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

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

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TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON TUESDAY, MARCH 26, 2002

Jury Trial

Volume 26

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APPEARANCES:

For the Government: CRAIG S. MORFORD,
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Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription.

1 Tuesday Session, March 26, 2002, at 9:00 A.M.
2 (Proceedings in the absence of the jury:)
3 THE COURT: Would you bring us up to date on
4 the welder, please?
5 MR. TRAFICANT: The welder is in transit as
6 far as I know and will be here today before closing hours.
7 THE COURT: Okay. Let me just --
8 MR. TRAFICANT: It may be here this morning,
9 this A.M.
10 THE COURT: Okay. It's -- it wasn't here as
11 far as I could tell when I came in at 8:00. Does anyone
12 know if it's arrived? No, okay.
13 Let me just go over something regarding this welder
14 view. When it gets here and it's down in the basement,
15 what I'll do is give an instruction to the jury, but I also
16 need to talk to you about it a little bit.
17 Assuming that the inspection that's done through the
18 Marshals allows it to come into the building and whoever
19 the Government has looks at it and so forth, then we'll
20 take the jury down to see it. It is necessary for me to
21 come up with a procedure for them to do that since it's not
22 here in the courtroom.
23 That will allow us to be in an appropriate part of
24 the courthouse. So when we go down to the basement to view
25 it, we'll take the Court Reporter. We'll take the parties,

1 we'll take anyone in the public and press who wants to go.
2 We're going to be in a very different setting. It's a
3 narrow long part of the courthouse basement. Remember it's
4 a 1910 building. So all kinds of things are surrounding us
5 down there. But it'll be down there, but while it's down
6 there, we'll follow the kind of procedure we follow when we
7 do a view of a scene or something else outside the
8 courthouse.
9 That is to say they can look at it. You can submit
10 to us, if there's anything you want to have pointed out
11 about the object, like a serial number or something else,
12 and we'll have the clerk designate that. But we don't
13 talk. We don't have discussions down there. It isn't
14 argued down there.
15 So nobody says anything to the jurors. If there's
16 something about the welder that either side wants pointed
17 out, we'll have a clerk present to do that. Now, what we
18 tell the jury also is an instruction that allows them to go
19 down but to understand that they are viewing something that
20 is not in the courtroom because of its physical weight in
21 this case. But that is like anything else they view, and
22 they're also under certain restrictions, and I'll read them
23 special instructions at that time.
24 MR. TRAFICANT: I move that the Court order
25 that the serial numbers and the documentation numbers of

1 the machinery be photographed and --
2 THE COURT: We don't do photography here. We
3 do a lot of things in court but --
4 MR. TRAFICANT: At least be recorded, and as
5 well as the visual inspection and that the -- and the item
6 is looked at, as far as its not being used. If the
7 Government wants to view it first, they can take that, but
8 I want to be with the Government when they do look at it
9 first.
10 THE COURT: Well, you and the Government can
11 figure out about that part of it. I am only dealing with
12 giving you some advance notice, that when you take a jury
13 somewhere else in order to view something, you still are
14 operating under rules that are meant to protect the process
15 up here.
16 So it's not a free for all where you go down and say
17 whatever you want. We have to have some rules, and it
18 means we have to spend some time. We're not there yet with
19 this. It isn't even at the courthouse. I don't know when
20 it's going to come. When it comes, several things have to
21 happen.
22 MR. TRAFICANT: Yes.
23 THE COURT: But we are going to do what we
24 can to accommodate you, that it be viewed, and so that's
25 what we're going over now. Okay?

1 MR. TRAFICANT: That's fine.
2 THE COURT: Great. In terms of the serial
3 numbers, there's one on it, and everybody agrees to what it
4 is. You can make the agreement, and that takes care of one
5 issue, but we don't photograph.
6 MR. MORFORD: We've just never seen it. We
7 have no problem if that's what it says.
8 THE COURT: Yeah. That's the kind of thing
9 you guys can work out.
10 MR. TRAFICANT: That is a mutual agreement?
11 THE COURT: Well, wait and work it out.
12 MR. MORFORD: We'll have to see it first.
13 THE COURT: They have to see it.
14 MR. TRAFICANT: I have to see it myself.
15 THE COURT: Okay. When it gets here, we'll
16 deal with it.
17 Anything else before we start?
18 MR. MORFORD: Yes, your Honor.
19 The attorney for Champ Saadey approached us this
20 morning and says he has a matter to raise with the Court
21 regarding Champ Saadey's Fifth Amendment privilege, and I
22 don't know if that's Congressman Traficant's first witness
23 or not, but if it is, it's something that needs to be
24 addressed before he calls Champ Saadey.
25 MR. TRAFICANT: Russell Saadey, Junior will

be my first witness.

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

MR. KOPP: Hello, your Honor.

THE COURT: Glad you're here.

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

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

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

THE COURT: Um-hum.

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

THE COURT: Right.

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

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

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

THE COURT: Okay.

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

1 States Supreme Court and the Sixth Circuit, say that when a
2 defendant has been convicted but yet not yet sentenced,
3 incrimination is not complete, and he still has a Fifth
4 Amendment rights.
5 THE COURT: Um-hum.
6 MR. KOPP: My concern is not only that but a
7 gag order for lack of a better way of putting it of some
8 issues that came up in that trial, pre-trial motions, we
9 are still subject to that order.
10 THE COURT: Um-hum. That's an order from
11 Judge O'Malley?
12 MR. KOPP: That's correct.
13 THE COURT: Okay.
14 MR. KOPP: And that was in regards to some
15 FBI investigation issues.
16 THE COURT: Okay.
17 MR. KOPP: The other issue I have is I'm not
18 quite sure -- I did have a chance and the Congressman had
19 enough courtesy to tell me I think the gist of what he
20 wants to ask, but there may be areas where he could
21 incriminate himself and others in which he may not. So
22 it's kind of a question -- question by question scenario as
23 to whether or not the Congressman can ask a question and
24 expect an answer.
25 THE COURT: Okay.

1 MR. TRAFICANT: I'd like to respond.
2 THE COURT: Okay.
3 MR. TRAFICANT: Are you referring to the gag
4 order on FBI Agent Speranza?
5 MR. KOPP: I'm referring to -- yes, the
6 motion that was filed under seal in regards to some
7 investigative techniques which involved Agent Speranza.
8 THE COURT: Okay. You're standing, so I
9 assume there's something you want to say, too, and I want
10 to listen to everybody here, and we'll figure out how to go
11 forward.
12 MR. KOPP: I'm satisfied, your Honor.
13 MR. SMITH: Your Honor, the Government, as is
14 Mr. Kopp, is also subject to Judge O'Malley's ruling in
15 that case. So I'm not at liberty to go into detail with
16 the Court. The Government, of this witness, does intend,
17 under two rules, to cross-examine Mr. Saadey extensively;
18 specifically everything he was convicted of, Number 1, are
19 crimes of dishonesty. He was convicted of RICO bribery,
20 involving multiple predicate acts of bribing the then
21 Mahoning County Prosecutor, James Philomena and others on
22 Mr. Philomena's staff to fix criminal cases and drunken
23 driving cases in the Mahoning County court system.
24 Mr. Saadey was also convicted of three counts of
25 filing false tax returns, which means he was guilty of

1 making false statements. That's a crime of dishonesty.
2 He was also convicted of five counts of making false
3 statements on credit card applications with banks, all of
4 which are false statements. So there's two rules under
5 which impeachment on all of that is permissible. Number 1,
6 under 608(b), it's permissible regardless of whether or not
7 he's been sentenced yet, based upon the fact that you're
8 allowed to ask somebody about instances of misconduct that
9 go to truthfulness.
10 And secondly, given that there is a jury verdict of
11 conviction, albeit not a sentencing yet in that case, the
12 Government was of the view that it also comes in under Rule
13 609 to impeach the witness. So it is the Government's
14 intention to cross-examine this witness extensively about
15 what he did with respect to Mr. Philomena in the county
16 Prosecutor's Office.
17 MR. TRAFICANT: I'd like to respond under
18 804(a)(3). This is clearly a witness who is in jeopardy
19 and making a statement against interest if I am citing the
20 right law. And I understand the gag order dealing with
21 Speranza and Speranza's issue, but this individual being
22 subject to sentencing, who now places himself before the
23 Court without immunity, subject to such strict
24 cross-examination as mentioned now by Mr. Bernard Smith,
25 allows me the opportunity to seek this witness's testimony

1 truthfully on all that he knows since he is a witness in
2 jeopardy, and the hearsay exception would apply.
3 THE COURT: Okay. I am -- I am not agreeing
4 with anything that's been said here. I'm just listening at
5 this point. This is all news to me.
6 MR. SMITH: If it is the Congressman's
7 intention to get into the matter that was before Judge
8 O'Malley, we object strongly to that on relevancy grounds.
9 THE COURT: Well, we've already addressed, I
10 think, that issue.
11 MR. SMITH: Yeah.
12 MR. TRAFICANT: I will not get into that
13 issue.
14 MR. SMITH: I didn't know if I was implying
15 he was going to.
16 THE COURT: No. I think he said two rulings
17 on that.
18 MR. TRAFICANT: But I'd like to respond
19 again. Clearly, Mr. Smith's statements by the very nature
20 of the rules he cited, stating that he is allowed to
21 extensive cross-examination and stating this man has been
22 convicted of serious crimes and is here without immunity,
23 is in jeopardy. And that jeopardy applies to his testimony
24 relative to the hearsay exception and the rules governing
25 same, which I believe are 804(a)(3). I could be wrong.

1 I'll look through my notes.
2 THE COURT: Okay. It'll be good to look at
3 your notes on that. Let me go back to his lawyer. That's
4 really why we're here so we can let his lawyer speak for a
5 minute and decide how we're going to proceed.
6 MR. KOPP: Your Honor, therein lies my
7 problem. I believe that the Congressman may ask some
8 questions in which Mr. Saadey does not face criminal
9 jeopardy. I believe that there may be grounds -- or
10 questions asked by the Congressman in which I would have to
11 advise him that he should exercise his Fifth Amendment
12 rights. I can tell you that when the cross-examination
13 starts, he will have no choice because I don't believe that
14 his indictment will be the subject of anything on direct,
15 and furthermore, he has been found guilty.
16 My understanding is that the verdict has been filed,
17 but I do not believe there's a judgment of conviction on
18 him yet because he hasn't been sentenced.
19 That being --
20 THE COURT: Okay. We all are going to have
21 to figure out the state of that docket if everybody's going
22 to proceed. But let me just ask you this question.
23 MR. KOPP: Sure.
24 THE COURT: One of the ways we can proceed in
25 this case is out of the hearing of the jury to have him

1 take the stand, and we -- most people don't take the Fifth
2 when they say their name and address, and there may be a
3 few other things they don't take it on, and we'll just ask
4 him some questions to try and figure out whether or not
5 he's going to step into that area. You're his lawyer. You
6 may want to do some inquiry of it.
7 MR. KOPP: That's my concern, and I was --
8 THE COURT: We can do that out of the hearing
9 of the jury. It's the process we've followed in this case
10 so far with some other people. And --
11 MR. KOPP: I would greatly appreciate that.
12 THE COURT: -- and the Circuit requires that
13 we actually ask questions, put someone on the stand. They
14 can't simply assert it through their lawyers. So we follow
15 that with the witnesses.
16 What I propose we do is do that at noon or sometime
17 when it's possible for you to have the time first to
18 ascertain the state of the docket that you just raised and
19 whatever else you want to do to prepare yourself for that.
20 MR. KOPP: I'm comfortable with the statement
21 I made in regards to the docket, your Honor.
22 MR. TRAFICANT: Your Honor, I object to
23 waiting until noon. I want to call this witness as my
24 first witness today. I have scheduled witnesses here. You
25 have clearly identified the Speranza issue. I understand

1 the Speranza issue, and there are no other issues.
2 The Prosecution has an opportunity to object for
3 whatever reason they may have, and the counsel for this
4 witness is allowing his witness to testify, even though his
5 witness does not have immunity.
6 THE COURT: The lawyer can speak for himself.
7 That's why he's here.
8 MR. KOPP: Your Honor, my understanding of
9 how we're going to proceed is quite simply this: Like you
10 said, the Circuit requires he be asked a question.
11 THE COURT: Right.
12 MR. KOPP: And the Court make a determination
13 as to whether or not he has the legitimate Fifth Amendment
14 right. I have spoken to the Congressman. I have spoken to
15 the United States. I understand the gist of what the
16 questioning is going to be. I've had an opportunity to
17 counsel my client and will advise him at certain points in
18 this question, whether it be on direct or on cross, that he
19 is going to exercise his Fifth Amendment right.
20 Now, at that point in time, I believe it's your call
21 as to whether or not he's going to be forced to answer a
22 question that the Congressman may ask, that the United
23 States may ask, but I -- I'm telling the Court that there
24 are going to be circumstances in which I advise my client
25 to exercise his Fifth Amendment rights.

1 THE COURT: Fine. Mr. Smith?
2 MR. SMITH: Your Honor, if the Congressman
3 intends to invoke Rule 804 for some reason -- and I don't
4 see the basis of that right now -- he has to, at least, do
5 what the Government did in its direct case, which is to
6 identify what statements he says are admissible under Rule
7 804.
8 THE COURT: Right. That's why we're going to
9 do this at noon, not before because it takes time to get
10 ourselves to a position where all of us are on board with
11 what this is about. I didn't know he was being called this
12 morning so -- it's one of the problems when you don't let
13 us know in advance, but we'll just do it over lunch so we
14 don't --
15 MR. TRAFICANT: This subpoena was finally
16 serviced yesterday. The witness agreed to testify without
17 immunity. I've called --
18 THE COURT: Okay.
19 MR. TRAFICANT: He is subject to jeopardy,
20 and under the hearsay exceptions of which you have granted
21 opportunities relative to hearsay to be brought in relative
22 to Mr. O'Nesti, I cite the same law -- rules. I've had
23 conference with counsel. I'm not speaking for him, but I'm
24 only speaking to matters that deal with my case. The only
25 thing I would do for the record would establish the fact

1 that he has had a jury conviction and what those
2 convictions were for.
3 His questioning would only be in regards to his
4 knowledge of my case, period. The Speranza matter, I have
5 no intention of moving towards Speranza matter.
6 THE COURT: Thank you, Congressman.
7 MR. MORFORD: Your Honor, I want to address
8 and follow-up on something the Court just said, which was
9 the point I was going to raise even before the Court said
10 it. I have some concerns that we have a continuing pattern
11 here, where the Congressman does not notify the Court of
12 potential legal problems that are going to arise such as
13 hearsay and the need for voir dire. We have witnesses who
14 show up, and the jury sits back in the back room sometimes
15 for an hour, sometimes more.
16 The Court tried to accommodate by having a hearing on
17 Friday. The witnesses weren't here. It is beginning to
18 create a problem for the jury, for the Court, and the
19 Congressman is going to have to address that by letting the
20 Court and the parties know these -- that these witnesses
21 are coming in advance, and let the Court know the subject
22 matter of the witnesses, just as the Government did with
23 Jackie Bobby and Grace Yavorsky or Kavulic so we would not
24 have this downtime with the jury. That's what parties do.
25 When these kind of issues are going to rise, the

1 Court needs to know and we still have issues hanging out
2 there with a number of witnesses on the hearsay situation
3 that the Congressman hasn't addressed. He hasn't told the
4 Court or the parties what it is that he's trying to get in
5 so the parties know how to address it, and it's beginning
6 to create a problem in the length of this trial.
7 MR. TRAFICANT: Let me respond. They did not
8 have to tell us what the testimony of their witnesses was
9 relative to the hearsay exception.
10 What I am saying is this: A subpoena was served
11 yesterday. This is a willing witness to come up here this
12 morning.
13 THE COURT: Good. He'll be heard at noon.
14 We're going do this at noon. Okay? Call your next.
15 MR. TRAFICANT: I do object to having --
16 THE COURT: I understand that you object, but
17 we just got out, started with the proceedings when this
18 issue came up. So we'll do it first -- some of it out of
19 the hearing of the jury, at least to explore his Fifth
20 Amendment issues. Okay.
21 Congressman, are you ready with your next witness?
22 MR. TRAFICANT: Ernestine, you want to bring
23 in John.
24 THE COURT: All right. We'll bring in the
25 jury.

