 A. Yes.

21 Q. And what kinds of things did he ask you to do?

22 A. There was probably a couple occasions where I would
23 perform some, you know, a limited amount of work on the
24 boat, and I was responsible for keeping an eye on the boat,
25 especially when we were out of session and the Congressman

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1 was not in Washington.

2 Q. What kinds of things did he have you go out to do for
3 the boat, aside from keeping an eye on it, what kind of
4 chores or jobs?

5 A. It was a wood boat, and it required a lot of
6 maintenance, and there's -- once or twice where I would --
7 I think he actually hired one or two people to do some work
8 on the boat, and I would go down. I was actually working
9 on it myself, sort of scraping and painting type of work.

10 Q. Did you want to?

11 MR. TRAFICANT: I didn't hear that.

12 THE WITNESS: As a -- as a professional, you
13 know, I would say on one hand probably not. As a friend,
14 you know, I -- you know, I didn't mind.

15 Q. Were you doing this as a friend, or were you doing
16 this as the employee of Congressman Traficant who had been
17 asked to go out and scrape paint and sand on a boat?

18 A. You know, it's -- it's I guess whether someone is
19 your boss, ultimately, you know, the primary motivation
20 would have been because, you know, the boss was asking you
21 to do something, you should probably do it. But there's a
22 fine line there, I guess.

23 Q. Did you ever find it demeaning?

24 A. You know, at the time, not necessarily. Looking back
25 on it, probably, yes.

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1 Q. Now, was there ever a time when you were asked to
2 recruit other people to come out and work on the boat?

3 A. Yes.

4 Q. And tell us about that. Who asked you, and how did
5 it come up?

6 A. The Congressman asked if I would try to round up some
7 of the guys in the office to --

8 Q. When you say some of the guys in the office, are we
9 talking about congressionally paid staff members?

10 A. Yes.

11 Q. Okay. Continue.

12 A. To head down to the boat and work on it a little bit.
13 It was -- I think it was a nice day. Congressional
14 staffers work very hard in cycles, and this was the
15 opportunity to, you know, leave the office and, you know,
16 do more or less sort of a team building exercise.

17 Q. Team building exercise?

18 A. Yes.

19 Q. Who called it a team building exercise?

20 A. I don't recall. I -- I don't recall if it was the
21 Congressman or it might have been either me.

22 Q. Why did a team need to be built? What was the
23 problem?

24 A. Well, the boat was a wood boat, and it needed a --
25 required a lot of upkeep. And I think the Congressman

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1 thought, you know, maybe some of the -- some of us could go
2 down and kind of make a half day of it or something like
3 that.

4 Q. What kind of work were you doing on the boat?

5 A. Mostly scraping.

6 Q. Scraping paint and stuff?

7 A. Yes.

8 Q. Was this a case he took you on a little cruise down
9 the river or just go out and scrape on a boat?

10 A. This was to work on a boat cruise.

11 Q. You said team building. What was the morale like in
12 the office at that time?

13 A. The morale was at that time, I think a little bit
14 down. Morale would go up and down, very cyclical, like
15 most offices. I think at that time it was probably a
16 little bit on the low side.

17 Q. And what was causing the morale to be a little on the
18 low side? Was there an issue that people were talking
19 about?

20 A. The -- some of the Washington staffers had, you know,
21 issues about compensations compared to some of the other
22 congressional offices.

23 Q. Case where staffers and Congressman Traficant's
24 office were comparing notes with Washington staffers and
25 other offices?

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- 1 A. Yes. All of that information is public.
- 2 Q. And was it also public, the amount of salary that
- 3 Henry DiBlasio and Chuck O'Nesti were being paid?
- 4 A. Yes.
- 5 Q. And was that part of the morale issue?
- 6 A. I think it was probably part of it as well.
- 7 Q. And so what are you telling us Congressman
- 8 Traficant's solution to that morale issue was?
- 9 A. In reference to the --
- 10 Q. Team building?
- 11 A. Team building exercise? I think his -- his approach
- 12 was that if we get everyone outside and on the boat and
- 13 fresh air and working, you know, maybe that would be a good
- 14 thing.
- 15 Q. And how did it affect morale of workers who thought
- 16 they were being underpaid to be sent out to sand and scrape
- 17 the boat? Did it help morale?
- 18 A. Probably not.
- 19 Q. Were there employees who complained about it to you?
- 20 A. Yes.
- 21 Q. How difficult a position did it put you in when
- 22 Congressman Traficant asked you to round up the boys and
- 23 bring them out to work on the boat?
- 24 A. Well, some of the staffers had negative reactions.
- 25 Felt like it kind of put me in a pretty awkward position.

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- 1 Q. Because you were their boss, right?
- 2 A. Correct.
- 3 Q. What were you telling them to do?
- 4 A. I was telling them to -- they needed to come down to
- 5 the boat.
- 6 Q. And why were you telling them that?
- 7 A. Because the Congressman asked me to.
- 8 Q. Approximate time frame, not an exact year, but ball
- 9 park, when are we talking about? When would this have
- 10 been?
- 11 A. It may have been 1991.
- 12 Q. Do you know a man by the name of -- shift gears a
- 13 little bit here -- I want to ask you some questions about a
- 14 man named Pete Bucheit, you know a man named Pete Bucheit?
- 15 A. Yes.
- 16 Q. And how do you know Pete Bucheit? How did you come
- 17 to know that man or that name?
- 18 A. He came to the office.
- 19 Q. And on how many occasions do -- not the number of it
- 20 -- how frequently do you recall him coming to the office?
- 21 A. I think he came to the office a few times.
- 22 Q. Do you ever recall him coming to the office with
- 23 anyone else from Youngstown?
- 24 A. Yes.
- 25 Q. And who did he come up with?

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1 A. I remember he came with me or James a couple of
2 times.

3 Q. Who was Leo Jennings as you understood it?

4 A. Lynn Jennings was a staffer and Leo Jennings was her
5 father.

6 Q. So you're telling us a couple times Pete Bucheit came
7 to the office with a couple staffers' fathers, right?

8 A. Correct.

9 Q. And what was the office doing for positive with Pete
10 Bucheit?

11 A. He had a case against the Saudi Arabia Government.

12 Q. He said a case. Was there a dispute or something?

13 A. Yes. He had a dispute with the one of the principles
14 of Saudi Arabia.

15 Q. Did the office of Congressman Traficant become
16 involved with that dispute?

17 A. Yes.

18 Q. Do you recall the name of the staff member at the
19 office of Congressman Traficant who was assigned to assist
20 Pete Bucheit in that dispute?

21 A. Yes.

22 Q. And what was her name?

23 A. Lucia Iannandrea.

24 Q. I'm going to ask you to spell both first and last
25 names if you can do the Court Reporter a big favor.

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1 Thanks.

2 A. Okay.

3 First name. L-U-C-I-A, last name, I haven't tried to
4 spell this name in ten years, I-A-N-A-N-D-R-E-A or-E-A, one
5 "A" at the end.

6 Q. Thank you.

7 A. It may not be precise spelling.

8 Q. In a nutshell, without getting into too much detail,
9 can you summarize for us the nature of the dispute and what
10 your office was being asked to do to help?

11 A. My understanding was that Pete Bucheit found a
12 construction firm, and in the late 70's, he was
13 constructing a mall, and either in Riyadh or Jeddah of
14 Saudi Arabia, I think it was a strip mall, and he like many
15 Americans in the late 70's, many American firms had gone
16 over there and were doing commercial development and did a
17 lot of development expecting to be paid and was not paid.

18 Q. What did he want your office to do for him?

19 A. Well, apparently, Mr. Bucheit had reached out for
20 help I think from the State Department and was dissatisfied
21 with the help he was getting there, so he came to our
22 office. Since we were his representative -- you know, we
23 were representing him in Congress. And he came to us for
24 help.

25 Q. Who from your office actually worked in the hands-on

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- 1 way on this matter, personally?
- 2 A. Staffer?
- 3 Q. Just in general, anybody in the office? You
- 4 mentioned --
- 5 A. Lucia Iannandrea.
- 6 Q. Okay. Who else?
- 7 A. The Congressman.
- 8 Q. Congressman Traficant personally?
- 9 A. Yes.
- 10 Q. And how about yourself?
- 11 A. In a limited way, I mean, oversight way with Lucia.
- 12 Q. She was under your supervision at the time?
- 13 A. Yes.
- 14 Q. Were you the press secretary at that time?
- 15 A. Yes.
- 16 Q. And did you handle press matters on the Bucheit
- 17 matter case?
- 18 A. Yes.
- 19 Q. I'd like to turn your attention to what I've mark as
- 20 Government's Exhibit 7-2. You see a copy of that in front
- 21 of you? It'll be up on the stand there. And if you need
- 22 to get some water, you can take a minute to get some water.
- 23 You see the document marked Government's Exhibit 7-2?
- 24 A. Addressed to James A. Baker?
- 25 Q. Yes.

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1 A. Yes.

2 Q. Do you recognize the letterhead, stationery on that?

3 A. Yes.

4 Q. And whose office did that come from?

5 A. The District Office.

6 Q. And you reviewed this letter prior to right now,
7 correct?

8 A. Correct.

9 Q. And do you recognize this is a letter from your
10 office?

11 A. Yes.

12 MR. MORFORD: Your Honor, at this time, I'd
13 like to put it up on the overhead if there's no objection.

14 THE COURT: Fine.

15 BY MR. MORFORD:

16 Q. You can go ahead and tell me who is the letter
17 addressed to.

18 A. James A. Baker, the Third.

19 Q. And who was he?

20 A. He was the Secretary of State at the time.

21 Q. And if you can go ahead and read the body of the
22 letter, if you will.

23 A. Well, it's made out to Secretary Baker. Subject is
24 "Bucheit International versus Saudi Arabia."

25 "Bucheit International of my district has had an

Richards - Direct

1 ongoing problem with HRH Company of Saudi Arabia."

2 Q. If I can interrupt you just a moment because it's a
3 problem for the court reporter, if you can read a little
4 bit slower.

5 A. Sure.

6 Q. She's good, but she's not that good.

7 A. Sorry.

8 Q. Go ahead, continue.

9 A. "Our construction workers were held in Saudi Arabia
10 for three months. HRH owes Bucheit millions of dollars,
11 and now Bucheit received a notice of delinquent income owed
12 to the Saudi Government on money Bucheit never received.

13 "Why do we need a State Department, commerce
14 department, or an embassy if our citizens can't help?
15 Shame on you. Mr. Bucheit cannot even attend a hearing
16 because he is scared. Respectfully, James A. Traficant,
17 Junior."

18 Q. Okay. Next I'd like you to take a look at
19 Government's Exhibit 7-6. You see that in front of you?

20 A. Yes, addressed to the Vindicator.

21 Q. Yes. Let me back up just a second. This Exhibit
22 7-2, which is the letter from Congressman Traficant to the
23 Secretary of State of the United States, on behalf of Pete
24 Bucheit, would this have been an official act of the office
25 of Congressman Traficant, official in the sense of

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1 something that would have been done during the course of
2 congressional services that you provide?

3 A. If you mean writing letters to the editor, probably
4 not.

5 Q. I'm sorry. Talking about 7-2, that is to Secretary
6 of State Baker?

7 A. Oh, I'm sorry.

8 Yes.

9 Q. Now, we'll go back. I apologize for confusing you.
10 7-6, the letter, do you recall receiving a copy of that
11 back in 1990 at the time the office was working on the
12 Bucheit matter?

13 A. Yes, I remember seeing this.

14 Q. And was that in your capacity as press secretary?

15 A. Yes.

16 MR. MORFORD: Your Honor, I would ask if I
17 can put this on the overhead.

18 THE COURT: Certainly.

19 Q. What's the date of this letter?

20 A. March 19, 1990.

21 Q. I'm sorry. This is Government's Exhibit 7-6.

22 A. Oh, I'm sorry. This Exhibit is dated May 7, 1990.

23 Q. Who was this a letter to?

24 A. This is a letter to the Vindicator.

25 Q. What is the Vindicator?

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- 1 A. It's the newspaper in the Youngstown-Warren area.
- 2 Q. Who was the letter from?
- 3 A. Looks to be from Mr. Bucheit.
- 4 Q. Okay. It says Bernard J. Bucheit. Does he have a
5 nickname, Bernard J. Bucheit, that you know of?
- 6 A. I recall he did have a nickname, but I can't recall
7 what it was. Maybe it was Pete Bucheit.
- 8 Q. Okay. That's your recollection of his nickname?
- 9 A. I think so.
- 10 Q. Okay.
- 11 Could you go ahead and read the contents of the
12 letter, please?
- 13 A. "Gentlemen: After reading your editorial and article
14 by Alan Schlein about Congressman Traficant, I felt
15 compelled to write. Bucheit International built a project
16 for the number three brother in the Saudi Arabian Royal
17 Family. He has yet to pay the bill and has refused to
18 release our equipment. Because Saudi Arabia is such a
19 close friend of ours, the U.S. Government was very
20 reluctant to assist us. After one meeting with Congressman
21 Traficant where we outlined the facts, he launched a full
22 scale attack using all the government resources. He
23 pointed out that there are laws and books to help out
24 American firms doing business overseas and it would not be
25 necessary to hire Casper Weinberger as some of the large

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1 American firms have done.

2 "Congressman Traficant has pushed all the right
3 buttons, and I am confident that we will prevail. Call it
4 Gunboat Diplomacy or his bombastic style, but he is doing a
5 heck of a job for Bucheit and their employees. Thanks
6 Congressman. Regards, Bucheit International."

7 Q. I'd like you to turn your attention to 7-29. You see
8 a copy of that in front of you?

9 A. Is this the press release?

10 Q. Yes. Do you recognize the form, the headings and
11 things on this?

12 A. Yes.

13 Q. That's a form your office regularly used?

14 A. Yes.

15 Q. And underneath it says press contract and then a
16 date. Who was listed as the press contact?

17 A. I was listed as the press contact.

18 Q. And what was the date of this press release?

19 A. December 30, 1992.

20 Q. And are you familiar with this press release?

21 A. Yes, I believe so.

22 Q. Okay.

23 MR. MORFORD: Again, your Honor, can I
24 display this on the overhead?

25 THE COURT: Yes.

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1 Q. Okay. If you could go ahead and read through the
2 content and body of this press release?

3 A. "Traficant announces settlement in case between
4 Bucheit International Corporation and Saudi Arabian Prince.
5 U.S. Representative James A. Traficant, Junior, announced
6 today that the longstanding legal dispute between Bucheit
7 International Corporation and Prince Mishaal bin Abdul of
8 Saudi Arabia has come to a successful conclusion.

9 "Traficant, Democrat from Ohio, was asked to mediate
10 the case by the Bucheit Corporation. Traficant negotiated
11 the case last week with officials of the Saudi Embassy.
12 Detailed terms of the settlement are prohibited from being
13 released, pursuant to the agreement reached.

14 "According to Traficant, a tentative agreement was
15 reached last week between himself and Saudi Counselor,
16 Saleh M. Al-Rajhy. Today, 12-30-92, both parties through
17 their attorneys have confirmed a signed agreement finally
18 resolving the matter.

19 "Traficant concluded I'm glad that it is over and I
20 would like to thank both the Saudi Arabian Government and
21 the Bucheit Corporation for their intense cooperation with
22 me which has led to this satisfactory agreement. I
23 especially would like to commend Bucheit Corporation for
24 standing up for their rights as well as commending Prince
25 Bandar and his assistant. Saleh M. Al-Rajhy, for working

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1 with me through this difficult negotiation process." End
2 quote.

3 Q. How active a matter was this for your office from the
4 time between the March 19, 1990, letter that Congressman
5 Traficant wrote to James Baker until December 30, 1992,
6 when you announced the settlement?

7 A. It was fairly active. Again, probably somewhat
8 cyclical, but overall, I --

9 Q. How large a matter was this constituent service
10 matter compared with others in the office?

11 A. I would say it was fairly large.

12 Q. Now, did there ever come a time you had occasion to
13 meet Pete Bucheit's son?

14 A. Yes. I believe I met him once or maybe twice.

15 Q. Do you recall where you met him?

16 A. I think I met him in the office.

17 Q. Okay. And under what circumstances did you meet him?
18 What was the purpose of his coming to the office?

19 A. I think he came with his -- with his father.

20 Q. Do you recall any discussion about the Congressman's
21 boat when you met Pete Bucheit's son?

22 A. Well, yes. I believe I recall.

23 Q. And what do you recall as to any discussion with Pete
24 Bucheit's son regarding the boat?

25 A. I recall that Pete Bucheit's son was interested in

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1 looking at the boat to see what kind of shape it was in and
2 perhaps, you know, considered purchasing it.

3 Q. Now, did he appear to be eager to do this, or did it
4 appear he was being asked to do this?

5 A. I don't -- I don't know. I'm not really sure on
6 that.

7 Q. Do you have a real clear recollection of this?

8 A. Not real clear, no.

9 Q. Are you familiar with a man by the name of J. J.
10 Cafaro?

11 A. Yes.

12 Q. And who is J.J. Cafaro?

13 A. He was a successful businessman in the Warren area.

14 Q. And how would you describe the relationship between
15 Congressman Traficant and J.J. Cafaro during the years you
16 worked for Congressman Traficant?

17 A. Their interaction seemed to be friendly.

18 Q. Did Congressman Traficant ever tell you his view of
19 J.J. Cafaro, how he viewed J.J. Cafaro?

20 A. Yes, he -- I think he viewed J.J. as like the rest of
21 the people, very successful businessman, and I -- I think
22 the Congressman wondered about Mr. Cafaro's political
23 ambitions, but overall, I think he was -- you know, he
24 respected Mr. Cafaro.

25 Q. And that is based on things he told you about

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1 Mr. Cafaro, is that what you're basing that on?

2 A. Yes.

3 Q. I'd like to show you two pictures and just ask you if
4 you recognize the vehicle in these pictures.

5 A. Yes.

6 Q. And what kind of car is that?

7 A. It's an Avanti.

8 Q. And have you ever seen in a black Avanti before?

9 A. I don't know that I've seen that particular Avanti,
10 but I've seen a black Avanti like that, yes.

11 Q. And this is for the purpose of the record, your
12 Honor, I apologize, this is Government's Exhibit 6-30.

13 And can you tell us what context you saw a black
14 Avanti that appeared to look like that?

15 A. The Congressman had driven one down to the office a
16 few times.

17 Q. And do you know where the Congressman got the black
18 Avanti he drove to Washington a few times?

19 A. I know that Avanti 's were built in Youngstown at the
20 time, and I know that Mr. Cafaro was a -- I believe he was
21 a partner or owner in the firm.

22 Q. Congressman Traficant ever tell you how he came to
23 have a car like this, this black Avanti to drive, how he
24 attained it or where he attained it?

25 A. He -- I believe he mentioned to me that the Avanti

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1 dealer or perhaps Mr. Cafaro let him road test the car.

2 Q. I'd like to show you two final exhibits.

3 MR. MORFORD: Your Honor, may I approach the
4 witness?

5 THE COURT: Yes.

6 THE COURT: What are the numbers?

7 MR. MORFORD: These would be Government's
8 Exhibit 2-11 and Government's Exhibit 2-65, and I couldn't
9 remember if I gave him copies. He has copies there.

10 THE COURT: Thank you.

11 BY MR. MORFORD:

12 Q. Turning your attention to Government's Exhibit 2-11,
13 I'd like you to concentrate on the handwriting and
14 handprinting on this document and ask you, do you recognize
15 that handwriting and printing?

16 A. Yes.

17 Q. And can you tell us whose handwriting and printing
18 you recognize on the document?

19 A. It looks like the Congressman's handwriting.

20 MR. MORFORD: Your Honor, can I put this on
21 the overhead?

22 THE COURT: Yes.

23 Q. Now, on the left side of the page, Exhibit 2-11 is a
24 series of numbers. Words written in circles, let's start
25 with that. Whose writing does that appear to be?

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1 A. That appears to be the Congressman's.

2 Q. During the time that you worked for the Congressman,
3 did you get used to his writing, did you see his writing?

4 A. Sure.

5 Q. And was he a list maker? You see the list there?
6 Was that a common practice?

7 A. Yes, I think he -- yeah, he -- I think to a certain
8 extent we're all list makers, but, yes.

9 Q. In your experience, would you at times get notes and
10 things from him with to-do lists?

11 A. Yes.

12 Q. Okay.

13 And then finally, turning to Exhibit 2-65, and on the
14 front of 2-65, there's some handwriting. Do you see that?

15 A. Yes.

16 Q. Do you recognize the handwriting on Exhibit 2-65?

17 A. Yes.

18 Q. And whose writing do you recognize?

19 A. It appears to be the Congressman's handwriting.

20 MR. MORFORD: And can I put this up as well,
21 your Honor?

22 THE COURT: Yes.

23 MR. MORFORD: Thank you.

24 BY MR. MORFORD:

25 Q. Now, there's some drawings on here. Do you see that?

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1 Do you see some drawings on here?

2 A. Yes.

3 Q. Were there times that you saw Congressman Traficant
4 draw pictures like this?

5 A. Once in a while.

6 Q. Were there ever times he talked about things he
7 wanted to build out at the farm?

8 A. I think -- yeah, on occasion.

9 MR. TRAFICANT: What was the date on that up
10 there, sir, at the top? Could you put that back up again?
11 There was some writing on the top of it that I'd like to
12 know when, if there was a note, when it was.

13 MR. MORFORD: It's actually not a date. It's
14 a measurement.

15 MR. TRAFICANT: Oh, measurement? Thank you.

16 BY MR. MORFORD:

17 Q. During the time you worked for Congressman Traficant,
18 were you loyal to the Congressman?

19 A. Yes.

20 Q. Were you fond of the Congressman?

21 A. Yes.

22 Q. What was it that caused you to overlook things like
23 the concern that you testified you had about Henry
24 DiBlasio's pay, the ownership of the building, George
25 Buccella's complaints to you, the staff work out on the

Richards - Direct

1 boat?

2 A. Well, I think a couple of things: You know, working
3 on Capitol Hill is different from working anywhere else.
4 It's -- you know, it's an honor to be there, and it's made
5 up of staffers who typically hold the members of Congress
6 in pretty high esteem.

7 And, you know, I think, you know, to me, the
8 Congressman was a, you know, a strong authority figure, and
9 mentor, and, you know, there's an incentive not to get into
10 uncomfortable conversations.

11 MR. MORFORD: Just one moment, your Honor.

12 No further questions.

13 THE COURT: Thank you.

14 THE COURT: Do you want a break? You get an
15 afternoon break. This would be a time to give you a break.
16 Would that be good, jurors? How are you doing?

17 THE JURY: We're ready.

18 THE COURT: We're going to recess. This will
19 be the afternoon break. It's 20 minutes long, and then
20 we'll come back together and continue. Thank you very
21 much.

22 (Thereupon, a recess was taken.)

23 THE COURT: You're still under oath.

24 THE WITNESS: Yes.
25

Richards - Cross

1 CROSS-EXAMINATION OF HAYDEN WEST RICHARDS2 BY MR. TRAFICANT:

3 Q. How are you doing, West?

4 A. I've been better.

5 Q. Really intimidating being up there in that chair,
6 isn't it?

7 A. Yes.

8 Q. Can you hear me while I try to get some water for
9 myself?

10 A. Yes.

11 Q. Now, you went to Carnegie Mellon; is that right?

12 A. Yes.

13 Q. And graduated from Carnegie Mellon?

14 A. Yes.

15 Q. Is that now one of the most respected schools, would
16 you say, in America?

17 A. Yes.

18 Q. Now, you know when I graduated from Pitt that it was
19 Carnegie Tech, did you know that?

20 A. Yes.

21 Q. Now, when you were at Carnegie Mellon, did you happen
22 no know the president of Carnegie Mellon?23 A. I knew the president of Carnegie Mellon, but I was
24 friends with the provost.

25 Q. And what was the name of the provost?

Richards - Cross

- 1 A. Pat Crecine.
- 2 Q. And when you eventually?
- 3 THE COURT: Would you spell it, spell last
- 4 name?
- 5 THE WITNESS: Yes. It's C-R-E-C-I-N-E.
- 6 Q. And when you eventually left my employ, you went to
- 7 work at Georgia Tech, did you not?
- 8 A. Yes.
- 9 Q. And who employed you at Georgia Tech?
- 10 A. The president.
- 11 Q. And who was the president?
- 12 A. Pat Crecine.
- 13 Q. Was he sort of like a friend when he come and visited
- 14 D.C.?
- 15 A. Yes.
- 16 Q. Would you say it's a fair assessment I didn't want to
- 17 see you go?
- 18 A. Yes.
- 19 Q. In fact, wasn't it a tough position you were in at
- 20 that time and the decision you had to make career wise?
- 21 A. Yes.
- 22 Q. Now, you have immunity in this case; is that right?
- 23 A. Yes.
- 24 Q. And you stated that you talked with attorneys, and
- 25 they stated that if other staffers had immunity, that you

Richards - Cross

1 should take the same protection, is that your statement?

2 A. Yes.

3 Q. Did you do anything wrong with me, as far as you're
4 concerned?

5 A. No.

6 Q. When you were in my employ, did you ever see me do
7 anything wrong?

8 A. No.

9 Q. All right.

10 Let's get down to some business. One of the items
11 that was put on the board dealt with a letter that a
12 Congressman sent to the Secretary of State of the United
13 States of America; is that correct?

14 A. Correct.

15 Q. And you were asked by the Government if that was sort
16 of unusual to see such a tough letter sent by a member of
17 Congress. Do you recall your answer? Well, let me
18 rephrase that.

19 Didn't you say it was a normal constituent type of
20 thing for a Congressman to write a Secretary of State, was
21 that usual or unusual?

22 A. It would be usual.

23 Q. Yeah. But I did write that letter, didn't I?

24 A. I believe the letter was written by Jackie Bobby.

25 Q. To?

Richards - Cross

1 A. The Secretary of State.

2 Q. To the Secretary of State. At my direction; is that
3 right?

4 A. Right.

5 Q. Now, isn't it a fact that I advised the Bucheit
6 Corporation to file a civil RICO against the Saudi Prince?

7 MR. MORFORD: Objection, your Honor, can we
8 have a side bar?

9 (The following proceedings were held at side bar:)

10 MR. MORFORD: Your Honor, I think the record
11 will show that we've tried to be very lenient and give
12 Congressman a lot of leeway and not object to a lot of
13 things that are objectionable, and he's done this a number
14 of times, but I want to object now and have an instruction
15 and continuing objection.

16 Congressman Traficant cannot ask witnesses about what
17 he said to prove the truth of the matter asserted unless it
18 falls within a hearsay exception. We can put in
19 Congressman Traficant's statements through other witnesses
20 because he's a party opponent. But he continues to ask
21 witnesses didn't I say this, and didn't I say that. And
22 that's just inadmissible hearsay unless he can lay a
23 foundation and show that it either falls within a legally
24 accepted exception to the hearsay rule or that there's a
25 relevant purpose apart from the truth of the matter

Richards - Cross

1 asserted, such as a state of mind or something that's been
2 put into evidence.

3 If I can just finish my last line is, if Congressman
4 Traficant wants to testify, he can, but he has to be
5 subject to cross-examination, and he can't testify through
6 other witnesses about what he said or didn't say.

7 MR. TRAFICANT: Can I respond now?

8 THE COURT: Yes.

9 MR. TRAFICANT: I think the question on
10 hearsay about this trial should be more directed in another
11 direction, but I will say this: Maybe my phrasing of the
12 question was wrong, but my intention was not to testify.
13 My question was to establish that I did aggressively do
14 certain things.

15 THE COURT: What he's --

16 MR. TRAFICANT: And that he as chief of staff
17 would have knowledge of the types of things that I did
18 since you used it as your own exhibit and opened it up. So
19 perhaps my question may be considered --

20 THE COURT: I can't even remember the way you
21 put the question right now.

22 MR. TRAFICANT: It evidently didn't bother
23 you now.

24 THE COURT: Now that I have listened to all
25 this, she'll go back and tell me what it was.

Richards - Cross

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

3 THE COURT: Okay. See, this is what -- now
4 you can hear what he is saying because if you were on the
5 stand, you could testify to that, but you're not.

6 MR. TRAFICANT: Okay. I have to question it
7 differently is what you're saying?

8 THE COURT: Okay. Yeah, there may be a
9 question under there, but I'm not sure --

10 MR. TRAFICANT: Okay.

11 THE COURT: I'm not sure until I hear your
12 next question, whether it's going to get past this.

13 MR. TRAFICANT: Well, he was my chief of
14 staff and --

15 THE COURT: So you're --

16 MR. TRAFICANT: They brought up an exhibit,
17 they made an exhibit for whatever their reasons are. Now
18 that opens up that exhibit for defense reasons.

19 THE COURT: Right, that's true.

20 MR. TRAFICANT: And I shouldn't be limited to
21 the reasons that the Prosecution brought the exhibit up.

22 THE COURT: But, you can question him about
23 what he knows. Just always remember it's his knowledge
24 you're working for, the guy on the stand.

25 MR. MORFORD: And --

Richards - Cross

1 THE COURT: And there may be something about
2 this exhibit that will allow you to get to it through this
3 witness.

4 MR. TRAFICANT: My only objection is --

5 MR. MORFORD: You're asking witnesses to
6 repeat things you said out of court because that's hearsay.

7 THE COURT: Well, yeah, but I think he
8 understands hearsay.

9 MR. TRAFICANT: We talked about it a couple
10 times. I think hearsay has been pretty much a violation of
11 the Government. I'd like to put that on the record.

12 (Proceedings resumed within the hearing of the jury:)

13 Q. West, when you worked with me, was I known on the
14 Hill as an aggressive Congressman?

15 A. Aggressive in what respect?

16 Q. That I would go after and help my constituents and no
17 holds barred?

18 A. Absolutely.

19 Q. Did I hire Lynn Jennings?

20 A. Yes.

21 Q. All right. Do you have any knowledge as to who, if
22 anyone, recommended her for a job at the Justice
23 Department?

24 A. I believe you did.

25 Q. You have any knowledge that I -- that the office of

Richards - Cross

1 the Congressman was called personally by the White House
2 relative to Lynn Jennings?

3 A. Yes, I believe I recall that.

4 Q. Now, you've heard some things about this case I am
5 sure; is that correct?

6 A. Yes.

7 Q. Have you heard Leo Jennings, Senior's name brought up
8 in any other way in this case?

9 A. Recent questioning.

10 Q. Have you heard of Leo Jennings, Senior's name being
11 brought up in any other way in this case?

12 A. No.

13 Q. Good. So you started out as an intern in Youngstown?

14 A. Yes.

15 Q. And who recommended --

16 A. Well, I started the -- correction. I started out as
17 an intern in Washington, D.C.

18 Q. Okay.

19 A. First.

20 Q. The genesis of that recommendation, did it come from
21 someone in Washington or someone in Youngstown?

22 A. The genesis of the recommendation from me to --

23 Q. To be an intern?

24 A. Well, I guess I sort of counted two internships, one
25 in Washington and one in Youngstown.

Richards - Cross

1 Q. But whether you were first -- and I first named you
2 as an intern and allowed you to become an intern?

3 A. Yes.

4 Q. On whose are recommendation did I accept your
5 competency and the factors relative to you that were given
6 to me, do you know?

7 A. I believe I interviewed with the administrative
8 assistant at the time.

9 Q. Who was that?

10 A. I can't remember her name.

11 Q. Okay. Did your father go to see anybody relative to
12 getting you an opportunity to work with me?

13 A. I believe my father's boss at the time had a relation
14 with Mr. DiBlasio, and my father may have, but I don't
15 know.

16 Q. All right. That was your testimony. So you were an
17 intern for approximately three months in Washington?

18 A. I -- yeah, yeah, I think that's about right.

19 Q. And then an opening occurred?

20 A. When I was an intern in Washington for a number of
21 months, and when that internship ended, I went back to
22 school.

23 Q. School. Okay?

24 A. And then in the fall of 1987, I interned in
25 Youngstown, a couple days a week, and then in February,

Richards - Cross

1 there would be a part-time opportunity that opened up.

2 Q. While you were in Youngstown, did you maintain any
3 phone contacts with anybody in Washington? Did you make
4 friends with anyone on my staff?

5 A. I had known actually Paul Marcone in 1985 when I was
6 an intern first time in D.C., and I had contact with him
7 later on as well.

8 Q. Did you come to learn that this was an opening that
9 where the Congressman was going to fill the position in
10 D.C.?

11 A. Right, yes.

12 Q. Did you make contact with Mr. Marcone?

13 A. I don't know whether I made contact with him or he
14 made contact with me.

15 Q. How long did it take for me to hire you, West?

16 A. It was very, very quick.

17 Q. Now, you said you handled mail?

18 A. Yeah. Initially, I was office manager, then started
19 to handle mail.

20 Q. And then you would -- what would you do with the mail
21 when you got it, for example?

22 A. Early on as a legislative correspondent, you would
23 have to actually write the responses to sort of mass
24 mailings and responses to -- to people writing about issues
25 and situations.

Richards - Cross

1 Q. But on critical issues, say like Social Security or
2 Medicare where we might be inundated with a thousand
3 letters a week --

4 A. Right.

5 Q. -- who would be the ultimate person that would have
6 promulgated and formulated the information for that
7 response?

8 A. That would be the -- usually the legislative
9 assistant, assigned to that particular area of issue area,
10 and then the letter would be approved by the chief of
11 staff.

12 Q. And then whom would the chief of staff check with to
13 make sure that it is, in fact, the response which was the
14 political and/or private and/or professional opinion of the
15 representative; who would he check with?

16 A. Congressman.

17 Q. So in other words, if there's a letter on Social
18 Security and there was a letter that come to the
19 Congressman and the Congressman says, well, look, I'm not
20 so sure about that issue, then it would be changed,
21 wouldn't it?

22 A. Right.

23 Q. But in most cases, once a form letter was sent --

24 A. Um-hum.

25 Q. -- did the Congressman see him anymore?

Richards - Cross

1 A. No.

2 Q. Did the Congressman sign those letters?

3 A. No.

4 Q. I mean, even though most Americans believed as
5 members do, isn't it a fact that many times the signature
6 of a representative is that of his staff, signing his name
7 or her name?

8 A. Yes. And in large cases, I mean a lot of those
9 signatures were actually automated.

10 Q. Okay. Then you started to work on legislative
11 business?

12 A. Um-hum.

13 Q. What sort of legislative issues were you given?

14 A. The ones I recall had mostly to do with the public
15 works committee and subcommittees that you were assigned
16 to, underneath those.

17 Q. At that time, can you recall if I was a chairman of a
18 subcommittee?

19 A. Early on, no, but towards the -- I think the last
20 year and a half or two years, I can't recall, during my
21 tenure, you were chairman of the public works.

22 Q. And economic development?

23 A. And economic development.

24 Q. And you assisted with matters in that regard as well,
25 did you not?

Richards - Cross

1 A. Yes, and I remember we hired Paul Marcone back, and
2 then he kind of took more charge of that.

3 Q. And when you were there on staff and Paul Marcone was
4 hired back; is that correct?

5 A. Yeah, yeah, we were -- we actually at the end were
6 together again.

7 Q. Now, you were the chief, and you had authority over
8 all of the people in my D.C. office; is that correct?

9 A. Correct.

10 Q. And when Paul Marcone came back, who was the chief?

11 A. I was -- I was still the chief. He was put in charge
12 of the -- of the committee.

13 Q. And he became the committee person that allowed
14 for -- well, did a committee chairman have the opportunity
15 to hire an additional staffer to the best of your
16 knowledge?

17 A. Yes, yes.

18 Q. And who was that person that I hired?

19 A. Paul Marcone.

20 Q. And was he paid more than you?

21 A. I don't recall. He may have been.

22 Q. And after you -- after you left, do you know who
23 became the chief of staff?

24 A. Yeah. Paul Marcone became chief of staff.

25 Q. And did you have great respect for Paul?

Richards - Cross

- 1 A. Absolutely.
- 2 Q. Did you have great respect for me?
- 3 A. Yes.
- 4 Q. You didn't say absolutely.
- 5 (Laughter.)
- 6 A. I did not. No, I'm sorry. Okay. Absolutely.
- 7 (Laughter.)
- 8 Q. That wasn't intimidation, was it?
- 9 A. No.
- 10 Q. Did you at times get calls from the Youngstown staff
- 11 where they would whine and complain about many, many things
- 12 to you?
- 13 A. A fair amount, yes.
- 14 Q. Did you ever get any calls or complaints about an
- 15 employee by the name of Linda Kovachik, to the best of your
- 16 knowledge?
- 17 A. I don't recall.
- 18 Q. Okay. You also handled the press. Was that --
- 19 A. Yes.
- 20 Q. -- a fact?
- 21 A. Yes.
- 22 Q. Was that a part of your Carnegie Mellon training?
- 23 A. Well, yes, I mean I was -- I trained in writing so I
- 24 was a fairly good writer.
- 25 Q. Now, at some point, Paul, when he had originally

1 left, you were a very young man at that point, were you
2 not?

3 A. Yes.

4 Q. But the record reflects that I selected you to be the
5 chief, is that a fact?

6 A. Yes.

7 Q. Did that upset any of the other staff members who
8 were there longer than you?

9 A. Yeah, it may have.

10 Q. Was it your opinion that I made decisions predicated
11 on what was best for our office at all times?

12 A. Yes.

13 Q. And how old were you when you became chief?

14 A. 27.

15 Q. Were you one of the youngest chief of staffs on
16 Capitol Hill?

17 A. Yes.

18 Q. Was there ever one complaint directed towards you or
19 the job you did as my chief of staff?

20 A. Probably at least one or two, I mean --

21 Q. Do you remember what they were?

22 A. I -- sometimes people in District Office felt we
23 were, you know, maybe I wasn't reactive enough to an issue
24 or something like that, you know. They would let me know.

25 Q. What was your position with the District?

Richards - Cross

- 1 A. I think my position was -- because I knew some of
2 them and had interacted with some of them, I was a bit of a
3 liaison. They felt like I was someone that they could --
4 because they seen my face in the area, and I was from the
5 area; that they could feel comfortable interacting with me.
6 So --
- 7 Q. And some of them also, were they -- were they upset
8 you were so young and making more money than they were?
- 9 A. That could be.
- 10 Q. Now, there were times when members drove down,
11 members of my staff drove down with me to D.C.?
- 12 A. Yes.
- 13 Q. Now, if it wasn't a critical time of the year, by
14 that, I mean not to confuse anybody, the time of the year
15 when there was a big budget debate or a tax debate or
16 spending bill, the House was normally in session when there
17 was not major business for how many voting days, usually?
- 18 A. For the -- for the year?
- 19 Q. Yeah. Usually when there is, it's in the a busy
20 week. In most cases, there wasn't appropriation times late
21 in the year. How many days was the House usually in
22 session for votes?
- 23 A. Oh, three, sometimes two.
- 24 Q. And what were those dates?
- 25 A. Tuesday, Wednesday, and Thursday.

Richards - Cross

1 Q. And sometimes when it was late in the year, you might
2 stay over, or maybe you could explain?

3 A. As we progressed towards summer recess, we would --
4 we would be in the office -- more and more as you got
5 closer to summer recess, and they would take like August
6 off. And you would come back, and if it was an election
7 year, the closer you got to election time, November, you
8 found yourself working longer and harder and more as you
9 progressed through the recess for the end of the year. A
10 lot of times it would be, you know, second week of
11 November. And I recall in October working 21 days
12 straight.

13 Q. And as the ex-chief of staff, do you know what the
14 rules and regulations are to the amount of time required to
15 be put in by a full-time employee of a congressional staff?

16 A. I believe it was eight hours a day, 40 hours a week.

17 Q. That was your impression?

18 A. Yeah, that was my impression.

19 Q. Did you ever check to verify that at any time?

20 A. No. But I think I had it pointed out to me.

21 Q. Okay. It was sort of like a policy, right?

22 A. Yeah.

23 Q. Okay. Your understanding at least, right?

24 A. Right.

25 Q. You also dealt with some budget items; is that

Richards - Cross

1 correct?

2 A. Yes.

3 Q. Is that not a very important aspect to a district
4 that a member represents?

5 A. When you say budget, do you mean office budget or --

6 Q. Office budget and budgetary matters?

7 A. And budgetary matters, yes.

8 Q. Isn't it a fact that much of the law comes through
9 the budget that's approved by Congress?

10 A. Yes.

11 Q. So during that process, the Congress would be
12 heightened to get their, say, wouldn't they?

13 A. That's right.

14 Q. Were we one of the most active offices in that
15 regard?

16 A. Yes, we were very active.

17 Q. Were there times where I had even arguments with some
18 committee chairmen?

19 A. Yes.

20 Q. Do you remember one with a member by the name of Ron
21 Sinkowski?

22 MR. MORFORD: Objection.

23 MR. TRAFICANT: I'll rephrase the question.

24 THE COURT: Well, I don't know that it needs
25 rephrasing.

Richards - Cross

1 MR. TRAFICANT: Pardon?

2 THE COURT: Why don't we have a side bar?

3 (The following proceedings were held at side bar:)

4 THE COURT: You can state your reason for the
5 objection.

6 MR. MORFORD: Again, your Honor, it was a
7 hearsay objection, that he's asking about what this witness
8 heard him say to Ross Sinkowski and Ross Sinkowski say to
9 him.

10 MR. TRAFICANT: I don't think that's what I
11 said. I asked: Did you ever hear me having arguments with
12 committee chairmen. He said yes. I said you remember one
13 with Chairman Ross Sinkowski.

14 THE COURT: That was his question.

15 MR. MORFORD: Also, just the relevance how
16 that relates to anything that's --

17 MR. TRAFICANT: I mean, you questioned on my
18 motives, and where I'm going with my defense now.

19 MR. MORFORD: But you have to show relevance.

20 MR. TRAFICANT: I am showing relevance.

21 THE COURT: Okay. Tell me the relevance of
22 Ross Sinkowski.

23 MR. TRAFICANT: I was very aggressive.
24 There was a tremendous area developing in the press over
25 IRS legislation I sponsored that he completely objected to.

Richards - Cross

1 THE COURT: When was that?

2 MR. TRAFICANT: Over that period of years, it
3 was a period of 12 years, also.

4 THE COURT: When he was there?

5 MR. TRAFICANT: Part of it when he was there.
6 I don't know, that's why I'm asking.

7 THE COURT: See, that's the thing you need to
8 do. You need to establish that this witness has some
9 personal knowledge of what you're about to talk about. Not
10 just the -- something happened.

11 MR. TRAFICANT: If I were to ask were you
12 there when I had an argument with Dan Ross Sinkowski, that
13 would be testifying, wouldn't it? What did I say?

14 THE COURT: It would be saying you had an
15 argument.

16 MR. TRAFICANT: Do you have any knowledge
17 that I --

18 THE COURT: You need to lay some kind of
19 basis so we know why it's relevant to the case, to the case
20 about you.

21 MR. TRAFICANT: Okay.

22 MR. MORFORD: My objection is it sounds like
23 what' he's saying he had an argument with Ross Sinkowski
24 back sometime before 1993, and then as a result of that,
25 the papers were saying things about him, and as a result of

Richards - Cross

1 that, we came along in 1999 and --

2 THE COURT: I don't know where it's going.

3 MR. TRAFICANT: No.

4 MR. MORFORD: That's why I said I don't see
5 the relevance.

6 MR. TRAFICANT: Relevance deals with an issue
7 about my staff, about staff hours, staff work, the time
8 they put in, the type of efforts, the types of work that we
9 did.

10 THE COURT: Um-hum.

11 MR. TRAFICANT: How unusual things occurred
12 that took much of our time.

13 THE COURT: You can ask him did anything
14 unusual occur. Ask him the questions openly so you can ask
15 it.

16 MR. MORFORD: Again, I don't understand the
17 relevance how an argument with Dan Ron affects the hours of
18 staff. He has yet to explain any relevance after argument
19 with Dan.

20 MR. TRAFICANT: I'm not done with my
21 cross-examination. I don't know what you're mumbling
22 about.

23 THE COURT: Because you should be
24 cross-examining on something that is -- was brought out in
25 direct examination.

Richards - Cross

1 MR. TRAFICANT: Yes. But I'm not just
2 limited to direct examination on cross, your Honor.

3 THE COURT: But you are limited to something
4 this guy would have some understanding about.

5 MR. TRAFICANT: Yes, yes. But I did
6 establish that by saying isn't it a fact that I had some
7 arguments with some powerful committee chairmen, and he
8 said yes.

9 THE COURT: And you can ask him which ones.
10 Was he there for something?

11 MR. MORFORD: Again, what's the relevance of
12 that?

13 THE COURT: I don't know. Let's see where he
14 goes with that. At least use the witness

15 (Proceedings resumed within the hearing of the jury:)

16 BY MR. TRAFICANT:

17 Q. West, do you remember incidents where I had some
18 confrontation arguments with powerful chairmen?

19 A. Yes.

20 Q. Do you happen to recall any of their names?

21 A. Yes.

22 Q. Would you give us those names?

23 A. Chairman Ross Sinkowski, for example, was one. There
24 were -- there were a number of other chairmen as well.

25 Q. Did those types of events cause our staff to work

Richards - Cross

1 harder on legislative issues?

2 A. I suppose you could say so in some instances.

3 Q. Now, at some point, did you respond to the
4 Government's question that you felt that Henry DiBlasio was
5 an excellent, valuable resource to the office?

6 A. Yes.

7 Q. Did you have contact with Henry DiBlasio relative to
8 Henry DiBlasio's relationship and discussions with me?

9 A. I believe so.

10 Q. Well, when I was in the district -- in the D.C.
11 office, whom did I basically communicate with above all
12 others?

13 A. Me, when I was there.

14 Q. When you were chief of staff?

15 A. Right.

16 Q. Now, to the best of your knowledge, when I was in the
17 district, do you have any knowledge as to whom I spent or
18 would have conferred most with when I was in the District
19 Office?

20 A. It was my impression that that person would be
21 Charles O'Nesti.

22 Q. That was your impression?

23 A. That was my impression.

24 Q. Chuck was more outgoing, was he not?

25 A. Yes.

Richards - Cross

1 Q. He sought public attention, would you say that?

2 A. Yes.

3 Q. What was your impression of Henry DiBlasio relative
4 to that demeanor?

5 A. Henry was more reserved. Very professional.

6 Q. Would you say that he did not seek public limelight?

7 A. I would agree with that.

8 Q. Now, do you have knowledge that I had settled many
9 strikes in our Valley?

10 A. Yes.

11 Q. And some of those strikes went around the clock for
12 five days with little sleep?

13 A. Correct, yes.

14 Q. Did you have any knowledge that Henry DiBlasio
15 participated in those strike negotiations?

16 A. I believe so.

17 Q. And when there was a legal issue of concern, be it
18 legislation or else, whom would you call?

19 A. Well, if you were in the office, I would call you.

20 Q. Well, I am not an attorney?

21 A. Right. I would bring it to your attention first.

22 But if it was -- it was a legal issue, I would -- I would
23 contact Henry, and if I couldn't get through to Henry, then
24 I would go through Mr. O'Nesti.

25 Q. So Henry DiBlasio was the top boss, right?

Richards - Cross

1 A. Right.

2 Q. Chuck O'Nesti was like the district director
3 underneath Mr. DiBlasio?

4 A. Right.

5 Q. Yeah. Over the years you were chief of staff,
6 weren't there some people that wanted your job, would you
7 say?

8 A. I would say -- yeah, I would say so. I would say
9 that it's fairly typical of any Washington and
10 congressional staff, yeah.

11 Q. Let's get back to the Bucheit matter. Were you
12 concerned that the letter that I had sent, that I had sent
13 to the Prince relative to that matter, was harsh as it were
14 sent to the Secretary of State of the United States?

15 A. I -- you know, I think my impression of that letter
16 was that it was perhaps a little harsh, but you know, at
17 the time, I mean, it seemed like a pretty important matter
18 and that, you know, along with the other companies that had
19 been away for years and years by the Government, I mean it
20 was fairly important issue.

21 Q. So in that letter, even though it was sent to the
22 Secretary of State, it questioned why the United States
23 State Department and the United States Congress Department
24 failed to do anything for my constituents. Is that a fact?

25 A. Yes.

Richards - Cross

1 Q. Did the State Department, Congress Department, do
2 anything to help Mr. Bucheit, to the best of your
3 knowledge?

4 A. No.

5 Q. Do you have any knowledge of any tactic that I
6 employed to try and bring a process of negotiation to the
7 table?

8 A. Can you restate the question, please?

9 Q. Do you have any knowledge of any tactic or ploy I
10 used in the press to bring about the possibility of being
11 able to get this Prince to a table to mediate and resolve
12 the problem with Bucheit?

13 A. It's a long time ago, but I -- I recall that you felt
14 that the media was probably the best way to get attention
15 for the issue.

16 Q. And to the best of your knowledge, did I suggest any
17 actions by the Bucheits to take legally?

18 A. I can't -- I can't recall exactly. But I think --

19 THE COURT: Well, if you can't recall, you
20 can't recall.

21 THE WITNESS: I can't recall.

22 MR. TRAFICANT: Okay. That's fine.

23 BY MR. TRAFICANT:

24 Q. Now, but after the press ploy, let's call it, what
25 happened from there?

Richards - Cross

1 A. I think the --

2 MR. MORFORD: Your Honor, can we approach the
3 side bar for a moment?

4 MR. TRAFICANT: For what?

5 THE COURT: Just a minute, Mr. Traficant.

6 THE COURT: Regarding this question?

7 MR. MORFORD: Yes. There's an issue that I
8 think the Court needs to be aware of.

9 THE COURT: I'm going to recess the jury for
10 the day and see if we can get this straightened out. I
11 have some really good news for you guys, going to make you
12 happy, I think.

13 Next week, Wednesday, Thursday, and Friday, which are
14 the last two days of February and the first day of March,
15 we are going to devote those days to something that will
16 not -- we do not need the jury's presence to do. And so
17 you're going to get a sort of mid trial break of three
18 days.

19 We will be in here for the rest of this week until
20 noon on Friday, and we'll be back here on Monday and
21 Tuesday. But we're trying to schedule your time so you
22 don't have a lot of interruptions, and there is a part of
23 this that the work of the lawyers and the Court that needs
24 to go on, and so you're going to have this breaking time.
25 So I'm telling you now so you can make plans for -- I know

1 it's next week, but it's a period maybe you can use.

2 Other than that, remember your admonitions, and we
3 will release you now and see you tomorrow morning in time
4 to be up here and work at 9:00. Okay? It's nice outside.

5 THE COURT: Let the witness down.

6 MR. MORFORD: It would be best if he's not in
7 the room for this point.

8 THE COURT: Just come down and go back to
9 where you were, one of the rooms that he was in.

10 (Witness excused).

11 MR. MORFORD: Your Honor, this -- I'm sorry.

12 THE COURT: Yes, sir.

13 MR. MORFORD: My request for a side bar was
14 not an objection to the question. It was a concern, and I
15 wanted to make sure that Congressman Traficant understood
16 where he's going because he's asking open-ended questions,
17 what was my tactic to get the Saudis to the table, what was
18 my tactic to get this matter settled.

19 He has raised the issue of speech of a privilege, and
20 I believe that a complete and truthful answer from this
21 witness would be your tactic was, Number 1, to threaten the
22 Saudis with legislation to hold up funding of F-15 war
23 planes.

24 MR. TRAFICANT: That wasn't it.

25 MR. TRAFICANT: And to -- well, I'm telling

1 you what my understanding is from documents and witnesses
2 and a threat to both congressional hearings that would
3 embarrass the Saudis and were, in fact, hearings held, and
4 that's where I was going --

5 THE COURT: Actually, there was
6 correspondence, Congressman, as you remember, among the
7 documents that you asserted speech debate privilege on.
8 That related to this. There was, at least, a letter, one
9 document that was the subject of several judges looking at
10 whether or not it was speech in debate.

11 MR. TRAFICANT: You allowed it in so now I
12 can't use it?

13 MR. MORFORD: No, you can --

14 THE COURT: No, I think you can use it.

15 MR. TRAFICANT: Okay. Let me respond, if I
16 could.

17 THE COURT: Okay. I'm not really clear yet
18 about what it is he's saying.

19 MR. MORFORD: All I was trying to do is --
20 and I never talked to this particular witness about this --
21 but I have talked to others -- is to make sure Congressman
22 Traficant understands that the question he's asking about
23 the tactics he used to bring the Saudis to the table would
24 involve congressional hearings that were held to embarrass
25 the Saudis and legislation he proposed to pressure the

1 Saudis, and I wanted to make sure with the questions he was
2 asking and the way he was asking them he certainly --
3 there's no restriction on him to bring out those
4 legislative matters, but once he goes, he waived speech
5 debate privileges to those matters, and I was trying to
6 make sure he understood the questions he was asking might
7 end up getting us there, that was all.

8 MR. TRAFICANT: Well, I appreciate you trying
9 to protect my rights. Thank you. And I'd like to respond.

10 The Bucheit matter is very important. Bucheit is
11 under indictment. I've been informed that his daughter and
12 son are being threatened with indictments now.

13 I am on charge with -- one of my charges of these ten
14 counts involves the Bucheit Corporation, quite frankly, no
15 one in Congress will have a hearing because they're afraid
16 of losing their oil. I didn't offer any legislation. The
17 question I asked was: Did I employ any legal tactics? Did
18 I involve the Bucheits to employ any legal tactics with the
19 Prince, and that was to file a civil RICO that would take
20 this Prince's diplomatic pass away and not allow him into
21 America. That was the purpose for it.

22 Now I am trying to establish that they're saying
23 Bucheit gave me kickbacks, and I'm going into the Bucheit
24 matter completely, and I'm not going to be continued to be
25 disrupted on questions that are absolutely relevant.

1 THE COURT: Well, actually, though, the
2 questions you were going forward on could involve your
3 whole speech or debate issue, and the notion of you waiving
4 that privilege after all of the attention it's received by
5 this Court and the Sixth Circuit Court is something that
6 you need to consider very carefully.

7 MR. TRAFICANT: Let me respond. How can I
8 violate the speech and debate clause of the Congress of the
9 United States if the legal tactic was printed in the
10 Washington Post? It's not subject to speech or debate.

11 THE COURT: I don't understand what you're
12 referring to.

13 MR. TRAFICANT: The tactic I employ was a
14 press release that was printed in the Washington Post.

15 THE COURT: Okay.

16 MR. TRAFICANT: And when the Saudis saw it
17 and they had 16 other claims totaling almost a billion
18 dollars, they had a bowel movement, and they sat down at
19 the table. That's the bottom line here.

20 THE COURT: Is that what you're going toward?

21 MR. TRAFICANT: Yes, exactly.

22 THE COURT: That he -- is that why you're
23 asking this witness that?

24 MR. TRAFICANT: I don't know if he knew that
25 or not. No, I don't know. I just asked him, do you know

1 what the legal tactic was I employed?

2 THE COURT: But there has to be some basis
3 for your putting questions to particular witnesses.

4 MR. TRAFICANT: He was my chief of staff.

5 THE COURT: When? During the time you did
6 this?

7 MR. TRAFICANT: That's what I asked him,
8 during the --

9 THE COURT: Don't you know when --

10 MR. TRAFICANT: I asked him to read the time.
11 Did he recall any legal tactic I employed?

12 THE COURT: Yeah.

13 MR. TRAFICANT: Did I not? We have to read
14 the question back.

15 THE COURT: I guess we should.

16 "Do you have any knowledge of any tactic or ploy I
17 used in the press to bring about the possibility of being
18 able to get this Prince to a table to mediate and resolve
19 the problems with Bucheit?"

20 And the answer was "it's a long time ago. I recall
21 you felt that the media was probably the best way to get
22 attention for the issue."

23 Then you asked, "and to the -- to the best of your
24 knowledge, did I suggest any actions by the Bucheits to
25 take legally?" And the answer was "I can't recall

1 exactly." So there we are.

2 MR. TRAFICANT: Then there was the objection.

3 MR. MORFORD: I think there was a later
4 question, your Honor -- that wasn't an objection.

5 THE COURT: Okay. Oh, wait. And then you
6 say -- "but now, after the press ploy, let's call it, what
7 happened from there?"

8 MR. TRAFICANT: Yes.

9 THE COURT: That was the question. And
10 that's the question when he -- when Mr. Morford said can we
11 approach the side bar.

12 MR. MORFORD: And again, your Honor, I'm not
13 objecting if he wants to do this. I just think he ought to
14 do it knowingly and intelligently because one of the things
15 they did involved the very speech or debate that he has
16 filed many motions with this Court to keep out of this
17 trial, and that was my only point. It wasn't an objection.
18 It was to make sure the Congressman knew where he was
19 going.

20 THE COURT: Yeah.

21 MR. TRAFICANT: I want to respond while it's
22 timely. I had seen here in an exhibit that, quite frankly,
23 the general counsel of the United States House of
24 Representatives said was violation of speech and debate
25 clause.

1 THE COURT: Yes.

2 MR. TRAFICANT: That letter to the Secretary
3 of State from a member of Congress was protected by the
4 speech and debate clause. That was overruled.

5 THE COURT: Right.

6 MR. TRAFICANT: I never even looked at any of
7 it. I had my staff send it to the general counsel. They
8 determined, which they felt it was. Now they put it up as
9 an exhibit. I attempt to use it as an exhibit, and in
10 fact --

11 THE COURT: It's not the same letter. I
12 don't think it's the same letter.

13 MR. TRAFICANT: The letter to the Secretary
14 Baker?

15 THE COURT: The one that they put up here is
16 not the one that we considered on speech and debate. One
17 of them that was considered on speech and debate was a
18 different letter, and it was to the Prince, I think -- I
19 think that's the one. This is not that one that they're
20 using here. This is a different one.

21 MR. TRAFICANT: So the general counsel did
22 not include it is what you're saying in the record?

23 THE COURT: I don't know about the general
24 counsel. House counsel is not on the docket in this case
25 and has not been involved in this case. In the speech or

1 debate issue since the case has been --

2 MR. TRAFICANT: It was turned over to a
3 Magistrate, and a Magistrate made a ruling.

4 THE COURT: All right. But the House counsel
5 is not on the docket in this case representing anybody.

6 MR. MORFORD: Your Honor, to clear up the
7 record, Government's Exhibit 7-2, the March 19, 1990,
8 letter from Congressman Traficant to James Baker was given
9 to us by Congressman Traficant's office. It was
10 addressed -- and Congressman Traficant did not object to
11 the Magistrate's decision as to this document.

12 THE COURT: Right.

13 MR. MORFORD: That's all done, and --

14 MR. TRAFICANT: The decision had already been
15 made on the speech and debate clause.

16 MR. MORFORD: Your Honor, we don't need to
17 revisit that. I am not objecting to the Congressman asking
18 any of these questions. I just want to make sure, given
19 court language in the cases that were cited in the prior
20 motions and responses on speech or debate that require the
21 Congressman to make an intelligent waiver of his speech or
22 debate, that if he goes down this road, he is likely to
23 waive the speech or debate privilege that he has fought so
24 hard to keep.

25 THE COURT: I am -- I think he now

1 understands this.

2 MR. TRAFICANT: I don't think you should
3 assume whatever I understand.

4 THE COURT: Okay.

5 MR. TRAFICANT: Here's what I know. I have
6 no speech and debate privilege in this case. You have
7 basically allowed anything they wanted in. That's been the
8 ruling of this Court. Now, they put an exhibit up that
9 was, in fact, a defense exhibit. I have lost every speech
10 and debate clause and, in fact, have a pending case in the
11 Sixth Circuit court relative to, in fact, amending the
12 constitution about the rulings of this Court. Now -- not
13 to offend you --

14 THE COURT: Well, I don't feel offended.

15 MR. TRAFICANT: I'm not offending; I'm trying
16 to make my case.

17 THE COURT: We're talking about different
18 documents, and if you want to talk about different
19 documents, if you already --

20 MR. TRAFICANT: This is related to that
21 document.

22 THE COURT: Well, this document that was put
23 up here today was not part of our analysis on speech and
24 debate.

25 MR. TRAFICANT: I believe it was submitted by

1 the general counsel to be protected by the speech and
2 debate clause.

3 THE COURT: Congressman.

4 MR. TRAFICANT: Yes.

5 THE COURT: I don't really understand where
6 you're going with your speech or debate issues, but while
7 we're on this topic, let's go back and see what these
8 exhibits were. I am going ask them to put the exhibits
9 back up so you can see them, and I can see them, the
10 exhibits that relate to this correspondence.

11 MR. TRAFICANT: To Baker.

12 THE COURT: To Saudi Arabia.

13 MR. MORFORD: Yes, your Honor, it's right
14 here. It'll probably take a minute for that to warm up.

15 Your Honor, I would note for the Court if you look in
16 the bottom right-hand corner of this document, 7-2, there's
17 a Bates number 001187, which is the Bates number that House
18 counsel and Mr. Marcone, the chief of staff of Congressman
19 Traficant, put on these documents when they sent them to us
20 as documents that they were not raising speech or debate
21 on.

22 MR. TRAFICANT: I object to -- I had nothing
23 to do with that. That was Mr. Marcone and House counsel.

24 THE COURT: Right. We're just waiting now
25 for the projector.

1 THE COURT: Is this 7-2?

2 MR. MORFORD: Yes, your Honor.

3 THE COURT: I think this was a letter
4 considered by the Magistrate judge. There was no objection
5 in the Magistrate judge -- the Magistrate judge made a
6 report and recommendation. There was no objection to the
7 report and recommendation filed by you. And then I
8 independently reviewed these documents. I think this is
9 one that the Magistrate judge wrote down.

10 MR. MORFORD: That I'm not sure.

11 THE COURT: But there was no objection.

12 MR. MORFORD: That I'm not sure, your Honor,
13 because -- I don't have the list of documents in front of
14 me, but because this came from House counsel as one of the
15 documents they gave us as opposed to the ones withheld as
16 privileged and because there's nothing in here that's
17 privileged, I don't know if we raised it or not, but
18 Congressman Traficant certainly had it and could have
19 raised it at any point he believed it to be privileged,
20 which it's not.

21 MR. TRAFICANT: You said it was Defense
22 Exhibit. It says Government's Exhibit. Is there also a
23 defense exhibit?

24 MR. MORFORD: If I stated Defense Exhibit, I
25 misspoke.

1 THE COURT: I think he was talking about the
2 Bates number at the bottom of the letter; is that correct.

3 MR. MORFORD: Yes, 001187.

4 MR. TRAFICANT: No. I think you said, in
5 fact, it was my own exhibit that I was now questioning,
6 that you were objecting to, that I, in fact, submitted the
7 document as an exhibit.

8 THE COURT: Okay. I think now -- I think we
9 can close this down. We just want to say one other thing
10 to you, Congressman, because I want to make sure you
11 understand this when we talk about this issue of whether or
12 not you're waiving speech or debate clause issues.

13 It's true that I made certain rulings. The
14 Magistrate judge made certain rulings. I made certain
15 rulings. The Sixth Circuit makes rulings on that. You
16 retained the right to appeal all those rulings.

17 MR. TRAFICANT: I have.

18 THE COURT: Okay? Good. Well, you sound
19 like you feel as if you've given it up, but you haven't
20 given that up?

21 MR. TRAFICANT: No, I haven't, but here's
22 what I do --

23 THE COURT: Make sure you don't.

24 MR. TRAFICANT: Here's what I do not want to
25 happen in this courtroom.

1 He's been jumping up like a jumping jack, and he's
2 brought a charge of Count -- whatever it is -- on Bucheit.
3 And he made a big issue out of this particular letter. And
4 there's no doubt in the mind, trying to place the jury's
5 mind, how successful it was showing that I was able to
6 mediate this thing and the press release. So therefore,
7 Mr. Bucheit would be so happy he would have built me a
8 Taj Mahal, wouldn't he?

9 THE COURT: I think you said that beforehand.

10 MR. TRAFICANT: The point is, I have a right
11 not to have to discuss my defense, but I have a right to,
12 at least, pursue a defense relative to not even if they
13 offered an exhibit on an issue that would deal with
14 Bucheit. And that's my concern.

15 THE COURT: Okay. Well, we have a witness on
16 the stand here, and this witness is going to be subject to
17 further cross-examination and maybe further examination
18 tomorrow.

19 It's late in the day. So we're going to recess and
20 send that witness on his way and bring him back tomorrow
21 morning at 9:00.

22 As I understand your objection to this question that
23 we finally dug out of the record, which has to do with the
24 press something or other, that he's asking --

25 MR. MORFORD: No.

1 THE COURT: Your objection was really you
2 were concerned about something different.

3 MR. MORFORD: It was not an objection. All
4 it was was Congressman Traficant asked an open-ended
5 question about things that were done to get the Saudis to
6 the table, and I asked for a side bar, not objecting, to
7 make sure that he understood because I --

8 THE COURT: Okay.

9 MR. MORFORD: I instructed these witnesses
10 not to testify about legislative acts, and he understood
11 that he might be stumbling into that area and waiving his
12 privilege, that was all.

13 THE COURT: Okay.

14 MR. TRAFICANT: Your Honor, I understood that
15 when we wanted went to side bar, we would object, and you
16 would handle all objections at side bar. Look, he's either
17 asking for a side bar or objection, but they're both one
18 and the same in this trial.

19 THE COURT: Not exactly. When a jury is in
20 the box and you have a side bar and you do it off the
21 record basically, we do it out of the hearing of the jury.
22 And it's on the -- it's on the transcript. It's on the
23 written transcript, but it's not talking out loud the way
24 we do when the jury is here.

25 MR. TRAFICANT: But, when there is an

1 objection, there could be a side bar?

2 THE COURT: There could be. Maybe there
3 won't be. Sometimes I'll just sustain the objection or
4 overrule it.

5 MR. TRAFICANT: Well, when I see him jump up,
6 I assume he's objecting. I don't think he's standing up to
7 get exercise.

8 THE COURT: Okay. There's been a lot of
9 jumping up here at the end of this day. Everybody get some
10 rest, and we'll start out 9:00 in the morning. I need you
11 here at 8:30. Thank you.

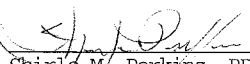
12 MR. SMITH: Good night, your Honor.

13 (Proceedings adjourned.)
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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.


Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622

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

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

9 TRANSCRIPT OF PROCEEDINGS HAD BEFORE

10 THE HONORABLE LESLEY WELLS

11 JUDGE OF SAID COURT,

12 ON THURSDAY, FEBRUARY 21, 2002

13 Jury Trial

14 Volume 6

15 APPEARANCES:

16 For the Government: CRAIG S. MORFORD,
17 BERNARD SMITH,
18 MATTHEW KALL,
19 Assistant U.S. Attorneys
20 1800 Bank One Center
21 600 Superior Avenue, East
22 Cleveland, Ohio 44114-2600
23 (216) 622-3600

24 For the Defendant: Pro Se

25 Official Court Reporter: Shirle M. Perkins, RDR, CRR
26 U.S. District Court - Room 539
27 201 Superior Avenue
28 Cleveland, Ohio 44114-1201
29 (216) 241-5622

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

1 Thursday Session, February 21, 2002, at 8:30 A.M.

2 (Proceedings in the absence of the jury:)

3 THE COURT: We can wait a minute before you
4 bring the jurors in. You can just have a seat. Go back
5 out into the -- I just want to go over a couple of things
6 before the jury comes out.

7 We let the jury go home a little early yesterday so
8 we could have some discussion, and I think the discussion
9 was fruitful in some ways. We're about two weeks into this
10 trial, and it's going pretty well, and so I want to just go
11 back and go over so everybody's clear on it the way we are
12 going to handle the time when the jury's in the box and the
13 time when the jury's on break in terms of our own work that
14 we have to do on the law.

15 I've been more lenient as we started the case out,
16 and I intend to continue to be. And I want to make the
17 procedures clear they're not new. I'm not willing to send
18 a jury home early unless it's really necessary because we
19 need them to be here doing their work. I think we can
20 avoid it if we follow the procedure more closely that we've
21 talked about all along.

22 When somebody has an objection, and you can do doing
23 this wonderfully, you stand, and I know you have an
24 objection. What I would like you to feel free to do is to
25 give me in a word or two the basis for that objection if

1 you want to, but don't get into a long argument about it,
2 and I'm not as likely to give you a side bar on each
3 objection as I have been because it takes a lot of time
4 away from the jury. So, for example, if somebody is
5 objecting because there is a question or too many parts, a
6 compound question, we've had those kinds of objections,
7 then say compound question, if that's what the basis of the
8 objection is. Say relevance, if it's relevance.

9 Say no personal knowledge, say something in a phrase.
10 That preserves your situation in regard to the testimony
11 for the future, and if it's something that we need to deal
12 with at length, then we'll do it when the jury is in recess
13 or over lunch or after 4:30, and that's been the ground
14 rules all along. But I have taken more side bars as we
15 began, and -- but the rules are operating, and people are
16 following them, and there seems not to be a need for a lot
17 more clarification about them.

18 I mean, the Congressman's used to rules, and Congress
19 is used to rules and is used to following them, and he's
20 doing a good job. I mean, I really think that it's going
21 well on both sides, but I am concerned about jury members
22 needing to sit here doing nothing in the box when we could
23 be handling our legal work while they're on a break or at
24 lunch. So I'll then just rule if it's something that's
25 going to take more time to actually get into, then we'll

Richards - Cross Continued

1 just have to defer it until 4:30 instead of sending them
2 home early. Okay?

3 MR. SMITH: Yes, your Honor.

4 THE COURT: All right?

5 MR. TRAFICANT: Yes.

6 THE COURT: Thank you, Congressman. I think
7 we can bring the jurors out. Anything further?

8 MR. MORFORD: No, your Honor.

9 THE COURT: Very well. Now the witness can
10 come up.

11 (Proceedings resumed in the presence of the jury:)

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

13 THE WITNESS: Yes, ma'am.

14 THE COURT: Congressman

15 CROSS-EXAMINATION OF HAYDEN WEST RICHARDS (continued)

16 BY MR. TRAFICANT:

17 Q. Good morning, West.

18 A. Good morning.

19 Q. You still live in Atlanta?

20 A. Yes.

21 Q. Are you still married by the way?

22 A. Yes.

23 Q. To Linda?

24 A. Yeah.

25 Q. Any children?

Richards - Cross Continued

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1 A. Not yet, no.

2 Q. Yesterday, we were talking about certain matters
3 dealing with the Bucheit situation. Are you familiar with
4 the fact that Mr. Bucheit is one of the counts in this
5 indictment?

6 A. Yes.

7 Q. So that material that was placed on the board was to
8 -- in fact, in your opinion, what was it, in your opinion,
9 that showed those documents on the board?

10 A. Simply to show that we -- that our office had
11 interactions with Mr. Bucheit regarding the -- his case
12 against the Saudis.

13 Q. To the best of your knowledge, in the beginning, did
14 Mr. Bucheit have any success with the Government in any way
15 relative to his case?

16 A. Not to my knowledge, no.

17 Q. To the best of your knowledge, was his private
18 attorneys -- did he have any success with his case?

19 A. No.

20 Q. Now, to the best of your knowledge, did he have
21 tremendous success when he started dealing with our office?

22 A. Yes.

23 Q. Okay.

24 In your opinion, that -- would that be a great
25 incentive for Mr. Bucheit to want to help me?

Richards - Cross Continued

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- 1 A. Help you in what way?
- 2 Q. Any way.
- 3 A. I suppose.
- 4 Q. Were you aware of the fact that a member or associate
- 5 of the Buehite family restored old boats for resale?
- 6 A. I don't recall.
- 7 Q. Okay. Did the Buehites ever make an official offer
- 8 to buy my boat?
- 9 A. I don't recall.
- 10 Q. Did the Buehites ask you to call anybody and check
- 11 and see if it would be okay for them to buy the boat?
- 12 A. No -- I don't recall.
- 13 Q. Now, when I was not in town, you said I had asked you
- 14 on occasions to go down to the boat, is that your
- 15 testimony?
- 16 A. Yes.
- 17 Q. Now, when is it likely that the Congress over periods
- 18 of time not in town?
- 19 A. Mondays and Fridays.
- 20 Q. But what seasons of the years, more likely?
- 21 A. Oh, there would be a summer break.
- 22 Q. How long would that be?
- 23 A. Four or five weeks.
- 24 Q. Okay. And what was usually the long break of the
- 25 year?

Richards - Cross Continued

- 1 A. The long break of the year, during election year,
2 would be from November until the end of January.
- 3 Q. And the work in January and February, basically
4 commit -- committees just be getting started?
- 5 A. Right.
- 6 Q. And would it not be a fact they may not have any
7 legislation to report to the floor?
- 8 A. Correct.
- 9 Q. And there may not be many votes in that period of
10 time. Would you say that's a correct assessment?
- 11 A. Correct.
- 12 Q. So it's possible in election year you can go from
13 October to almost February without a member needing to be
14 there, would that be a correct assessment?
- 15 A. Yes.
- 16 Q. For votes?
- 17 A. Right.
- 18 Q. Now, in that season of the year, Washington is known
19 to have some cold weather?
- 20 A. Yes.
- 21 Q. Are there times when the Potomac River could freeze
22 over?
- 23 A. Yes.
- 24 Q. Has it in the past history frozen over?
- 25 A. Yes.

Richards - Cross Continued

1 Q. Have people driven cars across it on occasion?

2 A. I've heard stories.

3 Q. Did I ask you to go down and see if the boat had sunk
4 at any time?

5 A. Yes.

6 Q. Now in the team building business, you said that
7 sounded like your language; is that correct?

8 A. I think so.

9 Q. Yeah.

10 Were any of my staff ever forced to go down to the
11 boat to work in D.C.?

12 A. No.

13 Q. Could they have opted out?

14 A. Yes.

15 Q. Did some of them do that?

16 A. Yes.

17 Q. All right. Did you and I have any conversation about
18 that of any kind?

19 A. Yes.

20 Q. Was this any remarks made by me to you in any way?

21 MR. MORFORD: Objection, your Honor.

22 Q. Or to the best of your knowledge --

23 THE COURT: Wait, wait. The objection is
24 sustained. Now you can go to another question.

25 Q. To the best of your knowledge, was there anything

Richards - Cross Continued

1 further about that?

2 A. No.

3 Q. Now, were you ever familiar with the Grand Jury
4 looking into me before this recent matter?

5 A. In your previous trial?

6 Q. No. Since the previous trial, in this trial, were
7 you familiar with any other Grand Jury investigations of
8 me?

9 A. No.

10 Q. Okay. Now, in the Demjanjuk issue, which was brought
11 up --

12 THE COURT: I couldn't understand the word.
13 What was the word, issue?

14 MR. TRAFICANI: Demjanjuk issue brought up.

15 THE COURT: I don't know when it was brought
16 up.

17 MR. TRAFICANI: It's in the Government
18 report, your Honor. He answered questions about it.

19 MR. MORFORD: Objection.

20 THE COURT: Objection sustained.

21 Q. Are you familiar with the Demjanjuk investigation?

22 A. Yes.

23 Q. Do you know if, in fact, the Demjanjuk family
24 attempted to visit members of Congress?

25 A. Yes.

Richards - Cross Continued

1 Q. To the best of your knowledge, was the Demjanjuk
2 family able to meet with anybody in the House or the
3 Senate?

4 A. No, with the exception of Congressman Shays, I
5 believe.

6 Q. And to the best of your knowledge, did Congressman
7 Shays get involved in the case?

8 A. No.

9 Q. At some point, did they reach out to some
10 Congressmen?

11 A. Yes.

12 Q. Who was that Congressman?

13 A. You.

14 Q. To the best of your knowledge, did my staff advise me
15 to stay away from that case?

16 A. Yes.

17 Q. And to the best of your knowledge, why did they do
18 so?

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

21 THE COURT: Sustained.

22 Q. To the best of your knowledge, Mr. Richards, did I
23 stay out of the Demjanjuk case?

24 THE COURT: The objection was sustained.
25 Don't answer it.

Richards - Cross Continued

1 Q. To the best of your knowledge, did I take a
2 tremendous amount of political heat and bad press over that
3 matter?

4 THE COURT: Are you still talking about
5 the -- the case that you were referring to?

6 MR. TRAFICANT: Yes.

7 THE COURT: The objection is sustained. So
8 you can't follow that line of inquiry.

9 Q. To the best of your knowledge, has the Government
10 delivered to me things at the airport to bring it home?

11 THE COURT: Congressman, move along to
12 another topic.

13 MR. TRAFICANT: For the record, I now object.
14 I'll go to a further subject, but I object.

15 THE COURT: All right. Just go to another
16 topic.

17 BY MR. TRAFICANT:

18 Q. Now, at some point, did the FBI come to you relative
19 to any cases that I was handling in Washington?

20 A. Yes.

21 Q. Did you inform me that the FBI had come to you?

22 A. Yes.

23 Q. What case was it that they came to you about?

24 A. The Demjanjuk case.

25 Q. Do you recall what was the purpose of their inquiry

Richards - Cross Continued

1 into you and the Demjanjuk case?

2 A. Yes.

3 Q. Will you explain it to the court.

4 A. The --

5 THE COURT: Go ahead.

6 THE WITNESS: The FBI had concerns that the
7 Soviet embassy at that time was having a great deal of
8 interaction with many congressional offices, and they
9 recognized that our office was interacting with the Soviet
10 embassy and had interaction with a Soviet diplomat in our
11 attempt to retrieve records from the Soviet Union on the
12 case.

13 Q. Did you, in fact, do that? Did you contact the
14 Soviet embassy?

15 A. Yes.

16 Q. Did the Soviet embassy give you anything or share
17 with you anything relative to this case?

18 A. Yes. They were able to provide us with documents and
19 information.

20 Q. Was it not a fact those documents were subject to the
21 Freedom of Information Act, a request I submitted to our
22 own Government?

23 A. Yes, I believe so.

24 Q. And were those the documents that led to the release
25 of John Demjanjuk?

Richards - Cross Continued

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1 A. Yes.

2 Q. Did the FBI at that time ever ask you any questions
3 about me meeting with Soviet officials?

4 A. Yes.

5 Q. And what, if anything, did you tell them?

6 A. I told them that I was the primary contact for the
7 diplomats and the embassy.

8 Q. I'm going to repeat the question.

9 THE COURT: He answered it.

10 Q. To the best of your knowledge, did I ever meet with
11 any Soviet official?

12 A. No.

13 Q. Now, when you first started out with the press, it
14 was like a learning experience, wasn't it?

15 A. Yes.

16 Q. Did you ever make any mistakes?

17 A. Yes.

18 Q. Were you ever misquoted?

19 A. Yes.

20 Q. Did you come to a quick understanding of how to deal
21 with a free press in America?

22 A. Yes.

23 Q. Were you honest when you reported the news from
24 Washington?

25 A. Yes.

Richards - Cross Continued

1 Q. Were you honest when you represented the position of
2 Congressman Traficant?

3 A. Yes.

4 Q. Were you ever involved, or were you ever contacted by
5 the FBI involving another matter other than the Demjanjuk
6 case?

7 A. Not to my recollection.

8 Q. Were you ever -- or did you ever provide information
9 to any Government agency relative to a member of a foreign
10 intelligence service?

11 A. Can you restate the question, please?

12 Q. Did you ever provide any information regarding a past
13 association with a member of a foreign intelligence
14 service?

15 A. I don't recall.

16 Q. Would you recall if the FBI had asked you that
17 question and in any of the meetings they had with you?

18 A. Yes.

19 Q. How many times the FBI meet with you, Mr. Richards?

20 A. I would say probably at least seven or eight times.

21 Q. Did they take notes?

22 A. Yes.

23 Q. Did you take notes?

24 A. Yes.

25 Q. Did they have any audio or video equipment there when

Richards - Cross Continued

1 they interviewed you?

2 A. I believe they had audio.

3 Q. Did you see the tape recorder?

4 A. Yes.

5 Q. Did they tell you you were going to be taped?

6 A. Yes.

7 THE WITNESS: Your Honor --

8 THE COURT: What do you want?

9 MR. TRAFICANT: Does the witness want a side
10 bar?

11 THE COURT: I don't know, I don't know.

12 What's the problem?

13 (Counsel and court conferring.)

14 THE COURT: You need to keep answering the
15 questions. I can't help you with that. But he'll ask you
16 questions, and you answer the questions.

17 THE WITNESS: Okay.

18 BY MR. TRAFICANT:

19 Q. After your conversation with the Judge, do you want
20 to change your testimony, West?

21 A. Yes.

22 Q. In what way?

23 A. The issue concerning the foreign intelligence
24 agent --

25 Q. Before we get to that, I was referring -- let's get

Richards - Cross Continued

1 back to my question, and then I'll come to that.

2 Did you see a tape recorder when the FBI interviewed
3 you?

4 MR. TRAFICANT: I object to his objection.

5 (Laughter.)

6 THE COURT: I was listening into the silence.
7 Okay.

8 MR. TRAFICANT: Sorry, I didn't see your
9 eyes.

10 MR. MORFORD: I didn't stand up. I should
11 have stood up.

12 Your Honor, I would ask for a time frame.
13 That was all.

14 THE COURT: Okay.

15 MR. TRAFICANT: Oh. Let me get something
16 straight off the record even though the jury's here.

17 THE COURT: It's not off the record when the
18 jury's here. It's always on the record with the Court
19 Reporter.

20 MR. TRAFICANT: I was under the impression --

21 THE COURT: Don't interrupt. Whether the
22 jury's here or not, it's always on the record. Everything
23 you say and do here is on the record. Okay?

24 MR. TRAFICANT: Thank you.

25 THE COURT: You're welcome.

Richards - Cross Continued

1 MR. TRAFICANT: Thank you. Then let me clear
2 up maybe a misunderstanding I have. Would that be all

Richards - Cross Continued

1 Q. There might be other witnesses that may have very
2 powerful smoking guns, for example, on the Defendant.
3 Might that possibly be?

4 THE COURT: We can't deal with what might
5 possibly be out there. We have to deal with what does this
6 witness know. You're cross-examining him.