1 MR. MORFORD: Your Honor, before we do that,
2 it's my understanding that John Innella is going to testify
3 to hearsay about Henry Nemenz which is neither relevant or
4 admissible under --
5 MR. TRAFICANT: He doesn't know what he's
6 testifying to. He's not testifying to Nemenz.
7 THE COURT: I don't know either. We'll see.
8 You can go ahead.
9 (Proceedings resumed in the presence of the jury:)
10 THE COURT: Good morning.
11 THE JURY: Good morning.
12 THE COURT: Congressman.
13 JOHN INNELLA,
14 of lawful age, a witness called by the Defendant,
15 being first duly sworn, was examined and testified as
16 follows:
17 DIRECT EXAMINATION OF JOHN INNELLA
18 BY MR. TRAFICANT:
19 Q. Good morning, John.
20 A. Good morning, Jim.
21 Q. Would you speak up, and give us your full name and
22 spell your last name for the Court record.
23 A. John, last name I-N-N-E-L-L-A.
24 Q. Where do you currently reside?
25 A. At a farm, Greenford.

1 Q. What farm in Greenford?
2 A. Traficant's farm.
3 Q. How long have you lived there?
4 A. About a year and a half.
5 Q. Do you have a health problem?
6 A. Yes, I do.
7 Q. What is that problem?
8 A. I get coughing attacks like crazy, and I have burns.
9 Q. And what kind of a burn was it?
10 A. A butane explosion, third degree burns, second
11 degree.
12 Q. What, if anything, has happened to your -- your
13 system, your lungs, your throat, et cetera?
14 A. My throat has been burned.
15 Q. Would you please -- there's water there available for
16 you.
17 A. Yeah, if I get to coughing.
18 Q. Yes. Are you allowed to do certain duties?
19 A. I got to stay busy all the time. My muscles get
20 flabby. I've been losing weight.
21 Q. Did you have occasion to inspect the addition that
22 was added to the back of the farmhouse in Greenford?
23 A. Yes.
24 Q. Did you ever work in the construction industry?
25 A. Yes.

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

1 Q. And did you study carefully over those two-week
2 period?
3 A. Yes.
4 Q. Did you study it inside and out?
5 A. Yes.
6 Q. Are you very familiar with it?
7 A. Yes.
8 Q. Could you answer questions from your own personal
9 knowledge?
10 A. Yes.
11 THE COURT: Has he done foundation about when
12 he's done inspections or valid work or something?
13 BY MR. TRAFICANT:
14 Q. Did you ever estimate and bid jobs in the past for
15 construction?
16 A. Yes.
17 Q. Did you assist with your family's construction
18 company to do so?
19 A. Yes, I was with my dad.
20 Q. Are you familiar with construction costs?
21 A. Yes.
22 Q. Are you familiar with quality of construction work?
23 A. Yes, I am.
24 Q. Are you familiar with the requirements that are
25 necessary relative to constructing certain additions of

1 square feet?
2 A. Yes.
3 Q. Have you done this before?
4 A. Yes, I did.
5 Q. Who, in fact, requested you to do this?
6 A. Jim did on this one.
7 Q. Meaning me?
8 A. Yes.
9 Q. Do you have immunity, John?
10 A. No, I don't.
11 Q. You know what immunity means?
12 A. Yeah.
13 Q. What does immunity mean?
14 A. Where something goes wrong, can't be charged for it.
15 Q. If you have immunity?
16 A. Yes, I don't have it.
17 MR. MORFORD: Your Honor, then I object to
18 his opinion on immunity because that's not legally what
19 immunity is.
20 THE COURT: The legal definition of immunity
21 is something we'll have to deal with I think in this case
22 because it's been raised so many times. So we'll give it
23 to you in the instructions at some point. Okay. Thank
24 you.
25 BY MR. TRAFICANT:

1 Q. For the record, you do not have immunity; is that
2 correct?
3 A. I do not have it.
4 Q. Okay.
5 Describe the floor of that addition on the first
6 floor deck.
7 A. That's what I call plywood floor, CDX plywood, and
8 the floor is not leveled.
9 Q. How do you know the floor is not leveled?
10 A. Because there's a china cabinet in there with an inch
11 board under it.
12 Q. And did you, in fact, inspect how this plywood was
13 applied?
14 A. It was nailed down right to the porch deck.
15 Q. Does the deck take water from the outside inside of
16 the deck?
17 A. Yes, it does.
18 Q. Do you have knowledge that there are pictures to
19 support that?
20 A. Yes, there is pictures.
21 Q. Now, on the construction of the portico, was the
22 gutter removed and the siding placed up flush and even?
23 A. The gutter was removed. The four by four was notched
24 around the gutter.
25 Q. Was there an opening above there that allowed animals

1 to get into under the porch roof?
2 A. Yes, there is.
3 Q. In your estimation, was the construction quality --
4 how would you describe the construction quality?
5 MR. MORFORD: Objection as to his expertise,
6 your Honor.
7 THE COURT: You can answer.
8 THE WITNESS: I call that a butcher job.
9 Q. John, are you aware that it took six months to build
10 that?
11 A. I was told by Jim that it took six months.
12 Q. In your construction, John, how long would it have
13 taken you to complete that job?
14 A. With a helper, two to four weeks.
15 Q. How many helpers?
16 A. One.
17 Q. Plus you?
18 A. Plus myself.
19 Q. Were you familiar with the cost of materials in 1992?
20 A. I generally had the owner buy the materials.
21 Q. Have you purchased a glass sliding insulated door in
22 the last five years?
23 A. Yes, I did.
24 Q. How long ago?
25 A. About three years ago.

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

1 Q. Over here?
2 A. Down farther, about right where your hand is out
3 there. There's a stepdown.
4 Q. Is there any other outbuildings that can't be seen?
5 A. Where your hand is, up in that area.
6 Q. So this shows from above a nice rendering of the
7 farm?
8 A. It looks pretty good from here.
9 Q. Are the eves of the house completely rotted away?
10 A. Later on back.
11 Q. Are the window seals rotted away on the house?
12 A. Got to be replaced.
13 Q. Are the porch posts bottom rotted away?
14 A. Got to be replaced.
15 Q. Is the beam above the porch post rotted away?
16 A. To be replaced.
17 Q. Is there a hole big enough to put a basketball
18 through?
19 A. Yes, there is in one spot.
20 Q. Is it the Taj Mahal that's presented on this screen?
21 A. No, it is not.
22 Q. Were there any gutters put on the addition?
23 A. No.
24 Q. Was there any insulation under the addition?
25 A. Jim told me he put insulation on --

1 MR. MORFORD: Objection to what Jim told him,
2 your Honor.
3 THE COURT: Sustained to that.
4 Q. Do you know if the insulation material and vinyl
5 under this deck was the same as the vinyl used on the
6 house?
7 MR. MORFORD: Objection, unless he knows,
8 other than the Congressman Traficant making statements to
9 him.
10 THE COURT: Yeah, you can -- if you know
11 because you -- that's --
12 THE WITNESS: The ripple of the jamming is
13 different from the siding on the addition.
14 THE COURT: Okay.
15 Q. To the best of your knowledge, do you know if this
16 addition was insulated?
17 A. It's not insulated.
18 Q. Now, when you said CDX, is that an expensive piece of
19 plywood?
20 A. No, it isn't. It's just sheet.
21 Q. By sheeting, does it have one good side?
22 A. None good sides.
23 Q. Do you know who built the original deck?
24 A. I found out Jim built --
25 MR. MORFORD: Objection to what Congressman

1 Traficant told him, your Honor.
2 THE COURT: Right. When you testify, we need
3 to know what you know yourself, what you saw, not what he
4 told you.
5 THE WITNESS: I seen it built.
6 THE COURT: Okay. All right.
7 Q. Now, considering, did you do a rough estimate
8 considering time, square feet, and material used as to what
9 the cost of that addition would be?
10 A. I did square footage on labor-wise.
11 Q. You said on labor?
12 A. Labor only.
13 Q. John, can you see this?
14 A. Yes.
15 Q. You need glasses to see this?
16 A. If its long, I can see it.
17 Q. Pardon?
18 A. If you write big enough, I can see it.
19 Q. You said you would be the main worker?
20 A. Yes.
21 Q. And you would hire how many?
22 A. One helper.
23 Q. In 1992, what was the economic condition of the
24 Mahoning Valley?
25 A. It wasn't that -- a lot of people were out of work

1 yet.
2 Q. What could you hire a reasonably skilled helper for?
3 A. Around $6 an hour, with labor.
4 Q. What would you have charged as the main, and what
5 would you have charged if you would have done that job at
6 that time with your skills?
7 MR. MORFORD: Objection.
8 THE COURT: Do you remember what you would
9 were charging per hour and labor then?
10 THE WITNESS: I would -- our bid jobs out by
11 square footage.
12 THE COURT: And how much --
13 THE WITNESS: That was around $2.50 a square
14 foot.
15 THE COURT: Okay. So square footage is what
16 you used to figure this out?
17 THE WITNESS: Yes.
18 THE COURT: And that was for your own wage,
19 what you would --
20 THE WITNESS: My wages and helper wages would
21 come out of that.
22 THE COURT: Out of yours?
23 THE WITNESS: Yes.
24 MR. TRAFICANT: Just for labor.
25 Q. Would that include electric, too?

1 A. That's start to finish.
2 Q. Start to finish?
3 A. Yeah.
4 Q. That would have been the portico with the privacy
5 fence?
6 A. Yes.
7 Q. The addition on the back?
8 A. Yes.
9 Q. The drywall and flooring on the deck?
10 A. Yes.
11 Q. The trim?
12 A. Yes.
13 Q. The vinyl siding?
14 A. Yes.
15 Q. And what was your estimated labor cost to do this
16 job?
17 A. About $4,200.
18 Q. In your opinion, was this job that you inspected done
19 by a professional?
20 A. No, it wasn't. I called him a butcher.
21 Q. Do you know if there will be photographs that will be
22 presented before this Court to document what you're saying?
23 A. Yes.
24 Q. Now, do you do any barn work?
25 A. Yes, I do.

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

A. Yes, I do.

Q. Do you clean the stalls?

A. Yes, I clean them.

Q. Have I ever helped you clean those stalls?

A. Yes, you did.

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

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

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

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

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

MR. TRAFICANT: No further questions at this time.

THE COURT: Thank you.

CROSS-EXAMINATION OF JOHN INNELLA

BY MR. MORFORD:

Q. You need water, sir? Go ahead.

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

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

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

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

1 Congressman Traficant to put a roof over your head, right?
2 A. I have no place I can go.
3 MR. MORFORD: May I have a moment, your
4 Honor?
5 MR. TRAFICANT: I didn't hear that last
6 answer.
7 THE COURT: He said I have no place --
8 (Thereupon, the record was read back by the Court
9 Reporter.)
10 MR. MORFORD: I have nothing further.
11 THE COURT: Thank you.
12 REDIRECT EXAMINATION OF JOHN INNELLA
13 BY MR. TRAFICANT:
14 Q. John, did you help me construct a deck in Poland this
15 summer?
16 A. Yes, I did help you.
17 Q. Did you see me purchase the material?
18 MR. MORFORD: Objection. Has no relevance
19 and not in response to the cross-examination.
20 THE COURT: Sustained.
21 BY MR. TRAFICANT:
22 Q. Now, the Government said you have no ability, and you
23 weren't able to bid on a job. Is that what they said?
24 MR. MORFORD: Objection.
25 THE COURT: No.

1 MR. TRAFICANT: Okay.
2 Q. They said you'd been out of it basically for 30
3 years?
4 A. Yes.
5 Q. Isn't it a fact you tried to reenter the field and
6 was not successful with your bids?
7 MR. MORFORD: Objection to the leading
8 questions. It's his witness, your Honor.
9 THE COURT: It is your witness.
10 Q. Were you a truck driver for many years?
11 A. Yes.
12 Q. Did you work carpentry on the side?
13 MR. MORFORD: Objection. He's testifying.
14 He needs to ask the witness.
15 THE COURT: Well, the witness has already
16 said all these things. So --
17 Q. When the Prosecutor asked you about your ability, you
18 talked about a 90 percent average. Will you explain what
19 you were talking about?
20 A. What was that?
21 Q. When the Prosecutor asked you a question and you
22 responded about a 90 degree or 90 percent average, what
23 were you testifying about?
24 A. I don't understand that.
25 Q. You said that you had two years of training.

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

Q. Can you build a house?

A. Yes, I could.

Q. Could you build a foundation?

A. Right, the ground out.

Q. Could you put all the wiring in?

A. Yes, I can.

Q. Could you put all the plumbing in?

A. Yes, I can.

Q. Could you build a chimney?

A. Yes.

Q. Can you install any appliance that is made?

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

THE COURT: Sustained.

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

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. How did we meet?

MR. MORFORD: Objection.

THE COURT: You can answer how you met.

1 THE WITNESS: Through school, a speaking
2 thing Jim went to speak to, and that's how we met.
3 Q. And what, if anything, after we met did you request
4 of me?
5 A. Nothing.
6 Q. Did there come a point when you lost your home?
7 A. Yes.
8 Q. And what was the cause of the loss of that home?
9 A. It went down to foreclosure.
10 Q. Now, when the Government asked you the question and
11 you said I had no place to go, what, if anything, did you
12 do as a result of that?
13 A. Jim needed help at the farm. We talked, and I talked
14 to his daughter, and that's why we are there. I do have
15 another place where I can go.
16 Q. How big is your family?
17 MR. MORFORD: Objection.
18 THE COURT: Sustained.
19 MR. TRAFICANT: No further questions.
20 THE COURT: Thank you.
21 MR. MORFORD: Nothing further, your Honor.
22 THE COURT: Thank you. Sir, thank you very
23 much. Step down. Be careful when you go down those
24 stairs. All right? Thank you, sir. Step right down.
25 MR. TRAFICANT: Your Honor, shall we proceed

1 until 10:30 and go forward now?
2 THE COURT: You have a witness?
3 MR. TRAFICANT: Yes, I do.
4 THE COURT: Thank you.
5 DOMINIC MARCHESE,
6 of lawful age, a witness called by the Defendant,
7 being first duly sworn, was examined
8 and testified as follows:
9 DIRECT EXAMINATION OF DOMINIC MARCHESE
10 BY MR. TRAFICANT:
11 Q. Good morning, Dominic.
12 A. Good morning.
13 Q. Would you please give us your full name, and spell
14 your last name for the jury.
15 A. Dominic Marchese, M-A-R-C-H-E-S-E.
16 Q. Give us your home address.
17 A. 6666 Stoddard Hayes Road, Farmdale, Ohio 44417.
18 Q. Would you repeat that again, slowly for the
19 Reporters.
20 A. 6666 Stoddard Hayes Road, Farmdale, Ohio 44417.
21 Q. There's water there, Dominic.
22 A. Thank you.
23 Q. Dominic, you know if you have immunity in this case?
24 A. I have no immunity, no.
25 Q. Where are you currently employed?

A. I'm currently employed as a staff representative for Congressman James A. Traficant.

Q. How long have you been in my employ?

A. Since May 1, 2000, just two years -- I'm sorry, April 1, 2000, very close to two years.

Q. Are you married?

A. Yes, I'm married.

Q. How many children do you have?

A. I have four adult children and eight beautiful grandchildren.

Q. Is your wife employed?

A. My wife is a Trumbull County Recorder, Diana Marchese.

Q. You hold an elected position?

A. Yes, I do.

Q. And what is that position?

A. Township trustee in Johnson Township, Trumbull County.

Q. Have you ever worked in the construction industry?

A. Yes, from my young years growing up with a father that had a construction company in Warren, Ohio, Anthony Marchese Construction Company, as well as his brothers having a concrete company that did masonry work. He did build very close to in his career 200 homes in the City of Warren. I would have to work along with carpenters and

1 bricklayers as I was growing up.
2 Subsequently, following Naval service, I became a
3 journeyman bricklayer. I still have a card today.
4 Q. When was the last time you worked as a bricklayer?
5 A. It would have been February and March of 2000, just
6 prior to coming on your staff as a part-time employee.
7 Q. Are you now full-time?
8 A. I'm full-time, yes.
9 Q. What are the areas of your responsibilities?
10 A. I do constituent work on a daily basis. Whatever
11 calls need to be addressed there, their concerns, their
12 needs. Mostly I believe I would be doing Veterans Service
13 work and Social Security issues as well as farm -- the farm
14 community. I would do community outreach, attend meetings,
15 weekly and evening meetings, in Trumbull County.
16 Q. Were you ever appointed to a national committee on
17 agriculture?
18 A. No. I was on a short list. I believe it was 1996, a
19 short list for the national organic standards board in
20 Washington, D.C.
21 Q. Do you currently own a farm?
22 A. Yes.
23 Q. What kind of farm is it?
24 A. Presently raising beef cattle, and it's -- it's been
25 an organic dairy farm from 1976 through 1993, at which time

1 we had to sell the milk cows because of the cost of
2 production was less than we were making.
3 I've raised beef cows ever since.
4 Q. Did you ever build a home?
5 A. Yes. I've built one home for my father in his
6 business that I supervised and built. And then I built my
7 own home, and I built commercial buildings and many garages
8 and a small building in Warren, Ohio, called Mr. R's on
9 Route 422.
10 Q. Is that a commercial building?
11 A. Yes, it is.
12 Q. Now, the home you built, is that the home on Stoddard
13 Hayes Road in that you still reside in?
14 A. Yes, it is.
15 Q. Did you have occasion to inspect and review the
16 addition on the back of the Traficant farm?
17 A. Yes, I did.
18 Q. And could you describe from your experience in
19 construction the quality of work of that project?
20 A. I didn't see any quality of work. It was very poor
21 work. I would not have wanted to pay for that myself.
22 MR. MORFORD: Your Honor, we're not getting a
23 date of when this inspection took place.
24 THE COURT: We need to know when you looked
25 at it.

BY MR. TRAFICANT:

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

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

Q. Approximately how long ago?

A. A week ago.

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

A. Yes, I did.

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

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

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

THE COURT: Fine.

BY MR. TRAFICANT:

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

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

Q. Do you know what farm that is?

A. That is the Traficant family farm.

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

A. Yes, I do.

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

A. Yes, it does, that's their business. Those are very expensive to have done.

Q. Does that look beautiful?

A. It really does.

MR. MORFORD: Objection. It is the jury that can decide these things, your Honor.

THE COURT: Exactly.

Q. Are there any buildings missing from this photograph?

MR. MORFORD: Objection as to the relevance of that. It's a joint exhibit that Congressman Traficant offered himself.

MR. TRAFICANT: I'm asking if there's any missing buildings.

THE COURT: You can answer whether there's missing buildings there.

THE WITNESS: Missing buildings? I believe there's a roof on the silo at this time.

Q. Are there any other buildings on the property that are not shown on there?

A. Not to my knowledge.

Q. Do you know if there is a machine shed north of the big barn?

A. Yes, there is, but it's not in the photo.

Q. Do you know if there's a stepdown shed north of the big barn?

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

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

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

Q. Did you estimate the size of that job?

A. Somewhere around 12 by 14 foot.

Q. The floor?

A. Right.

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

A. Yes, I did.

Q. Have you ever bid on projects?

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

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

BY MR. TRAFICANT:

Q. What projects did you bid on?

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

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

1 A. Early '93 I was dairy farming at that time, and
2 the -- the agriculture, of course, wasn't part of the
3 economic boom that the country was having in the '90s, but
4 I -- I believe that construction at that time should have
5 been -- should have not been a problem to get a job in
6 construction at that time.
7 MR. MORFORD: Objection, unless he has some
8 expertise to say that. He's just sitting here giving his
9 opinion on things.
10 THE COURT: Right.
11 THE WITNESS: I was asked.
12 THE COURT: No. It's not about you
13 answering; it's about whether or not we should permit an
14 answer to be made. Given what we have here, we can't go
15 forward on this with this witness.
16 Q. Did you give a rough estimate after having looked at
17 that addition and considering what you would bid on that
18 job?
19 MR. MORFORD: Objection.
20 THE COURT: Don't answer, please.
21 BY MR. TRAFICANT:
22 Q. Now, when you said very poor work, what led you to
23 believe that it was very poor work?
24 A. There are some rafters in that open gazebo area that
25 the bird mounts are as much as three inches away from the

1 top plate as far as fitting to notch around another post
2 for the gutter on the existing house when it could have
3 been placed away from it to begin with. The railings on
4 the deck, I notice where they're nailed too close to the
5 top of the board and split, the edge away and then pulled a
6 nail out. It would be a hole there and in the split.
7 Inside, there's some trim work that is noticeable
8 splits on the trim from nailing either too close or just
9 leaving a trim board like that with a split in it.
10 The construction of the doors, I would never have put
11 doors right down on to a deck where water can roll
12 underneath the door and wet the floor underneath the
13 plywood. That was -- that was the first thing that caught
14 my attention. I just wouldn't -- it's not done that way.
15 People that are in construction wouldn't build like
16 that. It looked more like a do-it-yourself project.
17 Q. When you said it looked like a do-it-yourself
18 project, is it your testimony that you do not believe it
19 was performed by --
20 THE COURT: Whoa, whoa. You don't ask him
21 that way. This is on -- you ask him questions. Let him
22 answer it. Don't say what you think his testimony is.
23 Q. Does the quality of that job appear to you to have
24 been done by professionals?
25 A. No, it doesn't.

1 Q. How long would it have taken you to build that
2 addition?
3 MR. MORFORD: Objection, total speculation.
4 THE COURT: Yes. We can't accept an answer
5 to that.
6 MR. TRAFICANT: Pardon?
7 THE COURT: The objection's well taken.
8 BY MR. TRAFICANT:
9 Q. Did you take pictures of this -- of this addition and
10 home?
11 A. Yes, I did.
12 Q. Are those pictures ready?
13 A. I was just finishing some labelling of them when I
14 got called into the courtroom. I did not have them all
15 labeled.
16 MR. MORFORD: Your Honor, can we find out
17 when he took and made these pictures because we've never
18 seen them before this moment.
19 THE COURT: Right.
20 BY MR. TRAFICANT:
21 Q. When did you take the pictures, Mr. Marchese?
22 A. I took the pictures of the -- this addition we're
23 speaking of behind the -- from the deck, the deck -- the
24 deck addition on Saturday of this past week, Saturday.
25 Q. And you did not complete identifying them for what

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

1 THE COURT: Also, if you have any issue
2 between the two of you, I need to come out here before
3 11:00. So you guys get about a ten-minute break. Okay?
4 (Thereupon, a recess was taken.)
5 MR. TRAFICANT: Your Honor, I would like to
6 make a request of the court that pursuant to counsel for
7 Mr. Saadey, who has an important meeting at 3:00 and
8 thought he would be out in the morning, he be voir dired
9 tomorrow morning at 8:00 or 8:15 before the jury, and he
10 has to get back.
11 I'm not speaking for his counsel, but he thought he
12 was going to be on at 9:00 this morning.
13 THE COURT: Okay. Do you have other
14 witnesses to fill up the jury's time?
15 MR. TRAFICANT: Yes. I believe I do.
16 THE COURT: All right.
17 MR. TRAFICANT: I -- I'm hoping I do. I
18 thought he would be an extensive cross, but he would --
19 THE COURT: You want me to release him. I
20 have to ask this question because we have a jury here
21 today, and we have to accommodate them, and I said I'd be
22 willing to --
23 MR. TRAFICANT: Yes. I believe I have enough
24 witnesses here, and --
25 THE COURT: To take us to 4:30?

1 MR. TRAFICANT: I don't know how long cross
2 they're going to take but --
3 THE COURT: You never can exactly predict. I
4 just want to make sure that if I let you reschedule him --
5 and I'm not sure it can be in the morning -- we normally
6 start the trial at 9:00, but if I can reschedule him to
7 some other period of time tomorrow, then I want to make
8 sure that you have enough people here today.
9 MR. TRAFICANT: I would request that, and I'd
10 also note that I was told that the welder is on its way,
11 and I expect it here hopefully before 4:30.
12 THE COURT: Okay.
13 MR. MORFORD: Your Honor, I was going to say
14 if Congressman Traficant tells us and the Court who he
15 plans to call today, we'll tell you how long on cross. We
16 have an idea of that. If he runs short, he can call people
17 at lunch.
18 THE COURT: That's a good idea. Why don't
19 you take a few minutes to do that? Meanwhile, is there any
20 issue about the pictures here?
21 MR. MORFORD: Yes, your Honor. And the issue
22 is this: At five minutes to 11:00, Congressman Traficant
23 finally showed us these photos. And it is clear from a
24 number of these photos that they do not relate to the
25 addition at all, that they relate to the condition of the

1 farmhouse itself, parts that had nothing to do with the
2 work that Manevich was doing.
3 And this witness has testified about squirrel holes
4 and things that are on the old house. He wants to show a
5 number of pictures and photos that really aren't relevant,
6 and I -- I guess my request is, if he's going to be showing
7 these pictures of parts of the house that didn't relate to
8 the work, that needs to be made clear because so far he's
9 made it sound like all this relates to the work that was
10 done by him.
11 MR. TRAFICANT: Your Honor --
12 THE COURT: Um-hum.
13 MR. TRAFICANT: -- the bulk of these
14 photographs are exactly related. There are five that are
15 unrelated, though, that speak to the general condition, and
16 one of them also speaks to a photograph that was shown to
17 Mr. Angelo, if you'll recall, and that was already brought
18 into evidence by the Prosecution, and that's the swayback
19 building, in fact, that it still does exist and exists on
20 that property.
21 MR. MORFORD: I'd like to note for the record
22 the photos in the Congressman's hands I haven't seen yet.
23 I want to read on the record what he's shown.
24 THE COURT: Okay, okay. All right.
25 MR. TRAFICANT: You can read on the record I

1 have exactly what I've shown you.
2 MR. MORFORD: You told me these were the ones
3 you are going to use. I don't know --
4 THE COURT: Guys, this is the kind of stuff
5 you're supposed to sit down together and -- please do it,
6 and then we'll go on the record.
7 MR. TRAFICANT: I would like to stipulate.
8 THE COURT: No. Wait. You're off the record
9 I just took you off the record.
10 (Discussion held off the record.)
11 THE COURT: I was just talking to this
12 gentleman about what time we're scheduling his client
13 tomorrow morning, and I'm willing to do it at 8:30 but not
14 at 8:00. 8:30 which is half an hour. That should be
15 plenty of time to allow questions to be put to your client.
16 Okay?
17 MR. KOPP: Thank you.
18 THE COURT: Thank you very much. So you're
19 excused.
20 MR. TRAFICANT: That will be fine with me.
21 MR. KOPP: Thank you.
22 THE COURT: Very well.
23 MR. TRAFICANT: I would like to ask for the
24 record --
25 THE COURT: Okay.

1 MR. TRAFICANT: If his client is going to
2 testify or take the Fifth Amendment.
3 THE COURT: Well, that --
4 MR. KOPP: For the record, I can't answer
5 that until I know the questions.
6 THE COURT: That's right.
7 MR. TRAFICANT: Fine.
8 THE COURT: That's why we do the questioning.
9 Okay.
10 MR. TRAFICANT: Thank you, your Honor.
11 MR. KOPP: Thank you.
12 THE COURT: I understand that you've reached
13 some kind of agreement about these pictures. Am I correct?
14 MR. MORFORD: Yes, your Honor. I've now seen
15 the pictures, and as long as he makes it clear with the
16 witness where these pictures are in the house and what
17 parts relate to the addition and not the addition, then
18 that's fine.
19 THE COURT: Okay. Very well.
20 MR. TRAFICANT: And I've agreed to do that.
21 THE COURT: Excellent.
22 MR. TRAFICANT: Thank you. Your Honor, I
23 have a piece of evidence I'd like to have admitted. Shall
24 we do that later in the day?
25 THE COURT: Usually, we do that at a break,

1 and we really should bring the jury in.

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

3 fine.

4 THE COURT: We'll bring the jury in.

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

6 BY MR. TRAFICANT:

7 Q. I'm going to ask if you can identify this photograph

8 that is placed here and if you took that photograph.

9 A. Yes, I took that photograph. I notice the bird mount

10 on the rafter, hanging out on the right-hand side at the

11 top. See the -- the space that you can see above the wall

12 where the -- that's the plate that the rafter sits on --

13 right -- no, right there. That opening right there, that's

14 called a bird's mount on a rafter, and it should be up

15 against that and totally off from the back and then from

16 the top down on to the plate. But, see, it's separated,

17 and it appears that it was -- that's the way they put it

18 together. They didn't have much craftsmanship on that.

19 THE COURT: Congressman, before you replace

20 that, we need the number put on the record.

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

22 THE COURT: Thank you.

23 BY MR. TRAFICANT:

24 Q. Did you take this photograph, Dominic?

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

1 the bottom of the doors, the door track that you walk out
2 on to the porch. You have two sliding doors that come
3 together with a post in the middle. And that's the water
4 damage at the base of the post and the floor underneath the
5 aluminum track that's sitting on that.
6 THE COURT: Would you give the number,
7 exhibit number, Congressman, it's better if you do it when
8 you put it up.
9 MR. TRAFICANT: I'm sorry, that's HA-37.
10 THE COURT: Thanks.
11 Q. This is HA-39, and did you take this photograph,
12 Dominic?
13 A. Yes. Although the photo doesn't -- photo doesn't do
14 it justice, it's trying to show that the plywood they used
15 was probably seconds because it is -- there's a big gap
16 there of like one layer missing in the middle. It should
17 be finished on one side for either tile or for carpeting,
18 and basically, it appeared to be regular subflooring, CDX
19 type material.
20 Q. Does that mean there was no one finished side?
21 A. No.
22 Q. Next photograph has already been introduced by the
23 Prosecution, and did you take this photograph HA-400? It
24 has a joint exhibit number for the purposes of today's
25 identification.

1 MR. MORFORD: Your Honor, that picture was
2 not introduced by us and doesn't have a joint exhib number.
3 MR. TRAFICANT: Okay. Then I --
4 Q. Did you take this photograph, Dominic?
5 A. Yes, I did.
6 Q. Did you go in that building?
7 A. No, I didn't. I --
8 Q. When did you take the picture of that building?
9 A. That particular picture was taken at least four weeks
10 ago. That was not taken on the day that I took the
11 pictures of the addition on the deck.
12 Q. When you took the picture addition of the deck, was
13 this building still standing?
14 A. Yes.
15 Q. This is HA-38. Can you explain the significance of
16 this photograph?
17 A. I had to get down very low to take this picture.
18 There is a hutch you have on the floor that's got china in
19 it. There's glass doors above that hutch, but you have a
20 board on the floor at the other end of the hutch, and it's
21 at least a one-inch thick -- not three quarters. That's a
22 one-inch rough sod piece of poplar or spruce appears to be.
23 Q. And what if -- how wide was the cabinet?
24 A. I don't believe it's more than six-foot of china
25 cupboard. I notice that, and then I looked at the china

1 cupboard, and you had dishes and things in there, and I
2 figured, well, that must be because they were leaving that
3 at an angle. See, from one end of that hutch to the other,
4 that is making it level on the floor.
5 Q. Making it one-inch and six feet?
6 A. That's about right, yeah. So you needed to put that
7 underneath to make that level for your china pieces, not to
8 roll off the shelf.
9 Q. This is HA-1, did you take this photograph?
10 A. Yes. This one shows siding that they did coming
11 around the wall on that side, above the -- there's a gutter
12 on top of the siding that they -- that probably was on the
13 existing house before the siding.
14 So the gutters there, there's a post coming up that's
15 notched out. See where all that dark green mold is?
16 Q. Is this where it was notched and cut?
17 A. That's right. It's notched out there -- well,
18 quality construction, you don't do work like that. That
19 was my point in this.
20 Q. Did you take this picture, this is HA-60?
21 A. Yes. That's the same wall, going around the corner
22 of an L-shape deck into the gazebo area. That's the
23 corner. There's an existing gutter with a downspout coming
24 off of it --
25 Q. Is this the gutter?

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

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

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

1 soffit material, closed in, and a facial on the edge of the
2 roof, but there's no gutter. So that water just comes off,
3 hits the deck down below, goes under your floor inside.
4 Q. And that was HA-70?
5 A. Yes.
6 Q. This is HA-100, did you take this photograph,
7 Dominic?
8 A. I took that photograph the same day that I took the
9 photographs of the addition on the deck. That would have
10 been Saturday.
11 Q. What, if anything, was the status of the eves?
12 A. The -- return wraparound eve is all rotted and open.
13 That's all open where squirrels can go right into your
14 attic, go right into the attic.
15 Q. That was not a part of the addition, was it?
16 A. No. This had nothing to do with that. I just wanted
17 to know what the condition of this farmhouse was --
18 THE COURT: Okay. Well, we're getting into
19 areas that really aren't relevant to anything --
20 MR. TRAFICANT: We've agreed to four other
21 photographs, your Honor.
22 THE COURT: Well, whatever. Let's only deal
23 with things that relate to testimony that has somehow come
24 forward in this case.
25 MR. TRAFICANT: I believe it speaks to the

1 Defense as to the aerial photos being shown.
2 MR. MORFORD: Object to the speech, your
3 Honor. Nobody's -- this is irrelevant.
4 MR. TRAFICANT: These were agreed to before
5 we started.
6 THE COURT: Okay. We aren't going to have
7 that discussion in front of the jury. You didn't tell me
8 what you agreed to, so we'll take this up later. Just move
9 along with things that he can testify to.
10 Q. Who suggested that these pictures be taken?
11 A. I suggested to you that I'd like to take some
12 pictures of the farm and the buildings from my recollection
13 of what was being portrayed to be J R's --
14 MR. MORFORD: Objection on relevance to this
15 line of questioning.
16 THE COURT: Sustained.
17 MR. TRAFICANT: No further questions at this
18 point.
19 THE COURT: Thank you.
20 CROSS-EXAMINATION OF DOMINIC MARCHESE
21 BY MR. MORFORD:
22 Q. Mr. Marchese, we never met before today, right?
23 A. I met you this morning.
24 Q. Out in the hallway I said hello. Before that we
25 never talked, correct?