7 Q. On a 1 to 10, do you believe you would be a lesser or
8 more important witness for the Government?

9 THE COURT: There is an objection to that,
10 and for a good reason. It's the jury who decides the
11 credibility --

12 MR. TRAFICANT: Okay.

13 THE COURT: -- of the testimony, and what
14 weight to give it.

15 MR. TRAFICANT: All right.

16 THE COURT: I don't decide it; you don't
17 decide it; these folks decide it. Let's get on with the
18 evidence so they can do their work.

19 BY MR. TRAFICANT:

20 Q. You saw a tape recorder when they interviewed you,
21 right?

22 A. Yes.

23 Q. Okay.

24 Now, your memory's recollecting now relative to some
25 meeting, relative to some purported association with a

Richards - Cross Continued

1 foreign intelligence member. Is your memory now better
2 collected?

3 A. Yes.

4 Q. Can you explain what that was?

5 A. The -- the FBI had a concern that the diplomat I was
6 interacting with, in his capacity as a diplomat,
7 representing the Soviet embassy, was, in fact, most likely
8 a KGB agent.

9 Q. Okay. Did you report that to me?

10 A. Yes.

11 Q. You did?

12 A. I believe so.

13 Q. Are you absolutely sure you did?

14 A. I would be comfortable in saying that I'm absolutely
15 sure I mentioned that to you.

16 Q. West, did we stoop to deal with the KGB to deal with
17 the Demjanjuk matter? Yes or no.

18 A. Yes, but I wouldn't necessarily use the word "stoop."

19 Q. Did we use every means available to the best of your
20 knowledge to try and get to the truth of the Demjanjuk
21 matter?

22 A. Yes.

23 Q. Did we do that?

24 A. Yes.

25 Q. Do you happen to know if Mr. Demjanjuk is back under

Richards - Cross Continued

1 indictment?

2 A. I don't know.

3 Q. Now, back to the cars, how many times did you see
4 that black Avanti car?

5 A. Three, maybe four times.

6 Q. And you said that -- and you said in your testimony
7 that I was asked to drive the car to Washington, right?

8 A. I guess the word would be invited.

9 Q. Invited?

10 A. Um-hum.

11 Q. To the best of your knowledge, who invited me to do
12 that?

13 A. I believe it was J. J. Cafaro or the person that was
14 in charge of the dealership.

15 Q. Wasn't it a fact at the time that the Avanti cars
16 were not selling at all?

17 A. I believe that is true.

18 Q. And was it not a fact that they wanted the car to be
19 seen so that maybe people might buy them?

20 A. I'm -- I believe I recall you mentioning that to me.

21 Q. Did you have occasion to have to come down and help
22 me jump start the car one night, do you recall that?

23 A. I -- yes, I recall.

24 Q. Do you recall instances of complaints relative to the
25 performance of that car?

Richards - Cross Continued

1 A. I recall that for such an expensive vehicle, it was
2 problematic.

3 Q. Did you refer to it in a one word, quote unquote,
4 term, do you recall?

5 A. Can you restate the question, please?

6 Q. Did you ever refer to it in a one word, quote
7 unquote, term?

8 A. The bat mobile.

9 Q. Do you know what happened to the car in the last --
10 what was that? -- 17 years?

11 A. No.

12 Q. To the best of your knowledge, was the boat a little
13 bit of a sanctuary for me?

14 A. Yes.

15 Q. And to the best of your knowledge, do you know if I
16 hired people to work on that boat to repair it?

17 A. Yes.

18 Q. To the best of your knowledge, did I ask you, when I
19 was not in town, to go down and check and see if those
20 people might be even at work doing what they were
21 purportedly saying they were doing?

22 A. Yes.

23 Q. Did you do that?

24 A. Yes.

25 Q. Did you do that because you were forced to do that?

Richards - Redirect/Morford

- 1 A. No.
- 2 Q. Did you do that as a friend?
- 3 A. Yes.
- 4 Q. Do you still consider me a friend, West?
- 5 A. Yes.
- 6 Q. You still consider me a part of your career and a
- 7 mentor of your career?
- 8 A. Yes.
- 9 Q. If I had a job opening and you needed a job, would
- 10 you apply for it again with me?
- 11 A. No, not in my current --
- 12 Q. And why would that be?
- 13 A. Simply because of my career path is not in that
- 14 direction.
- 15 Q. You make more money now?
- 16 A. Yes.
- 17 MR. TRAFICANT: Thanks, West. No more
- 18 questions.
- 19 THE COURT: Thank you.
- 20 REDIRECT EXAMINATION OF HAYDEN WEST RICHARDS
- 21 BY MR. MORFORD:
- 22 Q. Mr. Richards, you were asked questions yesterday by
- 23 Congressman Traficant. One of them was he asked you, is it
- 24 your opinion that I, meaning Congressman Traficant, made
- 25 the best decisions for the office at all times. Do you

Richards - Redirect/Morford

1 remember that question?

2 A. Yes.

3 Q. I'd like to follow-up on that. Do you believe that
4 paying incredibly large salaries to Chuck O'Nesti and Henry
5 DiBlasio at a time when the D.C. staff was complaining they
6 were making less than the other D.C. staffers and the other
7 congressional offices was making the best decision for the
8 office?

9 A. No.

10 Q. Do you believe that asking your chief of staff to
11 round up congressional legislative assistants to go out and
12 scrape and paint your personal boat was taking action in
13 the best decision of the office at all times?

14 A. No.

15 Q. Do you believe that sending a staff member namely
16 George Buccella out to your farm to bale hay to the point
17 where George Buccella complains to your chief of staff
18 about it, was taking actions and making decisions in the
19 best interest of your congressional office?

20 A. No.

21 Q. You testified yesterday that there were times when
22 you would call Henry DiBlasio if there was a legal issue of
23 concern involving legislation; is that correct?

24 A. Yes.

25 Q. Were those rare times or frequent times that you'd

Richards - Redirect/Morford

1 make those kind of calls?

2 A. Rarely.

3 Q. And as an institution, does Congress hire lawyers in
4 Washington that specialize in legislation?

5 A. Yes.

6 Q. And would you call those lawyers when there were
7 legal questions involving legislation?

8 A. Yes.

9 Q. Who would you call more often when there was a legal
10 question involving legislation, the lawyers in Washington
11 that specialized in legislation or Henry DiBlasio that had
12 a practice, that worked in business law and personal injury
13 cases?

14 A. Legislative counsel in Washington.

15 Q. How rare was it, in your experience, for a
16 Congressman to have his own personal staff counsel in his
17 home district? Was that a common practice?

18 A. I don't believe it was.

19 Q. You were asked questions this morning about whether
20 any of the staff were, quote, forced, end quote, to work on
21 the boat. Let me ask you this:

22 Given their nature as congressional employees and the
23 request was coming from the Congressman, was there pressure
24 to go out and work on the boat?

25 A. I would say that there could be some perceived

1 pressure.

2 Q. What would the perceived pressure flow from?

3 A. The Congressman.

4 Q. You were asked a series of questions about the FBI
5 and Soviet embassy. Do you recall those questions?

6 A. Yes.

7 Q. I'd like you to explain, if you will, a little more
8 detail exactly what happened, as you understood it, that
9 led the FBI to contact you regarding your contacts with the
10 Soviet embassy. Was there a particular person at the
11 Soviet embassy you had met with?

12 A. Yes.

13 Q. What was his name?

14 A. His name was Igor Sdorozenko.

15 Q. And how many times, did you meet with him and at what
16 types of locations before the FBI approached you the first
17 time?

18 A. We had met a number of times in our office and also a
19 couple of times in restaurant settings in Washington.

20 Q. And when did the FBI first approach you regarding
21 this person?

22 A. Probably upon our fourth interaction, I think either
23 1990 or 1991.

24 Q. Of the two sections of the FBI, one being criminal
25 investigation and the other being foreign

Richards - Redirect/Morford

1 counterintelligence, which side of these agents had
2 approached you and was affiliated with?

3 A. The first agent that I dealt with was the FBI's
4 congressional liaison to the House of Representatives. The
5 second FBI agent that I had most of my interaction with
6 was a counterintelligence agent.

7 Q. When the congressional liaison FBI agent -- I take it
8 -- what did the congressional liaison FBI agent do? What's
9 his function?

10 A. His function is to interact, to represent the FBI to
11 members of Congress and the staff.

12 Q. What was his concern when he approached you?

13 A. His concern was that our office was potentially
14 dealing with a KGB agent under the guise of having a
15 diplomat role.

16 Q. Prior to that conversation, did you realize that this
17 supposed diplomat was actually a KGB agent?

18 A. No.

19 Q. And meeting with you was the FBI liaison of the House
20 of Representatives, threatening you or warning you. How
21 would you describe it?

22 A. He -- he was warning me, and at the time I believe he
23 was interacting with a -- a number of other staffers as
24 well.

25 Q. So was this something where the FBI was just picking

Richards - Redirect/Morford

1 on Congressman Traficant, or was this sort of a House-wide
2 thing as you understood it?

3 A. I think it was a House-wide.

4 Q. What was their concern as they explained it to you?

5 A. At that time, the Berlin Wall had come down, 1989.
6 And following that, the Soviet embassy apparently had a
7 large outreach program going on to members of Congress and
8 to members of their staff.

9 And they had never seen activity like this take place
10 before. So they were concerned about it.

11 Q. Was there ever a time where this KGB agent asked you
12 to obtain information for him?

13 A. Yes.

14 Q. And did you report that to the FBI?

15 A. Absolutely.

16 Q. Now, Congressman Traficant asked you if you ever
17 discussed the matter with him. Do you recall any specific
18 conversation with him about this?

19 A. Yes.

20 Q. Why don't you tell the jury specifically what you
21 recall telling Congressman Traficant about this?

22 A. Well, I explained to the Congressman why the FBI
23 liaison had met with me and explained that he wanted to
24 actually meet with the Congressman, and explained, you
25 know, his concerns about our interactions with the Soviet

1 embassy.

2 Q. Did they at any time ask you not to meet with this
3 person or to stop doing what you were doing?

4 A. No. Quite the opposite.

5 Q. Now, you were never asked actually to put a time
6 frame on your testimony about the FBI agents taping you
7 with audio tape. From what you testified, there were two
8 separate times you dealt with the FBI, one with the KGB
9 situation and then one with agents in this case. Can you
10 put a time frame on those two interactions that you had
11 with the FBI?

12 A. Regarding the Soviet case, that would have been 1990,
13 1991 time frame. This case would be 2000, 2001 time frame.

14 Q. And the time when the FBI audio taped you, would that
15 have been 1990, 1991 when you were dealing with the Soviet
16 espionage, or would it have been 2000, 2001 dealing with
17 this case?

18 A. 1991.

19 Q. Were you ever tape recorded by any agents when they
20 interviewed you regarding this case to your knowledge?

21 A. Yes, I believe so.

22 Q. What makes you think that?

23 A. I believed that my first interaction with an agent to
24 first discuss this case, I believe that he had a tape
25 recorder and asked if he could use it.

Richards - Recross

1 Q. Are you sure about that?

2 MR. TRAFICANT: Objection. Asked and
3 answered.

4 THE COURT: You can answer the question.

5 THE WITNESS: I'm not 100 percent able to
6 recall that, but I believe so.

7 Q. Congressman Traficant asked you if you knew of any
8 wrongdoing that he did. Let me follow-up on that.

9 Did he ever tell you that after your office had spent
10 two years working on the Bucheit matter, that he had
11 Mr. Bucheit come out and do \$30,000 worth of repairs on his
12 home?

13 A. No.

14 Q. Did he ever tell you whether or not Chuck O'Nesti
15 and/or Henry DiBlasio were giving him cash payments during
16 the time that they worked for him?

17 A. No.

18 Q. Were these things that Congressman Traficant would
19 tell a person like you?

20 A. No.

21 MR. MORFORD: Just one moment, your Honor.
22 Nothing further, your Honor.

23 THE COURT: Thank you.

24 RE-CROSS-EXAMINATION OF HAYDEN WEST RICHARDS

25 BY MR. TRAFICANT:

Richards - Recross

- 1 Q. When the FBI Government liaison came to the office,
2 who did he ask to meet with?
- 3 A. Me.
- 4 Q. Who do normally congressional liaisons meet with?
- 5 A. Typically the Congressman.
- 6 Q. Did they ask to meet with me first or you?
- 7 A. With me.
- 8 Q. Did you ever get the impression the FBI was not to
9 crazy about me, West?
- 10 A. Yes.
- 11 Q. Now, any point after that, did they say, West, I want
12 to go in and meet with your boss with you?
- 13 A. Yes.
- 14 Q. Did they meet with me and you?
- 15 A. Yes.
- 16 Q. Did I, in fact, tell them get the hell out?
- 17 A. I don't recall.
- 18 Q. I met with them. Is it a fact I met with them?
- 19 A. Yes.
- 20 Q. And did I hear out what they had to say?
- 21 A. Yes.
- 22 Q. What, if anything, did we do relative to the Soviets
23 after the information came to us about these KGB agents?
- 24 A. Restate the question, please.
- 25 Q. What, if anything, did we do after we had

Richards - Recross

- 1 conversation with the FBI about these supposed KGB agents?
- 2 A. We -- we decided that we would assist the FBI.
- 3 Q. Did we?
- 4 A. Yes.
- 5 Q. Best we could, right?
- 6 A. Yes.
- 7 Q. Now, did they ever show us any files showing that
- 8 this Igor Sdorozenko was, in fact, a KGB agent?
- 9 A. They -- they showed me no documentation that he was a
- 10 KGB agent, but I felt persuaded that he probably was.
- 11 Q. Did they show me any pictures or documentations or
- 12 forms that he was a KGB agent?
- 13 A. I don't believe so.
- 14 Q. Would you say that we took their word for it?
- 15 A. Yes.
- 16 Q. We believed the FBI was telling us the truth?
- 17 A. Yes.
- 18 Q. And we then proceeded accordingly?
- 19 A. Yes.
- 20 Q. Did we have conversations about the facts that they
- 21 may try and get information from us?
- 22 A. Restate the question.
- 23 Q. Did we have conversations that the KGB may try and
- 24 contact us to get information?
- 25 A. Yes.

Richards - Recross

1 Q. And what, if anything, did we decide that we would
2 do? Do you recall?

3 A. We decided that if the KGB was going to ask us for
4 information, that we would let the FBI know.

5 Q. We would notify the FBI; is that correct?

6 A. Yes.

7 Q. Did the KGB ever get back to us after the FBI came to
8 us and finally sat down with me?

9 A. Yes.

10 Q. And did I ever meet with them, West, the KGB people?

11 A. I think you may have met with them once.

12 Q. And did you meet with them after that?

13 A. Yes.

14 Q. To the best of your knowledge, were these reported to
15 the FBI?

16 A. Yes.

17 Q. At the point of the FBI giving us that information,
18 did you and I have conversations relative to this man
19 perhaps being a spy?

20 A. Yes.

21 Q. Did we ever confide anything into this matter?

22 A. No.

23 Q. Now, the Government come back, and they get into the
24 tape business, and they said well, you met -- was it not a
25 fact you met in the early '90, '91 period, right, on the

Richards - Recross

1 KGB issue?

2 A. Yes.

3 Q. And then you met 2000, 2001?

4 A. Yes.

5 Q. And you -- they asked you about tapes during the
6 1999 -- the 1999, '91 taping situation, and your answer was
7 yes?

8 A. Restate the question.

9 Q. In 1991, they asked you, did the FBI have a tape
10 recorder there to tape your talk with them?

11 A. Yes.

12 Q. Then they come to the Year 2000, 2001 through numbers
13 of three or four series of questions, did you see a tape
14 recorder or not?

15 A. I believe so.

16 Q. Did the Government agent ask you if you would be
17 allowed to tape your conversation?

18 A. I believe so.

19 Q. Now, as the Congressman, do I have the authority to
20 set salary?

21 A. Yes.

22 Q. Is it a fact that many members of Congress hire
23 bright young people?

24 A. Yes.

25 Q. Is it a fact that good members of Congress try and

Richards - Recross

- 1 hire bright young people who are brighter than they are, in
2 fact, if they're a secured Congress person? Would you say
3 that's true?
- 4 A. Yes.
- 5 Q. To the best of your knowledge, did I try and do that?
- 6 A. Yes.
- 7 Q. Did many of the people I hired go on to law school?
- 8 A. Yes.
- 9 Q. Now, is it the purpose of general counsel to
10 represent a member of Congress in their private and/or
11 district affairs?
- 12 A. Yes.
- 13 Q. Private affairs?
- 14 A. Restate the question.
- 15 Q. Is it the duty of the general counsel to handle
16 members' private affairs?
- 17 A. No.
- 18 Q. No.
- 19 Basically, the general counsel, would you say, deals
20 with the actions that occur in Washington D.C. in most
21 cases?
- 22 A. Perhaps in most cases.
- 23 Q. Yeah. And they're a resource, are they not?
- 24 A. Yes.
- 25 Q. Could they be a resource on leases, for example, if

Richards - Recross

- 1 they were questioned with a lease of a District Office?
- 2 A. Yes, that could be.
- 3 Q. Yeah. You had stated Paul had some concerns when he
- 4 left over the Trumbull Land Company lease?
- 5 A. I don't recall the name of the lease, but --
- 6 Q. Okay. Over a lease that was associated with Henry
- 7 DiBlasio; is that correct?
- 8 A. Correct.
- 9 Q. Okay. To the best of your knowledge, was Henry
- 10 DiBlasio's name on that lease?
- 11 A. I don't know.
- 12 Q. To the best of your knowledge, if his wife's name
- 13 would have been on the lease, would that be a red flag for
- 14 the general counsel?
- 15 A. Perhaps.
- 16 Q. Would there be a question of impropriety if an
- 17 employee's name was on the lease, if the Congressman was
- 18 renting from the employee?
- 19 A. Yes.
- 20 Q. Now, would there be somewhat of a question of
- 21 impropriety if the Congressman was renting from a person
- 22 whose wife was the owner of the building?
- 23 A. Perhaps.
- 24 Q. Did you know my district schedule?
- 25 A. Typically not.

1 Q. Would it be a fact that only when there was mutual
2 coordination needed between both offices that you might
3 need to be involved?

4 A. Perhaps.

5 Q. Now, when there was a legal legislative issue that
6 you had concerns about, whom would you check with?

7 A. On legislative concerns, it would be primarily the
8 legislative counsel.

9 Q. Would you also meet with the Congressman?

10 A. Yes.

11 Q. And when the Congressman was not available, and it
12 dealt with something concerning the Congressman's position,
13 whom in the district would you call relative to legal
14 issues?

15 A. Henry DiBlasio.

16 Q. Did that happen very often?

17 A. No.

18 Q. Was I usually available to you?

19 A. Yes.

20 Q. Did you rely upon at times my legal judgment?

21 A. Yes.

22 Q. When you were first hired, did you ask if I was an
23 attorney?

24 A. I think I did.

25 MR. TRAFICANT: No further questions.

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1 MR. MORFORD: Nothing, your Honor.

2 THE COURT: Thank you. You may step down.

3 MR. SMITH: Government calls Richard Rovnak,
4 your Honor.

5 THE COURT: Thank you.

6 MR. SMITH: He's on his way, your Honor.

7 THE COURT: Thank you.

8 RICHARD ROVNAK

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

12 DIRECT EXAMINATION OF RICHARD ROVNAK.

13 THE COURT: This chair is on casters. Is
14 that going to work for you, or would you rather have this
15 one.

16 THE WITNESS: Your Honor, this is okay.

17 BY MR. SMITH:

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

20 A. Richard Rovnak, R-O-V-N-A-K.

21 Q. In what city do you live, sir?

22 A. Struthers, Ohio.

23 Q. Sir, did you ever serve in any capacity with the
24 Mahoning County Sheriff's Office?

25 A. Yes, I did.

Rovnak - Direct/Smith

- 1 Q. And when was that?
- 2 A. It wasn't -- it was a voluntary basis as a reserve
3 deputy in 19 -- I believe it was '83, '84.
- 4 Q. And who was the sheriff of Mahoning County at that
5 time?
- 6 A. James Traficant.
- 7 Q. And how did you first meet James Traficant, Junior?
- 8 A. I believe it was through a semi pro football team,
9 the Youngstown Bull Dogs.
- 10 Q. And how long ago was this?
- 11 A. Around 1968, 67.
- 12 Q. Directing your attention to your reserve deputy
13 position with the Mahoning County Sheriff's Office, you
14 indicated that was a volunteer position?
- 15 A. Yes, sir.
- 16 Q. Was there any pay involved in that?
- 17 A. No. No, sir.
- 18 Q. And what were your duties as a reserve deputy?
- 19 A. It was more to help some of the newer deputies in
20 reserves, help instruct them. I had been attending
21 Youngstown State University, and criminal justice was my
22 major, and it was more or less in that field, helping them.
- 23 Q. After leaving the Sheriff's Department, did you ever
24 approach Congressman Traficant for employment again at a
25 later time?

Rovnak - Direct/Smith

- 1 A. Yes, I did.
- 2 Q. And would you describe the circumstances under which
- 3 you approached Congressman Traficant for employment?
- 4 A. I don't understand the question. I mean --
- 5 Q. Where did you contact Congressman Traficant to seek
- 6 further employment?
- 7 A. Well, I'm not positive. I believe it was out at his
- 8 farm.
- 9 Q. Where was that farm located?
- 10 A. In Green Township.
- 11 Q. And when you met with him to talk about employment,
- 12 who was present?
- 13 A. I don't think anybody was there.
- 14 Q. Were you there?
- 15 A. I'm not positive. I mean, anybody other than
- 16 Mr. Traficant and myself.
- 17 Q. All right. And what, if any, request did you make of
- 18 Congressman Traficant concerning employment on that
- 19 occasion?
- 20 A. I -- I asked him if I would be able to -- if he would
- 21 be able to help me out to get a job.
- 22 Q. Doing what?
- 23 A. At the time, it didn't matter, just any job.
- 24 Q. A job where?
- 25 A. Well, he knew a lot of people, and I asked him

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1 through, you know, his influence if he would be able to ask
2 one of his friends or somebody if they could help me out to
3 get a job.

4 Q. What was the Congressman's response?

5 A. I'm not positive about that. I don't recall.

6 Q. What happened next?

7 A. He asked me to give him a hand out on the farm, doing
8 some plumbing work, and just general -- general work that
9 would be needed down on the farm.

10 Q. Did you do such work?

11 A. Yes, I did.

12 Q. After completing that work, did you have any further
13 discussions with Congressman Traficant about employment?

14 A. Yeah, I -- yes, I did. I probably asked him maybe
15 three or four times if he was able to find anything for me
16 as far as employment.

17 Q. Did you ultimately find employment --

18 A. I'm sorry. I didn't hear you.

19 Q. Did you ultimately employment?

20 A. He told me to come down to the office and talk to
21 Jackie Bobby, that she would be able to set me up as a
22 part-time employee, as a congressional aide.

23 Q. And approximately when did that happen?

24 A. Approximately the -- I believe it was the fall of
25 1990.

Rovnak - Direct/Smith

1 Q. And for how long -- how many months did you work as
2 a -- or were you on Congressman Traficant's staff as a
3 part-time employee?

4 A. Just shy of -- about two months shy of two years.

5 Q. How many hours were you supposed to work per week as
6 a part-time employee?

7 A. Approximately 20 hours a week.

8 Q. So how many hours a month would that be?

9 A. Well, approximately 80 hours a month.

10 Q. Did you have any salary in this part-time position?

11 A. Yes, I did.

12 Q. And what was that monthly salary?

13 A. I believe it was \$750.

14 Q. And what kind of work were you to perform?

15 A. I don't recall ever getting a job description. I
16 just was told that it would -- it would entail doing --
17 helping constituents with any federal problems.

18 Q. Told by whom?

19 A. Jackie Bobby.

20 Q. Starting in the fall of 1990, how many hours per
21 month did you actually spend in the office doing
22 constituent service work?

23 A. Was that per month?

24 Q. Yeah, per month.

25 A. Probably just a couple hours a month.

Rovnak - Direct/Smith

1 Q. Where did you spend the rest of that 80 hours a
2 month?

3 A. Out at the farm in Green Township.

4 Q. At whose direction did you go to the farm rather than
5 to the office?

6 A. It was Jim Traficant's, under his orders.

7 Q. What kind of work did you perform out at the farm
8 during the part-time employment?

9 A. Plumbing, little bit of carpentry work, little bit of
10 electric work, more like handyman type work.

11 Q. Did you ever work in the fields, out in the field?

12 A. The only work would have been just a little bit of
13 mowing with the tractor.

14 Q. All right. Mowing what?

15 A. The hay.

16 Q. Let me backtrack. The electrical work you referred
17 to, would you describe with some specificity to the jury
18 what that electrical work involved?

19 A. If the one water heater had to be moved and it was
20 electric, electrically operated, so when you had to change
21 the electric heater, some wiring had to be done to move the
22 plug, it was going at a new location. So we had to move
23 the wires, also.

24 Q. Any other electrical work?

25 A. Some outlets, plug outlets, some female outlets,

Rovnak - Direct/Smith

1 electrical and some light bulb holders, that type.

2 Q. Where were those put?

3 A. In the ceiling, different places in the aisles of
4 the -- outside the stalls.

5 Q. The stalls, where were the stalls located?

6 A. Inside the barn on the interior, along the walls.

7 Q. With respect to carpentry work, could you describe
8 what types of carpentry type work you did?

9 A. It would be mostly work that was -- building a
10 support for the water heater, fixing some doors, just got
11 pieces of wood to replace some that had been either
12 splintered by a horse kicking it or that was rotted, would
13 have to be pieces cut and replaced.

14 Q. With respect to the hay, what duties did you perform
15 with respect to the hay?

16 A. He -- he tried to get me to stack the hay and unload
17 it, but it's something -- with my back being bad that -- I
18 just couldn't do it.

19 Q. Did you ever attempt to take office work out to the
20 farm?

21 A. Yes, I did.

22 Q. And what happened when you did that?

23 A. I was told --

24 Q. By who?

25 A. By Jim Traficant, that --

Rovnak - Direct/Smith

1 Q. Go ahead.

2 A. I wasn't allowed to do that, and it was -- I believe
3 he says it was against the law to even do -- take -- take
4 the file to the farm. I -- I felt that any work that was
5 to be done by me, that would be the only way for me to get
6 it accomplished, would have -- to bring some files and at
7 least read them out there so I know what possibly would --
8 would need to be done with the -- with the case.

9 Q. And were you allowed to take such work out to the
10 farm?

11 A. I did take a couple of files, and when he seen -- he
12 had noticed I was reading them, he inquired what they were,
13 and I told him, and he got upset with me about bringing
14 them out there.

15 Q. All right.

16 Was there any mechanism by which your time at the
17 farm was accounted for at the office?

18 A. I -- I was given a sheet when I first started that
19 named -- or listed how much time was allowed for sickness
20 and how much time was allotted for vacation. And I -- I
21 wasn't told exactly that that would be used. It was --
22 it's a matter of hearing -- hearing Jackie talking to Jim
23 Traficant about how to account for some of my time.

24 Q. All right.

25 Did you hear Congressman Traficant make any

Rovnak - Direct/Smith

1 statements about how your time was to be accounted for at
2 the farm?

3 A. Well, that's -- he would tell Jackie --

4 Q. And what did Congressman Traficant say to Jackie
5 about that subject?

6 A. That she would -- she would ask, you know, what --
7 what to put my time down to, if -- if I was at the farm
8 quite a bit, that some of the time was to be used
9 vacation-wise or sick days.

10 Q. And what did the Congressman say?

11 A. And he said to take some of the time off of the
12 vacation time and the sick days.

13 Q. Did Congressman Traficant ever pay you himself for
14 the work you did at the farm?

15 A. No. I -- I asked him about it, you know, because I
16 had spent so much time there. There were days that I may
17 be there 16 hours, and this would be a five, six days out
18 of the week.

19 And he says that I'm already getting paid.

20 Q. And how were you getting paid?

21 A. The -- the check that I was receiving from the House
22 of Representatives as a --

23 Q. Now, how did you receive your paycheck during the
24 time that you worked for Congressman Traficant?

25 A. How did I receive it?

Rovnak - Direct/Smith

1 Q. How did you get it?

2 A. Through the mail.

3 Q. United States postal service?

4 A. Yes, sir.

5 Q. Did there ever come a time you attempted to use
6 vacation or sick day time for your own use as opposed to
7 going out to the farm?

8 A. I -- I felt basically that I -- I really didn't have
9 time to myself. It just seemed like there was always
10 something that he had me doing at the farm.

11 Q. Did you ever try to use vacation time and sick time?

12 A. Later on, at the end of the year, I finally -- well,
13 I had asked Chuck O'Nesti about doing this type of work
14 because -- let me go back.

15 Chuck O'Nesti had overheard him telling Jim, yelling
16 at him, kind of going back and forth, about me out at the
17 farm, that Chuck kept telling him he's going to get in
18 trouble for me out at the farm when I was supposed to be in
19 the office, and Jim Traficant told him that he's allowed to
20 put me wherever he wants; that it wasn't against the law
21 for him to do that.

22 I even confronted him about doing it because I didn't
23 want to do anything that I could get in trouble for.

24 Q. Let's go to that.

25 When you confronted Congressman Traficant, what did

Rovnak - Direct/Smith

1 you say to Congressman Traficant?

2 A. I told him that -- or I asked him more or less why --
3 first of all, I wasn't getting any work done at the office,
4 you know, why he had me at the farm, and again, he's
5 telling me that he's allowed to put me -- he was allowed to
6 put his people or -- I don't know what term he used at the
7 time, but the people that worked for him, he was allowed to
8 have them work anywhere he wanted.

9 I -- I believed him only because I had seen different
10 workers out there.

11 Q. Okay.

12 And who else -- were there other congressional
13 staffers that you saw out at the farm?

14 A. Yeah, I worked --

15 Q. Who?

16 A. I had worked a couple days with George Buccella, and
17 him and I built a lean-to for the horses, and Bill Pearch,
18 I -- see, I knew he was out there, but in the beginning
19 more from him telling me about it, but then I had seen him
20 a couple days doing -- doing some odds and ends.

21 Now, I don't know to what extent he was -- the reason
22 he was there.

23 Q. What position did Bill Pierce have? What was his
24 title or job description?

25 A. I'm not positive. I think he was a congressional

Rovnak - Direct/Smith

1 aide.

2 Q. For which Congressman?

3 A. Congressman Traficant.

4 Q. Did you ever attempt to follow-up with Congressman
5 Traficant in any other way about your working out at the
6 farm?

7 A. After, again, talking with Chuck O'Nesti, and he
8 convinced me that Jim had me work out there, that Jim could
9 get in trouble doing that. I confronted Jim again about
10 getting paid for the work I was doing, and I -- I sent him
11 a bill through the mail, a registered letter.

12 I just figured that the -- the fact that I wasn't in
13 the office may -- it didn't sit well.

14 Q. All right.

15 Now, that letter that you just referred to --

16 A. I'm sorry.

17 Q. Okay. Do you still have a copy of that letter
18 anywhere?

19 A. Well, I did, but I didn't feel it was important. I
20 kept a copy for awhile, but --

21 Q. Do you have it now?

22 A. No. I -- no, I don't.

23 Q. Okay?

24 A. I -- what it did was it listed the basically what
25 work I had done and what I felt was a fair price for the

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1 work that -- the cost of what I had done.

2 Q. Did you ever receive a response from Congressman
3 Traficant to your letter?

4 A. None at all, none at all.

5 Q. Sir, during -- I'm sorry.

6 During the time you worked for Congressman Traficant,
7 did you ever go to Washington, D.C.?

8 A. Yes, I did.

9 Q. And did you spend time in Washington, D.C. for which
10 you were compensated by the Government as part of your
11 part-time employment?

12 A. I'm sorry. I didn't --

13 Q. Did you spend time in Washington, D.C. as part of
14 your part-time employment?

15 A. Yes. It was basically the same as at the farm.

16 Q. All right.

17 What work, if any, did you perform when you were in
18 Washington, D.C. on part-time employment?

19 A. He lived on a boat.

20 Q. Who lived on a boat?

21 A. Jim Traficant lived on a boat. I forget the -- what
22 the -- it's like a bay. I forget the name of it, but there
23 was an area of, oh, it held probably at least 100 boats,
24 and people of different jobs that lived in the area would
25 live on those boats during the week and then go home on the

Rovnak - Direct/Smith

1 weekends, more or less.

2 Q. What, if anything, did you do with respect to the
3 Congressman's boat?

4 A. And the -- I know the -- like the boat had been
5 rotted from the weather. It wasn't taken care of too much,
6 so a lot of the trim was bad, the steering wheel, and what
7 I pretty much did was replace some of the brass fittings,
8 and there was a shop in the area that sold boat parts.

9 So it was easy to get -- easy access to get some nice
10 boat brass fittings and some of the varnish, special
11 varnishes to paint the wood to pretty much preserve it.

12 Q. Did you do any varnishing or painting?

13 A. Yes, I did.

14 Q. Did you do any prep work before that varnishing?

15 A. Yes, I did some sanding and putting on a sealer. You
16 know, you fill in the holes with some type of a bonding
17 agent, and then you would sand it, in between each step,
18 you would sand and then put a primer coat on it and sand it
19 some more and put your whatever you would use, either a
20 shellack or special varnish.

21 Q. All right.

22 When you were in Washington, D.C., did you perform
23 any duties down at the congressional office in Washington,
24 D.C.?

25 A. No, I didn't.

Rovnak - Direct/Smith

1 Q. Now --

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

3 BY MR. SMITH:

4 Q. Sir, I want to ask you a question about your -- you
5 mentioned your back when you were working out at the farm?

6 A. Yes.

7 Q. You recall that question and answer you gave about
8 your back and working out at the farm?

9 A. You mean about the hay?

10 Q. Yeah.

11 A. Okay.

12 Q. Okay.

13 Now, do you presently have some sort of injury to
14 your back and spinal column?

15 A. Yes, I do.

16 Q. All right. Does that injury predate or post date
17 your work out at the farm?

18 A. Some of it's before.

19 Q. And some of it's after?

20 A. Some of it's after, and you had asked about the -- as
21 far as the -- I didn't get a chance to finish, about that
22 getting paid for that work I had done when I sent that
23 registered letter. And I got no response. Well, I had
24 gone into Jackie Bobby, and I was going to take some time
25 off, and she says that I don't have that much time.

Rovnak - Direct/Smith

1 This is when I stopped doing any work at the farm. I
2 had come to a complete stop because I'm not getting paid
3 for it, that -- the work itself, the plumbing, the
4 carpentry work and what have you, and I was just getting
5 the monthly part-time pay at \$750, so it was like in
6 between boats. So I figured I was going to take some time
7 off and at least try to recoup something from it, and I was
8 told that after stopping the work, I was told that that was
9 a mistake, that I wasn't supposed to get all that time,
10 sick leave and vacation time. It was -- so it was like
11 taken off of me because I wouldn't do any work at the farm.

12 Q. Okay. Sir, under what circumstances did you leave
13 your employment at Congressman Traficant's staff?

14 A. Chuck O'Nesti came to me, and he said that there was
15 a job that he could get for me through Eddy Flask, and he
16 said it was a better job, and he said that it would -- it
17 probably would be better if I left the office anyway.
18 Again, I felt it was because I stopped doing any work at
19 the farm, but I asked Chuck if I could at least -- go
20 ahead.

21 Q. I have to ask you who is Ed Flask?

22 A. Ed Flask was an attorney that -- or, yeah, was an
23 attorney that rented -- let me take that back. He was an
24 attorney that was in an office in the building that the
25 congressional office was in.

Rovnak - Direct/Smith

- 1 Q. Okay.
- 2 A. He was a floor above the congressional office.
- 3 Q. Were you ever actually introduced to Mr. Flask?
- 4 A. Yes, I was.
- 5 Q. Who introduced you to Mr. Flask?
- 6 A. Chuck O'Nesti.
- 7 Q. And as a result of that introduction, did you get
- 8 some other employment somewhere else?
- 9 A. Yes. He instructed me to meet a gentleman -- I can't
- 10 recall his name because he didn't work for Gilbane too
- 11 long, that's who the guy worked for. But, he -- he
- 12 instructed me to meet him at a restaurant in Middleridge,
- 13 Bob Evans. That's the restaurant to meet him at a certain
- 14 time, and that he had a job for me with Gilbane Building
- 15 Company, construction company.
- 16 Q. And at that time, did you get your employment with
- 17 Gilbane Building Company?
- 18 A. Yes, I did.
- 19 Q. And where was Gilbane Building Company -- withdrawn.
- 20 Badly phrased.
- 21 Where did you go to work for Gilbane Building
- 22 Company?
- 23 A. They were doing the construction management at the
- 24 Mahoning Valley Sanitary District.
- 25 Q. All right.

Rovnak - Direct/Smith

1 Now, sir, late in January of this year, did you have
2 a conversation with a FBI agent about testimony that you
3 had given in a civil deposition several years ago?

4 A. You mean -- about my sister?

5 Q. Yeah.

6 A. Yeah, yeah, I did.

7 Q. All right.

8 And at that time, did you advise the agent that you
9 had given testimony that was not correct and accurate in
10 that civil deposition proceeding?

11 A. Yes, I did.

12 Q. All right. Why don't you tell us what you told the
13 agent about that?

14 A. Well, I -- I felt that -- I didn't want to -- I
15 wanted them to know everything about me, and so nothing
16 jumps up from, you know, nowhere. I had given -- you let
17 me step back. Because of some family problems, my -- I
18 wasn't -- I was kept from my grandson, and one of the
19 things I felt would help me to get back to seeing him would
20 be to more or less talk against my sister. Okay.

21 Q. And --

22 A. Pardon me?

23 Q. In connection with this matter that you're referring
24 to, were you deposed under oath in a civil case?

25 A. Yes.

Rovnak - Direct/Smith

1 Q. All right. During that civil deposition, did you
2 make some false statements?

3 A. Yes, I did. And the reason I feel -- now, I see what
4 I did wrong. At the time, I didn't think it was wrong. I
5 was under heavy medication, very heavy medication because
6 of my back injuries and what have you, and that's the only
7 thing that I can account for because I would never have
8 done -- I guess you would call it perjury. I wouldn't have
9 done that under normal circumstances, and again, that's --
10 I feel the only reason was because of the heavy medication,
11 and I mean legal medication, nothing was illegal about it.

12 Q. Okay.

13 A. As a matter of fact, the doctor involved ended up
14 losing his license for, I believe it was, overmedicating
15 some patients.

16 Q. All right.

17 MR. SMITH: May we have moment, your Honor?

18 THE COURT: Um-hum.

19 MR. SMITH: No further questions, your Honor.

20 THE COURT: Just a minute. Yeah, I think --
21 it's time for us to take a break. We're going to take the
22 morning break now. It's a good time to do it. Let me just
23 ask if everybody in the courtroom's been able to hear this
24 witness. Who's been asking me if you can hear him? You're
25 all hearing him fine? All right. They're hearing you

Rovnak - Cross

1 well. So we'll take the 20-minute break as we do in the
2 morning, and then when we come back, we'll continue with
3 this witness.

4 (Thereupon, a recess was taken.)

5 THE COURT: Congressman, you can proceed.

6 CROSS-EXAMINATION OF RICHARD ROVNAK

7 BY MR. TRAFICANT:

8 Q. Good morning, Richard.

9 A. Good morning, Jim.

10 Q. Was it tough for you to get up here?

11 A. A little bit.

12 Q. Do you have a driver now?

13 A. I'm sorry?

14 Q. Do you have a driver now?

15 A. That brought me up?

16 Q. Yes.

17 A. Yes.

18 Q. Do you drive yourself at all?

19 A. Very little.

20 Q. Very little now?

21 We met long before we were reserved -- involved in
22 the Sheriff's Department, weren't we?

23 A. Yes.

24 Q. Do you remember the first time we might have met?

25 A. I believe it was over at Shady Run field, practice

Rovnak - Cross

- 1 for the Bull Dogs.
- 2 Q. Well, who were the Bull Dogs?
- 3 A. Semi-pro football team from Youngstown.
- 4 Q. What, if anything, did they do? Did they challenge
- 5 anybody?
- 6 A. Yes. They challenged from what I remember, I believe
- 7 it was the prisons.
- 8 Q. And they engaged in a number of games, right?
- 9 A. I'm sorry?
- 10 Q. And they would engage in a number of games?
- 11 A. Yes, they did.
- 12 Q. Do you know if they were undefeated?
- 13 A. No. I don't know, I don't know.
- 14 Q. At some point, did they challenge a group of local,
- 15 what they referred to, as all-stars?
- 16 A. Yes, they did.
- 17 Q. Were you one of those all-stars?
- 18 A. No.
- 19 Q. Did you play on the all-star team?
- 20 A. Yes.
- 21 Q. Was I one of those players?
- 22 A. Yes, you were.
- 23 Q. Did we win?
- 24 A. Yes. We won, yes.
- 25 Q. Did you feel good about that by the way?

Rovnak - Cross

- 1 A. Yes, I did.
- 2 Q. A lot of bragging rights at stake, right?
- 3 A. For some, yes.
- 4 Q. Now, you said at some point you looked me up after
- 5 the reserve deputy sheriff business at the farm; is that
- 6 right?
- 7 A. That's correct.
- 8 Q. Yeah.
- 9 Is that true, first time you were at the farm?
- 10 A. Oh, no.
- 11 Q. You'd been there before?
- 12 A. Yes, I had.
- 13 Q. Yeah.
- 14 How many occasions would you say you'd been at the
- 15 farm before that?
- 16 A. Well, I guess a dozen or so.
- 17 Q. Yeah. For what purposes would you come to the farm
- 18 to look for me?
- 19 A. It might pertain to -- are you talking about --
- 20 Q. When you were reserve of deputy sheriff.
- 21 A. When I was reserve deputy?
- 22 Q. Yeah.
- 23 A. Probably pertained to some police work.
- 24 Q. Yeah. So you did no work at that time, right?
- 25 A. You had me doing some things back then.

Rovnak - Cross

1 Q. You helped out?

2 A. Yes. I helped out a little bit, yeah.

3 Q. Okay.

4 Now, were you a member of any specific unit of the
5 Sheriff's Department?

6 A. I -- you mean like the liquor enforcement?

7 Q. No. Like one of our specific units that I headed to
8 reduce crime.

9 A. Again, the only unit I participated in was the -- was
10 actually juvenile vice you called it and the liquor
11 enforcement.

12 Q. Would you recall a unit known as the sting unit?

13 A. Yes.

14 Q. Was that the unit you served on?

15 A. Yes, yes. I -- well, I did do a lot with the sting
16 unit.

17 Q. Can you hear me while I get my water?

18 A. Yes.

19 Q. Now, when you came to the farm, you came to the farm
20 for an explicit reason. Could you restate what that reason
21 was?

22 A. At what point?

23 Q. When you first came to the farm, when I was the
24 Congressman and you said you'd come out and run me down at
25 the farm.

Rovnak - Cross

- 1 A. Run you down?
- 2 Q. Well, you found me at the farm?
- 3 A. Oh. I don't understand the question, Jim.
- 4 Q. Okay.
- 5 You said you at some point came to the farm. Do you
- 6 remember the first time you came to the farm after I was
- 7 the Congressman?
- 8 A. I'm not sure, you know, the first time after you were
- 9 Congressman. I don't recall exactly.
- 10 Q. Well, do you remember if you asked me for a job or
- 11 help you find a job the first time you came out, the second
- 12 or third time you came out?
- 13 A. I'm not sure.
- 14 Q. So you could have been at the farm four or five times
- 15 before you asked me to help you get a job?
- 16 A. It -- it's possible.
- 17 Q. Were you ever unwilling to help me before you were on
- 18 the payroll at the farm?
- 19 A. Was I ever willing to help you?
- 20 Q. Unwilling to help me?
- 21 A. Yeah, there were times.
- 22 Q. There were times?
- 23 A. Yes.
- 24 Q. Now, when you asked me for a job, did you describe
- 25 some family problems?

Rovnak - Cross

- 1 A. I don't recall. I -- you mean as far as divorce?
- 2 Q. As far as being married.
- 3 A. I'm not positive when I got a divorce in relation to
- 4 when I stopped at the farm.
- 5 Q. Well, did you get a divorce before you were hired at
- 6 the congressional office or after you were hired at the
- 7 congressional office?
- 8 A. Again, I'm not positive, only because I had moved
- 9 out, and we tried a separation before the divorce, and the
- 10 divorce came like two years after I had moved out.
- 11 Q. Do you recall conversations about needing medical
- 12 insurance for your family?
- 13 A. I don't, I don't recall, but I -- I don't believe I
- 14 would have been covered. I mean, my family would have been
- 15 covered.
- 16 Q. Were you employed when you came to the farm?
- 17 A. No.
- 18 Q. Did you have any health insurance?
- 19 A. No.
- 20 Q. Did you have a bad back?
- 21 A. Yes.
- 22 Q. Did you have a family?
- 23 A. Yes.
- 24 Q. Were they insured?
- 25 A. No.

Rovnak - Cross

1 Q. All right.

2 To the best of your knowledge, did you meet with me
3 several times seeking whether or not I was successful in
4 using my influence to get you a job?

5 A. Could you repeat that, please?

6 Q. Did you meet with me on several occasions or have
7 contact with me seeking out whether or not I had any
8 success or some probable success of being able to land you
9 a job?

10 A. Yeah, because it didn't happen right off if that's
11 what you're asking. No, I stopped a few times.

12 Q. But at some point, you agree we weren't able to find
13 a job for you?

14 A. Right, not right off the bat, no.

15 Q. At some point, it was agreed I would hire you
16 part-time, is that your testimony?

17 A. Well, you eventually did. I mean, I don't understand
18 the question.

19 Q. Well, at some time, did I hire you?

20 A. Yes.

21 Q. And you know when that was?

22 A. I'm pretty sure it was October of 1990.

23 Q. October of 1990?

24 A. That's --

25 Q. And when did you get your other job?

Rovnak - Cross

- 1 A. It was -- which other job are we talking about?
- 2 Q. Your next job.
- 3 A. The next job? I'm pretty sure I started in September
- 4 of '92.
- 5 Q. Do you know when you quit the congressional office?
- 6 A. I didn't.
- 7 Q. You were terminated?
- 8 A. Yes.
- 9 Q. Who terminated you?
- 10 A. You did.
- 11 Q. On what day?
- 12 A. It was in July -- I think it was July. That's what
- 13 my --
- 14 Q. Okay. Did there come a point in conversation where
- 15 you came to me, and you wanted to be kept on as a part-time
- 16 employee, even though you were getting this full-time job
- 17 with full benefits? Do you remember that?
- 18 A. No. I -- that never happened.
- 19 Q. Um-hum. Now, you said you worked as much as 16 hours
- 20 on the farm a day?
- 21 A. That's correct.
- 22 Q. And was I out there with you?
- 23 A. Yeah, you were there. I would guess almost all the
- 24 time.
- 25 Q. Um-hum. Like give me an idea when that would be.

Rovnak - Cross

- 1 A. Sometimes we slept out there. So it would be --
- 2 Q. Where did we sleep?
- 3 A. In the bedroom.
- 4 Q. Oh, yeah? We slept in the same bed?
- 5 A. No, Jim.
- 6 Q. Okay. Richard, you said you were out there 16 hours,
- 7 and --
- 8 A. I said sometimes.
- 9 Q. I was there, but you said it was on your work time,
- 10 wasn't it?
- 11 A. Yes, Jim.
- 12 Q. What were your days of work?
- 13 A. Where?
- 14 Q. Well, the congressional office, what days were you to
- 15 work?
- 16 A. I don't know. I was never given days in the office.
- 17 Q. When did the office work, did they work Saturday?
- 18 MR. SMITH: Objection.
- 19 THE WITNESS: I wasn't given --
- 20 THE COURT: You're talking over each other.
- 21 MR. TRAFICANT: Okay.
- 22 THE COURT: The reporter needs to go back
- 23 now, and you need to let him answer, and then you can start
- 24 the next question.
- 25 MR. TRAFICANT: Maybe I can start and save us

Rovnak - Cross

1 a lot of time. Unless you need it for the record.

2 THE COURT: Well, it's your record that we're
3 making it for. I don't know how much of it they got
4 because you both were talking at one time.

5 MR. TRAFICANT: Okay.

6 BY MR. TRAFICANT:

7 Q. When did the staff workers usually report to work,
8 and when did they work?

9 A. I don't know. I wasn't in the office to know that.

10 Q. And you said that there were time sheets; is that
11 correct?

12 A. No, I didn't say that.

13 Q. You said you went over time sheets and vacation
14 sheets, did you say that?

15 A. I was handed a slip that had -- and I would imagine
16 Jackie's handwriting, that had 21 days, sick days, and 21
17 days vacation days. That's -- as far as time recording,
18 that's the only time that was shown to me.

19 Q. So was it your testimony you were out at the farm
20 seven days a week?

21 A. Sometimes, sometimes.

22 Q. 16 hours a day, slept overnight?

23 A. Sometimes, correct.

24 Q. Did you and I ever happen to make a trip together?

25 A. Quite a few.

Rovnak - Cross

- 1 Q. Did you go to Washington with me?
- 2 A. Sometimes.
- 3 Q. We went to Washington. Do you know who drove?
- 4 A. Mostly you.
- 5 Q. And when the traffic was heavy, it took us some time
- 6 to get there, didn't it?
- 7 A. Sometimes.
- 8 Q. What was the average amount of time you would say it
- 9 took to get there?
- 10 A. I don't recall.
- 11 Q. But you would travel with me to and with me back; is
- 12 that correct?
- 13 A. That's correct.
- 14 Q. Okay.
- 15 And what were your requirements as far as how many
- 16 hours you were to put in, do you know what that was?
- 17 A. Where?
- 18 Q. At the congressional office?
- 19 A. I guess there was no time required because you
- 20 wouldn't let me go to the office.
- 21 Q. I see. But you're not then familiar with any rules
- 22 or regulations governing part-time employees, is that your
- 23 answer?
- 24 A. No.
- 25 Q. Okay. Then do you have any knowledge of the rules

Rovnak - Cross

1 and regulations of Congress governing part-time employees?

2 A. No, I don't know.

3 Q. Okay. Did anyone in the office ever explain it to
4 you?

5 A. No, not -- not in any detail. Let's put it that way.
6 The most that was told to me was by Chuck O'Nesti, that
7 more or less I wasn't -- I had to do the work -- the
8 constituent work opposed to doing work out at the farm.

9 Q. All right.

10 But it's your testimony you were exclusively hired by
11 me to be a farm worker on Government payroll, correct?

12 A. Well, I can't answer for you, no.

13 Q. Well, I'm asking you to answer for yourself. Were --
14 was it your opinion that you were being hired to strictly
15 be a farm worker and be paid by the taxpayers?

16 A. That's what happened, so I don't know what the
17 intentions were, but that's what happened.

18 Q. Okay.

19 Did you have case work files when you were a member
20 of the congressional staff?

21 A. There was some -- I don't know how they -- what the
22 details were, but as far as the cases, like Bill Pierce
23 would have some on his desk, and maybe George Buccella
24 would have some on his desk. And the few times that I did
25 go to the office -- and most of the time -- I mean, all the

Rovnak - Cross

1 time, it was put down what you're doing and meet Jim out at
2 the farm. It was -- I was to take some of the files and
3 work on them. When I did, what was supposed to stay in the
4 office, it was more or less take these files and take care
5 them.

6 Q. Did you have a desk at the congressional office?

7 A. Afterwards I did. After I quit working at the farm.

8 Q. You had no desk assigned to you when you were hired?

9 A. I really don't recall having a desk.

10 Q. And you had no files assigned to you when you were
11 hired? Did you do any case work --

12 MR. SMITH: Objection.

13 THE COURT: There was a question asked of the
14 witness, but you went to a new question. He needs to
15 answer it.

16 THE WITNESS: Can you repeat the question?

17 MR. TRAFICANT: Could the Court Reporter now
18 repeat the question?

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

21 THE COURT: Answer one question and then the
22 next.

23 THE WITNESS: I don't recall having been
24 assigned any cases and the second question again was?

25 Q. Did you do any case work?

Rovnak - Cross

1 A. I believe I got a chance to do a few.

2 Q. Okay. But you said while you were working at the
3 farm, you would bring cases to the farm?

4 A. Excuse me. I got a chance to start a few. I don't
5 believe I got anything finished.

6 Q. Let me ask this question. It was your testimony,
7 under the direct examination by the Prosecutor, that you
8 brought cases to the farm, was that your testimony?

9 A. Yes.

10 Q. And you said that I got upset and said don't do that,
11 right?

12 A. Correct.

13 Q. Is that your testimony?

14 A. Correct.

15 Q. Were you aware of the law, that it is illegal to take
16 confidential constituent files out of the office?

17 A. No, I didn't know.

18 Q. Did you ask me why I told you not to bring them to
19 the --

20 A. No, I didn't ask you.

21 Q. Okay. Fine.

22 Now, when you went to Washington D.C., did you get a
23 name tag so you could go to the different place and to the
24 gallery and watch the speeches, et cetera?

25 A. Yes, I did.

Rovnak - Cross

- 1 Q. Okay.
- 2 And did you meet the members of the Washington staff?
- 3 A. Yes, I did.
- 4 Q. Do you know who the director was or the chief?
- 5 A. I don't know any titles. The only one that I knew
- 6 kind of random, and I'm not sure, was Richards.
- 7 Q. You knew West Richards?
- 8 A. Yeah, I knew of him.
- 9 Q. Yeah, you knew West. Okay. So did you have any
- 10 conversation with West Richards about all this time
- 11 reporting out at the farm, up to 16 hours a day?
- 12 A. Jim, there was a question you asked again back about
- 13 three or four questions, and I'd like to -- I'm not sure I
- 14 finished answering. I was thinking, and you went on to
- 15 another question. Can I -- I don't want it -- you know
- 16 like the wrong answer being given.
- 17 Q. Well, I don't want you to give any wrong answers
- 18 either, but we'll come back to it and I'll give you a
- 19 chance.
- 20 I'll tell you what. I'll say it's your turn,
- 21 Richard, go back. But let's stay with my train of thought
- 22 since I'm the examiner. Okay?
- 23 A. Sure. Could you repeat the question you gave me?
- 24 Q. Yeah. You said you knew West Richards?
- 25 A. That's correct.

Rovnak - Cross

1 Q. Did you spend time with West Richards and me on
2 occasion?

3 A. On some occasions.

4 Q. Okay.

5 Did you ever tell West Richards you worked as much as
6 16 hours on the farm, and you were very upset about it?

7 A. I -- I believe it may have came up. I'm not
8 positive, but it may have been because we had gotten to
9 that -- that far in our friendly relationship.

10 Q. So you were sort of friendly with West?

11 A. Correct.

12 Q. And you would discuss concerns with a friend, would
13 you not?

14 A. Sure.

15 Q. Yeah. Now, at some point, you said Chuck O'Nesti
16 told you that there was a job available for you to look
17 into; is that correct?

18 A. Yeah, correct.

19 Q. Um-hum. And you then did meet with a company called
20 Gilbane, was it?

21 A. That's correct.

22 Q. And Gilbane was -- would you explain what they did?

23 A. You want me to explain what they did? Is that what
24 the question is?

25 Q. You said they were the something?

Rovnak - Cross

- 1 A. Construction manager.
- 2 Q. At where?
- 3 A. Any job that they got to bid on, what a construction
- 4 manager does is -- is it okay to hypothesize? Okay?
- 5 Q. What specific job did Gilbane hire you to do?
- 6 A. Okay. I started out as a plans clerk.
- 7 Q. Where?
- 8 A. At the Mahoning Valley Sanitary District.
- 9 Q. Would you explain to the jury what that was?
- 10 A. The Mahoning Valley Sanitary District?
- 11 Q. Yes.
- 12 A. They -- I guess you can say sanitized the water and
- 13 bring it up to a drinking standard for 300,000 people.
- 14 Q. Okay.
- 15 A. That's the number that's in the Vindicator all the
- 16 time.
- 17 Q. Did you get full benefits?
- 18 A. Yes. Yes, I did.
- 19 Q. Do you recall when you divorced your wife?
- 20 A. I'm not positive of the month and so --
- 21 Q. Could you provide them to the Court for our records
- 22 at my request?
- 23 MR. SMITH: Objection.
- 24 THE COURT: Sustained. You can obtain that.
- 25 Q. Isn't it a fact that you didn't divorce your wife

Rovnak - Cross

1 until after you went on the congressional payroll? Yes or
2 no, Richard.

3 A. I don't recall. Like I said, Jim, we were separated.
4 We were trying a legal separation for awhile, a separation
5 for awhile, and I don't recall exactly when we got divorced
6 as -- in relation to my being hired.

7 Q. Do you know if the Gilbanes were part of a criminal
8 investigation regarding the Mahoning Valley Sanitary
9 District?

10 MR. SMITH: Objection, relevance.

11 THE COURT: Sustained.

12 Q. Were you ever investigated by the FBI for actions of
13 Gilbane or any of the employees or managers of the Mahoning
14 Valley Sanitary District?

15 MR. SMITH: Same objection.

16 THE COURT: It's the same ruling. Sustained.

17 Q. Richard, do you love your sister?

18 A. Sure I do.

19 Q. How many sisters do you have?

20 A. Five -- well, four, my sister Marge that just passed
21 away.

22 Q. I'm sorry to hear that.

23 A. I know that.

24 Q. Now, something I didn't know and the Prosecution
25 brought up relative to some language regarding your

Rovnak - Cross

- 1 participation in the civil case, would you explain what the
2 civil case was?
- 3 A. You mean my -- the deposition that I gave?
- 4 Q. Yeah, your sister, the deposition relative to the
5 civil case?
- 6 A. Okay. And your question again is?
- 7 Q. What was the reason for them taking a deposition from
8 you, and what was -- who was versing whom?
- 9 A. I guess she was suing a -- the company that owned her
10 apartments. I guess she fell and hurt herself, and again
11 my reasoning --
- 12 Q. That's fine. You answered the question.
13 Now, you said that you made false statements in that
14 deposition. What were the false statements you made?
- 15 A. My statements were that I was there and seeing things
16 that happened that -- that I wasn't -- I wasn't there at
17 the time.
- 18 Q. So you lied?
- 19 A. Yes, I did.
- 20 Q. Under oath?
- 21 A. Yes, I did. And I'm not proud of it.
- 22 Q. Did you yourself tell that to the FBI when they
23 interviewed you?
- 24 A. Yes, I did.
- 25 Q. Did the FBI during the interview tape your

Rovnak - Cross

1 conversation?

2 A. Not that I know of.

3 Q. Okay. Now, you used the word perjury?

4 A. Yes.

5 Q. You know what perjury means?

6 A. I take it to be lying under oath.

7 Q. Now, you blamed this perjury on heavy medication?

8 A. No. I blame it on myself, but it was -- I believe
9 that -- I wouldn't have been so lax and stupid if I wasn't
10 under that medication.

11 THE COURT: Is this the number of it?

12 MR. TRAFICANT: Yes.

13 THE COURT: ROV-20.

14 MR. TRAFICANT: I don't know what the ongoing
15 number was.

16 THE COURT: ROV-20.

17 THE COURT: Are you -- I'm waiting to hear.

18 MR. TRAFICANT: Do you need more time,
19 gentlemen? What are we waiting on?

20 THE COURT: I'm waiting to see if there is
21 any response to this.

22 MR. SMITH: No, your Honor, I have nothing.

23 BY MR. TRAFICANT:

24 Q. Does that appear to be my signature on this document,
25 Richard?

Rovnak - Cross

1 A. May I look at this?

2 Q. I would ask you, first, if you would look and see if
3 that appears to be my signature.

4 THE COURT: You have to speak up because she
5 can't hear you.

6 THE WITNESS: I'm sorry. From what I
7 remember, it don't look like your signature. From what I
8 remember. I could be wrong.

9 Q. Okay. Is that your signature?

10 A. It looks like my signature, yeah.

11 Q. Now, were you -- turn the page over, and I have some
12 questions to ask you about this. Just fold it over without
13 the signatures.

14 MR. SMITH: Okay. I'm sorry.

15 MR. TRAFICANT: Just an old sheriff ploy.

16 THE WITNESS: I didn't hear that.

17 Q. Just an old sheriff ploy. Shouldn't have said it,
18 and I ask it be stricken.

19 (Laughter.)

20 THE COURT: It's getting confused.

21 MR. TRAFICANT: I'm sorry. I've spoken out
22 of order.

23 Q. Would you excuse me while you have a chance to maybe
24 read that, and if you can't, and I know handwriting is hard
25 to read, but does that handwriting appear to you to be of

Rovnak - Cross

- 1 somebody you might recognize?
- 2 A. If I was to guess, it kind of looks like your
- 3 handwriting.
- 4 Q. Fine. So it's my handwriting?
- 5 A. Kind of looks like your handwriting.
- 6 Q. And your signature? But you're not sure about my
- 7 signature, right?
- 8 A. Right.
- 9 Q. Okay.
- 10 What was the date of it?
- 11 A. October 31, 1990.
- 12 Q. When were you hired?
- 13 A. I believe it was in October of 1990.
- 14 Q. And what is this document?
- 15 A. Is this that guy that never showed up to paint the
- 16 boat?
- 17 Q. No. I'm asking you, what is the document?
- 18 A. That's what I'm asking -- oh, it looks like a
- 19 contract to paint the boat.
- 20 Q. And?
- 21 A. The paint repairs on an SUZ.
- 22 Q. I'll ask the questions. I'll ask the questions.
- 23 A. I'm answering your question, Jim.
- 24 Q. Go ahead. Read it then and say what it is.
- 25 A. He you asked me what it was. I want to answer that.

Rovnak - Cross

1 THE COURT: Okay. Go ahead and answer that,
2 please.

3 THE WITNESS: Looks to me to be a contract to
4 paint and make repairs on SUZ, a harbor 37-foot FEM-4 by
5 Peter McQuiston.

6 Q. Peter McQueen?

7 A. McQueen, yeah, I'm sorry. And his address, I
8 believe, agree to paint and sand all -- I can't --

9 Q. Surfaces?

10 A. Surface, okay. Except deck, with two coats of paint
11 written base paint.

12 Q. Yes.

13 A. To also paint inside exterior cupboards.

14 Q. Yes.

15 A. And --

16 Q. Benches?

17 A. Benches. Two coats with marine paint Number 3 to
18 sand and varnish boat and transit.

19 Q. Transom?

20 A. Okay. Transom with six coats. Number 4, to repair
21 damaged surfaces on wood near or around door opening and as
22 seen or deemed necessary.

23 Q. Number 5?

24 A. Number 5, all of nose -- nose.

25 Q. V's?

Rovnak - Cross

1 A. All of these to be performed for total of \$1,000, and
2 then it's spelled out one thousand. Payment upon
3 completion, and it says signed October 31, 1990, as Peter
4 McQueen, and it's spelled and written, signed, and then
5 supposedly your signature, and underneath, it's spelled
6 out, James A. Traficant, J. A. Traficant, owner, and then
7 it's supposedly witnessed by me, witness -- well, it's my
8 signature. I -- the only --

9 Q. What does it say under your signature?

10 A. It says witness.

11 Q. Okay.

12 A. Witness, and then my name was spelled out, yeah.

13 Q. Okay. Now, you claim this fellow never did this
14 work?

15 A. I'm sorry.

16 Q. You say this fellow never did this work?

17 A. I remember something to where a kid did some work or
18 whatever, and it was shoddy, and he wanted more money or
19 something. He come back and --

20 Q. How many weeks in a row did you go with me to
21 Washington, D.C.?

22 A. I don't believe it was week inside a row. It would
23 be for a couple of days. I don't think we ever stayed more
24 than maybe three days. I don't think we stayed any more
25 than that and come home and not go back for maybe at least

Rovnak - Cross

1 a couple weeks.

2 Q. Yeah. So do you recall an evening when we initiated
3 a piece of appliance in the boat? Do you remember that
4 evening?

5 A. You mean the shrimp.

6 Q. No. I'm talking about the stove?

7 A. Yeah.

8 Q. You remember an incident with the stove?

9 A. Yeah, something smoked us out or whatever, is that
10 what you're talking about?

11 Q. Don't remember anything about a chicken in the stove?

12 A. Yeah. I do -- now I do. I couldn't remember what
13 item it was.

14 Q. Okay. What did we do that night?

15 A. Probably sang and stuff, we used to do a lot of that.

16 Q. We had a lot of fun, huh?

17 A. Oh, yeah.

18 Q. And how long it take us to chip -- chip that chicken?

19 A. It seems like days, Jim.

20 Q. And didn't we, in fact, screw up because it was a
21 marine appliance that we had no knowledge of?

22 A. Yeah, it was -- they worked a little different than
23 the standard stove.

24 Q. And would you say it took us an awful lot of time to
25 try to clean up the mess?

Rovnak - Cross

- 1 A. Yes, yes, it seemed like days, Jim, again.
- 2 Q. Richard, do you consider me a friend?
- 3 A. I feel that I'm your friend. I -- I wish you were a
- 4 better friend than me, I'm sorry, but that's how I feel.
- 5 Q. Isn't it a fact you wish I allowed to you stay on
- 6 payroll part-time while you had a full-time job?
- 7 A. I'm sorry. I didn't hear that.
- 8 Q. Isn't it a fact you wished I would have let you stay
- 9 on a part-time payroll of the taxpayers while you had a
- 10 full-time job with another Government associated entity?
- 11 A. No, no. I -- I never even -- that never entered my
- 12 mind.
- 13 Q. Well, let me ask you this --
- 14 A. Go ahead.
- 15 Q. Do you love your sister more than you consider me a
- 16 friend?
- 17 A. It's comparing -- I feel it's comparing apples and
- 18 oranges. I don't --
- 19 Q. You love me as much as you love your sister?
- 20 A. Again, I just -- to me, I would never try to decide
- 21 that. I don't think that's a fair question.
- 22 Q. Oh.
- 23 A. I mean -- like I said, I feel that I'm your friend,
- 24 and I love you as a friend, but, you know, I -- I would --
- 25 I'm sorry that I would ever hurt her or you.

Rovnak - Cross

1 Q. Okay. Now, when you were first contacted by the FBI,
2 did you go to them, or did they come to you?

3 A. The very first time?

4 Q. Yeah, when -- about the Traficant case?

5 A. Okay. Because there was some doings --- the first
6 case, the first time you were --

7 Q. I'm talking about this case. When was the first time
8 they came to you?

9 A. Okay. The very first time was, I believe it was --
10 they contacted me, and it had something to do with the M V
11 S -- M-V-S-D and -- one second --

12 THE COURT: Take some sugar.

13 THE WITNESS: Yeah, I did.

14 THE COURT: Okay.

15 THE WITNESS: MVSD, oh, and the Gilbane
16 Company as far as the doings with Ed Flask and the loans or
17 the money with the Government and everything. That's -- I
18 was contacted.

19 Q. Did the FBI ask you if I had any involvement with the
20 M V S D/Gilbane matter?

21 A. I don't think they did, no.

22 Q. When did they then come to you about me in this case?

23 A. Oh, I believe I contacted them, but it wasn't -- it
24 didn't start out about you.

25 Q. Well, you contacted them about what?

Rovnak - Cross

1 A. Phil Chance.

2 Q. Okay. And could you identify who Phil Chance was?

3 A. Phil Chance was a -- I met him -- he was a year
4 behind me in high school, and he was a lieutenant under
5 you.

6 Q. Okay.

7 A. And also at one point a chief deputy, and that's who
8 he is. But I mean, you want me to go further?

9 Q. No. At the time that you called them, he was what?
10 What was his position?

11 A. He was a sheriff of Mahoning County.

12 Q. Okay. Then was it at that time when they were
13 talking to you about Phil Chance they brought up Jim
14 Traficant?

15 A. No. I brought it up as far as -- more, I guess it
16 would be more rehashing, the events that happened when you
17 were sheriff, him kicking in a door while I was standing
18 there, and then I'm sorry, Jim, but you're covering it up.

19 Q. I covered up his kicking in a door?

20 A. Yeah, yeah. He kicked in a door with some other
21 people, and you were on trial up here and me and Bill
22 Kuzniak came up to tell you about it, and you said you'd
23 handle it when you come back, and nothing was ever done
24 about it. He ended up arresting a guy, taking him from his
25 job. He ended up losing his job.

Rovnak - Cross

- 1 Q. Without a warrant, is that -- is that what you're
2 saying?
- 3 A. No warrant involved, no. It was actually a burglary.
- 4 Q. I see.
- 5 Do you have any knowledge that when I came back, that
6 I demoted Phil Chance and named a new chief deputy?
- 7 A. You could have. I don't know, but as far as -- I --
8 I didn't see any -- any arrests of Phil Chance for doing
9 what he did.
- 10 Q. Okay. But was not a man by the name of Captain
11 Crater promoted to chief deputy?
- 12 A. Yeah, um-hum, yes.
- 13 Q. So, therefore, if Captain Crater was promoted to
14 chief deputy, then the chief deputy who previously served
15 would have been demoted. Would that be a fair assumption?
- 16 A. Are you saying that's his punishment for breaking and
17 entering?
- 18 Q. No, no. I'm just saying did I demote the former
19 chief deputy?
- 20 A. Well, I'm not sure if -- that he was demoted or
21 promoted. I don't know, I don't know if there's something
22 higher or --
- 23 Q. You know, though, that the chief deputy was the chief
24 of the law enforcement office in the Sheriff's Department,
25 don't you?

Rovnak - Cross

1 A. Correct.

2 Q. And Captain Crater became the chief, you know that?

3 A. Yes.

4 MR. TRAFICANT: No further questions.

5 MR. SMITH: No questions, your Honor.

6 THE COURT: Thank you, sir. You may step
7 down.

8 THE WITNESS: Okay. Thank you very much.

9 THE COURT: Ladies and gentlemen, we're going
10 to take your lunch break a few minutes early because it's
11 hard to start a new witness in the -- and interrupt them
12 for lunch.

13 So we'll take your lunch break, and we'll make it run
14 for an hour and a half. Let's see. We'll resume at 1:15.
15 Okay? So you'll get your full hour and a half but still
16 get to use more of the trial day. Remember your
17 admonitions. Don't talk about the case, don't let anyone
18 talk to you about the case, et cetera. I think there may
19 be another case in the building where a decision has been
20 issued, and you may find some press clustered around. Just
21 don't talk to anybody or allow them to talk to you.

22 (Thereupon, a luncheon recess was had.)

23

24

25

Buccella - Direct/Smith

Thursday Session, February 21, 2002, at 1:15 P.M.

GEORGE BUCCELLA,

of lawful age, a witness called by the GOVERNMENT,

being first duly sworn, was examined

and testified as follows:

DIRECT EXAMINATION OF GEORGE BUCCELLA

BY MR. SMITH:

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

A. George Franklin Buccella, B-U-C-C-E-L-L-A.

Q. What city do you live in, sir?

A. Middle Ridge, Ohio.

Q. What's your current occupation?

A. Administrator for the Trumbull County Health Department.

Q. When did you start working at the Trumbull County Health Department?

A. May 4 of 2000.

Q. What are your duties there?

A. There's about 28 people that work under me, and I administer them.

Q. What was your job before you went to work for the Trumbull County Health Department?

A. I was a staff representative for Congressman J. A. Traficant.

Buccella - Direct/Smith

1 Q. What was the last day you worked for Congressman
2 Traficant?

3 A. May 3 of 2000.

4 Q. And would you briefly explain why you left his
5 employment to take the current job?

6 A. Because of the money.

7 Q. When did you start working on Congressman Traficant's
8 staff?

9 A. I believe it was February 1st of 1985.

10 Q. And how long after the Congressman had been first
11 elected to Congress did you get hired?

12 A. Approximately one month.

13 Q. Had you had any prior governmental service of any
14 kind before starting with Congressman Traficant's staff?

15 A. Yes, I was an Weatherford Township elected trustee.

16 Q. What does a Weatherford Township trustee do, what are
17 the duties?

18 A. You're responsible for the roads, the cemeteries,
19 fire departments, police departments if you have them in
20 your community.

21 Q. How did you first meet Congressman Traficant?

22 A. If I remember correctly, I believe he worked a lot
23 with the drug programs. I called him to speak at our
24 school on drugs.

25 Q. Was this while he was a law enforcement officer?

Buccella - Direct/Smith

1 A. Yes.

2 Q. And would you describe the process of how you came to
3 be hired to the Congressman's staff.

4 A. I believe he had a fund raiser that I attended, and
5 then I got a little involved in the campaign in the first
6 at the beginning and then worked on his campaign.

7 Q. How did you come to be hired on his congressional
8 staff after he was elected?

9 A. After he was elected office, he just asked me if I
10 would want to work on his staff.

11 Q. What was your starting pay in 1985?

12 A. \$16,000 a year.

13 Q. And what was your pay when you left?

14 A. I think with the last raise it was somewhere in the
15 neighborhood around \$32,000.

16 Q. Were you a full-time or part-time congressional staff
17 employee?

18 A. Full-time.

19 Q. Was that throughout this period?

20 A. Yes.

21 Q. When you were hired, were subjects like vacation or
22 sick time explained or expressed to you?

23 A. No.

24 Q. Throughout the time period that you worked on
25 Congressman Traficant's staff, how did you receive your

Buccella - Direct/Smith

1 paycheck?

2 A. It was in the mail, once a month.

3 Q. U.S. Postal Service?

4 A. Yes.

5 Q. What were your duties as a member of Congressman
6 Traficant's staff?

7 A. I don't remember the exact words, but as close I can
8 remember, it was that if anybody calls with a problem, do
9 whatever you can to help them.

10 Q. When you started out working for Congressman
11 Traficant, were your hours set or were they flexible?

12 A. The office hours was 8:30 to 4:30, but there was a
13 lot of times at night and stuff on weekends that you had to
14 do -- and represent --

15 Q. Were you required to be there 8:30 in the morning?

16 A. I don't know if that was really discussed. I was
17 told a couple times that the office hours opened at 8:30.

18 Q. Did you have any other business that you were
19 attending to in addition to your congressional staff
20 position?

21 A. Yes.

22 Q. All right. What was that business?

23 A. I had a pizza shop.

24 Q. All right. And describe, if you would, what your
25 duties were at that pizza shop?

Buccella - Direct/Smith

1 A. Everything from washing dishes to making the pizzas
2 for sale.

3 Q. And were you -- did you have any equity interest in
4 this pizza shop?

5 A. My wife and I owned it. It was a family business.

6 Q. You were an owner?

7 A. Yes.

8 Q. As the owner of the shop, did you have any contracts
9 with the school system?

10 A. Yes, I did.

11 Q. Why don't you explain briefly what that was about?

12 A. It changed from time to time over the two or three or
13 four years. I don't remember how long we had the contract.
14 Some years we did two schools. Some years we did three.
15 Some years we did one school, and we did them one day a
16 week in the morning.

17 Q. And on days that you had a service school contract,
18 did that make you a little bit later than other employees
19 getting to work?

20 A. Yes.

21 Q. And did you have the Congressman's approval to do
22 that?

23 A. Yes, sir.

24 Q. At which of the Congressman's district offices did
25 you start working?

Buccella - Direct/Smith

- 1 A. I worked at the Niles office that was on 422.
- 2 Q. And did something happen at that office that caused
- 3 you to leave that office and work elsewhere for a time?
- 4 A. Yeah, there was a tornado in '85.
- 5 Q. And was there substantial damage to that building?
- 6 A. Yes, sir.
- 7 Q. Where did -- what office location did you next work
- 8 in?
- 9 A. I think I went from there to the Warren office in
- 10 Warren City Hall.
- 11 Q. Any other offices you worked at after Warren?
- 12 A. I worked in the Youngstown office on Overhill.
- 13 Q. All right.
- 14 And then after Overhill, did you work in any other
- 15 office?
- 16 A. Eastwood Mall in Niles.
- 17 Q. While you were at the Youngstown office who was your
- 18 day-to-day supervisor?
- 19 A. Jackie Bobby.
- 20 Q. And while at Niles, who was the day-to-day supervisor
- 21 there?
- 22 A. Betty Manente.
- 23 Q. You know how to spell Ms. Manente's name?
- 24 A. I'll guess: M-A-N-E-N-T-I, I think.
- 25 Q. During the time that you were on Congressman

Buccella - Direct/Smith

1 Traficant's staff, did you ever work at a farm located on
2 Route 165 and Greenford, Ohio?

3 A. Yes, sir.

4 Q. And whose farm was that?

5 A. I was always told that it belong to Mr. Traficant,
6 the Congressman's father.

7 Q. Who told you that?

8 A. I can't remember who that was.

9 Q. All right.

10 How many -- who did you -- who, if anyone, did you
11 see on a regular basis out at the farm when you went there?

12 A. It was a girl that stayed there that trained horses
13 by the name of Sandy. She was probably the most normal
14 person I would see.

15 Q. Anybody else that you saw out there?

16 A. As far as other people out there?

17 Q. Yeah, people.

18 A. Yeah.

19 Q. Who?

20 A. Some I didn't know, some was -- I can't remember
21 their names because all I knew was the first name, but
22 there was two or three people from the office from time to
23 time.

24 Q. Okay.

25 Why did you go out to the farm to work -- to work out

Buccella - Direct/Smith

- 1 at the farm?
- 2 A. Congressman asked me to meet him there.
- 3 Q. So in addition to this woman who was out there, did
- 4 you see the Congressman at the farm from time to time?
- 5 A. Yes.
- 6 Q. Did you go to the farm to work during office hours?
- 7 A. Yes.
- 8 Q. Mondays through Fridays?
- 9 A. Different days.
- 10 Q. Workdays?
- 11 A. Yeah, different days.
- 12 Q. To your knowledge, was any paperwork prepared by you
- 13 to cover your time at the office?
- 14 A. No.
- 15 Q. Any vacation slips?
- 16 A. No.
- 17 Q. Leave slips?
- 18 A. No.
- 19 Q. Did you ever notify anybody that you were going to go
- 20 down to the farm to work?
- 21 A. Yes.
- 22 Q. Who would you notify?
- 23 A. I would call in the office in the morning and talk to
- 24 either Jackie or Grace or Chuck whoever answered the phone
- 25 and advised them if Jackie was on the phone.

Buccella - Direct/Smith

1 Q. Would that be while you were at the Youngstown
2 office?

3 A. That was while I was at the Youngstown office, in the
4 Niles office I would call Betty, and if she was on the
5 phone, I'd tell whoever else answered the phone, let them
6 know.

7 Q. Did you use any particular expression at times when
8 you notified either the Youngstown office or the Niles
9 office that you were going to go to work at the farm?

10 A. I'm not sure I understand exactly what you're saying.

11 Q. Do you recall --

12 A. You mean like -- where I was going?

13 Q. Yeah.

14 A. I would sometimes tell them I was going south, or I
15 would tell them I was going to the farm.

16 Q. During the 15-year period you worked for Congressman
17 Traficant and his staff, approximately how many times did
18 you go down to the farm to do work during office hours,
19 approximately?

20 A. I have no idea, never kept track of any of that.

21 Q. Well, are you able to put any kind of a range with a
22 figure on it?

23 A. 100 to 300 times over 15 years, maybe. I really
24 don't know. I didn't keep track of that at all.

25 Q. You think at least 100 times?

Buccella - Direct/Smith

- 1 A. Yes.
- 2 Q. Possibly more?
- 3 A. Yes.
- 4 Q. What kind of hours did you work when you went out to
5 the farm during work days?
- 6 A. It varied. Sometimes I would go down at 7:00 in the
7 morning. Sometimes I wouldn't get there until 10:00 in the
8 morning.
- 9 Q. All right. And what time would you leave?
- 10 A. Sometimes 3:00, sometimes 5:00, sometimes 6:00.
- 11 Q. Would you please describe the different types of
12 tasks that you performed at the farm.
- 13 A. I worked on equipment, I -- you want me to tell what
14 you kinds of equipment or just --
- 15 Q. Sure.
- 16 A. There was tractors, there was trailers, we got hay, I
17 baled hay, stacked hay. Did some carpenter work.
- 18 Q. What did that involve, the carpentry work?
- 19 A. I did some work on a deck. I put some wood up in the
20 barn.
- 21 Q. Was there a corn crib out at the Congressman's farm?
- 22 A. Yes.
- 23 Q. Did you do any work on that?
- 24 A. Yes.
- 25 Q. What did you do with the corn crib?

Buccella - Direct/Smith

- 1 A. We put metal siding on it, and if I remember, we took
2 some of the pieces inside that had to do with the crib
3 and made it like a one-room building.
- 4 Q. Do you recall what purpose that building was able to
5 serve after you fixed it up?
- 6 A. It was like a tool shed.
- 7 Q. Did you ever do any work inside of the barns?
- 8 A. Yes.
- 9 Q. Why don't you tell us about the work you did in the
10 barns, everything that you can recall.
- 11 A. Repair some stalls, helped to build some stalls.
12 That's basically what I did in the barns.
- 13 Q. Do you recall any tasks you performed that involved
14 use of telephone posts?
- 15 A. Yes.
- 16 Q. All right. What did that involve?
- 17 A. We built -- for lack of a better term, like a ring
18 that would contain the horses.
- 19 Q. Okay. And what were the telephone posts used for, in
20 that job?
- 21 A. They were used for posts and used to lay across the
22 post to -- to encompass the circle of the area the horses
23 would be kept in.
- 24 Q. Who determined what tasks that you were supposed to
25 perform out at the farm?

Buccella - Direct/Smith

1 A. Sometimes it came from Sandy, sometimes the
2 Congressman, sometimes some of our staff.

3 Q. Who on the staff would tell you what to do with the
4 farm?

5 A. Jackie Bobby, Chuck O'Nesti.

6 Q. Were any of these tasks that you referred to,
7 carpentry, baling hay, what not, were those any part of
8 your official duties as a staff representative?