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

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

1 additional days of leave, he can do so, correct? He has
2 that power?
3 A. I'm not aware of that. I will -- I'm really not.
4 I -- I read a note -- a memo that came from D.C. about
5 vacation days, and that's all I know about it.
6 Q. And that's recently then, correct?
7 A. When I started.
8 Q. Which was what, 18 --
9 A. That was the April -- I think 1st of April of 2000.
10 Q. So --
11 A. That very week, I seen what days were allowed based
12 on years, and I believe one year is 11 days, if I'm not
13 mistaken.
14 Q. And that was after the newspapers began reporting
15 about staff members going out and working at the farm that
16 that memo would have come out, correct?
17 A. I'm not sure. I don't know what -- I don't know what
18 date you're relating to in relation to when I started.
19 Q. Okay. Well, sir, did you start before or after the
20 March 2000 primary election?
21 A. I started after the March 2000 primary.
22 Q. Isn't it true prior to that election there were wide
23 spread press reports of congressional staffers doing work
24 at Congressman Traficant's farm during congressional hours?
25 A. I'm not sure if that was reported that way. I've

1 since read about that, heard about that.
2 Q. How many hours do you generally work per week to earn
3 your $30,000 a year salary?
4 A. I would -- I would have to say that I average between
5 37 and 44 hours a week, and I do have with me today time
6 sheets that we fill out everyday.
7 Q. Who is it that actually sets your hours and duties?
8 That would be Congressman Traficant, correct?
9 A. I believe it is up to the member, yes.
10 Q. In fact, if Congressman Traficant tells you I don't
11 want you to work in the office today and do whatever you're
12 doing, I want you to come with me here or there to a
13 meeting, you'd go with him, correct?
14 A. If it's pertaining to congressional constituent work,
15 meetings, he could do that, yes, I could go with him.
16 Q. Have there ever been times Congressman Traficant
17 asked you to go somewhere that really didn't relate to
18 constituent service work?
19 A. No, there has not. There's not been one -- one time
20 when he's called me during a workday to go anywhere with
21 him that wasn't relating to that type of work.
22 Q. Have you yourself ever done any work out at the farm?
23 A. Not since I've been employed by the Congressman.
24 Q. So since the time you started with Congressman
25 Traficant, it's your testimony you have done no work out at

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

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

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

1 Q. Now, isn't it true, sir, that based on your
2 friendship and employment with Congressman that you don't
3 want to see the Congressman convicted in this case?
4 A. I would say that that's true. I would also say that
5 I would not lie for him either.
6 Q. I understand that, but you've given some testimony
7 today here about your expertise --
8 A. That's right.
9 Q. -- in the area of construction. I want to ask you
10 questions about that.
11 A. Yes.
12 Q. First, you indicated you haven't done any work on the
13 farm since the time you have been employed by Congressman
14 Traficant, but the truth is, you have done work out at the
15 farm on prior occasions, prior to the time you worked for
16 him, correct?
17 A. That would be correct.
18 Q. And very close to the time that he hired you to work
19 for him, correct?
20 A. No. I would not say very close. The last time we
21 ever exchanged any labor where I would be helping him do
22 something at his farm would have been in the early fall of
23 '97; would have been the last time I've worked assisting
24 him. Exchanging any work would have been the fall of '97.
25 Q. Okay. Well, you did some extensive kitchen repairs

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

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

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

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

1 building an addition on a structure that itself is not in
2 very good shape?
3 A. Remodeling that, you mean?
4 Q. Yes.
5 A. Yes, it would be.
6 Q. And isn't it difficult if you're dealing with an
7 owner that doesn't want a lot of changes to what already
8 exists, if what already exists is not in good shape?
9 A. Well, example of that, you -- you're building an
10 addition on a deck that was pre-existing, and the deck, for
11 whatever reasons, could have been severed. You wouldn't
12 just start to build a room for this individual or anyone
13 off of that deck without trying to level that with a floor
14 as a step-up, where you could shim the floor joist to make
15 that room both ways level, set your door threshold on that
16 new frame and go from there.
17 So you're saying is that difficult? It's not
18 difficult if you're in the trades and are doing work and
19 you got power saws and you can shim floor joists. I don't
20 see where that's difficult.
21 Q. Let me ask you, sir, did you actually take and
22 measure the balance of that floor?
23 A. I only observed that one cupboard with a -- within
24 six feet that had the one-inch difference to be leveled.
25 Q. How hard would it have been to take a level and stick

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

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

1 A. I can see a floor with threshold doors sitting on a
2 deck with only plywood underneath it for water to come in.
3 None of -- you would not have accepted that work done for
4 you.
5 Q. Well, sir, what I'm saying is, you have no idea in
6 1993 whether that door was put in by Congressman Traficant
7 when he built the deck or whether it was something that was
8 done by the workers when they came in to fix the deck, do
9 you, based on your own firsthand knowledge?
10 A. My assumption is that addition, the way it's left
11 right now, was the way it was built by whoever did it.
12 Q. That's an assumption because you have no idea really
13 what was done or not done by Mr. Manevich, correct? All
14 you can do is assume.
15 A. All I can do is appraise what's before me.
16 Q. Now, sir, you talk about the fact there wasn't a
17 gutter on that roof. Do you have any knowledge of whether
18 that roof existed before these carpenters even came out?
19 A. I understand the roof was --
20 Q. Your own personal knowledge, do you know?
21 A. I was told by the Congressman that that roof was --
22 Q. I don't want to ask what you were told by the
23 Congressman. I want to ask about your own personal
24 knowledge. Do you have personal knowledge whether that
25 roof existed prior to Mr. Manevich and his crew coming out

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

1 glass doors where some wood on the inside is rotting,
2 correct. That's not a -- that's not a totally unusual
3 thing to see in houses where sliding glass doors were put
4 on next to a deck, correct?
5 A. I've personally not seen that before, no, I haven't.
6 Q. You've never seen that before?
7 A. No.
8 Q. Well, sir, let me ask you this: Isn't it true that a
9 lack of maintenance can also cause water problems?
10 A. I don't know how much maintenance you can put into
11 something. That's always going to naturally take water
12 underneath.
13 Q. Let me give you an example. What happens if you
14 don't clean your gutters? That can cause water to come in
15 at certain places, correct?
16 A. Yeah, but in this case, there is no gutter above that
17 that's forcing more water to come down.
18 Q. Wouldn't it be -- sir, wouldn't it be fair to say
19 that in viewing this house, you can see there's a total
20 lack of maintenance whatsoever?
21 A. It's an old farm.
22 Q. But it's not very well maintained in your
23 professional opinion as a contractor?
24 A. No, it's not, contrary to what people are hearing.
25 Q. Sir, how do you know what people are hearing. Have

1 you been in this courtroom?
2 THE COURT: You know what? We have a jury
3 here, sir, who have been here from the beginning, and
4 they've heard all the testimony in this case, and I don't
5 know where you're getting your information, but they need
6 to get it firsthand from the witnesses who can put on
7 evidence that they're allowed, under the law, to consider.
8 Q. Let me ask you one last series of questions.
9 As I understand your testimony, you're testifying as
10 a contractor, that if a contractor came in to do this room
11 addition, certain ways they should have done it, then you
12 don't see they did it correct; is that right?
13 A. That's right.
14 Q. Let me ask you this: Wouldn't you agree that if a
15 person hires a carpenter at $15 an hour to come out and
16 repair a portion to a deck, that it's his responsibility to
17 pay that person for the number of hours it took him to fix
18 the deck, correct?
19 A. If you were given a price ahead of time?
20 Q. Yes.
21 A. And you agreed to that price?
22 Q. Yes.
23 A. Then that -- you should have paid for that.
24 Q. And then, if, when they finish the repair on the
25 deck, which is a small job, if that same person starts

1 asking them to perform additional work, then once the deck
2 is finished, then you'd agree that they're responsible to
3 pay for that extra work, correct?
4 A. I'm sure that those type of arrangements are dealt
5 with before any work would be done.
6 Q. But as someone who's been called in here as an expert
7 contractor in the industry, isn't that a fair statement:
8 If you keep asking the carpenter who's out to do a minor
9 repair, to do more and more work and it's hourly work, then
10 the number of hours he spends is what you should pay him,
11 correct?
12 A. Yes, exactly right.
13 Q. And if one of the things you asked him to do after
14 he's come out to do a one-or two day deck job is to enclose
15 the porch and build walls around it and then put in windows
16 and all these other things, you should pay for what you've
17 asked him to do, correct?
18 A. I'm not sure if in this case --
19 Q. I am not asking you about this case, sir. I am
20 asking you just in general.
21 A. You should pay anyone that you make a prior
22 arrangement with.
23 Q. And as far as your knowledge of this case, you've
24 already said you weren't around in 1993, and you have no
25 idea, other than hearsay, as to what the arrangements were,

1 correct?
2 A. That would be correct.
3 Q. Let me ask you the same questions with electrical
4 work.
5 If during the time that the person is having this
6 porch enclosed they call out an electrician to put in a
7 switch, they should pay the hourly rate for that
8 electrician, correct?
9 A. Yes.
10 Q. And then if once they get them out there and start
11 asking them to do all kinds of other stuff, if the person
12 ends up out there for hours and hours, they're responsible
13 to pay them that rate, correct?
14 A. If they're asking before it, yes.
15 Q. And because you weren't in this courtroom, you have
16 no idea whether it was Congressman Traficant asking these
17 people to do more and more extra work, do you, sir?
18 A. No, I don't. I only looked at this building,
19 appraised how it was built, what I felt I would have
20 charged for that --
21 Q. As a whole job, correct?
22 A. Yes.
23 Q. But if you had gone out there at an hourly rate of
24 $15 an hour, with a partner at an hourly rate of $15 an
25 hour and the customer kept asking you to spend more and

1 more and more hours doing work, you would expect them to
2 pay you what they bargained for, correct?
3 A. I would, yes.
4 Q. And you're in no position as you sit here today to
5 testify about how many hours Mr. Manevich and his helpers
6 put in because you weren't there, correct?
7 A. That's right. I only know how many hours I would
8 have figured that job.
9 Q. But you don't know everything they did, do you?
10 A. What's visible.
11 Q. Sir, how would you have any idea what they did if you
12 weren't there?
13 A. Looking at the work that's done.
14 Q. But you're just looking at -- you don't know what all
15 they did, do you?
16 A. If you're talking about extra work outside of that,
17 no, I wouldn't know.
18 Q. Exactly. You really don't know what they did, do
19 you?
20 A. I know what they did on that deck.
21 Q. Only because of what Congressman Traficant has told
22 you, correct?
23 A. What I visibly seen.
24 Q. But you don't know who did that work, do you?
25 A. I could figure that job.

Q. And, sir, my question is: You don't know who did that work, do you?

A. No, I don't.

Q. You're just assuming it was done by them?

A. It was done by a company as far as I know.

Q. That's assumption, correct?

A. As far as who did the work, yes, but someone did it.

MR. MORFORD: Just a moment, your Honor.

THE WITNESS: Someone charged it.

MR. MORFORD: I have nothing further.

THE COURT: Okay, Congressman.

MR. TRAFICANT: Your Honor, it's about five minutes to. You want me to continue? I have a little bit of time left?

THE COURT: Sure, you have some time.

REDIRECT EXAMINATION OF DOMINIC MARCHESE

BY MR. TRAFICANT:

Q. Dominic, you just went through a number of questions from the Prosecutor about what you knew or didn't know; is that correct?

A. Yes.

Q. What did you see?

A. I seen it basically a do-it-yourself project on a deck addition.

Q. Now, he asked you about remodeling old homes, did he

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

1 the portico fence is. Did they take the gutter off and
2 take it up and close off the hole between the roof?
3 MR. MORFORD: Objection. There's no
4 testimony that they did that work, your Honor, on that
5 side.
6 Q. Whomever did that work, was that the same siding as
7 the rest of the house?
8 A. I believe it was.
9 Q. The addition?
10 A. I believe it was, yes.
11 Q. Was it inside the portico with the roof built over
12 it?
13 A. Under the gazebo.
14 Q. Now, if you bid that job today, after having measured
15 it, what would you --
16 MR. MORFORD: Objection.
17 Q. -- estimate?
18 THE COURT: We have -- we have to know that
19 he knows what that job is.
20 Q. Are you familiar with what was done at that -- of
21 that job down there?
22 MR. MORFORD: Objection. He's already
23 established he doesn't.
24 THE COURT: He's testified he doesn't. He
25 wasn't there. He doesn't know; only what he heard from

1 you.
2 Q. Did you see the addition that was added?
3 A. That's what I observed, yes. I did not observe it in
4 '93 when it was being done.
5 Q. But after you observed it, did you observe the
6 addition that was put on?
7 A. Yes.
8 Q. And how could you identify the addition that was put
9 on?
10 A. I took pictures of it.
11 Q. And what, if anything, showed you what differences
12 were there between the addition and the rest of the house?
13 A. The different siding for one thing and --
14 Q. Well, would the addition have different siding than
15 the rest of the house?
16 A. Yes, it does.
17 Q. What was the rest of the house siding?
18 A. It was the older aluminum like eight-inch siding,
19 aluminum siding. It's the very earliest aluminum siding.
20 Q. So from the siding, that depicts the new addition
21 with your experience in bidding at today's costs?
22 MR. MORFORD: Objection.
23 THE COURT: That won't help our jury.
24 Q. After having seen that project, if that were on your
25 house, how much would you have paid for it?

MR. MORFORD: Objection.

THE COURT: Sustained.

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

MR. MORFORD: Objection.

THE COURT: Sustained.

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

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

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

BY MR. TRAFICANT:

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

A. Yes, I have.

Q. Can you recall any unusual incident?

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

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

A. First time I seen a coyote.

Q. What else?

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

Q. Why were we doing that?

1 A. Because the weather that particular week was very
2 humid. It was -- we were able to mow during the evening
3 without plugging off and being wet. Normally, after 9:00,
4 the grass is real wet, and, you know, it's pretty hard to
5 mow, but it was dry, it was very dry out. And you could
6 mow, get the hole filled down.
7 Q. Does it give you an extra day of sun light, Dominic?
8 A. Gives you -- if you mow at night you have another day
9 of drying, yes.
10 Q. Did I ever mow hay at your farm?
11 A. I think one time.
12 Q. Now, when you said we made exchange of labor and you
13 said I painted -- how much painting did I do?
14 A. I know we did ten straight evenings, and it was
15 during the winter. I think the house was recessed. We
16 painted every evening. Some of the evenings I went with
17 you to a couple meetings. We'd come back and change and
18 started painting at 11:00 at night, and about 7:00 in the
19 morning, we quit, sleep until noon or so, and then you'd go
20 to the office, and I had farm work to do.
21 Q. How much of the house was painted?
22 A. 1996?
23 Q. How much of the house was -- the interior house was
24 painted?
25 A. The whole house. We painted the whole house. And

1 then --
2 Q. Was there any woodwork done in the house?
3 A. We ran it around the whole downstairs in all the
4 rooms.
5 Q. Did I assist you to do that?
6 A. Yes, you did.
7 Q. Do you have any bent nails in your house?
8 A. Just one.
9 Q. And who put that bent nail there?
10 A. You did.
11 Q. Did you leave it or take it out?
12 A. I left it there.
13 Q. Does it bother you to this day?
14 A. No. It's the only one I have, so --
15 Q. Now, you were asked about George Buccella?
16 A. Yes.
17 Q. Did you deliver to my house a sealed envelope
18 relative to Mr. George Buccella, approximately six to eight
19 weeks ago?
20 A. I delivered a sealed envelope from a Mr. John Wilbow.
21 Q. Did you open it?
22 A. No, I did not.
23 Q. Did you see me open it?
24 A. Yes, I did.
25 Q. Did you get a chance to read it?

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

A. Did I campaign for you?

Q. Yes.

A. Yes, I've campaigned for you.

Q. Did I campaign for your wife?

A. Yes, you did -- yes, you have, over the years.

Q. Did I campaign for you?

A. No. I didn't ask you to.

Q. Now, when they were talking about used barn boards, they asked you a question about used barn boards. You remember that?

A. Yes.

Q. Were those the old rustic skinny boards, or were they old used boards?

A. They were just the way they were, and they were not -- they were not like one by ten's that was ten inches wide the whole way. They'd go from ten inches down to three inches.

Q. How thick were they?

A. At least one inch, inch and an eighth, some thinner.

Q. Did some have nails sticking in them?

A. Yes. You left nails in them I recall that.

Q. Is that how you determined they were used boards?

A. You could tell they were used. They had bent nails in it. I would not have done it like that.

Q. Are you a meticulous builder, Dominic/?

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

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

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

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

(Thereupon, a luncheon recess was had.)

1 Tuesday Session, March 26, 2002, at 1:30 P.M.
2 THE COURT: Sir, you're still under oath.
3 BY MR. TRAFICANT:
4 Q. Dominic, did you take all those pictures out at the
5 farm?
6 A. Yes, I did.
7 Q. Were you asked to take other photographs?
8 A. Yes, I was.
9 Q. What did you do as a result of that?
10 A. I took photographs of two homes and one business.
11 Q. Of whom's?
12 A. Mr. --
13 MR. MORFORD: Objection as to relevance, your
14 Honor.
15 THE COURT: I don't know what they are yet.
16 You may answer.
17 Q. Whose home and businesses did you take pictures of?
18 A. Mr. Sinclair.
19 MR. MORFORD: Your Honor, we've never seen
20 these before, and I would object on relevance anyway.
21 THE COURT: Well, Congressman, as you know,
22 these are the kinds of things --
23 MR. TRAFICANT: Your Honor --
24 THE COURT: As you know, these are the kinds
25 of things we handle out of the presence of the jury, and so

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

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

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

MR. TRAFICANT: I just received these documents now.

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

MR. TRAFICANT: He's on the stand.

THE COURT: Go ahead and ask questions.

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

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

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

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

BY MR. TRAFICANT:

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

A. Yes, we did.

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

1 my staff?
2 A. Yes.
3 Q. We have any business dealings after you were on my
4 staff?
5 A. No.
6 Q. Who did the purchasing?
7 A. You purchased hay, round bales of hay.
8 Q. And how did I pay for that hay?
9 A. By check.
10 Q. And did you maintain records of those?
11 A. Yes, I did. It was the winter of '94 and '95.
12 MR. TRAFICANT: No further questions at this
13 time.
14 THE COURT: Thank you. You can inquire.
15 MR. MORFORD: I have nothing further.
16 THE COURT: All right. You can step down,
17 sir.
18 THE COURT: Congressman, who's your next
19 witness.
20 MR. TRAFICANT: Michael Terlecky.
21 THE COURT: Come right up, sir. Would you
22 raise your right hand?
23 MICHAEL TERLECKY
24 called as a witness on behalf of the Defendant
25 and testified as follows:

1 DIRECT EXAMINATION OF MICHAEL TERLECKY
2 BY MR. TRAFICANT:
3 Q. Would you -- would you state your full name, and
4 spell your last name for the jury?
5 A. Michael S. Terlecky. Spelling of the last name is
6 T-E-R-L-E-C-K-Y.
7 Q. What is your current address?
8 A. 49 -- yeah, 4904 Leffingwell Road,
9 L-E-F-F-I-N-G-W-E-L-L Road, Canfield, Ohio.
10 Q. How long have you lived at this address?
11 A. Seven or eight years.
12 Q. You have immunity, Mr. Terlecky?
13 A. No, sir.
14 Q. Do you know what immunity means?
15 MR. MORFORD: Objection. It's not relevant
16 if he doesn't have it.
17 THE WITNESS: I didn't hear the question.
18 THE COURT: Well, I think I explained this
19 morning --
20 MR. TRAFICANT: Okay.
21 THE COURT: -- that we'll give an instruction
22 on what it is under the law.
23 MR. TRAFICANT: Okay.
24 THE COURT: All right.
25 BY MR. TRAFICANT:

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

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

1 BY MR. TRAFICANT:
2 Q. Who arrested you?
3 A. I know he's the head agent now in Las Vegas.
4 Q. Was he local police?
5 A. He was the local Youngstown FBI, the actual guy that
6 handcuffed me, but there were probably -- at my house that
7 day, there had to be nine or ten agents with shotguns, the
8 whole deal. I was sleeping on the couch; just got out of
9 the hospital. They woke me up.
10 Q. You said you had an accident on 3-21-88?
11 A. Yes, sir. I was attempting to stop a van, and I was
12 shot at. My window was shot at in the van. My cruiser was
13 kind of wedged in between the car and the rock.
14 Q. Were you hospitalized?
15 A. Yes, sir.
16 Q. How long were you in the hospital?
17 MR. MORFORD: Objection, again, your Honor,
18 as to relevants to this case as to what happened to him
19 in --
20 THE COURT: I understand, but you can go
21 ahead and give us an introduction of things. How long were
22 you hospitalized, sir?
23 THE WITNESS: Approximately a week. I don't
24 remember really. I'd say approximately a week, somewhere
25 in that neighborhood.

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

1990.

Q. 19 --

A. 90.

Q. You know approximately what month?

A. Yes. I received a year and a day on a RICO conviction, and I served eight months and 23 days, and then I was released with no probation. That would be on August 23rd of 1990. I went in November 30th of '90 in Morgantown, West Virginia, and I was released the 23rd of August, 1991, and like I said, no probation. I didn't go to the halfway house.

Q. Did you come to learn at some point that your attorney was a former United States Attorney?

A. Yes. He was in partners with the Prosecutor.

MR. MORFORD: I'm sorry.

THE WITNESS: He was a partner with -- he was -- he worked with the Prosecutor that prosecuted me, Mr. Cain.

MR. MORFORD: Your Honor, I object.

THE COURT: Yeah. I don't know where this -- what this has to do with this lawsuit, and so we're going to have to excuse the jury and excuse the witness so we can find out how this is going, connected to this lawsuit. So far there hasn't been any indication that it is. So --

MR. TRAFICANT: I'm trying to establish a

1 foundation, and I think I am --
2 THE COURT: We'll take a break, and you can
3 explain that out of the hearing of the jury.
4 (Proceedings in absence of the jury:)
5 THE COURT: Congressman, so far this witness
6 has not demonstrated anything that connects to this case.
7 And I understand that you feel you're laying a foundation
8 to do that. But we need to know before we continue on with
9 all of this how it's going to be relevant in this case.
10 MR. TRAFICANT: I'm willing to do that, but
11 first, I object on the record that you want to know my
12 witness' testimony before they testify.
13 THE COURT: Well, in some circumstances,
14 that's the only way we can do it without having the jury
15 subjected to testimony that isn't related to the case to
16 then just have to disregard --
17 MR. TRAFICANT: They don't have to disregard
18 it.
19 THE COURT: Congressman --
20 MR. TRAFICANT: What I was getting to, he was
21 represented --
22 THE COURT: Do you want an opportunity to
23 explain where this is going?
24 MR. TRAFICANT: Yes.
25 THE COURT: Thank you.

1 MR. TRAFICANT: I want an opportunity to
2 defend myself in this court, and I'm not getting it, and
3 I'd like to explain it.
4 THE COURT: Talk about this witness who's on
5 the stand, Congressman, so that we can decide how we go
6 forward with this witness.
7 MR. TRAFICANT: This witness is to testify
8 that he was represented by a former U.S. Attorney, then
9 went into business with a mob boss by the name of Lenny
10 Strollo.
11 THE COURT: What does that have to do with
12 this lawsuit?
13 MR. TRAFICANT: And it brings down to his
14 relationship and his arrest and his process through Lenny
15 Strollo and his association with people relative to my
16 case. And I was setting the foundation of that.
17 THE COURT: This is not the Strollo case.
18 MR. TRAFICANT: No. But it does have bearing
19 on some of his testimony relative to the culmination of his
20 involvement in my case, and I don't understand why I can't
21 ask a man who has a criminal record who his attorney was
22 and if he was in business with the mob boss.
23 THE COURT: Well, because we have to see how,
24 whatever this witness has to say, is going to advance this
25 case for the jury on the issues that the jury has to decide

1 as opposed to whatever happened in the Strollo trial or
2 wherever else this man --
3 MR. TRAFICANT: Your Honor, I am not going
4 into the Strollo trial. I was just establishing who his
5 attorney was and what his status was and what he had come
6 to learn after that period of time and how he got involved
7 in this particular case.
8 THE COURT: In this particular case?
9 MR. TRAFICANT: In this case.
10 THE COURT: Okay. And it's that involvement
11 in this case that is not at all apparent.
12 MR. TRAFICANT: I am moving towards that.
13 I'm establishing a foundation.
14 THE COURT: I understand.
15 MR. TRAFICANT: And I know what you're
16 concerned about.
17 THE COURT: I am concerned about -- that my
18 jury is going to sit here this afternoon and listen to a
19 witness who's giving evidence that has nothing to do with
20 what they have to decide.
21 MR. TRAFICANT: I disagree with that, and I
22 object to that.
23 THE COURT: If there is something that they
24 need to know from this witness that relates to what's in
25 front of them in this case, then explain what it is, and

1 we'll go on with it, but right now, we haven't come
2 anywhere near it. We're somewhere else.
3 MR. TRAFICANT: Does this man have a felony
4 conviction?
5 THE COURT: I don't know. I don't know
6 anything.
7 MR. TRAFICANT: Didn't you hear his
8 testimony?
9 THE COURT: Well, yes.
10 MR. TRAFICANT: Well, then, you do know, and
11 I'm establishing a foundation, and I'm moving through that
12 foundation towards my case. Now, I want to know why my
13 witnesses have to be subjected twice without the jury here
14 in front of the press and then brought in and see whether
15 or not they would be allowed to even speak. I object to
16 this.
17 THE COURT: Thank you, Congressman.
18 MR. TRAFICANT: I'm not holding this jury up.
19 You're holding the jury up.
20 THE COURT: Thank you. Just have a seat.
21 We'll listen to the Government.
22 MR. MORFORD: Your Honor, before Congressman
23 -- if Congressman Traficant can put any of this in front of
24 the jury, he has to be able to show there's something
25 relevant here. What we do know is Congressman Traficant,

1 while he was hosting a radio show in Cleveland, had
2 Mr. Terlecky on the radio to talk about his claims of FBI
3 misconduct in his case. That has nothing to do with this
4 case at all.
5 THE COURT: I don't know anything about that,
6 and what he does on the radio has nothing to do with
7 this --
8 MR. MORFORD: What it does is, it gives us a
9 future showing of what he may be trying to do here. He
10 needs to show this Court that there's some relevant basis
11 to bring out the stuff he's talking about.
12 THE COURT: Right.
13 MR. MORFORD: I would also note that the
14 question about Mr. Mandel is entirely misleading. Mr.
15 Mandel was an AUSA back in the early 1960's and has not
16 been, from my understanding, for many years prior to the
17 time of that case, which has nothing to do with this case.
18 THE COURT: Mr. Mandel is not involved in
19 this lawsuit in any way.
20 MR. TRAFICANT: No. I'm building a
21 foundation.
22 THE COURT: It --
23 MR. TRAFICANT: That will be after the trial.
24 THE COURT: Congressman, it's not a proper
25 foundation, and it doesn't lead to anything, which you

1 identified, that could possibly come before this jury in
2 this lawsuit. You can talk about it on the radio show if
3 you want to, but we're in a --
4 MR. TRAFICANT: I am not moving towards
5 prosecutorial misconduct.
6 THE COURT: What are you moving towards?
7 MR. TRAFICANT: Towards my case and my
8 defense.
9 THE COURT: Well, if you are going to keep it
10 that vague and if you're going to continue to elicit
11 testimony like this, which is very confusing to this jury
12 and could easily be misinterpreted by a jury, then you'll
13 have to do it after you've been able to identify what it
14 is, that the connection is between what he can testify to
15 and the issues in this lawsuit. These people have to
16 decide this case.
17 MR. TRAFICANT: They're not deciding it.
18 You're deciding what they will decide.
19 THE COURT: Well, I'm deciding what they will
20 hear.
21 MR. TRAFICANT: And what they will hear.
22 THE COURT: That's for sure.
23 MR. TRAFICANT: Exactly right.
24 THE COURT: That's my job.
25 MR. TRAFICANT: I object to that for the

1 record because the jury is not getting a full
2 opportunity --
3 THE COURT: Anything else you have to talk to
4 this witness about that is connected with this case?
5 MR. TRAFICANT: I want to talk.
6 THE COURT: Talk to me about what it's going
7 to be.
8 MR. TRAFICANT: It's going to move forwards,
9 his understanding and knowledge of Mr. Strollo, the
10 activities of Mr. Strollo and Mr. O'Nesti, a key figure in
11 this case, and those particular issues of understanding
12 that he has relative to my particular case.
13 THE COURT: I will not permit this witness to
14 testify further in this trial if that's all you have to
15 demonstrate how it's connected because it doesn't show any
16 connection to this case.
17 MR. TRAFICANT: I will attempt to show how it
18 does.
19 THE COURT: Well, if you put on some other
20 testimony somewhere that is linked with some other witness
21 that links this up or in some other way, make it so that
22 Mr. Terlecky has something to say to this jury about this
23 case, fine.
24 MR. TRAFICANT: Look, Mr. Terlecky is a valid
25 witness. He's a convicted felon. I brought out his

1 record, brought out his history, and I was moving toward
2 direct examination of a witness that you immediately
3 stopped. Now I'm saying this for the record. Is this why
4 the FBI interviewed Judge Ann Aldrich, and you took my
5 records from Cleveland to understand my style? Really?
6 THE COURT: I have no idea what you're
7 talking about.
8 MR. TRAFICANT: Then why -- why did they say
9 it was unusual that you had my 1983 transcript from the
10 archives in Chicago, your Honor?
11 THE COURT: I don't know how many times we've
12 gone over this, sir.
13 MR. TRAFICANT: Well, you're denying me the
14 right to defend myself.
15 THE COURT: That's your position.
16 MR. TRAFICANT: You're requesting my --
17 THE COURT: Do you have any more witnesses?
18 MR. TRAFICANT: I only have one back there.
19 I am going bring Terlecky back here.
20 THE COURT: That's your only witness today?
21 MR. TRAFICANT: If Mr. Kidwell doesn't get
22 here on time with that machine, that's all I would have,
23 yes, and I want to bring him out and continue with my
24 examination. I have a right to do that.
25 MR. MORFORD: Mr. Traficant just told me a

1 moment ago he had someone named Dominic.
2 MR. TRAFICANT: He is still here. What
3 about --
4 THE COURT: Let's go with Dominic Paolone.
5 Is he somebody who knows something about the issues in this
6 case?
7 MR. TRAFICANT: This man knows issues about
8 this case.
9 THE COURT: Well, you're not going to bring
10 him on until you can establish by -- maybe Dominic Paolone
11 or whoever the next witness is will allow you to
12 establish --
13 MR. TRAFICANT: Why do I have to have someone
14 come in and establish Mr. Dominic Paolone then, your Honor?
15 Did they have to establish any of their witnesses they
16 called?
17 MR. MORFORD: Yes.
18 THE COURT: Do you want to call another
19 witness?
20 MR. TRAFICANT: I want to call Michael
21 Terlecky, and I believe I have a right, and you're limiting
22 my defense.
23 THE COURT: I am not letting you him call him
24 as things are now. If it turns out there's something else
25 that shows in this trial that makes what it is you say

1 he'll testify to relevant, fine.
2 MR. TRAFICANT: I believe it is time that we
3 go over to the hearsay problem we have in this case.
4 Mr. Terlecky will testify that Mr. O'Nesti said he did not
5 make kickbacks to the Congressman at a time when he was not
6 under duress by the Government. And under 804(b)(5), the
7 last paragraph says that when an individual, with
8 circumstances, certain circumstances, can be considered to
9 be truthful, that those statements are admissible.
10 THE COURT: Sir, are you saying that Mr.
11 Terlecky --
12 MR. TRAFICANT: Mr. Terlecky had a
13 conversation with him where he, in fact, told Mr. Terlecky
14 he did not make any kickbacks to Jim Traficant.
15 THE COURT: To whom? He had the conversation
16 with O'Nesti?
17 MR. TRAFICANT: O'Nesti came out and made the
18 statement. He didn't even ask for it.
19 THE COURT: Okay. Well, then, he may be
20 connected in some way.
21 MR. TRAFICANT: He may be connected.
22 THE COURT: Yeah.
23 MR. MORFORD: Well, your Honor --
24 MR. TRAFICANT: Either I cite -- here's what
25 I'm citing, and I think it's time to get it on. You are

1 denying me a defense --
2 THE COURT: I know you say this every day.
3 Let's talk about it.
4 MR. TRAFICANT: Don't take offense, but
5 that's for the record, and it's on there everyday.
6 THE COURT: He has --
7 MR. TRAFICANT: Okay. 804(b)(5) -- let's get
8 to business. They said that Mr. O'Nesti's hearsay should
9 be allowed in because he made a statement against
10 interests. Now, Mr. O'Nesti was near death when they went
11 in and threatened him with their own 302, that if he didn't
12 cooperate, they were going to take him to some Army
13 facility with the guys --
14 THE COURT: That is not evidence in this
15 lawsuit.
16 MR. TRAFICANT: No. But this is the --
17 this -- you have this 302. Now, you should allow me to
18 cross.
19 THE COURT: You got all the 302s.
20 MR. TRAFICANT: Allow me to examine Perkins
21 and Pikunas.
22 THE COURT: The evidence you're talking about
23 was never put forward in this case, the evidence that
24 you're talking about.
25 MR. TRAFICANT: They submitted me a 302 on

1 discovery.