9 A. No.

10 Q. How many days would it take you to perform such tasks
11 when you went consecutive days?

12 A. I don't know that it would take over one day or two
13 days. I never really kept track of when I started and when
14 I stopped. Sometimes it started and not finished at that
15 time.

16 Q. What was the longest you ran around the farm
17 consecutively, number of days?

18 A. Maybe five days in a row, ten days in a row, I really
19 can't give you a definite tile time. I never --

20 Q. How were you paid for the work you did out on the
21 farm?

22 A. I never got paid.

23 Q. Were you receiving a congressional paycheck during
24 the time period that you were doing this work out at the
25 farm?

Buccella - Direct/Smith

1 A. Yes.

2 Q. Did Congressman Traficant pay you anything?

3 A. No.

4 Q. Did any member of his family pay you anything?

5 A. No.

6 Q. Did James Traficant, Senior, his father, pay you
7 anything?

8 A. No.

9 Q. Out of the more than 100 times that you went out to
10 the farm to do work, how many times did you see James. A.
11 Traficant supervised employees at the farm?

12 A. Two or three, probably, maybe five.

13 Q. Did -- did the Congressman's father James A.
14 Traficant, Senior give you any directions as to what things
15 you were to do at the farm?

16 A. No.

17 Q. Prior to working at Congressman Traficant's farm, had
18 you ever done farm work before in your life?

19 A. You know, I'm -- I don't recall specifically, but
20 I -- I think when I was a kid, I might have worked a little
21 bit on a farm, you know.

22 Q. As an adult?

23 A. Family -- not as an adult I don't recall doing that.

24 Q. Why did you go out and do this work at the farm?

25 A. I think it was probably two reasons: One, I enjoyed

Buccella - Direct/Smith

1 working with the Congressman and doing those things with
2 him. And the other was when he asked me -- if I could do
3 that, I would try to do that for him.

4 Q. Did the Congressman have any animals at the farm?

5 A. Yes.

6 Q. What did he have?

7 A. There were horses there. And I think one goat.

8 Q. Okay. Do you recall the type of horses these were?

9 A. No idea.

10 Q. Did you ever see any of the other congressional staff
11 members out working at the farm during business hours?

12 A. Yes.

13 Q. Who?

14 A. Anthony Traficanti, Rich Rovnak, I saw Chuck O'Nesti
15 out there a couple times, not doing a lot of work, but he
16 was there.

17 Q. What kind of work did Anthony Traficanti do during
18 business hours at the farm?

19 A. We were baling hay.

20 Q. Over the years that you were at the farm, did you
21 observe any changes to the house located on the property?

22 A. Yes.

23 Q. Would you describe the changes that you saw occur to
24 the house on the property.

25 A. There was a four-car garage built. There was a deck

Buccella - Direct/Smith

1 built, I'm not sure how to describe it. It was like an
2 addition put on the back. It was like a room downstairs
3 and a room upstairs.

4 Q. Now you mentioned working on a deck at one time on
5 the farm of the house; is that right?

6 A. Yes.

7 Q. Was there additional deck work done after you had
8 completed whatever you did to it at some point?

9 A. I don't know what the deck was like today. I can't
10 tell you if there's any work done since then. I can -- I
11 think looking at one of the pictures, I think that it would
12 show that there was additional work done after I was gone
13 from there.

14 Q. This addition put on the house, can you describe that
15 addition?

16 A. Size of the room is about, probably maybe a 10 by 12,
17 and there's one room stacked on top of the other one, like
18 for two floors of the house.

19 MR. SMITH: One moment, your Honor.

20 BY MR. SMITH:

21 Q. Mr. Buccella, did you ever express any feelings to
22 other staff members about going out to the farm to do this
23 work?

24 A. Yes.

25 Q. All right.

Buccella - Cross

1 Could you tell us what you said to the other staff
2 members about having to work out there?

3 A. You want me to use the exact words?

4 Q. To the degree that you can recall.

5 A. I worked my ass off. I was tired.

6 Q. Sir, are you testifying here today under a grant of
7 use of immunity?

8 A. Yes.

9 Q. All right. Would you explain to the jury what you
10 understand immunity to mean?

11 A. I'm not sure I can explain that because I've never
12 read the definition of it, but it's my understanding that I
13 have no charges over me in talking with my lawyer.

14 Q. Okay.

15 MR. SMITH: Your Honor. I have no additional
16 questions at this time.

17 THE COURT: Thank you. Congressman.

18 CROSS-EXAMINATION OF GEORGE BUCCELLA

19 BY MR. TRAFICANT:

20 Q. How are you doing?

21 A. Congressman.

22 Q. How do you like your new job?

23 A. I like it very much.

24 Q. Did I in any way help you to get that job?

25 A. Yes, sir.

Buccella - Cross

- 1 Q. Did I put in a good recommendation for you?
- 2 A. I believe you did, yes.
- 3 Q. You think it helped you?
- 4 A. I hope so. I got the job.
- 5 Q. Is the reason you left because you were able to earn
- 6 more money there, George?
- 7 A. Yes.
- 8 Q. Did you and I, when you left office, were we as good
- 9 a friends as we were when we started?
- 10 A. I think so, yes.
- 11 Q. You think we might have been better?
- 12 A. I don't think we're any better. I don't think it was
- 13 any worse. I feel that we -- on my side of the story is
- 14 that we were just as good friends as ever.
- 15 Q. So when we first started out, you called me to speak
- 16 to the school, right? You called me to speak to the
- 17 school?
- 18 A. Yes, yes.
- 19 Q. About drugs. What school was that?
- 20 A. Middle Ridge.
- 21 Q. Okay. And did you at that particular point express
- 22 some feelings towards my work?
- 23 A. I felt very good you had done a lot with kids that I
- 24 was told. I was told that you had spoke at McDonald's
- 25 School, got a good crowd. I felt we had a small problem at

Buccella - Cross

1 our school with drugs. At that time, I was on this
2 committee that Nancy Regan had with the chemical people,
3 and that's why I called you to come to our school to speak.

4 Q. To the best of your knowledge, did the problem seem
5 to abate itself after I started work for the school?

6 A. I never had numbers before or numbers later to
7 compare, but I think that, if anything, it helped. I think
8 some of the -- some of the examples that you used with the
9 student body that was there, and we had seventh grade
10 through twelfth. I think the examples helped the kids to
11 understand maybe more.

12 Q. Did you and I develop a mutual respect in our
13 professional paths?

14 A. I believe so, yes.

15 Q. Did we ever have conversations about your duties as a
16 trustee?

17 A. Yes.

18 Q. Did you ever explain to me the things that -- the
19 types of things you did?

20 A. I'm sure over the years we talked. I can't
21 specifically pinpoint anything in one specific thing, but
22 I'm sure we talked over the years about being a trustee and
23 what the job requires.

24 Q. Did we have specific conversation about things that
25 you did, that most trustees don't do? Would that ring a

Buccella - Cross

1 bell?

2 A. I'm not sure off the top of my head that I can
3 remember one specifically.

4 Q. Well, did most trustees go out 3:00 or 4:00 in the
5 morning to ride tractors?

6 A. No, they do not.

7 Q. Did you do that?

8 A. Yes, I did.

9 Q. Did they report fires, riding the fire department at
10 1:00 in the morning?

11 A. No, they didn't.

12 Q. Did they take constituent problems at 2:00 in the
13 morning when they knocked on their doors?

14 A. No -- I don't know if they did that. I don't know.

15 Q. Did you do that, George?

16 A. Yes.

17 Q. Did you and I ever have any conversations relative to
18 my respect for you in that regard?

19 A. I think over the years you made comments that I
20 worked very hard at doing a good job, trying to do a good
21 job as a trustee.

22 Q. Now, when you were hired by me, you had a private
23 business; is that correct?

24 A. Yes.

25 Q. Did you make a request of me?

Buccella - Cross

1 A. Yes, I did.

2 Q. What was that request?

3 A. That I had this business where I had this contract
4 with the schools, and that I had to deliver by two or three
5 mornings a week, depending on what the contract read, and I
6 wanted to make sure it was all right with you before I
7 started if I could do that.

8 Q. What, if anything, did I say?

9 A. You said I could do it.

10 Q. Now, were you given a job description in writing?

11 A. Never.

12 Q. What were the exact words that, if you can recall,
13 that I told you when you asked me what you were to do?

14 A. I believe it was something to the effect that if
15 anybody calls with any kind of problem, do what you can to
16 help.

17 Q. Any kind after problem. Would that mean insurance,
18 state, local?

19 A. I took that as meaning no matter what their problem
20 was, to try to do what I can to help.

21 Q. Did you maintain a case load while you were under me?

22 A. Yes, I did.

23 Q. How many approximate active case loads did you have,
24 guesstimate?

25 A. I can't even guess. And only because a lot of times

Buccella - Cross

1 people would call in on the phone with a problem. I would
2 make a phone call to an agency or someone to try to help
3 them, and if the problem got resolved, okay. Sometimes it
4 didn't get resolved.

5 Q. George, you have immunity; is that correct?

6 A. Yes.

7 Q. Did you do anything wrong?

8 A. I don't believe so.

9 Q. Did you ever see me do anything wrong?

10 A. Not to my knowledge.

11 Q. Okay. Now, during the week, where usually was the
12 Congressman?

13 A. If -- as close as I can remember, 90 percent of the
14 time I would guess on Monday nights you spent in
15 Washington. You were in Washington until either late
16 Thursday night or Friday morning.

17 Q. Did you at times go with me to Washington?

18 A. Yes, I did.

19 Q. How many times over the years can you recall going?

20 A. Three or four or five times a year.

21 Q. You recall participating in strikes with the
22 Congressman?

23 A. Yes, I did.

24 Q. Could you name some of those strikes?

25 A. Youngstown teachers' strike, arms strike, Superior

Buccella - Cross

1 Beverage strike, I think that's the ones that I was
2 directly and mostly involved with, national --

3 Q. Did the Congressman place any conditions on those
4 strikes to participate in?

5 A. Can you explain what you mean by "on me"?

6 Q. Well, for example, did I say that -- did I ever say I
7 would only participate under certain circumstances?

8 MR. SMITH: Objection.

9 THE COURT: Sustained.

10 Q. What to the best of your knowledge was the reasons I
11 got involved in these strikes?

12 MR. SMITH: Objection, same.

13 THE COURT: Sustained.

14 Q. What were the duration of some of these strike
15 negotiations, Mr. Buccella, to the best of your knowledge?

16 A. The longest one I remember, if I remember correctly,
17 was the arms strike. It was just over six months.

18 Q. And in the mediation of that strike, how many
19 continuous days were you and I present?

20 A. I want to think around three days, three and a half.

21 Q. In the Youngstown Teacher School Strike, how many
22 continuous days or hours around the clock did we
23 participate in mediation of that strike?

24 A. I believe it was three days, too. I'm not sure about
25 that because I wasn't there at the beginning.

Buccella - Cross

1 Q. You came in at the last two days; is that correct?

2 A. At the end of that strike, did you have occasion to
3 do anything for the Congressman.

4 Q. -- Youngstown strike?

5 A. Yes.

6 Q. And what was it?

7 A. I took you back to Washington.

8 Q. And why do you recall the conversation as to why you
9 were asked to take me back to Washington?

10 MR. SMITH: Objection, same.

11 THE COURT: Sustained. We're going to take a
12 break right here so we can see what's going on with the
13 record.

14 (Pause.)

15 THE COURT: Just so everybody knows, we have
16 a fail-safe system. We're running this on three different
17 screens, and if one of them goes out, the others keep
18 going. So we want to keep a good record.

19 But it's best if we have all three of them operating.
20 You may proceed

21 BY MR. TRAFICANT:

22 Q. After the Youngstown school strike, did you and I
23 have any conversation?

24 A. I'm not sure what you --

25 Q. Relative to my responsibilities in Washington?

Buccella - Cross

1 A. I can't remember right now about that at all.

2 Q. Would you recall if the conversation centered around
3 that I had to get back for votes?

4 A. Yes, yes.

5 Q. What, if any, conversation can you remember when that
6 occurred?

7 MR. SMITH: Objection. Same one.

8 THE COURT: Sustained. Sustained.

9 BY MR. TRAFICANT:

10 Q. Did you have occasion to go to Washington that week?

11 A. Yes.

12 Q. What was the main reason that you went to Washington
13 that week?

14 A. If I remember correctly, Jackie Bobby called me and
15 said to meet you at the motel where these negotiating were
16 because you hadn't been to bed for two days, three days,
17 whatever the number was, and I needed to drive you back to
18 Washington, bring my clothes with me, and we left the next
19 day about -- I want to think it was ten minutes to 11:00.

20 Q. Now, in the times you went to Washington, if you got
21 caught up in traffic, would take quite a bit of time,
22 wouldn't it?

23 A. Yes.

24 Q. Would you say it would take as much as seven hours?

25 A. Sometimes, if you stopped on the way down for gas and

Buccella - Cross

1 stuff.

2 Q. And if it was really crowded on the way back and then
3 you stopped, maybe you had a bite to eat, could even be
4 longer, couldn't it?

5 A. Could be.

6 Q. When you were in Washington, did you interact with
7 the Washington staff?

8 A. Yes, I did.

9 Q. Did you do work with the Washington staff when you
10 were in Washington?

11 A. Some.

12 Q. Did you go and get a tag to identify you so you could
13 circulate throughout Congress?

14 A. Yes.

15 Q. Now, you said you went to the farm for two reasons:
16 Number one, you like to be with the Congressman, was that a
17 true statement?

18 A. Yes.

19 Q. And Number two, you like to get away. What was your
20 one, I forget?

21 A. I don't remember the second one what I said at the
22 time.

23 Q. It happens to us all, George.

24 THE COURT: You have to speak up a little.

25 Q. Did I ever force you to go to the farm, George?

Buccella - Cross

1 A. No.

2 Q. Did I ever tell you as part of your responsibilities
3 to go to the farm?

4 A. No.

5 Q. George, you're now under oath. Were there times
6 where you called your supervisor and said you weren't going
7 to the farm, that you really didn't want to, and you went
8 on some of your own personal business?

9 A. I might have once or twice, but I don't think that
10 was very often.

11 Q. Do you have any knowledge of times that I may have
12 called and inquired where you were? Any of your
13 supervisors ever ask you that?

14 A. Once or twice, once or twice.

15 Q. Now, did you ever work with a fellow putting in a
16 wooden floor in the downstairs of the barn that took up to
17 as much as six months?

18 A. Did I spend six months -- is that what you're asking?
19 I'm not sure.

20 Q. You need not look at the Prosecution table. I want
21 you to listen to the question.

22 MR. SMITH: Objection.

23 THE COURT: Sustained. Just disregard that
24 kind of instruction to the witness. Just ask him
25 questions, Congressman.

Buccella - Cross

1 MR. TRAFICANT: Well, I do get concerned when
2 a witness seems to --

3 MR. SMITH: Objection.

4 THE COURT: Okay. I think maybe we need a
5 break. Do you need a break now?

6 MR. TRAFICANT: I don't need a break. I feel
7 good.

8 THE COURT: Fine. Let's go back to what your
9 job is, ask questions.

10 MR. TRAFICANT: Let's go back to where we
11 were.

12 BY MR. TRAFICANT:

13 Q. Do you remember any other people out there that maybe
14 helped you put in a floor, a wooden floor, small little
15 entry wooden floor in one of the downstairs -- downstairs
16 barns?

17 A. I remember one time it was a gentleman there that
18 helped put the floor down in the barn.

19 Q. How many times did you see that person?

20 A. Maybe ten times over times that I was down there.

21 Q. Okay.

22 Did you know his name by any chance?

23 A. I can't remember. He wasn't from this area, I don't
24 remember. He was out of state.

25 Q. Did he say he was from out of state?

Buccella - Cross

1 A. I think he said he was staying out of state or
2 something. He was living out of state.

3 Q. Okay.

4 Now, you were -- tell us a little bit about some of
5 your hobbies that tie into your activities at the farm,
6 that might have tie into the activities at the farm?

7 A. My hobbies, best I can recall, I have used cars, and
8 I bowl a lot.

9 Q. Was it a fact that you are regarded as one of the
10 best stock car race drivers in the Valley's history?

11 A. I am sure that's somebody's opinion. I don't know.

12 Q. Did you feel that, George?

13 A. I was competitive.

14 Q. Did I own an old Ford truck, George?

15 A. Yes.

16 Q. Was it a safe vehicle?

17 A. It needed some repairs. I'm not sure it would be
18 considered unsafe.

19 Q. Would you ever let your wife drive it?

20 A. No.

21 (Laughter.)

22 Q. Would it have occasion to have the brakes go out, for
23 example?

24 A. Um-hum, yes.

25 Q. Do you recall specific conversations you and I had

Buccella - Cross

- 1 about the truck and its safety?
- 2 A. I can remember discussing from time to time that you
- 3 really should get a different truck because that truck
- 4 wasn't a good truck and needed a lot of work on it.
- 5 Q. Did you ever have occasion to pick up a load of oats?
- 6 A. Yes.
- 7 Q. What happened on that particular day?
- 8 A. One time the truck quit.
- 9 Q. Pardon?
- 10 A. The truck quit running one time.
- 11 Q. What happened another time?
- 12 A. Had some brake problems. I can't remember everything
- 13 that went wrong.
- 14 Q. Did the brakes go out and fail one time?
- 15 A. Yes, once I remember.
- 16 Q. Completely?
- 17 A. I think they did, yes.
- 18 Q. Do you know where they failed? Was it near where you
- 19 picked up the oats or near the farm?
- 20 A. I don't recall.
- 21 Q. If anybody expert driver would have been in that
- 22 truck, could they have been hurt or hurt somebody else,
- 23 George, in your opinion?
- 24 MR. SMITH: Objection.
- 25 THE COURT: Sustained.

Buccella - Cross

- 1 Q. Did you make it back safely, George?
- 2 A. Yes.
- 3 Q. Now, when do you make hay?
- 4 A. In the summer.
- 5 Q. And why do you make hay in the summer?
- 6 A. I'm not an expert. I'm sure it's probably because
- 7 it's warm, and it's dry.
- 8 Q. And it takes time for what?
- 9 A. To grow.
- 10 Q. And once the hay is cut, what else must happen?
- 11 A. You have to take the time to tent it. Then you have
- 12 to bale it. You have to haul it in and stock pile it in
- 13 the barn.
- 14 Q. Who drove the tractor that did the mowing?
- 15 A. You did most of the time.
- 16 Q. Who drove the tractor that did the tenting?
- 17 A. Sometimes I did.
- 18 Q. Who drove the baling?
- 19 A. You did.
- 20 Q. Who drove the rake, when possible?
- 21 A. You did, and I did a couple times.
- 22 Q. And usually, the Congressman is in Washington during
- 23 the week, right?
- 24 A. Um-hum, yes.
- 25 Q. When do these hay baling incidents occur?

Buccella - Cross

- 1 A. Most of the time when you were here.
- 2 Q. On the weekends?
- 3 A. Friday, Saturday, Sunday, Monday.
- 4 Q. Would you say that most of your time was spent on the
- 5 farm was on the weekend helping with hay?
- 6 A. I never kept track of that, so I really can't answer
- 7 that and be honest about it because I don't know. I didn't
- 8 keep track.
- 9 Q. But you did spend an awful lot of time helping with
- 10 the hay, didn't you?
- 11 A. Yes, I did.
- 12 Q. Over all those years, didn't you?
- 13 A. Yes.
- 14 Q. And it was a dirty job, especially putting in the
- 15 barn, wasn't it?
- 16 A. Yes, it was.
- 17 Q. And you resented that?
- 18 A. Very hard work.
- 19 Q. Did you also say, though, you appreciated the
- 20 exercise?
- 21 A. Yes, I have.
- 22 Q. Did you at times, in fact, even say that on the
- 23 weekends you wouldn't mind putting up some hay for
- 24 exercise?
- 25 A. I am sure over probably the beginning I said that,

Buccella - Cross

1 yes.

2 Q. Towards the end though, it was pretty tough work,
3 huh?

4 A. Yes, it was always tough.

5 Q. Sometimes you wouldn't get to the farm until 11:00,
6 11:30, true?

7 A. That's true.

8 Q. Sometimes you leave 2:00 or 3:00?

9 A. Sometimes.

10 Q. And sometimes there were people who come and visit
11 you out at the farm who'd have to visit you. Would that be
12 a fair statement?

13 A. A few times over the years.

14 Q. Okay.

15 So if somebody would have said, for example, that it
16 happened a lot of times, that would not be an incorrect
17 statement, would it?

18 MR. SMITH: Objection.

19 THE COURT: Can you just disregard that
20 question? Thank you.

21 MR. TRAFICANT: Forget that one, George.

22 BY MR. TRAFICANT:

23 Q. Did we have any specific forms in our office that
24 dealt with sick leave or vacation time that you know of?

25 A. I never seen one.

Buccella - Cross

- 1 Q. Did you have to sign in or sign out?
- 2 A. No.
- 3 Q. Did anyone in the office ever mistreat you?
- 4 A. I had words once.
- 5 Q. Pardon?
- 6 A. I had words with one staff person, if that's what
- 7 you're talking about.
- 8 Q. Who was that person?
- 9 A. Chuck O'Nesti.
- 10 Q. Is there a time you lost your race for a trustee?
- 11 A. Yes.
- 12 Q. Did you ask anybody to help you in that race?
- 13 A. I'm sure I did. I don't recall who.
- 14 Q. Was there any political figures that you asked to
- 15 help you in that race?
- 16 A. I don't believe so. I'm not sure. I just don't
- 17 remember. I have to go back and look because I -- I think
- 18 that was 1985.
- 19 Q. After that period of time, did you come to lose while
- 20 you were a member of my staff a trustee's race?
- 21 A. Yes.
- 22 Q. Whom, if anybody, did you contact to help you reclaim
- 23 your seat?
- 24 A. I believe at one time I talked with you about getting
- 25 a letter from you, recommendation letter that we put

Buccella - Cross

- 1 together.
- 2 Q. Did I do that for you?
- 3 A. Yes, you did.
- 4 Q. Did you circulate that letter?
- 5 A. Yes, I did.
- 6 Q. On your pizza business with the school systems, did I
- 7 have anything to do with that?
- 8 A. Getting the contract?
- 9 Q. Yeah.
- 10 A. No, sir.
- 11 Q. Sometimes these were school lunches, weren't they?
- 12 A. That's what they sold the pizza for, school lunch,
- 13 yes.
- 14 Q. And it would require you, at times, since you were
- 15 basically there most of the time, to spend up to maybe
- 16 11:00, sometimes 11:30, wouldn't it?
- 17 A. Yes.
- 18 Q. Was there ever a complaint made by me, specifically
- 19 to you, about your time showing up at the office ever?
- 20 A. Yes.
- 21 Q. When?
- 22 A. I don't recall when it was, but I got -- you called
- 23 me on the carpet once, if that's the right word, about
- 24 getting in late.
- 25 Q. Was it relative to you getting in late, or was it

Buccella - Cross

1 relative to my knowing where you were? Could you recall?

2 A. I don't recall exactly what it was about.

3 Q. Okay.

4 But everybody else in the office knew that you would
5 be coming in late because of the pizza business, correct?

6 A. Yes.

7 Q. Did there come a time when you had a piece of
8 property that was subject to being taken from you?

9 A. Yes.

10 Q. By legal action?

11 A. Yes.

12 Q. Whom did you ask for help?

13 A. You.

14 Q. To the best of your knowledge, did I try to help you?

15 A. I believe they made a phone call, somebody on staff
16 made a phone call, but nothing ever became of it.

17 Q. It was a legal matter, wasn't it?

18 A. Yes.

19 Q. And basically you felt you got the shaft, is that
20 about it?

21 A. I think they had a job to do, and they had to do
22 their job, and that was the circumstances I was put in.

23 Q. You know who the person was that ended up with your
24 property?

25 A. Yes, I do.

Buccella - Cross

1 Q. Who was it?

2 A. Jim Sabatine.

3 Q. You know if he has any --

4 A. And Frank Amedia --

5 Q. Pardon?

6 THE COURT: Don't interrupt his answer. We
7 can't record two people at once. Now, get it straight
8 because there's no reason for you to hurry here. Ask the
9 question, and let the witness answer, please. Let's go
10 back, and we'll read the question.

11 MR. TRAFICANT: I thought he had completed
12 his answer, your Honor.

13 THE COURT: Listen to him. He's in the
14 middle of a sentence when you're interrupting.

15 MR. TRAFICANT: I'm sorry. I apologize.

16 THE COURT: Go back, and start with the
17 earliest part of the question

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

20 THE WITNESS: Yes, Jim Sabatine and Frank
21 Amedia.

22 Q. When was it the Government first questioned you about
23 me, George?

24 A. I'm going to guess it's about a year and a half
25 maybe.

Buccella - Cross

1 Q. Did they bring up the name Sabatine or Amedia?

2 A. No, sir.

3 Q. Did they make it clear to you I was the target of
4 their investigation?

5 A. I don't remember the exact words. I think it was
6 just said they were doing the investigation on Traficant.

7 Q. Did they have a tape recorder there by the way? Did
8 you notice a tape recorder?

9 A. I didn't notice that.

10 Q. Pardon?

11 A. I didn't notice that, no.

12 Q. Would you know if you were being recorded or not?

13 A. If the recorder was visible that I could see it.

14 Q. Were you ever asked to wear a body device on me?

15 A. No.

16 Q. If you would have called me on the phone and asked to
17 meet with me at any time, would I have met with you,
18 George, in your opinion?

19 MR. SMITH: Objection.

20 THE COURT: He can answer.

21 THE WITNESS: Yes.

22 Q. I would have met you anywhere, wouldn't I?

23 A. Yes.

24 THE COURT: He just testified.

25 Q. You know what the amount of hours required for a

Buccella - Cross

1 full-time worker is in the congressional office, George?

2 A. If I can remember, I am trying to recall because I
3 think shortly sometime after we first -- I first started, I
4 was given a book, and it said I think 30 hours to be
5 considered full-time. I'm not sure of that, but I think
6 that's it.

7 Q. Was there ever a week that you failed to put in 30
8 hours of congressional work, George?

9 A. I don't believe so.

10 Q. Did you work on weekends for the congressional
11 office?

12 A. Yes, I did.

13 Q. Did you work nights for the congressional office?

14 A. Yes, I have.

15 Q. Did I ask you to represent me at different events and
16 speak on my behalf?

17 A. Yes.

18 Q. Did it take time for you to get dressed, prepared,
19 get in your car, drive, do that, come back home? Did it
20 take a lot of time, George?

21 A. I don't know what a lot of time is, but it took time
22 to do that, yes.

23 Q. And you did that, didn't you?

24 A. Yes, I did.

25 Q. You did that well, George.

Buccella - Cross

- 1 Basically, there were -- would you -- it would be
2 your opinion that there were some staff I would use for
3 public activities and some staff I would not?
4 A. Yes.
5 Q. And was it your opinion that was my decision to make,
6 what I thought the was best interest of my reelection or
7 constituent service?
8 A. I would think so, yes.
9 Q. Now, this business at the farm, you were not forced
10 to go to the farm; is that correct?
11 A. No, I wasn't.
12 Q. But did you feel because I was your boss? If you
13 didn't go, it might cause you a problem?
14 A. I never really gave that a thought.
15 Q. You really didn't see me as a vindictive person
16 trying to hurt you or anybody, did you, George?
17 A. I didn't feel that way, no.
18 Q. Now, was there occasion when a contract with the
19 Buccis became a matter in Weatherford?
20 A. Yes.
21 Q. Were there times we had meetings at the farm that had
22 nothing to do with farm work?
23 A. Yes.
24 Q. How many times would you say that occurred?
25 A. Never kept track of that.

Buccella - Cross

1 Q. But were there times when the Congressman was at the
2 farm he wouldn't be in the office and wanted to meet with
3 certain people and would ask those people to meet him at
4 the farm? Is that a fair question?

5 A. Yes.

6 Q. And were there many times when I asked you to meet me
7 at the farm under those circumstances?

8 A. Yes.

9 Q. Was there any other elected official on my staff?

10 A. Not to my knowledge.

11 Q. What were some of the things that I wanted you to do
12 as an elected official?

13 A. If I recall, the words were something like be a
14 liaison between Government officials.

15 Q. Did you do that?

16 A. The best I could.

17 Q. Did it well.

18 Now, in the Bucci matter, didn't they ask for a
19 meeting, and did we, in fact, not meet with them and
20 because I was working at the farm, was --

21 THE COURT: We, Congressman, put the question
22 to him that you want the answer to.

23 MR. TRAFICANT: Okay.

24 Q. Did at some point the Buccis ask for a meeting, to
25 the best of your knowledge?

Buccella - Cross

- 1 A. In regards to this contract that they had?
- 2 Q. In regards to some problem in Weatherford?
- 3 A. Yes.
- 4 Q. And did you get a call from the Congressman
- 5 explaining that?
- 6 A. Yes.
- 7 Q. And did I set up a meeting?
- 8 A. I had a conversation with you, and you might have met
- 9 with them.
- 10 Q. Do you recall a meeting out at the farm with you and
- 11 the two Bucci brothers?
- 12 A. I remember one Bucci brother being there with me.
- 13 Q. Okay.
- 14 And do you recall the tenor of that meeting?
- 15 A. He got a little upset with me.
- 16 Q. But -- in your own words, what did you tell him?
- 17 A. I'm not going to use those words here, but I
- 18 basically told him to go to -- that I didn't -- whatever he
- 19 made a comment about at that time was a lie.
- 20 Q. Did the Congressman support the Buccis?
- 21 A. Stepped between us.
- 22 Q. Did he make any comment to the Buccis?
- 23 A. Leave it go, something to that -- I don't remember
- 24 the exact words, but it was something to basically drop it,
- 25 and let it go.

Buccella - Cross

1 Q. Did the Congressman have anything else to do with the
2 Bucci matter in Weatherford Township?

3 MR. SMITH: Objection.

4 THE WITNESS: One --

5 MR. TRAFICANT: Was that an objection or not?
6 I thought we were supposed to stand here.

7 MR. SMITH: I did stand. I did object.

8 THE COURT: Okay. Well, it passed me by.
9 You can continue. You can go ahead, Congressman.

10 MR. TRAFICANT: Okay.

11 Q. You said there was a phone call, George?

12 A. Yes.

13 Q. And who made that phone call?

14 A. You did.

15 Q. And what was the substance of it, do you remember?

16 A. The call that I'm referring to was in regards to
17 their contract that they had with Weatherford, and I
18 basically wouldn't sign the check because I didn't feel
19 that they did the job completely, and you had asked me or
20 said to me try to do what you can to pay them their money
21 because they were a good company. That's as close I can
22 remember of whether you used that word.

23 Q. Was there a certain amount of the contract paid in
24 advance?

25 A. No, sir.

Buccella - Cross

1 Q. Was it a 90-10 type of deal?

2 A. It was supposed to be, but when they cut the check,
3 the check was cut for the full amount, and they came back
4 in the spring and completed the job.

5 Q. Okay. And you said I said they were a good company,
6 go ahead and pay them?

7 A. Try to give them their money.

8 Q. Try to give them their money?

9 A. Yes, sir.

10 Q. Did we come later on to have reservations about the
11 Bucci's, George?

12 A. Would you repeat that?

13 Q. Did we come later on to have reservations about the
14 Buccis and their behavior?

15 A. I don't recall what the discussion was about them
16 after this contract was done.

17 Q. Not that you recall?

18 Do you consider that conversation I had with you to
19 be an illegal act or wrongdoing?

20 MR. SMITH: Objection.

21 THE COURT: Sustained.

22 Q. Was it a common practice I would intervene on behalf,
23 George, of companies in our area who were having trouble?

24 A. Yes, sir.

25 Q. What was one of the main concerns of our office as

Buccella - Cross

- 1 far as our constituency was concerned?
- 2 A. Someone had problems, try to help them.
- 3 Q. We also have priority of jobs?
- 4 A. Yes, sir.
- 5 Q. Was the Bucci company a local company?
- 6 A. Yes, sir.
- 7 Q. Now, from your experience in working, was there a lot
- 8 of contracts being awarded to -- out of city or out of area
- 9 contractors doing blacktop and asphalt work?
- 10 A. In my dealings, I don't recall a lot of contracts
- 11 being given out outside the area companies.
- 12 Q. That was in Weatherford?
- 13 A. Yes.
- 14 Q. Weatherford more or less hired local?
- 15 A. Most of the time they would, yes.
- 16 Q. Were the Buccis low bidders?
- 17 A. On the project they got, yes.
- 18 Q. Could you estimate from the time of -- what they now
- 19 refer to as that fatal Monday how many jobs were lost in
- 20 our Valley?
- 21 A. I really don't have any idea. It was a whole bunch.
- 22 Q. Would you say over 60,000, George?
- 23 A. I can't answer that. I don't know.
- 24 Q. Now, you said I never paid you for any work you did
- 25 at the farm?

Buccella - Cross

- 1 A. Not that I recall, no.
- 2 Q. Did you ever ask me to pay you for anything?
- 3 A. No, sir.
- 4 Q. Did I take you to eat, George? Did I provide you
- 5 food?
- 6 A. Yes.
- 7 Q. If you wanted to borrow a piece of my equipment, was
- 8 it available to you?
- 9 A. I'm sure if I would have asked, I probably would have
- 10 gotten it, but there wasn't a lot of equipment that I could
- 11 use.
- 12 Q. One of the things you did is -- well, let me say
- 13 this: When it came to making hay, what was one of the
- 14 tractors you drove you recall the most, and for what
- 15 purpose?
- 16 A. I don't recall which one I drove the most. I didn't
- 17 keep track of that. I -- I can't really tell you.
- 18 Q. Let me ask this way: Before you bale the hay, what
- 19 must you do to the hay?
- 20 A. Tent it.
- 21 Q. Then you have to do what with it? You have to put --
- 22 A. Rake it.
- 23 Q. You rake it?
- 24 A. Um-hum, yes.
- 25 Q. What would I ask you to do relative to hay mostly?

Buccella - Cross

1 A. I believe, if I recall, it was mostly baling it once
2 we stacked it in the trailer and put it in the barn and the
3 other was to rake it.

4 Q. Rake it.

5 And what is important about raking, just to make a
6 point here?

7 A. Try to put it in as straight a line as you can.

8 Q. Because you're always worried about getting rained
9 on or ruined, right?

10 A. Yes.

11 Q. Now, for example, if it's not ready and it's still
12 damp at 11:00 in the morning, and let's say the dew is to
13 appear at 6:00 in the morning, you had a seven-hour window
14 to make hay, wouldn't you?

15 A. Yes.

16 Q. Now, if I did the baling, had to rake the hay, how
17 long would it take to rake that hay?

18 A. Depends how much was there.

19 Q. Could be two or three hours, couldn't it?

20 A. Could.

21 Q. It's possible, though, that the hay was ready to be
22 made, and if someone raked it, I would be able to move the
23 baler on it early, wouldn't I?

24 A. Yes.

25 Q. And I could almost follow the raking, couldn't I?

Buccella - Cross

- 1 A. Yes.
- 2 Q. Is that what you did, George?
- 3 A. Quite a bit, yes.
- 4 Q. Were you good at it?
- 5 A. I guess I was fair.
- 6 Q. Well, it's good you keep it in line because -- so you
- 7 didn't have to take the baler when it wasn't baling, wasn't
- 8 it?
- 9 A. Was that a question?
- 10 Q. Yeah.
- 11 A. Yes.
- 12 Q. So it's important to try to put those together, and
- 13 sometimes you even do what with them?
- 14 A. Make sure they were straight so when you bale, you
- 15 could follow a straight line.
- 16 Q. And sometimes double them, would you say, double them
- 17 up?
- 18 A. Yes.
- 19 Q. So it would go what?
- 20 A. Faster.
- 21 Q. Why?
- 22 A. Make the process quicker.
- 23 Q. Did you know I had problems with the IRS, George?
- 24 A. Yes, sir.
- 25 Q. Did you ever advise me to maybe slow down a little

Buccella - Cross

1 bit about the IRS?

2 A. I believe I have, yes. I'm not sure what exact
3 words, but I believe I did.

4 Q. Do you ever recall brushing any horses?

5 A. I didn't do that. I might have done it once or twice
6 over the years, but I don't recall doing it a lot, but I've
7 done it a few times.

8 Q. You ever clean any stalls, George, or asked to clean
9 any stalls?

10 A. If I cleaned any stalls, it was because I did it on
11 my own. I didn't do very many.

12 Q. Do you know the difference between a stallion and a
13 gelding, George?

14 A. No, sir. I can guess.

15 Q. How many horses were at the farm, by the way, when
16 you were there?

17 A. I don't have any idea, number-wise, maybe 40
18 sometimes, maybe 50 sometimes, and maybe 30 sometimes. It
19 varied.

20 Q. Would you say there were more than seven horses
21 there?

22 A. Yes, sir.

23 Q. You have a pretty good relationship with Sandy out at
24 the farm?

25 A. I think we were friends.

Buccella - Cross

- 1 Q. You have any knowledge of any of the work I might
2 have done to the farm myself?
- 3 A. Some.
- 4 Q. So would you say that some of the construction down
5 at the farm was done by me personally?
- 6 A. Yes.
- 7 Q. For example, do you know who built the deck?
- 8 A. The entire deck, I have no idea who else worked on
9 it. I know I did some, and you did some.
- 10 Q. But you recall me building the deck, right?
- 11 A. Some of it, yes.
- 12 Q. Now, being you said I had a lot of telephone poles
13 out at the farm; is that correct?
- 14 A. I didn't say that.
- 15 Q. You said we used telephone poles to build a little
16 arena?
- 17 A. A ring.
- 18 Q. You ever see any other telephone poles?
- 19 A. Yes.
- 20 Q. Did you have idea what the telephone poles were for?
- 21 A. No, sir.
- 22 Q. Did you ever ask?
- 23 A. No, sir.
- 24 Q. Were there gas wells on the farm?
- 25 A. Yes, sir.

Buccella - Redirect/Smith

1 Q. Did they cut through rough roads?

2 A. Yes, sir.

3 Q. To service them?

4 A. Yes. To the best of my knowledge, I'm sure.

5 Q. George, one last question: Did you do anything wrong
6 when you were under my employ?

7 A. I don't believe so.

8 Q. Did you see me do anything wrong while you were under
9 my employ?

10 A. No.

11 MR. TRAFICANT: No further questions.

12 THE COURT: Mr. Smith.

13 MR. SMITH: Yes, your Honor? Oh, okay.

14 REDIRECT EXAMINATION OF GEORGE BUCCELLA

15 BY MR. SMITH :

16 Q. Mr. Buccella, you were asked about a co-farm worker
17 who lived out of state. You remember questions and answers
18 along that line?

19 A. Yes, sir.

20 Q. I can't hear you, sir.

21 A. Yes, sir.

22 Q. How far is Congressman Traficant's farm from the
23 Pennsylvania state border, roughly?

24 A. 25, 30 miles, I don't have any idea.

25 Q. You were asked a number of questions about baling

Buccella - Redirect/Smith

- 1 hay; is that right?
- 2 A. Yes, sir.
- 3 Q. Baling hay the only manual labor you did out at the
- 4 farm?
- 5 A. No. I raked hay, I tented hay. I stacked the hay in
- 6 the wagon. I put hay up in the barn.
- 7 Q. Carpentry work?
- 8 A. Yes.
- 9 Q. Work inside barns, other types of work?
- 10 A. Yes.
- 11 Q. Did the Congressman have to be there for you to do
- 12 those other types of work?
- 13 A. No, sir.
- 14 Q. Did you do those other types of work during business
- 15 hours?
- 16 A. Yes, sir.
- 17 Q. Were there established business hours at the
- 18 Youngstown District Office?
- 19 A. 8:30 to 4:30.
- 20 Q. And at the Niles office?
- 21 A. 8:30 to 4:30.
- 22 Q. Many times you spent all or part of the hours working
- 23 out at the farm; is that correct?
- 24 A. Yes, sir.
- 25 Q. Were you doing any constituent service work while you

Buccella - Redirect/Smith

1 were baling hay?

2 A. No, sir.

3 Q. Or when you were doing the carpentry work?

4 A. No, sir.

5 Q. Or any of the other work that you were doing out at
6 the farm, doing constituent service while you were doing
7 those things?

8 A. No.

9 Q. You testified on cross-examination that the
10 Congressman did not force you to go out to the farm,
11 correct?

12 A. Yes, I did.

13 Q. Were you on good terms with the Congressman while
14 working for him?

15 A. To the best of my knowledge.

16 Q. Was it necessary for him to force you to go to the
17 farm to get to you comply?

18 A. I don't think so.

19 Q. You made -- a request was made, and you complied. Is
20 that basically the way it went?

21 A. Yes.

22 Q. He was your boss?

23 A. Yes.

24 Q. How many times had you gone out to Congressman
25 Traficant's farm since you went to Trumbull County Health

Buccella - Recross

1 Department to work?

2 A. None.

3 Q. Are all the times that you went to work out of
4 Congressman Traficant's farm during the time period you
5 were on the congressional payroll?

6 A. Yes, sir.

7 MR. SMITH: One moment, your Honor.

8 No further questions, your Honor.

9 THE COURT: Thank you. Congressman.

10 RE-CROSS-EXAMINATION OF GEORGE BUCCELLA

11 BY MR. TRAFICANT:

12 Q. George, out of the questions you just had, it made it
13 look like because I was your boss you weren't going to
14 complain about anything I asked. Would that be a true
15 statement?

16 A. As long as it pertained to doing my job.

17 Q. Yeah. But going to the farm didn't pertain to your
18 job.

19 A. I didn't complain about that, no, not to you.

20 Q. No.

21 But you said you were not forced to go to the farm.

22 A. I was never given an ultimatum.

23 Q. If you had said "go to hell," would you think you'd
24 have a problem?

25 MR. SMITH: Objection. It's counterfactual.

Buccella - Recross

1 THE COURT: There's no -- there's no evidence
2 with regard to that. So just ask him.

3 Q. Did you ever tell me I don't want to go to the farm?

4 A. I think over the years was a few times maybe I had
5 work to do at the office that I needed to get done. It was
6 something that I was committed to do, and I told you I
7 couldn't go.

8 Q. What, if anything, happened?

9 A. Nothing. I went to the office and did what I had to
10 do.

11 Q. So you didn't go to the farm?

12 A. No, I didn't.

13 Q. Now, on days you went to the farm and you went home,
14 did you also do some congressional work after that?

15 A. Sometimes.

16 Q. Did you do speaking engagements after that?

17 A. Sometimes.

18 Q. Did you go over with the Congressman directly from
19 the farm to speaking engagements on some occasions?

20 A. Yes, I have.

21 Q. Did we, in fact, not go to your house and get changed
22 and go to those events?

23 A. Yes, I have.

24 Q. Did not I attend with you events that were important
25 to your elected position?

Buccella - Recross

1 A. Yes, I have.

2 Q. Did I not, in fact, help you campaign?

3 A. Yes, you did.

4 Q. But, did we do congressional work after the times you
5 were at the farm doing work?

6 A. Yes, I have.

7 Q. On many occasions?

8 A. Quite a few.

9 Q. Now, when I called somebody about a local company,
10 would I say help this company, they're a bad company? You
11 think I'd say that?

12 MR. SMITH: Objection. Scope. I'm sorry.

13 THE COURT: He can answer this question.

14 THE WITNESS: No, sir.

15 Q. You mean -- okay. Let me get this right. I want the
16 jury to hear this. I'm --

17 THE COURT: Congressman, Congressman, cool
18 it. Okay. Ask your questions. This is not a closing
19 argument. Ask your questions.

20 MR. TRAFICANT: But he said scope.

21 THE COURT: That's right, and I --

22 MR. TRAFICANT: I don't know if he's talking
23 about mouth wash or what we're doing here, your Honor.

24 THE COURT: That's delightful. Now, let's go
25 forward.

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1 MR. TRAFICANT: Ask my question?

2 BY MR. TRAFICANT:

3 Q. George, in your relationship with me and my office
4 and my constituent work and advocacy for companies, to the
5 best of your knowledge, would I call anyone and tell them I
6 want you to reconsider a bid or reconsider consideration
7 for my company because they're a bad company?

8 A. No, I don't think you would.

9 Q. You have any knowledge that I ever planned to sue the
10 Buccis?

11 A. No, sir.

12 MR. TRAFICANT: No further questions.

13 MR. SMITH: Nothing, your Honor.

14 THE COURT: Thank you, sir. You're excused.
15 You can step down.

16 THE COURT: Come right up, sir.

17 PAUL MARCONE

18 of lawful age, a witness called by the GOVERNMENT,

19 being first duly sworn, was examined

20 and testified as follows:

21 DIRECT EXAMINATION OF PAUL MARCONE

22 BY MR. MORFORD:

23 Q. Good afternoon.

24 A. Good afternoon.

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

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1 name for the Court Reporter?

2 A. Paul Marcone, M-A-R-C-O-N-E.

3 Q. And, Mr. Marcone, do you know the Congressman, James
4 Traficant?

5 A. Very well.

6 Q. And how did you first come to know Congressman
7 Traficant?

8 A. I interviewed for a job in his office. He was a
9 Congressman elect in November of 1984; went down,
10 interviewed with him, and got a job as press secretary and
11 legislative assistant, began working for him in January of
12 1985.

13 Q. And for approximately how many years total did you
14 work for the Congressman?

15 A. About 11 years, 1985 to '89, and I came back in
16 January of '93, and worked from January of '93 to November
17 of 2000.

18 Q. Okay. If you could, why don't you break up those
19 periods of times, starting in January of 1995. Tell us how
20 you -- what you started, what position you started at, what
21 your duties were.

22 A. You mean January of '85.

23 Q. Yes. I'm sorry, January of '85 and take us through
24 the progression of different titles, different titles.

25 A. From January of 1985 until January of '87, I was his

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1 legislative assistant and press secretary. In that
2 capacity, I handled legislative issues for the Congressman,
3 like crime, environmental issues, advised him on those
4 issues, responding to constituents, draft legislation
5 related to those issues and served as press secretary. And
6 in that capacity, I would draft press releases, weekly
7 columns, arrange media interviews, and served as the
8 Congressman's chief spokesperson. I did that until January
9 of '87.

10 At that point, I received a promotion and became his
11 legislative director and press secretary. As legislative
12 director, I would coordinate all of his legislative
13 activities and work with the other two legislative
14 assistants in formulating the Congressman's legislative
15 agenda and advising on all legislative issues.

16 In June of '87, I became the chief of staff of his
17 Washington office and also retained my position as press
18 secretary. And from June of '87 until March of '89, I
19 served in that capacity as chief of staff of his Washington
20 office. I basically ran the Washington office and
21 supervised the staff there. Staff was anywhere from five
22 to seven people, including interns, and I was the
23 Congressman's chief advisor and was responsible for
24 implementing legislative agenda and dealt with all
25 political issues. Anything related to the Washington

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1 office, I handled and from March of '89 to July of 1990.

2 I served as director of communications for the
3 National Law Enforcement Officers Memorial, and from August
4 of 1990 to January of '93, I worked in the New York City
5 mayor's office and returned to work for the Congressman
6 from January of '93 until October of '93, and I served as
7 special assistant to the Congressman.

8 He was the chairman of the public building
9 subcommittee, and I served as his special assistant from
10 that -- through January of '93 until October of '93 and
11 then October of '93, I resumed my position as chief of
12 staff of his Washington office and press secretary. I did
13 that until I left his office in December of 2000.

14 Q. What is the primary function of a Congressman,
15 primary most important function?

16 A. Legislate.

17 Q. And this position that you described, that after you
18 started out as a legislative assistant, you got promoted to
19 legislative director, how important, significant a position
20 is that in a congressional office?

21 A. Every congressional office is different, but in most
22 offices, the legislative director is next to the chief of
23 staff and probably the second most important position in
24 the Washington office because you are directing the
25 Congressman to legislative agenda, some members of Congress

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1 introduce 15, 20 pieces of legislation a year. Other
2 members don't introduce any. Mr. Traficant --
3 Q. If I can interrupt. I don't want to have you testify
4 about any legislative actions.

5 MR. TRAFICANT: Object.

6 THE COURT: Overruled. He asked a question,
7 and we don't get a narrative answer. We get an answer to
8 the question, please.

9 BY MR. MORFORD:

10 Q. How would you describe your relationship with
11 Congressman Traficant over the years that you worked for
12 him?

13 A. It was very good, very close relationship, he treated
14 me very well. And he was a mentor in a lot of ways. When
15 he first came to Congress, I was a freshman, very young.
16 We both were learning the legislative process together. It
17 was a great experience, and he treated me very, very well.

18 Q. Aside from the way you look at him professionally,
19 how about personally?

20 A. How did I view him personally?

21 Q. Yes.

22 A. I liked him very much. He's good company, fun to be
23 with, he had a good heart. He treated me and my family
24 very well.

25 Q. In light of the close relationship that you had with

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1 him over a period of many years, how difficult is it for
2 you to testify here in this trial today?

3 A. It's probably one of the most difficult things I've
4 ever had to do professionally.

5 Q. In what way is it difficult?

6 A. Well, someone you admire and care about a lot is
7 facing this type of problem. Then you're -- you have to be
8 involved in it. It's very hard to see.

9 Q. How did your first contact with the Government
10 Prosecution and the investigators come about in this case?
11 Did you come to them, or did they come to you?

12 A. Actually, it was the House counsel came to me and
13 said that I'd been subpoenaed to testify before the Grand
14 Jury.

15 Q. So you didn't reach out to the Government, correct?

16 A. No.

17 Q. Now, have you been promised anything in return for
18 your testimony here today?

19 A. No.

20 Q. Has anybody from the Government ever threatened you
21 or tried to intimidate you in any way?

22 A. No.

23 Q. Do you stand to gain anything through your testimony
24 here today?

25 A. No.

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1 Q. I'd like to start off and ask you some questions
2 about your position and duties, and we'll start during the
3 first two years when you were a legislative assistant and
4 press secretary. Okay?

5 A. Um-hum.

6 Q. What were your duties as a press secretary? What
7 does that entail?

8 A. I drafted press releases for the Congressman. I
9 drafted a weekly column, I drafted the Congressman's
10 highlights of his speeches and served as the Congressman's
11 chief spokesperson. Also at that time, the Congressman
12 would do a newsletter that we would send out several times
13 a year, and I would edit that newsletter and put that
14 together.

15 Q. Now, when you say you served as the Congressman's
16 chief spokesperson, can you explain what you mean by that?

17 A. As a member of Congress, he gave many inquiries from
18 the press, and I would be the person who would deal with
19 the media. If need be, I'd arranged interviews between
20 reporters and the Congressman that I would serve as the
21 Congressman's spokesperson to the media. I would respond
22 to media requests for information.

23 Q. On occasions where you would receive calls from the
24 media asking you questions about the Congressman's response
25 to different things, what, if anything, would you do since

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1 you could give them an accurate and truthful answer?

2 A. If I knew the Congressman's position or issue, I'd
3 simply ask him for his question. If it was a detailed
4 question, sometimes I would consult with the Congressman
5 and ask him how he wanted to respond. I would respond
6 accordingly.

7 Q. How careful were you to make sure your responses to
8 the media were truthful and accurate responses of the
9 Congressman?

10 A. It's very important for a press secretary to maintain
11 credibility with the press so I always tried to give them
12 an accurate answer.

13 Q. I believe at one point when you were talking about
14 legislative assistant you mentioned constituent services;
15 is that correct?

16 A. In responding to a letters from constituents.

17 Q. Okay. What is -- to what extent did your work
18 involve assisting constituents in matters?

19 A. At first, my first two years there, it wasn't that
20 extensive. There were -- it was on a project, project
21 basis, but a lot of the work that the Washington staff did
22 was helping either companies or individuals in the district
23 who were having problems related to the federal government,
24 and that's typical of most congressional offices.

25 Q. Now, was Congressman the kind of boss who wanted to

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1 know all the details about everything, like manager type or
2 more a delegator?

3 A. More a delegator; gave us a lot more time, and he
4 encouraged us to come up with ideas, and one of the main
5 things about working for him, he was very eager to
6 implement your ideas if you had an idea for a piece of
7 legislation. He certainly would consider it if he thought
8 it was a good idea but not a micro manager.

9 Q. Now, after you were promoted to the position of chief
10 of staff, what were your duties as chief of staff?

11 A. I was responsible for managing the office budget,
12 supervising people in the Washington office, and
13 supervising all activities in the Washington office.

14 Q. And whether you say supervising the activities, what
15 all did that entail?

16 A. Most of it was legislative. The legislative
17 activities, the various legislative assistants were
18 involved in, for example, making sure in any given week
19 that the Congressman was fully briefed and fully prepared
20 to handle whatever legislation Congress was going to be
21 involved in that week, making sure we went to the committee
22 that he had speaking points; if he was going to offer
23 evidence, that the evidence was prepared making sure that
24 when the Congressman was going to offer in evidence, that
25 he was fully briefed but also managing the office budget,

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1 making sure we weren't going to overspend our budget,
2 handling requests for raises or bonuses, those types of
3 personnel issues, dealing -- if someone needed to take sick
4 leave, those types of issues.

5 Q. Who actually determined the rate of pay that each of
6 the staff members received?

7 A. The Congressman.

8 Q. And who determined the number of employees who would
9 work at the office in any given time?

10 A. That was predetermined. Members of Congress are
11 allowed to have 18 full-time employees and four part-time
12 employees. It's up to the member chairman to have those
13 employees between the Washington and the district offices.

14 Q. And what you're telling us, do you get a lump sum of
15 money?

16 A. Prior to 1995, it was not a lump sum. There were two
17 categories. You had a clerk hire allowance, which dealt
18 with your payroll, and then you had a representational
19 allowance that dealt with anything other than payroll.
20 Your office and equipment, those types of items.

21 Q. Okay. As to the clerk hire allowance, was that a
22 lump sum?

23 A. It was a lump sum that the member could give you
24 however he saw fit as long as you didn't exceed the maximum
25 salary for a staff person, which is based on a formula

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1 percentage of whatever member of Congress' salary is. I
2 think the staff would make up to 95 percent of that.

3 Q. Were there any checks and balances to determine
4 whether if a Congressman had decided to pay a particular
5 employee \$70,000, to make sure he was doing \$70,000 worth
6 of work?

7 A. At that time, there was no legal requirement. For
8 example, to have staff fill out time sheets, there were --
9 there are no requirements. It's simply every month the
10 member signs a form that delineates where the people's
11 salaries were, and that's -- that form is the member
12 certifying those staff people perform the necessary work
13 hours.

14 Q. Apart from the member signing and saying this guy did
15 \$70,000 worth of work, is there anything to check or
16 confirm that?

17 A. No. There's no auditing, no checks and balances
18 because of the separation of powers. The constitution
19 leaves it up to the Congress to police itself and make sure
20 that it follows various rules and regulations.

21 Q. Were there any rules and regulations that restricted
22 what a Congressman could assign congressionally paid staff
23 employees to do?

24 A. Yes. There's a House Ethics manual, ethics rules,
25 and basically full-time employees have to work at least 30

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1 hours a week in one of the Congressman's offices, either
2 the Washington office or one of his district offices or in
3 the congressional or legislative related business.

4 Q. Were there any restrictions as to certain activities
5 that congressionally paid staff members were not allowed to
6 do for the Congressman?

7 A. If you were paid over a certain amount, not clear
8 what the threshold is, but if you were paid over a certain
9 amount, you could not engage in the practice of law, for
10 example. You could not have outside employment and get
11 paid for it. You were paid under a certain matter, if it
12 was over -- as long as you were working at least 30 hours a
13 week, if you were full-time employee and there wasn't any
14 conflict of interest in what you were doing outside at that
15 time.

16 Q. Were employees allowed to do personal services for
17 the Congressman?

18 A. No. Unless they were paid fair market value, no.
19 But the ethics manuals frowns upon that practice.

20 Q. Just frown upon it or say you're not allowed to do
21 that?

22 A. Not allowed to do that on office time.

23 Q. Was there any restriction on whether congressionally
24 paid staff members were allowed to rent office space to
25 their boss?

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1 A. That was private. We had rules on that. I also
2 believe the federal statute prohibits that as well.

3 Q. I'd like to ask you some questions regarding the
4 position of administrative assistant in the office of
5 Congressman Traficant. Okay? Did your office have a
6 position called administrative assistant?

7 A. Yes, we did.

8 Q. Who held that title in your office?

9 A. Henry DiBlasio.

10 Q. And when did Henry DiBlasio first become Congressman
11 Traficant's administrative assistant?

12 A. January of '85, when the Congressman assumed office.

13 Q. And how long a period of time did Henry DiBlasio hold
14 that title administrative assistant?

15 A. My understanding, again, I left the office in '89 and
16 came back in '93, but he held that position continuously
17 until he retired, I believe, in '98.

18 Q. Is that title administrative assistant sort of a term
19 of art in Congress?

20 A. Excuse me?

21 Q. Is that title administrative assistant sort of a term
22 of art in Congress?

23 A. Term of art?

24 Q. Yes.

25 A. The title administrative assistant and chief of staff

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1 are interchangeable. An administrative assistant would be
2 in the private sector is different than it would be in the
3 member's office. In most offices, the person who holds the
4 title chief of staff could also be called administrative
5 assistant. The two titles are interchangeable.

6 Q. Usually, the position you held is either called chief
7 of staff or administrative assistant?

8 A. That's correct.

9 Q. What then does an administrative assistant usually do
10 in a congressional office? What are his duties and
11 responsibilities?

12 A. Again, every member's office was different, but
13 typically, the administrative assistant would be the
14 Congressman's Number one adviser but also be responsible
15 for managing the entire office operation.

16 Q. To your knowledge, did Henry DiBlasio have any
17 experience whatsoever in running a congressional office
18 prior to being Congressman Traficant's administrative
19 assistant?

20 A. I don't know what his experience was prior to '85. I
21 will say that it's typical for members of Congress to hire
22 as their top aides people they know and trust. Unlike the
23 business world, when you're working for a politician,
24 trustworthiness and loyalty are two very important factors,
25 and it's not unusual for a member of Congress to hire

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1 someone as their administrative assistant who has no prior
2 experience in that role.

3 Q. Is it unusual for a member to have an administrative
4 assistant who stays back with an office in the district?

5 A. There are many offices that have AA's in the
6 district, but they also occasionally travel to Washington,
7 but it's not unusual.

8 Q. How usual is it for an office to have an
9 administrative assistant, who's a full-time practicing
10 lawyer at the same time he's the administrative assistant?

11 A. Having never looked at the other 434 offices, I don't
12 know.

13 Q. Have you ever heard of that before?

14 A. I never heard of it before, but I never inquired as
15 to whether or not that was a standard practice or whether
16 or not other offices were doing that.

17 Q. In addition to Henry DiBlasio being the
18 administrative assistant back at the Youngstown office, was
19 there another position called the district director?

20 A. Yes.

21 Q. What were the duties of the district director as you
22 understood them?

23 A. District director directly handled the day-to-day
24 operations of the district offices, mainly handling case
25 work. Members of Congress routinely asked to intervene for

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1 constituents having problems with the social security
2 office. If they're having problems with Veteran's
3 Administration, problem getting their Medicare benefits,
4 there's a tremendous workload that members of Congress have
5 to handle. The district director would handle those, those
6 types of issues, manage the case of staff workers.

7 Also the district director would serve as the
8 Congressman's liaison to the local community, oftentimes
9 representing the Congressman in local meetings and
10 interface with local politicians and local citizens groups.

11 Q. And who filled all those responsibilities that you
12 just described in the Youngstown District Offices?

13 A. I would say my first four years there, Henry DiBlasio
14 did a lot of that work with the assistance through -- I
15 can't recollect -- Jackie Bobby and Chuck O'Nesti. When I
16 came back in '93, Chuck had taken on the bulk of those
17 duties.

18 Q. And at that time, then, what was Henry DiBlasio
19 doing?

20 A. I got the impression that Henry was out there in the
21 community doing work representing the Congressman at
22 meetings, providing strategic advice to the Congressman. I
23 say that because I would routinely get notes from Henry
24 faxed to me saying I was at a meeting last night. Could
25 you please call councilman so-and-so or this person needs

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1 some advice, and apply for a federal grant. Could you call
2 them, and I would get phone calls from local officials
3 saying I was at a meeting last night with Henry, and he
4 recommend that I call you.

5 So I got the impression that Henry was out there
6 representing the Congressman at meetings and in various
7 capacities. And also when the Congressman was in the
8 district itself, I'd get a lot of phone calls from the
9 Congressman, Henry -- like in conference calls with Henry
10 on the other line, I got the impression he's spending time
11 with Henry when he was in the district.

12 Q. So you're telling us you got the impression that he
13 was spending time with the Congressman, and he was going to
14 meetings, correct?

15 A. Going to meetings, providing advice to the
16 Congressman, and representing the Congressman in his
17 capacity as an administrative assistant, yes.

18 Q. Who was actually running the district offices in the
19 normal sense of administrative assistant at that time?

20 A. Again, I was in Washington from '93 until the time I
21 left. I had only gone to the district once so I was not
22 there to actually see what was happening, but my impression
23 was that Chuck O'Nesti was handling the day-to-day
24 operations of the office, and I was on the phone with Chuck
25 usually twice a day, sometimes more.

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1 Q. So you were on the phone with Chuck O'Nesti twice a
2 day, sometimes more dealing with what kind of matters?

3 A. Chuck was asking for -- it was mostly constituent
4 service matters, or Chuck was asking for -- Chuck would be
5 asking for information on legislation that maybe the mayor
6 was asking for. It was all work related, and Chuck worked
7 extremely hard.

8 Q. So you're talking to Chuck once or twice a day. How
9 often are you talking to Henry?

10 A. About once a week, sometimes more, sometimes less.

11 Q. On paper, who did you and Chuck O'Nesti report to and
12 hire in the office?

13 A. In my mind, I reported directly to the Congressman.

14 Q. Now, in your mind, on paper, who were you supposed to
15 report to technically?

16 A. We never had a full structure of the office but
17 probably Henry.

18 Q. Did you ever report to Henry, as your supervisor
19 from --

20 A. My first four years I certainly did, yes.

21 Q. From the time you returned in 1993 until the time you
22 left in 2000, was Henry really serving as your boss?

23 A. No. The Congressman was my boss, and I think the
24 Congressman even told me several times you report directly
25 to me.

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1 Q. How did this setup of having a chief of staff to run
2 the Washington office, a district director Chuck O'Nesti
3 running the district offices, and an administrative
4 assistant affect your budget?

5 A. It made our budget very tight. That was one of my
6 responsibilities, was making sure that we didn't go over
7 budget. You never want to go over budget because if you go
8 over budget, sometimes a member of Congress has to pay for
9 that out of his own pocket, so obviously, we didn't want
10 that to happen.

11 It put some strain on the budget, but we were able to
12 make our budget every year and usually were able to give
13 fairly generous bonuses to everyone in November and
14 December. Congressional employees get paid once a month,
15 so if you wanted to get Christmas bonuses, we typically
16 would do -- would temporarily raise everyone's salary,
17 month of November and December, so they would get either a
18 thousand dollars or \$1500, sometimes a \$2000 bonus for
19 Christmas, and we also were able to give the COLA to
20 everyone in January. Some people got slightly more than
21 that raise, based on performance, but it was very, very
22 tight.

23 Q. When you returned in 1993, how were your Washington,
24 legislative staff members being paid relative to the
25 legislative staff members of other Washington offices?

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1 A. Based upon what number the congressional management
2 foundation, by and large, the folks in the Washington, D.C.
3 were paid below the norm.

4 Q. Okay. Now, having said that, your overall
5 congressional salary for all employees?

6 A. Right.

7 Q. District and Washington, how did that rank compared
8 to other offices?

9 A. We were probably the top 10 percent.

10 Q. And what did you see as the single highest primary
11 cause of you having legislative staff that were being paid
12 less than other offices but one of the highest salaried
13 offices in Congress?

14 A. They were -- there were two reasons in my mind. One
15 was we had extremely low turnover. Most congressional
16 offices go through almost complete turnover every two
17 years, some offices every year. We had people on staff who
18 had been with the Congressman since he'd been in office in
19 '85, so we're talking about the time frame '93. We had
20 many people on staff who had been with him for the full
21 eight years.

22 So that caused us every year they would get COLA, so
23 our salaries would -- overall salaries would go out to
24 people in the district in particular, very little turnover
25 in the district offices, and the fact that we had the

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1 district director and administrative assistant very well
2 paid certainly caused an increase in our salary overall,
3 what we were paying overall in salaries.

4 Q. Were there many employees at that time making more
5 than \$40,000?

6 A. No.

7 Q. A year? Of the three highest paid employees, who
8 were those employees?

9 A. In '93?

10 Q. During that period '93 to '98, up until the time when
11 Mr. O'Nesti and Mr. DiBlasio were there?

12 A. The three highest paid were myself, Mr. DiBlasio, and
13 Mr. O'Nesti.

14 Q. And ball park, how much higher are we talking the
15 three of you versus the rest of the office?

16 A. Between \$30 and \$40,000.

17 Q. More, correct?

18 A. Yes.

19 Q. Did you ever do the math to figure out what would
20 happen if you subtracted either the administrative
21 assistant or the district director?

22 A. If we did that, we would be -- we would have been
23 medium, 50 percentile. We were right in the middle with
24 what congressional officers have in salaries.

25 Q. Going back to my original question, what was in your

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1 mind the single greatest factor that was putting you in the
2 highest salary figure in Congress?

3 A. The fact that we had three extremely high paid people
4 when most offices would have two.

5 Q. In your opinion, as the chief of staff of the
6 Washington office, could you function just as well with
7 just a district director and a chief of staff and not have
8 that third, quote, administrative assistant position?

9 A. I can't answer that question because I was never in
10 the district enough to get an ideal handle how the District
11 Office functioned.

12 Q. Let me ask you this: Have you ever had people from
13 the district complain to you about either of those two
14 other positions and whether or not the people holding those
15 positions were carrying their weight in the office?

16 A. I would get occasional grumblings from staff about
17 Henry's salary, yes.

18 Q. Who were the four most respected employees in the
19 District Office?

20 A. Respected by who?

21 Q. By Congressman.

22 A. I would say --

23 MR. TRAFICANT: Objection.

24 THE COURT: Sustained.

25 Q. Congressman Traficant ever tell you who he respected

1 most?

2 A. He never used those words "I respect these people the
3 most," no.

4 Q. Who were the four highest ranking people in the
5 office based on your dealings with the District Office as
6 chief of staff?

7 A. Henry, Chuck, Grace, and Jackie.

8 Q. Henry DiBlasio?

9 A. Henry DiBlasio, Chuck O'Nesti, Jackie Bobby, and
10 Grace Yavorsky. I always told my staff from Washington if
11 any of those four called and needed anything, they needed
12 to respond to them, that they were in front lines. They
13 were dealing with constituents, and that if they needed
14 something, we needed to put everything else aside and try
15 to respond as quickly as possible to any requests we got
16 from those four individuals.

17 Q. Of those four key individuals, setting aside Mr.
18 DiBlasio because the question will be about him, how many
19 of those other three key individuals complained to you
20 about work being done or not being done by Mr. DiBlasio?

21 A. At one time or another, Chuck, Jackie, and Grace all
22 grumbled about Henry.

23 I always viewed that as them being jealous of Henry
24 because he had a job that they wanted. He had access to
25 the Congressman. He was probably the only person in the

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1 district that the Congressman listened to.

2 Q. How did you view all that if you just said you didn't
3 spend much time in the District Office, and that you were
4 really involved in the Washington? What did you base that
5 on?

6 A. I based that on the fact that during the time I
7 worked for the Congressman, there were certain times I
8 wanted the Congressman -- I thought it would be politically
9 advantageous to take a certain position on an issue or
10 co-sponsor a bill, and I couldn't get through to him, and
11 he wasn't listening, being stubborn.

12 And I would call Henry and ask Henry's help. Henry
13 said I'll talk to the Congressman, and usually that was
14 very effective, whereas I wouldn't get that same type of
15 help from Chuck. But I got the impression that the
16 Congressman respected Henry's opinion more than he
17 respected anyone else's in the district.

18 Q. That's not my question; my question is this: You
19 have three what you described as three or four key players
20 in the Youngstown office calling you as chief of staff,
21 complaining that Henry's not doing enough work. What was
22 it that led you to assume, gee, they must be jealous of
23 Henry. That's why they're saying this?

24 MR. TRAFICANT: Objection. Asked and
25 answered.

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1 THE COURT: It was asked. You can ask it,
2 and you can answer it now.

3 THE WITNESS: Well, first of all, they never
4 called me with the sole purpose of complaining about Henry.
5 It was just in the course of conversation. Whatever, may
6 grumble, Henry's up there making all this money. He's
7 telling us what to do, and sometimes they would -- they
8 would poke in fun or be upset at a memo Henry would send
9 out. Henry sometimes would deal with the staff through
10 memos, and they would complain about that.

11 And in the thrust of it, we're doing all this work,
12 and he's making double and triple what we're make.

13 Q. Do you know a staffer named Dan Blair?

14 A. Yes.

15 Q. Who is Dan Blair?

16 A. Dan is director for the Congressman. He became
17 legislative director under me when I was chief of staff in
18 '93, and he'd been with the Congressman now since 1987.

19 Q. Did you ever share concerns with Dan Blair that you,
20 yourself, had about Henry DiBlasio and whether he was
21 working enough for the money he was being paid?

22 A. Um-hum. Well, we've had -- we had some discussions
23 about that over the years, yes.

24 Q. Tell the jury about those discussions.

25 A. My concern was that I knew that Henry was a

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1 practicing lawyer. My main concern was that at some point
2 someone might look at what he was billing his clients, and
3 if he was billing his clients 40 or 50 hours a week and he
4 was supposed to be working at least 30 hours a week for the
5 Congressman, that that would raise a red flag. And he --
6 he was making a lot of money compared to everyone else on
7 the staff, and it was just an area of concern that he was
8 putting in full 30 hours.

9 Q. Was it the same time you had these concerns that you
10 were getting calls from Grace and Chuck and Jackie Bobby
11 that people actually in the district?

12 A. Right.

13 Q. Telling you that they don't feel he's doing enough
14 work for his money?

15 A. The complaints I had about Henry were very isolated.
16 It wasn't continual complaints. So I don't know if my
17 conversations with Dan were around the same time frame of
18 getting complaints. I just view the complaints from
19 Jackie, Chuck, and Grace as simply people grumbling about
20 their boss.

21 Q. Well, did you ever take those complaints seriously
22 enough to talk to the Congressman about it?

23 A. I mentioned them several times to the Congressman,
24 and the response I got was, Henry works very hard. He
25 works unusual hours. He's doing a very good job, and you

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1 worry about the Washington office, and I'll worry about the
2 District Office.

3 And it became clear that my job was to run the
4 Washington office, and I had no reason to question the
5 Congressman's integrity when it came to those types of
6 issues. If he told me Henry was working hard and doing a
7 good job, I had no reason to question that.

8 Q. Well, you had no way to know whether that was true or
9 not, correct?

10 A. That's right. I wasn't Henry's supervisor. I wasn't
11 there in Youngstown. I had no way of knowing what kind of
12 hours he was putting in.

13 Q. And all you know is that three employees in
14 Youngstown are telling you he's not doing much, correct?

15 A. They never came right out and said it. They just
16 grumbled Henry's telling me what to do and making all this
17 money, and I don't know what he does up there.

18 Q. What caused you, as the chief of staff of the
19 Washington office, to butt into a district issue and bring
20 it to the Congressman's attention in the first place?

21 A. It was -- I was also press secretary. It was my job
22 to look out for the Congressman's issues.

23 Q. And his reaction when you did try to look out for his
24 interest and raise this issue was what?

25 A. He said you worry about the Washington office, and

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1 I'll worry about the District Office, and he also
2 emphasized that Henry works very hard, doing a good job.

3 Q. And so you took him at his word?

4 A. Yes, I did.

5 THE COURT: We're going to need a break. And
6 this might be a good time.

7 MR. MORFORD: I was going to say I'm going to
8 into a new area. Would you like to break?

9 THE COURT: We'll take the afternoon break.
10 It'll be a half hour long, and then we'll reconvene.

11 (Thereupon, a recess was taken.)

12 THE COURT: You're still under oath, sir.

13 THE WITNESS: Yes, your Honor

14 BY MR. MORFORD:

15 Q. I'd like to move to a new area and ask you some
16 questions about the Youngstown field offices moved from the
17 building 11 Overhill Road to the federal courthouse in
18 downtown Youngstown. Okay? Do you recall that move?

19 A. Yes, I do.

20 Q. And where was the Youngstown field office located
21 prior to the time you moved?

22 A. I believe it was at 11 Overhill.

23 Q. Okay. Do you know how far that is approximately from
24 the Youngstown courthouse?

25 A. My understanding was about three or four miles.

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1 Q. Now, why did the office move to the courthouse?

2 A. When the -- that original courthouse was built, one
3 of the understandings we have with GSA is that we would
4 move our District Office into the new courthouse.

5 Q. Okay. And was that your original understanding, that
6 you would move your entire Mahoning County District Office
7 or just a portion of it?

8 A. My understanding was the entire office.

9 Q. Were you ever to the new courthouse facility in the
10 congressional offices that are inside the new courthouse?

11 A. I didn't understand.

12 Q. Have you ever been to the --

13 A. No.

14 Q. No, you have not?

15 A. I was at the Overhill Road office once in 1986.

16 Q. Did there come a time when the original plan to move
17 the entire Mahoning County office to the Federal Courthouse
18 changed?

19 A. Yes.

20 Q. And how did it change?

21 A. Right on the eve of the move, I believe I got a note
22 from Henry DiBlasio indicating that the Congressman wanted
23 to retain a small presence in Overhill Road.

24 Q. What did that term mean, a small presence?

25 A. Retain the Congressman's office there and I believe a

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1 small office downstairs.

2 Q. For whom?

3 A. Bob Barlow for Henry.

4 Q. Who's Bob Barlow?

5 A. He was the Congressman's liaison to the labor
6 community.

7 Q. Was he a full-time employee or part-time employee?

8 A. At the time, I believe he was a part-time employee.

9 Q. And to your knowledge, did he have any position apart
10 from and outside of his staff position with the office of
11 Congressman Traficant?

12 A. I was not aware of any. I don't know.

13 Q. To your knowledge, did he have any affiliation with
14 the United Auto Workers' Union?

15 A. I don't know what affiliations he had.

16 Q. Do you know what his qualification was to serve as
17 labor liaison?

18 A. No.

19 Q. I'd like to -- set some exhibits here for a moment,
20 and I'd ask you to take a look at the first exhibit in
21 front of you, which is Government's Exhibit 1-14. Do you
22 recognize that document?

23 A. Yes.

24 Q. And can you tell me what that document is?

25 A. It's a memo to me from Henry indicating that the

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1 Congressman wants to maintain a presence at the Overhill
2 Road office after we move to the new courthouse building in
3 downtown Youngstown.

4 Q. Okay. So this is a congressional memorandum?

5 A. It's a memorandum from Henry to me, yes.

6 Q. Okay. And what's the date?

7 A. December 7, 1993.

8 MR. MORFORD: Your Honor, at this time I'd
9 like to ask if I can put that on the overhead.

10 THE COURT: Fine.

11 Q. I'd like to ask you if you would go ahead and read
12 the body of this memorandum?

13 A. "As you may know, we are moving most of the
14 Congressional office to the Federal Building downtown
15 Youngstown as of January 4, 1994. Jim has requested that
16 he maintain his office here and that we also maintain an
17 Administrative office. The rent, at an absolute minimum,
18 amounts to \$875 per month.

19 "Jackie informs me that the new rent in the Federal
20 Building will amount to \$27,840 per year, Eastwood Mall is
21 costing \$6,000 per year, and East Liverpool is \$720 per
22 year. Is there enough money to pay the rent at Overhill
23 Road, amounting to \$10,500, plus a factor for utilities and
24 for cleaning? The space that the Congressman wants amount
25 to approximately one-half of the space in the lower part of

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1 the building.

2 "Since the congressional office was paying one-half
3 of the cleaning and utilities, we can probably decrease
4 this somewhat.

5 "Please advise so we will know what to do. If there
6 is a serious question about whether or not there are
7 sufficient funds, we may have to make some changes."

8 Q. Why is the administrative assistant having to write
9 you, the chief of the -- chief of staff of the Washington
10 office to find out whether or not there's enough money to
11 pay for this extra office?

12 A. Because I handled -- I was responsible for all the
13 office for Henry.

14 Q. So you're in charge of the entire budget, district
15 and Washington?

16 A. In terms of keeping watch of the funds, yes, making
17 sure -- the main responsibility here was to every month I'd
18 sit down with the office manager and look at our expenses
19 and make sure we don't go over the limit at the end of the
20 year. That was my main concern. And that was the main
21 function there.

22 Q. Was that your main function as chief of staff?

23 A. No.

24 Q. What was your main function as chief of staff?

25 A. In that office, it was to administer the

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1 Congressman's legislative agenda.

2 Q. Anyone ever tell you why you were being saddled with
3 this additional responsibility when you had both the
4 district director and administrative assistant back in
5 Youngstown that could have done these things?

6 A. I didn't question it because the people you had to
7 deal with at the House finance office, it would be
8 difficult for them to deal with them since they were in
9 Ohio, and I was in Washington. It was nothing unusual
10 about the person running the Washington office to deal with
11 the House finance office.

12 Q. Is that why the administrative agent or
13 administrative assistant would normally be in Washington?

14 A. Yes.

15 Q. Now, says Jim, he requested he maintain his office
16 here, and that we also maintain an administrative office.
17 What did you understand the administrative office was going
18 to -- would constitute the administrative office?

19 A. I really didn't understand what that term meant. I
20 would think that would mean, at least, having one staff
21 person there to handle people coming off the streets.

22 Q. Well, that guy --

23 A. Also, to assist the Congressman as well. If he was,
24 the Congressman, was going to have his office there, makes
25 sense to have at least one staff person there to handle the

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1 Congressman's paperwork.

2 Q. Well, but you said the one guy was going to stay
3 behind was a part-time labor liaison, right?

4 A. I believe at the time he was going to be. I'm not
5 sure; may have been other people who might have been there
6 who I had working there at the time.

7 Q. Wouldn't it have made more sense to keep his personal
8 secretary Grace Yavorsky in the same office as the
9 Congressman?

10 A. Yeah, but it wasn't my role to question how the
11 Congressman set up his District Office. He had to be
12 comfortable with whatever setup he had, and that was at his
13 discretion, not mine, and it wasn't my place to question
14 these matters or decisions back at the district.

15 Q. When Henry DiBlasio says, is there enough money to
16 pay rent at Overhill --

17 A. Right.

18 Q. -- amounting to \$10,5 plus a factor for utility and
19 cleaning --

20 A. Right.

21 Q. -- what did that do to your budget, having a -- says
22 \$27,840 a year rent to the Federal Building, plus \$6,000 a
23 year for the East Mall office, plus \$720 a year for East
24 Liverpool, now additional \$10,500, plus utilities and
25 cleaning, what was that going to do to your budget?

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1 A. It meant that obviously the rent in the new building
2 was much higher than what we were paying at Overhill Road.
3 So our budget was going to be stressed, whether we retain
4 the presence of Overhill Road or not. Our budget was going
5 to be stressed because of the increase in rent in the new
6 courthouse.

7 The rent at Eastwood Mall, East Liverpool was
8 minimum. Eastwood Mall, that rent was going to be there.
9 We had to have a presence in Columbiana County, and
10 Columbiana put extra stress on the budget, that combined
11 with the fact that the amount of money that the Congress
12 was going to be giving members in '94 was proposing to cut
13 that money back or freeze it.

14 Normally, you got an increase every year, one you
15 could spend. There was talk they were going to freeze it.
16 That further would have complicated our ability to keep our
17 budget within -- keep it in the black by the end of the
18 year.

19 Q. Can you think of any reason other than Henry DiBlasio
20 wanting to keep congressional offices at his own law office
21 building, why you would pay \$27,000 for one office and
22 another \$10,000 for an office that's less than five miles
23 away?

24 A. I didn't -- I didn't see the justification for it.

25 Q. Could you see any justification for having the

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1 administrative staff in one building and the administrative
2 assistant in an entirely separate building?

3 A. Again, I didn't see any justification for having two
4 separate offices in Youngstown. I expressed that both to
5 Henry and the Congressman.

6 Q. Next, I'd like to you to take a look at what's been
7 marked as Government's Exhibit 1-15. Do you recognize that
8 document?

9 A. Um-hum.

10 Q. And what is this document?

11 A. It's a memo I sent to Henry the same day he sent me
12 this memo.

13 Q. Okay.

14 MR. MORFORD: Your Honor, may I put this on
15 the overhead as well?

16 THE COURT: Yes.

17 BY MR. MORFORD:

18 Q. Okay. Now you said you sent this the same day; is
19 that correct?

20 A. Yes.

21 Q. How strongly did you feel about this issue?

22 A. I felt -- my concern was two-fold: First, I had --
23 it's my responsibility to be steward of the office budget.
24 I was concerned that we would run out of money at the end
25 of the year, and it's a scenario you -- it's a move you

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1 don't want to be in.

2 So I didn't want to be in a position where we had to
3 cut people's salary or lay people off at the end of year to
4 make a budget. So that was my concern this had caused;
5 maintaining a presence on Overhill Road would stress our
6 budget to the point where we wouldn't have any flexibility,
7 we wouldn't be able to give bonuses. And as press
8 secretary, I was looking out for the Congressman's
9 interests. I was worried that a reporter would ask a
10 question why do you have two offices inside Youngstown;
11 it's a waste of taxpayer money.

12 Q. Did you have any good answer to that question?

13 A. I would have had to try to finesse it, but, no, I
14 didn't have a good legitimate answer in my view at that
15 time -- at the time I wrote this memo.