2 THE COURT: That's right.

3 MR. TRAFICANT: They submitted the 302

4 themselves. They used the hearsay exception to get people

5 to come in and make statements.

6 THE COURT: Congressman, we have a whole fist

7 full of hearsay issues we need to decide.

8 MR. TRAFICANT: Yes. I'm saying that

9 804(b)(5) corroborates the truthfulness of O'Nesti's

10 testimony, not the threatened Army hospital situation that

11 the Government put him under two weeks before he died.

12 THE COURT: There is no evidence in this case

13 about that.

14 MR. TRAFICANT: 302 given to me on discovery.

15 Will you allow me to call Pikunas? Hassman took the stand.

16 Will you allow me to call Agent Pikunas?

17 THE COURT: Hold on, hold on.

18 MR. TRAFICANT: I will call Pikunas right

19 now.

20 THE COURT: I'm really not sure what you're

21 talking about. You have a witness you can call right now,

22 but just hold on a minute.

23 MR. MORFORD: Several things, your Honor:

24 First of all, he keeps mixing up different statements. The

25 Government has never offered any of Mr. O'Nesti's

1 statements that were made after the time of his arrest and
2 conviction. The statements that were made -- and we've
3 briefed this -- took place in the period from 1985
4 throughout the time before he left Congressman Traficant's
5 employment.
6 Those other statements we didn't offer because they
7 are hearsay, and all the things he's talking about are
8 totally irrelevant to the facts in this case, Number 1.
9 Number 2, if his purpose of putting Mr. Terlecky on
10 the stand dealt with hearsay, this Court has made it clear
11 he had to raise that prior to putting the witness on the
12 stand. He understands that, and he was going to put this
13 witness on the stand and ask him the question the Court
14 said he cannot do.
15 THE COURT: I understand that.
16 MR. TRAFICANT: I was going to get the Judge
17 or you to object by the nature of my questions.
18 THE COURT: But the problem --
19 MR. TRAFICANT: And I have a right to
20 question my witnesses.
21 THE COURT: Congressman --
22 MR. TRAFICANT: -- and to frame my words.
23 THE COURT: Congressman, the issue that I
24 have around this doesn't have anything to do with the
25 hearsay; has to do with how is this possibly relevant, the

1 testimony that you're eliciting from this particular
2 person. And I --
3 MR. TRAFICANT: I have had it.
4 THE COURT: -- would ask you to link it up,
5 and you're unable to do it, so you can't bring him in.
6 MR. TRAFICANT: No, that's not true. You've
7 had two witnesses of hearsay exception that you granted to
8 them because of Mr. O'Nesti's unavailability.
9 THE COURT: This is a very hard part of
10 representing yourself.
11 MR. TRAFICANT: No, it's not hard at all.
12 THE COURT: You are completely confused.
13 MR. TRAFICANT: I would cite the law. I am
14 not confused one bit, and I want to cite 804, hearsay
15 exceptions, declarant unavailable. Section B, hearsay
16 exception, Number 3, a statement tending to expose the
17 declarant to criminal liability and offer to exculpate the
18 accused is not admissible unless corroborating
19 circumstances clearly indicate the trustworthiness of the
20 statement.
21 Mr. O'Nesti was not under pressure by the Government
22 at the time when he made this statement to Mr. Terlecky.
23 And thus, under that, it should be allowed in.
24 MR. SMITH: And, your Honor, we briefed this
25 in the brief we gave you Monday. The circumstantial

1 guarantees of trustworthiness in this situation, would you
2 expect it would be natural for someone in Mr. O'Nesti's
3 position to say I didn't bribe my boss, or I didn't give
4 kickbacks to my boss? Circumstantial guarantees of
5 trustworthiness exist when the person says something that
6 you wouldn't expect him to say. That's what makes it ring
7 true.
8 It's -- and so when Mr. O'Nesti tells an ally of the
9 Congressman, well, I never kicked back to the Congressman,
10 that's exactly what you'd expect him to say. It's
11 self-serving. It doesn't self-inculpate Mr. O'Nesti in any
12 way, and it is the type of statement, an exculpatory
13 statement, you would expect to be made. If it's only -- it
14 only has circumstantial guarantees of trustworthiness, the
15 situation we had, where Mr. O'Nesti is telling co-workers
16 that he did something wrong with the Congressman.
17 In other words, you wouldn't expect him to say
18 something like that unless it were true. The situation is
19 completely reversed.
20 THE COURT: We've been through this so many
21 times.
22 MR. TRAFICANT: They cited 804(a)(3) as a
23 matter of hearsay exception.
24 THE COURT: Right.
25 MR. TRAFICANT: You allowed their hearsay in.

1 I am saying that --
2 THE COURT: Because they met the conditions
3 of the rule.
4 MR. TRAFICANT: Mr. O'Nesti was under
5 complete duress, and you don't know if those statements are
6 true or not. He didn't even get along with those two women
7 for crying out loud, and you know it, and you're keeping my
8 defense out, and I'm objecting to it.
9 THE COURT: Okay. Well, you call your other
10 witness, please.
11 MR. TRAFICANT: No. I want a hearing on
12 hearsay. I'll call my other --
13 THE COURT: No, you will not. We have a jury
14 here.
15 MR. TRAFICANT: I will, but I want a hearing
16 on hearsay relative to --
17 THE COURT: We don't need any more hearings.
18 I'll give you more rulings. We've been over this. We did
19 hearsay issues before this trial. We did it all through
20 this trial, and I will give you a final ruling on it. That
21 will probably settle the dust for you.
22 But any way, what I want you to do now, because we
23 have a jury here, is call your next witness.
24 MR. MORFORD: Your Honor, before he does
25 that, there are some issues. If this is the same Dominic

1 Paolone that I believe it is, and I'm not positive, but I
2 want to bring this to the court's attention before I would
3 ask any of these questions, to make sure it's proper.
4 There is a --
5 MR. TRAFICANT: I object to this. Now you're
6 talking about my witnesses I'm calling before they're on
7 the stand. You have a right to cross-examine.
8 THE COURT: You know what? This is what
9 lawyers do everyday, day in and day out across courtrooms
10 in America. They talk to one another and try to work out
11 problems in advance so that they can have a jury sitting in
12 the box.
13 MR. TRAFICANT: He never talked to me about
14 it.
15 THE COURT: No. You just told him who you're
16 calling.
17 MR. TRAFICANT: I told him that some ten
18 minutes ago.
19 THE COURT: Well, whatever, ten minutes ago.
20 MR. TRAFICANT: I said he would be the next
21 witness after Mr. Terlecky.
22 THE COURT: Okay. Now it's time for that
23 next witness, and so he can say what he needs to say, and
24 you can respond, and we'll hear from the witness.
25 MR. MORFORD: What I need to say is, there is

1 a Dominic Paolone who, as I understand it, has ten arrests,
2 numerous convictions. One of them is a possession with
3 intent to distribute cocaine, for which he was -- has
4 served a sentence, and his sentence ended April 16, 1993.
5 That's a felony conviction that would be admissible
6 under Rule 609. In addition to that, there was an arrest
7 for conspiracy to distribute cocaine prior to that in 1990,
8 in which he was sentenced to three years in prison, five
9 years supervised release, and prior to that, there was an
10 arrest in 1978 on homicide and attempted murder for which
11 he received a sentence of 15 years.
12 If this is that same person, then these are matters
13 that I want to ask him about, and although two of those
14 convictions are beyond the ten years, I would ask that I be
15 allowed to ask him about those because they followed one
16 after the other after the other, which shows a pattern of
17 criminal conduct, which goes to his credibility, if this is
18 the same person.
19 MR. TRAFICANT: Your Honor, you're making
20 these guys -- letting them make press statements. I plan
21 to ask him those questions myself, and I object to what
22 you're attempting to do, and you're not dealing with a wimp
23 attorney who's afraid of you, and I object to what you're
24 doing, and you're limiting my defense.
25 MR. MORFORD: Your Honor, I would ask you --

1 ask Mr. Traficant to address the Court and quit bending
2 over, coming over to me saying this stuff to me.
3 THE COURT: Congressman, when --
4 MR. TRAFICANT: I'm going to go get my
5 witness.
6 THE COURT: When you bring these things up or
7 he brings them up, we now are all aware that this could
8 come up in this trial.
9 MR. TRAFICANT: No. You are aware -- you are
10 aware because he told you what my testimony was to be.
11 This guy, he has intimidated every attorney in this case,
12 I'm not an attorney, and I've had it.
13 THE COURT: Are you --
14 MR. TRAFICANT: I have had it.
15 MR. MORFORD: I ask that he quit yelling at
16 me and pointing at me.
17 MR. TRAFICANT: I would ask you to ask them
18 to constrain themselves.
19 THE COURT: Would you call your witness,
20 please?
21 MR. TRAFICANT: Absolutely.
22 THE COURT: Thank you.
23 MR. TRAFICANT: No need to get upset about
24 this.
25 MR. MORFORD: Your Honor, before we go to the

1 next witness, I would ask that the Court strike any
2 testimony of Mr. Terlecky and instruct the jury to
3 disregard it being --
4 MR. TRAFICANT: I object.
5 THE COURT: Oops, wait a minute. I couldn't
6 hear the end of it. Congressman, don't talk over other
7 people.
8 MR. MORFORD: And ask the jury to disregard
9 it being there's nothing relevant that he said.
10 MR. TRAFICANT: I object.
11 THE COURT: Sir, come on up. All the way
12 around behind here and up here. Would you raise your right
13 hand?
14 DOMINIC PAOLONE
15 of lawful age, a witness called by the Defendant,
16 being first duly sworn, was examined
17 and testified as follows:
18 DIRECT EXAMINATION OF DOMINIC PAOLONE
19 THE COURT: Rest there for a minute. Don't
20 bring in the jury yet because I have another request. I
21 think the best time to deal with that is after we get
22 through getting the witness rather than on the heels of
23 evidence. Okay?
24 MR. TRAFICANT: I didn't hear the Judge.
25 THE COURT: There's a request to strike

1 testimony of the preceding witness. I'm not going to deal
2 with it now. I want you to go forward with this witness so
3 we'll get some testimony before the jury, and then I'll let
4 you respond to their motion to strike. The reason is
5 because we have people sitting back there who can hear a
6 witness who's on the stand, and we'll let you address that
7 issue after the witness is off the stand.
8 MR. TRAFICANT: You haven't allowed me to
9 address any issue. I'm ready for the jury.
10 THE COURT: We can bring out the jury.
11 This witness has been sworn, ladies and
12 gentlemen.
13 (Proceedings resumed in the presence of the jury:)
14 MR. TRAFICANT: Has the witness been sworn
15 in, your Honor?
16 THE COURT: Yes.
17 BY MR. TRAFICANT:
18 Q. Good afternoon, Dominic.
19 Would you please state your name, and spell your last
20 name for the jury?
21 A. Dominic Paolone, Junior, last name P-A-O-L-O-N-E.
22 Q. Where do you live?
23 A. 173 East Loughton Boulevard, Youngstown, Ohio.
24 Q. What is your employment?
25 A. Self-employed jeweller.

1 THE COURT: You have to speak up a little.
2 People couldn't hear you. Your a self-employed jeweller.
3 Q. And what -- is where is your business located?
4 A. In downtown Youngstown.
5 Q. Do you have immunity?
6 A. No.
7 Q. Do you remember the first time you were arrested?
8 A. Yes.
9 Q. What was it for?
10 A. Attempted murder.
11 Q. When was that?
12 A. October 1978.
13 Q. Were you convicted?
14 A. Yes, I was.
15 Q. By a jury trial?
16 A. By a jury trial.
17 Q. Did you have any further arrests and indictments?
18 A. After that?
19 Q. Yes.
20 A. 1989.
21 Q. And what was that for?
22 A. Conspiracy to possess with intent to distribute
23 cocaine.
24 Q. Did you have a jury trial?
25 A. No, I didn't.

1 Q. Did you plea bargain?
2 A. Yes, I did.
3 Q. What was the extent of that plea bargain?
4 A. 36 month sentence.
5 Q. What did you plead to?
6 A. Conspiracy to possess with intent to distribute
7 cocaine. I don't remember the amount.
8 Q. Now, did you have an arrest before 1978, to the best
9 of your knowledge?
10 A. May have been misdemeanors. I really can't remember.
11 It may have been a few incidents, nothing that I can recall
12 that was --
13 Q. In your first trial, did you mount a defense?
14 A. Yes, I did.
15 Q. And what was that defense?
16 A. Self-defense.
17 Q. Was the original charge a murder charge?
18 A. Yes, it was.
19 Q. And what was your conviction for it?
20 A. Attempted murder in the second degree.
21 Q. Have you served years in prison?
22 A. Yes, I have.
23 Q. How many years in prison have you served?
24 A. On the 1978 sentence, I served six years.
25 Q. Where did you serve those?

1 A. Florida State Prison.
2 Q. After your last arrest in 1989, how many years did
3 you serve?
4 A. 31 months.
5 Q. Were you released early? Yes or no.
6 A. No, not really.
7 Q. Did there come a time you contacted my office?
8 A. Yes, I did.
9 Q. What, if anything, happened?
10 A. Nothing.
11 Q. Did you have a conversation with anybody about that?
12 A. My father.
13 Q. What, if anything, did your father do?
14 A. My father called you.
15 Q. As a result of your father calling me, what happened?
16 A. I got moved to a halfway house.
17 Q. What halfway house was it?
18 A. CCA in Youngstown, Ohio.
19 Q. Where is that located?
20 A. I believe it's Marcus Street in Delason.
21 Q. Delason?
22 A. Market and Delason.
23 Q. D-E-L-A-S-O-N?
24 A. I believe so.
25 Q. There's some water there if you want some.

1 A. Okay.
2 Q. While you were at CCA, did you meet a man by the name
3 of Anthony Bucci?
4 A. Yes, I did.
5 Q. Did you get to know Anthony Bucci?
6 A. Yes, I did.
7 Q. How did you get to know Anthony Bucci?
8 A. He bunked with me.
9 Q. By bunking with you, how many are in a room?
10 A. At that time, we -- we bunked upstairs. There was
11 only a couple in the room. He bunked right next to me.
12 Q. Did you have conversations with Mr. Bucci?
13 A. Yes, I did.
14 Q. Was he doing anything or behaving in any form,
15 unordinary?
16 A. Seemed very upset.
17 Q. Do you have personal knowledge what he was upset
18 about?
19 A. Yes, I do.
20 Q. What was he upset about?
21 A. He couldn't get no privileges.
22 Q. Was he upset about anything else?
23 A. Yes, he --
24 MR. MORFORD: Your Honor, I object if this is
25 in any way based on what he was told, based upon things

1 that he knows through firsthand knowledge.
2 Q. Do you have firsthand knowledge that his behavior
3 dealt with anything else other than just getting
4 privileges?
5 A. Yeah.
6 Q. What was it?
7 A. He was mad because your office would not do anything
8 for him.
9 MR. MORFORD: Objection as to how he knows
10 that unless it was something he was told.
11 THE COURT: What they're trying to do is to
12 limit your answers to things that you know yourself, rather
13 than what somebody told you. So if you know that only
14 because he told you or someone else told you, then you
15 can't testify.
16 Q. Dominic, did you hear Mr. Bucci make telephone calls
17 personally with your own ears?
18 A. Yes, I did.
19 Q. Whom did he call?
20 MR. MORFORD: Objection. That's still
21 hearsay.
22 THE COURT: Yeah, it's still hearsay.
23 BY MR. TRAFICANT:
24 Q. Did Mr. Bucci ask you for any advice?
25 A. Yes, he did.