16 Q. Could you read the body of the memo, please?

17 A. Sure.

18 "In response to your memorandum regarding the move of
19 the Youngstown office to the new Federal Building, I have
20 closely reviewed our expense budget for 1994 and have found
21 the following:

22 "Because of cutbacks made by Congress, every
23 congressional office will experience a reduction in their
24 expense accounts in 1994. If we move the Youngstown office
25 entirely into the new Federal Building and do not maintain

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1 any presence at the 11 Overhill Road office, our expense
2 account would be extremely strained. The additional cost
3 for rent for the new office space, new furniture, new phone
4 system, the move itself, and new stationery will amount to
5 anywhere from \$30,000 to \$35,000 in additional costs. The
6 final amount depends upon what types of bids we get for
7 certain services. Out of an estimated total expense
8 account of \$160,000."

9 Q. Excuse me. If you could read a drop slower. The
10 reporter is trying to take down what you're saying. I'm
11 sorry.

12 A. "Maintaining a presence in the 11 Overhill Road
13 office will further exacerbate this problem. Given the
14 fact that the Congressman wants to maintain this presence,
15 we will have to find a way to cut as many costs as possible
16 to fund this additional expense.

17 "According to the House Finance Office, depending
18 upon what our final costs are for phone service and
19 furniture, we will more than likely have to transfer funds
20 from our Clerk Hire account to cover the anticipated
21 shortfall in our expense account. That means the
22 Congressman would be severely limited in backfilling
23 positions and giving raises.

24 "As such, we are not in a position to add any further
25 to the costs of the move to the new Federal Building. We

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1 simply do not have the available funds to pay for such
2 amounts as assigned parking slots.

3 "Any assistance you could render in convincing the
4 Congressman to not maintain a presence at 11 Overhill Road
5 would be deeply appreciated. It will be extremely
6 difficult for me to justify to the press and the public the
7 additional expenditures in taxpayer funds to have two
8 district offices within five miles of one another.
9 According to the House Finance Office, such an arrangement
10 is highly irregular. My concern is that this could be used
11 against Jim in future political campaigns and could pose a
12 potential ethics problem.

13 "Please call me if you have any questions or
14 suggestions on how we can address the problems I have
15 outlined in this memorandum. Thank you."

16 Q. Did you get a response to this memorandum from Henry
17 DiBlasio?

18 A. I got a response two days later.

19 Q. Okay. Turning to Government's Exhibit 1-16, do you
20 recognize that document?

21 A. Yeah.

22 Q. And do you recognize the handwriting on that
23 document?

24 A. Yeah, that's Henry's handwriting.

25 Q. And is this the response you said that you received?

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1 A. Yes.

2 MR. MORFORD: Your Honor, may I display this?

3 THE COURT: Yes.

4 THE WITNESS: This is a little confusing says
5 12-9-98, but -- I believe it is -- the time frame was 1993.

6 Q. If you look up at the top, there's a fax header on
7 that. Do you see that?

8 A. Yeah.

9 Q. And what does the fax header say?

10 A. December 9th, '93.

11 Q. So maybe the handwritten date is?

12 A. Is wrong.

13 Q. Okay.

14 Would you go ahead and read the body of this memo.

15 A. Yes.

16 "I received your memo. Discussed it with Jim. He
17 feels a small presence is absolutely required in Boardman.
18 He insists that congressional office be manned by one staff
19 person plus me. I guess I will be going back and forth
20 between Federal Building and here. Expenses will be kept
21 at a minimum. Rent will be decided later on. I guess move
22 will not be until 1994. Hope this answers some of your
23 concerns. Call me if any questions. I will be in
24 California for the holidays but will not be leaving until
25 the end of next week. My best regards to all. Have a

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1 great holiday season. Henry D."

2 Q. Despite all the concerns you raised, what was the
3 decision that was reached regarding what to do with the
4 space at 11 Overhill Road?

5 A. Maintain a presence there.

6 Q. Now, in addition to communicating about this with
7 Henry DiBlasio, did you also discuss the matter with
8 Congressman Traficant directly?

9 A. Yes, I did.

10 Q. And where did Congressman Traficant tell you he
11 wanted his office to be?

12 A. He didn't say exactly where he wanted his office to
13 be. He said basically my understanding -- my recollection
14 of the conversation is that, "Paul, you're not from
15 Youngstown. You don't understand how difficult it is for
16 people to get downtown. The Overhill Road office is
17 convenient for people there. We need to have a presence in
18 both places. You're not understanding the geography. It's
19 important we maintain a presence there."

20 Q. To your knowledge, was Congressman Traficant someone
21 who had pushed GSA to build the federal courthouse in
22 downtown Youngstown in the first place?

23 A. It would not have been built if it had not been for
24 his hard work and efforts, yes.

25 Q. All the people that have to go to that court, where

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1 do they have to go, Boardman or downtown Youngstown?

2 A. Downtown Youngstown.

3 Q. Now, where did he tell you he wanted Henry DiBlasio's
4 District Office to be?

5 A. I don't think we ever discussed where he wanted
6 Henry's office to be. I think -- let me just complete the
7 answer. The tenor of the discussion was more why we needed
8 to retain a presence at Overhill Road and how I'd explain
9 that to reporters if the question ever came up. And the
10 Congressman said he needed to have space in both buildings
11 to provide options to constituents. It's easier to get to
12 Overhill Road. Not being from Youngstown, I had no way of
13 knowing whether that was true or not. And again, I had no
14 reason to question the Congressman's judgment when it came
15 to issues related to his own district and his own -- and
16 how best he can serve his own constituents.

17 Q. Well, who were the people that serviced constituent
18 matters in the Youngstown District Office, as you
19 understood it?

20 A. Case workers.

21 Q. And who were they?

22 A. Jackie and Grace.

23 Q. And where were they going to be?

24 A. At the courthouse.

25 Q. So when the people show up in Boardman at 11 Overhill

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1 Road to talk about constituent matters, what do they do?

2 A. The Congressman made it clear to me he wanted to
3 maintain a presence at Overhill Road.

4 Q. I understand that, but --

5 A. I didn't pursue it because you just learn not to
6 argue with him over stuff like that, and I didn't have any
7 reason to question his judgment when it came to the
8 district.

9 Q. But, he he's saying he wants it there so it's easier
10 for constituents to come in and deal with this constituent
11 service staff. My question to you is was the constituent
12 service staff being moved to downtown Youngstown?

13 A. No, my understanding was it would be at least one
14 person at Overhill Road.

15 Q. But, you said Bob Barlow was part-time?

16 A. I recall the discussion was at that point whether he
17 was definitely going to be -- I don't remember who it was,
18 either Barlow or someone else on the staff.

19 Q. Who did it end up being in reality?

20 A. I believe it was Barlow.

21 Q. Was one single constituent service staff member kept
22 at that office?

23 A. Well, Barlow did do constituent service related to
24 labor issues.

25 Q. But, of the people who did the majority of the work?

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1 A. Right, you're right. They were all going to be in
2 the courthouse.

3 Q. Did you ask him whether Henry was going to have an
4 office in the new courthouse as the administrative
5 assistant with the rest of the administrative staff?

6 A. I don't think I ever had a discussion with him of how
7 the plan would be in the new courthouse, no.

8 Q. Henry DiBlasio didn't do constituent service matters,
9 did he, on a regular basis?

10 A. Not helping old ladies with their social security
11 checks, no.

12 Q. And they're the people he's worried about having to
13 go to downtown Youngstown, right?

14 A. I -- you have to ask the Congressman. I don't know
15 what his exact concerns were.

16 Q. How -- how would it have affected Henry DiBlasio's
17 law practice if he had actually had to have gone and put in
18 his congressional hours at the federal courthouse with the
19 rest of the congressional staff?

20 MR. TRAFICANT: Objection, speculation.

21 THE COURT: Sustained.

22 Q. I'm going to go back to Exhibit 1-16 one more moment.
23 There's a sentence here where it says -- you see this, "I
24 guess I will have to be going back and forth between the
25 Federal Building and here," meaning 11 Overhill Road?

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1 A. Um-hum.

2 Q. To your knowledge, did Henry DiBlasio ever go back
3 and forth?

4 A. I don't know.

5 Q. To your knowledge, was he ever in the courthouse?

6 A. I wasn't a supervisor. I don't know if he did or
7 not.

8 Q. Were you ever told by any of the other staff members
9 whether Henry was ever in the federal courthouse
10 congressional office?

11 A. I recall references being made to the fact he was
12 never there by Mr. O'Nesti, Jackie and Grace.

13 Q. Let me ask you just some general questions about the
14 ownership of the building where they were going to maintain
15 a presence.

16 What is your understanding of who owned the building
17 at 11 Overhill Road when Congressman Traficant was first
18 elected to Congress in 1985?

19 A. My understanding now is that when he was first
20 elected, Henry owned the building.

21 Q. And were you ever asked back in 1985 to send the
22 information to Henry DiBlasio because of that ownership?

23 A. Was I ever asked to send any information to him?

24 Q. Yes.

25 A. In '85? No, that wouldn't have been my

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1 responsibility at that time not in 1985, no.

2 Q. Were you ever asked to fax anything to Henry DiBlasio
3 at any time about whether or not he could own that building
4 and rent space to Congressman Traficant?

5 A. I don't know if I was asked to do it. I remember
6 faxing Henry at some point -- I don't recall the exact time
7 frame -- I believe it was in the early 90's or when I came
8 back to the office, I faxed him the relevant sections of
9 the ethics manual. I don't recall if those were sections
10 that dealt with the amount of hours that full-time
11 employees had to work. And also there was a section in the
12 manual that dealt with the practice of law by congressional
13 staff, and there is also a section in there about renting
14 office space back to members, prohibitions on that. I just
15 don't recall what the time frame was. I don't specifically
16 recall what the circumstances were. I do know that the
17 Ethics Committee did come out with updates to staff and
18 memorandums they would send all congressional offices, and
19 I would also fax those to Henry and everyone in the
20 district.

21 Q. Did there ever come a time when you questioned Henry
22 DiBlasio and Congressman Traficant about the ownership of
23 that building?

24 A. I recall having, maybe more than once, conversations
25 with him where I raised the issue and I don't know if I

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1 raised it with Henry or the Congressman. I know I raised
2 it with the Congressman. I don't know if I ever raised it
3 with Henry. And I was always told Henry does not own the
4 building anymore, he divested ownership, and he does not
5 have an interest in the building. And so I let it --
6 again, I let that rest.

7 Q. So you took the Congressman's word that Henry
8 divested himself of any ownership interest in the building?

9 A. That's my recollection, yes.

10 Q. What was it that caused you to raise the issue with
11 Congressman Traficant in the first place?

12 A. I had some of these conversations go back eight or
13 nine years. It probably was questions that either former
14 staff members had raised with me or either Mr. O'Nesti or
15 Ms. Bobby or Ms. Yavorsky, intimations they made that Henry
16 still owns that building, statements to that effect that
17 caused me to raise the issue with the Congressman.

18 Q. And when did Henry DiBlasio actually retire?

19 A. I believe the end of 1998.

20 Q. I'd like to ask questions about a man named Allen
21 Sinclair.

22 A. Um-hum.

23 Q. Does that name ring a bell, Allen Sinclair?

24 A. Yes, it does.

25 Q. Did there come a time you learned that Congressman

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1 Traficant wanted to hire Allen Sinclair onto his
2 congressional staff?
3 A. Yes.
4 Q. And tell us how you learned of that.
5 A. It's about the time that Henry informed me he was
6 going to retire at the end of the year. It was November,
7 and I believe -- I don't recall the first time I heard he
8 was going to hire Allen. I believe the Congressman was
9 thinking of hiring Allen. And then in -- I remember a
10 conference call I had of my own. I believe it was
11 Veteran's Day in '98, and the Congressman was on the line,
12 as was Allen. And the Congressman said I want -- he wanted
13 to hire Allen, and he knew that Allen was a practicing
14 attorney, and I remember telling him Allen -- I said,
15 "Allen, you understand that if we sign you on as a
16 full-time employee, that you have to work at least 30 hours
17 a week in one of the Congressman's offices, that means in
18 either his Washington office, his office in downtown
19 Youngstown, Trumbull office, his East Liverpool office, or
20 the office at Overhill Road, not from your law office
21 downstairs in that office, or you have to be out in the
22 district on congressional-related matters, and it has to be
23 at least 30 hours a week?" And both Allen and the
24 Congressman said that's not going to be a problem, no,
25 that's not going to be a problem at all.

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- 1 Q. Let's back up then.
- 2 How did you know Allen Sinclair was a lawyer?
- 3 A. I was told that he was Henry's law partner.
- 4 Q. Okay. And where was his office located?
- 5 A. At 11 Overhill Road.
- 6 Q. Why were you so adamant in telling him that he would
- 7 actually have to perform congressional duties either at the
- 8 courthouse or Niles or in the congressional office space,
- 9 not in his law office at 11 Overhill Road?
- 10 A. Because I wanted to make sure he was aware of what
- 11 the ethics rules were and what was required of him because
- 12 he had never worked for a member of Congress before.
- 13 Q. Did those same ethics rules not apply to Henry
- 14 DiBlasio?
- 15 A. Of course they applied to Henry.
- 16 Q. Did you ever tell Henry DiBlasio when he was
- 17 performing his congressional duties, he needed to do so
- 18 outside of his own law office at the 11 Overhill building,
- 19 at the congressional office space?
- 20 A. I was not Henry's supervisor. It was not my place to
- 21 tell him how to perform his job.
- 22 Q. Why did you --
- 23 A. I never had any reason to question Henry's integrity.
- 24 Q. Why did you have reason to question Allen Sinclair's?
- 25 A. I wasn't questioning his integrity. My concern was

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1 he never worked for a member of Congress before. He
2 probably never worked for the federal government before. I
3 wanted to make sure he was fully aware of what the
4 requirements were. I was also upset that the Congressman
5 was hiring him at the salary he was because again, due to
6 the budget problems, and the fact that morale problems --
7 because everyone in the congressional office thought the --
8 everyone knows what everyone else makes.

9 Q. Why is that?

10 A. There are quarterly reports that the clerk of the
11 House of Representatives puts out that's -- it's a book
12 that comes out that lists what everyone makes. It's a
13 public document. It's distributed to every congressional
14 office. You probably can find it in any public library.
15 The result is that everybody in the congressional office
16 knows what everyone else is making. My concern was that
17 the salary he wanted to hire Allen at, I believe it was
18 \$60,000 a year, whether that would cause morale problems,
19 both from the district and in Washington.

20 Q. Who else in the office at that time was making
21 \$60,000 or more?

22 A. At that time, I was, Henry was, and Chuck O'Nesti.

23 Q. Okay. And after Chuck O'Nesti and Henry retired, was
24 there anybody other than you making \$60,000 or more a year?

25 A. No.

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1 Q. Now, at the time you had this conversation with Allen
2 Sinclair, and emphatically emphasized that he has to work
3 30 plus hours, and he has to do so in official
4 congressional space --

5 A. Um-hum.

6 Q. -- I want to ask you some questions about knowledge
7 and concerns you had at the time you raised those. Okay?

8 At the time you raised those concerns with Allen
9 Sinclair, had you received the complaints you talked about
10 earlier about Henry DiBlasio by that time?

11 A. Oh, yes. The complaints about Henry making all that
12 money and not doing enough work?

13 Q. Yes.

14 A. Yes, I was aware of those complaints.

15 Q. Had you received complaints that Henry spent time --
16 time in his law office and not in congressional space?

17 A. The complaints I had about Henry were vague in
18 nature. They weren't specific allegations or complaints
19 against him. It was more about Henry's not pulling his
20 weight, he makes all this money, I know what he does.
21 Those were the nature of the complaints I got about Henry,
22 and it wasn't a common occurrence that I got those
23 complaints, but I was aware of them.

24 Q. And you said --

25 A. They were in the back of my mind.

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1 Q. You said earlier you had your own personal concerns
2 regarding Henry DiBlasio, correct?

3 A. That's correct.

4 Q. To what extent were these complaints in the back of
5 your mind that you would receive about Henry and your own
6 personal concerns about the situation with Henry a factor
7 whether you emphatically emphasized to both Allen and
8 Congressman Traficant in this conversation about how it was
9 going to have to work with Allen Sinclair?

10 A. That was a factor. The other factor was the
11 Congressman wanted to put Allen on payroll in the middle of
12 November of '98, the same time Henry was on payroll. Henry
13 was on the payroll until the end of '98. Again that puts a
14 further strain on our budget, and I didn't understand why
15 he needed to have both of them on payroll at the same time.
16 It would have made more sense to put him on the payroll
17 January 1st after Henry left.

18 Q. What effect would that have on your ability to give
19 the employees their yearly bonus?

20 A. My initial -- I was told at the time didn't have
21 access to all the budget figures -- but my initial
22 impression was really -- cramped our ability. When I went
23 back home, I ran numbers. We still were able to give
24 bonuses that year. They weren't as great as we would
25 normally have given but able to give nice bonuses, but we

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1 had -- I always like to have \$15 to \$20,000, \$30,000
2 cushion at the end of the year for Congressman Traficant.
3 That money at the end of the year, if you don't spend it,
4 went back to the treasury from the PR standpoint; also,
5 members of Congress would put money back to the treasury.
6 Q. How -- does that look good?
7 A. It shows that they're being good stewards of the
8 taxpayer dollars.
9 Q. So if you hadn't hired Allen in November and
10 December, your thinking was salary paid to Allen could have
11 been given back to the taxpayers, is that what you're
12 saying?
13 A. Yeah. Or it could have been given for additional
14 bonuses for people doing the work.
15 Q. Did you raise that issue with the Congressman?
16 A. I raised it with him privately.
17 Q. Okay. And when you raised it with him privately and
18 indicated if you hold off and hired Allen in January, we
19 can either give money back to the taxpayers or give bonuses
20 to our other employees, what was his response?
21 A. He was adamant that he wanted Allen, that he needed
22 Allen to start in the middle of November because the
23 Congressman said he was working on an economic development
24 issue in the Youngstown area, and he needed Allen's help
25 immediately with the initiative.

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1 Q. He still had Henry, correct?

2 A. Correct.

3 Q. And Henry is a business lawyer; is that correct?

4 A. I don't know what kind of law Henry practiced.

5 Q. Do you know what kind of law Allen Sinclair
6 practiced?

7 A. I do know now. I didn't know at the time.

8 Q. How did you learn what kind of law he practiced?

9 A. Just through the course of -- he had an issue with an
10 advertising problem. During the course of that, of dealing
11 with the media, Allen, I learned he was a personal injury
12 lawyer.

13 Q. You didn't know he was a personal injury lawyer at
14 the time Congressman Traficant was telling you he needed
15 him on immediately to handle economic --

16 A. I think in my conversation with Allen about -- I did
17 have conversations prior to him coming on board about the
18 ethics rules of congressional staff practicing law. And
19 the rules were clear: If you made below a certain amount,
20 he was below the threshold, he could still practice law as
21 long as he didn't practice on federal issues, and he
22 assured me all his dealings were at the state level. He
23 might have said what kind of law he did at the time. So I
24 wasn't aware of what kind of law he practiced.

25 Q. Catalog, if you will, for us, the concerns that you

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1 had about Congressman Traficant's stated intention of
2 hiring Allen Sinclair to serve as staff counsel at a
3 \$60,000 a year salary.

4 A. As I stated before, the timing of the hire concerned
5 me because of our overall budget picture. I was
6 concerned -- because I was aware of the periodic complaints
7 I would get about Henry and his salary, that it would cause
8 further morale problems to have Allen come on at a higher
9 salary than anyone else other than myself on the staff. I
10 also in my mind in my conversations with the Congressman, I
11 just didn't have a clear idea what exactly he would be
12 doing.

13 Q. Did you --

14 A. And, of course, my concern is that's always been to
15 look out for the best interests of the Congressman. I was
16 concerned about reporters calling and asking questions, and
17 I wanted to make sure I had good solid substantive answers
18 to give them.

19 Q. At the same time of Chuck O'Nesti's coming on, yet,
20 two employees going off, correct, Chuck O'Nesti and Henry
21 DiBlasio, during that same year?

22 A. I don't understand the question.

23 Q. Let me rephrase it.

24 Who was retiring at or about the same time that Allen
25 Sinclair was being hired at \$60,000 a year to serve as

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1 staff counsel?

2 A. Henry.

3 Q. How about Chuck O'Nesti?

4 A. I'm not clear on the time frame. Chuck O'Nesti left
5 the staff after he pled guilty. So I know he pled guilty
6 in March. I'm not sure if it was March of '98 or March of
7 '99. I don't recall the time frame.

8 Q. Regardless whether it was '98 or '99, within at least
9 a few months of the time Allen Sinclair starts, are both
10 Henry and Chuck gone from the staff?

11 A. I'm pretty sure, yeah, yeah.

12 Q. So Henry had been the administrative assistant, and
13 Chuck had been the district director?

14 A. That's correct.

15 Q. Who was hired to fill their roles and do all the
16 duties they had done?

17 A. My understanding was that Allen would fill a lot of
18 the role that Henry filled as an advisor to the
19 Congressman, advising him on issues back home, providing
20 strategic advice, and kind of being the troubleshooter on
21 certain issues. Allen assumed some of that role.

22 Q. Is Allen --

23 A. And that Jackie and Grace would assume and divvy up
24 some of the -- and Anthony Traficanti would assume between
25 the three of them, would assume a lot of Chuck's duties.

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1 Q. Didn't Jackie and Grace quit about that same time?

2 A. No. They quit several months later.

3 Q. Who's going to -- who's going to do the duty of the
4 district director and the administrative assistant?

5 A. The Congressman -- the way he explained -- well, he
6 hired Claire Maluso so after Jackie and Grace left, Chuck's
7 job was being done by Claire Maluso and Anthony Traficanti,
8 and Betty Manente had more authority in Trumbull, and he
9 had, I believe, Betty reporting directly to the Congressman
10 after Jackie and Grace left.

11 Q. Did Congressman Traficant bring in a new district
12 director to replace Chuck O'Nesti?

13 A. He never brought in anyone that had the type of
14 authority that Chuck had.

15 Q. Did he bring in a new administrative assistant to
16 replace Henry DiBlasio?

17 A. My understanding was that Allen was going to fill a
18 lot of -- fill a lot of the role that Henry actually played
19 regardless.

20 Q. And then the duties were just divvied around the
21 remaining people?

22 A. That's correct.

23 Q. Were any of these people making the types of salaries
24 that Henry and Chuck had been making that people were going
25 to divvy up and put on their pieces of responsibility?

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1 A. My recollection was that Chuck, when he left, was
2 making either the \$70's or the \$80's, and that Anthony,
3 when he left, the Congressman made sure that I believe
4 Anthony, Betty, Claire, and Bob Barlow by that time had
5 become a full-time employee, were all making the same exact
6 salary, which is a little over the \$40's.

7 Q. If they weren't replaced, Chuck and Henry, if they
8 weren't replaced exactly with the new administrative
9 assistant and the new district director, were they even
10 needed in the first place, those positions, not the people
11 but the positions?

12 A. I -- my central management standpoint you should have
13 a district director. The Congressman decided after Chuck
14 left to divvy up his duties amongst three people. That's
15 in the business world, that's not uncommon. I didn't see
16 anything unusual in that. Chuck was a very good work
17 horse. He did a lot of work. He was older, and the people
18 replacing -- the Congressman in his judgment -- didn't have
19 the capacity to do that job.

20 The other thing is they probably wouldn't be able to
21 supervise the others. In other words, it would have been
22 difficult for Henry to start telling Betty or Claire what
23 to do or Claire to be telling Anthony what to do, and that
24 would have caused more problems than it would solve.

25 So the Congressman decided to divvy up Chuck's duties

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1 because he had no one in his mind the way he explained to
2 me to step in and have the authority to do Chuck's job. So
3 I didn't see anything wrong with the way he went about
4 that.

5 Q. Were you ever able to personally verify whether, in
6 fact, Allen Sinclair actually worked the 30-plus hours per
7 week that you told him he was going to have to work if he
8 was going to take that job?

9 A. I wasn't his supervisor. Allen reported directly to
10 the Congressman.

11 Q. With the exception of Congressman Traficant, did he
12 have any supervisor?

13 A. No.

14 Q. When Congressman Traficant was in Washington during
15 his travel day on Monday, Tuesday, Wednesday, Thursday and
16 his travel day on Friday, who supervised Allen Sinclair?

17 A. Allen Sinclair.

18 Q. During the times that Congressman Traficant's back at
19 the district, if he's out at the farm, working and doing
20 chores, who's supervising Allen Sinclair?

21 A. Allen Sinclair is, but that's -- I mean, there's a
22 level of trust we work -- there was no one supervising me,
23 either. The Congressman was gone for long stretches of
24 time. The Congressman when Congress is in session so --

25 Q. Were you in an office by yourself or did you have a

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1 staff of other people?

2 A. A staff of other people, and there was regular
3 contact with people in the district.

4 Q. Did you have a side job, full-time job and side
5 besides your position as chief of staff?

6 A. Other than being in housing, no.

7 Q. The legislative director at the time Allen Sinclair
8 was hired, what is his name?

9 A. Daniel Blair.

10 Q. How long had Blair been in the office?

11 A. I believe he started in June of 1987.

12 Q. Did you see any valid reason to give Allen Sinclair a
13 higher salary than a guy that had been with the office
14 since 1987?

15 A. To my standpoint, no, but I -- I wasn't -- I didn't
16 know Allen personally. I got the feeling the Congressman
17 did. The Congressman felt he was worth that.

18 Q. And who actually has the full right and authority to
19 make that call in the end?

20 A. A member of Congress. Members of Congress had great
21 latitude in personnel matters.

22 Q. I'd like to ask you some questions about the issue of
23 building ownership.

24 THE COURT: I want you to think also about
25 the time we're getting very close to 4:30. So maybe you

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1 can predict whether this is a good place to stop or whether
2 you should go through these questions.

3 MR. MORFORD: I can get through this in about
4 three questions.

5 THE COURT: Okay.

6 BY MR. MORFORD:

7 Q. Did you ever question -- strike that.

8 To what extent did you address the issue of building
9 ownership with Allen Sinclair?

10 A. In my discussions with Allen, sending him the pay for
11 Government employees, I recall the issue of ownership of
12 the building at 11 Overhill Road came up, and Allen said to
13 me that his wife owned the building, would that be a
14 problem. I went and looked at the ethics rules. I'm not a
15 lawyer. The ethics rules, as I recall it, what I -- what I
16 took from the ethics manual was that as an employee, Allen,
17 could not have any interest in the building at all.

18 Q. Let me ask you about that. Could he have just put
19 the building in a nominee name and maintained beneficial
20 ownership, or don't you know?

21 A. I am not an ethics lawyer. I -- to me, the rules
22 were not crystal clear on whether his wife owning it was a
23 violation or not. My sense was, just from a common sense
24 standpoint, probably would make sense for him to divest
25 himself in the building and not have any ownership.

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1 But what I recall telling Allen was, look, I'm not
2 clear about what the rules say. My sense is you should
3 sell the building, or perhaps if you filed the taxes
4 separate from your wife, that might be okay. But let me
5 fax you the rules, and you look them over and resolve it in
6 such a way that you're in accordance with the rules.

7 Q. Did he tell you who his wife obtained the building
8 from?

9 A. No.

10 Q. Having just gone through all the building issues with
11 Henry DiBlasio, did you have concerns about the building
12 issues now with Allen Sinclair?

13 A. To be honest with you, that was one of hundreds of
14 things I was dealing with at any particular time. I -- I
15 don't know how to say this, but I viewed the district
16 problems as problems I didn't want to have to deal with. I
17 had a full plate in Washington to deal with. We had a full
18 agenda, and there were headaches I really didn't want to
19 deal with.

20 But I did feel a responsibility to Allen to fax him
21 the ethics rules, and I trusted him enough because he was
22 someone the Congressman put trust in. Look at the rules,
23 you're an attorney, work out the building arrangements so
24 you're in accordance with the ethics rules.

25 Q. How much control did you have over the whole

Marcone - Direct/Morford

1 situation with Allen Sinclair, actual control?

2 A. Short of me threatening to quit, I don't have any --
3 I didn't have -- the Congressman had full control over that
4 situation. My responsibility was to inform the Congressman
5 what was permissible or not permissible in the ethics
6 rules.

7 For example, if he wanted to pay Allen over a certain
8 amount, then Allen would not have been able to practice
9 law, for example. So my responsibilities were to inform
10 the Congressman what he could and couldn't do. The
11 decision harder was the Congressman's.

12 Q. Did you advise him not to do this?

13 A. I don't think I ever told the Congressman don't hire
14 Allen. I think I made it clear I didn't think it was a
15 particularly good idea at that salary.

16 MR. MORFORD: I can stop here, your Honor.

17 THE COURT: Thank you.

18 We're going to recess and resume tomorrow morning at
19 9:00, and so the usual admonitions you remember. Don't
20 talk to anyone, allow anyone to talk to you, don't watch
21 view or listen to anything about the case, don't
22 investigate the case. I want the lawyers to stay briefly,
23 but have a pleasant evening. It's pretty nice out there.

24 (Proceedings in the absence of the jury:)

25 THE COURT: I just want to make sure there's

Marcone - Direct/Morford

1 nothing that we need to handle at 4:30. I know you at one
2 time had something, and I understand --

3 MR. TRAFICANT: I had discussions with the
4 Prosecution, and I'm satisfied.

5 THE COURT: Good.

6 MR. TRAFICANT: That the information they
7 gave me as long as they're truthful with it.

8 THE COURT: How about 8:30 in the morning?
9 We'll see you again, have you back here, so if anything
10 comes up between now and then, we can deal with it before
11 the jury comes.

12 MR. TRAFICANT: Fine with me. Thank you.

13 THE COURT: Very well, sir.

14 MR. SMITH: Have a good evening, your Honor.

15 THE COURT: Thank you.

16 (Proceedings adjourned.)
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1192

1	DIRECT EXAMINATION OF GEORGE BUCCELLA.....	1073
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C E R T I F I C A T E

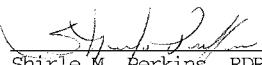
8 I certify that the foregoing is a correct
9 transcript from the record of proceedings in the
10 above-entitled matter.

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Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622

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

4 UNITED STATES OF AMERICA,)
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TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON FRIDAY, FEBRUARY 22, 2002

Jury Trial

Volume 7

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.

Marcone - Direct

1 Friday Session, February 22, 2002, at 9:15 A.M.

2 THE COURT: Ladies and gentlemen, you see
3 Heidi Geizer here. I gave you her name a long while ago.
4 She's one of our court reporters, and she's with us today.
5 And so I just wanted you to make the connection with her.
6 You're still under oath, sir.

7 THE WITNESS: Yes.

8 THE COURT: Very well. Mr. Morford.

9 MR. MORFORD: Thank you, your Honor.

10 DIRECT EXAMINATION OF PAUL MARCONE (Resumed)

11 BY MR. MORFORD:

12 Q. Good morning, Jim.

13 A. Good morning.

14 Q. Go ahead get, your water, Paul.

15 When we left off yesterday, I had just asked you a
16 series of questions regarding the duties and salaries of
17 Henry DiBlasio and Allen Sinclair. Do you recall that?

18 A. Yes.

19 Q. And I just want to finish up a few questions about
20 that before I move into a new area. Who was it who
21 determined the actual duties that would need to be
22 performed and not performed by Henry DiBlasio and Allen
23 Sinclair?

24 A. The Congressman.

25 Q. And who was the only person who supervised the work

Marcone - Direct

1 of these two staff members?

2 A. The Congressman.

3 Q. Did Henry DiBlasio have to account to anyone besides
4 Congressman Traficant as to how he spent his time?

5 A. No.

6 Q. How about Allen Sinclair?

7 A. No.

8 Q. Did you personally have any way of knowing how hard
9 Henry DiBlasio was working or not working?

10 A. I had no direct way of knowing since I was in
11 Washington and he was in Ohio. However, because of my
12 interaction with Henry, I can get an idea for some of the
13 work he was doing.

14 Q. As I understand your testimony, you know he'd been
15 out to a meeting and told somebody to call you. My
16 question is, did you have any way of knowing how hard he
17 was actually working, how hard he was working?

18 A. No, I was not his direct supervisor and I wasn't
19 there, no.

20 Q. So independent of what Congressman Traficant might
21 have told you, you had no way of knowing how hard he was
22 working?

23 A. That is correct.

24 Q. What was Congressman Traficant's demeanor and
25 reaction when you questioned him regarding the complaints

Marcone - Direct

1 you were receiving about Henry DiBlasio's work habits and
2 salary?

3 A. He just simply said, "Henry works very hard, and you
4 worry about the Washington office and I'll worry about the
5 district office."

6 Q. I understand. What was his demeanor?

7 A. He was somewhat upset that I raised that issue, and
8 by his demeanor made it clear that really wasn't an area
9 that I should be venturing into.

10 Q. I'd like to ask you some questions regarding your
11 first appearance as a witness before the Grand Jury back on
12 April 26, 2000. Okay?

13 A. Yes.

14 Q. What if any conversation did you have with
15 Congressman Traficant about your upcoming Grand Jury
16 testimony between the time that you first received notice
17 that you had to come to Cleveland and testify and the time
18 you actually came and testified?

19 A. I had -- I had a brief conversation with him letting
20 him know I was going to testify, and then I had a
21 conversation out in the hallway by the elevators, a very
22 brief one.

23 Q. Why did you have a conversation in the hallway?

24 A. I assume the Congressman was concerned that his
25 office might be bugged.

Marcone - Direct

1 Q. What made you assume that?

2 A. Something that he had discussed with me over a period
3 of the years.

4 Q. By saying that, did he ask you to come out in the
5 hall so he can talk to you about this?

6 A. Yes.

7 Q. And did he suggest to you in any way how you should
8 ask -- how you should answer certain questions that might
9 be asked of you in the Grand Jury?

10 A. No, he didn't suggest how I should answer questions.
11 He -- I don't really recall the exact wording what he said,
12 but he said something to the effect that, you know, Henry
13 DiBlasio worked very hard and Allen did work on the
14 economic development issue, and he had worked hard as well.

15 Q. How does that topic come up? "Oh, by the way"?

16 A. Well, he was bringing me out in the hallway. It was
17 obvious that he wanted to say something about my pending
18 testimony.

19 Q. But what did he say as he brought up how you should
20 answer questions that you were asked about? What did he
21 say? I mean, how does that come up?

22 A. I think he just simply said, "You know Henry worked
23 very hard, and Allen worked in the economic development
24 issue." That's basically what he said.

25 Q. Was that in the context if the Grand Jury asked you?

Marcone - Direct

1 A. No, I don't think he used those terms. He just
2 simply stated those two things about Henry and Allen.

3 Q. Do you recall testifying at that Grand Jury session,
4 saying he said if they asked you about Henry, tell them
5 that Henry worked very, very hard and was a good employee,
6 and if they ask you about Allen, say Allen was hired to
7 work on the Regional Economic Development Authority, and
8 that I had only intended to hire him for a year, and that's
9 what he was working on?

10 A. Right.

11 Q. And that he worked very hard? You recall that?

12 A. At the time I was testifying that conversation
13 happened less than a week earlier, so it was fresh in my
14 mind. That sounds about right.

15 Q. So he's saying to you if they ask you about Henry,
16 say this, and if they ask you about Allen, say that?

17 A. Um-hum.

18 Q. And was that true to the best of your knowledge, what
19 he was telling you to say about Allen?

20 A. I think I told him in the hallway I wasn't Henry's
21 supervisor, I don't know how hard he worked, and I don't
22 know what Allen did.

23 Q. Did it bother you that Congressman Traficant had
24 taken you out into the hallway and was telling you if the
25 Grand Jury asks you about Henry DiBlasio, say this, and if

Marcone - Direct

- 1 they ask you about Allen Sinclair, say that?
- 2 A. It bothered me in the sense that what I wanted him to
- 3 tell me was just go in there and tell the truth.
- 4 Q. When and how did you first learn that there was a
- 5 Grand Jury looking into allegations of impropriety
- 6 involving Congressman Traficant?
- 7 A. It was in December of 1999, I got a phone call from
- 8 the House counsel indicating that our office records had
- 9 been subpoenaed by the U.S. Attorney's Office.
- 10 Q. I'm sorry, when was that approximately?
- 11 A. I believe December of '99.
- 12 Q. And when you received that call, did you discuss it
- 13 with anyone?
- 14 A. I immediately called the Congressman, who was in Ohio
- 15 at the time.
- 16 Q. And what did you inform him?
- 17 A. I passed on the information that I had received from
- 18 the U.S. Attorney's Office and I believe you -- what I
- 19 received from the House counsel, and I believe the House
- 20 counsel informed me of what the deadline was, and what
- 21 needed to be done to comply.
- 22 I explained to the Congressman that I would go to the
- 23 House counsel and personally review the boxes of documents
- 24 with them so that we were familiar with what we were
- 25 turning over, and then it was at the Congressman's

Marcone - Direct

1 discretion whether or not he wanted to turn over the
2 documents. I believe that the Congressman decided to turn
3 over the documents since many of the documents were public
4 records.

5 Q. Now, at the time that you conducted a review of
6 documents that had been subpoenaed from the custodian of
7 the office of Congressman Traficant, what was your actual
8 position at that time?

9 A. I was Congressman's chief of staff in the Washington
10 office.

11 Q. By that time had you taken on duties with respect to
12 the District Office?

13 A. Not at that time, no.

14 Q. Did you review files of not only the Washington
15 office but the District Office?

16 A. Yes, there were phone records and payroll records.

17 Q. Did there come a later time where you also looked at
18 case work constituent service files?

19 A. Yes, a broader subpoena that was issued later in the
20 Year 2000. I went to the House counsel's office, there
21 were many boxes of documents, and I reviewed many of them
22 with the House counsel, and some of them had to do with
23 constituent work. I know that the Youngstown and Trumbull
24 County offices had done searches of documents based on the
25 parameters of the second subpoena that was issued.

Marcone - Direct

1 Q. Did you coordinate the compliance for that subpoena?

2 A. Yes, I did.

3 Q. And through that subpoena, were documents provided to
4 the Government that were part of the records that were made
5 and maintained through the office of Congressman Traficant?

6 A. Yes, documents were provided.

7 MR. TRAFICANT: Can you repeat the question
8 for me, please?

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

11 Q. Now some of those documents that you provided relate
12 to constituent services that were provided for the Buccis?

13 A. Yes.

14 Q. Dave Sugar?

15 A. Yes.

16 Q. Pete Bucheit?

17 A. Yes.

18 Q. J. J. Cafaro?

19 A. Yes.

20 Q. Let me ask you some questions about a man named Tony
21 Bucci. Are you familiar with a man by the name of Tony
22 Bucci?

23 A. I'm familiar with the name Bucci, I'm not familiar
24 with the man.

25 Q. Who is Bucci, as you understood it?

Marcone - Direct

1 A. Bucci was the owner of a contracting company in the
2 Congressman's district.

3 Q. What was your understanding of what type of contract
4 work the Buccis did?

5 A. I believe it was pavement work.

6 Q. Do you recall what type of paving work it was?

7 A. Highways.

8 Q. How did you first come to know this name, Bucci?

9 A. I don't recall the exact time frame, but a member of
10 my staff came into my office and was concerned with the
11 Congressman and asked them to help a company in the
12 district by the name of Bucci that had been disbarred from
13 bidding, I believe, on state contracts, and jobs were at
14 stake, but he didn't feel comfortable going to bat for the
15 company because the company had violated some statutes.
16 I'm not clear what the statutes were, but I do remember he
17 was upset that he had to help him.

18 Q. Who was upset?

19 A. Jim Welfley, the staff person.

20 Q. And who was directing him to go ahead and help the
21 Buccis anyway?

22 A. The Congressman asked him to do that. He came to me
23 because he was -- he had concerns about the Buccis.

24 Q. Who had concerns?

25 A. Jim Welfley did.

Marcone - Direct

1 Q. Did the Congressman have any concerns about the
2 Buccis?

3 A. I raised the issue with the Congressman, and he
4 simply said, "Look, these guys jobs have 250 jobs at stake,
5 they made mistakes, they paid their dues, they're low
6 bidder on a contract. We just want them to be treated
7 fairly, and their job is at stake in my district," and sat
8 Jim down and explained to him. I just asked -- I forget
9 what agency they were dealing with, whether it was the
10 Department of Labor, but my --

11 Q. Can I interrupt you a minute? There's two Jims here,
12 that's why I need you to say when you say "I told Jim this"
13 or "told Jim that."

14 A. Okay. I'll always refer to the Congressman as "the
15 Congressman."

16 Q. Okay. When you say "Jim" you're talking about?

17 A. Jim Welfley.

18 Q. Okay.

19 A. I simply said, "Write a letter of that, simply ask
20 the Government to review the case and treat the company
21 fairly," and the Congressman was fine with that.

22 Q. Well, when the Congressman is telling you these guys
23 made a few mistakes, what was your understanding of the
24 nature of the mistakes?

25 A. Again, I don't recall the details, but it was some

Marcone - Direct

- 1 violation of state law or federal law, I believe a
2 withholding benefits. I'm not clear what the violation
3 was, but I know that Welfley was upset because he thought
4 the violation was serious and willful, and that we
5 shouldn't be helping that kind of company.
- 6 Q. And you conveyed that to Congressman Traficant?
- 7 A. Yes.
- 8 Q. Now, you said he told you there are 250 jobs at
9 stake. Do you know if that was even true?
- 10 A. There was no way for me to verify that.
- 11 Q. Another thing when you took his word?
- 12 A. Yes.
- 13 Q. I'd like, if you would, if you would turn and take a
14 look at what's marked Government's Exhibit 2-14 in front of
15 you there. It's probably the second or third document in
16 that stack.
- 17 A. Um-hum.
- 18 Q. Can you tell us what that is?
- 19 A. I kept spiral notebooks to keep track of my phone
20 calls and meetings. That -- I believe that's a memo from
21 one of the Bucci brothers.
- 22 Q. Okay. Before you go further, is that your
23 handwriting?
- 24 A. That is my handwriting, yes.
- 25 Q. Was this sort of a little journal, if you will, or

Marcone - Direct

1 notes that you would keep?

2 A. Right, and I believe what I did was I called Tom
3 Williams at ODOT, just from looking at the --

4 MR. MORFORD: Before you go further, your
5 Honor, may I put this up on the board?

6 THE COURT: You may, but I want to caution
7 you that you don't overspeak the witness, okay?

8 Yes, you can put it up.

9 MR. MORFORD: Thank you.

10 BY MR. MORFORD:

11 Q. Let's start with -- let's start with the top half.

12 A. Yes.

13 Q. Can you explain that?

14 A. Again, I don't recall these conversations, but based
15 on the way I took notes, I would -- I would say that my
16 conversation with Tom Williams at ODOT, he relayed to me
17 that the company had some contracting problems. I then
18 called Cheryl Worley, who I knew at ODOT, who dealt in
19 legislative affairs, got no answer from her.

20 Q. And if we go to the second half?

21 MR. TRAFICANT: What was the name of that
22 Cheryl?

23 THE WITNESS: Worley.

24 A. The second is my notes that I took of the
25 conversation that the Congressman had with Jerry Wray.

Marcone - Direct

1 Q. You say the Congressman had?

2 A. JAT is my -- that's how I refer to the Congressman
3 when I took notes.

4 Q. And was this a phone conversation or a personal
5 conversation?

6 A. It's a phone call. It's a phone call between Jerry
7 Wray, the Congressman below that, regarding the Bucci
8 brothers.

9 Q. Were you present during that phone conversation?

10 A. Yes, I was.

11 Q. Okay. And basically, what was the topic that was
12 discussed?

13 A. The Bucci brothers, re Bucci brothers.

14 Q. Okay. It says there, "Problem, Tom Williams, ODOT."
15 What was the problem with Tom Williams, ODOT?

16 A. Again, I don't recall, but based on the way I took
17 notes, probably the Congressman relayed to Jerry Wray that
18 Tom Williams of ODOT was indicating there was a contracting
19 problem with the Buccis; again, based on my notes, that
20 Congressman probably mentioned there were 250 jobs at
21 stake, that he asked Jerry Wray to meet personally with the
22 Buccis. Jerry Wray then indicated that ODOT does have an
23 investigation ongoing in the district, but that the
24 conversation ended where Jerry told the Congressman that he
25 would call the Buccis at the Congressman's request.

Marcone - Direct

1 Q. Who is Jerry Wray?

2 A. I believe he was the head of ODOT at the time,
3 somebody I worked very closely with on the federal
4 transportation.

5 Q. Was he the head of the entire Ohio Department of
6 Transportation?

7 A. I believe at the time, he was.

8 Q. So he would have been Tom Williams' boss?

9 A. Yes.

10 Q. And from what you're telling us, the Congressman was
11 requesting that the head of the Ohio Department of
12 Transportation personally meet with the Buccis at his
13 request?

14 A. Correct.

15 Q. How typical was it for Congressman Traficant to
16 personally get involved with a constituent service matter
17 like this?

18 A. It wasn't unusual, but the majority of constituent
19 services cases were handled by the staff, but I've seen the
20 Congressman make phone calls like this on many occasions.

21 Q. What type of factors would cause him to jump in and
22 personally make the phone call as opposed to leaving it up
23 to you or Jim Welfley or somebody else?

24 A. It would depend on how strongly he felt about it.

25 Q. Was this one that he seemed to feel strongly about?

Marcone - Direct

1 A. Yes.

2 Q. Turning your attention to Exhibit 2-42.

3 A. Um-hum.

4 Q. Do you recognize that document?

5 A. Yes, it's a memo Jim Welfley wrote to the Department
6 of Labor.

7 Q. As Mr. Welfley's supervisor, did you play any role in
8 the drafting of this document before it went out?

9 A. I don't believe I -- I simply asked Jim to give me a
10 copy of it, but as I mentioned earlier, my instructions to
11 Jim were simply intervene on behalf of the company in the
12 sense that we would ask them to review the case and treat
13 the company fairly.

14 MR. MORFORD: Your Honor, at this time may I
15 put this on the overhead?

16 THE COURT: Yes

17 BY MR. MORFORD:

18 Q. Do you know who Mark Cohen is?

19 MR. TRAFICANT: What's the number?

20 MR. MORFORD: Sorry, Government's Exhibit
21 2-42.

22 Q. Do you know who Mark Cohen is?

23 A. No.

24 Q. What's the date of this memo?

25 A. March 27, 1996.

Marcone - Direct

1 Q. And if you could read the body of the memo, please?

2 A. "For defrauding the Department of Transportation, the
3 DOT debarred Prime Contractors, a highway construction
4 company owned by Robert and Anthony Bucci in Congressman
5 Traficant's congressional district, from participating in
6 any federal government contracting or government approved
7 subcontracting beginning March 18, 1993.

8 "Although the period for debarment was to last three
9 years for each of the Buccis, the DOT reduced the debarment
10 to 18 months for Anthony and six months for Robert. In
11 October, 1993, the Department of Labor offered the Buccis a
12 hearing, as the transgression against the DOT also involved
13 the transgression of the Davis-Bacon Act. The Buccis did
14 not testify, and the DOL debarred the Buccis for three
15 years, starting March, 1994.

16 "Given the leniency the Buccis were given by the DOT,
17 the Buccis hope the DOL may, too, see the transgressions
18 did not merit a three-year debarment. As the bidding for
19 the 1996 federal highway contracts reaches a fever pitch,
20 it is imperative the Buccis be removed from the debarment
21 list. If the Buccis do not win contracts this year they
22 will go under and, with them, 250 hard-working Ohioans. I
23 have spoken with Timothy Helm of the DOL's Government
24 Contracts Enforcement Team. He has been very helpful and
25 has given me the necessary information to aid the Buccis in

Marcone - Direct

1 removing themselves from the debarment list via Section
2 5.12(a) of the Davis-Bacon Act. Although following the
3 procedure detailed in Section 5.12(a) may be the answer, it
4 may also take up to 60 days. The Congressman would like
5 the secretary to know that 60 days will devastate the
6 Buccis, Prime Contractors, and 250 innocent workers.

7 "The Buccis have paid their fines, and one has even
8 served time in prison. They are ready to go back" -- "to
9 get back to work. The Congressman hopes the secretary can
10 help."

11 Q. Okay. Now, the second paragraph you read, "Although
12 the period of debarment was to last three years, the DOT,
13 Department of Transportation, reduced the debarment to 18
14 months for Anthony and six months for Robert." Did
15 Congressman Traficant tell you whether he personally had
16 been responsible for the DOT reducing that debarment?

17 A. No.

18 Q. He didn't tell you that?

19 A. No.

20 Q. When your office tells the Department of Labor that
21 if the Buccis do not win contracts this year they will go
22 under, and with them 250 hard-working Ohioans, again, it
23 says the Congressman would like the secretary to know that
24 it will devastate the Buccis and 250 innocent workers, did
25 you do any independent research to find out if there were

Marcone - Direct

1 even 250 employees of this company?

2 A. Not to my knowledge.

3 Q. That was based on what the Congressman told you?

4 A. Right.

5 Q. Were you aware at the time, Mr. Welfley, under your
6 direction, was sending this memo to the Department of Labor
7 on March 27, 1996, and at the time that you were contacting
8 ODOT, the Ohio Department of Transportation, in June of
9 1995, were you aware at that time as you're doing that work
10 that Congressman Traficant had the Buccis out at his farm
11 doing work?

12 A. Absolutely not, no.

13 Q. As you're discussing with the Congressman Traficant
14 the concerns that Mr. Welfley has about the Buccis --

15 A. Um-hum.

16 Q. -- he doesn't tell you about that?

17 A. No, he simply reiterated over and over there were
18 jobs at stake, that the Buccis had paid their dues, and
19 that if they didn't get back on the list and be able to bid
20 on these contracts that the company would go under, and 250
21 people, constituents, would lose their jobs.

22 Q. When was the first time the Congressman Traficant
23 ever admitted to you that the Buccis had actually been out
24 to his farm and done work?

25 A. It was in early 2000, the newspaper reports made a

Marcone - Direct

1 big circus about the Grand Jury investigation and about the
2 fact that the Buccis allegedly had done work at his farm,
3 and we were getting questions from reporters about that.

4 Q. Prior to that time when the work was actually being
5 done for the Buccis, it was never mentioned to you?

6 A. That's correct.

7 Q. Now I'd like to ask you some questions about a man
8 named Pete Bucheit. Do you know a man named Pete Bucheit?

9 A. Yes, I do.

10 Q. How did you come to know Pete Bucheit?

11 A. I came to know Pete Bucheit when I began working
12 again for the Congressman in '93. I originally met -- my
13 original contact with Mr. Bucheit had to do with a building
14 that they owned in Washington, D.C. on A Street that they
15 were trying to sell to the General Services Administration.

16 Q. How would you describe the extent to which Pete
17 Bucheit had access to the offices of Congressman Traficant
18 when he would come to Washington?

19 A. My view of Mr. Bucheit with that was he was a close
20 friend of the Congressman, that when he came to the office,
21 he had full access. He could sit in the Congressman's
22 office, he could use the phones, and he was viewed as a
23 close friend of the Congressman and was treated
24 accordingly.

25 Q. Did there ever come a time when you specifically

Marcone - Direct

1 asked Congressman Traficant whether Pete Bucheit had ever
2 done any work for him?

3 A. No.

4 Q. How about after allegations began to surface. Did
5 you ever have a conversation with him at that time?

6 A. I might have. I distinctly remember asking the
7 Congressman about the Buccis doing work on his farm because
8 that was the nature of the questions I was getting from
9 reporters. I don't recall if I ever asked him about the
10 Bucheits. I might have, I just don't specifically remember
11 asking him about the Bucheits doing work at his farm.

12 Q. Let me ask you this, do you recall this question and
13 this answer at your April 26, 2000 Grand Jury appearance,
14 and this would be Page 123, beginning at Line 12.

15 Question: Have you ever talked to Congressman
16 Traficant about whether or not Bucheit did any work?

17 Answer: I mentioned that a reporter had called
18 asking about the Bucheits. The only thing he said was we
19 helped him out in Saudi Arabia, also helped him out with
20 the investment they had in the Gaza Strip. I asked him
21 about the work they did on the farm, and he said, no,
22 that's not true.

23 Question: He said they never did work?

24 Answer: I don't know if he said they never did work,
25 he just said that's not true.

Marcone - Direct

1 Question: What's not true?

2 Answer: The allegation that they did work on the
3 farm.

4 A. Again, when I appeared in April, the conversation I
5 would have had with the Congressman about the Bucheits
6 would have happened within 60 days, because that was right
7 around the time that the reporters were calling and
8 allegations were being made in the press. So that -- that
9 conversation would have been fresh in my mind.

10 Q. Having heard that now, does that refresh your
11 recollection as to whether you had that conversation with
12 Congressman Traficant?

13 A. There were so many conversations, that sounds -- that
14 sounds like the typical conversation I would have had with
15 him around that time period.

16 Q. But, you're saying at the time you testified that was
17 fresh in your mind, correct?

18 A. Correct, because it would have happened within six
19 weeks.

20 Q. Now, there's two things mentioned. One is Saudi
21 Arabian assistance. Did you have any role or any
22 participation in the Saudi Arabian assistance?

23 A. No, that happened during the period I was not working
24 for the Congressman; in the late 80's, early 90's, I would
25 assume. So I was not involved with that. I distinctly

Marcone - Direct

1 remember I was -- I was in a supervisory role during the
2 Gaza Strip investment, so I was very familiar with that,
3 our role in that.

4 Q. I'd like to show you, have you take a look at what's
5 been marked Government's Exhibit 7-32.

6 A. Okay.

7 Q. Do you see that?

8 A. Yeah.

9 Q. Do you see a date up in the right-hand corner?

10 A. Yeah, 3-24-93, March 24, 1993.

11 Q. Okay. And whose handwriting was that?

12 A. That is my handwriting.

13 Q. And was this again your notes from your journal?

14 A. Spiral notebook, yes.

15 MR. MORFORD: Your Honor, may I put this up?

16 THE COURT: Yes.

17 BY MR. MORFORD:

18 Q. At the top it says, is that GSA briefing?

19 A. Yes.

20 Q. And then down at the bottom, can you tell us what
21 that says?

22 A. "Bucheit, GAO has no interest in building at this
23 time."

24 Q. Okay, what were you doing around March 24, 1993 that
25 caused to you write these notes, "Bucheit, GAO has no

Marcone - Direct

1 interest in building at this time"?

2 A. As I stated earlier, we were trying to assist the
3 Bucheits in selling a building they owned on H Street,
4 Washington, D.C., through General Services Administration
5 or any entity of the federal government. One of the
6 entities was the General Accounting Administrative Office,
7 which was a division of Congress. And based on this note,
8 from what I can recall, the building did not meet the
9 federal specifications for occupancy, so even if the
10 federal government wanted to buy the building, they
11 couldn't because it didn't meet federal specs.

12 Q. Who was it that directed you to do this for the
13 Bucheits?

14 A. Congressman asked me to help, and I was working with
15 the Bucheits on this.

16 Q. Did he ever tell you that at or about the same time
17 you were placing these calls, the Bucheits were out at the
18 farm doing work?

19 A. No.

20 Q. Next, if you can turn to Government's Exhibit 7-41.

21 A. Um-hum.

22 Q. Do you recognize that?

23 A. Again, that's my notebook, it's my handwriting.

24 Q. And can you tell us what that says?

25 A. Looks like it's a note of a phone call or

Marcone - Direct

1 conversation I had with either Lisa Bucheit or Pete Bucheit
2 indicating that Pete Bucheit was very pleased with the Gore
3 letter.

4 Q. Okay. Who is Lisa Bucheit?

5 A. I believe it's Pete Bucheit's daughter.

6 Q. And what's the date on this?

7 A. 8 -- August 17th. I don't know what year.

8 Q. Okay. Do you recall there being a, quote, Gore
9 letter?

10 A. I recall that we wrote many letters on behalf of the
11 Bucheits to Madeline Albright, Secretary of State under
12 President Clinton, as well as letters to Vice-President
13 Gore, and the president as well, on behalf of the Bucheits.

14 Q. Keeping that date, 8-17, in mind, could you take a
15 look at Government's Exhibit 7-40?

16 A. Um-hum.

17 Q. And what is that document?

18 A. That is a letter that the Congressman sent to the
19 vice-president August 16, 1994, and the letter was drafted
20 by Jim Welfley.

21 Q. Okay.

22 MR. MORFORD: Your Honor, may I put that
23 exhibit up? This is again Government's Exhibit 7-40.

24 Q. And who was this letter signed by and who was it sent
25 to?

Marcone - Direct

1 A. The letter was ultimately signed by the Congressman,
2 and it was faxed and delivered to Vice-President Gore.

3 Q. And can you go ahead and read the body of the letter,
4 please?

5 A. "Bucheit International, Inc., a family-owned business
6 from my congressional district since 1908, has been invited
7 to open up a manufacturing business in Gaza City.

8 "I respectfully request your help in officially
9 recognizing the Bucheits as legitimate businessmen in the
10 Middle East. Bucheit has had an extensive experience in
11 the Middle East and the owner of exclusive rights to the
12 state-of-the-art process for the manufacturing and erection
13 of precast building components. This process, which the
14 Bucheits will introduce to the region, enable the family to
15 supply components that are the highest quality, produced
16 quickly, and cost a fraction of those produced through
17 usual methods.

18 "Bucheit has agreed to lease the site in Gaza City,
19 where they will erect their new plant, heretofore operation
20 in the port at Hedera, Israel. The plant will assist the
21 developers in both Gaza and Israel in meeting their housing
22 requirements. Bucheit plans to be in full operation in
23 Gaza no later than October 15, 1994, and is already
24 negotiating a contract with the UNWRA to build 25 schools
25 in the city.

Marcone - Direct

1 "As you can imagine, with an overall investment of
2 over \$3 million, Bucheit intends to act cautiously. To
3 help protect this enormous investment against political
4 acts of terrorism, change in laws, and other pitfalls, the
5 Bucheits are pursuing insurance from OPIC. In politically
6 unstable environments, such as Gaza and Israel, I believe
7 this is wise.

8 "By officially recognizing the Bucheits' presence in
9 Gaza, you, too, can help minimize these pitfalls.

10 "Countries with a financial interest in the area are
11 looking for enterprises like Bucheit to set up operations
12 in the region and bring with it the windfall of training,
13 employment, revenue, and infrastructure. Why not help an
14 American company carry out this bold initiative?

15 "After much consideration, I believe that this could
16 be a win/win situation for both American business and our
17 friends in the Middle East. Please help Bucheit in their
18 quest to freely trade with Israel and Gaza by officially
19 recognizing their presence in the region.

20 "Thank you in advance for your assistance. I look
21 forward to your response."

22 MR. TRAFICANT: Can you raise that down, let
23 me see the signatures?

24 Q. You said this is a letter actually sent by your
25 office to the vice-president, correct?

Marcone - Direct

1 A. Yes, but I don't know why we -- normally I instruct
2 our staff to keep signed copies of everything, so I don't
3 know why we don't have a signed copy of it.

4 Q. The body of the letter talks about OPIC and risk
5 insurance. Can you explain what that is and what you were
6 trying to get the vice-president to do for Bucheit?

7 A. Yeah. OPIC, Overseas Private Investment Corporation,
8 it's a quasi-governmental corporation that provides risk
9 insurance for American businesses for making investments
10 overseas, especially in politically unstable regions. The
11 purpose of OPIC is to encourage American investment in
12 third world or poor nations, and also provide some
13 incentive for American companies to invest in those regions
14 by providing them with risk insurance.

15 Q. In August of 1994 when this letter was prepared, did
16 Congressman Traficant tell you that he owed the Bucheits
17 \$30,000 for work they had done on the farm?

18 A. No.

19 Q. To your knowledge, did OPIC, the Overseas Private
20 Investment Corporation, provide loans and political risk
21 insurance to the Bucheits?

22 A. Eventually, they did.

23 Q. And did a dispute ever arise regarding that and the
24 insurance?

25 A. Yes, my recollection is that there was prolonged

Marcone - Direct

1 dispute between the Bucheits, OPIC and the Palestinian
2 authority that went on for years, and Pete Bucheit was
3 calling our office continuously. I was not personally
4 handling it, but Kim Harris on our staff was.

5 My recollection was that Kim brought to my attention
6 that there were certain things that the Bucheits needed to
7 do to get the insurance or get the Government to help them
8 and that they would not come through on that. And I told
9 Kim, make it very clear to Pete that we couldn't help them
10 if they didn't follow through on their end of it.
11 Eventually, the Bucheits did do that. Eventually they were
12 helped.

13 Q. As your office was talking with OPIC and the State
14 Department and the Department of Commerce, were they
15 challenging the position of Pete Bucheit?

16 A. Yes, they were.

17 Q. I'd like you to take a look at Exhibit 7-55.

18 A. Yes.

19 Q. Just the front page of that exhibit. Do you see
20 that?

21 A. Yeah.

22 Q. And do you recognize that handwriting?

23 A. That's Kim Harris' handwriting, yes.

24 Q. Who was Kim Harris?

25 A. She's our legislative assistant at that time who

Marcone - Direct

1 handled foreign affairs, and was directly handling the
2 Bucheit case.

3 Q. Who assigned to her the duty of handling the Bucheit
4 case?

5 A. That would have fallen under her duties as foreign
6 affairs. I was the one who assigned the case to her.

7 Q. And who supervised her work on the Bucheit matter?

8 A. I did.

9 MR. MORFORD: Your Honor, may I put this up?

10 THE COURT: Yes.

11 Q. Would you go ahead and read that, please?

12 A. "Paul, this is the State/OPIC's response to our
13 letter. Please read.

14 "How far are we going to go on this thing? Should we
15 do whatever Bucheit wants to appease him or should I try to
16 State's recommendations? Please advise."

17 Q. What's the problem she's addressing with you here?

18 A. My recollection is that Kim's an excellent staff
19 member, very thorough. She had long discussion with people
20 at the State Department, at OPIC, and they had raised
21 concerns about the Bucheits. I believe the Bucheits hadn't
22 paid the full premium on the insurance, and that was Kim's
23 concern. The way I understood it, from what Kim told me,
24 it was there were certain things the Bucheits needed to do
25 to be possible for the Government to fully help them. And

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1 this note from Kim, her concern was this case was taking up
2 the bulk of her time, and that Pete was calling her
3 continuously.

4 My recollection was that what I instructed Kim to do
5 was to make it clear to the Bucheits that they needed to
6 fulfill their end of the bargain, explain what the
7 Government was saying that they needed -- I forget what it
8 was, but they had to pay some type of premium -- explain to
9 them what they needed to do, that we couldn't help them
10 unless they help themselves in that matter, and then simply
11 in our letters to the Government, ask the Government to
12 treat the company fairly. And I think she was fine with
13 that.

14 Q. When she indicated should we do whatever Bucheit
15 wants to appease him --

16 A. Pete Bucheit was continually asking us to send
17 letters and to intervene on his behalf. And again, my
18 instructions to her were it is no problem to send letters
19 on behalf of the Bucheits, certainly, asking the Government
20 to treat them fairly. What I told her was you need to make
21 Pete -- you need to have Pete understand that we can't help
22 them unless they do what the Government asked them to do.

23 Q. Why would you even continue to do things or send
24 things to Government agencies that Pete wanted you to do
25 even though the Department of State and OPIC were opposed

Marcone - Direct

1 to the actions?

2 A. My understanding was it wasn't that they were opposed
3 to the actions, it was that they couldn't help out, for
4 example, Bueheit, until they paid their premium.

5 Q. What was the Congressman telling you he wanted you to
6 do for Bueheit throughout this time?

7 A. Most of the work we did at this point was between Kim
8 and I. In my role as chief of staff, the Bueheits were a
9 company in our district, and we were -- our responsibility
10 as staffers was to do everything we could to help them and
11 also to try and help the company help themselves. So I
12 don't ever recall the Congressman having a conversation
13 with me saying "You have to help the Bueheits out."

14 Q. Do you ever recall --

15 A. My view was that I like Pete Bueheit, he's a bit of a
16 pain in the butt, but he seemed like a nice guy, maybe a
17 bit of a stumbler and bumbler, made bad decisions and
18 trusted the wrong people, but they basically were good
19 guys, maybe in over their head, and needed our help.

20 But, we were getting -- Kim and I were getting
21 frustrated with them because there were certain things we
22 kept telling them they needed to do, and they were dragging
23 their feet on it.

24 Q. Were there times Pete Bueheit went over your head to
25 the Congressman because you hadn't taken action he wanted

Marcone - Direct

1 you to take?

2 A. That happened on several occasions.

3 Q. What would the Congressman say to you?

4 A. He said, "Come on, help these guys out." I explained
5 to the Congressman what Kim and our concerns were. I said,
6 "Look, Congressman, these people, the Bucheits, need to do
7 certain things. We can't -- you can't help them, we can't
8 help them, unless they do these things." And he said,
9 "Okay, okay, okay, but Pete's been bothering me, you need
10 to help them out."

11 And it wasn't that he was annoyed with me. I think
12 he understood the kind of person Pete Bucheit was, and I
13 took it as, you know, look, they're constituents, just do
14 what you can to help them out. And as a staff person, you
15 never want a constituent to complain to the Congressman
16 that you're not being responsive to them, so I was very
17 sensitive to that, as well.

18 Q. Would you have taken it to simply be that he wanted
19 to appease the constituent if you knew he owed Pete Bucheit
20 \$30,000 for work at that time?

21 A. Rephrase the question. I didn't --

22 Q. You said you took it to mean he was just trying to
23 help a constituent.

24 A. I mean, what we were doing for the Bucheits was
25 typical what our office, what a congressional office does,

Marcone - Direct

1 so it was nothing unusual for the Congressman coming to me
2 and talking to me about this, "We need your help."

3 Q. Would there be anything unusual if he was doing that
4 at the same time that he owed Bucheit \$30,000 for
5 construction work Bucheit had done?

6 A. Of course, yeah, that would have raised a red flag
7 immediately.

8 Q. Why?

9 A. Because it's illegal.

10 Q. And you're telling us you had no knowledge of that
11 side of the equation?

12 A. No, I didn't.

13 Q. Turning your attention to what's marked Government's
14 Exhibit 7-68.

15 A. Yes.

16 Q. Can you tell us what that is?

17 A. That is a letter that I wrote to Madeline Albright.
18 My recollection was we sent a lot of letters, Pete Bucheit
19 would fax me letters that he had sent and ask us to forward
20 them either to Madeline Albright or to Sonny Callahan, who
21 was the Congressman Callahan, he was chairman of the
22 Foreign Operations Appropriations Subcommittee, and we did
23 that. At least this letter took me all of about a minute
24 to draft. I penned it out, I believe I signed it on behalf
25 of the Congressman, sent it over to Albright, faxed a copy

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1 to Pete. That kept -- that got Pete off my back. There's
2 nothing wrong with the member of Congress sending a copy of
3 a letter to a constituent that's drafted to the Secretary
4 of State or to the chairman of the Foreign Operations
5 Subcommittee, especially the chairman of the foreign
6 subcommittee, because the Congressman had been able to get
7 language put in the appropriations bill.

8 Q. Please, as I instructed you before, I told you we
9 don't want you to testify about --

10 MR. TRAFICANT: Object.

11 Q. -- anything involving legislation.

12 MR. TRAFICANT: Object.

13 THE COURT: The objection is overruled, but I
14 do want to caution you not to just give a long story.
15 Listen to the question and try to answer the question
16 that's put to you.

17 THE WITNESS: Okay.

18 MR. MORFORD: I would ask the last part of
19 that answer be stricken from the record as unresponsive.

20 THE COURT: The last two sentences will be
21 stricken.

22 MR. MORFORD: Thank you, your Honor.

23 BY MR. MORFORD:

24 Q. You testified a moment ago that there was nothing
25 wrong with the Congressman writing a letter to the

Marcone - Direct

1 Secretary of State?

2 A. Um-hum.

3 Q. Would there be anything wrong with the Congressman
4 writing a letter to the Secretary of State at the same time
5 he was receiving something of value from the constituent?

6 A. Yes.

7 MR. MORFORD: Your Honor, may I put the
8 letter from the Secretary of State up?

9 THE COURT: Yes.

10 Q. The little initials "PM" down at the bottom, what
11 does that signify?

12 A. Signifies I drafted the letter.

13 Q. And --

14 MR. TRAFICANT: Where is the Exhibit Number?

15 MR. MORFORD: Exhibit 7-68.

16 Q. And can you go ahead and read the letter?

17 A. "Enclosed please find a copy of a letter sent to the
18 Palestinian Authority by Bucheit International, a
19 construction company based in my congressional district. I
20 am sending you this copy as a follow-up to the
21 correspondence I sent you last month regarding Bucheit's
22 problems in the Gaza Strip. Thanking you in advance for
23 your continued cooperation and leadership in ensuring this
24 situation is resolved in an equitable and expeditious
25 fashion. As you well know, the success or failure of this

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1 venture can have a major impact on the pace of foreign
2 investment in the Gaza Strip at West Bank."

3 Q. Now, you testified this only took you about a minute
4 or two to draft and send out --

5 A. Yes.

6 Q. What's the effect of Pete Bucheit sending the letter
7 to you to have you send it to the Secretary of State
8 instead of sending his letter directly to the Secretary of
9 State himself?

10 A. Generally speaking, letters to the Secretary of State
11 from members of Congress get much closer attention than
12 letters from private citizens.

13 Q. I'd now like to move to a new area and ask you
14 questions about a man named Dave Sugar. Do you recognize
15 the name Dave Sugar?

16 A. Yes, I do.

17 Q. Turning your attention to Exhibit 5-7, you see that
18 exhibit?

19 A. Yes.

20 Q. And is that your handwriting?

21 A. Yes, it is.

22 Q. And is that another entry from the spiral notebook?

23 A. Yes.

24 MR. MORFORD: Your Honor, may I place 5-7 on
25 the screen?

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1 THE COURT: Yes.

2 BY MR. MORFORD:

3 Q. Could you go ahead and read the notes and then tell
4 us what this matter was about?

5 A. "Dave Sugar, water project in Columbiana, Old Farm
6 Village," can't make that out. "Phone number, called him"
7 circled means I called and left a message.

8 Then I would indicate that he called me back, and
9 he -- by the arrow, that means he told me that he was a low
10 bidder on a job, it was a preconstruction meeting, there
11 was a delay, the paperwork's in place. No agreement yet.
12 That's all I can make out.

13 Q. Okay. Do you have any recollection of this matter,
14 how it came to be assigned to you to make this call?

15 A. Yes. The Congressman came back from the district, I
16 believe it was on a Monday or Tuesday, simply asked me to
17 call Dave Sugar, that he was having a problem with a
18 contract, there was a delay and he was losing money, if you
19 could just call and see what you could do to help him out,
20 which is what I did.

21 Q. And was Dave Sugar a name that you'd ever heard
22 before?

23 A. No.

24 Q. Describe the actions you recall taking with regard to
25 this Old Farm Village project on behalf of Dave Sugar.

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1 A. I called Dave Sugar, got his explanation as to what
2 the problem was. I called the appropriate official, I
3 don't recall whether the official was a state, county, or
4 federal official. I believe it was a woman. The person
5 simply explained to me that there was a routine delay, that
6 eventually the contract would be let. I passed this
7 information on to Dave Sugar and to the Congressman. That
8 was the last I heard of that.

9 Q. And do you recall by any chance when that would
10 occur, approximately?

11 A. No.

12 Q. Now, at the time that you were placing these calls,
13 did Congressman Traficant tell you whether or not Dave
14 Sugar had done any work at his farm?

15 A. No.

16 Q. Turning your attention to Exhibit 5-16, do you see
17 that?

18 A. Yes.

19 Q. And do you recognize that letter?

20 A. It's a letter that I drafted to the Community
21 Investment Corporation in Youngstown.

22 Q. And what was the general purpose of this letter?

23 A. The purpose of the letter was to -- was to get the --
24 the goal was to have the terra-cotta from the old Higbee
25 building which was going to be demolished somehow

Marcone - Direct

1 transferred to the new federal courthouse building being
2 built in downtown Youngstown.

3 Q. Let's step back for a minute. First of all, what is
4 terra-cotta?

5 A. I believe it's some type of surfacing on a building.

6 Q. Okay. And who wanted to have the terra-cotta taken
7 off the old Higbee building that was about to be demolished
8 and saved and put on a new federal courthouse being built?

9 A. The Congressman.

10 Q. At the time -- strike that.

11 How close in time to the time that you wrote this
12 letter was it that the Congressman first raised the issue
13 of getting the terra-cotta saved from the Higbee demolition
14 project?

15 A. My recollection, it was several months earlier he had
16 raised the issue of the terra-cotta, that it was beautiful.
17 I had seen it. He had told me it was beautiful and looked
18 really -- it would be a good idea to try to put that on the
19 new courthouse. The Congressman was concerned, as he
20 related to me, he didn't want the new courthouse to be kind
21 of a modern match box building. He wanted it to be
22 something like this, to reflect the older style of
23 courthouses, and felt the terra-cotta would help enhance
24 that effect.

25 Q. Did he tell you at the time he asked you to draft

Marcone - Direct

1 this letter that Dave Sugar was one of the bidders who had
2 bid to demolish the Higbee building?

3 A. No.

4 Q. Did he tell you that there was an issue with the
5 demolition building bidding process, that if the
6 terra-cotta was saved or not saved, it would make a
7 difference in the bidding?

8 A. My recollection, the only thing that either he told
9 me or he might have said was that he was concerned, that as
10 far as the bidding was concerned, that a local
11 Youngstown -- Youngstown area company be awarded the
12 contract rather than someone from outside the area.

13 Q. Okay. So at the same time he's asking you to write
14 this letter to GSA to get them to save the terra-cotta,
15 he's telling you he has some interest in who gets the
16 demolition contract?

17 A. Not that he had an interest. He just expressed a
18 preference that a local company get the bid to keep the
19 jobs in the area.

20 Q. Did he tell you who the local bidder was or were?

21 A. No.

22 Q. I'd like to ask questions about a man named J. J.
23 Cafaro. You know a man named J. J. Cafaro?

24 A. Yes, I do.

25 Q. How did you first come to meet J. J. Cafaro?

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1 A. I -- I've known J. J. Cafaro since 1985 when I first
2 started working for the Congressman. I don't believe I met
3 Mr. Cafaro until probably the mid to late 1990's.

4 Q. And in what context did you meet him?

5 A. He came in to meet with the Congressman about a
6 company that he either bought or was working with at the
7 time. The company was named LaserLine, Inc., it was based
8 in New Jersey, and the company was developing enhanced
9 vision technologies that could be used in U.S. airports.

10 Q. What was your understanding of the expanding of J. J.
11 Cafaro and family within the Youngstown business community?

12 A. That they were very well respected, that they were a
13 very wealthy family and had a lot of influence.

14 Q. Influence in what way?

15 A. In the business community, and also that they were
16 major contributors to the Republican party.

17 Q. And nationally or locally?

18 A. National.

19 Q. Were their contributions just limited to the
20 Republican party?

21 A. My understanding was they gave to both parties.

22 Q. Now, are you familiar with a company called the
23 United States Aerospace Group, also known as USAG?

24 A. Yes, that LaserLine eventually became USAG, and
25 headquarters moved from New Jersey to Manassas, Virginia.

Marcone - Direct

1 Q. How did you first come to know of USAG?

2 A. When the head of LaserLine had come in and met with
3 the Congressman and handed him a large loose-leaf binder
4 about the technology of the company. I was not in on that
5 initial meeting, but the Congressman handed me the
6 loose-leaf binder and asked me to look at it, and it was
7 something that we could do. And I did that. I read the
8 materials. I think I even called someone from the U.S.
9 Navy because the material claimed the U.S. Navy was
10 using --

11 THE COURT: The U.S. Navy was using?

12 THE WITNESS: The Navy was using one of the
13 types of landing lights on their aircraft carriers for
14 their pilots. My recollection was that the technology got
15 rave reviews from the Navy, that the people I spoke to
16 indicated that it's a legitimate technology, and that it
17 would save lives if it were used in U.S. airports. So I
18 passed this on to the Congressman, and the Congressman
19 said, okay, let's work with them.

20 Q. Okay. Now, did Congressman Traficant bring you into
21 the USAG matter initially or did you bring him into the
22 USAG matter initially?

23 A. It was simply a matter of him saying, okay, find out
24 what they need, and let's try to work with them. At the
25 time the Congressman was on the Aviation Subcommittee, and

Marcone - Direct

1 I handled all transportation matters for the Congressman,
2 so it would be natural for me to directly handle that.

3 Q. All right. But my question is, who had the initial
4 first conversations with J. J. Cafaro?

5 A. The Congressman.

6 Q. So he talked to J. J. Cafaro and then brought you
7 into it?

8 A. Yes.

9 Q. Without telling us what, if anything, your office
10 actually did, what was J. J. Cafaro asking the Congressman
11 Traficant to do for USAG?

12 A. Basically what it boiled down to was they needed
13 certification for the Federal Aviation Administration in
14 order to settle their problem with the airports. They had
15 a pilot. They couldn't settle at the airports because the
16 airports could not install the landing lights unless the
17 lights had been approved by the FAA. So they needed
18 approval and certification from the FAA.

19 Q. And what were they asking your office to do?

20 A. To help us get that certification and approval.

21 Q. Was there also discussion by them regarding whether
22 or not your office could help them obtain federal funds to
23 be used by airports to purchase this technology if it was
24 eventually certified?

25 A. Yes.

Marcone - Direct

1 Q. What was your personal view of the actual merits of
2 this technology?

3 A. I was very excited about it. As I said before, the
4 Navy was also using this technology on aircraft carriers.
5 The U.S. Park Police was using it at several helipads. The
6 technology I hear was remarkable, would save lives. There
7 were most of the accidents that occurred with helicopters,
8 for example, had to do with the fact that the landing
9 lights reflected back to the pilot's eyes and had glare,
10 when he looked away he couldn't see. These landing lights
11 provided no glare, and would save lives with helicopters,
12 but the remarkable thing about it was if you're flying an
13 aircraft you could pick up those laser lights as far away
14 as 20 miles, and as long as you stayed within the two arrow
15 lights you could land the plane at the same spot in the
16 runway every single time no matter what the weather was.

17 So I was excited about it. I thought it could save
18 lives. The Congressman, based on what I briefed him on, he
19 was excited about it. And also down the road there was the
20 prospect, if they did get approval and certification, that
21 they would set up manufacturing operations in the
22 Youngstown area and create jobs in the Congressman's
23 district. So it was a win-win for everyone, and I was very
24 excited, and I was very aggressive in pursuing this.

25 Q. And you felt on the merits, as you're telling us, as

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1 did Congressman Traficant, this was a very good thing to go
2 forward on, correct?

3 A. At the time, yes, and I still feel that way.

4 Q. Now, you mentioned that Congressman Traficant was on
5 the Aviation Subcommittee at the time?

6 A. Yes.

7 Q. What was the significance of that subcommittee
8 assignment to J. J. Cafaro and USAG with regard to what
9 they were trying to do with this technology?

10 A. At the time, the subcommittee was preparing to
11 re-authorize all federal aviation programs. Major --

12 Q. Again, I want to make sure we don't get into --

13 A. Okay.

14 Q. -- anything your office actually did, I am just
15 asking the significance of the --

16 A. The significance of it is the subcommittee had full
17 authority over all aspects of the Federal Aviation
18 Administration.

19 Q. Who was in charge of funding the FAA budget at that
20 time?

21 A. The congressional side?

22 Q. Yes.

23 A. It would have been a combination of that subcommittee
24 and the Appropriations Committee of the Congress.

25 Q. Without getting into whether or not your office

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1 actually ever did anything to help USAG, what did
2 Congressman Traficant promise J. J. Cafaro that he would do
3 to help USAG? What kinds of things did he tell them you
4 would be willing to do?

5 A. We would aggressively pursue getting the technology
6 certified, either through legislative action or through
7 federal, or simply the FAA could have done it on their own
8 if they wanted to, but we could also force the FAA to do it
9 through legislative action and also get funds authorized so
10 airports could use airport improvement program funds,
11 formula dollars that airports get through federal
12 government for improvements at the airport.

13 We could pass legislation that would allow airports
14 to use the funds to supply the technology.

15 Q. You could do that. Would you basically be
16 legislating sales for this company in a sense?

17 A. No, because -- that's a good question -- because
18 initially -- again, I don't want to get -- I don't know how
19 close it's getting into the speech and debate.

20 Q. Tell me what you're promising to do.

21 A. Initially, we did say that we would pursue
22 legislation that would require airports to buy this
23 technology.

24 Q. Let's stop. That's what you're initially telling
25 J. J. Cafaro?

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1 A. That's correct.

2 Q. My question is, at the time you're telling him that,
3 would that be tantamount to promising to obtain sales for
4 his company?

5 A. Well, if you're telling airports they had to buy the
6 technology, they're the only company making that product,
7 that would certainly be a boom to that company.

8 Q. What was J.J. Cafaro telling you about USAG's
9 potential to make profits with this technology?

10 A. He was very excited about it, about the prospects,
11 because there are literally hundreds of airports across the
12 country. If he's in a position to sell the technology if
13 required by federal law to purchase, he could do very well.

14 Q. Now, when you talk about airports, would these be
15 large metropolitan airports or private airports?

16 A. My recollection was that we were talking about class
17 A, class B airports, so major airports and regional
18 airports, like Akron-Canton.

19 Q. Are you familiar with something called a MEANPALS?

20 A. Yes, I am.

21 Q. And what is a MEANPALS?

22 A. It is a -- I don't know exactly what the words are,
23 the acronym, but it's a military landing light that a unit
24 could go in, it comes in a large trunk. You open the
25 trunk, you set the lights up, in about a minute or two you

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1 have these landing lights set up for helicopters.

2 Q. Was this MEANPALS technology something separate and
3 apart in the marketing sense from the airport landing
4 technology you just described?

5 A. Yes -- well, there were three types of lights that
6 USAG was promoting. One was a laser light for the airport
7 that the pilot could use to go into a runway, there were
8 cold cathode lights to be used at heliports, and there was
9 another type of light that I don't recall. The MEANPALS, I
10 believe, is a cold cathode light system for military
11 applications.

12 THE COURT: I believe MEANPALS is
13 M-E-A-N-P-A-L-S. Is that correct?

14 MR. MORFORD: That's correct.

15 THE COURT: For the record. Thank you.

16 MR. TRAFICANT: Thank you.

17 Q. As you understood it in your conversations with the
18 officials from USAG, who was USAG hoping to sell MEANPALS
19 technology to?

20 A. The Army.

21 Q. And again, without indicating whether or not you
22 actually ever took any action or steps, just focusing on
23 any promises that were made, what was Congressman Traficant
24 promising Rick Detore and other officials from USAG he
25 would be willing to do to help them sell the MEANPALS

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1 technology to the Army?

2 A. To be honest with you, I can't recall the Congressman
3 specifically saying we'll do X, Y and Z on MEANPALS. I
4 recall having many conversations over a period of months
5 with Mr. Detore and the Congressman where they spoke about
6 the military application, and the Congressman would turn to
7 me typically and say, what can we do to help them out with
8 this. I believe I was the one who pursued --

9 Q. Without telling us what you pursued, what were you
10 telling them?

11 A. We were telling them we could get funds set aside
12 that would direct the Pentagon to buy MEANPALS systems.

13 Q. And what kind of money were you talking about?

14 A. It was about \$10 million is what we were trying to
15 get initially.

16 Q. Okay, now you mentioned someone named Rick Detore.
17 Who is Rick Detore?

18 A. Richard Detore was, I believe, the chief operating
19 officer for U.S. Aerospace Group.

20 Q. With respect to the FAA certification issue, just in
21 terms of any efforts that were done to lobby the FAA
22 itself, not speaking about legislation at all?

23 A. Right.

24 Q. What, if anything, did your office do to try to
25 assist USAG with FAA certification?

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1 A. We arranged for the head of the Federal Aviation
2 Administration, Jane Garvey, to go to U.S. Aerospace Group
3 headquarters in Manassas's airport and actually fly the
4 plane, and test and see the technology tested. We were
5 able to arrange that.

6 Q. And what was it that allowed you to arrange to have
7 Jane Garvey, the head of the FAA, actually come out to USAG
8 to see a personal demonstration?

9 A. The fact that the Congressman was a senior member of
10 the Aviation Subcommittee and the fact that I and the
11 Congressman had a good relationship with Jane Garvey's top
12 aide, Ed Sullivan, who previously worked with the
13 Committee.

14 Q. How big of a coup was there for USAG to have the
15 actual head of the FAA come out and look at their
16 technology personally?

17 A. I would say it was a very big coup.

18 Q. Going back to this person Rick Detore that you spoke
19 about a moment ago, how would you describe the relationship
20 that developed between Congressman Traficant and Rick
21 Detore during the period 1998 to 2000?

22 A. I think it developed into a general friendship with
23 great affection for each other.

24 Q. Did they spend a lot of time together?

25 A. Yes, they did.

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1 Q. To your knowledge, would Mr. Detore take Congressman
2 Traficant to dinners?

3 A. It was more of they would meet at a restaurant in
4 D.C. when the Congressman was done with legislative
5 business for the day.

6 Q. What was the name of that?

7 A. Greek Taverna.

8 Q. T-A-V-E-R-N-A; is that correct?

9 A. Yes.

10 Q. Do you recall who the head of the FAA was prior to
11 Jane Garvey?

12 A. It was a man. Clinton.

13 Q. Are you familiar with a man named David Henson?

14 A. Yes, David Henson, correct.

15 Q. Was there ever any contact, to your knowledge,
16 between Congressman Traficant and David Henson?

17 A. Yes.

18 Q. During the time he was the head of the FAA?

19 A. I believe we had him into our office and the
20 Congressman had a conversation with Mr. Henson.

21 Q. About what?

22 A. There were two issues that were discussed. One was
23 certification of these technologies, the second was
24 increasing the allocation for smaller airports, like the
25 Youngstown airport, to share federal funding.

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1 Q. Through the FAA Zone Regulation Authority, and if
2 not?

3 A. It was in the context of the FAA making
4 recommendations for the Congressman.

5 Q. What -- let's leave that there.

6 A. Yeah.

7 Q. But this is a discussion with Mr. Henson, correct?

8 A. Correct. I believe Henson was --

9 THE COURT: Oops, no question. You have to
10 wait for a question. Thanks.

11 Q. What efforts would Congressman Traficant take to make
12 sure that J. J. Cafaro was aware of these things that he
13 was doing to help USAG?

14 A. Well, as a good staff person, whenever you're helping
15 out a constituent or company-related constituent, whenever
16 you send a letter or press release, you do anything, you
17 want a copy of that. That's just good staff work, make
18 sure they're being fully informed of everything that you're
19 doing on their behalf.

20 Q. And did you do that on a regular basis?

21 A. As a matter of course with any constituent, that
22 would have been standard operating procedure for any case
23 of this nature. We would always copy the constituent.

24 Q. Right. And my question is, did you do that with
25 respect to J. J. Cafaro on this technology?

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1 A. Certainly, yes, we did.

2 Q. I'd like to show you what has been marked
3 Government's Exhibit 8-4. You see that? You probably have
4 to take it out of the glassine, I think there's three pages
5 there.

6 THE COURT: Is anyone else hearing a
7 high-pitch noise? I think we need to get someone in. I've
8 been trying to E-mail someone to come in. I believe that's
9 our sound system, and so I don't know whether you want to
10 just take the morning break so we can try and take care of
11 it.

12 MR. MORFORD: That'll be fine, your Honor.

13 THE COURT: It's something. Okay. And it's
14 distracting. There you go. So we'll take our morning
15 recess. Take it now, relax and get some refreshment.

16 (Thereupon, a recess was taken.)

17 MR. MORFORD: Thank you, your Honor.

18 BY MR. MORFORD:

19 Q. Mr. Marcone, when we broke, I was asking you to take
20 a look at Exhibit 8-4. Do you have that in front of you?

21 A. Yes.

22 Q. And can you tell us what this is?

23 A. This is a press release on a letter that the
24 Congressman sent to the then head of the FAA urging the FAA
25 to make enhanced visions technology part of the Clinton

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- 1 administration's flight safety agenda.
- 2 Q. Okay. And --
- 3 MR. MORFORD: Your Honor, may I put this on
- 4 the overhead?
- 5 THE COURT: Yes.
- 6 Q. Do you see some handwriting at the top?
- 7 A. Yes.
- 8 Q. Left-hand corner of the -- do you recognize the
- 9 handwriting?
- 10 A. Yes.
- 11 Q. Whose handwriting is that?
- 12 A. The Congressman's.
- 13 Q. And what does that say?
- 14 A. "Grace, send to J. J. Cafaro."
- 15 Q. And then if you'd take a look at the last page of the
- 16 three pages here?
- 17 A. Um-hum.
- 18 Q. Do you recognize that handwriting?
- 19 A. Looks like Grace Yavorsky's handwriting.
- 20 Q. Would you go ahead and read that?
- 21 A. "J.J., Jim wanted you to have a copy, Grace."
- 22 Q. And what was the date of this press release?
- 23 A. April 14, 1998.
- 24 Q. And why was it important to you and the Congressman
- 25 to make sure that J. J. Cafaro had a copy of this press

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1 release wherein the Congressman is publicly stating that he
2 wants the FAA to pursue this technology?

3 A. My standpoint, simply to let a constituent know we're
4 continuing to work on their behalf.

5 Q. Okay. I'm going to show you several documents, and
6 I'd like to do it rather quickly. The first one is 8-3.

7 A. Yes.

8 Q. Do you see that? And whose writing is that?

9 A. That is my handwriting.

10 MR. MORFORD: Your Honor, could I put this up
11 on the screen?

12 THE COURT: Yes.

13 MR. MORFORD: Thank you.

14 BY MR. MORFORD:

15 Q. And this is a fax from you to whom?

16 A. Richard Detore.

17 Q. And what does it say there under the content message?

18 A. "Please let J.J. know what we're going to move this
19 forward. Thanks."

20 Q. And what is the date?

21 A. Excuse me?

22 Q. What's the date on this?

23 A. March 26, 1998.

24 Q. And what is it that you're doing to move things
25 forward?

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1 A. I'm --

2 Q. Just in general?

3 A. Probably either legislation that we were working on
4 or urging the Clinton administration to make enhanced
5 vision technology part of their agenda.

6 Q. In general, is this something dealing with USAG?

7 A. Of course, yes.

8 Q. And again, as I cautioned you before you came in, and
9 again, since you and I have been here, all of my questions
10 relate to either nonlegislative promises, but I don't want
11 you to testify as to anything you did at any time or didn't
12 do in regard to legislation, okay?

13 Next I'd like to show you Government's Exhibit 8-34.

14 Do you recognize the handwriting on that?

15 A. That's my handwriting.

16 Q. And did this relate in some way to USAG?

17 A. It related to the initiative we were working on with
18 them, yes.

19 Q. And again, what does it say there in the message?

20 A. "FYI, please make sure J. J. sees this. Thanks."

21 Q. Exhibit 8-29, what's the date on that one?

22 A. November 4, 1998.

23 Q. And this is a -- what is this, a fax cover sheet?

24 A. Yes.

25 Q. And it's to whom from whom?

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- 1 A. To Richard Detore from myself.
- 2 Q. And again, who is Richard Detore?
- 3 A. He was the chief operating officer at USAG.
- 4 Q. And again, what does the content message say on this
- 5 one?
- 6 A. "FYI, please make sure J.J. sees this. Thanks."
- 7 Q. Turning your attention to Government's Exhibit 8-13,
- 8 what's the date on this document?
- 9 A. August 3, 1998.
- 10 Q. And it's a fax cover sheet to whom from whom?
- 11 A. To Richard Detore from me.
- 12 Q. Okay. And could you go ahead and read the content
- 13 message line there?
- 14 A. All right. Getting into --
- 15 Q. Just read just that line, and I'll ask you the
- 16 question.
- 17 MR. TRAFICANT: Object.
- 18 THE COURT: Okay.
- 19 MR. TRAFICANT: Speech and debate.
- 20 THE COURT: Just hold on here a minute, just
- 21 hold on.
- 22 MR. TRAFICANT: Just for the record. He can
- 23 answer it.
- 24 THE COURT: We're going to have to -- we're
- 25 going to have to deal with this later. Just move on to

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1 something else.

2 MR. MORFORD: Okay.

3 THE COURT: We'll do this at noon.

4 BY MR. MORFORD:

5 Q. Turning your attention to Exhibit 8-45. Do you
6 recognize the handwriting -- actually, I am going to ask
7 you about two exhibits at the same time, 8-45 and 8-51.

8 A. Yeah.

9 Q. Do you see those two exhibits?

10 A. Yes.

11 Q. Do you recognize the handwriting on those exhibits?

12 A. My handwriting.

13 Q. Is this out of the spiral notebook you described?

14 A. Yes.

15 Q. Starting with 8-45?

16 MR. MORFORD: Your Honor, could I put that on
17 the screen?

18 THE COURT: Yes.

19 Q. If you'd go ahead and read your notes for us, and
20 then tell us what that dealt with?

21 A. 8-45?

22 Q. Yes.

23 A. This is a meeting that was held in my office with
24 Richard Detore and Gwen Coddle of the FAA, and in that
25 meeting, Richard Detore's complaining that Gary Skillicorn

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1 of the FAA was very negative on the system, that he's
2 telling everyone that J. J. is pressing everyone with
3 money, that they -- there was a -- my recollection was that
4 Mr. Detore was trying to get the FAA out to test its
5 technology. Obviously, because it deals with night lights
6 for landing at night, the optimum time to do the testing
7 would be at night. They came during the day and tested the
8 technology during the day and gave the very negative
9 review, which Richard felt wasn't fair and that they were
10 setting it up to fail, they really didn't want to move this
11 forward.

12 He also was complaining that Gary Skillicorn was
13 calling the Navy's test hearsay, that they were
14 pooh-poohing the Navy's rave reviews of the technology, and
15 they simply wanted the FAA to do an honest and fair review.

16 Q. That's what Mr. Detore was telling you, correct?

17 A. Right. And my view was I was -- Gwen, I believe,
18 worked in the Legislative Affairs Division. I simply was
19 asked, the purpose of the meeting was to allow Richard to
20 air concerns to the FAA and respectfully ask the FAA to
21 review those concerns and just make sure that the company
22 was treated fairly.

23 Q. And what was the FAA telling you as to their side of
24 the dispute?

25 A. My recollection was that they admitted the guy,

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1 Skillicorn, was sometimes problematic in dealing with it.

2 Q. Was there an issue that ever came up about what they
3 call a CERL, a testing agreement?

4 A. Yes. The issue was they needed to have some type of
5 a memorandum of understanding with the company to do
6 testing and that the company would have to put up some
7 money for that, and that would be the standard for the FAA,
8 and that was a holdup.

9 My recollection was, how I left that meeting, I
10 believe that meeting was held in the spring of '99, was
11 that FAA would look into that, and USAG on their part would
12 work hard to try to get a -- I forget the technical wording
13 of it, some sort of memorandum of understanding completed
14 with the FAA.

15 Q. Now, with respect to this issue, you just said that
16 the FAA's position was that the company had to come up with
17 the money to fund the testing?

18 A. Right.

19 Q. Was that an issue from the company's side? Were they
20 not forthcoming with the money they needed to come up with
21 for the testing?

22 A. My understanding was that -- that was a holdup, that
23 was a problem. The other problem was the FAA couldn't do
24 the testing until they had a signed agreement, and there
25 was a lot of paperwork that the FAA -- the company, excuse

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1 me -- the company had to come up with a kind of an
2 executive summary of what they actually would be testing
3 so the FAA would have the document to look at and say,
4 okay, this would be the basis for a memorandum of
5 understanding.

6 And there were a series of questions, I believe, that
7 the FAA had asked the company, and I'm not clear on the
8 exact specifics of it, but there was a holdup on two
9 fronts: The company was not filling out the requisite
10 paperwork and was not forthcoming with the actual funding.
11 They had not agreed on what the dollar figure would be.

12 Q. So what you're telling us, therefore, is Mr. Detore,
13 on behalf of the company, was saying the FAA's dragging
14 their feet?

15 A. Right.

16 Q. And the FAA was saying USAG is dragging their feet,
17 is that fair?

18 A. Yeah. The other complaints that Richard had was the
19 FAA was biased against the technology, and that was the
20 reason why they were dragging their feet, and they jumped
21 through all these hoops.

22 Q. According to Mr. Detore?

23 A. Yes.

24 Q. To your understanding, was it actually a fair and
25 legitimate problem that USAG was not coming up with a

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1 memorandum telling the FAA exactly what they were supposed
2 to test and that they weren't coming up with the money to
3 do the test?

4 A. Yes, that was a legitimate problem, and we eventually
5 addressed that.

6 Q. Did they ever come up with this agreement and the
7 money to do the testing, USAG?

8 A. My understanding is that that never happened.

9 Q. Okay. You said we addressed that concern at the FAA.
10 How did you address it?

11 A. Through this. I --

12 Q. When you say "this," you're referring to Government's
13 Exhibit 8-51.

14 A. Yes. It got to the point where they were at
15 loggerheads, no progress was being made. FAA was saying
16 one thing, USAG was saying another. I said, time out,
17 let's get all the principals in the ring together and hash
18 it all out. The FAA sent all their principals, we had
19 someone from the Volpe Research Center in Massachusetts
20 that was going to actually do the testing. I was able to
21 connect that individual by phone. We brought all the
22 principals of USAG in and hashed out all the issues.

23 Q. Exhibit 8-51, whose handwriting is that?

24 A. My handwriting's at the top, and if you notice these
25 individuals, I passed a sheet around, and they filled in

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1 their names, and --

2 MR. TRAFICANT: Excuse me. This is 8-45.

3 Are you talking about 8-45 or 8-51?

4 MR. MORFORD: Now talking about 8-51. May I
5 put that on the overhead, your Honor?

6 THE COURT: Go ahead.

7 Q. This document at the top says "September 29, 1999
8 meeting." Was there, in fact, a meeting on that date?

9 A. Yes.

10 Q. Where was that meeting held?

11 A. In my office.

12 Q. As you understood it on the merits, regardless of
13 what anyone was arguing, could this process go forward
14 without USAG coming up with a memorandum to tell the FAA
15 exactly what they were to test and come up with the money
16 for the testing?

17 A. No. There was no way they could move forward unless
18 USAG did those things.

19 Q. Okay. Who attended this meeting on behalf of the
20 office of Congressman Traficant?

21 A. I did. It was in my office, my name's at the top.

22 Q. On behalf of USAG?

23 A. Richard Detore, Loni Czekalski, and Al Lange.

24 Q. And who was Al Lange?

25 A. He was one of the engineers, Richard Detore's

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1 right-hand man.

2 Q. And who attended on behalf of the FAA?

3 A. Dan Salvano, Calvin Miles, Gwen Coddle, Gary
4 Skillicorn, and Tom Seliga of the Volpe Center. It's in
5 Massachusetts. He was there via telephone.

6 Q. Did Congressman Traficant participate in this meeting
7 in any way?

8 A. Yes. My recollection was his office adjoined mine,
9 and he entered the meeting midway, and I believe he thanked
10 the FAA folks for coming in and asked them to work this
11 out, and went back into his office.

12 Q. What was his tone?

13 A. Having worked for the Congressman many, many years,
14 he can put on some vibrato.

15 Q. Please, sir, that wasn't my question. My question
16 was, what was his tone?

17 MR. TRAFICANT: Objection.

18 THE COURT: Okay. You can answer the
19 question. What was his tone?

20 A. His tone was -- I wouldn't say it was threatening,
21 but it was, "Come on, let's work this out. This is a good
22 technology. You guys are dragging your feet. Let's move
23 it forward."

24 Q. You say you wouldn't say it was threatening.
25 Describe it for us.

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1 A. He sounded annoyed, and he raised his voice a little
2 bit to that.

3 Q. Did he swear?

4 A. I don't recall if he swore, but it wouldn't surprise
5 me if he did.

6 Q. Who was he yelling at?

7 A. The folks at the FAA.

8 Q. Was he also yelling at Rick Detore and Ioni Czekalski
9 and Al Lange for dragging their feet on the memorandum and
10 not coming up with funding?

11 A. No.

12 Q. Was that the extent of his participation in the
13 meeting which you just described?

14 A. Yes.

15 Q. Turning your attention to Exhibit 8-52.

16 A. Yes.

17 Q. And what is this document?

18 A. This is a fax that I had sent to Richard Detore on
19 October 28 of '99, asking him to keep me posted on his
20 contacts with the Army and MEANPALS.

21 MR. MORFORD: Your Honor, may I put this on
22 the board?

23 THE COURT: Yes.

24 BY MR. MORFORD:

25 Q. To what extent had you personally made contacts with

Marcone - Direct

1 the Army on behalf of USAG?

2 A. I talked to two individuals in the Pentagon about the
3 technology. One individual was providing me with some
4 guidance and advice because he felt that because of --

5 Q. I prefer that you not go into all that. Just if you
6 could limit your response to my exact question.

7 A. What was the question?

8 Q. It was, to what extent had you personally made
9 contacts with the Army on behalf of --

10 A. I had several conversations with two individuals in
11 the Pentagon.

12 Q. And was the purpose of those conversations to help
13 USAG have the Army purchase the MEANPALS technology?

14 A. Yes.

15 Q. And I'd like to ask you some questions about the
16 Congressman's boat. Okay?

17 To your knowledge, did Congressman Traficant have a
18 boat?

19 A. Yes, he did.

20 Q. And did you actually ever see the boat yourself?

21 A. Yes, I saw it on one occasion, 19 -- December of '92.
22 I wasn't working for him at the time.

23 Q. And what was the purpose of your going out to the
24 boat?

25 A. I was looking for a job in Washington, D.C., and I

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1 was staying with West Richards, and he'd leave in the
2 morning and pick the Congressman up at the boat.

3 Q. And how would you describe the boat at that time when
4 you saw it in 1992, in terms of the shape of the boat?

5 A. It was floating. It seemed to be in -- I don't know
6 anything about boats. It was floating. We didn't go out
7 on the boat. I simply walked in and saw the Congressman
8 and walked out.

9 Q. Did you notice anything about the condition of the
10 boat?

11 A. It was a lot like the condition of his office, which
12 was somewhat messy.

13 Q. Did you -- did it smell?

14 A. I recall there was an odor, yeah.

15 Q. Did it appear to be in good repair from what you
16 could see?

17 A. Other than the fact it was messy, there wasn't any
18 water leaking into it. I didn't notice that, no. It was
19 just very messy.

20 Q. Did you testify before the Grand Jury that it was in
21 rundown shape? Do you recall that?

22 A. I might have said that.

23 Q. What's your best recollection as you sit here today?

24 A. It was messy and somewhat rundown, yeah.

25 Q. Did Congressman Traficant ever discuss problems he

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1 was having with the boat with you?

2 A. Several times, he -- yes, the boat was leaking and
3 needed -- it needed repairs, that he would like to sell the
4 boat, get it off his hands.

5 Q. Did he ever tell you of anyone to whom he was hoping
6 to sell the boat to get it off of his hands?

7 A. Yes. He indicated that Al Lange, who worked for
8 USAG, was very interested in buying the boat and wanted to
9 buy the boat.

10 Q. Did he ever tell you whether or not he'd ever asked
11 the Buccis to take the boat off his hands?

12 A. No.

13 Q. Did he ever tell you whether or not he talked to the
14 Bucheits about taking the boat off his hands?

15 A. He might have mentioned it to me, that Pete Bucheit
16 might buy his boat.

17 Q. When might he have mentioned that to you and in what
18 context?

19 A. You know what, I -- it was sometime in the time
20 period between maybe '94 and '98?

21 Q. Did it concern you that at a time when you knew your
22 office had done work for Bucheit and was doing work for
23 Cafaro that he was talking about having either Bucheit or
24 Cafaro take the boat off his hands?

25 A. No. As long as he -- as long as those individuals

Marccone - Direct

1 paid fair market value for the boat, there wasn't a
2 problem.

3 Q. How would you know whether they were doing that or
4 not?

5 A. Well, that would have been a requirement, but
6 according to the ethics rules.

7 Q. How would you enforce that requirement?

8 A. How would I enforce it?

9 Q. Yes.

10 A. I would simply let the Congressman know what the
11 rules were and make sure he complied with the ethics rules.

12 Q. Was there any concern to you as to whether or not he
13 would do that?

14 A. No, I had no reason to question his integrity.

15 Q. Did you have any concerns as his press secretary
16 about the appearance of impropriety of selling the boat in
17 this shape to people your office were doing things to help?

18 A. In my view, if someone went out and assessed the
19 boat, the good, the bad, the ugly, gave it -- assessed it
20 and said "This is what this boat is worth in this shape,"
21 and that's what that individual paid for it, there wasn't a
22 problem.

23 Q. And what's the --

24 A. If they paid more than what it was worth, then I have
25 got a problem.

Marcone - Direct

1 Q. And what steps did you take to ensure that that was
2 being done?

3 A. Well, when you say what steps I took, it never got to
4 the point where he told me X individual was going to buy my
5 boat. It got to that point with Al Lange.

6 Q. And what steps did you take to ensure that the price
7 that Al Lange was going to buy the boat for was fair market
8 value?

9 A. I did not take -- well, the steps I took was the
10 Congressman specifically asked me to contact the Ethics
11 Committee of the House to determine whether or not it would
12 be within the ethics rules of the House for Al Lange to buy
13 the boat, given the fact that we were working with Al
14 Lange's company on matters pending before the Congress.

15 Q. And having gotten that opinion, what steps did you
16 take to make sure that Al Lange was paying fair market
17 value?

18 A. I didn't take any steps to make sure Al Lange was
19 paying fair market value other than telling the Congressman
20 as long as Al Lange pays fair market value for the boat,
21 there's no problems with the Ethics Committee. I also told
22 Al Lange in person that, I said, Al, as long as you pay
23 fair market value for the boat, you're okay, and I think Al
24 mentioned that he was trying to get a bank loan, and I
25 indicated to him, "Well, we should be okay then, because

Marcone - Direct

1 the bank is not going to loan you -- the bank's going to go
2 out and assess the boat before they loan you money, not any
3 more than what the boat is worth, so you should be okay
4 with that."

5 Q. Did Al Lange ever tell you, in fact, the money was
6 actually coming from J. J. Cafaro?

7 A. No.

8 Q. At the time -- strike that.

9 What was it that caused you to contact the Ethics
10 Committee to get an opinion on whether or not it would be
11 okay for the Congressman to sell this boat that he had told
12 you he needed to unload to a person in a company you were
13 going to bat for?

14 A. The Congressman personally asked me to call the
15 Ethics Committee.

16 Q. Those kind of opinions by the Ethics Committee, are
17 they fact-based opinions?

18 A. At the time the Ethics Committee had a hotline that
19 members of Congress and their staff could call to get
20 opinions on issues. I simply called the line, got an
21 attorney on the phone, explained to them what the
22 Congressman wanted to do, and the attorney explained to me
23 what the rules were and what could or couldn't be done.

24 Q. My question is, does he explain to you what the rules
25 are and what you could and couldn't do, based on the facts

Marcone - Direct

1 that you gave him?

2 A. Yes.

3 Q. And what facts did you give him?

4 A. That an employee of a company that we were working
5 with to getting certified, were working with legislatively,
6 that an employee wanted to buy the Congressman's boat;
7 would this be within the ethics rules, would this be okay.
8 And he explained it was as long as the individual paid fair
9 market value and wasn't paying them more than what the boat
10 was worth, wasn't being given any special deals, then
11 there's nothing wrong with it, according to the ethics
12 rules.

13 Q. Did you tell --

14 A. The verbal opinion I got.

15 Q. Did you tell him it was an employee of the company or
16 the owner of the company?

17 A. An employee of the company.

18 Q. And who was it that told you it was an employee of
19 the company and not the owner of the company that was
20 buying the boat?

21 A. The Congressman told me "Al Lange wants to buy my
22 boat."

23 Q. At the time that the Congressman gave you those facts
24 to get that Ethics Committee opinion or that ethics
25 opinion, did he ever mention to you that J. J. Cafaro was

Marcone - Direct

1 actually funding the purchase of this boat through Al
2 Lange?

3 A. No.

4 Q. Did he ever mention to you that J. J. Cafaro at that
5 time, did he mention to you that J. J. Cafaro had presented
6 him with a check for \$26,000 for the boat?

7 A. Absolutely not.

8 Q. Did there ever come a time later when he told you
9 that?

10 A. Yes.

11 Q. And that was after you had gotten the Ethics
12 Committee opinion, correct?

13 A. This is much, much later.

14 Q. In what context did he tell you much, much later that
15 J. J. Cafaro had actually come to him with a check for
16 \$26,000 to buy the boat?

17 A. It was toward the end of my tenure in the office. It
18 was sometime late in 2000. The way the Congressman
19 explained it to me was J. J. tried to give him a check for
20 \$26,000, and the Congressman turned it down and said he
21 can't do it this way, Al has to buy the boat, and the way
22 he described it to me was that he was annoyed with J. J.
23 for trying to do that.

24 Q. Did it bother you that he hadn't told you that at the
25 time you went to the Ethics Committee?

Marcone - Direct

1 A. Yeah, in the context of everything else that
2 happened, yeah, I was bothered by it.

3 Q. What, if any, role did you personally play in the
4 boat transaction?

5 A. Other than what I've described, going to the Ethics
6 Committee, informing both the Congressman and Al Lange what
7 the ethics rules were, I believe I called NationsBank to
8 get a dollar figure of what was remaining on the
9 Congressman's note on the boat.

10 Q. And approximately what was remaining on the mortgage
11 of the Congressman's loan on the boat?

12 A. About \$26,000.

13 Q. And what was the purpose -- why did you contact the
14 bank to find out how much was remaining on the mortgage?

15 A. The Congressman asked me to.

16 Q. For what purpose?

17 A. Because he was going to sell the boat to Al Lange.

18 Q. For that amount?

19 A. I don't know what the amount was, he just wanted to
20 know what was left of his note.

21 Q. Did you call NationsBank?

22 A. Yes, I did.

23 Q. Did you obtain an amount?

24 A. Yes, I did.

25 Q. And who did you give that amount to?

Marcone - Direct

1 A. I believe I gave it to the Congressman and might have
2 given it to Al Lange or Richard Detore, as well.

3 Q. So it was either all three of those or at least two
4 or three of those?

5 A. I know I definitely gave the figures to the
6 Congressman.

7 Q. Was that the extent of your own personal involvement
8 with the boat transaction?

9 A. Yes, although I vaguely recall someone from USAG
10 mentioning that -- it might have been Richard Detore --
11 that they may want to use the boat for maritime testing.

12 Q. But as far as your personal participation in the boat
13 transaction --

14 A. That's the extent of it.

15 Q. When did you ultimately leave the office of
16 Congressman Traficant?

17 A. The end of November of 2000.

18 Q. Why did you leave?

19 A. A number of reasons, but I had a very good offer from
20 a very good company to do something I thought was very
21 challenging. I had been with the Congressman for over 12
22 years. In the beginning of 2000 I had decided that I would
23 start looking, and if a good offer came, I would take it.
24 I wanted to make sure it was something that was
25 challenging.

Marccone - Direct

1 Q. What was it that caused you to decide you wanted to
2 start looking for other offers?

3 A. I think in my mind, what solidified my mind I
4 probably needed to move on was August of 2000 when the
5 Congressman made some accusations on national television
6 that I disagreed with.

7 Q. Did there come a time you and Congressman Traficant
8 had some heated arguments?

9 A. Well, we always had heated arguments over certain
10 issues, but we had a very heated argument over his
11 appearance on national television in August of 2000.

12 Q. Did Congressman ever -- did there come a time, did
13 Congressman Traficant ever discuss with you his tactic of
14 attacking the Government during the course of the
15 Government's investigation of these charges?

16 A. Yes.

17 Q. How did that conversation arise?

18 A. It was in the course of disagreements I was having
19 with him about affidavits that he wanted me to make public
20 through press releases about certain FBI agents and
21 possible corruption in the Youngstown area.

22 Q. Did he make statements to you about having to go on
23 the offensive?

24 A. Yes, he made a statement to the
25 effect, "All you want to do is play defense. My only

Marcone - Cross

1 chance is to stay on the offense."

2 Q. And how big a factor was that in you deciding to
3 leave the office?

4 A. That was one of the main reasons why I had to leave,
5 why I felt it was time for me to move on. Another factor
6 was the Congressman came to me early in 2000 and said,
7 "Look, you have a wife and family, I don't know what's
8 going to happen to me, you should look for another job,"
9 and he said that to me repeatedly. And when your boss
10 tells you to look for another job, you should take that
11 seriously if he says it to you several times, and he did.

12 Q. When he told you "You're too concerned about defense,
13 I have to go on the offense, do you remember him also
14 adding "because it's the only thing I know how to do"?

15 A. Yes, that sounds like something he would say.

16 MR. MORFORD: May I have a moment, your
17 Honor?

18 I have no further questions.

19 THE COURT: Thank you.

20 CROSS-EXAMINATION OF PAUL MARCONE

21 BY MR. TRAFICANT:

22 Q. How are you doing, Paul?

23 A. Okay.

24 Q. When I told you you should look for a job, was there
25 any conversation of why I told you I think you should look

Marccone - Cross

1 for another job?

2 A. Well, because you told me you didn't know what was
3 going to happen.

4 Q. Did we have any discussion about your family?

5 A. Yes.

6 Q. And what was that?

7 A. Well, that I have a wife and kids, and you didn't
8 want to be in a situation where I was out of work because
9 you were forced from office.

10 Q. Over the years you worked for me, did you have
11 knowledge that many of the federal agencies other than the
12 military really didn't like me?

13 A. I got that impression, yes.

14 Q. I was pretty close to the military and their people,
15 wasn't I?

16 A. Um-hum.

17 Q. I notice there were a lot of times you tried to
18 answer questions fully and you weren't allowed to. I want
19 you to go ahead and expound as you talk to me, and I want
20 you to completely answer my questions. Now, they took a
21 long time with you, and longer than I thought they would.

22 When did we first meet, and where was it?

23 A. We first met in November of 1984, in the Rayburn
24 Building. You were a Congressman-elect, and I was looking
25 for a job.

Marcone - Cross

1 Q. And where exactly did we meet?

2 A. It was in the B level of the Rayburn Building. They
3 put all the Congressmen-elect in a foyer there in cubicles,
4 and I met you in the cubicle.

5 Q. What, if anything, did you tell me immediately? Do
6 you remember?

7 A. I think I told you that I was working as a staff
8 assistant, and I could do the job.

9 Q. Did you talk about your press abilities?

10 A. Yes.

11 Q. Did you talk about any college background?

12 A. Yes, I said I attended Florida University.

13 Q. What else did you tell me about Florida?

14 A. I played football there.

15 Q. Do you know if I played football?

16 A. You mentioned that you were a quarterback at Pitt.

17 Q. To the best of your knowledge, did we more or less
18 hit it off pretty fast?

19 A. I think we did. We talked about football for awhile,
20 and then I think you look at me and said "Can you do the
21 job," and I said "Yes, I can get the job done," and shortly
22 after that, I was hired.

23 Q. But, you were not the boss?

24 A. No.

25 Q. But, would you say you worked very closely with me,

Marccone - Cross

1 even though you weren't the boss?

2 A. That is correct.

3 Q. Did we come to a time when we had a significant
4 Federal Building project that became endangered?

5 A. Yes.

6 Q. Could you describe what that endangerment was?

7 A. My understanding was that the funds for the
8 courthouse in Youngstown were going to be reprogrammed by a
9 committee of the Congress.

10 Q. Do you know where the funds were going to be sent?

11 A. The LaGuna, California.

12 Q. Do you know if that area had any connection to the
13 chairman of that committee?

14 A. Yes, I believe it was in the Appropriation
15 Subcommittee Chairman's district.

16 Q. Did I take any specific action?

17 A. Yes, you did.

18 Q. As a result of that, was there any congressional
19 action taken?

20 A. I believe you took several actions that resulted in
21 the funds being appropriated for the new courthouse. You
22 also secured an agreement from the chief judge in Cleveland
23 to establish his -- to establish the -- I don't know what
24 you call it in Youngstown, and that led directly to the
25 project moving forward.

Marccone - Cross

1 Q. Wasn't it a fact that GSA never moved forward, even
2 with that?

3 A. GSA continued to drag its feet, yes.

4 Q. Did there come a time when there were some
5 parliamentary moves made by me that had an effect on this
6 courthouse on the House floor?

7 A. Yes, but I was not working for you at the time.

8 Q. Do you have any knowledge of what it was?

9 A. Yes.

10 Q. What, to the best of your knowledge, was it?

11 A. I believe you made points of orders against sections
12 of the Defense Appropriations bill, which had not been
13 previously authorized, and you basically gutted the entire
14 bill.

15 Q. And what, if anything, ensued after that?

16 A. Toward the end, consideration of the bill, the House
17 leaders went to you and asked you if you would withdraw
18 your points of order, and you agreed only if they would
19 restore the funding for the courthouse.

20 Q. And you remember it as the Defensive bill though,
21 right?

22 A. That's the way I remember it.

23 Q. Could it have been the Treasury bill?

24 A. Yes, the Treasury Postal Appropriations bill.

25 Q. Does that now ring a bell?

Marccone - Cross

1 A. Yes.

2 Q. Now, when the Government first started questioning
3 with you, they had a lot of questions about Henry DiBlasio
4 and 11 Overhill Avenue, didn't they?

5 A. Yes.

6 Q. And when I was first elected, did you have any
7 knowledge that Mr. DiBlasio had contacted the respective
8 committees of Congress relative to the propriety of the
9 ownership?

10 A. No.

11 Q. But you do know that the -- what do you know about
12 the 11 Overhill property and whose name it was in?

13 A. My understanding now is that it wasn't, it was in
14 Henry's name.

15 Q. It was?

16 A. My understanding it was, and he subsequently divested
17 himself of it.

18 Q. When did he divest himself?

19 A. My understanding of it, it happened early in January
20 of '85.

21 Q. And when did I take office?

22 A. January of '85.

23 Q. Do you know if after he diversified himself his name
24 appeared anywhere on the lease?

25 A. When I came back to the office in '93, I remembered

Marccone - Cross

1 the name on the lease was Trumbull Land Company or Trumbull
2 Land Management Company.

3 Q. Yeah. Now, if his name would have appeared on the
4 lease, would that have been a red flag for you?

5 A. Certainly.

6 Q. If his wife's name would have been on the lease,
7 would that have been a red flag for you?

8 A. Yes.

9 Q. Even if, for example, they filed separate tax
10 returns, would that have been a red flag for you?

11 A. Probably, yeah.

12 Q. Would it be considered a wrongdoing for an employee
13 to inure benefit from the rent of their Congressman?

14 A. My understanding of the ethics rules and federal
15 statutes is that's a crime.

16 Q. A crime?

17 A. To knowingly rent property to the federal government
18 when you're an employee of the federal government, yes.

19 Q. If it, in fact, inures to the benefit of the
20 employee?

21 A. My understanding of the federal statute and ethics
22 rules, it doesn't matter if it inures to the benefit. He
23 or she cannot rent property to the federal government.

24 Q. So for example, if Congressman Jones rented an office
25 building from one of his aides, and that office building

1 was owned by his aide's wife, would that be something that
2 would be considered a crime under the rules?

3 A. That -- that instance, I don't know, because I'm not
4 a lawyer. I -- I don't -- I don't know. My
5 interpretation -- my interpretation of the rules is that
6 would be a violation. Also, politically it wouldn't look
7 good either.

8 Q. But, it would sure raise a red flag to you, wouldn't
9 it?

10 A. Yes.

11 Q. Well, at some point did you come to find out that
12 Mr. Sinclair's wife was actually KAS Enterprises?

13 A. Yes. It was brought to my attention by our office
14 manager. He never picked up on it. I never saw the actual
15 lease being signed, signed signature on the lease, but when
16 it became an issue in the press, he looked again at the
17 lease and noticed that it was her signature on it, and
18 brought it to my attention.

19 Q. Do you remember when you first brought it to my
20 attention?

21 A. Shortly after that. I don't recall the exact time
22 frame, probably was some time in the Year 2000.

23 Q. What, if anything, did we discuss?

24 A. My recollection is that's when you made the decision
25 to get out of that office and move into an office in

Marcone - Cross

1 Canfield.

2 Q. But, I didn't move until almost a year later. Were
3 you under the impression that Mr. Sinclair changed the
4 lease around?

5 A. I don't recall what the arrangements were.

6 Q. Would you know if I would have micro managed and
7 looked into that?

8 A. Probably not.

9 Q. Now, when the FBI investigated you, did they pursue
10 many questions about --

11 MR. MORFORD: Objection.

12 THE COURT: Sustained.

13 Q. Did the Government ask you any questions about Mr.
14 DiBlasio's ownership of the building?

15 A. Yes.

16 Q. Did they ask you many questions about KAS?

17 A. They asked questions about Mr. Sinclair.

18 Q. Did they ask any questions about KAS or his wife?

19 A. Yes.

20 Q. Okay. Do you know if Mr. DiBlasio's been indicted?

21 A. Yes, I do.

22 Q. Now, at some particular point, they got into
23 different contractors. Was one of the major roles of the
24 D.C. office to help companies in trouble with the federal
25 government?

Marcone - Cross

- 1 A. That's a fair statement, yes.
- 2 Q. Did we treat any company much different than anybody
3 else?
- 4 A. To the most part, no, everyone got treated pretty
5 much equally.
- 6 Q. And was it a fact that when companies had trouble
7 with the Government that they really, really pounded on us
8 for help?
- 9 A. Yes.
- 10 Q. And many times, didn't the Government just -- to put
11 it right to the point -- give them the shaft?
- 12 A. Oh, yeah.
- 13 Q. Would you consider me to be an aggressive congressman
14 of those you've seen down here?
- 15 A. Yes.
- 16 Q. Would I interact aggressively?
- 17 A. Yes.
- 18 Q. Would I take the stand on behalf of my constituents?
- 19 A. Yes.
- 20 Q. Was I active in legislation?
- 21 A. Yes.
- 22 Q. Was I one of the most active in legislation?
- 23 A. Most definitely.
- 24 Q. Did we pass nearly all the IRS laws since the last
25 ten years?

Marcone - Cross

- 1 A. I would say you were responsible for the passage of
2 most of the key taxpayer provisions that were enacted in
3 the law in the last ten years, yes.
- 4 Q. How long did it take us to do that, Paul?
- 5 A. 13 or 14 years.
- 6 Q. Now, in the opening session of Congress, is there
7 anything special about the opening of a Congress?
- 8 A. Yes.
- 9 Q. What happens in an opening session of Congress?
- 10 A. On even years when the new Congress comes in, all the
11 members are sworn in, and the Speaker of the House is
12 elected.
- 13 Q. Yes, but then once the House starts a session of its
14 regular business and has a regular schedule and starts at
15 10:00 A.M., what's the first thing they do?
- 16 A. Most days, they have one-minute speeches.
- 17 Q. Was I active in one-minute speeches?
- 18 A. Yes.
- 19 Q. Would you say it was fair to say I made one every
20 day?
- 21 A. Yes.
- 22 Q. Would you say over those 12 or 13 years I may have
23 made two or three speeches a week on IRS changes?
- 24 A. It's a fair statement.
- 25 Q. Other than the post office and the military, would

Marccone - Cross

1 you say that I was not too good a friends with other
2 agencies in Washington?

3 A. I wouldn't say that. You got along well with the
4 Department of Transportation and General Services
5 Administration.

6 Q. That's true. Thank you. I didn't know they liked me
7 that much.

8 Now, when you had occasion to call on me, how did you
9 do so?

10 A. When you were in -- when you were in Washington?

11 Q. Yes.

12 A. I simply walked into your office.

13 Q. Where was your office?

14 A. Right next to yours. My office was here, your office
15 was here with a door right there, and the door was usually
16 open.

17 Q. So not a whole lot of space left in that office, was
18 there?

19 A. No, next to it was the staff offices.

20 Q. And they were more or less compartmentalized, were
21 they not?

22 A. Yes.

23 Q. So you did not have a staff director, did you?

24 A. I did not have -- no.

25 Q. It was a small place, right?

Marcone - Cross

- 1 A. Yes.
- 2 Q. How many District Offices were there?
- 3 A. Four.
- 4 Q. Now, if you had four offices in D.C., do you think it
- 5 would have been unusual for the Congressman to have a staff
- 6 or district director?
- 7 A. No.
- 8 Q. Now, you talked about COLAs. Could you explain what
- 9 a COLA is?
- 10 A. Cost of living increase.
- 11 Q. And does that occur every year?
- 12 A. Yes.
- 13 Q. And everybody gets them, don't they?
- 14 A. All federal employees get them. Members of Congress
- 15 get a COLA added to their overall allocation. And what
- 16 most members do is simply if the COLA is 2 and a half
- 17 percent, everyone got a 2 and a half percent COLA.
- 18 Q. Were there not years where there was legislation that
- 19 everybody got COLAs, but Congress did not?
- 20 A. Members of Congress would not, but the staff always
- 21 got something.
- 22 Q. Members didn't, but staff always did?
- 23 A. That's correct.
- 24 Q. So if a member had a staff for a long period of time,
- 25 wouldn't they have a higher payroll?

Marccone - Cross

- 1 A. If there was low turnover, yes, the overall payroll
2 would continue to increase.
- 3 Q. Did we have low turnover, Paul?
- 4 A. Yes, we did.
- 5 Q. Very low turnover?
- 6 A. Yes.
- 7 Q. Did at one point Dan Blair leave our employment?
- 8 A. Yes, he did.
- 9 Q. And then did he come back asking to return for
10 employment?
- 11 A. Yes, he did.
- 12 Q. Isn't it a fact, usually when our employees left they
13 did so to better themselves?
- 14 A. Yes.
- 15 Q. Do you know of any staff employee that did not want
16 to work for me or resented working for me in any way?
- 17 A. I can't think of one.
- 18 Q. Did I ever ask you to do anything wrong, Paul?
- 19 A. No.
- 20 Q. Now, when they asked you these questions about when
21 all these dealings were going on, "Did you know about Jim
22 Traficant having the so-called business deals on the side,"
23 you recall those questions?
- 24 A. Yes.
- 25 Q. Did you ever ask me if I ever had any business

Marcone - Cross

1 dealings with these people?

2 A. No, there was no reason for me to.

3 Q. Explain that.

4 A. Well, from my standpoint, the companies who were
5 helping were no different -- the companies that the
6 Assistant U.S. Attorney mentioned were no different than
7 hundreds of other companies who were helping, so there was
8 no reason for me to have a red flag attached to those
9 particular projects or companies.

10 Q. Yeah.

11 Now, when you got calls from the district
12 complaining, in your opinion, why did you get those calls?

13 A. Calls from who? From --

14 Q. People that complained from the district, grumbling,
15 what you said earlier.

16 A. Staff members?

17 Q. Yeah.

18 A. What I said was that they were jealous of Henry
19 because he had access to you and because he was their boss,
20 and --

21 Q. Why would they call you?

22 A. Well, they didn't -- they never called me
23 specifically to complain about Henry. I would talk to them
24 all the time on the phone, and it would just come up in
25 just conversations we were having.

Marccone - Cross

- 1 Q. Was it not a fact they knew that you and I
2 communicated eight, ten hours a day?
3 A. I'm sure they knew that we were very close, yes.
4 Q. So your office was right next to mine, right?
5 A. Correct.
6 Q. Do you know where Henry DiBlasio's office was
7 located?
8 A. I believe his office was on the 11 Overhill Road.
9 Q. Do you know if it was next to mine?
10 A. I believe it was.
11 Q. Were there ever any time sheets, Paul, in the early
12 90's, mid 90's?
13 A. Sometime in the mid 90's, I had at the recommendation
14 of the House Administration Office, I started requiring the
15 staff in Washington to fill out time sheets.
16 Q. In Washington?
17 A. In Washington.
18 Q. Now, didn't the House administration send it out to
19 all members of Congress?
20 A. It was a recommendation, it wasn't a requirement.
21 Q. So there were no requirements, were there?
22 A. There were no requirements for members of Congress to
23 have their employees fill out time sheets.
24 Q. How many hours, typically, would you work a week for
25 me?

Marccone - Cross

- 1 A. In the -- the first four years I was there, I was
2 working 70, 80 hours a week, coming in on weekends. When I
3 came back in '93 and had a family I'd work about 50 hours a
4 week, 45 or 50 hours a week.
- 5 Q. Legally, how many hours were you required to work?
- 6 A. As a full-time employee, I was required to put in at
7 least 30 hours a week.
- 8 Q. Now, if you would have come to me and said, "Look,
9 I'm only supposed to put in 30 hours, guy, and I'm leaving
10 here at 2:00," did you ever do that?
- 11 A. No.
- 12 Q. Did anyone ever do that?
- 13 A. No.
- 14 Q. Did I ever micro manage anything dealing with our
15 staff?
- 16 A. No.
- 17 Q. Was I a delegator or a dictator?
- 18 A. I would say you were a delegator.
- 19 Q. Was Henry DiBlasio a delegator?
- 20 A. Yes.
- 21 Q. Do different administrative assistants have different
22 styles?
- 23 A. Yes.
- 24 Q. Were you a delegator?
- 25 A. No.

Marccone - Cross

- 1 Q. Was I known as a congressman that invented a lot of
2 my own ideas in legislative concepts?
- 3 A. Um-hum.
- 4 Q. Was it a fact that I didn't believe -- or do you
5 believe that we needed more legislative people because of
6 my legislative program?
- 7 A. Yes.
- 8 Q. Do you believe we had one of the biggest legislative
9 programs in Congress?
- 10 A. I think the record reflects you introduced more bills
11 and amendments than any other member year in, year out.
- 12 Q. Would it reflect I maybe passed more amendments than
13 anybody in Congress?
- 14 A. That's a fair statement, yes.
- 15 Q. Now, what time would you usually get in the office?
- 16 A. Between 8:00 and 8:30.
- 17 Q. Would I be there?
- 18 A. Yes.
- 19 Q. Would I be dressed?
- 20 A. Most times, yes.
- 21 Q. Would I have a one-minute speech prepared or ask you
22 to help?
- 23 A. You usually would have already begun to work on your
24 one-minute speech, yes.
- 25 Q. And isn't it a fact that Congress would go usually,

Marcone - Cross

1 wouldn't you say, 6:00 or 7:00 on an average day?

2 A. Um-hum.

3 Q. And on some days we would go all the way around the
4 clock to 4:00 or 5:00 the next morning?

5 A. That's true.

6 Q. Wasn't there a time I offered a defense amendment at
7 1:15 A.M. on the following day when we started at 10:00 the
8 preceding day? Do you remember that?

9 A. Yes.

10 Q. By the way, did I pass that amendment?

11 A. Yes.

12 Q. Was it a recorded vote?

13 A. I don't recall if it was recorded.

14 Q. It was.

15 MR. TRAFICANT: Strike that.

16 (Laughter.)

17 Q. That was the one that helped the military, wasn't it?

18 MR. MORFORD: Your Honor, I'm going to object
19 on grounds of relevance to all this.

20 MR. TRAFICANT: Strike that.

21 THE COURT: Thank you. Objection sustained.

22 Q. Did Henry DiBlasio come to D.C. with me on occasions?

23 A. In the -- from '85 to '88, yes.

24 Q. Did you have knowledge that Henry participated in
25 settling strikes with me back in the district?

Marcone - Cross

1 A. Yes.

2 Q. Did you have knowledge that these strikes took four
3 or five days at a time continuous?

4 MR. MORFORD: Your Honor, objection as to
5 basis of that knowledge.

6 THE COURT: He asked you one question, you
7 answered it. Now we're going to let him ask you some more
8 preliminary questions so we know whether you can answer
9 them.

10 MR. TRAFICANT: Okay. For the record, I
11 object to that continuous objection.

12 Q. Now let me put it to you this way --

13 THE COURT: Well, as the jury knows, they're
14 supposed to object if they think it's a legal issue. It
15 doesn't bother the jury. Thank you.

16 MR. TRAFICANT: Okay

17 BY MR. TRAFICANT:

18 Q. Did you have knowledge that Henry DiBlasio assisted
19 me in union strikes?

20 A. Other than you telling me that he did, that's the
21 only knowledge I have.

22 MR. MORFORD: Your Honor, then I would object
23 and ask that even the original answer be stricken because
24 it's all hearsay.

25 THE COURT: Thank you. It will be.

Marcone - Cross

1 Disregard this line of questioning. The witness has no
2 personal knowledge.

3 THE WITNESS: Your Honor, there were several
4 occasions where I remember Henry calling me and telling me
5 that he was working on strikes, but I don't know if it was
6 every single strike.

7 MR. MORFORD: That's hearsay, too.

8 THE COURT: All right. Let's go on. Just go
9 to something else, Congressman.

10 MR. TRAFICANT: No. I want a ruling whether
11 or not his answer can be included or not.

12 THE COURT: Well, this answer had no question
13 preceding it and, therefore, it can't be included.

14 MR. TRAFICANT: Very good.

15 BY MR. TRAFICANT:

16 Q. Did Henry ever call you when we were negotiating
17 strikes or tell you that we were negotiating strikes?

18 THE COURT: Sustained. I think it may be
19 time to break. It's almost noon. We'll recess over the
20 weekend. Okay?

21 I want to just say this: We're a little over two
22 weeks into this trial. Your part of the Court with me,
23 together we constitute the Court, and so I want to commend
24 you for your attention over this period of time.

25 What you do when you do this is to take all those

Marcone - Cross

1 high sounding promises we all learned in civics class about
2 what we're blessed with in our over 200 year old
3 Constitution, and you made those promises real. It's a
4 pleasure to work with you. You've got a weekend now with
5 your family and friends. I want you to just put all of
6 this where it should stay in your minds.

7 Remember these rules you have to live under as
8 jurors, and respect yours in this case. Don't talk about
9 the case with anyone, don't watch, listen or read about it.
10 Don't let anyone try to talk to you about the case. You
11 have a number to call in case anybody puts you under any
12 feeling of pressure about the case. And don't go out and
13 investigate anything. We'll see you back here at 9:00 on
14 Monday morning. And as you remember, we have a short week
15 on Monday. It's a pleasure to serve.

16 (Proceedings in the absence of the jury:)

17 THE COURT: I need the lawyers to stay
18 briefly. There was an issue raised about one of the
19 exhibits that was on the wall. We want to put that to rest
20 before you leave.

21 We have an issue regarding Exhibit 8-13. I've had an
22 opportunity to look through the rulings on the speech or
23 debate clause that were issued by Judge Baughman and by me.
24 This document is set forth on Page 26 of the report and
25 recommendation, and it's a fax with redactions.

1 There was a statement by the Magistrate Judge that
2 "After the redaction, all that's left is what Mark Cohen
3 gave as a subject of the bill, and the House will vote on
4 it tomorrow. The fact that a House vote on a bill is
5 forthcoming without more does not sufficiently indicate a
6 legislative act on the part of Traficant to invoke the
7 privilege of the speech or debate clause. The Court
8 recommends that the motion to suppress this document be
9 denied."

10 There was no objection filed to that by the
11 Defendant, and so as it was not objected to at that time
12 when we put on our order, and the report and recommendation
13 carries a specific date by which objections had been filed,
14 we didn't receive any, so we adopted that recommendation,
15 and the document as redacted does not offend the speech and
16 debate clause. Okay.

17 MR. MORFORD: Thank you.

18 THE COURT: You're welcome.

19 MR. TRAFICANT: Thank you, your Honor.

20 THE COURT: Do we have anything else,
21 gentlemen, or are we finished?

22 MR. KALL: Your Honor, at the end of the week
23 we've got a number of exhibits we would like to move to be
24 admit into evidence.

25 THE COURT: Very well.

1 MR. KALL: Try to move Exhibit 1-9.

2 THE COURT: Okay. Any objection,
3 Congressman?

4 MR. TRAFICANT: I don't have the exhibits
5 with me, but --

6 THE COURT: I do keep telling to you bring
7 them. It just makes everything take a lot longer.

8 MR. TRAFICANT: I just don't have the U-Haul.
9 I'm trying to --

10 THE COURT: You really don't need a U-Haul.

11 MR. TRAFICANT: -- deal with the issues they
12 tell me they're going to deal with during the day.

13 THE COURT: You don't need a U-Haul, but you
14 really do need to bring these to court. Okay.

15 MR. KALL: Your Honor, if we could, we could
16 put them on the overhead so it's clear.

17 THE COURT: Why don't you have a seat,
18 Congressman, and watch them on the monitor.

19 MR. TRAFICANT: Let me inquire of the court,
20 have they already been discussed as a part of testimony?

21 MR. SMITH: Yeah.

22 MR. TRAFICANT: Then I wouldn't object.

23 THE COURT: I don't know what they're
24 offering. It's up to --

25 MR. TRAFICANT: If they've all been discussed

1 as a part of previous testimony, I would not object to them
2 being introduced as evidence.

3 THE COURT: Let's go one by one.

4 MR. KALL: 1-9 was the summary chart that was
5 discussed by IRS Agent Senesky.

6 THE COURT: Any objection?

7 MR. TRAFICANT: No. I'd like a copy of it.

8 THE COURT: You have a copy in your exhibit
9 books given to you before trial.

10 MR. TRAFICANT: I know. I'm just making the
11 request of the Government today, if they have a copy, I
12 would appreciate it.

13 THE COURT: Where are your exhibit books?
14 What town are they in?

15 MR. TRAFICANT: That's part of my problem,
16 back and forth, and what I'm doing and not bringing.

17 THE COURT: The books are not --- the books
18 are not large. You can just --

19 MR. TRAFICANT: I know.

20 THE COURT: -- put them in your trunk or
21 something. Anyway, you already have a copy, so if there's
22 no objection, we'll admit this without objection.

23 MR. KALL: Next, we'd move on Exhibit --
24 Government's Exhibit 1-11, which was the deed transferring
25 from Henry and Norma DiBlasio to Richard and Theresa Jeran.

1 THE COURT: Any objection?
2 MR. TRAFICANT: That was --
3 MR. KALL: Exhibit 1-11.
4 MR. TRAFICANT: The first was 1-9 and the
5 second was 1-11? Is that what you're telling me?
6 MR. KALL: Yes.
7 MR. TRAFICANT: Could you hold one second?
8 Fine.
9 THE COURT: Any objection, sir?
10 MR. TRAFICANT: I object to all of them.
11 THE COURT: Okay. This will be admitted over
12 objection.
13 MR. KALL: Next would be Exhibit 1-12. It's
14 a self-authenticating deed transferring property from
15 Richard and Theresa Jeran to Trumbull Land Company, that's
16 been certified by the recorder of Mahoning County at the
17 bottom.
18 THE COURT: It'll be admitted over objection.
19 MR. KALL: Next would be Exhibit 1-13, which
20 was a memo from Jackie Bobby to Henry DiBlasio, dated
21 December 9 of -- excuse me -- December 6 of 1993.
22 THE COURT: Congressman?
23 MR. TRAFICANT: I object.
24 THE COURT: Okay. Over objection, this will
25 be admitted.

1 MR. KALL: Next we would offer into evidence
2 Exhibit 1-14, a memorandum to Paul Marcone from Henry
3 DiBlasio dated December 7 of 1993.
4 THE COURT: Congressman?
5 MR. TRAFICANT: I object.
6 THE COURT: It'll be admitted over objection.
7 MR. KALL: Government next offers
8 Government's Exhibit 1-15, a memorandum to Henry DiBlasio
9 from Paul Marcone dated December 7, 1993.
10 THE COURT: This is the one on the District
11 Office move?
12 MR. KALL: Correct.
13 THE COURT: Any objection?
14 MR. TRAFICANT: I object.
15 THE COURT: Over objection, it'll be
16 admitted.
17 MR. KALL: Government next offers Exhibit
18 1-16, a handwritten letter dated 12-9 of 93 to Paul Marcone
19 from Henry DiBlasio.
20 MR. TRAFICANT: I object.
21 THE COURT: This exhibit will be admitted
22 over objection.
23 MR. KALL: Next 1-17, a March 15, 1994 letter
24 to Trumbull Land Company, offered to show that the
25 president of Trumbull Land Company, Mr. Chirazzi, never

1 received any such letter, and his inability to identify
2 such.

3 MR. TRAFICANT: Question here, your Honor,
4 before this objection. They have been allowed to bring
5 into evidence documents that have been unsigned.

6 THE COURT: Well, this is the first one I
7 have seen here. We had testimony about this document from
8 the witness today, but the witness was not -- it was -- the
9 testimony was from Paul Marcone and not from the person who
10 reportedly --

11 MR. TRAFICANT: But, what I'm saying is I've
12 been held to a strict standard on some of the things that
13 I've given to the Court that had the wrong date, weren't
14 signed, or this or that, and they're putting into evidence
15 these letters that were not signed.

16 THE COURT: This letter I'm not going to
17 admit over objection.

18 MR. KALL: Your Honor, for the record, this
19 was a document that was produced by Congressman Traficant's
20 office as indicated by that Bates number.

21 THE COURT: Right, but that in itself is not
22 enough for me to accept an unsigned letter that says "James
23 A. Traficant, Junior" at the bottom when it was Paul
24 Marcone on the stand who was testifying about this. So it
25 doesn't --

1 MR. KALL: Your Honor, I believe that this
2 document was not covered with Mr. Marcone. That was a
3 different letter. This document was covered with Nicholas
4 Chuirazzi, who was the president of Trumbull Land Company,
5 who testified that even though he was the president of
6 Trumbull Land Company, he never received any such --
7 THE COURT: Is this the letter sent to his
8 home address which he said he never received?
9 MR. KALL: Yes, your Honor.
10 MR. TRAFICANT: Your Honor, this is an
11 unsigned letter.
12 THE COURT: Not just by that, but he never
13 received it. So we don't have anybody to testify to this
14 letter. It's objected to, so I am not going to admit this
15 letter.
16 MR. KALL: Okay. The Government next offers
17 Government's Exhibit 1-25, the summary of U.S. Treasury
18 salary checks payable to Henry DiBlasio.
19 THE COURT: All right.
20 MR. TRAFICANT: Public record, no objection.
21 THE COURT: It'll be admitted.
22 MR. KALL: Government next offers
23 Government's Exhibit 1-26(1), summary of congressional
24 salaries, 1996 to 1999.
25 THE COURT: Congressman?

1 MR. TRAFICANT: '96 or '99? Public records,
2 no objection.

3 THE COURT: Fine, it'll be admitted.

4 MR. KALL: We would next offer Government's
5 Exhibit 1-27(1), a summary chart of cash deposits to
6 Congressman Traficant's account at Bank One.

7 MR. TRAFICANT: I object.

8 THE COURT: This will be admitted over
9 objection.

10 MR. TRAFICANT: Question.

11 THE COURT: Yes, sir.

12 MR. TRAFICANT: Was there a warrant to do
13 this?

14 THE COURT: There was testimony on the stand
15 regarding these deposits and there was evidence put on at
16 that time with deposit slips, and other things.

17 MR. TRAFICANT: But, for the record, I am
18 asking was there a warrant served to get this information
19 from the bank?

20 THE COURT: I think it was -- yeah, they can
21 tell you.

22 MR. SMITH: It was subpoenaed, your Honor.

23 THE COURT: It was subpoenaed.

24 MR. TRAFICANT: Fine. I still object.

25 THE COURT: Okay..

1 MR. KALL: Your Honor, the Government would
2 next offer Exhibits 1-27(2) through(11) inclusive. These
3 are bank records from Congressman Traficant.

4 THE COURT: Congressman?

5 MR. TRAFICANT: I object.

6 THE COURT: These will be admitted over
7 objection.

8 MR. KALL: Your Honor, we would next offer
9 Government's Exhibit 1-28(1) through (6) inclusive. These
10 are bank records from Home Savings and Loan regarding Henry
11 DiBlasio.

12 THE COURT: Congressman?

13 MR. TRAFICANT: I object.

14 THE COURT: These will be admitted over
15 objection.

16 MR. KALL: Your Honor, we'd next offer
17 Government's Exhibit 1-30.

18 MR. TRAFICANT: Pardon?

19 MR. KALL: Excuse me, 1-30 (1) through (5),
20 bank records from Allen Sinclair.

21 MR. TRAFICANT: No objection.

22 THE COURT: Okay. They'll be admitted.

23 MR. KALL: Apologize for disorganization. I
24 need to go back and move for admission on Government's
25 Exhibit 1-29, also bank records as to Allen Sinclair.

1 THE COURT: Any objection?
2 MR. TRAFICANT: No objection.
3 THE COURT: They'll be admitted.
4 MR. KALL: 1-31, the certified copy of the
5 death certificate for Charles O'Nesti.
6 MR. TRAFICANT: Public record, I guess. No
7 objection.
8 THE COURT: It'll be admitted.
9 MR. KALL: Need to switch to the exhibits
10 from the 2 series. First move Exhibit 2-14 into evidence,
11 your Honor. It'll take me a moment just to grab it. 2-14,
12 Mr. Marcone's notes regarding his conversations with ODOT
13 regarding the Buccis.
14 THE COURT: Congressman?
15 MR. TRAFICANT: Object.
16 THE COURT: Overruled. These will be
17 admitted.
18 MR. KALL: Next one, Exhibit 2-42, I think I
19 gave our copy to the Court Reporter.
20 MR. TRAFICANT: Objection regarding speech
21 and debate, separation of powers.
22 MR. KALL: Exhibit 2-42, a memorandum from
23 Jeff Cohen to Jim Welfley regarding the Prime Contractors
24 case.
25 MR. TRAFICANT: Object, speech and debate.

1 THE COURT: This will be admitted over
2 objection.

3 MR. KALL: Your Honor, next we would move on
4 Exhibit 5-7 through 5-16. Just a moment.

5 5-7 was Mr. Marccone's notes regarding telephone
6 conversations with Dave Sugar.

7 MR. TRAFICANT: Object.

8 THE COURT: Exhibit 5-7 will be admitted over
9 objection.

10 MR. KALL: Government moves to admit Exhibit
11 5-16, March 27th letter to Alden Sheldon from Congressman
12 Traficant. Portions of this document have been redacted.

13 MR. TRAFICANT: Object, relative to redaction
14 and the reason for such, and speech and debate.

15 THE COURT: Okay.

16 MR. KALL: Your Honor, portions were redacted
17 for speech or debate.

18 THE COURT: Right, but he's still posing an
19 objection. Yes.

20 MR. MORFORD: Actually, your Honor, the one
21 portion that was redacted was a simple sentence that said
22 Congressman Traficant was relying on them and taking credit
23 for funding for the building. He brought that out himself
24 through Mr. Marccone that he had done that. So that
25 probably doesn't even need to be redacted anymore since the

1 Congressman waived speech or debate to that.

2 MR. TRAFICANT: I raised speech and debate to
3 the entire document.

4 THE COURT: You didn't hear what -- he's
5 pointing to something that he said earlier.

6 MR. TRAFICANT: Yes.

7 THE COURT: Okay.

8 MR. TRAFICANT: I wasn't from -- if it's
9 redacted, I don't know exactly what it is. That's the
10 reason why I questioned it.

11 THE COURT: Okay. He was just putting in the
12 record what it was that was redacted.

13 MR. TRAFICANT: I object.

14 THE COURT: Okay.

15 MR. KALL: Your Honor, we'd also state
16 Congressman Traficant did not object to Magistrate's report
17 and recommendation on this letter, as well.

18 THE COURT: That's right.

19 MR. TRAFICANT: I do now.

20 THE COURT: Okay. This will be admitted over
21 objection. Thank you.

22 MR. KALL: Next would be Exhibit 7-2.

23 MR. TRAFICANT: If he'll just explain what
24 they are, we may not necessarily have to show them, unless
25 they're unsigned.

1 MR. KALL: Exhibit 7-2 was the letter dated
2 March 19, 1990 from Congressman Traficant to James Baker.

3 MR. TRAFICANT: Object, speech and debate.

4 THE COURT: This will be admitted over
5 objection.

6 MR. KALL: Next would be Exhibit 7-6, a
7 letter dated May 7, 1990, from Pete Bucheit to Vindicator
8 thanking Congressman Traficant.

9 MR. TRAFICANT: Public record, no objection.

10 THE COURT: Well, this will be admitted
11 without objection.

12 MR. KALL: Next would be Government's Exhibit
13 7-29, press release dated December 30, 1992 from
14 Congressman Traficant regarding Bucheit's Saudi Arabia
15 dispute.

16 MR. TRAFICANT: Public record, no objections.

17 THE COURT: This will be admitted without
18 objection. I think public -- public record may be confined
19 to some other things and not be as broad as you're thinking
20 it is, so you might want to look into that this weekend.
21 But in any event, there's no --

22 MR. TRAFICANT: It was printed vaguely.

23 THE COURT: -- no objection.

24 MR. TRAFICANT: The print on the paper is
25 pretty much public record.

1 MR. KALL: Next offer Government's Exhibit
2 7-32, handwritten notes from Mr. Marccone regarding Bucheit
3 and GAO.

4 MR. TRAFICANT: Objection.

5 THE COURT: This was testified to here this
6 morning. This will be admitted over objection.

7 MR. KALL: Government next offers
8 Government's Exhibit 7-41, handwritten note from
9 Mr. Marccone, Pete Bucheit pleased with Gore letter.

10 MR. TRAFICANT: Object.

11 THE COURT: This will be admitted over
12 objection.

13 MR. KALL: Next is Exhibit 7-40, the August
14 16, 1994 letter from Congressman Traficant to
15 Vice-President Gore.

16 MR. TRAFICANT: What date was that?

17 MR. KALL: August 16, 1994.

18 MR. TRAFICANT: Object. It's unsigned.

19 THE COURT: What's the number?

20 MR. KALL: Exhibit 7-40, your Honor.

21 THE COURT: Okay.

22 MR. KALL: Mr. Marccone testified this
23 document was produced from Congressman Traficant's files.

24 THE COURT: Right. The signed copy would be
25 with the recipient, we assume, and so with the underlying

1 testimony this was the letter that was sent, you don't need
2 a signature here --

3 MR. TRAFICANT: Question.

4 THE COURT: -- as long as somebody can
5 testify to it.

6 MR. TRAFICANT: Are you assuming this was
7 signed, your Honor? Do you know it was signed? You have
8 knowledge that it was signed?

9 THE COURT: No, I --

10 MR. TRAFICANT: I object.

11 THE COURT: I wouldn't expect a signed copy
12 to be in your --

13 MR. TRAFICANT: You would not?

14 THE COURT: -- files. No.

15 MR. TRAFICANT: To the vice-president of the
16 United States?

17 THE COURT: Well, if you think there's
18 something special --

19 MR. TRAFICANT: I object. This is an
20 unsigned letter --

21 THE COURT: Okay.

22 MR. TRAFICANT: -- being admitted into
23 evidence by the Government, but I certainly will defer to
24 the judgment of the Court. What is the decision of the
25 Court?

1 THE COURT: I'm trying to figure out what's
2 happening in the back with this one. We're going to admit
3 this.

4 MR. KALL: Next would be Government's Exhibit
5 7-68, your Honor, the February 23, 2000 letter to Madeline
6 Albright.

7 MR. TRAFICANT: What year was that?

8 MR. KALL: February 23, 2000.

9 MR. TRAFICANT: I object. It's unsigned,
10 speech and debate.

11 MR. KALL: Your Honor, again, Mr. Marcone
12 testified this was produced from the congressional files,
13 and it was simply him forwarding a letter from Pete
14 Bucheit, and there's nothing in there that indicates a
15 legislative act of the Congressman.

16 MR. TRAFICANT: It's unsigned, your Honor.

17 THE COURT: The speech and debate privilege
18 that you're raising here does not apply to this document.

19 MR. TRAFICANT: It may not, but I'm just
20 raising it for the record, being not an attorney, but it's
21 another unsigned document, and I think that we have to have
22 Madeline Albright in here to say she received this letter,
23 quite frankly, to have it admitted.

24 THE COURT: Actually, we have the person who
25 said that he sent it, and his initials are on it down

1 there, as you see, at the bottom, and he also talked at
2 some point in his testimony about the fact that what
3 those -- what PM meant at the bottom. And so we had plenty
4 of testimony supporting the fact that this letter was sent.

5 The issue here isn't whether or not it was received,
6 it's whether it was sent. That's what the testimony was.

7 MR. TRAFICANT: Let me just take a minute to
8 question this logic here.

9 THE COURT: Well, it's --

10 MR. TRAFICANT: The letter being sent from a
11 member of Congress to Madeline Albright that's unsigned,
12 does that seem respectful to you?

13 THE COURT: I believe this is the copy that
14 you or your office retained, according to what we heard
15 from the witness on the stand, and that doesn't always
16 carry a signature.

17 MR. KALL: Your Honor, I believe Mr. Marcone
18 also testified he signed the document.

19 MR. MORFORD: "He" being Mr. Marcone.

20 THE COURT: Right.

21 MR. MORFORD: Signed the Congressman's name.

22 MR. TRAFICANT: I object.

23 THE COURT: I know you do, and your objection
24 is here on the record. Nonetheless, I'm going to admit
25 7-68.

1 MR. KALL: The Government would next offer
2 Exhibit 8-4, press release dated April 14, 1998, with the
3 handwritten note "Grace sent to J. J. Cafaro."

4 MR. TRAFICANT: No objection.

5 THE COURT: It'll be admitted.

6 MR. TRAFICANT: What number is this?

7 THE COURT: 8-4.

8 MR. TRAFICANT: Oh, that's it.

9 MR. KALL: I'm sorry, I had 8-3 up. Here's
10 8-4.

11 MR. TRAFICANT: So that was 8-3, the press
12 release?

13 MR. KALL: 8-4 is the press release.

14 MR. TRAFICANT: Okay. Thank you. No
15 objection to that, public record.

16 THE COURT: I did admit that.

17 MR. KALL: Okay, sorry. I did not hear, your
18 Honor. Exhibit 8-3 would be a fax sheet from Congressman
19 Traficant in Mr. Marcone's handwriting, "Please let J. J.
20 know what we're doing to move this forward."

21 MR. TRAFICANT: Legislation. I object.
22 Deals with legislation.

23 MR. KALL: Your Honor, again, this document
24 has been redacted to remove any reference to legislative
25 acts. In addition, there was no objection to the

1 Magistrate's report, and --

2 THE COURT: This is covered in the
3 Magistrate's report, although to make sure, I need to pull
4 the report out.

5 MR. TRAFICANT: Pardon? I didn't hear that.

6 THE COURT: I just need to make sure -- I
7 think this was covered in the Magistrate's report, because
8 I remember it, but I want to make sure.

9 MR. TRAFICANT: This refers directly to
10 legislation.

11 THE COURT: You've had the opportunity to
12 read a couple of court decisions on what we have found is
13 covered or isn't covered by the speech or debate privilege,
14 and so I just want to refer you back to those if you want
15 to look at them.

16 MR. TRAFICANT: No, I'm just asking for a
17 ruling. I objected, period.

18 THE COURT: Okay. We looked at a lot of
19 documents. You're going to have to be patient while we
20 find out which one that was.

21 MR. TRAFICANT: My only impression, we're
22 dealing with 8-3, the one that's now currently on the
23 screen.

24 MR. KALL: If it will help, it was Cafaro
25 Bates number 002248.

1 THE COURT: Okay.

2 MR. TRAFICANT: What was that Cafaro number?

3 MR. KALL: 2248.

4 THE COURT: The fax -- this one is set forth
5 in the chart behind the Magistrate Judge's report as Number
6 28, which was the number in the system I guess we adopted
7 for the Defendant. But, in any event, the fax itself,
8 which is the document we're looking at, it was recommended
9 it be admitted with redaction, although what was attached
10 to it was excluded and is excluded here. So this is only
11 the covering fax, and I adopted that recommendation after
12 we went over these documents, and you didn't object to it.

13 MR. TRAFICANT: Question.

14 THE COURT: So it was admitted with
15 redaction; that this accurately reflects the document with
16 the redaction, and therefore, it'll be admitted over your
17 objection.

18 MR. TRAFICANT: My question is though, we're
19 admitting now a document that's now been redacted but had
20 attachments to it.

21 THE COURT: There is no attachment here
22 because the attachment was isn't part of it. It's just a
23 fax. That's not an attachment.

24 MR. TRAFICANT: Fine. For the record, I
25 object.

1 THE COURT: Okay.

2 MR. KALL: Next, your Honor, would be
3 Government's Exhibit 8-34, a fax cover sheet, one page,
4 dated 12-2-98 to Richard Detore from Paul Marcone.

5 MR. TRAFICANT: I object.

6 THE COURT: Okay. This will be admitted over
7 objection.

8 MR. TRAFICANT: Question, your Honor. Also
9 on the speech and debate clause, it was discussed early on
10 that each individual matter, if it had a concern of the
11 Defendant, could be taken up when that matter became
12 apparent or offered to the Court. Isn't that correct?

13 THE COURT: We're now dealing with documents
14 that they wish to offer into evidence, which, as I
15 understand your objections, as to some of them you're
16 saying that you don't have to do that because you have --
17 you enjoy a privilege as a Congressman not to have those be
18 part of --

19 MR. TRAFICANT: Yes.

20 THE COURT: -- any kind of court
21 proceedings, but I'm telling you that these so far have
22 been documents that we have dealt with a couple of times in
23 prior proceedings here. So yes, you can make your record
24 for an appeal by objecting, which you're doing.

25 MR. TRAFICANT: The only reason I want to say

1 that was we did talk about the speech and debate. There
2 was a lot of controversy. I disagreed, everybody
3 disagreed, but it was understood I had the right on or
4 about the time when these things became salient factors in
5 the court process, I could make an objection.

6 THE COURT: Right.

7 MR. TRAFICANT: So I don't want to belabor
8 you or harass you, but I'm doing that because that was a
9 right that I supposedly had, period.

10 THE COURT: I assure you, I don't feel
11 harassed. This is the process we go through in every
12 trial. I've been doing cases a long time. Next one.

13 MR. KALL: Government's Exhibit 8-13. This
14 was the one we began to question Mr. Marcone and then moved
15 on. I'm not sure if we laid a foundation sufficient
16 because we were told to move on, but that would be
17 something we would want at least to be able to cover with
18 him on redirect.

19 MR. TRAFICANT: Did we not see this before?

20 THE COURT: We've gone over this. That was
21 the way I started this break for evidence, was with ruling
22 on that one. That one can be admitted. That doesn't --

23 MR. TRAFICANT: That was a memo from --

24 MR. MORFORD: 8-13.

25 MR. KALL: Next would be Government's Exhibit

1 8-45, Mr. Marcone's notes, "Richard Detore meeting with FAA
2 Gwen Coddle."

3 THE COURT: Congressman?

4 MR. TRAFICANT: I object.

5 THE COURT: This will be admitted over
6 objection.

7 MR. KALL: Next would be Government's Exhibit
8 8-51, titled "9-29-99 meeting" which Mr. Marcone testified
9 to.

10 MR. TRAFICANT: I object.

11 THE COURT: This will be admitted over
12 objection.

13 MR. KALL: And Government's Exhibit 8-52, the
14 fax cover sheet dated 10-28-99 to Richard Detore from Paul
15 Marcone.

16 MR. TRAFICANT: What was the date on that?

17 MR. KALL: 10-28-99.

18 MR. TRAFICANT: I object.

19 THE COURT: This will be admitted over
20 objection.

21 MR. KALL: Your Honor, those are all the
22 exhibits that we have at this time.

23 THE COURT: Thank you. Congressman?

24 MR. TRAFICANT: Your Honor, at this point I
25 offer no exhibits, and conclude my work here today.

1 THE COURT: All right, sir. Have a nice
2 weekend.

3 MR. TRAFICANT: Thank you.

4 MR. SMITH: Have a good weekend, your Honor.

5 MR. TRAFICANT: Have a good weekend.

6 (Proceedings adjourned.)

7
8 DIRECT EXAMINATION OF PAUL MARCONE..... 1194

9 CROSS-EXAMINATION OF PAUL MARCONE..... 1270

10 C E R T I F I C A T E

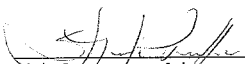
11 I certify that the foregoing is a correct
12 transcript from the record of proceedings in the
13 above-entitled matter.

14

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16

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Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622

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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.)	

TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON MONDAY, FEBRUARY 25, 2002

Jury Trial

Volume 8

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.

1 Monday Session, February 25, 2002, at 8:30 A.M.

2 THE COURT: I think we have something that
3 the Government wanted to raise before we bring in the jury.
4 You want the witness here or not?

5 MR. MORFORD: It doesn't -- I don't know that
6 it matters, your Honor.

7 THE COURT: Okay.

8 MR. MORFORD: I just wanted to raise in
9 limine or reraise in limine a motion in limine the
10 Government already raised prior to trial, and that was to
11 limit the questioning on other legislative acts the
12 Congressman did that are not relevant to the acts in this
13 case.

14 The Court's ruling was unless and until the
15 Congressman can tie those in as being relevant to the
16 charges in this case, that there be some limits on that.
17 We have not objected to that type of questioning up until
18 now.

19 But, based on the cross-examination on Friday, we're
20 getting into a lot of areas that had to do with his overall
21 effectiveness on other matters. He is not charged with not
22 being effective. He's charged with soliciting, receiving
23 gratuities and bribes, whether he was effective or not.
24 And so all I wanted to do was save the Court from -- if we
25 have a series of relevancy objections -- having to have a

1 side bar so the Court will know ahead of time what those
2 objections would be.

3 THE COURT: Do you want to give us all a
4 reference to the particular docket entry orders that you're
5 talking about? I pulled 153 and 154. I don't know which
6 ones you're referring to when you're representing what it
7 was I ordered, but --

8 MR. MORFORD: I don't have it in front of me,
9 but I believe it had to do with the issue we raised on
10 vendetta, not as much as it goes to other acts, and my
11 understanding was the Court's ruling was that some of that
12 may come in if the Congressman could lay a foundation to
13 show relevance.

14 THE COURT: Okay. Before you respond, we're
15 going to figure out exactly which orders you're talking
16 about, because there have been two orders on miscellaneous
17 in limine matters, and he needs to be able to look at those
18 orders --

19 MR. TRAFICANT: There's been a lot of orders.

20 THE COURT: -- before he responds. Okay?

21 MR. MORFORD: Yes. I don't have a set of the
22 orders with me.

23 THE COURT: Do you have the docket?

24 MR. MORFORD: I don't have it with me, your
25 Honor.

1 THE COURT: Okay. Well then, I think we'll
2 just have to delay it until we have the next break with the
3 jury.

4 MR. MORFORD: Okay.

5 THE COURT: There were -- I mean, the
6 principle that he's discussing is a sound principle, but in
7 terms of representing what my orders were, I did leave
8 things open, but I'm not sure I instructed him in how he
9 had to go forward.

10 MR. MORFORD: Your Honor, regardless of your
11 order, I guess I would just set that aside and ask even if
12 it hadn't been addressed before, that as to matters
13 involving legislation other than those -- or any official
14 acts other than the official acts in which he's charged
15 with bribes and gratuity, that unless and until Congressman
16 Traficant can directly show that the Government is charging
17 him because he did those things, not just simply saying "I
18 did those things, so therefore, this is what it must be" --

19 THE COURT: Evidence of noncriminal conduct
20 is generally irrelevant, and I think probably an order that
21 may be the one in subject of this is order Number 154, so
22 let me read that before you respond so you have the benefit
23 of hearing again what it was that the Court said.