1 Q. What, if any, advice did you give him?
2 A. I told him to have a family member contact your
3 office to try and help him.
4 Q. Why did you tell him to have a family member call my
5 office?
6 A. Because that's what I had to do.
7 Q. Now, before you got into the halfway house, did you
8 attempt to get in on your own?
9 A. Yes, I did.
10 Q. Did you get in?
11 A. No, I didn't.
12 Q. After your father called, did you get in?
13 A. Yes, I did.
14 Q. Do you personally know if Mr. Bucci called someone in
15 his family?
16 MR. MORFORD: Objection. How would he know
17 that other than hearsay, your Honor?
18 THE COURT: If he personally knows other than
19 from listening to him.
20 Q. Do you have personal knowledge?
21 A. I -- I heard the call.
22 Q. Did you hear him call somebody on the phone?
23 A. Yes.
24 Q. Were you standing next to him?
25 MR. MORFORD: Objection. This is all

1 hearsay.

2 THE COURT: It is hearsay, Congressman, but

3 you -- if you rephrase these questions, you could probably

4 get around the hearsay.

5 Q. You were standing next to Mr. Bucci?

6 A. Yes, I was.

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

8 A. He made a phone call.

9 Q. To whom did he make a phone call?

10 A. His brother, Dan.

11 MR. MORFORD: Objection. This is hearsay

12 again.

13 MR. TRAFICANT: Your Honor, he said he heard

14 him make the call.

15 THE COURT: Yeah, I know. Congressman, you

16 have to -- hearsay is not --

17 MR. TRAFICANT: How is hearsay someone's

18 personal knowledge, your Honor?

19 THE COURT: Well, there's no problem with the

20 questions up to that one.

21 MR. TRAFICANT: Okay.

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

23 A. We bunked together; we overslept.

24 Q. When he made that call, how close were you standing

25 to him?

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

1 restored?
2 A. Yes.
3 Q. Was he treated any differently than you were treated?
4 A. No.
5 Q. Did you associate with Mr. Bucci after you left?
6 A. No, I didn't.
7 Q. Did you trust Mr. Bucci?
8 A. No, I didn't.
9 Q. After his first call, he had no help; is that
10 correct?
11 A. Right.
12 Q. And after his second call, his privileges were
13 restored?
14 A. Yes.
15 Q. Is that your testimony?
16 A. Yes, it is.
17 Q. Did you advise him of how to go about effecting a
18 contact with my office?
19 A. Yes, I did.
20 Q. And what, if anything, did you tell him?
21 A. I told him to have a family member contact your
22 office.
23 Q. Now, before you gave him that advice, did he get his
24 privileges restored?
25 A. Before I gave him that --

1 Q. Yeah?
2 A. No.
3 Q. After you gave him that advice, did his privileges
4 get restored?
5 A. Yes.
6 Q. Are you worried about being up here in front of all
7 these people?
8 A. No.
9 Q. Was 1989 your last arrest?
10 A. Yes, it was.
11 Q. Do you have any liens or legal problems or litigation
12 facing you?
13 A. Not that I really know of. I have -- I have property
14 that I have a problem with.
15 Q. Do you have any criminal problems, or have you had
16 any criminal problems since 1989?
17 A. No, I haven't.
18 Q. Do you still report to a parole officer?
19 A. No.
20 Q. For how many years after you were released from the
21 halfway house did you have to report to an officer?
22 MR. MORFORD: Objection as to relevance.
23 THE COURT: You can answer. You can answer.
24 THE WITNESS: I had five years supervised
25 release.

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

1 hugging some people.
2 Q. Do people come up to me to be hugged?
3 A. Yeah, I've seen it.
4 Q. You own your own home now?
5 A. No, I don't.
6 Q. Married?
7 A. No, divorced.
8 Q. You're starting to put your life back together,
9 Dominic?
10 A. Yes, I am, trying.
11 MR. TRAFICANT: No more questions at this
12 time.
13 THE COURT: Thank you.
14 CROSS-EXAMINATION OF DOMINIC PAOLONE
15 BY MR. MORFORD:
16 Q. Sir, you testified that you contacted Congressman
17 Traficant after you read some things in the paper that Tony
18 Bucci said that were not truthful being correct?
19 A. That's correct.
20 Q. You weren't here in the courtroom, were you?
21 A. No. First time I been here.
22 Q. You didn't hear Tony Bucci's full testimony, did you,
23 sir?
24 A. No. First time I've been in the courtroom.
25 Q. And so if there were things he said in this courtroom

1 that didn't make the paper, you wouldn't know anything
2 about that, would you?
3 A. No, probably not.
4 Q. When you brought this to Congressman Traficant's
5 attention, did he tell you that Tony Bucci had testified
6 here in this courtroom that he had his brother contact
7 Congressman Traficant's office when he had the problem at
8 the halfway house?
9 A. I didn't quite understand that question.
10 Q. When you brought this to the attention of the
11 Congressman Traficant, did he say, well, in this very
12 courtroom, Tony Bucci testified that he had his brother
13 contact my office when he got in with a problem with the
14 halfway house, did he tell you that?
15 A. I don't remember.
16 Q. Well, if, in fact, that happened, that wouldn't be
17 inconsistent then, would it, sir?
18 A. I'm not sure.
19 Q. Let me show you an exhibit, if I could. This is
20 Government's Exhibit 2-30, which is a joint exhibit.
21 MR. TRAFICANT: May I --
22 MR. MORFORD: You have it, Congressman.
23 Q. It's a facsimile dated March 22, 1993, facsimile on
24 the letterhead of Congress of the United States,
25 Congressman James A. Traficant, Junior, to Robert Bucci,

1 for Anthony from Jackie Bobby. Take a look at this if you
2 would. You see that?
3 A. Um-hum.
4 Q. On the other side of it is a letter, and it's a
5 letter from Congressman Traficant to Rick Billak. Do you
6 know who Rick Billak is?
7 A. Yes, I do.
8 Q. He's the head of the CCA, correct?
9 A. That's correct.
10 Q. And it says from Congressman Traficant, Dear Rick,
11 pursuant to our conversation today, thank you for the
12 information and your willingness to mitigate the problem.
13 This is the very problem that you were testifying about
14 that Tony Bucci had in the halfway house, correct?
15 A. Yeah. He was trying to get -- he was trying to call
16 himself, and they directed him to his family member had to
17 call.
18 Q. Right. And so when you told Congressman Traficant
19 this, and he had you come up here and testify that Tony
20 Bucci lied, did he bother to show you this exhibit, sir?
21 A. No.
22 Q. To show it was admitted into court that Robert Bucci
23 was the one that contacted him on behalf of Anthony?
24 A. No.
25 MR. MORFORD: I have no further questions.

1 REDIRECT EXAMINATION OF DOMINIC PAOLONE

2 BY MR. TRAFICANT:

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

4 week?

5 A. During the week?

6 Q. When the House isn't scheduled?

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

8 Q. When I was in Congress during the week and the House

9 was wasn't scheduled, was I back in the district?

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

11 lot.

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

13 help?

14 A. When he made the call?

15 Q. Yes.

16 MR. MORFORD: Objection. This is beyond the

17 scope of cross and repetition of direct.

18 THE COURT: We've already been through this,

19 Congressman.

20 Q. Now, when he showed you this document, isn't it a

21 fact that there were several communications involved in the

22 process?

23 A. Yes.

24 Q. And you are were -- and you did advise him what to

25 do, did you not?

1 THE COURT: Don't tell him what to say; ask
2 him questions. You'll have -- the testimony comes from
3 this gentleman.
4 Q. After you talked with him with --
5 A. I told him what I experienced and what I was told and
6 how to go about getting things done.
7 Q. And after you did that?
8 A. I took it that he took my advice and did it because
9 after that, he got his privileges.
10 Q. Now, you talked about your own case. How many times
11 did you try and make contact on yourself?
12 MR. MORFORD: Objection. This is again
13 beyond the scope of cross-examination.
14 THE COURT: It's not relevant. His case is
15 not relevant to this trial.
16 MR. TRAFICANT: No further questions.
17 THE COURT: Thank you.
18 MR. MORFORD: No further questions.
19 THE COURT: Sir, thank you very much.
20 MR. TRAFICANT: Your Honor, I have another
21 witness. You excused two of my witnesses, and --
22 THE COURT: Well --
23 MR. TRAFICANT: I have no witnesses.
24 THE COURT: What about -- what about the
25 welder, do you know what the status is --

1 MR. TRAFICANT: I have to find out the status
2 of that. It's on the way up. That's all I heard.
3 THE COURT: That was yesterday as well, and
4 it started up again today.
5 MR. TRAFICANT: Yes. And we have not had
6 contact. I don't know what has happened.
7 THE COURT: Okay.
8 MR. TRAFICANT: But that welder will be here,
9 and it may well be here. And I would like to check.
10 THE COURT: Okay. Why don't we take a break,
11 and you check? This will be a break long enough for you to
12 check. This is not like an afternoon break.
13 MR. TRAFICANT: How many minutes?
14 THE COURT: Ten.
15 (Thereupon a recess was taken.)
16 (Proceedings out of the presence of the jury:)
17 MR. TRAFICANT: It is Good Friday on Friday,
18 your Honor. I would make a brief motion that Friday is
19 known as Good Friday to Christians, and that we do not have
20 Court on this Friday.
21 THE COURT: Please respond. Do you want to
22 make any response to that?
23 MR. MORFORD: We wouldn't have objection, and
24 to meet only for three hours and some of these jurors are
25 driving a long way, I think it is a holiday for more than

1 just Christians.
2 MR. TRAFICANT: For many.
3 THE COURT: Friday is a religious holiday.
4 So that's a good suggestion. If you both agree to that,
5 then that's for us to arrange.
6 Let me go onto a few other matters here.
7 I haven't heard your response to the issue of the
8 truck and the --
9 MR. TRAFICANT: I have no knowledge of where
10 it is or what has happened, but there is a welder coming,
11 and you are going to get it.
12 THE COURT: There is a welder coming, but we
13 don't know when.
14 MR. TRAFICANT: No.
15 THE COURT: Then this would be a good time
16 for us to bring in Mr. Terlecky and go through your
17 questions of the him, that you would ask him but which you
18 feel the hearsay -- your hearsay exceptions are for or --
19 MR. TRAFICANT: If he hasn't left I'd be
20 willing to get him.
21 THE COURT: Let's see if you can find him,
22 bring him down, and we will do that voir dire.
23 MR. TRAFICANT: I want to bring back Mr.
24 Marchese on the matter of photographs.
25 We can go through the photograph issue, but

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

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

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

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

THE COURT: Yes, yes.

MR. TRAFICANT: Fine.

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

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

1 important and honored way of ensuring that the jury can
2 determine if the statement is reliable or trustworthy, and
3 that's where all of this comes from.
4 When a witness testifies to what someone said outside
5 the courtroom, the person who made the out-of-court
6 statement is not under oath. The jury can't observe them.
7 They can't observe their demeanor as they make the
8 statement or are being cross-examined to test what it is
9 that they said.
10 And this affects reliability and trustworthiness, but
11 there are exceptions, and I think that's what-- that's the
12 area that you are asking the Court to focus on in regard to
13 something which you want to admit here.
14 These exceptions are recognized in the law in which
15 an out-of-court statement of a person may be admitted into
16 evidence because the law recognizes that the circumstances
17 surrounding the making of a particular statement
18 demonstrate that it is more likely to be reliable.
19 But still before a hearsay statement could be
20 admitted into evidence under this kind of exception, the
21 person who is asking that be admitted, whether it is a
22 lawyer or the Defendant, has to demonstrate to the Court
23 that the circumstances under which the statement was made
24 meet the requirements of the exception.
25 And this is exactly the kind of legal question that

1 we do not burden a jury with because it is my province to
2 do that, not the jury's province to do that, and so we
3 always do this at jury breaks or lunch or after they leave
4 for the day.
5 Now, as I repeatedly explained, unavailability is not
6 itself an exception to the hearsay rule, and I think you
7 now understand that and are proceeding under another part
8 of the rule, although I'm not sure which one but where
9 unavailability is a prerequisite to certain exceptions of
10 the hearsay rule.
11 So I don't know if you are offering these statements
12 by this witness under Rule 803 or Rule 804 or which
13 provision of it, but I need to know that before you start
14 asking questions.
15 MR. TRAFICANT: I have to set the foundation,
16 since you have the witness here --
17 And he is under oath.
18 MR. TRAFICANT: -- I would like to state for
19 the record I received on discovery a 302 signed by Mr.
20 Pikunas. Now, yesterday, I had a witness who had
21 personally seen this document, received it from Mr.
22 O'Nesti, and you did not allow this witness to confirm it.
23 Ms. Sandy Ferrante, you have a motion before you
24 where Mr. Morford, United States Attorney, does not contend
25 or alleged in any filing to the Court that Mr. O'Nesti is a

1 member of the Pittsburgh LCN or any other crime family.
2 THE COURT: This had to do with another
3 witness.
4 MR. TRAFICANT: That was Ms. Ferrante who put
5 on her glasses and had a copy given to her and failed to
6 let me have her identify it.
7 THE COURT: I think she was allowed to say--
8 MR. TRAFICANT: No, she wasn't.
9 THE COURT: You can read the transcript. She
10 was not allowed to read from it.
11 MR. TRAFICANT: You said to handle it later.
12 THE COURT: She is not here today,
13 Congressman. Let's move on.
14 MR. TRAFICANT: You didn't allow me to go
15 forward with photographs that were taken--
16 THE COURT: Not by this witness. This is
17 your chance to give us the hearsay exception.
18 MR. TRAFICANT: And I am going to do that,
19 and here is my argument. You either allow me to examine
20 under cross Mr. Pikunas, or you allow my witnesses to
21 testify under the following.
22 THE COURT: I don't know what kind of a
23 bargain -- excuse me -- I don't know what kind of bargain
24 you are setting up here, but the reason we are here is
25 because you brought a witness on the stand today. You want

1 to introduce something -- I don't know what -- and we would
2 like you to lay the foundation for it being an exception to
3 the hearsay rules and go ahead and have him testify.
4 MR. TRAFICANT: I am setting the foundation.
5 I am going to cite the law if you'd allow me.
6 THE COURT: Yeah.
7 MR. TRAFICANT: The bottom line is that Mr.
8 O'Nesti, you've allowed in hearsay on Mr. O'Nesti because
9 you said he made a statement against interest. Mr. O'Nesti
10 clearly eleven days before he died, Mr. Pikunas in his --
11 in a 302 states loudly in a room so Chuck could hear him,
12 didn't want the U. S. Attorneys to hear him because they
13 might send him to a military facility, they try to get him
14 to sign an affidavit. He wouldn't sign the affidavit.
15 You've allowed them to testify.
16 THE COURT: None of that has been allowed in
17 this case, Congressman.
18 MR. TRAFICANT: No. You've allowed hearsay
19 exceptions for the Government on O'Nesti.
20 THE COURT: Right. But not the ones you are
21 talking about, and by the way, you said it so many times
22 out there in the press but never said in front of this jury
23 because it has not been offered in front of this jury,
24 because it is hearsay, and there is no exception for it,
25 sir.

1 MR. TRAFICANT: Let me offer my evidence in
2 hearsay. I cite the fact that Mr. O'Nesti was not-- he was
3 under pressure. He wasn't under any statement against
4 interest. Mr. O'Nesti didn't want to be separated from his
5 family the last two weeks of his life.
6 THE COURT: You are talking about a different
7 statement.
8 MR. TRAFICANT: This witness.
9 THE COURT: Okay.
10 MR. TRAFICANT: I am citing 804(b)(5) where
11 it says unless corroborating circumstances clearly indicate
12 the trustworthiness of the statement. Mr. O'Nesti was under
13 no pressure at the time. Mr. O'Nesti--
14 THE COURT: What time?
15 MR. TRAFICANT: At the time he was with my
16 witness.
17 THE COURT: Which was what time?
18 MR. TRAFICANT: I was going to ask the
19 witness.
20 THE COURT: Good.
21 MR. TRAFICANT: When was it?
22 THE WITNESS: It would have been late summer.
23 I think he passed away in Ohio it was summer time.
24 MR. TRAFICANT: And where was it.
25 THE COURT: Which year?

1 THE WITNESS: 2000, last year.

2 MR. TRAFICANT: Was it the year before he

3 died the best you remember?

4 THE WITNESS: Same year. The November of the

5 year he died.

6 MR. TRAFICANT: That's beside the point. The

7 point is was he sick when you saw him?

8 THE WITNESS: He appeared real sick.

9 MR. TRAFICANT: Did you have to get close to

10 hear him?