24 The Government seeks to exclude evidence of
25 lawfulness and noncorrupt conduct of the Defendant. That

1 was what their motion in limine sought. And what the Court
2 said at that point in the proceedings, which was back in
3 January, I guess, was "Evidence of noncriminal conduct is
4 generally irrelevant to the question of whether a defendant
5 is guilty or innocent of the crimes charged in a given
6 case. A defendant is presumed innocent and need not
7 establish his or her innocence at all.

8 "However, a defendant showing that he or she did not
9 commit similar crimes on other occasions would not of
10 course establish anything with respect to the crimes that
11 are charged in this case. A defendant may only introduce
12 evidence of his or her good character in accordance with
13 the Federal Rules of Evidence."

14 And then it continues, "With respect to the charges
15 related to the bribery and gratuity statute, the
16 Prosecution moves to exclude evidence that the Defendant
17 Traficant would have performed other official acts alleged
18 in the indictment without taking bribes. It is not a
19 defense for a public official to claim that he would have
20 taken the official acts requested by the give of a bribe
21 even without one. Also, with respect to the charges
22 related to the bribery and the gratuity statute, the
23 Prosecution seeks to exclude evidence that Defendant
24 Traficant did not take the promised official action for
25 which he allegedly accepted a bribe and gratuity.

1 "As the United States Supreme Court explained in
2 United States v. Brewer, quote, 'To make a prima facie
3 case, the Government need not show any act of Defendant
4 subsequent to the corrupt promise for payment, for it is
5 the taking of the bribe, not the performance of the illicit
6 act, that is a criminal act.'"

7 And then the Court said, "The Court will apply this
8 principle at trial."

9 And then the rest of this, I think, deals with the
10 Government seeking to preclude the Defendant from referring
11 to materials not in evidence, and the statement, of course,
12 on that was neither pro se defendants nor attorneys are
13 permitted to assume facts not in evidence in their
14 questions to witnesses.

15 Now, I don't know if that covers the motions in
16 limine, but that at least gives you a fair recollection of
17 what the Court had ruled, and we'll just follow those
18 rulings.

19 MR. TRAFICANT: Can I speak now?

20 THE COURT: Yes.

21 MR. TRAFICANT: Number 1, you limited my
22 defense by not being able to talk about an obsession with a
23 vendetta. That was ruled out, so I did not discuss a
24 vendetta. Then it was my impression what the Government
25 was trying to do was limit me from bringing maybe a

1 thousand constituents that I helped and that they never
2 even talked to me about maybe even a lunch or a breakfast.
3 So I assumed that, now hear me, but to establish
4 congressional office, members are different, they run their
5 offices differently, and by their actions they do make
6 certain enemies.

7 Is the Court now saying that by the questioning of my
8 chief of staff, that I can't establish that I had certain
9 agencies that certainly were opposed to me? Are you saying
10 I can't now do that?

11 THE COURT: I don't think that was what he
12 was looking to exclude. I think --

13 MR. TRAFICANT: What's he looking to exclude?
14 He wants to exclude anything that looks good on behalf of
15 the Defense, from what I see.

16 THE COURT: Okay. Let's let him respond to
17 that.

18 MR. MORFORD: No, your Honor, I want to
19 exclude things that are irrelevant --

20 MR. TRAFICANT: Such as?

21 MR. MORFORD: -- under 403(a) and 403(b),
22 and exclude things like "Isn't it true that I passed
23 legislation that, you know, that affected tax laws in the
24 United States?" And my understanding of the Court's ruling
25 on the whole idea of vendetta is that the Court has said

1 unless and until Congressman Traficant can directly show
2 that that was the Government's motive that he can't just
3 get into these kinds of things to suggest that maybe the
4 Government doesn't like him.

5 THE COURT: Well, I think -- and he's
6 suggesting that this would be something which you could
7 raise without the jury present in a special hearing if
8 you've got some evidence to put on before the Court that
9 would demonstrate a special motive.

10 MR. MORFORD: Yes.

11 MR. TRAFICANT: Look, if you're telling me --
12 the witness knows that I, more than any other member of the
13 Congress of the United States, over the last -- over the
14 years he was there, was effective against the IRS and the
15 Justice Department, and that it was well known throughout
16 all of Congress that what I was doing was making a lot of
17 people mad, that that would be a question I couldn't even
18 get into --

19 THE COURT: No, I think --

20 MR. TRAFICANT: -- and couldn't establish a
21 foundation for why they would be --

22 THE COURT: I think he's saying bring in the
23 mad people and have a hearing out of the hearing of the
24 jury, and establish that you can go beyond.

25 MR. TRAFICANT: And I can't even ask a

1 witness about it?

2 THE COURT: He didn't object when he did all
3 that. That's all --

4 MR. TRAFICANT: He jumped up like a
5 jumping-jack last week.

6 THE COURT: Well, that evidence went to the
7 jury, okay, the evidence that you first described, but what
8 he's saying is if you have something further, if you've got
9 something you're going to bring in here and demonstrate
10 something more, just tell us, we'll have a hearing out of
11 the hearing of the jury, and see whether you establish a
12 basis to go on to the next step.

13 MR. TRAFICANT: Fine, fine. Here's what I am
14 hearing from the Court: Where I think it is necessary for
15 my defense to show that my performance may have initiated
16 or been a part of some of the problems that I have, I will
17 ask questions, and he has a right to stand up and object.

18 THE COURT: Right. But some of those
19 questions will need to be pursued so you can show how
20 they're relevant outside the hearing of the jury, and
21 that's what the motion in limine does. It says in front of
22 the jury, you can't put this evidence until you've
23 established it.

24 MR. TRAFICANT: For example, if a witness
25 would say to me, "Maybe you shouldn't go that direction,

1 you might get somebody mad," for example, wouldn't it go to
2 speak to the fact that I was an aggressive person, I had an
3 agenda, and I was moving on an agenda, and that agenda was
4 really 180 degrees from the powers of the federal
5 government? I can't bring that out now?

6 THE COURT: Well, it might be --

7 MR. TRAFICANT: What can I bring out?

8 THE COURT: It might be that would happen.
9 I'm just saying you have to bring it out just like anyone
10 else would have to bring it out, first in front of the
11 Judge without the Jury present. We give you all kinds of
12 time to do that, sir. You have every break, you have
13 lunch, you have after 4:30, and you have all Friday
14 afternoon, and before we start in the morning.

15 That's why you're supposed to be here at 8:30 in the
16 morning, so we can handle those things out of the hearing
17 of the Jury. The jury is waiting back there; they're
18 supposed to be out here.

19 MR. TRAFICANT: I'm under the impression I'm
20 to try a case in front of the jury, not in front of a
21 closed bench and a judge, prosecutor, and video camera on,
22 and I have constrained myself pretty much to the rules, and
23 I have established certain things with the IRS. And it's a
24 common knowledge throughout all of Washington, D.C., where
25 everybody who lives there knows the relationship between me

1 and the Justice Department and the IRS.

2 Now, if I move into them, I'd have to set proper
3 foundation for the questioning that would bring about an
4 attitude. Attitudes are important, motives are part of the
5 defense. If they're not, what are we doing here? Why
6 don't we go ahead and scratch the jury and go ahead and
7 make a judgment order here?

8 THE COURT: We're trying to do what we do in
9 every case. You're no different than any other defendant.

10 MR. TRAFICANT: I'm not asking to be treated
11 like any other defendant, but I tell you this, I object now
12 for the record that you are restricting my defense, they're
13 paranoid over my record, which evidently they admit is
14 great, and they're concerned that the jury's going to say,
15 "My God, that guy's done so much, maybe the Government is
16 going after him," and that's their concern.

17 Now, naturally -- I have an education, I can use
18 words -- I'll try and confine those words and conform them
19 to the aspects of the case within the confines of -- what
20 was that, 804?

21 MR. MORFORD: Yes.

22 MR. TRAFICANT: Yeah, and I will try and do
23 that.

24 THE COURT: I think we're ready then.

25 MR. TRAFICANT: I'm ready.

Marcone - Cross

1 THE COURT: Thank you.

2 MR. MORFORD: Thank you, your Honor.

3 MR. TRAFICANT: Thank you.

4 (Proceedings resumed in the presence of the jury:)

5 MR. TRAFICANT: Good morning, Paul.

6 THE WITNESS: Good morning

7 CROSS-EXAMINATION OF PAUL MARCONE (Resumed)

8 BY MR. TRAFICANT:

9 Q. Did you travel home or stay in the Cleveland area?

10 A. I traveled home.

11 Q. Would you rather live in Cleveland or live in
12 Virginia?

13 A. I love northern Virginia.

14 Q. Now, can you hear me while I get my water?

15 A. Um-hum.

16 Q. The Government had gone through quite a bit of
17 questioning with you relative to certain issues, and when I
18 started cross-examining -- quite frankly, I'm trying to
19 find it -- but, would you say that you and I had a
20 truthful, honest relationship?

21 A. Yes.

22 Q. I ever asked you to lie here, Paul?

23 A. There were times when you did ask me to shade things
24 to the media, but outright lie, no.

25 Q. If you thought that -- spin, is this known, is that

Marccone - Cross

1 known as a spin in the business?

2 A. Yes.

3 Q. Do you think if my spin may not be quite what you
4 agreed with, would you do it?

5 A. No.

6 Q. Would you tell me?

7 A. Yes.

8 Q. Did I ever say, "Hey, Paul, listen, I'm the boss
9 here, you take the spin the way I say it is"?

10 A. There were times when you put your foot down on
11 certain matters.

12 Q. And they were important matters?

13 A. In our office, yes.

14 Q. But in most part, were you basically -- basically
15 free to respond in my behalf on any issue, if you had
16 knowledge?

17 A. In terms of dealing with the media, I was free to
18 respond in your behalf, yes.

19 Q. Now, in dealing with federal agencies and things,
20 were there times when you initiated action, knowing perhaps
21 my agenda, without even conferring with me?

22 A. Yes.

23 Q. Such as?

24 A. It's a pretty broad question.

25 Q. Well, let's break it down like to say maybe like the

Marccone - Cross

1 Federal Building, the first Federal Building. Were you the
2 chief of staff then?

3 A. I was not the chief of staff when that -- when that
4 was first authorized.

5 Q. What was your -- what was your position?

6 A. I was legislative assistant and press secretary.

7 Q. Now, is it not a fact that we got a friendly call
8 from someone who gave us a tip, who gave me a tip that
9 money was going to be taken away from the courthouse?

10 A. Yes.

11 Q. And you testified the money was going to go where?

12 A. Laguna Nigel, California.

13 Q. What was unusual about it going to Laguna Nigel at
14 that point?

15 A. I'm not sure whose congressional district it was in.

16 Q. Do you believe it was the chairman of the committee?

17 A. It was either the chairman of the committee or a man
18 named Robert Lagonarsino.

19 THE COURT: You have to spell that.

20 THE WITNESS: L-A-G-O-M-A-R-S-I-N-O.

21 Q. Would you explain what a reprogramming is?

22 A. It's when the federal government makes a decision to
23 take money to the Congress that's authorized and
24 appropriated for a particular project, and makes a request
25 of the Congress to have those funds spent for another

Marcone - Cross

1 purpose.

2 Q. Now, do you recall the chairman of the subcommittee,
3 the chair of the Appropriation subcommittee by the name of
4 Mr. Royball?

5 A. Yes.

6 Q. Was he not a great guy?

7 A. I thought he was a very good member, yes.

8 Q. Do you know what area he represented?

9 A. Southern California.

10 Q. Do you know if he represented Laguna Niguel?

11 A. I don't know that for a fact.

12 Q. Did you and I -- isn't it a fact you and I went into
13 the, at the time, after work, the AA's desk as we were
14 informed that we got a letter on the matter, weren't we
15 informed?

16 A. Yes.

17 Q. Did we ever see the letter, Paul?

18 A. I don't recall.

19 Q. When did we first see the letter?

20 A. I don't recall.

21 Q. Did we go into the AA's desk and look? Do you recall
22 that?

23 A. No, sir.

24 Q. But, eventually we found the letter, didn't we?

25 A. Yes.

Marccone - Cross

1 Q. Did that lead to my removal of that AA, to the best
2 of your knowledge?

3 A. That was a -- that was my understanding, was that was
4 one of a number of factors that led you to remove that
5 person, yes.

6 Q. Did I not give that person 90 days to find a job, to
7 the best of your knowledge?

8 A. I believe you gave her six months.

9 Q. Six months. But she was still pretty vindictive,
10 wasn't she?

11 A. Fairly. She was very upset, yes.

12 Q. But, did she ever report the letter she received to
13 me?

14 A. I don't believe she did, no.

15 Q. Was I upset, Paul?

16 A. Yes.

17 Q. Did I threaten to sue the chairman of the
18 subcommittee?

19 A. I believe you did.

20 Q. Well, wouldn't a subcommittee have to hold a hearing
21 and have everybody vote on it before they could reprogram
22 money to go to Cleveland, Ohio, Federal Court, and take it
23 to Laguna Niguel, for example?

24 A. Yes.

25 Q. A chairman just couldn't do it on his own signature,

Marccone - Cross

1 could he?

2 A. He could try to attach it as an amendment to.

3 Q. But, he could not write and say "You do this," could
4 he?

5 A. My understanding is reprogramming of federal funds
6 would require an act of Congress.

7 Q. So I challenged the subcommittee on that issue, did I
8 not?

9 A. Yes.

10 Q. Okay. Was there a hearing?

11 A. I don't remember. This was 15, 16 years ago.

12 Q. Well, do you recall when general administration was
13 called in and I was called in before a subcommittee
14 relative to the reprogramming of the money?

15 A. Yes.

16 Q. What, if anything, happened after that was over?

17 A. My understanding is the end result was that the
18 courthouse in Youngstown was eventually built, that
19 probably --

20 Q. No. About the reprogramming, what happened about the
21 reprogramming?

22 A. I believe you halted the reprogramming, allowed the
23 project to continue.

24 Q. And the subcommittee had to vote before they made
25 that decision, didn't they?

Marccone - Cross

1 A. To be honest, I don't recall.

2 Q. Okay. But, even though it was approved, they didn't
3 go forward, did they?

4 A. Again, I don't recall the exact sequence of events.

5 Q. Was there an event that took place real late at night
6 when, in fact, I raised a record number of points of order
7 on the treasury postal bill?

8 MR. MORFORD: Your Honor, I just object as to
9 relevance as to where this is going.

10 THE COURT: Overruled. You can answer it.

11 THE WITNESS: I recall that happening.

12 Q. And when I raised those points of order, it basically
13 killed the whole spending bill for the IRS, the Treasury
14 Department, and all the other related agencies, right?

15 A. Yes, that was the effect of the points of order, yes.

16 Q. And at some point were you aware that the leadership
17 came to me and asked me not to do that again?

18 A. Yes.

19 Q. And what did they say they would do if I wouldn't do
20 that again?

21 A. That they'd get the courthouse built.

22 Q. Was the courthouse built?

23 A. Yes, it was.

24 Q. Had that not occurred, would the courthouse have been
25 built?

Marccone - Cross

1 A. Well, I -- my opinion, they probably would not have
2 had it built.

3 Q. Do you know since then there's been a second
4 courthouse built?

5 A. Yes.

6 Q. Do you know if, in fact, the new federal courthouse
7 building that is being built in Cleveland was authorized by
8 me when I was chairman?

9 A. Yes, it was.

10 Q. Were you my staff member when we authorized it?

11 A. Yes.

12 Q. Were you proud of our record on that committee?

13 A. Yes.

14 Q. Okay. Now, throughout all of Congress, was I known
15 as -- how was I known and perceived?

16 A. Amongst the staff I dealt with, you had a very good
17 reputation: Outspoken, a member who was not afraid to take
18 on tough issues, and the staff members all enjoyed your
19 speeches.

20 Q. But was there one specific political agenda I had
21 from day one that you can recall?

22 A. There were several items that were very important to
23 you, one of which was reforming the IRS. The other was
24 getting tough on drugs.

25 Q. Was I one of the original authors of drug legislation

Marcone - Cross

1 as a freshman?

2 A. Yes, in 1986, yes.

3 Q. Now, was I known as an assertive member relative to
4 trade, an assertive member relative to trade issues?

5 A. Yes.

6 MR. MORFORD: Objection, relevance, your
7 Honor.

8 THE COURT: We can have some kind of a mini
9 hearing. Go on to something else.

10 MR. TRAFICANT: Okay.

11 Q. Do the words "buy American" mean anything to you,
12 Paul?

13 A. Yes.

14 Q. Now, do you know where the Avanti cars were built?

15 A. My vague recollection is they were built in
16 Youngstown.

17 Q. And I was known as the "bi-American" legislator.
18 Would you say that's a true statement?

19 A. Yeah, fairly accurate.

20 Q. Would that be buying Youngstown, if I were to buy
21 cars made in Youngstown, Paul?

22 A. I don't understand the question.

23 Q. Well, if a company made cars in my own district --

24 A. Right.

25 Q. -- and I was the "bi-American" legislator, would I

Marccone - Cross

1 not take, in your opinion, wouldn't I --

2 THE COURT: No, we can't have his opinion on
3 something like that. Thank you.

4 MR. TRAFICANT: Okay.

5 Q. Do you know if I bought any cars that were made in
6 Youngstown?

7 A. I don't know.

8 Q. Would you be surprised though if cars were made in
9 Youngstown, that I would buy one?

10 A. That wouldn't surprise me, no.

11 Q. Now, I looked through -- how many times did you
12 testify before the Grand Jury?

13 A. Twice before the Grand Jury.

14 Q. Did you have immunity, Paul?

15 A. No.

16 Q. Did you ask for immunity?

17 A. No.

18 Q. Did you think you needed it?

19 A. No.

20 Q. Did I ever ask you to testify wrongfully or to lie
21 the Grand Jury?

22 A. You didn't -- you instructed me how to testify to a
23 specific issue.

24 Q. At the time when we had a conversation relative to
25 DiBlasio and Sinclair, was it not a fact that I was in the

Marcone - Cross

1 midst of the only heated debated election in my history?

2 A. Yes, you were in the middle of a primary.

3 Q. Wasn't there every day bombardment about rumors in
4 the press headlines, to the best of your knowledge?

5 A. As press secretary, I was getting calls every day
6 from reporters about the Grand Jury investigation.

7 Q. Was it unusual for me to talk to you about those
8 types of issues, especially around election time?

9 A. It was not unusual for you and I to have discussions
10 about that, no.

11 Q. From the day that I started, did you have the
12 impression or were you ever told by me that I didn't trust
13 the IRS, and that I would feel that my phones in my office
14 would be bugged?

15 THE COURT: Okay. This is a real example of
16 somebody saying something that we have no idea whether this
17 witness knows or not. And when it's put in the question,
18 it suggests an answer, and so that makes it a problem, so
19 you understand why it is an objection would be made and
20 sustained for somebody to basically try and put evidence in
21 front of you that way.

22 MR. TRAFICANT: Okay.

23 Q. Was I paranoid about bugs in my office?

24 A. Yes.

25 Q. Okay. Did we have conversations why? Did we ever

Marcone - Cross

1 have conversations why I was paranoid?

2 A. Yes.

3 Q. What was that?

4 MR. MORFORD: Objection, hearsay.

5 THE COURT: Sustained.

6 MR. TRAFICANT: Objection to his objection.

7 THE COURT: Okay.

8 BY MR. TRAFICANT:

9 Q. Did you and I have the conversation or did we have it
10 with a third party?

11 A. You and I had a conversation.

12 MR. TRAFICANT: Well then, your Honor, that
13 would not be hearsay, would it?

14 THE COURT: Why don't we deal with this one
15 at the break so we don't have to go through that.

16 MR. TRAFICANT: Okay.

17 THE COURT: Thank you.

18 BY MR. TRAFICANT:

19 Q. But you testified April 26, 2000, do you recall that?

20 A. Yes.

21 Q. I'm going to try to maybe refresh some of your memory
22 with your Grand Jury testimony, if I can.

23 THE COURT: Okay. Well --

24 MR. TRAFICANT: Are we going to limit that?

25 THE COURT: Well, it is one of those things

Marcone - Cross

1 where we do have to look at it to understand whether or not
2 what it is that you are trying to do is something that you
3 can legitimately do, so we'll do it at the next break, I
4 guess.

5 MR. TRAFICANT: Okay. Well, if I don't --

6 THE COURT: We're going to --

7 MR. TRAFICANT: If I don't read from the
8 Grand Jury testimony, you mean I can't ask questions about
9 his testimony? No, really, I --

10 THE COURT: Well, I don't know what you're --
11 I know --

12 MR. TRAFICANT: You're limiting me here.

13 THE COURT: I know. I don't know what it is
14 you have in your hand or what you're going to do. And in
15 fairness to the jury, if you have other questions you
16 should go forward with those, and we'll deal with this
17 issue, whatever it's going to be, the way we always deal
18 with these issues, which is to deal with them first without
19 taking up the jury's time, because they involve apparently
20 a legal issue.

21 I don't really know. So instead of sending them on a
22 break right away, if you have something else you can go to,
23 then we'll handle that at the break.

24 BY MR. TRAFICANT:

25 Q. Do you recall Mr. Morford's questioning about telling

Marccone - Cross

1 the truth?

2 A. I don't think he specifically raised the issue
3 telling the truth. I was sworn in. It's obvious that I
4 went before the Grand Jury, and you don't take the Fifth,
5 you have to tell the truth, so that's exactly what I did.

6 Q. Do you recall Mr. Morford talking about when targets
7 of investigations are called in, don't they normally tell
8 their witnesses just to tell the truth?

9 A. I don't recall them making reference to that. He
10 might have, I just don't -- I don't recall every aspect of
11 my Grand Jury testimony.

12 Q. Okay. Now, he brought up a number of issues.

13 A. Um-hum.

14 Q. One of them was the building at 11 Overhill Road,
15 right?

16 A. Um-hum.

17 Q. You always had concerns over that, didn't you?

18 A. I had concerns over it once we moved into the new
19 courthouse.

20 Q. Yeah. But, I mean you never had concerns over it
21 before relative to Henry DiBlasio, did you?

22 A. No. The few times I asked about that, you made it
23 clear to me that Henry did not own the building.

24 Q. Do you know if Henry called down to any committees
25 and inquired how to go about doing it?

Marccone - Cross

1 A. That would have happened in '85, and I'm not familiar
2 with -- I'm familiar now with the correspondence that was
3 exchanged between Henry and the House of Representatives
4 about that issue, but at the time, I was not familiar with
5 what was going on.

6 Q. Would you happen to know that there were three people
7 subpoenaed relative to Henry DiBlasio's activity at 11
8 Overhill Road on the building? Would you happen to know
9 that? Yes or no.

10 A. No.

11 Q. In this trial, you don't know that?

12 Did you ever come to find out that Henry DiBlasio's
13 name was or was not on the lease?

14 A. To this day, I'm not sure what the arrangement was
15 with that building.

16 Q. So you don't know if his name was on the lease?

17 A. My recollection of seeing the lease, it is that it
18 had Trumbull Land Company or Trumbull Land Management
19 Company on the lease.

20 Q. So there was a company set up that handled it, right?

21 A. That was my recollection of it.

22 Q. Was the signature, to the best of your knowledge, the
23 signature of Henry DiBlasio for the company on the lease?

24 A. I don't recall whose name appeared on the lease.

25 Q. If it would have appeared on the lease would it have

Marccone - Cross

- 1 been a red flag for you, Paul?
- 2 A. Yes, absolutely.
- 3 Q. Big time?
- 4 A. Yes.
- 5 Q. What, if anything, would you advise me to do?
- 6 A. Terminate the lease.
- 7 Q. Now, at some point, did you approach me about all of
- 8 the news stories before the primary election in that heated
- 9 election of '98?
- 10 A. We had many discussions about that.
- 11 Q. Who initiated it?
- 12 A. I did.
- 13 Q. What was your concerns, Paul?
- 14 A. I was concerned that I was getting calls on a daily
- 15 basis from reporters with detailed questions about a Grand
- 16 Jury investigation and was concerned that information about
- 17 that investigation was being deliberately leaked to the
- 18 media to damage you politically.
- 19 Q. And who did you, if anything, suggest to me you
- 20 thought was doing that?
- 21 A. At the time, my opinion was it was someone from the
- 22 federal government was deliberately leaking information to
- 23 the media to influence the primary.
- 24 Q. And what led you to that conclusion?
- 25 A. I felt the information reporters were asking were of

Marccone - Cross

1 a detailed nature that the only way they could get that
2 information was from the federal government.

3 Q. Isn't it a fact that a witness can go out and give
4 anything he said or she said to the Grand Jury?

5 A. At the time, I didn't realize that.

6 Q. Yeah. But, still, were there not times where you
7 said -- irrelevant, regardless of that statement -- that
8 there were some reporters that intimated to you that the
9 federal government is slick and they do manipulate the
10 press? Did you ever have that statement made to you?

11 A. No, I believe what I -- what I said, in my opinion,
12 it seemed to me as if they were getting such detailed
13 information that it could only come from the federal
14 government. That was my personal opinion that I conveyed
15 to you on several occasions.

16 Q. So no reporters ever intimated to you to be careful
17 about government tactics?

18 A. I don't think reporters -- no, I don't think they
19 told me -- they -- I don't think I ever received a caution
20 from a reporter telling me to be careful about the
21 government.

22 Q. Now, the government says that "You knew that Jim was
23 doing this with a company" or "Jim was doing this with a
24 company, would you have done anything for those companies";
25 you recall those questions?

Marccone - Cross

1 A. Yes.

2 Q. And what was your answer?

3 A. I believe I said no, I would have -- I would advise
4 we not help those companies..

5 Q. With all these allegations going on, were you
6 communicating with me about that?

7 A. Yes.

8 Q. And because of the heated -- well, let me ask you
9 this: How many campaigns did you go through with me as a
10 member of Congress?

11 A. Six.

12 Q. Would you say that this was the only serious
13 challenge made while I was a member?

14 A. Yes.

15 Q. This was the big one, wasn't it, Paul?

16 A. Yes.

17 Q. Now, after the primary, were there any more
18 headlines?

19 A. My recollection was after the primary, I didn't
20 receive any more calls from the reporters about the Grand
21 Jury investigation.

22 Q. Did you and I have conversations about that?

23 A. Yes.

24 Q. Did that, in fact -- did you, in fact, say anything
25 to me or make any statements to me relative to those

Marccone - Cross

1 dynamics?

2 A. Well, in my opinion, it looked suspicious that all of
3 a sudden the phone calls stopped after the -- after you had
4 won the primary.

5 Q. But, no one from the press ever told you the
6 Government was slick and keep an eye on them?

7 A. No. I mean, I had conversations with reporters that
8 it was a wide range of investigation. They made side-bar
9 comments like that. I had good relationships with our
10 reporters that called, and I remember someone telling me
11 that this seemed like it's a pretty big investigation.

12 Q. Now, when we talked about you -- or let me say this.
13 At some point, did I say to you that you should look for a
14 job?

15 A. You said that several times to me.

16 Q. What was your opinion why I said that to you, or let
17 me ask you this: In what sense did we have that
18 conversation? What did we talk about?

19 A. We talked about the investigation, about your
20 political future, and you basically were concerned about me
21 and my family and my future. You said, "You have a wife
22 and kids, you have a good future ahead of you, you should
23 look for a job. I don't know what's going to happen to
24 me."

25 Q. Did I intimate to you that I believed that I would be

Marccone - Cross

1 indicted?

2 A. Yes.

3 Q. Did you and I have discussions of why I was -- why I
4 thought I was going to be indicted?

5 A. You intimated to me that you were going to be
6 indicted because you had been targeted by the federal
7 government.

8 Q. Paul, are you familiar at all with my history?

9 A. Yes.

10 Q. Was I once before tried by the federal government?

11 A. Yes.

12 Q. Do you know if I had counsel?

13 A. I believe you were pro se.

14 Q. Did I have anybody at all helping me, to the best of
15 your knowledge?

16 A. To the best of my knowledge, no.

17 Q. Was there anybody else in the history of the country
18 that ever beat the Justice Department, pro se, to the best
19 of your knowledge, in a RICO case?

20 MR. MORFORD: Objection as to basis of his
21 knowledge on this.

22 THE COURT: I don't know how he would know
23 the answer to that question.

24 MR. TRAFICANT: If he knows.

25 THE COURT: If you know, you can say.

Marcone - Cross

1 THE WITNESS: I believe that there were
2 several reporters who had done in depth studies of your
3 case and told in their research you were the only person to
4 defend himself pro se against the RICO case against the
5 Government and prevail.

6 Q. Do you know who brought the charges against me back
7 then, what two agencies?

8 MR. MORFORD: Objection, unless he has a
9 basis of knowledge that's not hearsay, your Honor.

10 THE COURT: Was this in 198 --

11 MR. TRAFICANT: Yes, 1983.

12 THE COURT: What was it?

13 THE WITNESS: My understanding, it was the
14 Justice Department and the IRS.

15 THE COURT: Were you there? I mean, do you
16 have some --

17 THE WITNESS: No, no.

18 THE COURT: Okay. Other than your
19 understanding, which I don't know where it comes from, what
20 we're trying to get to is your personal knowledge.

21 THE WITNESS: At the time I had no personal
22 knowledge.

23 BY MR. TRAFICANT:

24 Q. As my press secretary did you do a lot of research on
25 me?

Marcone - Cross

1 A. Yes, I did.

2 Q. And did you come to find those facts out when you
3 researched me?

4 A. Yes.

5 MR. TRAFICANT: Was Mr. Morford standing up
6 to make an objection, or is he just going to block my view
7 here?

8 THE COURT: He appeared to be sitting down.
9 Maybe I missed it.

10 THE COURT: He's going up and down.

11 MR. MORFORD: Your Honor, I object to this in
12 front of the jury. You've instructed us not to do this in
13 front of the jury.

14 MR. TRAFICANT: She didn't instruct us not to
15 do this. I asked if he had knowledge, if he researched my
16 record before he became an employee.

17 THE COURT: Do you know what? You know what
18 really is going on here, and that is that you're having a
19 conversation that's sort of a blend of mixing some legal
20 things, which you could very well raise at noon, with some
21 statements that you're making. We're trying to examine
22 witnesses on the stand. We need to talk to people about
23 personal knowledge they have because that's required.

24 There's a reason why rules require someone have
25 personal knowledge rather than just talk off the top of

Marcone - Cross

1 their heads, so we need you to follow those rules. If you
2 need a break, we'll take a break, and we'll try to handle
3 whatever it is we need to handle.

4 MR. TRAFICANT: For the record, I really
5 don't care what they object to. And I'm trying to stay
6 within the rules.

7 THE COURT: Good.

8 MR. TRAFICANT: And I want to remind the
9 Court, I asked him when he was hired if he did a research
10 on the member he was going to work for. That was my
11 question.

12 THE COURT: Okay. Will you answer that
13 question?

14 THE WITNESS: I believe I answered it.

15 THE COURT: Okay. Well, answer it again.

16 THE WITNESS: Yes, I did do the research.

17 THE COURT: Thank you.

18 Q. So you knew pretty well my history?

19 A. Yes.

20 Q. Did we at times have a conversation about my
21 aggressive style on matters?

22 A. Many times.

23 Q. Would you advise me?

24 A. I would try to give you as good counsel as I could.

25 Q. And what would that counsel be, for example?

Marccone - Cross

- 1 A. It depends on the issue.
- 2 Q. Well, let's say the IRS.
- 3 A. I thought that by and large, the reforms you proposed
- 4 were good solid reforms.
- 5 Q. But, you also had concerns about what?
- 6 A. I don't think I ever expressed -- I supported that
- 7 initiative very strongly.
- 8 Q. Okay. The Government brought up the name of Leo
- 9 Jennings. Do you remember Leo Jennings?
- 10 A. This was a Jennings who served on the Youngstown
- 11 council. That's the Jennings I had familiarity with.
- 12 Q. Did the Government ever ask you about a question
- 13 about a Leo Jennings?
- 14 A. Yes. At the time I thought they were talking about
- 15 City Council member Jennings from Youngstown.
- 16 Q. Did we ever have an employee by the name of Lynn
- 17 Jennings?
- 18 A. Yes, we did.
- 19 Q. Did she have a father?
- 20 A. I don't know if she had a father or not.
- 21 Q. Okay. Now, there was a question brought up of the
- 22 timing of DiBlasio and Sinclair both being there for a
- 23 little short time; was that correct?
- 24 A. Um-hum.
- 25 Q. Now, first let's talk about Henry's pay. When you

Marcone - Cross

1 started out on my staff what were you first paid?

2 A. \$18,000 a year.

3 Q. When you left my staff, what were you paid?

4 A. \$114,500.

5 Q. When Henry first started on my staff, did you have
6 any knowledge what he was paid?

7 A. I believe he was paid \$50,000 a year.

8 Q. And when he left what was he paid?

9 A. I believe it was in the high 70's, 80's.

10 Q. Did he give COLAs every year, Paul?

11 A. Yes.

12 Q. Explain to the jury what a COLA is.

13 A. The cost of living adjustment that members of
14 Congress would generally -- it general follows whatever the
15 federal government, federal employees' COLA was, that
16 typically ranged from 1 and a half percent to 3 and a half
17 percent a year, and usually, we may be 3 and a half
18 percent, we gave everyone 4 percent.

19 Q. Did you ever hear of other members having attorneys
20 on their staff?

21 A. Many committee chairmen have counsel, senators have
22 counsel on their staff.

23 Q. Do some members also have counsel?

24 A. I can't speak for 434 other members.

25 Q. It was up to whom?

Marccone - Cross

- 1 A. It's up to the member.
- 2 Q. Okay. Now, were you aware of the assignment that was
3 made to Mr. Sinclair?
- 4 A. I believe the justification he gave me for hiring
5 Mr. Sinclair was to work on local economic development
6 issues.
- 7 Q. Was there a specific duty, though, that needed to be
8 performed in regard to that?
- 9 A. Other than trying to get the three counties to
10 approve the initiative, and doing some legal research on
11 how to set up an economic development corporation, no.
- 12 Q. Okay. To the best of your knowledge, was that done?
- 13 A. No, the economic development issue was never
14 approved.
- 15 Q. But to the best of your knowledge, was the work done
16 to attempt to have it approved?
- 17 A. I didn't see any work on it, no.
- 18 Q. Would it require a tax being put on the ballot in the
19 three counties?
- 20 A. Yes.
- 21 Q. So would that not then place a tax -- a time
22 restraint on, in fact, that initiative to be prepared?
- 23 A. I believe that there was a deadline for getting that
24 tax initiative on the ballot.
- 25 Q. So one was leaving them, one was coming, right?

Marccone - Cross

1 A. Yes.

2 Q. And that was about what, November of '98?

3 A. It was the middle of November of '98, yes.

4 Q. And the primary that year, coming year, was in?

5 A. May -- oh, in -- in what year?

6 Q. That would have been '98.

7 A. You're asking me when the federal primary was in
8 1998?

9 Q. Yes, as you recall?

10 A. It was in May 1998 and in November --

11 Q. If you think back, could it have been moved up to
12 March?

13 A. It was --

14 Q. Do you remember what year it was moved to March?

15 A. It was in 2000 because of the presidential election.

16 Q. In 2000, okay.

17 But in any regards now, if the election is in May, do
18 you have to file your petitions at a certain time to be on
19 the ballot?

20 A. I know you have to file your petitions at a certain
21 time. I'm not an expert in Ohio.

22 Q. Would you say in most states it would be
23 approximate -- what would it be, in your opinion -- what is
24 it in Virginia?

25 A. Again, I'm not an expert on election laws, so I can't

Marccone - Cross

1 answer that question.

2 Q. Okay. That's good.

3 How many hours did a full-time employee have to put
4 in, Paul?

5 A. The congressional rules require that full-time
6 employees work at least 30 hours a week.

7 Q. Okay. Now, the Government asked you questions about
8 George Buccella coming to Washington. Did he come to
9 Washington?

10 A. I don't believe they asked me any questions about
11 Mr. Buccella in this trial.

12 Q. Did they ask you in the Grand Jury?

13 A. Yes.

14 Q. What, to the best of your knowledge, did you testify
15 relative to Mr. Buccella?

16 A. I don't recall exactly what my testimony was before
17 the Grand Jury on Mr. Buccella.

18 Q. When people came from the district, did they usually
19 work in the office down there?

20 A. Yes, yes. I remember George working in the
21 Washington office on these matters, yes.

22 Q. Now, if someone would come down there with me and was
23 not around the office, would you bring that to my attention
24 or would you complain to me?

25 A. I don't think I -- I may have asked "Where's George,"

Marccone - Cross

1 just out of curiosity, where he was.

2 Q. Did you ever do that?

3 A. Yeah.

4 Q. But, did you know that he was working there in the
5 office?

6 A. Yes.

7 Q. Who brought up the issue of George Buccella in the
8 first place? How did you know it became an issue? Who
9 brought that up to you?

10 A. What time frame are you talking about?

11 Q. At about the time of your Grand Jury, isn't that when
12 you heard about the allegations of Buccella?

13 A. Yes, it was from reporters.

14 Q. Okay. And were you questioned at the Grand Jury
15 about it?

16 A. Yes. To go back, your Honor, it was -- our office
17 records were subpoenaed in December of 1999, and there was
18 specific request for certain payroll records of certain
19 employees. I personally called those employees just to
20 inform them that their payroll records had been subpoenaed,
21 and at that point, I had a conversation with Mr. Buccella
22 about possibly why his payroll records were subpoenaed.

23 Q. Okay. Now, the subpoenas that were made on that day,
24 were they subject -- were they public documents?

25 A. A lot of the information that was subpoenaed would

Marccone - Cross

1 have been available publicly.

2 Q. Throughout nearly the whole case up to a certain
3 point; is that a correct statement?

4 A. The -- the payroll records would have been public
5 knowledge. I don't know if the phone records, the type of
6 detail that they subpoenaed, would have been public.

7 Q. Okay. But, in the first subpoena, was it about
8 payroll records?

9 A. Payroll and office records.

10 Q. Okay. Now, were they public documents?

11 A. Most of that information was available to the public.

12 Q. Now, what happens when the subpoena is made to a
13 member of Congress?

14 A. It goes through the House counsel.

15 Q. And what must be done to announce it to the body?

16 A. The -- I'm not sure what the exact procedure was, but
17 the Speaker of the House is to be notified that a subpoena
18 has been issued by the Northern District of Ohio, and that
19 appears in the Congressional Record.

20 Q. And then is that -- is there any announcements made
21 relative to a subpoena being served?

22 A. It is made -- it is made the next legislative day the
23 House is in session, and announcement of all subpoenas are
24 made on the House floor, but the specific member's office
25 is never mentioned.

Marcone - Cross

1 Q. Now, you and I had conversations relative to the
2 public aspects that were being subpoenaed?

3 A. Yes.

4 Q. Did you wonder why they needed a subpoena for public
5 access?

6 A. I believe that was part of our conversation. I was a
7 little puzzled as to why they would subpoena information
8 that was available to the general public.

9 Q. Now, did the House counsel ever confer to you
10 information that came from the prosecutors, U.S. Attorneys?

11 A. Yes.

12 Q. And what type of things would they say to you?

13 MR. MORFORD: Objection, hearsay.

14 THE COURT: Sustained.

15 Q. Did you ever have conversations with House counsel?

16 A. Yes.

17 Q. Okay. And what were the basis of those
18 conversations?

19 A. Talking about the subpoenas that had been issued and
20 how we were going to proceed in complying with the
21 subpoena, whether or not you wanted to comply. A lot of it
22 was procedural.

23 Q. Now, when it got down to the nitty-gritty and there
24 were certain things that were requested by the Government,
25 did it involve the separation of powers, to the best of

Marccone - Cross

1 your knowledge?

2 A. A lot of discussions I would have with the general
3 counsel had to do with speech and debate issues, issues
4 related to what information the executive branch was
5 entitled to from the legislative branch and the general
6 counsel of the House. It was their responsibility to
7 protect the interest of the legislative branch in complying
8 with any subpoena.

9 Q. Did he designate somebody as custodian to work with
10 House counsel?

11 A. Yes.

12 Q. Who was it?

13 A. Me.

14 Q. Did you do that?

15 A. Yes.

16 Q. Did I ever even look at that material, Paul?

17 A. I made the material available to you.

18 Q. Would you know if I looked at it or did you seal it?

19 A. I made it available to you. I don't know if you
20 looked at it or not.

21 Q. Okay. Did House counsel though basically make the
22 decision of what they thought should be protected?

23 A. Yes, and they consulted with me on all those
24 decisions.

25 Q. Did I ever make any statements to you what should be

Marccone - Cross

1 protected or not protected?

2 A. Well, not with the first subpoena, no.

3 Q. What records did I ever request -- oh, after the
4 House counsel had made their decision, did we have
5 conversation?

6 A. You're asking about the first subpoena?

7 Q. No, after that. You said at some point you and I had
8 conversations about these House counsel business. Could
9 you explain that?

10 A. We had conversations from the time you first were
11 subpoenaed in December of '99 to the time I left the
12 office, so issues related to several subpoenas we received
13 from the federal Government.

14 Q. But on speech and debate, specifically?

15 A. On the second subpoena, you refused to comply with
16 the subpoena, and an issue arose that the House counsel was
17 concerned since I was custodian of records that I could be
18 held in contempt of court and for not turning over the
19 documents.

20 Q. And what did they recommend?

21 A. They recommended that you get an attorney to assist
22 you in dealing with the complex issues related to turning
23 over the documents.

24 Q. And do you know if I got an attorney?

25 A. No, you did not get an attorney.

Marcone - Cross

1 Q. Did we eventually turn over the documents?

2 A. Yes.

3 Q. Did we ever withhold anything from the Court that we
4 were ordered to give to the Court?

5 A. The only documents withheld were withheld by the
6 House counsel because in the House counsel's opinion, they
7 were protected under the speech and debate clause of the
8 Constitution.

9 Q. Do you happen to know if any of their decisions were
10 overruled by a court, for example?

11 A. If any of the House counsel's decisions --

12 Q. Yes, their opinions?

13 A. I haven't read through all the Court documents, I
14 don't know all the decisions were upheld or overruled.

15 Q. But, certainly the Court would have the right to do
16 that if they did, didn't they?

17 A. Yes.

18 Q. But, from what you now know about this case, does the
19 Traficant case bring forth perhaps some questions between
20 speech and debate, between -- on the separation of powers?

21 MR. MORFORD: Objection, your Honor.

22 THE COURT: There are issues, speech and
23 debate, privilege issues in this case, and they're among
24 the legal issues that the Court has been looking over quite
25 a period of time. And so I don't think it's really any

Marccone - Cross

1 question about whenever a Congressman is involved in
2 legislation there might be questions about constitutional
3 privilege, and those are being addressed by the Court.

4 MR. TRAFICANT: Fine.

5 THE COURT: They're not issues the jury has
6 to be bothered with, they have enough to do, but to the
7 extent we reach a point where we have to explain what the
8 speech and debate privilege is, then I will do that so that
9 the jury's not in the dark with what's going on. It's just
10 a matter that that's -- that's real legal work, and we've
11 got a case to try here. So let's go on with the issues
12 that relate to what the jury needs to be working on.

13 BY MR. TRAFICANT:

14 Q. Now, did you happen to get some information relative
15 to some disciplinary action taken against one of my
16 employees?

17 A. Could you specify the employee?

18 Q. Sinclair, Allen Sinclair?

19 A. I was aware of problems that Sinclair had relative to
20 some false advertising accusations, problems he had, I
21 believe, with the Ohio Bar Association.

22 Q. And how did you come to learn that?

23 A. I got a call from the reporter asking about it, and
24 then I had a conversation with Allen, I believe a
25 conference call between Allen, myself, and you.

Marccone - Cross

1 Q. Do you specifically remember calling Allen yourself?

2 A. Yes, after I got a call from the reporter. I believe
3 what I told the reporter was I will have to check on it,
4 get back to the reporter, and I called Allen to ask him
5 about it.

6 Q. Did you inform him we would be on the speaker phone?

7 A. Well, I think he -- I believe I had two conversations
8 with Allen. The first one was Allen and myself, and then
9 we had a conference call where you were involved with the
10 call, so obviously he knew that we were talking to him.

11 Q. Now, if Allen said he only had one call and it was at
12 his house, and it was from me, would that be a correct
13 answer?

14 A. I distinctly remember talking to Mr. Sinclair about
15 that issue.

16 Q. Was it a three-way conversation, Paul?

17 A. Again, it was awhile ago, but I remember that you
18 were on the call and I was on the call, and I also recall
19 speaking to him separately myself.

20 Q. What do you mean calling him -- by the way, what time
21 of day was it?

22 A. I don't remember the time of day.

23 Q. Was it work hours?

24 A. If I was in my office with him, it was work hours,
25 yes.

Marcone - Cross

1 Q. Did you have his phone number?

2 A. I believe I talked -- I don't know where I talked to
3 him, I don't know if he was at his home or if he was in his
4 office.

5 Q. Now, there also came at some point an issue relative
6 to the enterprise KAS leasing Overhill Road. Was there
7 some discussion about that?

8 A. When we made the decision to hire Mr. Sinclair, it
9 did come up that his wife either owned the building or was
10 going to own the building, and you and Allen wanted to know
11 if that was a problem. I looked at the ethics manual. Not
12 being a lawyer, it was unclear to me whether or not that
13 would be in compliance with the ethics rules.

14 I had a conversation with Allen. I said, look, I'm
15 not a lawyer, perhaps if the building is in her name and
16 you file taxes separately, it might be okay, but it's --
17 probably wouldn't look good. Let me fax you the ethics
18 rules, you look it over, but, you need to -- you need to
19 work this issue out in a way that's in full compliance with
20 the ethics manual.

21 Q. Now, when you said it wouldn't look good, did you
22 frown on it?

23 A. Yes. I didn't think it was a good idea.

24 Q. Did you, in fact, tell me that?

25 A. Yes.

Marcone - Cross

1 Q. Was there any advice or suggestion made to
2 Mr. Sinclair about that? Did you convey any of those --

3 A. What I conveyed to Mr. Sinclair, I said, look at the
4 ethics rules. We need to be in compliance with the rules.

5 Q. All right. You worked for me, and you owned a
6 building in Alexandria, hypothetically, okay? Understand
7 so far?

8 A. Um-hum.

9 THE COURT: We can't deal with a hypothetical
10 question in this situation. Go ahead and ask him.

11 MR. TRAFICANT: Okay.

12 Q. Would the money, if that goes to your wife, go to
13 your family as well?

14 MR. MORFORD: Still hypothetical question.

15 THE COURT: Right. I think it's the same
16 thing.

17 Q. Would the money that goes from the federal government
18 to Mr. Sinclair's wife inure to the benefit of the Sinclair
19 family in general?

20 A. I can't answer. I don't know how she would spend the
21 money, so I can't answer that question. I'm not Kimberly
22 Sinclair.

23 Q. In any regard, did you ever say it doesn't look good,
24 and you think it should be changed?

25 A. I don't recall my exact words, but I distinctly

Marccone - Cross

1 recall faxing him the ethics rules, and my recollection of
2 the conversations I had with Allen was that the lease
3 arrangement needed to be in compliance with the ethics
4 rules, and they needed to set it up in such a way that they
5 didn't have any interest whatsoever in the building.

6 Q. Did Mr. Sinclair ever report back to you that he
7 checked with the ethics rule?

8 A. My recollection was I was getting an assurance that
9 that issue would be dealt with, and I moved on to other
10 issues at the time more pressing for me as chief of staff.

11 Q. Well, if you can, do you remember -- and be more
12 specific, who led you to believe that the matter had been
13 resolved?

14 A. I believe it was you and Mr. Sinclair.

15 Q. Me and Mr. Sinclair?

16 A. Yes.

17 Q. Was it your understanding after this heated election
18 that I was going to reorganize the office?

19 A. What election, May of 2000?

20 Q. In 1998, the hotly contested one.

21 A. Yes, you made it clear to me that you were going to
22 make changes in the District Office following the November
23 '98 election.

24 Q. And that was after Henry had decided to retire; is
25 that correct?

Marcone - Cross

- 1 A. Well, Henry didn't actually retire until December of
2 '98.
- 3 Q. Yes, but didn't I say that after the next election we
4 were going to reorganize?
- 5 A. Yes.
- 6 Q. During that time span, was there not a lot of
7 grumbling?
- 8 A. A lot was going on in the District Office, yes.
- 9 Q. Was there a lot of -- how would you describe it?
- 10 A. I wouldn't use the word grumbling. There was some
11 disarray because I believe Mr. O'Nesti had left the office
12 and pled guilty, so we didn't have a district director.
13 Everyone was trying to chip in and fill in for Mr. O'Nesti,
14 who had a lot of control, did a lot of work, but my
15 recollection was that people were stepping up to the plate
16 back there and trying to work as hard as they can to fill
17 the void.
- 18 Q. And we still did the job?
- 19 A. Yes, the office -- the District Office was continuing
20 to run, from my standpoint, in Washington. Things were
21 going adequately.
- 22 Q. And did I then, because of that situation, give you a
23 little more latitude to check on the District Office? To
24 the best of your knowledge, did we ever have discussion
25 about you and the District Office?

Marcone - Cross

- 1 A. Yes. That came much later, in 2000. I was given
2 control over the District Office.
- 3 Q. Now, do you know what pay Mr. O'Nesti started at?
4 A. I don't recall what his starting salary was.
- 5 Q. But how many years was he employed?
6 A. From '85 to '98.
- 7 Q. Did he get automatic cost of living allowances?
8 A. Yes.
- 9 Q. While you were there, did we ever fail to give a
10 bonus to our people?
11 A. I believe every year everyone got bonuses.
12 Q. Sometimes they were greater or lesser?
13 A. That's correct.
- 14 Q. Did we ever return any money to the general fund?
15 A. Yes, every year.
16 Q. Every year?
17 A. Yes.
- 18 Q. So we never exhausted our budget, did we?
19 A. I'd have to go back and check, but I believe every
20 year we gave some money back to the general fund, yes.
- 21 Q. To the best of your knowledge, did we get a lot of
22 complaints in Washington about not doing our job, either in
23 the district or in Washington?
24 A. Complaints from whom?
25 Q. From constituents and/or people?

Marcone - Cross

1 A. You get occasional complaints, but for the most part,
2 no, we didn't get complaints about the district.

3 Q. Did we ever get many complaints about the Washington
4 office?

5 A. No.

6 Q. Would you say that people around the country come to
7 learn their Congressman?

8 A. Can you repeat the question?

9 Q. Do you have knowledge that from the use of C-SPAN
10 that people around the country come to learn members of
11 Congress?

12 THE COURT: That isn't a kind of question
13 that he could properly answer, I don't think. Do you have
14 some special knowledge about that?

15 THE WITNESS: No.

16 THE COURT: Thank you.

17 Q. Paul, would we usually find ourselves being visited
18 by people from -- people outside of our district? Did we
19 have a lot of that?

20 A. Yes. We have a lot of people come into the office
21 who were out of the country, wanted to have their picture
22 taken for media.

23 Q. Was it greater than what you thought was normal?

24 A. Again, I have not worked in other members' offices,
25 and I can't say whether it was more or less than other

Marccone - Cross

1 offices.

2 Q. There was a lot of that though, wasn't there?

3 A. Yes.

4 Q. Did that take time?

5 A. It took some time, for certain people on the staff,
6 yes.

7 Q. Would there be workers that would call and make
8 appointments to come in and take photographs, to the best
9 of your knowledge, from other staffs?

10 A. Yes, that happened quite often.

11 Q. Now, other than in my office, your office next to
12 mine --

13 A. Yes.

14 Q. -- there wasn't a whole lot of space there, was
15 there?

16 A. No.

17 Q. Now, when the payroll records were subpoenaed, did
18 you and I have a conversation?

19 A. Yes.

20 Q. Did I advise you in any way to instruct them?

21 MR. MORFORD: Objection, hearsay.

22 THE COURT: The objection is sustained.

23 BY MR. TRAFICANT:

24 Q. Okay. What, if anything, did you do -- did we have a
25 conversation about it?

Marccone - Cross

- 1 A. Yes, we did.
- 2 Q. What, if anything, did you do with those employees --
- 3 A. The --
- 4 Q. -- whose records were subpoenaed?
- 5 A. I simply called them to let them know that a subpoena
- 6 had been issued, and as part of the subpoena, they
- 7 specifically asked for their payroll records. It was those
- 8 employees that were still on the payroll.
- 9 Q. Do you remember any questions about the Ross
- 10 Sinkowski affair when you went to the Grand Jury?
- 11 A. I can't recall whether or not I was asked about
- 12 Congressman Ross Sinkowski or not when I was before the
- 13 Grand Jury. I may have been, I just don't recall. It was
- 14 almost two years ago.
- 15 Q. Okay. That's fine. Paul, you worked with me for 15
- 16 years. Do you believe I was truthful with you over 15
- 17 years?
- 18 A. Yes.
- 19 Q. Were you truthful with me over 15 years?
- 20 A. Yes.
- 21 Q. How would you describe our relationship?
- 22 A. Very close.
- 23 Q. Did you trust my advice?
- 24 A. I trusted your judgment, yes.
- 25 Q. When it comes down to big decisions, would I get

Marccone - Cross

1 involved?

2 A. Yes.

3 Q. Now, if there was a constituent matter that hit a
4 stone wall and couldn't be handled, what, if anything,
5 would happen?

6 A. I would ask you to get involved, make a phone call.

7 Q. To the best of your knowledge, did I do that?

8 A. You always did that, yes.

9 Q. To the best of your knowledge, did I ever refuse to
10 do that?

11 A. No.

12 Q. So, now, when you get calls by reporters around this
13 politically sensitive time, you were basically responding
14 as to what you felt was going on; am I correct?

15 A. Yes. Yes.

16 Q. And how would you try and assess what was going on
17 back in the district?

18 A. Can you be more specific?

19 Q. Well, they'd be calling and asking questions. Who
20 would you ask what would happen?

21 A. If you're talking about the period before the May
22 2000 -- the March 2000 primary --

23 Q. Yeah.

24 A. I was getting specific questions from reporters about
25 things that were going on inside the Grand Jury.

Marcone - Cross

1 Q. Yeah. But, then --

2 A. And my basic statement to reporters was, basically,
3 it was wrong -- I was upset because I felt that that
4 information, however it was getting to reporters, was going
5 to have an adverse effect on the election, and that was
6 wrong, and that the Congressman had not done anything
7 wrong, and that he was going to continue campaigning and
8 doing his job.

9 Q. Well, why would you make the statement the
10 Congressman had not done anything wrong?

11 A. Because they were -- the nature of the questions
12 were about things that were going on in the Grand Jury that
13 they were investigating. There were allegations of
14 wrongdoing on your part.

15 Q. Did you ask me about some of those allegations?

16 A. Yes.

17 Q. What, if anything, did I tell you, if you can recall?

18 A. There was a specific allegation about the Bucci
19 brothers, and --

20 Q. Were there others?

21 A. Specific allegations the Buccis had done a lot of
22 work --

23 MR. MORFORD: Objection. That's something
24 the Congressman can testify to. He can't ask him.

25 MR. TRAFICANT: I wasn't asking about the

Marccone - Cross

1 Buccis.

2 THE COURT: It would be the same principle,
3 if it's hearsay we can't use it unless it comes in under
4 exception.

5 MR. TRAFICANT: Okay.

6 THE COURT: Which we have to deal with out of
7 the hearing of the jury so that they don't have to listen
8 to evidence that they're not allowed to listen to until we
9 decide whether or not they can listen to it.

10 MR. TRAFICANT: Okay.

11 BY MR. TRAFICANT:

12 Q. Paul, if you got a call that said the Congressman was
13 in an accident and he was DUI, who would you check with to
14 see if the Congressman was DUI?

15 A. I would check with you.

16 Q. If they said the Congressman was getting gifts and
17 gratuities, who would you check with?

18 A. I would check with you.

19 Q. If someone said he was getting kickbacks, who would
20 you check with?

21 A. I would check with you.

22 Q. Do you recall having conversations with George
23 Buccella about the allegations being made?

24 A. I recall making a phone call to Mr. Buccella and
25 letting him know that his name had appeared on the

Marccone - Cross

1 subpoena.

2 Q. And you recall questions about that at the Grand
3 Jury?

4 A. I believe I was asked by Mr. Buccella, yes.

5 Q. And when you talked with Mr. Buccella did you ask him
6 any questions relative to these allegations?

7 A. I asked him why he thought that his payroll records
8 would have been subpoenaed, and we had a discussion about
9 work he did on your farm.

10 Q. He said he did work at the farm?

11 A. Yes. And I asked him, did you do the work during
12 work hours, and my recollection of the conversation was he
13 said he did it on his vacation time.

14 Q. Did he ever mention weekends, to the best of your
15 recollection?

16 A. Yes, and he -- yes.

17 Q. Did he basically deny that he did any wrongdoing?
18 Yes or no.

19 A. I don't think the issue of whether or not what he did
20 was wrong came up. I was just trying to ascertain what he
21 did that caused the Government to want to look at his
22 payroll records.

23 Q. For what purpose then?

24 A. Well, because from management standpoint, you want to
25 make sure all your employees are in compliance with the

Marcone - Cross

1 ethics rules.

2 Q. And were you not also being pounded every day by the
3 press?

4 A. I was getting a lot of questions from the media, and
5 I wanted to be able to give good informed answers to the
6 media.

7 Q. Did George ever make the statement to you that he did
8 the work on his own free time and it was not an agent
9 matter?

10 MR. MORFORD: Objection, hearsay.

11 THE COURT: It is hearsay, and you know it's
12 hearsay, Congressman. Don't put that in front of the Jury.
13 Please disregard that, please. Can you disregard that?

14 THE JURY: Yes.

15 THE COURT: Thank you.

16 MR. TRAFICANT: I'm not going to disregard
17 it. Excuse me a minute.

18 THE COURT: We'll take a break.

19 (Proceedings in the absence of the jury:)

20 THE COURT: This will be about 20 minutes to
21 30 minutes long, this break, and I want to give you ten
22 minutes now, and then I'd like you to come back, and we'll
23 see if we can cover some of these issues that have been
24 occurring.

25 For your purposes, we have 20-minute break to

1 30-minute break. I'm not sure how long this will take.
2 You folks take ten minutes, please.

3 (Thereupon, a recess was taken.)

4 (Proceedings in the absence of the jury:)

5 THE COURT: I just want to deal with a couple
6 issues. One is that we're still having -- Congressman, you
7 still tend to talk over the witness, and what happens then
8 is that the reporters have to struggle to take down two
9 conversations at once. And to protect your own record in
10 the case, I need to just caution you about talking over
11 witnesses.

12 The other thing, I suppose, is that we kept getting
13 into areas of your asking questions which elicit a response
14 from the Government that there's hearsay, so I just want to
15 get clear with you that we can't let you elicit that in the
16 case. I think you know what -- I hope you understand that
17 is an out-of-court statement, and there are strong reasons
18 why the Rules of Evidence don't permit it to be used unless
19 it meets certain exceptions. So I don't know if you want
20 to respond to that or not.

21 MR. TRAFICANT: Yeah, I'd like to respond and
22 say if an attorney, whether he's pro se or Johnny Cochran,
23 makes a statement that's subject to hearsay, can't the
24 prosecution object? Is that unusual that attorneys make
25 statements that may border and they may be thinking they're

1 within the bounds, may not be within the bounds? Don't I
2 have to protect the record by objecting?

3 THE COURT: Why, yes.

4 MR. TRAFICANT: Have they not done that?

5 THE COURT: They've tried to, although you
6 argued when they tried to get on their feet, so what I'd
7 like to get clear is you made some response to me on one of
8 those, and that a third person was present, so it wasn't
9 hearsay. And I don't know whether you're thinking of when
10 someone has a privilege and there's a third person or what
11 you're thinking of, but I don't understand that response.
12 I want to make sure you're dealing with the hearsay rules.

13 MR. TRAFICANT: Fine. Let me ask you then
14 this question as the Judge in this Court.

15 If you and I had a conversation and I asked you about
16 that conversation, is that hearsay?

17 THE COURT: Well, it depends, it depends on
18 what you're trying to put into evidence. I mean,
19 hearsay -- one of the reasons that hearsay has to be looked
20 at carefully is to see whether or not it meets an exception
21 or not, is because it lacks a level of trustworthiness
22 because it isn't subject to cross-examination, because it
23 isn't something that the other side can test and challenge
24 in the ways that we do under the rules and court of law.

25 Now, there's some other rules that are brought up to

1 say there are other reasons why this statement might be
2 trustworthy, and that's where we get into the issue of
3 objections, and those have to be established, as you well
4 know, not in front of the jury during the trial, but by
5 holding a hearing where the Judge and the lawyers and the
6 pro se parties look at whether or not any subject has been
7 met.

8 But basically the problem is if you try to get a
9 witness who was in a conversation just with you to testify
10 to the content of what you said, you're not subject to
11 cross-examination, there's no way for that to be tested.

12 MR. TRAFICANT: If it was phrased -- if it
13 was phrased wrongfully, I understand that.

14 THE COURT: It's not just phrasing it, it's
15 trying to get evidence in front of the jury that isn't
16 subject to the usual tests that make it reliable enough to
17 let it go to the jury.

18 MR. TRAFICANT: Well, then let me ask you
19 this: For the record, did the prosecutor ask Paul Marcone
20 about conversations he had with Jim Traficant?

21 THE COURT: Well, do you want to respond to
22 that?

23 MR. MORFORD: Yes, your Honor, and we
24 discussed that in open court before, that the statements of
25 the Defendant are the statements of a party opponent, and

1 by definition of Rule 801, they are not hearsay. The
2 adverse party can put the statements of the opposing party
3 in because by definition they are not hearsay, but the
4 party, Mr. Traficant, the Defendant, cannot put his own
5 statements in unless he takes the stand, testifies, and
6 allows me to cross-examine him.

7 MR. TRAFICANT: Now, if I can elicit an
8 answer on a conversation I had with Joe Blow relative to an
9 act between myself and Joe Blow, with you telling me that
10 you agree with the prosecutor that Joe Blow can't tell you
11 what happened and that I would have to be the one to tell
12 you what happened, what are we saying here? Now, come on.

13 THE COURT: I think -- I think what we're
14 saying is exactly what was just said to you, that there are
15 certain exceptions to the hearsay rule, and that to the
16 extent you can demonstrate to the Court that what you want
17 to put on in evidence in this case, something that you said
18 at some time to somebody else, has met one of those
19 exceptions, it can come in, but you have to establish that
20 before you elicit it in front of the jury.

21 You can't basically avoid the issue of having it
22 tested in some way that shows it's trustworthy. You can
23 put the statement on if you choose to testify. Of course,
24 you don't have to testify. You are not required to. But
25 if you choose to testify, then you can do that, and then

1 you're subject to being under oath and to being
2 cross-examined.

3 MR. TRAFICANT: Absolutely.

4 THE COURT: Okay. Well, those are two ways
5 that the Rules of Evidence has tried to make testimony
6 trustworthy. And one is that people are sworn before they
7 give it, which you can't do with outside statements, and
8 the other is they're subject to challenge or
9 cross-examination. So the way we do it --

10 MR. TRAFICANT: For the record then, is
11 Mr. Marcone my witness? Whose witness is he?

12 THE COURT: We are in the Government's case
13 right now.

14 MR. TRAFICANT: Is he the Government's
15 witness or are we going to get into a lot of language?

16 MR. MORFORD: Actually, your Honor, I have
17 not objected to beyond the scope on a lot of this stuff
18 because I don't think it's a good use of the Court's time
19 to have Mr. Marcone testify on direct, have him
20 cross-examined, and have Mr. Traficant bring him back at
21 the end of the trial. So much of what he's asking him is
22 actually beyond the scope of direct, and he's sort of his
23 witness, and I'm not objecting to that. So the answer is
24 it's a mixed bag.

25 MR. TRAFICANT: Is Mr. Marcone the

1 Government's witness or the Defense witness?

2 THE COURT: Well, the Government called him
3 as a witness.

4 MR. TRAFICANT: Okay, fine.

5 Do I have then the right to cross-examine him?

6 THE COURT: You certainly have the right.

7 MR. TRAFICANT: And do I not have the right
8 under cross-examination, have a broad latitude, within the
9 scope of a motive for my defense --

10 THE COURT: You have to talk softer because
11 we have a jury in the back, okay? Thank you.

12 MR. TRAFICANT: Okay.

13 THE COURT: Do you need a moment?

14 MR. TRAFICANT: You have a Government witness
15 they examined on direct.

16 THE COURT: Right.

17 MR. TRAFICANT: They examined him on direct
18 basically through the Grand Jury testimony. My one
19 question is, first of all, he's their witness, I have a
20 right to cross-examine him.

21 THE COURT: Yes, you do.

22 MR. TRAFICANT: Anything he said to me,
23 whether or not it's trustworthy or not, should be judged by
24 this jury, not by what you're saying or the prosecutor's
25 saying. Now, I don't -- I may not know all the hearsay

1 rules, but I just wasn't born yesterday.

2 THE COURT: Right.

3 MR. TRAFICANT: Now, second of all, can I
4 introduce Grand Jury testimony as evidence?

5 THE COURT: What you can do, if the sheet of
6 papers you're holding in your hand back there is the
7 transcript of Grand Jury testimony, that's an issue we need
8 to deal with as we are right now.

9 MR. TRAFICANT: I am asking questions from
10 the Grand Jury --

11 THE COURT: Fine.

12 MR. TRAFICANT: -- testimony, which he did.

13 MR. MORFORD: Your Honor, again, on
14 cross-examination, yes, Congressman Traficant has more
15 latitude than he would on direct examination, but the Rules
16 of Evidence still apply. He can't ask a witness to
17 speculate. He can't ask the witness to testify about facts
18 upon which he has no firsthand knowledge that he may have
19 done some --

20 THE COURT: Right, he knows.

21 MR. TRAFICANT: How do I know he doesn't
22 unless I ask him?

23 THE COURT: But you do know those rules.

24 MR. TRAFICANT: I know those rules, but your
25 Honor --

1 THE COURT: For example, when you ask does he
2 know because of CNN or C-SPAN, or something, you have a
3 nationwide audience, well, he may in fact have some
4 particular knowledge about that, but as it turned out he
5 didn't, and so you went on.

6 MR. TRAFICANT: I went on? Did I go on?

7 THE COURT: Yeah.

8 MR. TRAFICANT: But then I went on to say,
9 did I have a lot of visitors to my office from out of
10 state, so I rephrased it, didn't I?

11 THE COURT: Right.

12 MR. TRAFICANT: But evidently -- I'm trying
13 to make a point. The point is, why do I always have to,
14 every 15 minutes, tell this prosecutor what the point is
15 I'm trying to make, and why do I have to continue to try and
16 show him beforehand what my defense is?

17 You limited obsession, vendetta, and you have been
18 very tough on hearsay. I mean it. And you have made it
19 look like as if when he objects, it's because I'm somebody
20 back there that's just wasting the jury's time, and I put
21 that on the record, and I object to that.

22 Now, I have a question unless you have a response.

23 THE COURT: No, I don't have a response.

24 MR. TRAFICANT: Thank you.

25 I want to make the charts that the Government used by

1 their IRS chief inspector investigator, I want to make them
2 joint exhibits. I want to make them defense exhibits.

3 THE COURT: Talk to them about that. That's
4 a good issue to take up during the break. I want to go
5 back to the sheaf of papers you had in your hand because I
6 told you we needed to cover at this discussion what those
7 were and where you were going with them, rather than have
8 the conversation in front of the jury, so tell me.

9 MR. TRAFICANT: Okay. Let me tell you what.
10 I have before me Grand Jury testimony. I know what he told
11 the Grand Jury. I'm trying to ask questions relative to
12 that, that deal with the indictments in this case.

13 Now, that's exactly what I'm doing. Now, I've seen
14 them -- I followed their case, much of their case is they
15 asked about the Grand Jury testimony. Now, I didn't get
16 into some of the salient points yet that deal with some of
17 these other people, but, I plan to.

18 THE COURT: Okay.

19 MR. TRAFICANT: But, I'm not allowed to have
20 his Grand Jury testimony in front of me to know what he
21 told the Grand Jury?

22 THE COURT: No. It was just very hard to
23 tell what it was you were walking into. He posed an
24 objection, and instead of recessing the jury then, I said
25 we'd recess them now. That's what we've done.

1 So now let me find out whether you have a response --

2 MR. MORFORD: Yes, I do, your Honor.

3 THE COURT: -- now that you'd like to talk
4 about.

5 MR. MORFORD: Yes.

6 The Grand Jury transcript in and of itself would be
7 again hearsay unless you set a foundation to show that the
8 witness has said something in the courtroom that's
9 inconsistent with what he said in the Grand Jury. And the
10 way you have to do it is to point out what the answer was
11 on direct that was inconsistent, ask him, "Isn't it true
12 that," say what your understanding of the inconsistency is,
13 if he denies it, then you say, "Didn't you testify at the
14 Grand Jury," and you impeach him with his prior
15 inconsistent statement.

16 That's not what has happened here.

17 THE COURT: Well, I don't know, because we
18 interrupted the Congressman before he got to that. That
19 may well be what he was going to do with the Grand Jury
20 testimony, and it's true --

21 MR. TRAFICANT: Thank you.

22 THE COURT: -- you can cross-examine with
23 it, with inconsistent statements he made at the Grand Jury.

24 MR. TRAFICANT: Yes, but it appears to me
25 that the Court, I must say this, and the prosecution is

1 very worried about the papers I put on that little table
2 back there. That's my domain. That has nothing to do with
3 them or you.

4 THE COURT: All we're worried about is that
5 we were having a heated exchange between lawyers in front
6 of the jury, and we're not going to do that in this case.
7 Right now, we're delaying the jury. The jury's sitting
8 back there when they should be in the box. So if this is
9 clear, then we'll go forward.

10 MR. TRAFICANT: Okay. Could we come to an
11 agreement on the joint exhibits or --

12 MR. MORFORD: Let's talk about it during the
13 break. We won't keep the jury for now.

14 MR. TRAFICANT: Thank you.

15 MR. MORFORD: Only thing would I say, on at
16 least a couple of those charts Congressman Traficant
17 objected, and he's going to lose his right to appeal the
18 admission of those if he makes them joint exhibits. That's
19 what we need to talk about.

20 MR. TRAFICANT: I understand that, and I am
21 going to ask if the big charts they blew up on the board,
22 certain of them be made defense exhibits.

23 THE COURT: Okay.

24 MR. TRAFICANT: If that has to be Joint
25 Exhibit, then so it can be Joint Exhibit. I want to use

1 their own exhibits.

2 THE COURT: Do you want to use them with this
3 witness?

4 MR. TRAFICANT: No. It doesn't deal with
5 this witness.

6 THE COURT: We can do it at the next break.

7 MR. TRAFICANT: I don't know if I can do it
8 at the next break. I might do it tomorrow, because I have
9 to put together the exact ones I want to be made.

10 THE COURT: Okay. You just discuss it with
11 him first. It's usually not a problem.

12 MR. MORFORD: Your Honor, one last objection.
13 I object to the editorial comments by the Congressman, and
14 I have not objected to a lot of those, but there have been
15 a number. I've written a list. I won't go into those now,
16 but things like, "The prosecutor's jumping up like a
17 jack-in-the-box," I object to his objection. Those things
18 are not proper to bring out in front of the jury.

19 THE COURT: They're not proper. He knows
20 that.

21 MR. TRAFICANT: I apologize.

22 THE COURT: Thank you.

23 MR. TRAFICANT: Sorry to have offended you.

24 MR. MORFORD: Just stop it, and then we'd
25 have no problem.

Marcone - Cross Continued

1 (Proceedings resumed in the presence of the jury:)

2 THE COURT: You're still under oath.

3 THE WITNESS: Yes, your Honor.

4 BY MR. TRAFICANT:

5 Q. Good to see you again, Paul.

6 Would you explain what your new job is, Paul?

7 A. I'm vice-president at the Russ Reid Company, which is
8 a government relations firm in Washington, D.C.

9 Q. Do you do lobbying?

10 A. Yes, I do.

11 Q. Would you explain to the Jury what a lobbyist does?

12 A. I work on behalf of nonprofit organizations which are
13 clients that we're trying to get them federal money,
14 appropriation bills, so we will work with the Congress to
15 try to accomplish that goal.

16 Q. Now, how do you go about trying to get them money and
17 appropriation bills? What do you do?

18 A. We develop a project proposal based on their needs,
19 and we present that proposal to their member of Congress,
20 their senators, and other members of Congress who are
21 involved in the process.

22 Q. So you would go to a member of Congress or the Senate
23 and try and explain the veracity and goodness of your
24 program, right?

25 A. Yes.

Marcone - Cross Continued

1 Q. Do you get paid more money by this company than what
2 you get paid by me?

3 A. Yes.

4 Q. You get substantially more money?

5 A. Not substantially more.

6 Q. On or about the time we had conversations about you
7 perhaps looking at other jobs, what do you recall
8 specifically being the reason for that conversation, if you
9 can recall?

10 A. I think on several occasions you just simply said,
11 "You have a wife and family, I don't know what's going to
12 happen to me. You should go look for another job." That
13 was in the context of the ongoing Grand Jury investigation.

14 Q. Paul, are jobs that pay over \$100,000 in Washington
15 easy to find?

16 A. No.

17 Q. Did we know at the time or did you know at the time
18 for sure I was going to be indicted?

19 A. No.

20 Q. Did we have conversations relative to it?

21 A. Yes, we did.

22 Q. Now, you testified how many times before the Grand
23 Jury?

24 A. Twice.

25 Q. Did you testify truthfully?

Marcone - Cross Continued

1 A. Yes.

2 Q. Did you have any doubt in your mind that I would want
3 you to testify anyway, but truthfully?

4 A. I can't speak as to what was in your mind.

5 Q. Did I always consider you to be truthful, Paul, in
6 our relationship?

7 A. Yes.

8 Q. Did I always consider that you would be truthful in
9 your interactions regarding me?

10 MR. MORFORD: Objection.

11 THE COURT: Sustained. He's got to testify
12 as to what he was considering.

13 MR. TRAFICANT: Okay.

14 BY MR. TRAFICANT:

15 Q. Let's deal with the truthfulness issue. To the best
16 of your knowledge, were you always truthful?

17 A. Yes.

18 Q. To the best of your knowledge, did I expect you to be
19 truthful?

20 A. Yes.

21 Q. To the best of your knowledge, was I truthful?

22 A. The evidence that I've been presented with leaves me
23 to question that right now.

24 Q. You're worried because of the evidence that you're
25 hearing about, right?

Marccone - Cross Continued

- 1 A. Yes.
- 2 Q. Is that unnatural?
- 3 A. I think I wouldn't be human if I didn't start to
- 4 question your truthfulness.
- 5 Q. Now, you testified twice before the Grand Jury?
- 6 A. Yes, sir.
- 7 Q. Did FBI or any other agents ever come out and visit
- 8 you in addition to that?
- 9 A. Yes, I was visited by the U.S. Attorney's Office.
- 10 Q. How many times?
- 11 A. Twice in Washington.
- 12 Q. Where?
- 13 A. Once in the Justice Department building, the second
- 14 time was at a hotel in Washington, D.C.
- 15 Q. Did you ever notify me of those meetings?
- 16 A. No.
- 17 Q. Did I ever ask you if the FBI was investigating or
- 18 asking questions?
- 19 A. After I left your employ, no.
- 20 Q. No. Before, at any time?
- 21 A. I don't recall that, no, although I did inform you I
- 22 was testifying before the Grand Jury in April of 2000.
- 23 Q. Yes, you did. And is that a time when the heavy
- 24 election was coming on?
- 25 A. Yes, sir.

Marcone - Cross Continued

1 Q. Did we have any conversations relative to that
2 election?

3 A. Many conversations.

4 Q. Did you have concerns because of the press coverage?

5 A. I believe I answered that, yes, I did. Leading up to
6 the March, 2000 primary, I had a lot of concerns about
7 reports in the media concerning the Grand Jury
8 investigation.

9 Q. From your experience on Washington Hill, when there's
10 a tough election and, for example, a member's name is in
11 the headlines with serious allegations, what normally
12 happens to that member in most cases?

13 A. I have to go back and look at every election in which
14 it happened, but someone who's very experienced in
15 politics, that's usually a nightmare scenario to have
16 damaging allegations of wrongdoing at the eve of any
17 election.

18 Q. With all these allegations, did I win the primary?

19 A. Yes, you did.

20 Q. In the face of all of these allegations, did I win
21 the general?

22 A. Yes.

23 Q. Now, when you started to work with me in Washington,
24 what was the condition of the district, to the best of your
25 knowledge?

Marcone - Cross Continued

1 A. In 1985?

2 Q. Yes, financially.

3 A. I believe it was very high unemployment. Their
4 economic development was at a snail's pace, and it was --
5 it was hurting economically.

6 Q. What was the one word that if you can recall that I
7 was always pushing you for?

8 A. Jobs.

9 Q. Did I ever miss an opportunity, to the best of your
10 knowledge, to inflect jobs into an issue?

11 A. I'd say that's a fair statement.

12 Q. Now, when you met with the Justice Department, how
13 many people met with you totally, the first time?

14 A. At the Grand Jury?

15 Q. No, when the -- you said you met, before the Grand
16 Jury, twice with the Government?

17 A. The meetings I had with the Government in Washington,
18 D.C., occurred after -- one occurred after my first Grand
19 Jury appearance, the other occurred after my second Grand
20 Jury appearance.

21 Q. Okay. After your first Grand Jury appearance, how
22 many people visited you, to the best of your knowledge, and
23 interviewed you?

24 A. There were -- there were three people present, and
25 there were -- I also had my own attorney present.

Marcone - Cross Continued

1 Q. Okay. Now, you testified they didn't intimidate you,
2 right?

3 A. No.

4 Q. But, did you feel some pressure?

5 A. It's never an easy thing to -- the pressure I felt
6 was just the pressure of having to appear before a Grand
7 Jury and answer questions about someone that I respected or
8 cared a great deal about.

9 Q. Okay. Now, the next time you met with them, how many
10 were there?

11 A. In Washington?

12 Q. Yes.

13 A. Two.

14 Q. Do you recall who they were?

15 A. Mr. Morford, and I don't recall the name of the other
16 individual.

17 Q. Meeting with the Government is really though a pretty
18 scary thing, wouldn't you say?

19 THE COURT: He can answer, ask -- if you want
20 to ask him his response, that would be the way to do it.

21 Q. What's your response? Would your response be --

22 A. I wouldn't say I was scared. Having done hundreds of
23 meetings with federal, state, city officials, I wouldn't
24 say I was scared at all in any of the meetings.

25 Q. Okay. Now, you said I was known for taking the

Marcone - Cross Continued

- 1 offense; is that right?
- 2 A. Um-hum.
- 3 Q. Did I take the offense from day one?
- 4 A. In regards to the --
- 5 Q. When we started working together, did I always take
- 6 the offense, or what?
- 7 A. Yes.
- 8 Q. Would we have conversations about that?
- 9 A. Yeah.
- 10 Q. Did we at times have differences?
- 11 A. Yes, yes.
- 12 Q. Did we at times have some heated differences?
- 13 A. Yes.
- 14 Q. Now, the Government said that we had a, what was the
- 15 term, an argument, a big argument over an issue. Do you
- 16 recall that question?
- 17 A. Yes, I do.
- 18 Q. Was it a big argument or was it a heated debate?
- 19 A. That -- that particular incident was a big argument.
- 20 Q. Okay. What was it about?
- 21 A. You wanted me to call the Hannity & Colmes, a cable
- 22 television show, and get you time to speak on the show to
- 23 make allegations about the U.S. Attorney General.
- 24 Q. Okay. And what was your advice to me?
- 25 A. I thought that it was inappropriate for you to make

Marcone - Cross Continued

1 allegations based on hearsay evidence. I felt it was
2 inappropriate for you as a Congressman to make those kind
3 of statements, that it was a wrong thing to do, and I
4 wasn't going to -- I refused to set up an interview.
5 Q. Did you ever ask to see any evidence I might have
6 attained?
7 A. Yes.
8 Q. And what were those in the form of?
9 MR. MORFORD: Objection.
10 THE COURT: Sustained.
11 Q. Okay. To the best of your knowledge, would I put
12 important matters on the Congressional Record, to the best
13 of your knowledge?
14 A. On many occasions, you would ask me and other members
15 of the staff to put certain documents into the
16 Congressional Record.
17 Q. Do you know if they were printed?
18 A. They were always printed in the Congressional Record,
19 yes.
20 Q. Did you have knowledge that I had -- was conducting a
21 congressional investigation in my own district into FBI and
22 IRS activities?
23 A. Yes.
24 Q. Do you have any knowledge that I put anything on the
25 record relative to those --

Marcone - Cross Continued

1 A. Yes.

2 Q. -- allegations?

3 A. Yes.

4 Q. Do you know if I had ever written to an attorney
5 general relative to Government corruption in the Youngstown
6 area?

7 A. Yes, on several occasions.

8 Q. Did we ever get any response, Paul?

9 A. Yes.

10 Q. And what, if anything, did they say?

11 MR. MORFORD: Objection, hearsay.

12 THE COURT: We keep going back to the same
13 place.

14 MR. TRAFICANT: Okay.

15 BY MR. TRAFICANT:

16 Q. But, is it your testimony that we did write and
17 notify the Justice Department and ask them questions about
18 my concerns about FBI and IRS corruption in Youngstown,
19 Ohio? Yes or no.

20 A. Yes.

21 Q. Now, you recall the Demjanjuk issue, when that
22 occurred?

23 A. Yes.

24 Q. Did we have a conversation about it, Paul?

25 A. Your direct involvement with the Demjanjuk case came

Marcone - Cross Continued

1 when I was not in the office. However, prior to my leaving
2 in March of '89, I did get a letter from the Demjanjuk
3 family, I believe it was a form letter they sent to every
4 member of Congress, asking for assistance in the case. And
5 I remember when viewing the letter, and I don't even -- I
6 don't know if I brought it to your attention or not, but I
7 didn't think the case warranted your support or help.

8 Q. Did you know if they visited members of Congress?

9 A. I came to find out later on that they did start
10 visiting with members of Congress, yes.

11 Q. At some point, though, you were in the office when
12 they appeared in the office -- were you in the office when
13 they came to the office, asked for my assistance?

14 A. For the first time, no, I was no longer working
15 there.

16 Q. Did you and I have conversations relative to my
17 involvement with the Demjanjuk case?

18 A. When I came back in '93, yes.

19 Q. All right. And what, if anything, did you say?

20 A. I -- I felt that while he may not have been Ivan the
21 Terrible, he probably was a prison guard, and it probably
22 was not a good idea for you to be supporting him.

23 Q. What was he charged with, do you know, the charge?

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

Marcone - Cross Continued

1 THE COURT: The objection is sustained.

2 Q. Do you know if Mr. Demjanjuk was cleared of the
3 charges?

4 MR. MORFORD: Objection.

5 THE COURT: The objection is sustained.

6 BY MR. TRAFICANT:

7 Q. Now, you at some point you started to get a lot of
8 calls about some contractors, right?

9 A. Yes.

10 Q. And who were you getting those calls from?

11 A. Newspaper reporters.

12 Q. Was one of them a Mr. J. J. Cafaro?

13 A. That was one of the contractors I was getting calls
14 about, yes.

15 Q. Do you know if Mr. Cafaro was a part of a company?

16 A. Yes, he was the owner of a U.S. Aerospace Group.

17 Q. You know who the president of that company was?

18 A. I believe it was his daughter.

19 Q. Do you know who the chief executive officer was?

20 A. I believe it was Richard Detore.

21 Q. Do you know if any of those -- would you have any
22 knowledge if any of those three had been indicted?

23 MR. MORFORD: Objection.

24 THE COURT: Sustained.

25 Q. Did you have a lot of dealings with Mr. Detore?

Marcone - Cross Continued

1 A. Many dealings, yes.

2 Q. How would you describe your relationship and dealings
3 with Mr. Detore.

4 A. I had a very close professional relationship with
5 him. I worked very closely with him on the enhanced vision
6 technologies issue. I also became very close to him
7 personally, have socialized with him on several occasions.

8 Q. Did you find Mr. Detore to be truthful?

9 MR. MORFORD: Objection.

10 THE COURT: Sustained.

11 Q. Did you form an opinion of any kind of Mr. Detore
12 relative to our working relationship with the office?

13 THE COURT: I believe the objection is
14 sustained.

15 Q. Did Mr. Detore ever lie to you, Paul?

16 A. I -- I don't know of any incident in which he
17 specifically lied to me about an issue.

18 Q. Do you recall an incident where the Government asked
19 you about setting up a meeting with the FAA people in our
20 office?

21 A. Yes.

22 Q. How many of those meetings did we set up?

23 A. On the enhanced vision issue?

24 Q. Yes. On the -- on the --

25 A. I would say there were several. There were several

Marcone - Cross Continued

1 meetings that were set up.

2 Q. And where were the meetings conducted?

3 A. In my office.

4 Q. All right. Do you remember who represented the
5 company at those meetings?

6 A. Richard Detore, Al Lange, and at one of the meetings
7 Ron Sinkowski was there.

8 Q. Do you ever remember Capri Cafaro?

9 A. Capri Cafaro was at several of the meetings. There
10 were meetings that took place at the company's headquarters
11 at Manassas Airport, and Capri was there at some of those
12 meetings.

13 Q. Did you ever get calls relative to Mr. Cafaro's
14 behavior, and were you ever asked to assist or help
15 entities in Washington with Mr. Cafaro?

16 A. Yes.

17 Q. Would you explain what they were.

18 MR. MORFORD: Objection, hearsay.

19 THE COURT: Well, there are two things. One
20 is I have no idea what time span we're talking about, and
21 the other is it's the same thing. It sounds as if you're
22 trying to get information from him about what other people
23 said, which we've been over and over.

24 Q. Okay. On or about the time --

25 THE COURT: Wait a minute, wait a minute.

Marcone - Cross Continued

1 I'm going to -- I'll give the jury a mini course in
2 the hearsay rules if I need to, but usually we don't have
3 to get you involved in all of that.

4 What we're talking about is having people who have
5 firsthand knowledge, also that they're sworn under oath and
6 subject to cross-examination before they give testimony to
7 a jury. And so when one person is on the stand and they
8 are saying what somebody else said, who isn't here, who
9 isn't under oath, who isn't subject to cross-examination,
10 then there's a question of whether or not it's reliable.

11 There are ways sometimes that the rules have made
12 exceptions because there are other reasons that things
13 aren't trustworthy, but it is hard for you when we have to
14 keep stopping and interrupting, and that's why we're trying
15 to get this clear across the board.

16 Just please don't go forward on the questions that
17 are going to lead to hearsay, to the extent you can avoid
18 it.

19 BY MR. TRAFICANT:

20 Q. Paul, did you and I have conversations relative to
21 Mr. Cafaro's trustworthiness?

22 A. Yes.

23 Q. Who initiated the conversations, you or me?

24 A. I usually did.

25 Q. And why did you bring them to my attention?

Marcone - Cross Continued

1 A. Because of conversations I was having with other
2 individuals who had dealings with Mr. Cafaro.

3 Q. Could you explain why you had conversations about his
4 trustworthiness, what some of those were?

5 A. Yes.

6 Q. Go ahead.

7 A. There is one instance of two businessmen from New
8 York who were trying to enter into a business venture with
9 J. J., with Mr. Cafaro, and he simply -- he had made some
10 promises to them, for months he was refusing to take their
11 phone calls.

12 THE COURT: I don't know where this is going
13 to go, but this is something we're going to have to move
14 beyond until we have an opportunity to see whether or not
15 this is evidence which can come in through this witness.
16 And I asked you to move on because we've been over this
17 during the break. Go to something else so that we have an
18 opportunity over lunch or some other time without being in
19 front of the jury when we can address this.

20 BY MR. TRAFICANT:

21 Q. Paul, are you aware that J. J. Cafaro is one of the
22 counts of the indictment in this case?

23 A. Yes.

24 Q. Was there more than one occasion where you in fact
25 verified that he had lied to somebody?

Marcone - Cross Continued

1 MR. MORFORD: Objection.

2 THE COURT: Is there an occasion on which you
3 verified that he lied to somebody?

4 THE WITNESS: There were several occasions
5 where he represented that he would do certain things to
6 individuals that I know that he didn't do those things.

7 THE COURT: But, did you know that or someone
8 else --

9 THE WITNESS: Someone else was telling me
10 those things.

11 BY MR. TRAFICANT:

12 Q. Okay. But, did you share those conversations with
13 me?

14 A. Yes, I did.

15 Q. Okay. Now, let's deal with U.S. Aerospace, and was
16 it Volpe?

17 A. The Volpe Center in Massachusetts, yes.

18 Q. Explain what the Volpe Center does.

19 A. My understanding of the Volpe Center is it's a
20 research arm of the Department of Transportation and they
21 work with private companies in developing promising
22 research to enhance transportation in the United States,
23 and most of the dealings they had with companies are
24 cooperative arrangements in which the Government -- the
25 company is paid a fee to the Volpe Center to finance part

Marcone - Cross Continued

1 of the research.

2 Q. Did we, in the office, do everything possible to
3 advance the interests of this new technology?

4 A. Yes, we did.

5 Q. Did we have conversation about that technology?

6 A. You and I?

7 Q. Yes.

8 A. Yes, we did, many conversations.

9 Q. And what basically did you advise me about the
10 technology?

11 A. That was very promising, that it would save lives.
12 It also would save a lot of money at airports because the
13 pilots used less energy than conventional landing lights.

14 Q. Did we discuss air landing accidents?

15 A. Yes, we discussed the accident involving John F.
16 Kennedy, Junior. There also was an accident I believe at
17 Dallas -- or Oklahoma Airport in which the -- in which the
18 problem of visibility was acute. And it was discussed that
19 perhaps if these technologies were in place, most types of
20 these accidents could have been avoided.

21 Q. Did you consider yourself as my representative on
22 transportation, Aviation Subcommittee, to be pretty
23 knowledgeable in aviation matters?

24 A. I had -- I had acquired a good deal of knowledge
25 about aviation matters, yes.

Marcone - Cross Continued

- 1 Q. To your knowledge, were we requested by a chairman to
2 conduct the investigation for the subcommittee?
- 3 A. Yes.
- 4 Q. In relation to what?
- 5 A. TWA Flight 100.
- 6 Q. Who, in fact, conducted that investigation?
- 7 A. I did.
- 8 Q. And who supervised you?
- 9 A. You did.
- 10 Q. And what was our conclusions?
- 11 A. Our conclusions, for the most part, were in line with
12 the conclusions of the FBI and the National Transportation
13 Safety Board. The report that we issued showed that --
14 found that the accident was likely caused by an explosion
15 inside the center fuel tank.
- 16 Q. Isn't it a fact we concurred with the findings after
17 an investigation of the FBI?
- 18 A. Yes.
- 19 Q. To the best of your knowledge, did we commend them
20 for their actions?
- 21 A. Yes, you did, yes.
- 22 Q. Who was the subcommittee chairman that asked me to do
23 that?
- 24 A. John J. Duncan, Junior.
- 25 Q. Now, at some point -- and maybe the jury might

Marcone - Cross Continued

1 understand, maybe I'll ask you this question: On many
2 flights, where people are killed on landing, what is the
3 usual cause to have caused those accidents, to the best of
4 your knowledge as a fairly good expert in aviation?

5 A. Most aviation accidents occur on take-off and
6 landing.

7 Q. On landing, what is the key significant factor?

8 A. Inability to sight the runway.

9 Q. Would there also be factors of landing further down
10 the runway?

11 A. Um-hum.

12 Q. Missing the runway?

13 A. Yes.

14 Q. Would you explain just in brief terms -- because I
15 probably have caused much of this delay and I admit to
16 that -- could you just in brief terms tell the jury exactly
17 why we wanted the laser program and supported it so hard?

18 A. Having worked very hard in close centers for several
19 years, our motivation was two-fold; Number 1, the
20 technology would save lives. It would be a major
21 advancement in aviation safety. And Number 2, the
22 understanding was if they could get certification,
23 Mr. Cafaro would set up manufacturing operations in the
24 Youngstown area and many jobs in your congressional
25 district.

Marcone - Cross Continued

- 1 Q. Did I have a deal with Mr. Cafaro for those jobs?
- 2 A. That was my understanding, yes.
- 3 Q. Headquarters, too?
- 4 A. Yes.
- 5 Q. Now, did the -- did the claims -- did the aviation
- 6 companies have to spend any money on this technology?
- 7 A. No, the way it was set up, they got certification
- 8 that airports could spend in the federal funding -- the
- 9 formula money they would get from the federal government,
- 10 they would be allowed to spend that formula money on the
- 11 landing lights.
- 12 Q. Now, did I or did you suggest calling Jane Garvey,
- 13 the FAA administrator?
- 14 A. That was my suggestion.
- 15 Q. Was it Jim Traficant or Paul Marcone that suggested
- 16 that maybe we should bring the subcommittee chairman on?
- 17 A. That was my suggestion.
- 18 Q. Did you know if I followed through with that?
- 19 A. Yes, you did.
- 20 Q. Did you think it was unusual that they both came?
- 21 A. I thought that was a huge coup. It was a very
- 22 significant accomplishment.
- 23 Q. Now, do you recall specifically when Chairman Duncan
- 24 was there, do you remember that?
- 25 A. Yes, that was a separate visit from the FAA

Marcone - Cross Continued

1 Administration.

2 Q. What were the weather conditions?

3 A. It was raining out, with visibility less than a mile.

4 Q. Now, will you explain what this thing is that saves
5 lives, what it looks like, briefly, and where is it
6 located?

7 A. It's located on the runway. It's a little laser
8 light that sets -- amber colored laser beam that you can
9 see from fairly far away. We were up that night, and we
10 picked it up about seven or eight miles out from the
11 runway.

12 Q. Now, were there different lights on this little
13 machine?

14 A. Yeah. I call it a different color sequence, but as
15 long as you had an amber light, the plane was aligned
16 properly for landing on the runway. If you got a red
17 light, that means you had to change your alignment and
18 allow the pilot to adjust his flight so that he could -- as
19 long as he saw the amber light, he was guiding that plane
20 in on a perfect flight path to the runway.

21 Q. So in other words, if he seen anything but an amber
22 light, he'd better find an amber light? Is that your
23 testimony?

24 A. Yes.

25 Q. Was the wind blowing very hard that night?

Marccone - Cross Continued

- 1 A. Yeah, I was a little concerned being in the plane
2 that night.
- 3 Q. Did Mr. Duncan have anybody with him from his family?
- 4 A. I believe he had his son with him.
- 5 Q. Were any concerns expressed about the weather?
- 6 A. There were some concerns expressed, yeah.
- 7 Q. Do you know if it was a big plane or small plane?
- 8 A. It was a small private jet.
- 9 Q. Okay. Who was flying it?
- 10 A. I believe it was Mr. Detore.
- 11 Q. Was Mr. Detore considered a professional aviator?
- 12 A. He was a licensed pilot.
- 13 Q. Yes, he was.
- 14 Do you recall the statements when the laser beam was
15 first seen?
- 16 A. I think everyone was very impressed they could see it
17 from that far out, and under those conditions.
- 18 Q. Do you know where the plane landed?
- 19 A. Right on the runway in Manassas.
- 20 Q. What spot?
- 21 A. Dead center of the runway.
- 22 Q. Was that where the laser was located?
- 23 A. Yes.
- 24 Q. Now, what's the difference between a light, such as
25 this light, and a cold cathode light, Mr. Marccone?

Marcone - Cross Continued

- 1 A. If that light were turned up and lights were turned
2 up, and we were looking at it and you look away, you would
3 see spots in your eyes and your vision would be impaired.
4 A cold cathode light, you look at it and no impairment, so
5 you could look away and no impairment, and that's crucial
6 for helicopter landings.
- 7 Q. Did there come a point this technology was starting
8 to be used?
- 9 A. The Navy was using the laser technology and the U.S.
10 Park Police were testing the cold cathode lights on
11 helipads in the Washington, D.C. area.
- 12 Q. Do you have any knowledge that this was also approved
13 for the Coast Guard?
- 14 A. My understanding and my recollection is that we were
15 able to put language in a bill that directed the Coast
16 Guard --
- 17 MR. TRAFICANT: Objection, speech and debate.
- 18 BY MR. TRAFICANT:
- 19 Q. Do you have any knowledge that there was a study
20 performed on the maritime issues of the laser?
- 21 A. I don't recall exactly what was done with the
22 maritime side.
- 23 Q. On the Coast Guard side?
- 24 A. On the Coast Guard side, yes, I don't recall exactly.
- 25 Q. Do you know if they studied it?

Marcone - Cross Continued

1 A. I know again not to get into speech and debate, but
2 we were working to get legislative language to direct the
3 Coast Guard to do a study. I don't recall what happened
4 with that language.

5 Q. During that period of time, was there close contact
6 between the company and myself?

7 A. Yes.

8 Q. Who usually was that contact with?

9 A. Richard Detore.

10 Q. Did I at times meet with Mr. Cafaro?

11 A. Yes.

12 Q. Now, the Government brought up the fact Mr. Cafaro
13 presented me with a \$26,000 check; is that correct? Do you
14 remember them asking you that?

15 A. I remember reading about that allegation, yes.

16 Q. Do you know if I sold my boat to Mr. Cafaro?

17 A. I know that you were trying to sell your boat. The
18 way it was represented to me, you were trying to sell your
19 boat to Al Lange, who's an employee of the Aerospace Group.

20 Q. Now, did you ever have any conversations with Al
21 Lange about his special model of boat called Egg Harbor?

22 A. Yes. He indicated that --

23 MR. MORFORD: Objection. Hearsay.

24 THE COURT: You see, there's one, somebody
25 else saying something, and it's coming in through his

Marcone - Cross Continued

1 testimony. The person isn't here.

2 BY MR. TRAFICANT:

3 Q. Did you have knowledge that Mr. Lange or his father
4 had literally worked at the Egg Harbor factory?

5 MR. MORFORD: Objection as to the basis of
6 that knowledge.

7 MR. TRAFICANT: It's part of the indictment
8 here.

9 THE COURT: Well, this person, you can
10 explore whether this person has personal knowledge of
11 something, but you can't basically put the knowledge into
12 his head right here.

13 Q. Okay. Did you have conversations with Al Lange about
14 the boat?

15 A. Yes.

16 Q. And what, if anything, did he tell you during some of
17 those conversations about the boat?

18 THE COURT: Sustained.

19 BY MR. TRAFICANT:

20 Q. Did Al Lange ask you about the purchase of the boat?

21 A. He indicated to me that he was --

22 MR. MORFORD: Objection, hearsay.

23 THE COURT: Sustained.

24 BY MR. TRAFICANT:

25 Q. On the strength of the conversations you had with Al

Marcone - Cross Continued

1 Lange, did you have occasion to call any government office?

2 A. Not on the basis of my discussions with Al Lange, no.

3 Q. Did you call the Ethics Committee relative to the
4 sale of the boat?

5 A. Yes, I did.

6 Q. And what, if anything, were you told by the Ethics
7 Committee?

8 A. I was told -- I explained to them that he had a boat,
9 that the Congressman wanted to sell the boat to an employee
10 of the company that we were working on behalf of both
11 legislatively and with federal regulations, and whether or
12 not it would be in accordance with the ethics rules to sell
13 that boat to the employee.

14 The response I got was that as long as the employee
15 paid fair market value for the boat, and didn't pay
16 anything more than the boat was actually worth, that there
17 were no ethics problems.

18 Q. Who instructed you to make that call?

19 A. You did.

20 Q. Now, as far as Volpe was concerned, do you know if
21 the company ever met the conditions of the Volpe Company
22 contract?

23 A. My understanding is that they never -- two things,
24 they never completed the requested paperwork, and they
25 never came up with the \$100,000 that they needed to come up

Marcone - Cross Continued

1 with to initiate the cooperative research agreement.

2 Q. Did the company -- did the company ever state to you
3 that they were going to make those payments?

4 A. Yes, the meeting we had that was discussed during my
5 original testimony last week, there was a meeting we had in
6 my office, and one of the action items off that meeting was
7 for U.S. Aerospace Group to complete the paperwork and get
8 the payment to Volpe. But, that never happened, to my
9 knowledge.

10 Q. And who was to pay those -- do you know who, if
11 anybody, was to make those payments?

12 A. U.S. Aerospace Group.

13 Q. Okay. Do you know if they ever made those payments
14 and if it was ever certified?

15 A. To my knowledge, they never completed the payment.

16 Q. The Government listed a number of meals with myself
17 and members of U.S. Aerospace. Did you and I ever have
18 discussions about those?

19 A. I remember talk -- we never talked about the cost of
20 the meals, no.

21 Q. Well, what was the rules, the basic rules about a
22 member going out to eat?

23 A. Again, I'm not a House ethics rules expert, but I
24 believe that as long as it's under \$25, it's in compliance
25 with the rules, but I'm not clear about cumulative value,

Marcone - Cross Continued

1 but --

2 Q. You said \$25?

3 A. I'm not sure whether it's \$25 or \$50. I'm not an
4 ethics rules expert, so I can't --

5 Q. Okay, fine.

6 But, we did have conversations about that?

7 A. I don't know if we talked specifically about -- it
8 wasn't my place to ask you if you went out to dinner with
9 someone, it wasn't my place to ask you who's paying for the
10 dinners, you being in Congress long enough where you were
11 familiar with the ethics rules, and there was no reason for
12 me to question how the meals were paid for.

13 Q. How did you find out we went out to dinner?

14 A. Excuse me?

15 Q. How did you come to find out we went out to dinner?

16 A. A lot of times you would call me at the end of the
17 day and say, "Call Richard to ask if he could meet me for
18 dinner," so I knew you were having dinner with Richard on a
19 regular basis.

20 Q. Were there times Richard called and asked to meet
21 with me?

22 A. I can't recall specifically, but I know sometimes he
23 did show up and wanted to meet with you, yes.

24 Q. You believe in your heart today that the laser
25 technology would save people's lives?

Marcone - Cross Continued

- 1 A. I believe that very strongly, yes.
- 2 Q. Did you personally look at the results of that
- 3 accident in Arkansas? Do you remember the one in Arkansas?
- 4 A. There was an accident. I can't recall where, but
- 5 there was an accident directly related to the pilot not
- 6 being able to see the runway, a fatal accident.
- 7 Q. Did, in fact, the plane strike something?
- 8 A. I believe it struck the fence.
- 9 Q. Were all the people killed?
- 10 A. I don't know, but there were fatalities.
- 11 Q. Were we asked to investigate that?
- 12 A. I don't think we were asked to investigate that, no.
- 13 Q. Now, at some point after Mr. Duncan and Ms. Garvey
- 14 saw the technology demonstrated, did you have any
- 15 conversations with them further than that?
- 16 A. I don't know if I spoke directly to Ms. Garvey or
- 17 through Duncan, but I did speak with their staffs after
- 18 that.
- 19 Q. Yes? Wasn't it a fact they were prepared to go
- 20 forward if they met the conditions of this \$100,000 and
- 21 other things?
- 22 A. Well, with Ms. Garvey, she was very impressed with
- 23 it, and my understanding was she instructed her staff to,
- 24 you know, to work closely with the company to try to
- 25 expedite certification, with the understanding again that

Marcone - Cross Continued

1 there were certain things the company would do with
2 Chairman Duncan, simply a matter of him endorsing the
3 amendments we already drafted to the airport approval
4 program and authorization bills pending before the
5 subcommittee.

6 Q. Would you say through all this and the conversations
7 we had, that you had some reservations about Mr. Cafaro's
8 performance?

9 A. Based upon conversations I was having with Mr. Detore
10 and with other people who were having separate dealings
11 with Mr. Cafaro, I had concerns about Mr. Cafaro's ability
12 to effectively run the company and to keep up his end of
13 the bargain with the Federal Aviation Administration.

14 Q. Did Mr. Cafaro ever lead you to believe that he was
15 going to take care of the matter with the Volpe Center?

16 A. I don't recall ever having conversation with
17 Mr. Cafaro directly about the meeting we had in my office.
18 Most of my dealings were with Mr. Detore.

19 Q. Paul, did I get requests to -- and did our office get
20 requests, district and D.C., relative to people who were in
21 prison?

22 A. On occasion, we would get requests.

23 Q. Would I get involved with some of those?

24 A. I can recall only a handful of cases in which you got
25 personally involved.

Marcone - Cross Continued

1 Q. When normally, as my chief of staff, would I get
2 involved?

3 A. Again, it was so rare that we got a request from
4 prisoners. There was only one or two occasions where I can
5 actually remember you getting involved with a prisoner.

6 Q. Not just about prisoners, when would I personally
7 take the ball --

8 A. On constituent --

9 Q. -- on any situation.

10 A. It's a general rule, there were two instances, one
11 where the staff asked you to, and they would say, "We're on
12 a roadblock here, we need you to call a certain person here
13 in the federal or state government," or sometimes you would
14 simply come in and say, "I want you to get so-and-so on the
15 phone," you would initiate it yourself.

16 Q. Fine. Do you know if I attempted to have former
17 Sheriff Phil Chance -- did you know who former Sheriff Phil
18 Chance was, by the way?

19 A. Yeah, I knew who he was.

20 Q. Did you know what, if anything, happened to former
21 Sheriff Phil Chance?

22 A. He got convicted.

23 Q. And he was sent to?

24 A. Federal prison.

25 Q. Did you and I have conversations about Phil Chance

Marcone - Cross Continued

1 being moved?

2 A. Yes.

3 Q. And what, if anything, did you advise me?

4 A. I said if Phil Chance doesn't like where he's in
5 prison it's his own fault, and you shouldn't get involved
6 with it.

7 Q. Did you know Phil Chance's family?

8 A. No.

9 Q. Did you know if I knew Phil Chance's family?

10 A. You indicated to me that you didn't know his family.

11 Q. And the conversations that we had, was there any
12 discussions why --

13 MR. MORFORD: Objection, hearsay.

14 THE COURT: It is hearsay.

15 Q. Paul, did I fight hard to have Phil Chance moved?

16 A. Yes, you did.

17 Q. Did you think that was a stupid thing to do?

18 A. Yes.

19 Q. And did you advise me of that?

20 A. Yes.

21 Q. Now, usually -- you work with me -- would I always
22 explain reasons why I did things?

23 A. Not always, no.

24 Q. Did you sometimes question?

25 A. Yes.

Marccone - Cross Continued

- 1 Q. Did you sometimes disagree?
- 2 A. Yes.
- 3 Q. Did I ever ask you, Paul, in all the years you worked
- 4 for me to do anything wrong?
- 5 A. No.
- 6 Q. Did you ever see me do anything wrong, Paul?
- 7 A. No.
- 8 Q. Was there another case where we got involved relative
- 9 to moving the prisoner?
- 10 A. I can't think of one off the top of my head, no.
- 11 Q. Would the Bucci name ring a bell?
- 12 A. The Bucci name rings a bell, yes.
- 13 Q. And do you know if there was a request made from the
- 14 family to have him moved?
- 15 A. I recall the Phil Chance case, I do not recall -- I
- 16 have vague recollections of the Bucci case.
- 17 Q. Do you know who might have handled the Bucci case?
- 18 A. Someone on the staff. I don't recall who exactly it
- 19 was.
- 20 Q. Was it Jim Welfley?
- 21 A. Jim Welfley was working on the Bucci case as related
- 22 to their disbarment. I don't know if he was also working
- 23 on having him moved to prison.
- 24 Q. Did you make any recommendation to me relative to the
- 25 moving of Mr. Bucci?

Marcone - Cross Continued

1 A. Again, my recollection, it was the same line of
2 reasoning I used with Phil Chance, that it wouldn't be a
3 good idea to get involved with that, whatever this person
4 did was their own fault, and they should have thought of
5 that before they committed those crimes. If they're in
6 prison, that's where they should be.

7 Q. Do you know how many times -- you would have no
8 knowledge of how many times, though, there would be
9 requests made to the District Office, for example, on
10 prisoners being relocated?

11 A. As a general rule, I did not review the constituent
12 case work files in the Youngstown and Trumbull County
13 offices.

14 Q. Do you know if the Buccis did any work at the farm?

15 A. At the time? No.

16 Q. Do you remember testifying before the Grand Jury
17 about any of the Bucci work at the farm?

18 A. I remember testifying before the Grand Jury about a
19 conversation you and I had regarding reporters questioning
20 about the Buccis.

21 Q. So you made no statements to the Grand Jury, other
22 than that?

23 A. I made statements to the Grand Jury about
24 conversations we had in response to reporters' questions.
25 I made statements to the Grand Jury regarding what went on

Marcone - Cross Continued

1 in our office in regards to our handling of the Bucci
2 disbarment matter.

3 Q. So when the Bucci matter hit the fan, did you confer
4 with me?

5 A. We started getting questions from reporters; yes, I
6 conferred with you.

7 Q. Do you recall telling any of the FBI or prosecutors
8 or Grand Jury about a wall being knocked down at the farm?

9 MR. MORFORD: Objection, basis of knowledge.
10 It's hearsay.

11 THE COURT: You want to do this at the next
12 break? Do you have some more questions to ask or should we
13 do it now?

14 MR. TRAFICANT: I have more questions to ask.

15 THE COURT: Okay, why don't you --

16 MR. TRAFICANT: I'd rather go with the
17 questions and not let the jury --

18 THE COURT: There are some things we have to
19 deal with regarding that question. So just go on to the
20 next question, and we'll deal with it at noon first, and
21 then appropriately we'll deal with it outside the jury.

22 Q. Did you know if the Buccis owed me money or I owed
23 them money? Did you have knowledge?

24 A. I have no direct knowledge who owed you money.

25 Q. Now, on the issue of phone records that were

Marcone - Cross Continued

1 subpoenaed, isn't it a fact that most of the phone records
2 could be gotten from the library?

3 A. On the issue of the phone records, what you get in
4 the library is simply what a congressional office would
5 spend each month on long distance phone calls. I don't
6 believe you get a breakdown on the item per item the way
7 calls were made.

8 Q. That would require a subpoena, would that be correct?

9 A. That is correct.

10 Q. And was a subpoena served?

11 A. Yes.

12 Q. And was it satisfied?

13 A. It was complied with.

14 Q. Fine. Now, when there's knowledge of a subpoena of a
15 Congressman on the House floor, how do they do that?

16 A. The recording officer of the House simply announces,
17 "The U.S. Attorney's Office in the Northern District of
18 Ohio serves a subpoena on the House of Representatives,"
19 and it's a very short statement, and made verbally on the
20 House floor, and it also appears in the Congressional
21 Record.

22 Q. Do you know if that first subpoena was made before
23 the Congress break for the winter break?

24 A. The subpoena was issued in December of '99. The
25 House was not in session. So the middle of January, when

Marcone - Cross Continued

1 the House resumed work, that was one of the first orders of
2 business was to make that announcement.

3 Q. Now, when was the primary election that year?

4 A. March of 2000. It was a presidential year.

5 Q. First Tuesday of 2000 of March?

6 A. I believe so.

7 Q. The primary?

8 A. Yes.

9 Q. First Tuesday in March, to the best of your
10 knowledge? So you said the Congress went back in when?

11 A. I believe it was the middle of January of 2000.

12 Q. Now, were you now being gouged with phone calls?

13 A. No. Middle of January, I got one phone call from the
14 reporter after that, after it was announced from the
15 Northern District of Ohio, asking if we had gotten
16 subpoenaed. And my understanding later was that he simply
17 was just guessing it was our office because it was the
18 Northern District of Ohio.

19 Q. Did I actually go through a campaign and, in short,
20 two months with this cloud over my head, Paul?

21 A. Yes.

22 Q. Did I try and convey to you what had happened? To
23 the best of your recollection, did you and I have
24 conversations relative to you questioning me and me giving
25 you information to answer questions on this issue?

Marcone - Cross Continued

1 A. I would talk to you every time I got a call from a
2 reporter about various allegations I had. I would have
3 conversations with you about those allegations and about
4 how you wanted me to answer those inquiries.

5 Q. Was a point you came to me very concerned about
6 possible Government leaks?

7 A. I became very concerned about the detailed nature of
8 the questions that reporters were asking. I assumed on my
9 own that the only way the reporters could get that type of
10 in-depth information about the Grand Jury proceedings was
11 if someone from the inside was leaking it to them, someone
12 on the federal government side was deliberately leaking
13 that information to reporters, and because they were in the
14 middle of a heated primary, I felt that they were trying to
15 unfairly influence the outcome of that primary, and I
16 conveyed those thoughts to you.

17 Q. Now, if I thought a person was worthy of support,
18 would I support them?

19 A. Yes, you would.

20 Q. If you advised me not to, would I still support them?

21 A. You would.

22 Q. Did you ever see me or hear me, in all the years you
23 worked for me, refuse any family or person?

24 A. I never saw you refuse help to any constituent who
25 came to you for help.

Marcone - Cross Continued

1 Q. Do you have any knowledge that Mr. Chance or
2 Mr. Bucci's family came to me?

3 A. Based on what you told me, they did come to you.

4 Q. Did I treat -- to the best of your knowledge, did I
5 treat them differently than anybody else?

6 A. On the Chance issue, it was unusual you would get
7 involved in prisoner service, that is not something that we
8 normally did, and I remember having arguments with you
9 about Chance, and I viewed that as unusual.

10 Q. At some point though, were they willing to transfer
11 Mr. Chance, to the best of your knowledge?

12 A. The Federal Bureau of Prisons was willing to transfer
13 him to a facility, but not the facility you wanted him
14 transferred to. They were willing to transfer him to a
15 facility closer to his family, but you were very angry
16 because it wasn't the facility he wanted transfer to.

17 Q. Yes. Let me ask you this: Mr. Chance -- I was done
18 at that point, it was up to Mr. Chance to make the decision
19 to move. He could have gone to Loretta, Pennsylvania,
20 couldn't he?

21 A. I don't know what the options were to Mr. Chance. I
22 can't speak to what the Federal Bureau of Prisons offered.

23 Q. Fine. You know the Federal Bureau of Prisons was
24 willing to relocate him?

25 A. Yes.

Marcone - Cross Continued

- 1 Q. And did you find out that he did not go?
- 2 A. I don't recall what the ultimate disposition of the
3 dispute was.
- 4 Q. Now, the Bucci matter, did Mr. Welfley bring to your
5 attention problems with that?
- 6 A. On the disbarment?
- 7 Q. Yes.
- 8 A. Yes, he did.
- 9 Q. Did he have concerns about even our helping them?
- 10 A. He did not feel he -- I don't recall his exact words,
11 but he was basically saying this is a dirty company, we
12 shouldn't be helping them.
- 13 Q. Did you do anything to look into Mr. Welfley?
- 14 A. I -- I came to you and presented his concerns to you,
15 and you were adamant that this -- the 250 jobs were at
16 stake, the company paid its dues, and they're constituents,
17 and we need to help them. And I relayed that to Mr.
18 Welfley, and I believe what I told Mr. Welfley was, "Look,
19 there are jobs at stake, the Congressman feels the
20 company's paid its dues. Just ask the Government to be
21 fair and to try to expedite whatever needs to be expedited,
22 and do nothing more than that."
- 23 Q. Do you know if the Buccis were the low bidders on the
24 job?
- 25 A. The only thing I know about the matter is what you

Marcone - Cross Continued

1 had told me about it, and what Welfley had learned from the
2 Department of Labor, from the Department of Transportation.

3 Q. Did I tell Mr. Welfley if he didn't write the letter,
4 he was gone?

5 A. No, I think the dealings were between me and
6 Mr. Welfley and you Mr. Welfley.

7 Q. Did you tell him look if you don't write this letter,
8 you're out of here, buddy?

9 A. No, I didn't threaten to fire him.

10 Q. Was I that kind of guy?

11 A. No, no.

12 Q. Did I ever pressure anybody, Paul?

13 A. Well, people who don't know you very well would think
14 you were pressuring them, yes.

15 Q. Would you say I used an aggressive ploy on Capitol
16 Hill?

17 A. Very aggressive.

18 Q. Was it successful?

19 A. I think in many areas, you were extremely successful,
20 yes.

21 Q. Was Welfley's concerns about these fellows, not only
22 were they disbarred, but they had been convicted felons?

23 A. Yes.

24 Q. When I say they, meaning there was more than one
25 Bucci.

Marcone - Cross Continued

1 A. My understanding is it was a family-owned business.

2 Q. Do you know how many principals there were in the
3 business?

4 A. I don't recall, no.

5 Q. So, is it your -- in your conversation with
6 Mr. Welfley, to the best of your knowledge, did you order
7 him to write a letter? Did you ask him to take a second
8 look --

9 A. I told him that he -- I told him we needed to help
10 the company. That's what the Congressman wanted done. And
11 I simply asked the Government to take a second look at it,
12 that there was nothing wrong in asking the federal
13 government to reexamine its decision in light of the fact
14 that there were 250 jobs at stake, and I think he was fine
15 with that, and I think I had -- since he was somewhat new
16 to the job, I had my basic discussion I have with all
17 employees; we're in the business of constituent service and
18 we have to fight for our constituents, the good, the bad
19 and the ugly, and that's simply the job of a Congressman.

20 Q. Did we have a relationship with ODOT over the years?

21 A. A very good one, yes.

22 Q. Were they pleased with the work we did as an office?

23 A. I can't -- I can't speak to their state of mind about
24 whether they were pleased with us. I know that we worked
25 very closely with them on a number of issues that they were

Marcone - Cross Continued

1 concerned about.

2 Q. Did we not increase minimum allocation of states?

3 A. Yes.

4 Q. Did we not make guardrails, light safety barriers,
5 100 percent funded so they didn't have to pay out of their
6 budget?

7 A. Yes.

8 Q. Were they happy with that?

9 A. I think they expressed on many occasions their
10 gratitude for your work on those issues, yes.

11 Q. Do you know if I talked to ODOT officials about the
12 Bucci bid?

13 A. Yes, you did.

14 Q. Did I talk to them about moving them from prison or
15 talking about the Bucci bid?

16 A. The -- the ODOT officials, you talked about the Bucci
17 bid.

18 Q. Do you recall who I talked to?

19 A. I believe it was Jerry Wray.

20 Q. Do you know what, if anything, happened as a result
21 of that conversation?

22 A. I can't recall the exact sequence of events, what
23 eventually happened with the Buccis on the contracting
24 issue.

25 Q. Now, as far as companies were concerned, would you

Marcone - Cross Continued

1 say that we intervened in many cases?

2 A. Yes.

3 Q. And when it came down to company problems, where were
4 they usually resolved?

5 A. It depends on the case, but it wasn't -- over the
6 years, we helped out many, many companies in your
7 congressional district and some companies that weren't in
8 your congressional district, they came to us for him.

9 Q. Did companies around the country call us to help them
10 even though they didn't call their own congressman?

11 A. I don't know about companies, but there were
12 individuals who came to us for help who were not from your
13 district.

14 Q. Now, you said you knew a Peter Bucheit?

15 A. Yes.

16 Q. Do you know what the problem was with Mr. Bucheit?

17 A. Mr. Bucheit had two problems. One involved an
18 investment in Saudi Arabia, the other involved an
19 investment he made in the Gaza Strip and Palestinian
20 territory.

21 I also was aware of Mr. Bucheit's company's desire to
22 sell the building he owned in Washington, D.C. to the
23 federal government.

24 Q. Did you and I have conversations about that?

25 A. Yes.

Marcone - Cross Continued

1 Q. And what, if anything, did you do with the building
2 in D.C. they wanted to sell?

3 A. I arranged a meeting for the Bueheits, their
4 lobbyist, and GSA, and I believe the General Accounting
5 Office.

6 Q. Was I there?

7 A. I don't believe you were in that meeting, no.

8 Q. Did the building they had to sell meet the codes of
9 the Government?

10 A. No. Even if the Government wanted to, they couldn't
11 move into the building because it didn't meet their
12 specifications.

13 Q. Was the matter dropped or did --

14 A. I didn't --

15 Q. Was there pressure put on?

16 A. One, I didn't pursue it after that, and you didn't
17 raise the issue with me after that. I informed the
18 Bueheits that they didn't meet the specs, and I don't -- it
19 dropped after that.

20 Q. In the dealings with the Bueheits, did you become
21 somewhat familiar with the difference between the way
22 America operates legally in Saudi Arabia?

23 A. I was -- the issue in Saudi Arabia happened and was
24 resolved before I returned to the office in '93.

25 Q. To the best of your knowledge, did you come to learn

Marcone - Cross Continued

1 what the disposition was?

2 A. Yes, I believe it was resolved in the Bucheits'
3 favor.

4 Q. Now, you then were presented -- were you not
5 presented with another problem the Bucheits had? Would you
6 explain what that was?

7 A. Their first problem was they wanted to make an
8 investment in the Gaza Strip and they wanted insurance,
9 risk insurance, from the Overseas Private Investment
10 Corporation, and we assisted them in getting that. And
11 then once they made their investment in the Gaza Strip, to
12 my understanding, it was a period of years ago, was that
13 their equipment was apprehended by a Palestinian company
14 and the Palestinian authority, that they had lost their
15 investment, and through myriad of court battles and ongoing
16 correspondence between our office and the State Department
17 and OPIC there were several court battles. We tried to
18 assist them in their investment.

19 THE COURT: What was apprehended by the
20 Palestinian Government?

21 THE WITNESS: I believe it was the
22 construction equipment.

23 THE COURT: "Equipment" then is what he said.

24 THE WITNESS: Yes.

25 Q. Do you have any knowledge as to whether or not the

Marcone - Cross Continued

1 PLO took their bank account?

2 A. It wasn't --

3 MR. MORFORD: Objection as to relevance,
4 firsthand knowledge.

5 Q. Do you have any other knowledge about the PLO's
6 actions with the Bucheits in this case?

7 A. Not other than what I was told by staff.

8 Q. And what was that again?

9 THE COURT: That's what he can't testify to.

10 BY MR. TRAFICANT:

11 Q. You say one of our big arguments dealt with Janet
12 Reno; is that correct?

13 A. Yes.

14 Q. You felt I shouldn't have made that statement on TV,
15 right?

16 A. I felt very strongly about it.

17 Q. Was I known to hold my tongue, Paul?

18 A. No.

19 Q. Was I protected by the speech and debate clause on
20 CNN?

21 A. No.

22 Q. Now, not being protected under the speech and debate
23 clause, you're not an attorney, but could she have sued me?

24 MR. MORFORD: Objection.

25 THE COURT: Now we're going off into

Marcone - Cross Continued

1 something we can't get into at all.

2 Q. Paul, do you know if Janet Reno ever sued me?

3 MR. MORFORD: Objection.

4 THE COURT: Sustained.

5 Q. Did you ever have a conversation with me relative to
6 my possibly taking any legal action against the Buccis?

7 A. Yes.

8 Q. Did you come to find out what that legal action would
9 have been for?

10 MR. MORFORD: Objection.

11 THE COURT: Sustained.

12 Q. Now, several times, you were asked by the Government
13 about *quid pro quo*?

14 A. Um-hum.

15 MR. MORFORD: Objection.

16 THE COURT: Objection sustained.

17 Q. Let me ask you this, is *quid pro quo* one of the terms
18 you would normally use, Paul?

19 A. It's not a term that I used regularly, no.

20 Q. Where did you hear that term?

21 A. It's a legal term, I heard it, read it.

22 Q. Who was talking to you about *quid pro quos*?

23 A. You were.

24 Q. Who else? Anybody from the Government?

25 A. I believe the Government asked me a question during

Marcone - Cross Continued

1 my Grand Jury testimony about a statement I made in the
2 press in which I used the term *quid pro quo*.

3 Q. Now, there came a time when there was a private
4 prison in the City of Youngstown; is that correct?

5 A. Yes.

6 Q. And on the strength of that, were there ever any
7 conversations relative to private prisons between you and
8 me?

9 A. Yes. You had many questions -- many conversations
10 about that issue.

11 Q. What, if anything, did I end up doing, if you have
12 knowledge of it?

13 A. You were able to secure a private memorandum of
14 understanding between yourself and Corrections Corporation
15 of America that you would make a good faith effort to find
16 sites in your congressional district for at least one,
17 possibly two, private prisons, and in return, the company
18 would build those prisons, create those jobs, and also
19 create space for the local sheriff's office in each of the
20 counties where they built an additional prison.

21 Q. When the incident of Chuck O'Nesti was brought up,
22 did you have conversation with Chuck O'Nesti?

23 A. I had several conversations with Mr. O'Nesti about,
24 first, his name appearing in the newspaper in relation to
25 the Lenny Strollo investigation into various audio tapes

Marcone - Cross Continued

1 that transcripts of which had been made public, and Chuck's
2 name had come up as someone who had been having
3 conversations with Mr. Strollo, and because I was getting
4 media inquiries about that, I had a conversation with
5 Mr. O'Nesti about it.

6 Q. And what, if anything, did Mr. O'Nesti tell you?

7 A. He informed me that he had known Mr. Strollo since he
8 was a young man, that their wives knew each other, that his
9 wife was helping both Mr. O'Nesti and Chuck's wife with
10 some homeopathic medicine through the treatment, and that
11 he simply saw Mr. Strollo in a restaurant on several
12 occasions and would say hello to him and basically chitchat
13 with him, but there was nothing more to it than that.

14 Q. Is it a fair assessment then that Mr. O'Nesti told
15 you he did nothing wrong?

16 A. On that occasion, yes.

17 Q. Did I ask your advice on political matters, Paul?

18 A. Yes.

19 Q. Did I accept them usually?

20 A. Most of the time you accepted my advice.

21 Q. You're not familiar or have any knowledge about the
22 Cafaro and the car business?

23 A. I have limited knowledge of Mr. Cafaro's attempts to
24 revise the Avanti.

25 THE COURT: Congressman, it's noon.

Marcone - Cross Continued

1 MR. TRAFICANT: I would recommend we do take
2 a break.

3 THE COURT: Thank you. We'll take a break
4 until 1:30. The lawyers should be in at -- no, the lawyers
5 can wait until 1:30. I think we're okay.

6 (Thereupon, a luncheon recess was taken.)

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Marcone - Cross Continued

1 Monday Session, February 25, 2002, at 1:30 P.M.

2 (Proceedings in the absence of the jury:)

3 THE COURT: It's my understanding that the
4 feed between the two courtrooms has been corrected, so if
5 there's anybody here who wants to go back down to the other
6 courtroom, you're welcome to do so now.

7 In any event, that's only one of the issues. I
8 understand we have some questions from you, Congressman,
9 and also from the Government that we should -- or requests
10 that we should handle before we bring the jury in.

11 MR. TRAFICANT: Yes. Two specifically.
12 Number one, I called ODOT because I wanted the personnel
13 records of Mr. Tom Williams, and was informed that they
14 would send them to me. Then I got a call back that said
15 they couldn't send them to me, I had to subpoena them, and
16 that they didn't have them in their possession, and I had
17 to go look in the archives in Columbus because they
18 retired.

19 Then I get a call back from one of the attorneys that
20 said they really can't get them to us, and I told you this
21 last week that I was having difficulty getting that, and I
22 wanted the personnel records of David Dreger and Tom
23 Williams.

24 THE COURT: And you have the right to
25 subpoena them.

Marcone - Cross Continued

1 MR. TRAFICANT: Yes, but he says that they
2 can't -- I couldn't subpoena them.

3 THE COURT: First you have to do the -- get
4 the subpoena.

5 MR. TRAFICANT: Subpoena. But what I'm
6 trying to tell you, I'm having problems with that. That's
7 the first issue.

8 THE COURT: Okay.

9 MR. TRAFICANT: However, does the Court have
10 the leeway to order them to make available those records to
11 me?

12 THE COURT: Well, the normal process is that
13 you subpoena them. If they have a problem with it and they
14 let us know or move to quash the subpoena or do something,
15 then I can do something, but I can't do your work for you.
16 You have to do your work.

17 MR. TRAFICANT: Okay. Second issue, it was
18 determined that the '83 trial, that horrible ordeal, was
19 not to be a part of this case, and no vendetta and all that
20 business, and that was case 4:82CR00148, USA versus
21 Traficant.

22 THE COURT: Slow down a little so they can
23 make your record here.

24 MR. TRAFICANT: Okay. Case CR, 4:82CR00148,
25 USA versus Traficant, 1983.

Marcone - Cross Continued

1 There were a couple of documents that I wanted from
2 that file.

3 THE COURT: Um-hum.

4 MR. TRAFICANT: So I checked with the clerk,
5 and the assistant clerk said that they only keep the
6 records here for three years, that I'd have to appeal to
7 the archives in Chicago. They gave me the forms and told
8 me their retrieval fee is \$35.

9 After having checked with the clerk and with this
10 process that I was prepared to go forward with, they said
11 that the files were not in Chicago, that they were in
12 Cleveland, in the possession of --

13 THE COURT: I think you brought them in. I
14 think we brought the files in.

15 MR. TRAFICANT: -- in possession of Judge
16 Wells.

17 THE COURT: Right. I don't know if they're
18 in my possession, but I think we ordered the file box to be
19 sent to Cleveland, because it sometimes takes up to a month
20 to get it.

21 MR. TRAFICANT: That's what's on the record,
22 Judge Wells.

23 THE COURT: Right.

24 MR. TRAFICANT: Now, I want some documents
25 out of there, and I have a right to those documents. The

Marcone - Cross Continued

1 first thing I want to know is, you know, what is my 1983
2 case, if it was not to be a part of this, first of all,
3 being brought back up here for? Why isn't it being treated
4 like every other case, sir -- your Honor? Excuse me.

5 THE COURT: That's okay.

6 First of all, let us find out where the documents are
7 here in the Clerk's Office in Cleveland. But, I think we
8 ordered them in, and it's been some time, so I don't
9 remember whether we ordered them in or not.

10 MR. TRAFICANT: Was there a written order?

11 THE COURT: Well, I don't know. That's what
12 I have to find out for you. I think we made a request they
13 get the files here. So we will deal with that, maybe over
14 the break my deputy clerk can look, but my deputy clerk
15 isn't in the courtroom right now, so we'll try to get to
16 that issue. If they're here, everything in that file is
17 public record, and so of course you have access to it.

18 MR. TRAFICANT: So you'll let me have access
19 to it?

20 THE COURT: I don't have to let you, anybody
21 has access to that file. It's just a question of getting
22 things that are in storage from Chicago to Cleveland, and I
23 think we did ask that it be brought in.

24 MR. TRAFICANT: They said you have them here.
25 They don't have them in Chicago.

1 THE COURT: I know they don't. I am telling
2 you that I think we requested that the file be made
3 available in Cleveland. So what we have to do now is find
4 out whether or not -- or where it is in Cleveland, and I
5 think it will be in Cleveland.

6 MR. TRAFICANT: All right. Thank you.

7 THE COURT: And then --

8 MR. TRAFICANT: I can get the documents with
9 the normal retrieval fee, et cetera; is that correct?

10 THE COURT: If you don't have to go to
11 Chicago, if the file's here, you and anyone else can see
12 the file. It's finding where it is. I think the retrieval
13 has to do with some administrative costs they have and when
14 they have to go hunt through all the files over very long
15 periods of time.

16 MR. TRAFICANT: I don't want to just look at
17 it, I want a couple of documents from it, from the trial.

18 THE COURT: Congressman, we will give you
19 access to that file. I just have to find out where the
20 file is so I can give you access to it.

21 MR. TRAFICANT: Thank you.

22 THE COURT: Okay.

23 MR. MORFORD: One brief thing, your Honor, I
24 mentioned it to Ed. When this witness is finished, we have
25 another witness. After that second witness is finished,

Marcone - Cross Continued

1 we'll have an immunity situation, so we would need to
2 address the immunity outside the presence of the jury.

3 THE COURT: Okay. We will see where we are
4 when we get to that point and then we can see when we'll
5 address it. Thank you.

6 I think we're ready for the jury, right? Very well.
7 Thank you.

8 (Proceedings resumed in the presence of the jury:)

9 THE COURT: You're still under oath.

10 BY MR. TRAFICANT:

11 Q. Good afternoon, Paul.

12 A. Good afternoon.

13 Q. I know you and I have been here a long time, and
14 perhaps too long.)

15 Did the House counsel ever advise you not to speak
16 with me about any matters concerning this case?

17 A. Yes.

18 Q. Did you abide by their --

19 A. I abided by their advice, and in the sense I did not
20 speak to you about the Grand Jury testimony.

21 Q. Did I ask you when you were testifying at any time
22 what you testified to?

23 A. No, we did not discuss your Grand Jury testimony.

24 Q. No. There's an opinion being widely circulated that
25 I tried to get you to lie to the Grand Jury. Is that a

Marcone - Cross Continued

1 true statement?

2 A. You suggested what I should say if I were asked about
3 certain individuals.

4 Q. Were those two individuals, though, part of the time
5 when they were discussing kickbacks in the press, to the
6 best of your knowledge?

7 A. I can't recall whether or not kickbacks were
8 expressly discussed in the media.

9 Q. Okay. But, anyway, if you had thought I would have
10 done that, would that have been your idea of a wrongdoing,
11 a crime?

12 A. Not being a lawyer, I just know how I felt. I --

13 Q. Okay. Fine.

14 Did I ask you to lie to the Grand Jury, Paul?

15 A. What you asked me to say, what you were trying to put
16 words in my mouth, were not that -- I had no way of
17 knowing. For example, you asked me to say that Henry
18 DiBlasio worked very hard and that Allen Sinclair was
19 working on the economic development issue if I was asked by
20 the Grand Jury.

21 I had no way -- I had no way of knowing whether or
22 not Henry DiBlasio worked hard or not. That may or may not
23 have been the truth.

24 Q. Yeah. But, we had conversation about it, right?

25 A. Yes.

Marcone - Cross Continued

1 Q. Okay. Now, after you testified, did I ever call you
2 and say, "Hey, Paul, what happened?"

3 A. No, you did not ask me for details of my Grand Jury
4 testimony.

5 Q. And did you say in your Grand Jury testimony, to the
6 best of your knowledge, that I asked you to testify
7 truthfully?

8 A. I can't recall my aspect of my Grand Jury testimony.

9 Q. Now, you worked very hard on the burden of proof,
10 didn't you?

11 A. I worked on that issue and I supervised several staff
12 people who worked on it, yes.

13 Q. Yeah. Without getting into that, going back over to
14 that and getting into the objections and all that, that
15 dealt with who had the burden of proof, innocence or guilt,
16 right?

17 A. Civil tax case, yes.

18 Q. Yes. And the taxpayer had the burden, right?

19 A. Yes, prior to the Tax Bill of Rights.

20 Q. Now they don't, right?

21 A. That's correct.

22 Q. And what is the common standard of American
23 jurisprudence if you were put in a couple words, if you
24 would know?

25 MR. MORFORD: Objection.

Marcone - Cross Continued

1 THE COURT: Sustained.

2 Q. Are you familiar with the term "innocent until proven
3 guilty"?

4 A. Yes.

5 MR. MORFORD: Objection.

6 THE COURT: Sustained.

7 Q. Towards the end of the situation, you said this
8 truthfulness business, now that you've heard about all this
9 evidence, concerns you; is that your true statement?

10 A. Um-hum.

11 Q. Yeah. And where did you hear about that evidence?

12 A. Through the course of my Grand Jury testimony, and
13 reading newspaper, newspaper accounts.

14 Q. Did the jury come to a conclusion in this case?

15 A. No.

16 Q. Is evidence conclusive, Paul, has it been proved to
17 be conclusive yet?

18 THE COURT: That's not a question for a
19 witness to answer. That's their --

20 Q. Let me ask you --

21 THE COURT: Wait, wait. That's their
22 responsibility in this case. It's not yours or mine
23 either.

24 MR. TRAFICANT: The point is then -- let me
25 ask it this way.

Marcone - Cross Continued

1 Q. The alleged accusations really concerned you, didn't
2 it?

3 A. As I stated before, I don't think I would be human if
4 I wouldn't allow the allegations against you to cause any
5 grave concern, having worked for you for many years and you
6 being someone I hold very high esteem for. Of course it's
7 going to bother me.

8 Q. Do you know why the House counsel asked you not to
9 speak with me?

10 A. As I recall it, since you were defending yourself, it
11 wouldn't be appropriate for me, and because I was your
12 employee, it wouldn't be appropriate for me to speak to
13 you. I was also advised by my own personal counsel not to
14 talk to you about the specifics of my Grand Jury testimony.

15 Q. Okay. And I never asked you, did I?

16 A. That's correct.

17 Q. So other than that conversation that you felt I was
18 trying to put words in your mouth, is that your words, was
19 there anything else ever?

20 A. Anything else in terms of what?

21 Q. In terms of this case. I mean, we had no discussion
22 about this case.

23 A. Other than discussions we had about reporters'
24 inquiries about certain allegations, yes.

25 Q. Yes. But let me ask, this is the point I'm trying to

Marcone - Cross Continued

1 make, it was an election year. Was it not a fact that the
2 headlines were kickbacks and construction contracts, and
3 did we not have a lot of conversations about it?

4 A. There were a lot of newspaper articles about
5 allegations against you, but we did have conversations
6 about those newspaper articles.

7 Q. Now, in closing, do you believe strongly a person is
8 innocent until proven guilty?

9 MR. MORFORD: Objection.

10 THE COURT: That's what the law says.

11 MR. TRAFICANT: Yeah, but I'm asking --

12 THE COURT: That's a statement of law. Okay?

13 BY MR. TRAFICANT:

14 Q. To your understanding of the law, is a person
15 innocent until proven guilty?

16 A. Of course.

17 Q. Do you agree with that?

18 A. Yes.

19 Q. Did we fight for that, Paul?

20 MR. MORFORD: Objection.

21 THE COURT: Sustained.

22 MR. TRAFICANT: I hope your kids are okay.

23 Take care.

24 THE COURT: You may inquire.

25

Marcone - Redirect/Morford

1 REDIRECT EXAMINATION OF PAUL MARCONE

2 BY MR. MORFORD:

3 Q. Mr. Marcone, Congressman Traficant just asked you
4 some questions if there were ever any other discussions
5 between you and him about this case other than that time he
6 brought you out in the hallway because he didn't want to
7 talk to you in his office.

8 A. Um-hum.

9 Q. Did he ever talk to you in the last few weeks about
10 this case?

11 A. He called me several weeks ago, and I returned his
12 phone call.

13 Q. And when he called you several weeks ago, and you
14 returned his phone call, what did he tell you the purpose
15 of the call was?

16 A. He just -- I took it as him acting as an attorney, he
17 just called me because I was a witness, to go over certain
18 aspects of my testimony.

19 Q. So in answer to his question, did you ever discuss
20 the facts of this case other than that one time out in the
21 hallway, the true answer is?

22 A. Well, yeah, we did -- we did have that discussion,
23 several weeks ago.

24 Q. Was there anything about that discussion that made
25 you feel uncomfortable?

Marcone - Redirect/Morford

- 1 A. The issue of Henry and Allen came up again, and
2 again, he was trying to elicit from me that Henry and Al
3 worked hard, and I recall again, reiterating, I couldn't --
4 because I wasn't your supervisor, I couldn't speak to that
5 issue.
- 6 Q. But, that's something you had explained to him all
7 the way back in the hallway two years ago, correct?
- 8 A. That's correct.
- 9 Q. Now, two weeks before this trial he's asking you
10 again if you will say something that you've already told
11 him you can't say, correct?
- 12 A. That's correct.
- 13 Q. And did that bother you?
- 14 A. I wouldn't be human if it didn't bother me.
- 15 Q. Did he tell you during that conversation that he
16 needed you to help him in your testimony?
- 17 A. He didn't put it in those terms, no.
- 18 Q. What terms did he put it in?
- 19 A. He's fighting for his life, and he needed -- he
20 needed some help in fighting for my life here.
- 21 Q. And it's in that context then he asked you again if
22 you could say that Henry worked really hard?
- 23 A. I think the way he put it was Henry -- he just made a
24 statement, "Henry worked very hard."
- 25 Q. Which was a statement you had already told him you

Marcone - Redirect/Morford

1 have no way of knowing whether it was true or not, correct?

2 A. I believe what I told him was that, as I stated today
3 many times, that I got the impression that Henry was out
4 there working in the community, that I couldn't testify as
5 to how many hours he worked and how hard he worked because
6 I wasn't in Ohio.

7 Q. But that's something you had told him --

8 A. That's right.

9 Q. -- long before this conversation, correct?

10 A. Correct.

11 Q. And now in this conversation, he's again suggesting
12 that you tell this jury that you knew Henry worked very
13 hard, something you told him you couldn't do, correct?

14 A. Correct.

15 Q. Now, do you recall some questions Congressman
16 Traficant asked you about whether Henry DiBlasio's name
17 ever appeared on a building lease after the building at 11
18 Overhill was put in the name of Trumbull Land Company? Do
19 you recall that?

20 A. Yeah.

21 Q. And do you recall in answer to his question that you
22 agreed that it would have sent up red flags to you if, in
23 fact, Henry DiBlasio's name had been on that contract?

24 A. Yeah.

25 Q. Let me ask you this: Would it have sent up red flags

Marcone - Redirect/Morford

1 for you if you had learned that Nicholas Chuirazzi, whose
2 name was on the lease, is the president of Trumbull Land
3 Company, had simply put the name of the building, the title
4 of the building in the name of Trumbull Land Company as a
5 favor to Henry DiBlasio?

6 A. I don't know the question.

7 Q. You were talking about --

8 A. There was nothing -- if it said Nicholas Chuirazzi on
9 the lease it wouldn't send up a red flag at all.

10 Q. Would it if you saw Chuirazzi's name on the lease and
11 came to learn he was nothing but a nominee for Henry
12 DiBlasio?

13 A. If I learned that Henry DiBlasio still owned the
14 building and still had an interest in the building, it
15 would have sent a red flag up for me.

16 Q. What if Mr. Chuirazzi had told you that Henry still
17 received the rents, paid the expenses, and paid the taxes,
18 and was just using him to put his name on the building?

19 A. That would have sent up a red flag. It would have
20 been a violation of federal statute and House ethics rules.

21 Q. Did Henry DiBlasio ever tell you that was the case?

22 A. No.

23 Q. Did Congressman Traficant ever tell you that was the
24 case?

25 A. No.

Marcone - Redirect/Morford

1 Q. Congressman Traficant asked you the following
2 question, quote: "Was one of the major roles of the D.C.
3 office to help companies in trouble with the federal
4 government," end quote? Do you recall that?

5 A. Um-hum.

6 Q. And you answered that, quote, "That's a fair
7 statement, yes," end quote. You recall that?

8 A. Yes.

9 Q. Let me ask you this: Are you saying that the
10 Washington, D.C. office of Congressman Traficant believed
11 that one of your major roles was to lobby on behalf of
12 companies before federal agencies?

13 A. No, but it was to intervene on -- if companies were
14 having a problem with a federal agency, it wasn't unusual
15 for our office to intervene on their behalf.

16 Q. But, isn't it also not unusual for companies to hire
17 lawyers and lobbyists to go to bat for them with agencies?

18 A. Yes, but in my view, my experience, it is just as
19 effective for them to solicit help with their member of
20 Congress.

21 Q. Were there times that businessmen like Pete Bucheit
22 and J. J. Cafaro and Tony Bucci used your office to lobby
23 on their behalf in front of federal agencies? Is that
24 fair?

25 A. Yes.

Marcone - Redirect/Morford

- 1 Q. Now, Congressman Traficant also asked you whether
2 there were many times when the Government gave businesses
3 that were coming to you for help, quote, "the shaft," end
4 quote. You recall that?
- 5 A. I recall answering the question, yes.
- 6 Q. And you recall answering that, quote, "Oh, yeah," end
7 quote?
- 8 A. Yes.
- 9 Q. Let me ask you this: Do you believe that the U.S.
10 Department of Labor was giving the Buccis the shaft when
11 they tried to enforce a law that says convicted felons
12 can't bid on Government contracts for a three-year period
13 after their conviction?
- 14 A. After discussions I had with Jim Welfley, and looking
15 at the case, my view is that the Department of Labor was
16 adhering to the letter of the law.
- 17 Q. So they weren't giving the Buccis the shaft, right?
- 18 A. I had other keys cases in my mind when I gave that
19 answer.
- 20 Q. And I want to ask you about specific ones.
- 21 A. Sure.
- 22 Q. You believe the Ohio Department of Transportation was
23 giving the Buccis' company the shaft when they tried to
24 keep the Buccis from bidding on federally-funded highway
25 projects?

Marcone - Redirect/Morford

1 A. I believe all the agencies involved in the Bucci case
2 were adhering to the letter of the law.

3 MR. TRAFICANT: I didn't hear that.

4 THE WITNESS: All the federal and state
5 agencies involved in the Bucci case, in my opinion, were
6 adhering to the letter of the law.

7 Q. Do you think the FAA was giving USAG the shaft when
8 it would not go forward on certification until the USAG
9 complied with the standard requirement that the company
10 submit a written description of what the FAA needed to test
11 and provided the funding for such tests?

12 A. In that instance, no, they were not given the shaft.

13 Q. They were not right on that issue, correct?

14 A. On that one issue, yes.

15 Q. Do you believe that OPIC was giving Pete Bucheit the
16 shaft when it refused to pay insurance claims for insurance
17 that he refused to pay the premiums on?

18 A. No. Again, they were -- they were simply adhering to
19 what the regulations were.

20 Q. Do you believe that the Youngstown, Ohio, local
21 agencies called the Community Investment Corporation was
22 giving Dave Sugar the shaft when it awarded the Higbee
23 demolition contract to the lowest qualified bidder instead
24 of Dave Sugar?

25 A. I can't answer that because I'm not familiar with

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1 that case.

2 Q. Do you recall Congressman Traficant asking you if the
3 office of Congressman Traficant treated any company any
4 different than anyone else? Do you recall that?

5 A. Yes.

6 Q. Were there some companies that the office spent more
7 time helping than others?

8 A. Yes.

9 Q. Where would the Bucheit companies fit?

10 A. They'd be at the top of the list.

11 Q. How about Cafaro and USAG?

12 A. Very high on the list, yes.

13 Q. How about the Buccis?

14 A. Very high on the list.

15 Q. So it's fair to say that the Bucheits, Cafaro, and
16 Bucci received more time and assistance from your office
17 than the 100 or so companies you testified you helped over
18 the years?

19 A. Correct.

20 Q. Now, you were asked a whole series of questions about
21 your personal concerns at one time and perhaps the
22 Government might have been deliberately leaking information
23 prior to the election. Do you recall that?

24 A. Yes.

25 Q. As part of your answer, you said something, you said,

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1 "At that time"?

2 A. Yes.

3 Q. But, you never explained what you meant by that.

4 What did you mean by that, "At that time"? What were the
5 significance of the words you used, "At that time"?

6 A. I later learned that many of the people who were
7 going in to testify before the Grand Jury immediately spoke
8 to reporters who were hanging around the courthouse, and
9 that was a source of the majority of the articles that had
10 appeared in the paper.

11 Q. Now, you testified also about the subpoena that was
12 served on the House of Representatives, and you said that
13 that -- the fact that a subpoena had been received was read
14 in the record, correct?

15 A. Yes.

16 Q. But, it didn't indicate which congressman it dealt
17 with, correct?

18 A. That's right.

19 Q. And there are how many congressmen approximately in
20 the Northern District of Ohio?

21 A. About four or five.

22 Q. There's how many in the state, 17?

23 A. There's 19 in the whole state, 21 -- sorry, 21.

24 Q. 21. Ball park, how many in the northern half of the
25 state?

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1 A. Seven or eight, maybe more, probably more because of
2 the Cleveland area.

3 Q. Was there anything whatsoever in what was read in the
4 House that indicated it was Congressman Traficant as
5 opposed to one of those seven or eight other congressmen?

6 A. No.

7 Q. Who was the first person who ever publicly tied that
8 subpoena to Congressman Traficant?

9 A. Our office was.

10 Q. So you were the -- it was your office that announced
11 that it was, in fact, Congressman Traficant that was being
12 looked at, correct?

13 A. We got a phone call from a reporter. Looking back,
14 it was a clever ploy on the reporters' part. He asked me
15 have our office documents been subpoenaed by the U.S.
16 Attorney's Office, and I answered in the affirmative. I
17 later found out he was just taking a shot in the dark.

18 Q. Because there had been an announcement in the House?

19 A. Right. I didn't know that at the time. I thought
20 that someone had leaked that to him. I spoke with the
21 Congressman, and I knew that the next day that he would
22 write that story, so we issued a statement that evening,
23 and we sent it out to the media that evening.

24 Q. And when was that, approximately?

25 A. It was in January of 2000, I believe.

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1 Q. The very end of January, correct?

2 A. Yes.

3 Q. And for how many weeks had you known yourself
4 privately that the U.S. Attorney's Office had issued a
5 subpoena to Congress?

6 A. About six or seven weeks.

7 Q. And during that six or seven-week period, had any
8 reporter called you and asked you questions about this
9 investigation?

10 A. No.

11 Q. Had you ever received a single call from a reporter
12 prior to the day that Congress, under their own rules, read
13 onto the record that a subpoena had been issued to
14 Congress?

15 A. No, I never received any calls up to that point.

16 Q. So there would have been no -- no leaks of any kind,
17 correct?

18 A. Correct.

19 Q. Is it unusual during a hotly contested election to
20 have the media cover allegations of misconduct no matter
21 where they're coming from?

22 A. No, that's not unusual.

23 Q. Is it unusual during a hotly contested election for
24 the opponent of an incumbent Congressman to be raising
25 allegations of misconduct?

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1 A. No, that's Politics 101.

2 Q. Is it unusual if the opponent and the media are
3 raising questions of allegations that the reporters would
4 be calling you all the time, looking for the Congressman's
5 response?

6 A. That's not unusual.

7 Q. And how unusual is it after the election, after the
8 primary election ends, for all the commotion to die down?

9 A. It's not unusual for the commotion to die down. What
10 struck me was I didn't get a single call from a reporter
11 for months related to the Grand Jury investigation, when I
12 knew for a fact that the Grand Jury investigation was still
13 ongoing. That's just struck me as somewhat unusual.

14 Q. But the election was over, correct?

15 A. The primary was over; there was the general election
16 in the fall.

17 Q. Was the general election much of a contest?

18 A. We took it very seriously. Yes, it was, given the
19 allegations. I believe it was a three-way race. We were
20 very concerned about the outcome.

21 Q. Is there usually a lull between the coverage that
22 happens just before the primary and when coverage picks up
23 again before the general election?

24 A. Certainly, yes.

25 Q. And was there that normal lull in this case?

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1 A. Yes.

2 Q. And is that during the time that you weren't getting
3 many calls?

4 A. Yes.

5 Q. Did you ever have any evidence whatsoever of any
6 Government leaks in this investigation, besides your own
7 suspicions?

8 MR. TRAFICANT: Let him answer the question.

9 A. The only thing I would say, to fully answer that
10 question, the only evidence I have is the detailed nature
11 of the type of questions I was getting from some reporters.

12 Q. Yeah, but you --

13 A. I later learned that many of the reporters who called
14 me got their information from people who had testified
15 before the Grand Jury.

16 Q. And isn't it true --

17 A. I never got a single reporter to tell me they got any
18 information from the federal government.

19 Q. And isn't it true sometimes in the articles they even
20 quoted some of those witnesses?

21 A. Yes.

22 Q. They quoted some of the staff members and former
23 staff members, members of your office, correct?

24 A. Correct.

25 Q. And they quoted some of the businessmen who had been

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1 before the Grand Jury, correct?

2 A. Correct.

3 Q. You were asked a number of questions about the need
4 for -- strike that.

5 You were asked a question about Congressman
6 Traficant's statement that he wanted Allen Sinclair to work
7 on the tax initiative. You recall that?

8 A. Yeah.

9 Q. Was that a federal or a local tax initiative?

10 A. A local -- it's a local -- it's a local ballot issue
11 to increase the sales tax in three counties to create a
12 pool of money for economic development purposes.

13 Q. Okay. So who was actually going to put the
14 referendum on the ballot and receive the revenues from that
15 tax increase?

16 A. The Regional Economic Development Authority created
17 under state statute.

18 Q. So these are state and local tax levy type issues?

19 A. Yes.

20 Q. To the best of your knowledge, don't counties and
21 cities and localities have lawyers that work on tax levy
22 issues on a regular basis?

23 A. From my experience in working with the City of New
24 York, yes.

25 Q. Were you ever given explanation why your office had

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1 to provide these localities with a personal injury lawyer
2 to help them on these issues?

3 A. It was never clear to me that Mr. Sinclair was going
4 to be working with any county officials. He was just
5 simply going to be advising the Congressman on the creation
6 of the -- of this economic development.

7 Q. Let me ask you this: Based on your understanding of
8 the structure of your office, could you have simply hired
9 on an as-needed basis a local lawyer who specialized in tax
10 levies and tax referendum, and that type of thing?

11 A. Yes.

12 Q. Did you do that?

13 A. No.

14 Q. Congressman Traficant asked you a number of questions
15 about things that were put in the Congressional Record.
16 Are there any restrictions on what a congressman can put
17 into a Congressional Record?

18 A. No, just about anything he wants.

19 Q. There had been times congressmen would put a recipe
20 for chicken soup into the Congressional Record, correct?

21 A. That's correct.

22 Q. And it gets printed?

23 A. If that's what the member of Congress wants, yes.

24 Q. Finally, you were asked a series of questions about
25 your belief on the merits of the USAG technology. Do you

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1 recall that?

2 A. Yes.

3 Q. I just have one question for you: Does the issue of
4 merit, whether it was meritorious technology or not, does
5 that have any bearing on whether a congressman can receive
6 things of value because of what he's doing for a company?

7 A. Absolutely not.

8 Q. So whether it's a good technology, bad technology,
9 those rules are the same?

10 A. Yeah.

11 MR. MORFORD: Just one moment, your Honor.
12 Nothing further.

13 THE COURT: Thank you. Congressman?

14 RECROSS-EXAMINATION OF PAUL MARCONE

15 BY MR. TRAFICANT:

16 Q. Paul, how long do you think this redirect the
17 Government took, did you time it, how long it took?

18 MR. MORFORD: Objection.

19 THE COURT: Sustained.

20 Q. Did they spend an awful lot of time on Government
21 leaks?

22 A. Who? Who's "they"?

23 Q. Mr. Morford?

24 MR. MORFORD: Objection.

25 THE COURT: Objection sustained.

Marcone - Recross

1 Congressman, please.

2 BY MR. TRAFICANT:

3 Q. Were you questioned extensively on your knowledge
4 relative to whether or not there were government leaks or
5 not?

6 MR. MORFORD: Objection.

7 THE COURT: Shall we take a break and explain
8 why that question --

9 MR. TRAFICANT: No, I don't need a break, and
10 I don't want to waste the jury's time.

11 THE COURT: Well, then ask questions of this
12 witness.

13 MR. TRAFICANT: He asked him about ten
14 minutes of questions on it.

15 THE COURT: Excuse me, excuse me. Ask
16 questions that will provide evidence to the jury.

17 MR. TRAFICANT: Okay.

18 THE COURT: Thank you.

19 BY MR. TRAFICANT:

20 Q. Did you answer many questions about government
21 potential leaks in the redirect?

22 THE COURT: That'll do, Congressman. We'll
23 take a recess.

24 (Proceedings in the absence of the jury:)

25 THE COURT: Congressman, the jury was present

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1 during that cross-examination. They can decide whether it
2 was long or wasn't long. This doesn't elicit any
3 information that they can use.

4 MR. TRAFICANT: Can I --

5 THE COURT: Do you have something more that
6 you want to examine him on?

7 MR. TRAFICANT: Yes, I do. Can I speak about
8 it?

9 THE COURT: Yes.

10 MR. TRAFICANT: They took so much time,
11 they're very defensive about government leaks. I was
12 trying to get at a little bit more detailed information.
13 Maybe Mr. Marcone may have given me --

14 THE COURT: Well, we'll go back to that.
15 He's going to come back on the stand. You can ask him for
16 the information.

17 MR. TRAFICANT: Yes, but why -- let me ask
18 you this.

19 THE COURT: You have a time when you can make
20 a final argument to this jury. This is not it.

21 MR. TRAFICANT: No, I'm not trying to make a
22 final argument.

23 THE COURT: It sounds like it.

24 MR. TRAFICANT: I'm on recross now.

25 THE COURT: That's right.

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1 MR. TRAFICANT: And the Government spent more
2 than half their time on government leaks.

3 THE COURT: And?

4 MR. TRAFICANT: And you're saying I asked him
5 a question, "Did the government ask you a lot of questions
6 about government leaks," and you said "Objection";
7 "Sustained."

8 THE COURT: The jury's sitting right here.
9 They heard every question you asked him.

10 MR. TRAFICANT: Well, then what was the
11 problem with it? Why did you sustain the objection?

12 THE COURT: Because that is by inference an
13 argument that doesn't elicit anything that they can really
14 use. And then you did it again, and again, so I thought
15 we'd better just stop and touch on it. If you have some
16 questions you can ask this witness --

17 MR. TRAFICANT: Your Honor --

18 THE COURT: -- he has personal knowledge
19 about that are not simply positions that you want to make
20 in front of the jury, fine.

21 MR. TRAFICANT: Your Honor, a case is tried
22 in front of a jury, isn't it?

23 THE COURT: It is.

24 MR. TRAFICANT: Okay. The government, under
25 redirect, brought up the issue of leaks, did they not?

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1 THE COURT: The issue of leaks has been
2 brought up before in this case.

3 MR. TRAFICANT: But, it was brought up under
4 redirect. I still have a chance to recross. What I'm
5 saying is why do you continue --

6 THE COURT: You can ask him --

7 MR. TRAFICANT: -- to limit me from my
8 ability to cross-examine witnesses? I want that on the
9 record.

10 THE COURT: Because asking them whether or
11 not the government took a certain amount of time with their
12 examination which was conducted right in the presence of
13 the jury, the jury knows whether or not it took a lot of
14 time, it doesn't get anywhere. If you want to examine more
15 about leaks, ask him questions about what he knows. He's
16 been testifying about it, and this isn't the first time,
17 but it's -- it's what does he know we're --

18 MR. TRAFICANT: A trial is also about
19 motives, your Honor.

20 THE COURT: It is, and --

21 MR. TRAFICANT: And you're attempting to
22 limit the defense in establishing motives and patterns.
23 That's all I have to say. No offense personally, just for
24 the record.

25 THE COURT: All right. Are you ready now to

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1 go on with this witness?

2 MR. TRAFICANT: I'm ready.

3 THE COURT: Thank you, sir.

4 (Proceedings resumed in the presence of the jury:)

5 BY MR. TRAFICANT:

6 Q. Paul, let's see if I can fumble and bumble through
7 this with you.

8 Did I bring up the issue of leaks or did you bring up
9 the issue of leaks when it first surfaced?

10 A. I came to you with my concerns about potential leaks.

11 Q. Isn't it a fact you told me that there's just too
12 much detailed information, that there's got to be something
13 coming from the government? Just yes or no.

14 A. Yes.

15 Q. Well, that's different than what you just testified
16 to. Are you afraid to testify?

17 A. I'm not afraid of anything. What I testified to was
18 at the time I was convinced that the federal government was
19 leaking the information because of the detailed nature of
20 the information. I later learned that most of the
21 information that reporters got came from people who had
22 testified before the Grand Jury.

23 At the time I made that statement to you, we were in
24 a heated battle, and I was very concerned that they were
25 leaking information.

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1 Q. Yeah. Let me ask you this: Were you not being faxed
2 everyday, every update on this trial, on this
3 investigation?

4 A. No, I was -- as part of my job, I would read the
5 newspapers.

6 Q. Did the District Office fax you things that concerned
7 me?

8 A. Yes.

9 Q. And the investigation --

10 A. They were -- as a matter of course, any time there's
11 article about you in any local papers, the District Office
12 would fax that to my attention.

13 Q. So you were able to read those articles, weren't you?

14 A. Most of the information was also available online,
15 which I read, as well.

16 Q. So immediately as these witnesses supposedly made
17 their statements, it was all over the Internet and all over
18 the country and available to everybody, wasn't it?

19 A. Throughout the Grand Jury investigation, up until the
20 time prior to the primary, there were many stories in local
21 newspapers about the Grand Jury investigation.

22 Q. Now, the prosecutor says there comes a lull between
23 elections. Is that in the normal election, Paul?

24 A. In a normal cycle there's always a lull between the
25 primary and the general election.

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1 Q. Do you believe -- let me say this: Under the
2 circumstances of that hotly contested election and the
3 powerful media placed on me, was there a normal lull?

4 A. After any primary, there's going to be a decrease in
5 media attention of the primary itself. What concerned me
6 at the time was the fact that the stories in the media
7 about the Grand Jury investigation ceased after the primary
8 was over and you prevailed.

9 Q. Did you have knowledge at that time the Grand Jury
10 was still going on?

11 A. I knew there was still ongoing Grand Jury
12 investigation.

13 Q. But, there were no more witnesses making any
14 statements, would that be a fair statement?

15 A. I don't know who was talking to who after the
16 election.

17 Q. Did you get one call from any media up until the
18 election recycle started to heat up, Paul, about Grand Jury
19 testimony?

20 A. What I recall is that -- what I testified before the
21 Grand Jury at the end of April, between the March primary
22 and that testimony, I did not receive a single call from
23 any reporter about the Grand Jury investigation.

24 Q. And did you not bring that to my attention?

25 A. Yes, I did.

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- 1 Q. And what did you tell me?
- 2 A. I told you that I was very suspicious about that.
- 3 Q. Suspicious of what?
- 4 A. That there were people inside the federal government
- 5 who were leaking information damaging to you to try to
- 6 influence the outcome of the primary.
- 7 Q. All right. Now, they then said there was a general
- 8 election?
- 9 A. Um-hum.
- 10 Q. Was it a highly contested general election?
- 11 A. Yes, it was.
- 12 Q. Did we survive?
- 13 A. You were elected, yes.
- 14 Q. Did you help me?
- 15 A. Yes.
- 16 Q. Under the laws?
- 17 A. Yes.
- 18 Q. Now, they talk about a couple weeks ago we had a
- 19 conversation.
- 20 A. Um-hum.
- 21 Q. Are you familiar with the fact I represent myself?
- 22 A. Yes.
- 23 Q. When I called, did I tell you I was calling as an
- 24 attorney, talking to you, who would be a potential witness?
- 25 A. Yes.

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1 Q. Did I clarify that very clearly?

2 A. Yes.

3 Q. Didn't we have some small talk?

4 A. A little bit, yeah.

5 Q. Did I ask about your family?

6 A. Yes.

7 Q. Did you ask about me?

8 A. Yes.

9 Q. Did we do anything wrong in that conversation?

10 A. I viewed it as a conversation that I would have with
11 an attorney about a pending trial. But, I would say that
12 again, I -- when I hung up the phone, I still was bothered
13 by the fact that you were trying to push me in certain
14 directions with my testimony related to Henry and Allen.

15 Q. Was I inquiring about that issue with you? Certainly
16 these are key issues in the trial.

17 Do you know how many counts there are to this
18 indictment, Mr. DiBlasio -- Mr. --

19 MR. MORFORD: Objection, your Honor. There
20 are at least three questions in there.

21 THE COURT: One at a time.

22 Q. Do you know how many counts there are to this
23 indictment?

24 A. I believe there are ten.

25 Q. Okay. Did I inquire about information you might have

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1 known about any of these cases?

2 A. I can't recall the exact way the conversation went.

3 I do know that you very quickly brought up the issue of
4 DiBlasio and Sinclair.

5 Q. Yes. Very good. Now, they said that -- you were
6 asked about us helping companies, and we helped all
7 companies, right?

8 A. Um-hum.

9 Q. Did I get involved with all the companies?

10 A. No.

11 Q. When was it that I got involved, Paul?

12 A. As I stated previously, you would get involved at the
13 suggestion of a staff or you would on your own initiative
14 say you wanted to make certain phone calls.

15 Q. Did you investigate to find out if Buccis were the
16 low bidder on that job?

17 A. I did not conduct any investigation on it.

18 Q. Fine.

19 A. I simply took your word for it.

20 Q. Okay. Now, you were asked about U.S. Aerospace, and
21 if you were asked if you thought or you knew that I was
22 getting something from Mr. Cafaro, would you have helped,
23 and what was your answer?

24 A. No, I wouldn't have helped.

25 Q. Let me ask you something. You had meetings with

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1 Mr. Cafaro?

2 A. Yes.

3 Q. Did you trust him?

4 A. No, I -- I do not trust Mr. Cafaro.

5 Q. Now, when a constituent is dealing with the
6 government and they've run into a roadblock, what's their
7 last resort, Paul?

8 A. With any person dealing with the federal government
9 they have a number of recourses they can take. People who
10 don't have much money, obviously hiring an attorney is not
11 a viable alternative. Contacting your congressman is
12 always a viable -- sometimes very effective method of
13 addressing grievances that a person might have in the
14 federal government.

15 Q. Are some members more effective than others?

16 A. Yes.

17 Q. Do some members get more requests than others?

18 A. Yes.

19 Q. You know if Mr. Buehite had an attorney?

20 A. I believe the Buehite company did have an attorney.

21 Q. Did you know if Mr. Buehite had a team of attorneys?

22 A. My recollection was Buehite had counsel, and also at
23 one point, had a lobbyist help him with the building on H
24 Street.

25 Q. Did Mr. Buehite make any progress with any of his

1 lawyers?

2 A. You'd have to ask Mr. Bucheit that question. I don't
3 know how much progress he made or didn't make with his
4 attorneys. I do know there were several court cases that
5 were resolved in their favor in relation to the investment
6 on the Gaza Strip.

7 Q. Do you know if he was paid? Do you know if they paid
8 him after those judgments?

9 A. If who paid?

10 Q. The PLO?

11 A. The Palestinian Authority?

12 Q. Yes.

13 A. I don't know --

14 MR. MORFORD: Objection as to basis of
15 knowledge, your Honor. We're wandering into hearsay again.

16 THE COURT: Okay. Just testify to what you
17 know personally.

18 Q. Tell us what you know. Why did Mr. Bucheit come to
19 me about the Gaza Strip if he had a judgment already in
20 it --

21 A. Well, the judgment came much, much later. The
22 initial contact from our office and the Bucheits in
23 relation to Gaza Strip were initially they wanted to invest
24 in Gaza. They needed the OPIC insurance.

25 Q. Okay. At some point, do you know that Mr. Bucheit

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1 made his payment to the OPIC insurance?

2 A. Yes. At some point, he finally -- he finally did
3 what OPIC had been asking him to do to pay his premium, and
4 they were able to help him.

5 Q. There was a dispute there, would you say that's
6 correct?

7 A. Yes.

8 Q. And then they came to a settlement?

9 A. We intervened on several occasions at OPIC, and I
10 instructed our staff to make it clear to Mr. Bucheit that
11 we couldn't really be effective in helping him unless he
12 did certain basic things that OPIC was requesting, and
13 finally, after several months, Bucheit eventually did that,
14 and we were able to resolve the issue.

15 Q. Who resolved the issue?

16 A. OPIC did, with our intervention.

17 Q. Do you know to this day if Mr. Bucheit had been paid
18 by the Palestinian Liberation Organization?

19 A. I don't know if he's got anything from the
20 Palestinian Authority.

21 I know that there were two judgments in federal court
22 in the Bucheits' favor.

23 Q. In America?

24 A. In the United States, but I don't know whether or not
25 that resulted in the Palestinian Authority being able to

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1 get the Bucheits' equipment back or compensating the
2 Bucheits for the stolen equipment.

3 Q. Now, in my questioning you about the FAA, did I ever
4 ask you if the FAA was giving us the shaft?

5 A. No, you never used those terms.

6 Q. Did I ever blame the FAA?

7 A. No. The only problem I can see with the FAA, USAG,
8 was the fact that there was a staff person at the FAA who
9 was very skeptical of the technology, and we also were
10 critical of the FAA for the way they conducted their
11 initial test, in testing technology during a day.

12 Q. Let me stop there now. Who brought that to our
13 attention?

14 A. The USAG.

15 Q. Who from USAG?

16 MR. MORFORD: Objection, back to hearsay
17 again, your Honor.

18 THE COURT: You can testify as to who, why,
19 you just can't testify as to what he said.

20 THE WITNESS: Mr. Detore brought that to our
21 attention.

22 Q. Laser lights -- what time in the day are laser lights
23 to be used?

24 A. At night.

25 Q. When did the FAA test the laser light equipment?

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1 A. During daylight hours.

2 Q. Did I raise a fuss?

3 A. Yes.

4 Q. Do you believe I was unjustified in raising that
5 fuss?

6 A. I thought the concerns you raised were entirely
7 justified.

8 Q. Is that what led us to -- for you to advise me about
9 inviting certain key people out to the -- to witness it
10 themselves?

11 A. Yes, I -- I felt that was important to have key
12 people view the technology for themselves and the setting
13 for which the technology was built to reform.

14 Q. Was our office known for fighting for American jobs,
15 Paul?

16 A. I think you were known as a fierce defender of
17 American companies and keeping jobs in this company, yes.

18 Q. Did I raise questions relative to Chinese money that
19 came in through an election?

20 MR. MORFORD: Objection.

21 THE COURT: Sustained.

22 BY MR. TRAFICANT:

23 Q. Now, you had stated that there was a clever ploy by a
24 media guy to sort of trick you to get the original
25 admission that it was Traficant they were after?

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1 A. Um-hum.

2 Q. Is that right, is that your testimony?

3 A. Yes.

4 Q. What, if anything, did you do when you realized that
5 you admitted it was me?

6 A. Well, he asked me the question, has your office been
7 subpoenaed by the Northern District. I believe I consulted
8 with you about it, and we decided to admit it because I ---
9 I advised it'll come out eventually so we might as well
10 just admit it. And that evening, we issued a press release
11 announcing it because the paper wouldn't come out until the
12 next day.

13 Q. What, if anything, did I say when you told me that?

14 MR. MORFORD: Objection, hearsay.

15 THE COURT: Sustained.

16 Q. Did you and I have a conversation about what -- how
17 we should proceed?

18 A. Yes.

19 Q. And what was decided?

20 A. That we would issue a press release that evening,
21 send it out to the local and national media announcing that
22 our office records had been subpoenaed by the U.S.
23 Attorney's Office.

24 Q. Isn't it a fact that you could put a recipe for
25 chicken soup in the Congressional Record?

Marcone - Recross

1 A. Yes.

2 Q. How was I mostly --- how did I mostly appear in the
3 Congressional Record, Paul?

4 MR. MORFORD: Objection.

5 MR. TRAFICANT: Pardon?

6 THE COURT: Ask him a little bit more
7 specific question so he'll know when you're talking about,
8 and what it is you're talking about.

9 Q. Did I put documents that I felt were important in the
10 Congressional Record, Paul?

11 A. Yes.

12 Q. Did I put commendations to constituents that did
13 specific things in the Congressional Record?

14 A. Yes.

15 Q. Did I put every document I had on the Demjanjuk case
16 in the -- printed in the Congressional Record?

17 A. My understanding is you did do that.

18 Q. Did I put nearly every document I had relative to FBI
19 investigation in Northern Ohio on the record?

20 MR. MORFORD: Objection.

21 MR. TRAFICANT: He can't have it both ways,
22 your Honor.

23 THE COURT: No, I'm going to overrule the
24 objection.

25 MR. TRAFICANT: Thank you.

Marcone - Recross

1 THE COURT: But, what you need to do is ask
2 him questions that he can provide the answers to, not you.
3 Okay?

4 BY MR. TRAFICANT:

5 Q. You have knowledge that I submitted the evidentiary
6 matter that I had gathered on FBI and IRS corruption in the
7 northern area of Ohio and put it on the record?

8 A. Yes.

9 Q. Did I treat that any different than the Demjanjuk
10 case?

11 A. No. Let me say that I was not working for you at the
12 time you were heavily involved in the Demjanjuk case.

13 Q. Paul, do you miss working on the Hill?

14 A. No. I enjoy my job now.

15 Q. I hope that's not because you don't like to work for
16 me?

17 A. No.

18 Q. You didn't mean that, did you?

19 A. No.

20 MR. TRAFICANT: No more further questions,
21 your Honor.

22 MR. MORFORD: Nothing further, your Honor.

23 THE COURT: Thank you, sir. You can step
24 down.

25 (Witness excused.)

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1 THE COURT: Sir, would you raise your right
2 hand?

3 JOSEPH BUSHNER,
4 of lawful age, a witness called by the GOVERNMENT,
5 being first duly sworn, was examined
6 and testified as follows:

7 DIRECT EXAMINATION OF JOSEPH BUSHNER

8 BY MR. MORFORD:

9 Q. Good afternoon.

10 A. Good afternoon.

11 Q. Could you please state your full name and spell your
12 last name for the Court Reporter?

13 A. Joseph A. Bushner, B-U-S-H-N-E-R.

14 Q. Mr. Bushner, can you tell the jury how you're
15 employed?

16 A. I'm employed as a Special Agent with the FBI.

17 Q. And how long have you been a Special Agent with the
18 FBI?

19 A. Since January of 1998.

20 Q. And how were you employed prior to joining the FBI in
21 January of 1998, did you say?

22 A. Yes. I was an officer in the United States Marine
23 Corps.

24 Q. And for how long were you with the Marine Corps?

25 A. Six and a half years.

Bushner - Direct/Morford

1 Q. And what was your rank when you left the Marine
2 Corps?

3 A. Captain.

4 Q. Now, through your duties as a Special Agent with the
5 FBI, did you have occasion to meet with a man named Allen
6 Sinclair?

7 A. Yes.

8 Q. And where are you actually assigned, what office for
9 the FBI are you assigned to?

10 A. The Youngstown resident agency.

11 Q. And when was the first time that you personally
12 recall meeting Allen Sinclair?

13 A. On January 24 of 2000, Agent Denholm came up to me
14 and said that Allen Sinclair was coming into the Youngstown
15 office, that he was bringing with him some paperwork
16 concerning the 11 Overhill congressional office, the
17 paperwork had to do with rental agreements, and he stated
18 that he had met with him a couple days earlier, and would I
19 sit in on the interview.

20 Q. And did you, in fact, sit in on an interview?

21 A. Yes.

22 Q. And during the course of the interview, was Allen
23 Sinclair asked some questions?

24 A. Yes.

25 Q. At any point during the interview was he asked any

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1 questions about kickbacks?

2 A. Yes.

3 Q. And to the best of your recollection now, how do you
4 recall that topic coming up?

5 A. It came up at the end of the interview. It wasn't a
6 long interview. Initial questions had to do with the 11
7 Overhill office, did he work for Congressman Traficant, and
8 how much he made working for Congressman Traficant, if he
9 was -- if he was able or if there was any sort of a rules
10 restriction for him to work full time for Congressman
11 Traficant and to have a full-time job as an attorney.

12 After we addressed that, we talked a little bit about
13 the Overhill office itself, was it owned by him; if it was,
14 whose name was it in; did he buy from Henry DiBlasio. And
15 then the final question was, how much money are you kicking
16 back to Congressman Traficant.

17 Q. And how did he react just physically and facially,
18 and in terms of his response, when he was asked that
19 question?

20 A. Well, up until that point in the interview, it had
21 been a pretty good dialogue and pretty good free exchange
22 of information. That question hit him kind of hard. He
23 paused, he looked down at the floor. We waited for his
24 answer. He ended up saying to the effect that if you
25 don't -- I don't want to be a part of this, I don't want to

Bushner - Direct/Morford

1 be a part of this get Traficant thing. He denied he gave
2 money back to Congressman Traficant.

3 Q. How long after that question was asked and you gave
4 that answer was it before the interview ended?

5 A. That was essentially the end of the interview. The
6 only thing before he left was we advised him that he would
7 have to tell the Grand Jury up in Cleveland what he had
8 just told us, that he would be subpoenaed to the Grand
9 Jury.

10 Q. At whose request was the interview terminated?

11 A. Mr. Sinclair's.

12 Q. At any time did either you or Mr. Denholm restrict
13 him from leaving?

14 A. No.

15 Q. Now, at the time of that January 24, 2000 interview,
16 did you have any evidence with which you could have charged
17 Allen Sinclair regarding kickbacks?

18 A. No.

19 Q. What happened next?

20 A. Two days later, on January 26, he was given a
21 subpoena to come up here to the Grand Jury.

22 MR. TRAFICANT: What date was that?

23 THE WITNESS: January 26, 2000.

24 Q. Okay. And when you say he was given a subpoena,
25 where was the subpoena delivered?

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1 A. To his office, his law office, which is at 11
2 Overhill.

3 Q. Describe the next time that you personally recall
4 meeting with Allen Sinclair after that first meeting on
5 January 24th.

6 A. He came into the Youngstown resident agency. He was
7 accompanied with an individual named John, who was his
8 close friend of his, also worked for him as an investigator
9 on his staff. They came into the office. Mr. Sinclair had
10 some concerns, and we addressed those concerns.

11 Q. Did you discuss his concerns with him?

12 A. Yes, we did.

13 Q. What was the nature of those concerns?

14 A. First concern, the primary concern had to do with
15 safety. He was -- he was concerned that if he told us the
16 truth, how Congressman Traficant would react. He described
17 him as being potentially volatile, unpredictable, said he
18 had a lot of weapons in his Overhill office, said that he
19 knew where he lived, and he had a real trouble if
20 Congressman Traficant knew he was being truthful with us,
21 how he would react.

22 Q. What other concerns were addressed?

23 A. Well, he brought up the fact that, you know, he knew
24 he was going to be incriminating himself, and how that
25 would impact his law practice and how it would obviously

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1 look publicly when it came out.

2 Q. What if any promises did you make to him at that
3 time?

4 A. We didn't make any promises to him.

5 Q. Did you have any discussions about that issue with
6 him, the issue of his own personal culpability?

7 A. As far as -- as far as that one, we told him
8 basically two things. One was that he needed to be
9 truthful regardless of the outcome. The other thing is we
10 discussed with him that, you know, we could -- we could
11 enter a proffer agreement. Being a lawyer, he was already
12 somewhat familiar with what a proffer was, but we discussed
13 what it was with him.

14 We also told him that, you know, the person who gets
15 kickbacks in an extortion case is rarely someone who's
16 prosecuted, and we placed him in that category.

17 Q. You say somebody who does "really" or "rarely" did
18 you say?

19 A. Rarely.

20 Q. Okay. Now, did there come a time where there was
21 actually a proffer taken from Mr. Sinclair?

22 A. Yes.

23 Q. Do you recall the date of that proffer?

24 A. It was January 31st of 2000.

25 Q. And when was that in relation to the date that

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1 Mr. Sinclair was scheduled to testify before the Grand
2 Jury?

3 A. The Grand Jury date was the next day, February 1st.

4 Q. And did Mr. Sinclair make a number of statements
5 during the course of the proffer?

6 A. Yes.

7 Q. As a result of those statements, did you meet with
8 him again that same day after the proffer concluded?

9 A. Yes.

10 Q. And what was the purpose of that subsequent follow-up
11 meeting?

12 A. He had some material that was of evidentiary value to
13 us. After he told us of this information, the proffer,
14 myself and Agent Mike Pikunas went out in an FBI van. We
15 met with him within a couple of blocks of the Overhill
16 office near Burger King on Market Street in Youngstown, and
17 he came -- he parked his vehicle, got into the van, he
18 provided us with a blue plastic bag. It was a Wal-Mart
19 bag.

20 Within the bag was cash and several envelopes. The
21 envelopes were -- some were full envelopes, some were
22 partial envelopes that had been burned. Some of them were
23 damp, some of them had "J.T. personal" and just "personal"
24 written on them. And there's also a note from Congressman
25 Traficant to Mr. Sinclair that said, "To Allen."

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- 1 Q. Did you and Agent Pikunas count the cash in
2 Mr. Sinclair's presence?
- 3 A. Yes.
- 4 Q. And how much cash would you count?
- 5 A. \$18,500.
- 6 Q. And what denominations were those bills, if you
7 recall?
- 8 A. 50's and 100's.
- 9 Q. And did you take the envelopes and the letter and the
10 cash into evidence?
- 11 A. Yes.
- 12 Q. And what did you do with that evidence?
- 13 A. Eventually we sent the evidence to the lab to be
14 checked for fingerprints and handwriting.
- 15 Q. And was the \$18,500 cash maintained in evidence, the
16 exact bills you received that day?
- 17 A. Yes.
- 18 Q. Turning your attention to February 4, 2000, which is
19 three days after the Grand Jury, did you meet with Allen
20 Sinclair on that date?
- 21 A. Yes.
- 22 Q. And who attended that meeting?
- 23 A. Myself, Agent Pikunas again, and Agent John Stoll.
- 24 Q. And what was the purpose of that meeting?
- 25 A. Mr. Sinclair had telephoned one of us at the FBI

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1 office and said that Congressman Traficant had given him a
2 subsequent envelope, and he believed there would be cash in
3 it, and he said, "I need to turn this over to you."

4 Q. And did he meet with you and turn an envelope over to
5 you?

6 A. Yes.

7 Q. And was the envelope open or sealed when you received
8 it?

9 A. It was sealed.

10 Q. Did you open the envelope in his presence?

11 A. Yes.

12 Q. Did you count the contents of the envelope?

13 A. Yes.

14 Q. What was in the envelope?

15 A. \$6,000 in cash.

16 Q. After receiving these materials, the \$18,500 cash,
17 \$6,000 cash, partially burned envelopes, the final
18 envelope, and the letter, did you attempt to have those
19 items examined for fingerprints?

20 A. Yes, all of them.

21 Q. Why?

22 A. Well, even though the money is -- rarely you get
23 fingerprints on money, and even though those envelopes had
24 been burned and doused with water, we thought it was worth
25 a chance to get Congressman Traficant's fingerprints on

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1 them.

2 Q. Have you had training yourself in fingerprint
3 evidence?

4 A. Yes.

5 Q. And through your experience and training, what are
6 some of the factors that sometimes make it difficult to
7 obtain fingerprints from paper and documents?

8 A. Well, when dealing with fingerprints, there's three
9 main factors that you look at in looking at fingerprints.
10 And the first one is the person making the fingerprint, the
11 ridges of your fingers perspire, and you need a transfer
12 medium to actually have a fingerprint. So you need the
13 actual perspiration from the fingers, or if you touch the
14 oil on your finger, or some sort of transfer medium to
15 leave that fingerprint.

16 Some people are secretors, that is they sweat more
17 than others. That person's going to have a highly -- a
18 more high likelihood that they're going to leave a
19 fingerprint. If I wipe myself on my arm and then I touch
20 something, I'm going to have less of a chance to actually
21 leave a fingerprint because I just wiped that perspiration
22 off.

23 In the case of money, paper in and of itself is of
24 course material, so unlike touching a glass or something
25 which doesn't absorb any of your perspiration, it's porous,

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1 so you're going to have to have at least a degree of actual
2 fluids there to hold it to the paper item.

3 Money is a highly durable paper, and it's very --
4 it's rare to find fingerprints on money. It's difficult to
5 find fingerprints on money.

6 Q. Does temperature ever affect the ability of someone
7 to leave a fingerprint?

8 A. Besides the perspiration on the surface, the third
9 factor is external forces. One thing, if it's cold, you
10 sweat less. So there's less of a likelihood you are going
11 to leave a fingerprint if it's very cold because you're not
12 perspiring as much.

13 In the case of wind and heat, extreme heat, wind, can
14 actually degrade a fingerprint actually where you can't
15 find it. If you have water, water can actually wash
16 fingerprints out. So the case with the envelopes, which
17 had already been burned and then doused with water, we
18 thought there would be a low likelihood that there would be
19 fingerprints present on the money, for those reasons I just
20 stated.

21 Q. But, did you go ahead and submit it anyway?

22 A. Yes.

23 THE COURT: At this point, we're going to go
24 forward with this line of questioning, and we need to have
25 some inquiry outside the hearing of the jury, so move on to

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1 something else, and then we'll come back do this at the
2 break. Thank you.

3 BY MR. MORFORD:

4 Q. I'd like to ask you some questions, as an
5 investigative matter, whether or not consideration was
6 given to having Allen Sinclair try to secretly record
7 conversations with Congressman Traficant. Okay?

8 Do you recall there being some discussions about the
9 potential of that and whether or not that should be done in
10 this case?

11 A. Yes.

12 Q. And what was decided?

13 A. It was decided do not pursue that as an avenue.

14 Q. And why is that?

15 A. There was a few reasons for that. One thing,
16 Mr. Sinclair had stated that Congressman Traficant was a
17 very touchy-feely sort of person. He often came up, hugged
18 him, slapped him, you know. Because of his touchy-feely,
19 we were concerned about if you put a transmitter or
20 recorder on him where do you place it so you can hear the
21 conversation, but also the Congressman Traficant wouldn't
22 find the device.

23 So then we thought if we don't put the device on
24 Allen Sinclair, where do you put it? They had discussions
25 at the 11 Overhill office in the boiler room, but the

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1 boiler room's not a good place to have a device because the
2 ambient noise, you might get partial conversation, maybe
3 not that much.

4 We thought of Mr. Sinclair's vehicle, but they took
5 different vehicles. They didn't always take his vehicle.
6 Congressman Traficant asked Mr. Sinclair to use Buddy
7 John's vehicle on one occasion, and even when they were in
8 the vehicle, Mr. Sinclair would tell us that Congressman
9 Traficant talked coded. He put his fingers over his mouth,
10 signaling to Mr. Sinclair to not talk about something, if
11 you brought up money, or reach over and put his hand over
12 Mr. Sinclair's mouth. He'd make some sort of a hand
13 signal, if he was pointing to something in a bag, all of
14 which, if you had a tape of that, it would just make things
15 difficult because you'd have to explain, "This is the point
16 where Congressman Traficant made this sort of signal,
17 pointed to this."

18 I remember Assistant Prosecutor Bernie Smith stated
19 that he was adamant against it because he brought up speech
20 and debate issues, saying that, "What if they ever talk
21 about some pending legislative issue, if the Congressman
22 asks, you know, Mr. Sinclair to do some sort of research or
23 anything about impending legislation. We're not entitled to
24 that, we can't listen to that." He had a problem with
25 that.

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1 My main problem with it personally was that I didn't
2 think Mr. Sinclair could pull it off. I know one of the
3 other agents felt the same, I think Agent Denholm, and that
4 was because he was very nervous around Congressman
5 Traficant, and when it comes to -- he doesn't have a good
6 poker face, Mr. Sinclair, to pull something like that off,
7 and you really have to consider the person when you're
8 wiring somebody up. And if he would have been that nervous
9 to give it away, then that wouldn't have been helpful
10 either.

11 Q. Were there any issues regarding how high a level you
12 have to go to even get authorization to record the
13 conversations of a congressman?

14 A. Because it is a congressman, our Special Agent in
15 Charge of the Cleveland office, Special Agent in Charge of
16 Cleveland can actually approve somebody to use a source or
17 anyone who's actually made the recording, because it's a
18 congressman it does fit under a special circumstance that
19 he would need some sort of higher authority.

20 We also have to make liaison with the Assistant U.S.
21 Attorney's office. As far as I know, the Assistant U.S.
22 Attorney can make that call, but I'm not sure if you need
23 to go higher than that.

24 Q. That's the limit of your knowledge; is that correct?

25 A. Yes.

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1 Q. Now, finally, I'd like to ask you a couple questions
2 about how and when the investigation that resulted in this
3 indictment was initiated in the first place.

4 Do you recall when this investigation actually
5 started?

6 A. At approximately September of 1999.

7 Q. And what was the event that caused the FBI and the
8 IRS and the U.S. Attorney's Office to begin an
9 investigation of Congressman Traficant in September of
10 1999?

11 A. Steve Sozio, who was a former Assistant U.S.
12 Attorney, had a case with the IRS and Department of Labor
13 on the Bucci brothers, and Tony Bucci came forward with
14 information concerning Congressman Traficant acting in his
15 official capacity to help Bucci, and Bucci in return did
16 things for Congressman Traficant, such as doing work on his
17 farm.

18 Q. And what was the purpose of the investigation as it
19 was initially opened?

20 A. To look into those allegations by Tony Bucci, to see
21 if there was anything to it, if what he was saying was
22 actually true.

23 Q. And during the course of seeing if there was evidence
24 to verify the allegations of Tony Bucci, were additional
25 allegations uncovered?

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1 A. Yes.

2 MR. MORFORD: Your Honor, that's the last
3 area I have outside the area that you want to speak about,
4 outside the presence of the jury.

5 THE COURT: What we can do is give --

6 MR. TRAFICANT: I would like to proceed on
7 the cross now that it's fresh in my mind, and then give the
8 jury a break. I'll leave it up to you.

9 THE COURT: Okay. Well, it's close to 3:00.
10 It'll be best, I think, if we complete -- we can take a
11 shorter break here, but if we complete direct examination
12 before we start cross-examination, and so in order to do
13 that, we'll give you a 15-minute break now, and we'll
14 handle the issue that I need to handle. Okay?

15 (Proceedings in the absence of the jury:)

16 THE COURT: The reason I stopped on that
17 testimony was only because it sounds like you were going in
18 a direction where we either do or don't need a Daubert
19 hearing on fingerprint evidence. And if we do -- I don't
20 think if you're going forward and you're going to end up
21 with one -- if you are, we need to have one. If you're
22 ending up without one, we don't need it.

23 MR. MORFORD: Your Honor, the next question
24 was going to reveal, as to Government's Exhibit 1 through
25 16, partially burned envelopes, there were no fingerprints

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1 on the envelope.

2 THE COURT: So we don't need a Daubert
3 hearing?

4 MR. MORFORD: Exactly.

5 THE COURT: That's fine.

6 MR. TRAFICANT: Is there going to be --
7 question, is there going to be --

8 THE COURT: Just a minute, Congressman. I'm
9 in the middle of a sentence. Just wait. You have a lot of
10 time here. If we don't need a Daubert hearing, then we can
11 go ahead and finish this.

12 MR. MORFORD: I can tell you the testimony,
13 and then --

14 THE COURT: Okay. The Congressman was going
15 to say something.

16 MR. TRAFICANT: I was just going to say if
17 there's any testimony on fingerprints, we should have the
18 hearing on Daubert versus Dowd.

19 THE COURT: Right.

20 MR. TRAFICANT: And Kumho versus Carmichael.

21 THE COURT: That's right.

22 MR. TRAFICANT: And U.S. Supreme Court
23 rulings.

24 THE COURT: That's right. And so that's why
25 I stopped it. And he didn't go forward with it, but if

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1 they're not going to have any fingerprint evidence in the
2 case as it turns out, then we don't have to have that
3 hearing. I just need to know.

4 MR. MORFORD: The fingerprint testimony will
5 be that there were no fingerprints on the partially burned
6 envelopes. There were no fingerprints on any of the bills.
7 There were no fingerprints on the place mat that was
8 received from Mr. Bucci.

9 There was one fingerprint on the envelope that
10 contained the \$6,000 that's not Congressman Traficant's
11 fingerprint, and there were some Bucci personal records or
12 company records that Congressman Traficant would never have
13 touched that the FBI lab mistakenly tried to bring prints
14 up because they were in the file with the rest of the
15 stuff.

16 MR. TRAFICANT: Oh, spare me here.

17 MR. MORFORD: These are documents he never
18 touched, so -- but that's what I'm going to explain, it's
19 on the record, and he can argue it.

20 MR. TRAFICANT: Look, do you have
21 fingerprints on any of your evidence, or not?

22 MR. MORFORD: We have no fingerprints of --

23 MR. TRAFICANT: Then why are we proceeding?
24 I have to go to the bathroom.

25 THE COURT: We're proceeding because we're

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1 having them explain to me where they are with fingerprints.

2 MR. TRAFICANT: God almighty.

3 MR. MORFORD: The only purpose of the
4 evidence is to show that was an investigative technique the
5 FBI did, and that there are no fingerprints of Congressman
6 Traficant on any of these items, period.

7 THE COURT: Fine. Thank you very much.
8 We're now in recess for about ten minutes.

9 MR. TRAFICANT: Make that an additional
10 couple minutes, your Honor.

11 THE COURT: Okay.

12 MR. TRAFICANT: Thank you.

13 THE COURT: 15 minutes.

14 (Thereupon, a recess was taken.)

15 BY MR. MORFORD:

16 Q. Special Agent Bushner, I'd like to go back and ask
17 you the remaining questions regarding the fingerprinting
18 questions. Were any fingerprints found on any of the
19 bills, the 50 and \$100 bills in Government's Exhibit
20 1-2 (1), which is the \$18,500?

21 A. No.

22 Q. Were any fingerprints at all found on the \$6,000
23 that's contained and marked Government's Exhibit 1-2.2?

24 A. No.

25 Q. Now, when the FBI attempts to bring up fingerprints

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1 on paper, is there some kind of a substance that's put on
2 the paper?

3 A. They use a series and chemicals, four different
4 chemicals they use in the series.

5 Q. And if there are discernible prints, do they show up
6 so that you can see them?

7 A. Yes.

8 Q. And you're testifying that there were no prints that
9 came up on the bills, the \$6,000 and the \$18,500, correct?

10 A. That's correct.

11 Q. Were there any prints found on the letter with the
12 little stick'em note labeled Exhibit 1-5(1) and 1-5(2)?

13 A. Fingerprints and palm prints.

14 Q. On the letter?

15 A. Yes.

16 Q. How about the envelope 1-1(17)?

17 A. Which envelope?

18 Q. That would be the envelope that contained the \$6,000.

19 A. There was one fingerprint.

20 Q. Did you also look on the exhibit that's been marked
21 Government's Exhibit 2-11, which is the menu from the
22 restaurant that had some notes on it?

23 A. Yes.

24 Q. Were there any fingerprints found on that document?

25 A. No.

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1 Q. Of the fingerprints that were found, the one
2 fingerprint that was found on the envelope that contained
3 the \$6,000, was that matched with Congressman Traficant in
4 any way?

5 A. No.

6 Q. Whatever prints were found on the letter with the
7 little Post-it note, were any of those fingerprints or palm
8 prints matching Congressman Traficant?

9 A. They were either negative for Congressman Traficant
10 or they were considered inconclusive, being which means if
11 you had a palm print or the tip of a finger, if you don't
12 have a set of prints to compare those to, then they were
13 made inconclusive unless they had that.

14 Q. But there was no match there, correct?

15 A. There was no match.

16 Q. Now, in addition to the documents we've talked about,
17 were there some business records from the Buccis' personal
18 business files that were also checked for prints?

19 A. Yes.

20 Q. Why was that done?

21 A. When the Buccis provided us with records, they
22 provided us with several records, one of the documents that
23 they provided to us was part of a place mat, a piece of a
24 place mat from a restaurant, which was believed to be a
25 note from Congressman Traficant having to do with his to-do

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1 list, things to do with reform.

2 So we sent that down, all the Bucci documents, to
3 have that document checked for prints, and in the course,
4 the lab checked all the Bucci documents.

5 Q. What were the other business records that came out of
6 the actual business files?

7 MR. TRAFICANT: I didn't hear the answer to
8 the last question -- excuse me, your Honor -- on the Bucci
9 restaurant business. Were there prints?

10 THE WITNESS: No.

11 Q. Apart from that Bucci place mat with the handwritten
12 notes, why were records that were in the Buccis' business
13 records sent with that place mat?

14 A. The records as far as evidence goes, the records were
15 all together, and they were sent down to the lab as one set
16 of documents.

17 Q. They were in one pile together?

18 A. Yes.

19 Q. And the entire file was sent? Were there any
20 explicit instructions that only the place mat should be
21 fingerprinted and not the business records that were in the
22 business files?

23 A. No.

24 Q. Is that why the other business records were also
25 checked?

Bushner - Direct/Morford

1 A. Yes.

2 MR. MORFORD: May I have a moment, your
3 Honor?

4 THE COURT: Yes.

5 BY MR. MORFORD:

6 Q. Special Agent Bushner, did you bring the \$18,500 and
7 \$6,000 cash that you received from Allen Sinclair with you
8 here today?

9 A. Yes.

10 Q. And has the \$18,500 been marked as Government's
11 Exhibit 1-2.1?

12 A. Yes.

13 Q. And has the \$6,000 that you received from Allen
14 Sinclair been marked Government's Exhibit 1-2.2?

15 A. Yes.

16 MR. MORFORD: Your Honor, at this time, I
17 would offer Government's Exhibit 1-1.21 and 1-1.22.

18 MR. TRAFICANT: Your Honor, I ask that they
19 be made Joint Exhibits, as also being defense exhibits.

20 THE COURT: Okay. This is something that the
21 two of you are supposed to work out somewhere, so --

22 MR. TRAFICANT: We can work it out.

23 THE COURT: Wait -- so I'll let you talk to
24 each other over there quietly, and see if you can work it
25 out.

Bushner - Direct/Morford

1 MR. MORFORD: Your Honor, at this time I
2 would like to hand the witness -- it's in here; is that
3 correct?

4 THE WITNESS: Yes.

5 Q. If you'd take a look at 1-2.1 and 1-2.2, and tell us
6 if you recognize those exhibits.

7 A. Yes.

8 Q. And are those the two sets of money that you received
9 from Allen Sinclair, as you testified to on direct
10 examination?

11 A. Yes.

12 MR. MORFORD: Your Honor, at this time I
13 would offer these as Government's Exhibit/Joint Defense
14 Exhibit 1-2.1 and 1-2.2.

15 MR. TRAFICANT: I want to stipulate for the
16 record, I want them made a Defense Exhibit, as well.

17 THE COURT: They are being offered as an
18 exhibit from both sides of the case, so the jury
19 understands that. They'll be called Joint Exhibit. Okay?
20 Very well. So they'll be admitted.

21 MR. MORFORD: Okay. And at this time I would
22 also ask your Honor if we can publish those to the jury.

23 THE COURT: Yes, that's fine.

24 Q. Could you cut those open in the two groups?

25 THE COURT: Just do one at a time.

Bushner - Direct/Morford

1 BY MR. MORFORD:

2 Q. One last question. The blackish substance on there,
3 do you know what that is?

4 A. It's a type of chemical used to bring chemicals out.

5 Q. Thank you.

6 MR. MORFORD: Your Honor, at this time, can I
7 start the other --

8 THE COURT: Okay.

9 MR. MORFORD: Your Honor, in terms of custody
10 of the \$24,500, does the Court want the FBI to maintain
11 that in the vault or keep it in court until the end of the
12 day?

13 THE COURT: I think it would be a good idea
14 to maintain it in the vault.

15 MR. MORFORD: That's what I thought. I would
16 ask permission from the Court to have Agent Bushner
17 maintain custody and return it to the FBI evidence vault.
18 Just one moment.

19 MR. TRAFICANT: I object, just for the
20 record.

21 THE COURT: Oh. Okay.

22 MR. MORFORD: I have nothing further.

23 THE COURT: Thank you.

24

25

Bushner - Cross

1510

1 CROSS-EXAMINATION OF JOSEPH A. BUSHNER

2 BY MR. TRAFICANT:

3 Q. You're a Marine for six and a half years?

4 A. Yes.

5 Q. You served in the Gulf?

6 A. No, I did not, just enlisted.

7 Q. By the way, thank you for your service.

8 A. Thank you.

9 Q. You've been an agent since '98?

10 A. Yes.

11 Q. Pretty new, huh?

12 A. Yes.

13 Q. Are you familiar with the counts of all the
14 indictment here?

15 A. What was the first thing you said, sir?

16 Q. Are you familiar with the ten counts of the
17 indictment?

18 A. Yes.

19 Q. Would you say that there were some witnesses that
20 were more important than others because of evidentiary
21 matters?

22 A. Yes.

23 Q. Would you say Allen Sinclair was your star witness,
24 sir? Yes or no?

25 MR. MORFORD: Objection as to his opinion,

Bushner - Cross

1 your Honor.

2 THE COURT: The objection is sustained.

3 Q. Would you consider Allen Sinclair to be a very
4 important witness for the prosecution?

5 A. In my opinion?

6 THE COURT: Well, we can't use his opinion.

7 Q. Now, you are not a senior agent, are you?

8 A. No, I'm not.

9 Q. But, you had this fingerprint experience, correct?

10 A. Just what was taught me at the academy, yes.

11 Q. But then you send it to some real experts, didn't
12 you?

13 A. That's correct.

14 Q. It's your testimony that on nothing that you have
15 that was given to you by Mr. Sinclair has any of my prints
16 on it?

17 A. That's correct.

18 Q. Are you familiar with my prints?

19 A. Personally, no.

20 Q. Did you know that I was fingerprinted in a criminal
21 trial in 1983?

22 A. No.

23 Q. Were you familiar that I was fingerprinted when I was
24 arraigned in this case?

25 A. No.

Bushner - Cross

- 1 Q. Did Mr. Sinclair have a code name or code number?
- 2 A. Yes.
- 3 Q. When Mr. Sinclair had something he wanted to report,
- 4 did he call?
- 5 A. Yes.
- 6 Q. Who did he ask for?
- 7 A. Primarily John Stoll.
- 8 Q. Um-hum. Now, when you found out you had no
- 9 fingerprints on anything, whom did you report that to?
- 10 A. Within the bureau?
- 11 Q. Yes.
- 12 A. Supervisors are informed what the developments are in
- 13 the case.
- 14 Q. And what, if anything, then is done with it as far as
- 15 the prosecution of the case is concerned?
- 16 A. We let them know what the lab found.
- 17 Q. So when, in fact, did you let the U.S. Attorneys know
- 18 of your lab report findings?
- 19 A. I do not know when because I didn't handle the actual
- 20 evidence coming back into the Youngstown resident agency,
- 21 but I'm sure it was shortly thereafter.
- 22 Q. Do you know who it was given to?
- 23 A. Agent Pikunas sent out the documents to the lab. I
- 24 would think they were returned to Agent Pikunas.
- 25 Q. How long has Agent Pikunas been with the FBI?

Bushner - Cross

1 A. I know he spent nine or ten years in Detroit,
2 probably about 14 or 15 years.

3 Q. How long was Agent Kroner with the FBI?

4 A. About 30.

5 Q. But your testimony is they assigned a rookie to
6 Mr. Sinclair; is that your testimony?

7 A. I don't see myself as a rookie. I'm a junior agent.
8 I don't see myself as a rookie.

9 Q. Well, if you took offense to that, I apologize. But,
10 wouldn't you say you were pretty new?

11 A. Yes.

12 Q. Now, since what you got was the most damaging
13 evidence in the world --

14 MR. MORFORD: Objection. That's not what --

15 THE COURT: There's no testimony to that
16 effect.

17 BY MR. TRAFICANT:

18 Q. Okay. Do you consider this evidence to be damaging?

19 MR. MORFORD: Which evidence? And again,
20 he's asking an opinion, your Honor.

21 BY MR. TRAFICANT:

22 Q. Do you consider the evidence that Mr. Sinclair had
23 given to you cash envelopes to be very damaging?

24 THE COURT: The jury is here to make all
25 kinds of decisions about the witnesses and about the

Bushner - Cross

1 evidence in the case.

2 MR. TRAFICANT: Your Honor, they brought up
3 the issue. I'm just asking.

4 THE COURT: I don't know about that, but he
5 can't testify what you're asking him to testify to.

6 MR. TRAFICANT: Okay.

7 Q. Let me ask you this: Did you converse with your
8 fellow team agents about this case?

9 A. Yes.

10 Q. Did you confer with your fellow teammates about
11 Mr. Sinclair?

12 A. Yes.

13 Q. Were you there when they made the decisions not to
14 tape?

15 A. I was there for some of the conversations concerning
16 why we should not. As far as the final decision --

17 Q. All right. Now, you said that Congressman Traficant
18 was touchy-feely. Were you saying I'm a little different
19 than a guy or I'm just the kind of guy that comes around
20 and knocks people over? I mean, how would -- I want to
21 know what you mean by that.

22 A. It means you're somebody who's prone to coming up,
23 giving somebody a hug, and later on giving somebody a slap
24 on the back.

25 Q. Would that be a mean aspect or a personable aspect,

Bushner - Cross

1 to the best of your assessment?

2 A. It's neither positive or negative, just that you are.

3 Q. So there was talk about a tape, right?

4 A. Talk about taping you?

5 Q. Yes.

6 A. Yes.

7 Q. But, that was nixed?

8 A. Yes.

9 Q. Too much noise in the boiler room?

10 A. Yes, for conversation.

11 Q. How did I get eight tapes with a standard
12 three-by-five Radio Shack on all your damned witnesses?

13 MR. MORFORD: Objection.

14 THE COURT: You really want to put this
15 question to him? He has no knowledge of this, I think.

16 BY MR. TRAFICANT:

17 Q. Do you have any knowledge that I have taped witnesses
18 inside this case?

19 MR. MORFORD: Objection.

20 THE COURT: Sustained.

21 Q. Do you know if witnesses in this case were touchy or
22 feely?

23 A. Outside of yourself, no.

24 Q. Now, you said you were afraid that I might discover
25 the device?

Bushner - Cross

1 A. Yes.

2 Q. Mr. Sinclair was afraid of me?

3 A. Yes.

4 Q. He said he was really afraid of me, right?

5 A. Yes.

6 Q. So, at that point, did you ever call Mr. Sinclair in,
7 and did you videotape the interviews you had with him?

8 A. No.

9 Q. Did anyone suggest you do that?

10 A. No.

11 Q. Are you familiar with the fact that Mr. Sinclair was
12 used to tape an attorney, Alan Manevich?

13 A. Yes.

14 Q. Do you know who approved that?

15 A. It would have been the same channel as discussed
16 earlier.

17 Q. Do you know if Attorney Manevich was touchy or feely?

18 A. No.

19 Q. Do you know my former background?

20 A. Somewhat, yes.

21 Q. What do you know about my former background?

22 MR. MORFORD: Objection as to the basis of
23 his knowledge and relevance.

24 THE COURT: What do you know about his former
25 background? Do you know anything about his former

Bushner - Cross

1 background?

2 THE WITNESS: I know he's a Pitt grad
3 because my in-laws are from Pittsburgh, my wife went to
4 Pitt. I know you played football for Pitt.

5 Q. Quarterback.

6 A. Right.

7 Q. That's right, proud of it. What else.

8 A. I know you were sheriff of Mahoning County. I know
9 you were tried and won in federal court before, and I know
10 that you were subsequently found guilty of tax charges, and
11 you served 16, 17 years as a congressman.

12 Q. Um-hum. Do you know if that tax charge was a civil
13 or a criminal charge?

14 A. I believe that was civil.

15 Q. I was acquitted of criminal, wasn't I?

16 A. Correct.

17 Q. Would you happen to know if that law has changed now?

18 A. What law has changed?

19 Q. Relative to civil tax law, IRS?

20 A. No, I wouldn't.

21 Q. Fine. Now, he had a code name, code source, they had
22 you working with him. Isn't it a fact that he had other
23 agents working with him?

24 A. I was just a backup. Agent Stoll was the primary
25 contact for Mr. Sinclair.

Bushner - Cross

1 Q. Let's go to the -- when he called, what did he say?
2 "I'm C 2" or "JAG 5" or --

3 THE COURT: Let's him answer.

4 Q. What was the source name?

5 A. If he called in, he said, "This is Allen."

6 Q. Okay. Now, if you referred to him in writings, how
7 would you refer to him?

8 A. It would say, "Source provided the following
9 information."

10 Q. And when I'm talking about writing, when an FBI agent
11 interviews a subject relative to investigation, do they
12 have certain requirements?

13 A. It has to be documented.

14 Q. And how do they document it?

15 A. On a 302, FD 302.

16 Q. And did you perform a 302?

17 A. Yes.

18 Q. Okay. Now, when the source called you and said,
19 "Traficant's going to give me an envelope," explain that,
20 how that developed, the initialization.

21 A. Well, we had already known that you had provided
22 him --

23 Q. I didn't ask you that. I said, when he called you
24 and said he had this envelope unsealed from Traficant,
25 what, if anything, did you say to him?

Bushner - Cross

1 A. Well, we would make arrangements to pick up the
2 envelope, to meet with him.

3 Q. And what did he say? He said he had the envelope?

4 A. Yes.

5 Q. Fine. Did you ever put surveillance on 11 Overhill
6 Avenue?

7 A. The only time we had a surveillance per se was when
8 Alan Manevich met with Allen Sinclair, and that
9 conversation was taped. That was the only time.

10 Q. Do you know of any request for authorization for
11 surveillance in this case?

12 A. I know there was one -- I know there was one that
13 came out, because it was -- it was found out, I think, by
14 somebody that we had a surveillance request and that
15 Richard Denholm had filled it out, and I don't know what
16 the particulars were, as far as what was requested to be
17 surveilled, no.

18 Q. So it was made available. Do you know if it allowed
19 for use of planes?

20 A. I know that the -- there was a block on there, put
21 down if you use planes or not. Do I know the specific one
22 you're talking about, no.

23 Q. Is there also a spot on there where you could request
24 overnight travel?

25 A. Yes.

Bushner - Cross

1 Q. Request audio and video materials?

2 A. Camera support by the surveillance group, yes.

3 Q. Now, as a law enforcement officer, what would be a
4 dead-bang conviction here in this courtroom?

5 THE COURT: He can't answer that question.

6 Q. Let me ask you this: Would you say my confession
7 would not even require this?

8 MR. MORFORD: Objection.

9 THE COURT: Well, if he were to say that,
10 that would be completely incorrect, and I think you'd
11 better stop asking that question in any way. These folks
12 are here in order to take on the difficult task of bringing
13 this case to a conclusion with a verdict. They're the ones
14 who do that.

15 BY MR. TRAFICANT:

16 Q. Agent Bushner, did we put a man on the moon years
17 ago?

18 A. I believe so.

19 Q. From out of space, can we read the small print on a
20 pack of cigarettes?

21 A. I heard that.

22 Q. And it's your testimony that the boiler room is just
23 so noisy that technology just couldn't handle the
24 conversation? Is that your testimony to this jury?

25 A. The technology we have on the criminal side of the

Bushner - Cross

1 house of the FBI, yes.

2 Q. Now, knowing that you had no proof other than Allen
3 Sinclair's word, did you attempt to photograph us together?

4 A. Not that I'm aware of.

5 Q. Did anybody follow us around with cars or have video
6 cameras showing that at least we were together?

7 A. I'm not aware of that, no.

8 Q. Now, when you met with Mr. Sinclair, did you fill out
9 a required 302 form?

10 A. For a specific occasion or --

11 Q. When you met with Mr. Sinclair, whenever you met with
12 him?

13 A. I met with him on several occasions. Sometimes I
14 would be the one being the author of the FD 302. More
15 likely than not, it was by other agents.

16 Q. Well, you met with Mr. Sinclair, you testified under
17 direct, on January 24th in the Youngstown office; is that
18 correct, sir?

19 A. Yes.

20 MR. TRAFICANT: Your Honor.

21 (Handing the exhibit.)

22 THE COURT: Thank you. Okay.

23 MR. TRAFICANT: Thank you. I think that's the
24 first "okay" I got.

25 BY MR. TRAFICANT:

Bushner - Cross

1 Q. Will you describe to the jury what this document is?

2 A. This is an FD 302, which is a report based upon an
3 interview.

4 Q. And does your name appear on here?

5 A. Yes, it does.

6 Q. Is it the first name to appear on here?

7 A. Yes.

8 Q. Are those your initials?

9 A. Yes.

10 Q. And is this, in fact, your recollection of that
11 interview?

12 A. Yes.

13 Q. Now, you gave us some of that, and would you read,
14 starting from the second paragraph, would you read the 302
15 to this jury?

16 A. Certainly.

17 "Sinclair had been previously interviewed and stated
18 he had been making rent payments to Henry DiBlasio for
19 offices at 11 Overhill, Youngstown, Ohio.

20 "He stated he had documentation he could provide.
21 Sinclair now voluntarily appeared in the FBI, Youngstown
22 Resident Agency. Sinclair provided one envelope which was
23 found to contain a letter from Sinclair to interviewing
24 agent, a cognovit note from November 19, 1998, showing a
25 \$20,000 debt from Sinclair to DiBlasio, one check, dated

Bushner - Cross

1 February 5, 1992, from Sinclair to DiBlasio for \$361 for,
2 quote, rent and long distance phone calls, period, unquote.

3 "Also included was a document titled: Statement, --
4 quote, statement from R. Allen Sinclair, DiBlasio, Flask,
5 and Associates, 11 Overhill Road, Youngstown, Ohio, 44512
6 law offices," end quote.

7 "Sinclair had previously advised he paid rent to
8 DiBlasio for office space at 11 Overhill for the first few
9 years he worked with DiBlasio. And after that, they used
10 simply recorded rent on the books of the firm. The
11 documents Sinclair provided showed notations regarding rent
12 payments to DiBlasio for 1994. Sinclair did not provide
13 documentation for later years. A copy of this
14 documentation is attached to this report. Note, the
15 documents provided by Sinclair listed hours he had worked
16 for clients, and it was noted that he had done work for,
17 quote, Bucheit," unquote.

18 "Sinclair advised he represented Bucheit in a dispute
19 Bucheit had with a Saudi Arabian Prince regarding a letter
20 of credit. Sinclair was not aware of Congressman James A.
21 Traficant, Junior, assisting Bucheit."

22 Next paragraph.

23 Q. Next paragraph?

24 A. "Sinclair was asked why DiBlasio did not have the
25 building at 11 Overhill in his own name, and why Sinclair,

Bushner - Cross

1 as the current owner of that building, and staff member, in
2 parentheses, staff member of Congressman James A.
3 Traficant, Junior, also did not have this building in his
4 own name. Sinclair advised it would have been a, quote,
5 conflict, end quote, for DiBlasio to have the building in
6 his name when he worked for Traficant. This same issue
7 came up when Sinclair was going to buy the building from
8 DiBlasio, and he," in parentheses, "Sinclair, was also
9 working as a congressional staff member. Sinclair advised
10 this was cleared through the United States House of
11 Representatives Ethics Committee, and it was acceptable for
12 DiBlasio and Sinclair to own the building as long as they
13 charged the Government a reasonable rent."

14 Q. Stop right there now.

15 Now, I want you to take your time and read the
16 remainder of that paragraph, slowly.

17 A. "Sinclair was asked why then the building had to be
18 in the names of other people. Sinclair did not answer this
19 question."

20 Q. Stop there.

21 On that date of January 24th, the first line of
22 questioning to Mr. Sinclair was about the building, wasn't
23 it?

24 A. Yes.

25 Q. And when you asked him about the building, what was

Bushner - Cross

1 his answer?

2 A. When it came down to having it in the names of
3 somebody else, he didn't answer it.

4 Q. Did you know that Mr. Sinclair had a probation
5 standing against him for possible debarment for violations
6 of further law?

7 A. No.

8 Q. Read the next paragraph, and read it very slowly.

9 A. "Sinclair advised he made between 50 to \$60,000 a
10 year as a private attorney in 1999, and at the same time
11 made about \$60,000 as," quote, "administrative counsel,"
12 end quote, "to Traficant. Sinclair's job for Traficant was
13 to research legislation. He was not Traficant's private
14 attorney. Sinclair advised he had researched the rules,
15 and it was legal for him to receive outside income while
16 working for Congress because he was not," quote, "senior
17 staff."

18 Q. Okay. Now --

19 A. End quote.

20 Q. Continue, and read it slowly.

21 A. "Sinclair advised he did not kick back any of his
22 salary to Traficant. Sinclair stated he did not want to be
23 a part of," quote, "getting Traficant," end quote, "and
24 ended the interview.

25 "Sinclair was advised that he may have to testify

Bushner - Cross

1 before the Federal Grand Jury in Cleveland."

2 Next paragraph?

3 Q. Yes.

4 A. "On January 26, 2000, Sinclair telephonically advised
5 interviewing agent he had received the Federal Grand Jury
6 subpoena at his office. He had been advised of this by his
7 secretary, but he had not been to his office yet."

8 Q. Now, when you were asking questions about the
9 building, you said that Mr. Sinclair was the owner in your
10 report. What brought you to that conclusion?

11 A. Agent Denholm had already gone over the documents
12 concerning ownership. I personally hadn't.

13 Q. Well, did Mr. Sinclair's name appear on any
14 documents?

15 A. I believe his wife's name did.

16 Q. Um-hum. You know if he and his wife were still
17 married?

18 A. Yes, they were.

19 Q. Did they live together?

20 Did you talk to Mr. Sinclair about his wife possibly
21 being involved in this case?

22 A. Outside of her name being on the ownership?

23 Q. My question is very clear: Did you at any time tell
24 Mr. Sinclair that his wife may have to be interviewed
25 relative to this document?

Bushner - Cross

1 A. No.

2 Q. Did you advise Mr. Sinclair that his wife's name was
3 on there and could possibly be a part of the investigation?

4 A. No.

5 Q. So the report went after DiBlasio, but really when
6 you start talking about KAS, Mr. Sinclair refused to
7 answer, didn't he?

8 A. Started talking about what?

9 Q. KAS Enterprises, why his name wasn't on the lease?

10 A. I'm not aware of KAS Enterprises.

11 Q. Then how did you know his name wasn't on the lease?

12 A. Because when we had the interview, Richard Denholm
13 said he's bringing --

14 MR. TRAFICANT: Objection as to hearsay here
15 now.

16 THE COURT: Okay.

17 Q. Tell me what you know; I'll ask Mr. Denholm myself.

18 A. That's how I know that.

19 Q. The agent slipped that in. I slipped a few in
20 myself.

21 (Laughter.)

22 But, now Sinclair at some point says he did not give
23 any kickback of his salary to Traficant, didn't he?

24 A. Yes, he did.

25 Q. But, then he made it, quote, "He made a statement,"

Bushner - Cross

1 and you put it in quotes. Read the two words you put in
2 quotes.

3 A. "Getting Traficant."

4 Q. Why would Sinclair make that statement unless he felt
5 pressured that you were after, trying to get Traficant?

6 MR. MORFORD: Objection as to how this
7 witness would know why Mr. Sinclair said something.

8 THE COURT: Mr. Sinclair can testify to that.

9 BY MR. TRAFICANT:

10 Q. Isn't it a fact, sir, you had no prints, no photos,
11 no video, and all you need was to memorialize my voice, and
12 all these people here would say I'm a crook and just put me
13 in jail?

14 MR. MORFORD: Objection.

15 THE COURT: Okay. The first part of it I
16 think you can answer.

17 THE WITNESS: What was the first part?

18 MR. TRAFICANT: Would the Court Reporter read
19 it? I got carried away.

20 THE COURT: "Isn't it a fact" --

21 THE WITNESS: Specifically considering the
22 prints and the evidence we discussed, we do not have your
23 prints, no. Concerning photos, I believe there were photos
24 taken in this case --

25 Q. Of me and Mr. Sinclair together?

Bushner - Cross

- 1 A. No, I don't believe so, but I don't know that for
2 sure either.
- 3 Q. Was that with a Playboy bunny? Would you recall if
4 it would be something unusual?
- 5 A. I wouldn't be aware of that either.
- 6 Q. So then this is the 24th. Now, on the 31st you enter
7 a proffer agreement with Mr. Sinclair, don't you?
- 8 A. Yes.
- 9 Q. And that proffer agreement basically says, you know,
10 "You just tell the truth up there and you have nothing to
11 worry about." Is that about it?
- 12 A. No, it's more specific than that.
- 13 Q. All right. Well, tell us the specificities of it.
- 14 A. A proffered agreement, when it's extended to someone,
15 says the Government says that if you are completely
16 truthful, the Government can use your testimony to
17 pursue -- to pursue the investigation further, that is
18 third-party persons, that if you hedge or if you go back on
19 your testimony, for instance, in a Grand Juror in a court
20 of law, we can resurrect the statements you gave in the
21 proffered letter and subsequently refresh your memory, and
22 that you would not be prosecuted for those statements that
23 you made.
- 24 Q. So you didn't know the building was in his wife's
25 name, right?

Bushner - Cross

- 1 A. I did not know JAS --
- 2 Q. Yeah, before he left -- was that on the Sahara Trail
- 3 where I showed up some day? Is that where this 24th
- 4 meeting took place?
- 5 A. It was at Sahara Trail, yes.
- 6 Q. Yeah. And before I walked out, did you say he could
- 7 expect a subpoena?
- 8 A. Agent Denholm did, said there's a good chance he
- 9 would be receiving a subpoena.
- 10 Q. And you do not think that Mr. Sinclair was in a what
- 11 he considered may be a little bit of a frightening
- 12 situation?
- 13 A. He wanted to leave.
- 14 Q. He left, didn't he?
- 15 A. Absolutely.
- 16 Q. At some point, when they come back after the prints
- 17 didn't do you any good, was someone else reassigned to
- 18 Sinclair as the main contact?
- 19 A. It had always been John Stoll throughout.
- 20 Q. So Stoll then had significant relationships more than
- 21 you did, right?
- 22 A. The majority of the relationships, yes.
- 23 Q. Was he there when you did the 24th statement?
- 24 A. On the 24th, no.
- 25 Q. Who was there?

Bushner - Cross

- 1 A. Myself and Agent Denholm.
- 2 Q. Who's the boss of the place at the time?
- 3 A. Angelo Marina.
- 4 Q. You said Bernard Smith. Is he in the room?
- 5 A. Yes.
- 6 Q. Point to him.
- 7 MR. TRAFICANT: Let the record reflect he
- 8 knows Mr. Smith, Attorney Smith.
- 9 THE COURT: Yes.
- 10 Q. He was against the taping, right?
- 11 A. Correct.
- 12 Q. Everybody's against the taping, right?
- 13 A. For various reasons, yes.
- 14 Q. Were they for any type of corroboration other than
- 15 Sinclair's word?
- 16 A. Yes.
- 17 Q. What was it?
- 18 A. Well, the instance came up with Manevich coming to
- 19 DiBlasio, we agreed to tape that conversation.
- 20 Q. All right. And are you familiar with the Manevich
- 21 testimony or Manevich tape?
- 22 A. I'm not familiar with what's on the tape, but I know
- 23 that he was taped.
- 24 Q. Was he taped for the purpose of seeing what they
- 25 could get on Jim Traficant? Do you have any knowledge of

Bushner - Cross

1 that?

2 A. The reason he was taped was that Alan Manevich was
3 very close to Henry DiBlasio, and when Alan Manevich,
4 Attorney Manevich came to Allen, Allen felt it was
5 peculiar, especially given what was going on at the time.
6 So when he called and told us this, we believed that Henry
7 DiBlasio could be using Manevich as an intermediary
8 essentially to feel Allen out to see if he's still on
9 board, sticking with his story; if he's hedging a little,
10 if he's --

11 Q. I let you go a little further than I should, but
12 that's okay, really.

13 But, didn't you say in your January 24th that
14 Sinclair and DiBlasio and Flask and Associates was a group?
15 Didn't you say that?

16 A. A law firm? Yes.

17 Q. And did you not say there was -- you said "cognovit."
18 Wasn't it a cognovit note that still existed?

19 A. Yes.

20 Q. And who owed whom the money?

21 A. The money was owed to DiBlasio from Allen Sinclair.

22 Q. Wasn't it a fact that these were discussions relative
23 to attorneys discussing possible civil lawsuits, sir?

24 A. Concerning Manevich?

25 Q. Manevich and Sinclair?

Bushner - Cross

1 A. No.

2 Q. What were they about?

3 A. About possibly Manevich coming to Sinclair to see
4 where he stood on the issue of whether he was on board with
5 you or not.

6 Q. So you felt comfortable that behind the desk in the
7 11 Overhill office he would be able to talk with Attorney
8 Manevich, right?

9 A. Yes.

10 Q. But, you thought if I would walk into that office,
11 and he'd be behind the desk, I might come around the desk
12 and give him a bear hug? Is that what your testimony is?

13 A. Well, there's a few factors there. One, you and he
14 never discussed anything in his office, from what he said.
15 You always went somewhere, you went down to the boiler room
16 or out in the car, left to go somewhere, so he thought it
17 would be highly unlikely you would come in and sit on his
18 side of the desk to take any sort of statement.

19 Q. With that being the case, wasn't it a good ploy to go
20 anywhere with the guy if he asked me? Had you advised him?

21 A. Well, usually it was, as Allen presented it, it was
22 usually you requesting for him to come along with you, not
23 the other way around.

24 Q. Well, naturally, you never interviewed me, did you?

25 A. No.

Bushner - Cross

1 Q. Then there were comments made, well, the prosecutor
2 asked you about perhaps following them because they were
3 known to travel, and Traficant was so unusual, he would
4 talk in pig Latin or something, and it wouldn't be
5 worthwhile to even photograph him. Is that a positive
6 statement?

7 A. It -- no, because if you're quoting my testimony, I
8 didn't say anything about pig Latin or anything like that.

9 Q. Yeah, I know. I did.

10 But, you said you couldn't try that ploy because
11 Traficant used a lot of hand signals?

12 A. And coded language, yes.

13 Q. Yeah, coded language. Now, at some point Sinclair,
14 on January 31st, he became an important witness. Would you
15 say that's correct?

16 A. Yes. He became a witness.

17 Q. Sir, you hesitated with that. Don't you think he's
18 an important witness?

19 MR. MORFORD: Again, objection to this what
20 this witness thinks, your Honor.

21 THE COURT: Right. We've already been over
22 that, Congressman. They decide.

23 MR. TRAFICANT: All right.

24 BY MR. TRAFICANT:

25 Q. Did anyone from any FBI agency or U.S. Attorney sit

Bushner - Cross

1 down and discuss possible ploys to trap Traficant into an
2 admission?

3 A. No.

4 Q. Was there a meeting called about it?

5 A. Not that I was a part of, no.

6 Q. How do you know Mr. Smith said not to do it?

7 A. What Mr. Smith talked about was whether to actually
8 tape you or not. You talk about some grand entrapment
9 scenario, we never had a discussion like that.

10 Q. Well, as a law enforcement officer, as a fellow law
11 enforcement officer, would you want to seek, if you could,
12 possibly a confession?

13 A. Yes.

14 Q. Would you then want to memorialize it with some
15 physical documented proof?

16 A. Yes, but a tape-recorded conversation isn't
17 necessarily a confession.

18 Q. I didn't ask you that. But, then I will ask you
19 because you made the statement, if you had Jim Traficant on
20 tape saying, "Now look here, Allen, watch what you say up
21 there to that Grand Jury, and tell them I gave you this and
22 I didn't give you that," you're trying to tell me that
23 wouldn't be an admission to have this jury send me away?

24 A. No, that would be a good piece of evidence, yes.

25 Q. Well, having nothing else but his word, did anybody

Bushner - Cross

1 ever say, "Look, this guy's no walk in the park here, what
2 are we going to do with him?" Did you ever sit in on one
3 of those meetings?

4 A. I don't even understand that question. What about
5 walk in the park?

6 Q. Did anybody ever sit down and say, "Look, we don't
7 have prints on the guy, we've got Sinclair, we've got other
8 witnesses; don't you think we need to boil this thing up,
9 with this Sinclair thing?" Was there any meetings at all
10 that you attended about that?

11 A. No.

12 Q. Do you think you worked for an FBI agency that's
13 competent?

14 A. Yes.

15 Q. Was anybody in the office familiar with my prints?

16 A. By familiar, do you mean to look at them and know
17 they're yours?

18 Q. Yes.

19 A. I don't know anybody who would be able to do that.

20 Q. Did anyone ever mention Traficant had a distinguished
21 fingerprint?

22 A. No.

23 Q. Do you know if I'm right or left-handed?

24 A. No, I don't.

25 Q. You've been watching me here for an hour. But, you

Bushner - Cross

- 1 said Sinclair was afraid, but he said he didn't want to be,
2 quote, unquote, a part of, quote, unquote, getting
3 Traficant. Was that fear or was that loyalty?
- 4 A. I don't know.
- 5 Q. Well, he certainly got out of there, didn't he?
- 6 A. Yes, he did.
- 7 Q. And he wouldn't answer any questions about the
8 Overhill office, would he?
- 9 A. No.
- 10 Q. Did you bring up the kickbacks before or after you
11 brought up the building?
- 12 A. The kickbacks was the last thing we asked.
- 13 Q. Now, what day was the 302 typed, sir?
- 14 A. January 27 of 2000.
- 15 Q. Do you know -- do you happen to know what day the
16 subpoena was issued?
- 17 A. The 26th.
- 18 Q. Now, the first interview you guys had with him, did
19 Sinclair state he gave me any of his money?
- 20 A. The first interview that I was a part of?
- 21 Q. Were you a part of the first interview when he met
22 with -- when he met on, I think, the 21st?
- 23 A. No, I was not. That was Agent Perkins and Agent
24 Denholm.
- 25 Q. How long has Perkins worked -- who is Agent Perkins?

Bushner - Cross

1 A. He's an IRS agent.

2 Q. How long has he worked for the IRS?

3 A. How long has he worked with IRS?

4 Q. Best of your knowledge?

5 A. Probably about 30 years.

6 Q. How long has Agent Denholm worked for the FBI?

7 A. About seven.

8 Q. When did you come to learn that it was Sinclair's
9 wife whose name was on the lease?

10 A. Agent Denholm told me that either before we were
11 going in to meet with you or shortly thereafter, somewhere
12 in that time frame.

13 Q. Meet with who?

14 A. To meet with Allen Sinclair.

15 Q. Oh. So Mr. Sinclair was never worried about his wife
16 becoming involved in a criminal investigation? Is that
17 your testimony?

18 A. I don't know if he was worried about it or not. I
19 know we didn't bring it up.

20 MR. MORFORD: Your Honor, I object. This has
21 been asked and answered.

22 MR. TRAFICANT: I don't think so.

23 THE COURT: It has.

24 MR. TRAFICANT: It has?

25 THE COURT: Yes, sir.

Bushner - Cross

- 1 Q. You knew his occupation, did you not?
- 2 A. As an attorney, yes.
- 3 Q. Was it a violation of law, to the best of your
- 4 knowledge, for him to lie to an FBI agent?
- 5 A. It is a violation to lie to an FBI agent, yes.
- 6 Q. So then you're saying on January 24th he lied to the
- 7 FBI?
- 8 A. Yes, he did.
- 9 Q. And then he just caught his senses and confessed and
- 10 went forward, right?
- 11 A. Then he provided the truth, yes.
- 12 Q. Do you have knowledge that he bought a \$300,000 home
- 13 after I left his office?
- 14 A. No.
- 15 Q. Do you have information that he purchased 50-some
- 16 thousand dollars worth of advertising for his law firm
- 17 after I left his office?
- 18 A. No.
- 19 Q. Do you know that he purchased a brand new car and
- 20 rented a new car after I left his office?
- 21 A. I'm not aware of that, no.
- 22 Q. You are not an attorney then, right, sir?
- 23 A. I am not.
- 24 Q. Thank God.
- 25 As you're here today, does Mr. Sinclair have a

Bushner - Cross

1 license to practice law?

2 A. I believe so.

3 Q. Do you know if there's been any Bar association
4 complaints filed against him?

5 A. I am not aware of any.

6 MR. TRAFICANT: If you will give me one
7 second, your Honor.

8 BY MR. TRAFICANT:

9 Q. You then met further with Mr. Sinclair in February,
10 right?

11 A. That's correct.

12 Q. And he maintained his new pattern of testimony
13 relative to his proffer on January 31st, right?

14 A. Yes.

15 Q. Did he sign the proffer before or after the Grand
16 Jury testimony?

17 A. Prior to.

18 Q. Did you talk to Mr. Sinclair about me owning horses?

19 A. I believe we might have, yes. I'm not sure.

20 THE COURT: Thank you. Okay.

21 BY MR. TRAFICANT:

22 Q. Will you take a look at that and tell us what it is?

23 A. It's an FD 302.

24 Q. And the date?

25 A. Investigation was on January -- excuse me -- February

Bushner - Cross

1 4th of 2000.

2 Q. Would you read the second paragraph?

3 A. "Congressman James A. Traficant sold one of his
4 horses within the past month."

5 Q. Did you investigate that?

6 A. No, I did not personally.

7 Q. Do you know if Mr. Perkins or Mr. Denholm did?

8 A. They may have.

9 Q. Now, would you read on the second page, second to the
10 last paragraph?

11 A. "Traficant was observed by the source riding with
12 Sinclair in Sinclair's red Chrysler, southbound on Market
13 Street on the afternoon of February 3, 2000. Source
14 observed them going into the Idle Hour Restaurant in North
15 Lima, Ohio."

16 Q. This could be confusing, because the source is whom?

17 A. Allen Sinclair.

18 Q. Okay. Did Allen Sinclair call the Sahara Trail
19 Youngstown office and notify you that he went for a ride
20 with Congressman Traficant?

21 A. Not that I'm aware of.

22 Q. Wasn't it a common practice for him to notify the
23 agents when and if he would have any activity with
24 Traficant? Wasn't that your earlier testimony?

25 A. That was not my earlier testimony, no.

Bushner - Cross

- 1 Q. You said he called you about the envelope, right?
- 2 A. Yes.
- 3 Q. And now he and Traficant are going to take a ride in
- 4 the car, and you have no knowledge if he called?
- 5 A. Correct.
- 6 Q. But, you signed the report, right?
- 7 A. Correct.
- 8 Q. Read the last paragraph.
- 9 A. "They were both observed again in Sinclair's car
- 10 heading southbound on Market Street on February 4, 2000.
- 11 The source saw Sinclair's car parked outside of a truck
- 12 stop at Route 7 and Route 14 in Columbiana. Upon
- 13 Sinclair's return to his office on Overhill, the source
- 14 observed Sinclair with a thick, cash sized brown envelope."
- 15 Q. Now, let's go to the last paragraph, and let's read
- 16 the very first sentence.
- 17 MR. MORFORD: Your Honor, he just did that.
- 18 MR. TRAFICANT: No, I'm asking for a specific
- 19 reason, your Honor, in context with the questioning of this
- 20 witness.
- 21 THE COURT: Okay. You can read it again.
- 22 Q. Read it slowly.
- 23 A. "They were both observed again in Sinclair's car
- 24 heading southbound on Market Street on February 4, 2000."
- 25 Q. "They were both observed"?

Bushner - Cross

1 THE COURT: There needs to be a question.
2 Q. Were they both observed? Is that what you wrote?
3 A. Yes -- well, I didn't write this, but, yes.
4 Q. Well, the source didn't say they headed southbound on
5 Market Street, the report says they were both headed south
6 on Market Street.
7 Now --
8 MR. MORFORD: Is that a question, your Honor?
9 MR. TRAFICANT: My question is, the question
10 is was there surveillance of Jim Traficant or not.
11 THE WITNESS: In that situation, no.
12 Q. Did Mr. Ed see me? Why would it be in the report?
13 A. Because they were observed, same as that paragraph
14 above, using the technique whereby not to put our source on
15 Front Street, we put the language such that the source is a
16 third party so you can't figure out who the source is by
17 readily reading it. So then "both being observed" would be
18 by Allen Sinclair, who was the source in this case.
19 Q. Who other than the FBI was going to see these
20 reports, sir? Jim Traficant?
21 A. Jim Traficant, other defense attorneys, if you would
22 have hired them, other people who could have gotten them
23 prior to trial, yes.
24 Q. That answer doesn't quite ring the bell. It says,
25 "They were both observed." It implies there was a third

Bushner - Cross

1 party observer; don't you agree?

2 A. No, I do not.

3 Q. After you found out you had no physical evidence
4 other than the words and the money that you spread around
5 to the jury, did anyone recommend to have Mr. Sinclair come
6 in and sit at a table and then be videotaped and asked
7 questions?

8 A. I answered this already, sir. No.

9 Q. After all of this had transpired, and Sinclair had
10 these so-called fears, and I was touchy-feely, did anyone
11 advise that maybe they leave a coffee mug or something on
12 my desk to bring me in coffee, one of the secretaries, and
13 then take the coffee mug and try to take a print from it?

14 A. No.

15 Q. Did you ever do an analysis or have any knowledge
16 after analysis of a computer accounting system of the
17 Sinclair office?

18 A. I'm not aware of that, no.

19 Q. So, Mr. Sinclair lied to you and told the truth to
20 the Grand Jury? That is your testimony, right?

21 A. Concerning the kickback, yes.

22 Q. Did you ever ask Mr. Sinclair to meet with Mr.
23 DiBlasio?

24 A. Not that I recall, no.

25 Q. Did in any of the meetings you attended anyone

Bushner - Cross

1 suggest that?

2 A. No.

3 Q. Did anyone suggest that maybe Mr. Sinclair might have
4 a little meeting with Chuck O'Nesti?

5 A. No.

6 Q. Jackie Bobby?

7 A. No.

8 Q. Grace Yavorsky?

9 A. No.

10 Q. Did the FBI hire the Mahoning County Sheriff's
11 Department to, in fact, provide photo surveillance on the
12 Traficant farm, to the best of your knowledge?

13 A. No.

14 Q. Did they, in fact, hire anybody to provide
15 surveillance and video to the family Traficant residence in
16 Poland, Ohio, to the best of your knowledge?

17 A. No.

18 Q. Isn't it a fact that Mr. Sinclair was more afraid of
19 you than he was of Jim Traficant, Mr. Bushner?

20 A. I don't know that.

21 Q. That answer is not good enough for me.

22 MR. MORFORD: Objection.

23 THE COURT: You have to ask Mr. Sinclair.

24 MR. TRAFICANT: No further questions.

25 MR. MORFORD: I have nothing, your Honor.

1 THE COURT: Thank you. You may step down.
2 We're going to adjourn until tomorrow morning at 9:00.
3 Remember your admonitions. Enjoy your trip home, and hope
4 the snow doesn't start tomorrow.

5 (Proceedings in the absence of the jury:)

6 THE COURT: Congressman, you asked whether or
7 not the file was available from the earlier case, and I had
8 the Clerk's Office get the file, which is in fact here, and
9 it's available for you to look at. You also can file a
10 copy request for anything in it that you want to see, and
11 the person to see about that is Lynn Campbell, who just
12 walked in.

13 MR. TRAFICANT: I have a question for the
14 Court.

15 THE COURT: Okay.

16 MR. TRAFICANT: Is that unusual? Because
17 the people in Chicago seemed to be quite surprised that
18 that case was not in Chicago.

19 THE COURT: Oh, well, I expect because it's
20 happened a long time ago that -- no, because issues were
21 raised in this case before we got to the trial about
22 whether or not the prior case would be the subject of
23 anything that would come up in this trial, and so I ordered
24 the file because it sometimes takes weeks to get the file
25 out of the Chicago archives, because they have hundreds of

1 thousands of files. So I wanted it to be able to be here
2 in case something came up regarding something specific in
3 that file. So it is here, and you can see it.

4 Ms. Campbell, where is it now?

5 THE CLERK: It's in my office.

6 THE COURT: Okay. So it's up here, and you
7 can look at it. If you're going make any copy request, you
8 can make it through Ms. Campbell.

9 MR. TRAFICANT: Thank you very much, your
10 Honor.

11 THE COURT: You're welcome. Anything
12 further, gentlemen?

13 MR. MORFORD: Your Honor, I have two matters
14 to take up, if you want me to wait.

15 THE COURT: Let's let the jury go.

16 (Proceedings in the absence of the jury:)

17 MR. MORFORD: The first matter, the first
18 witness tomorrow morning would be Anthony Bucci. He is
19 going to assert his Fifth Amendment against
20 self-incrimination. I have a motion and proposed order to
21 ask the Court to compel the testimony under 18 U.S.C.
22 Section 6001, which is the statutory use of immunity
23 provision.

24 I'd like to give that to the clerk now to hand the
25 Court.

1 MR. TRAFICANT: Question.

2 THE COURT: Sir --

3 MR. TRAFICANT: Has this man been granted
4 immunity before?

5 THE COURT: I really don't know anything
6 about this.

7 MR. TRAFICANT: I have to ask that question.

8 MR. MORFORD: My understanding is he has not,
9 your Honor.

10 MR. TRAFICANT: Has this man been convicted
11 of a felony before?

12 MR. MORFORD: You have a whole Jencks packet
13 we gave you that has all that information in it,
14 Congressman.

15 MR. TRAFICANT: But no immunity ever before
16 this.

17 MR. MORFORD: That's correct.

18 MR. TRAFICANT: Thank you.

19 THE COURT: Okay.

20 MR. MORFORD: The second matter, your Honor,
21 and I did not at this time, but in the future, as far as
22 putting 302 statements into evidence, it's my understanding
23 of the rules that those kind of statements can come in
24 under limited circumstances: One, showing that the author
25 of the 302, which would be Mr. Bucci, has said something

1 inconsistent with what was in the 302. And the only reason
2 I raise it now, I want to make sure we don't get in the
3 pattern of raising 302's without laying proper foundation
4 for such.

5 THE COURT: Right.

6 MR. TRAFICANT: Your Honor, I think what
7 they're concerned about pattern is the case is starting to
8 unravel. I think that was valid. He wrote a 302, they
9 brought up the Overhill property first, scared the hell out
10 of this guy; next thing you know, he walks out of the
11 place. I thought that was relevant, you allowed it in. I
12 think you did the right thing. I thank you for being
13 judicial in that matter.

14 THE COURT: Thank you so much, but he's
15 talking about the Rules of Evidence, and we do use them.
16 There was no objection posed at the time so I didn't go
17 anywhere with it, but you're familiar with this. You can't
18 just simply hand somebody something and have them read it
19 out. The 302 is something that you can use under certain
20 circumstances if you want to try and challenge the
21 testimony that someone's given that's inconsistent with
22 what was in the 302, and I really thought that's what you
23 were going to do with your 302.

24 MR. TRAFICANT: But --

25 THE COURT: That's a good use of it.

1 MR. TRAFICANT: The inconsistency was what
2 was in the 302 and what's in the indictment. That's more
3 important to me.

4 THE COURT: Well, that's --

5 MR. TRAFICANT: And the 302 serves a purpose
6 in that regard, unless I'm such a layman, I don't even
7 watch Perry Mason.

8 MR. MORFORD: Your Honor, my point is the
9 proper thing to do it he can ask the witness, "What did
10 Mr. Sinclair say about this." If the witness doesn't
11 recall, he can hand him the 302 to refresh his
12 recollection, say, "Does that refresh your recollection?
13 Now would you tell us what he told you?" If he says it
14 still doesn't, then he can offer that portion of the 302 as
15 prior report recorded statement of the witness, but he
16 can't just start reading the 302.

17 And I did not object to it, I'm not objecting to what
18 went on earlier because I didn't want to hold up the jury
19 any further. I'm saying for future proceedings in this
20 case that I would want to make sure that Congressman
21 Traficant understands that what he did today is not
22 something he can just do each time, and we will object to
23 it in the future.

24 MR. TRAFICANT: In future proceedings in this
25 case, I will do that which I think I am entitled to under

1 law. You have the right to object, and we can certainly
2 have our side bars. I don't want to tie up the jury
3 either. But, I'll tell you what, I'm not going to be
4 pushed around, and I'm telling you the way it is. And that
5 302 was relevant, relevant to the veracity of a claim where
6 there's not a damned bit of evidence other than a guy who
7 has gone to jail, and his wife would have been charged now.
8 I don't want to hear any more about it.

9 THE COURT: Congressman, Congressman.

10 MR. TRAFICANT: Yes, but this keeps coming
11 up, trying to limit my defense.

12 THE COURT: Well --

13 MR. TRAFICANT: There are motives for
14 people's behavior, and I believe I'm entitled to anything
15 they gave to me. Did you give me the 302?

16 THE COURT: Now it's how you use it in the
17 courtroom, not --

18 MR. TRAFICANT: Did you give me the 302?

19 THE COURT: Congressman, you're not entitled
20 to do whatever you want to do in the courtroom.

21 MR. TRAFICANT: I'm not doing that.

22 THE COURT: All right. What you're getting
23 here is a warning from them, they're not going to sit back
24 and let you do whatever you want to do with the 302's.
25 There are proper uses of 302's. We've been over it before,

1 you know what they are. And you're going to get an
2 objection, and we'll handle the objection at noon or at the
3 next whatever, if it comes.

4 MR. TRAFICANT: Your Honor --

5 THE COURT: But there may be some other way
6 you want to use this.

7 MR. TRAFICANT: Your Honor, I understand
8 that, but what I'm saying to you is do they not have the
9 right to object to something I do or say? Do they?

10 THE COURT: Yes.

11 MR. TRAFICANT: Do I have the right to object
12 to what they do or say?

13 THE COURT: Yes, and today they didn't
14 object, so it came in.

15 MR. TRAFICANT: And they sat down, didn't
16 they?

17 THE COURT: Yep.

18 MR. MORFORD: Your Honor --

19 MR. TRAFICANT: Then that's their fault.

20 THE COURT: Okay.

21 MR. MORFORD: Your Honor, my understanding is
22 the Court asked us to take these things up outside the
23 presence of the jury.

24 THE COURT: That's right.

25 MR. MORFORD: I made a decision not to have

25 THE COURT: Congressman, you can do it

1 somewhere else. Don't do it here.

2 MR. TRAFICANT: I'm doing it right here.

3 THE COURT: No, you're not doing it right
4 here.

5 MR. TRAFICANT: I thought --

6 THE COURT: This Court is in recess. You're
7 not doing this right here.

8 MR. TRAFICANT: Well, then we don't do it
9 right here.

10 (Proceedings adjourned.)

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Bushner - Cross

1	CROSS-EXAMINATION OF PAUL MARCONE (Resumed).....	1327
2	REDIRECT EXAMINATION OF PAUL MARCONE.....	1450
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5	CROSS-EXAMINATION OF JOSEPH A. BUSHNER.....	1509

C E R T I F I C A T E

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

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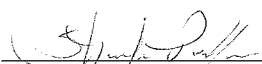
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Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622