11 THE WITNESS: At first I did, yeah.

12 MR. TRAFICANT: Yeah. And --

13 THE COURT: Sir, this was in August?

14 THE WITNESS: I'd say August, your Honor, but

15 I couldn't swear to it.

16 THE COURT: Can you tell me what year?

17 THE WITNESS: What I heard?

18 THE COURT: No, which year.

19 THE WITNESS: August--

20 THE COURT: August --

21 THE WITNESS: Oh, oh, I'm sorry.

22 2000, 2001.

23 MR. TRAFICANT: Was it the year-- shortly

24 before he died?

25 THE WITNESS: Yes, the summer of 2000. I'm

1 confused. I am thinking this is 2000.

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

3 MR. TRAFICANT: And you saw him the summer

4 before he died?

5 THE WITNESS: Yes. It was the summer time.

6 I know that. It was the end of the summer, I know that.

7 THE COURT: Of the summer of -- you state the

8 year, not the Congressman.

9 THE WITNESS: That was the year.

10 THE COURT: Which was the year.

11 THE WITNESS: It was 2000. It would have to

12 be 2000, right?

13 MR. MORFORD: He died February 29th.

14 MR. TRAFICANT: Would you let me voir dire my

15 witness?

16 THE COURT: Uh-huh.

17 MR. TRAFICANT: Did you see him in a sickly

18 condition within months, five, six months of his death?

19 THE WITNESS: Yes. Yes, I did.

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

21 THE WITNESS: No.

22 MR. TRAFICANT: Where did you see him?

23 THE WITNESS: Beaver Township, North Lima at

24 a Speedway gas station in a pickup truck.

25 MR. TRAFICANT: And did you say hello?

1 THE WITNESS: I didn't even recognize him
2 until he yelled my name. Then I walked over to the truck.
3 MR. TRAFICANT: Did he stay in the truck or
4 get out of the truck?
5 THE WITNESS: He got out of the truck.
6 MR. TRAFICANT: What, if anything, did the
7 two of you do?
8 THE WITNESS: Well, he had a picture-- I
9 pulled up to the curb. He pulled up next to me in a curb.
10 I was coming out of the Speedway gas station. He was
11 sitting in the passenger side.
12 He said, hey, Beef. Like I said, I looked, and he
13 was so skin skinny and didn't know who he was until I
14 walked up to the truck. He got out to say hi and started
15 talking about himself. I felt bad for him. There was a
16 newspaper box or picture like you can see in front of the
17 vehicles. He walked towards the paper-- do you want me to
18 tell you exactly what happened?
19 THE COURT: Yeah.
20 THE WITNESS: He looked at me. We made a few
21 remarks, and there was a picture of you in the front page.
22 He made a statement, who they intimating now, and went up
23 and bought a newspaper; took out a paper and walked back.
24 He started to explain to me -- exact words I don't remember
25 -- I just remember him saying he did not kickback nothing

1 to Jim Traficant.

2 He went on to say you borrowed money off him, but he

3 did say you paid him back and made a statement you were

4 kind of slow on doing it, but you did pay him back. I

5 tried to change the subject to be honest with you because

6 it caught me off guard, and there were tears in his eyes.

7 You have to realize our relationship. He always

8 tried to explain things. Why, I don't know. Probably

9 because of my father. He was a fire chief in Youngstown,

10 and my dad was a Youngstown policeman. Even when the

11 Congressman was running for congressman , I didn't support

12 him and supported the opposition. All my friends did, too.

13 Naturally, Mr. O'Nesti was with him. And that was

14 probably-- I was probably one of the few people he'd talk

15 to me and tried to explain things to me, like he owed it to

16 me.

17 MR. TRAFICANT: Were you close with Chuck

18 O'Nesti?

19 THE WITNESS: You know, I don't -- at the

20 time, people -- yes, I was.

21 Q. Did you?

22 MR. TRAFICANT: Did you ask him for

23 information or did he offer it.

24 THE WITNESS: No. I tried to change the

25 subject. He told me to look at him -- every time he

1 started talking, I asked him how are you feeling? I tried
2 to change the subject every single time. He insisted to
3 explain to me that you did nothing wrong. He insisted. I
4 kept trying-- I could care less.
5 MR. TRAFICANT: Beef, did you come to me, or
6 did I call you about this?
7 THE WITNESS: You never asked me-- you never
8 asked me. I told you. We were having a conversation about
9 something else when I brought it up.
10 MR. TRAFICANT: Yes. Did you tell me that
11 you feared some agency?
12 THE WITNESS: Yes.
13 MR. TRAFICANT: What agency do you fear?
14 THE WITNESS: Not that I am guilty of
15 nothing, but I feared the Internal Revenue because of what
16 they did to me.
17 MR. TRAFICANT: Do you fear being up here and
18 testifying?
19 THE WITNESS: I -- yes, yes. I feel -- if
20 there isn't, there will be a target on my back, I'm sure.
21 MR. TRAFICANT: Did you know Lenny Strollo?
22 THE WITNESS: Yes.
23 MR. TRAFICANT: Have you contacted me
24 regarding your case?
25 THE WITNESS: Yes.

1 MR. TRAFICANT: What, if anything, have you
2 asked me to do?
3 THE WITNESS: I asked your help in a
4 presidential pardon.
5 MR. TRAFICANT: How long ago was that?
6 THE WITNESS: I think this June would be
7 three years, and that was under President Clinton and still
8 pending. In other words, I talked to the pardon attorney,
9 and he was kind of confused himself. He said it was not
10 turned down. It was not granted but not turned down.
11 MR. TRAFICANT: Now, let me ask you this:
12 Isn't it a fact that Mr. Strollo said on the stand he did
13 not give you the $5,000 after you had plea bargained?
14 THE COURT: This is a totally different case.
15 THE WITNESS: It probably is relevant, your
16 Honor -- well, I don't know.
17 MR. TRAFICANT: Did you ever see Mr. Strollo
18 and Mr. O'Nesti together?
19 THE WITNESS: Yes.
20 MR. TRAFICANT: What, if anything, did you
21 learn from Mr. O'Nesti meeting with Mr. Strollo?
22 THE WITNESS: He didn't want you to know
23 about it.
24 MR. TRAFICANT: He didn't want who to know
25 about it?

1 THE WITNESS: You, Congressman. He didn't
2 want you to know that he was at the Stardust Motel every
3 time I was there, and he was about leaving -- I won't swear
4 every time, probably every time I was there -- he was
5 leaving or in the vicinity and made me promise not to say
6 that he was there, and there was something else.
7 MR. TRAFICANT: Did he have a reputation for
8 being a mobster?
9 THE COURT: Who are we talking about?
10 MR. TRAFICANT: Mr. O'Nesti.
11 THE WITNESS: There were accusations later.
12 MR. TRAFICANT: Was he your friend?
13 THE WITNESS: We didn't go out eating and
14 drinking together, but, yes, he was my friend. But he
15 wasn't -- he wasn't a relative or anything like that. I
16 mean, it was kind of like out of respect, I guess, for
17 somebody older than me and somebody that always held a high
18 office in Youngstown. We had our differences, I mean.
19 MR. TRAFICANT: Was his statement to you
20 about the kickbacks unsolicited?
21 THE WITNESS: Yes, absolutely, absolutely. I
22 didn't even -- at the beginning, I didn't even know what he
23 was talking about until he tried to explain it to me. I
24 tried to change the subject; talking about his health, how
25 are you doing. I felt bad for the guy. I started crying

1 when he was talking about you. I have no reason to lie.
2 Well --
3 MR. TRAFICANT: Do you have immunity?
4 THE WITNESS: No, absolutely not.
5 MR. TRAFICANT: Your Honor under 804(b)(5)
6 and the circumstances under which the Government pressured
7 a dying man with a fruit basket ploy as evidenced by Mr.
8 Pikunas, if you do not allow me to ask witnesses that have
9 had conversations unsolicited with Mr. O'Nesti now that he
10 is unavailable, then you must allow me to call Government
11 witnesses, and the prosecution can have time could coach
12 him.
13 THE COURT: You are proceeding under a
14 section of the rule that no longer is there.
15 MR. TRAFICANT: I am citing 804(b)(5), and I
16 am citing the very last two lines.
17 THE COURT: 804(b)(5) has been turned into
18 807.
19 MR. SMITH: Yes, your Honor, 807.
20 MR. TRAFICANT: It is possible 807. They are
21 certainly better at paper than I am, but whatever it is,
22 the bottom line is the trustworthiness of this unsolicited
23 statement, is much more worthy than the pressured comments
24 of a man on his death bed --
25 THE COURT: These comments you refer to

1 inside and outside about this death bed scene with the
2 basket and all that are not part of the evidence in this
3 case.
4 MR. TRAFICANT: Well, let me call Pikunas.
5 Why can't I call Mr. Pikunas? They put Hassman on the
6 stand. They put an FBI agent on the stand.
7 THE COURT: What does this have to do with
8 this gentleman on the stand?
9 MR. TRAFICANT: Pikunas can speak to, in
10 fact, what happened that night. This man was given a
11 statement unsolicited that was trustworthy.
12 THE COURT: We now have his statement, and
13 that's a good thing.
14 MR. TRAFICANT: For what? The jury is not
15 here.
16 THE COURT: That's right. We may be able to
17 get the thing resolved. They haven't had an opportunity to
18 respond to it, and I think you are dealing with -- do you
19 want to read me the text of what you are dealing with since
20 it doesn't appear in the rule book any more?
21 I think it has been moved over to 807. Do you have
22 the text of what you are referring to?
23 MR. TRAFICANT: I must have maybe an older
24 copy, but I'm not necessarily an attorney, even if I was F.
25 Lee Bailey and supposed to know the law. You know the law

1 and know how it should be applied, and you should be
2 applying it fairly. And I am under no requirement to even
3 cite the law. I stated the facts and circumstances upon
4 discovery of the fruit basket given to me by Mr. Morford,
5 Mr. Smith and Mr. Kall of a dying men who was threatened to
6 go to a medical facility if he didn't sign an affidavit.
7 They used that as a hearsay exception --
8 THE COURT: They did not use that. That's
9 where you completely misrepresent everything that has
10 happened in this case. They didn't use that. You are the
11 only person who ever talks about that.
12 MR. TRAFICANT: Well, then, what law did they
13 cite to bring in Mr. O'Nesti's testimony? Tell me the law
14 they cited.
15 THE COURT: 804, statement against interest.
16 You were right.
17 MR. TRAFICANT: How could that be against
18 interest? That was a statement for his interest. They let
19 --
20 THE COURT: This is a statement for his
21 interest.
22 MR. TRAFICANT: No, no. I say that theirs
23 was a statement for interest because he wanted to die at
24 home.
25 THE COURT: Let's let the Government respond

1 to the voir dire that just occurred here.

2 MR. TRAFICANT: Give me the rule numbers you

3 cited, your Honor. And which --

4 THE COURT: They went forward under a section

5 of the rule which is under 804.

6 MR. TRAFICANT: Yes, tell me.

7 THE COURT: (B)(4).

8 MR. TRAFICANT: (B)(4).

9 MR. MORFORD: (B)(3).

10 THE COURT: Excuse me, (b)(3), statement

11 against interest. First, they established unavailability

12 which nobody had trouble doing.

13 MR. TRAFICANT: We have a death certificate.

14 THE COURT: Right. But that doesn't have

15 anything to do with whether or not hearsay can come in.

16 You then go to another section of this rule.

17 MR. TRAFICANT: What's the other section of

18 the rule, your Honor?

19 THE COURT: What they went to is statement

20 against interest.

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

22 THE COURT: We have already decided that.

23 That has already been decided.

24 MR. TRAFICANT: I know, but I want it on the

25 record now since you voir dired one of my witnesses and

1 listened to the testimony he would give without the jury
2 present. Mr. O'Nesti did not make a statement against
3 interest. Mr. O'Nesti made a statement so he could die at
4 home with his family. He made a statement in favor of his
5 own interest.
6 MR. SMITH: Correct. That's why it was not
7 admissible. The Government never offered it because we
8 acknowledged --
9 THE COURT: We never received it in.
10 MR. TRAFICANT: Grace Kavulic and Jackie
11 Bobby, you let them perjure themselves.
12 THE COURT: They were saying --
13 MR. TRAFICANT: They were saying he made a
14 statement against interest.
15 THE COURT: He did to each of them.
16 MR. TRAFICANT: Yeah, because he was going to
17 go to a medical facility. The man did not want to die in a
18 medical facility.
19 MR. MORFORD: Wasn't even sick at that time.
20 THE COURT: It was not that statement.
21 MR. TRAFICANT: You mean to tell me that you
22 weren't there with an affidavit to get him to sign before
23 he died? Is that your testimony to me?
24 MR. MORFORD: Your Honor, I'm not testifying
25 and has nothing to do with what he is talking about.

1 THE COURT: Congressman, you are making
2 assertions that the record would never support in this case
3 because the two statements that were admitted through two
4 witnesses that relate to Mr. O'Nesti were admitted under
5 this section, which has to do with statements against
6 interest, and those statements had nothing to do with the
7 statement you keep putting out there.
8 MR. TRAFICANT: Then what was the statement
9 against interest Mr. O'Nesti made, and when did he make it?
10 MR. MORFORD: We briefed this extensively.
11 Congressman Traficant can read it extensively.
12 THE COURT: Let's talk about these
13 statements.
14 MR. MORFORD: Rule 807 and its predecessor
15 804(b)(5) and can you stand over there?
16 MR. TRAFICANT: I want to see what's
17 happening.
18 THE COURT: Just go over, sir, and let him
19 speak.
20 MR. TRAFICANT: Are you nervous with me
21 around?
22 THE COURT: Congressman.
23 MR. MORFORD: Anyway, your Honor, under that
24 rule, the Congressman has to show.
25 THE COURT: Now --

1 MR. TRAFICANT: I object right now.

2 THE COURT: Now having objected --

3 MR. TRAFICANT: Object to you even speaking

4 about my witness, and I object to you ordering me to sit

5 down.

6 THE COURT: Go ahead.

7 MR. MORFORD: Under Rule 807 and its

8 predecessor 804(b), the Congressman has to show that the

9 statement itself and the circumstances surrounding the

10 statement carry circumstantial guarantees of

11 trustworthiness, such that the person wouldn't have made

12 that statement to that person at that time unless it were

13 true.

14 The testimony of Mr. Terlecky just doesn't meet that

15 standard. First, it was a self-serving statement by Mr.

16 O'Nesti. He said that Mr. Terlecky said that Mr. O'Nesti

17 made that statement some time in the summer of 1999. Mr.

18 O'Nesti was never even asked whether he had kicked back

19 money to Congressman Traficant until January of 2000, even

20 if that issue was relevant -- which it is not.

21 But, at the time that Mr. Terlecky had this supposed

22 conversation with Mr. O'Nesti --

23 MR. TRAFICANT: I object.

24 MR. MORFORD: -- it was not against Mr.

25 O'Nesti's interest but very much in his interests to tell a

1 close associate of his --

2 THE WITNESS: Wait a minute. I was not a

3 close associate.

4 THE COURT: You are not part of this

5 conversation.

6 THE WITNESS: Sorry.

7 THE COURT: Thank you.

8 MR. MORFORD: Close associate of Congressman

9 Traficant and Lenny Strollo that he was not kicking back.

10 There is nothing about that statement that in any way was

11 against interest. It was simply a self-serving statement.

12 Second, it was made to a friend.

13 Third, it was made to exculpate his boss, who you've

14 already heard testimony in this case, Mr. O'Nesti was very

15 close to, but the most important thing is all of that has

16 absolutely nothing to do with the statements that have been

17 admitted, which were statements that Mr. O'Nesti made

18 contemporaneously during the time he was working for

19 Congressman Traficant to other employees; and, therefore,

20 it should not be admitted.

21 MR. TRAFICANT: Your Honor, it is other

22 employees he did not get along with.

23 THE COURT: That issue has been decided in

24 this case, and you can take that to the Court of Appeals.

25 That has been decided a long time ago. We are way down the

road.

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

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

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

MR. MORFORD: Not in 1999.

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

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

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

THE WITNESS: Yes, sir.

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

THE WITNESS: No, sir.

1 MR. TRAFICANT: Was he looking at a newspaper
2 when he told you this?
3 THE WITNESS: He had it in his hand. If he
4 was actually looking at it when he said it, I don't
5 remember, but he was holding it when he was talking to me.
6 I don't remember if he was actually looking at it, but he
7 was holding it.
8 MR. TRAFICANT: I am going to say this to the
9 Court right now: I will release every one of my tapes
10 regarding the matter of kickbacks, and I will do that under
11 my First Amendment rights, and I may do it tonight. Make
12 your decision.
13 THE COURT: Thank you.
14 If you are coming in under a statement against
15 interest, then the statement, the specific statement that
16 you want to get in has to be the statement against
17 interest, and the statement that this witness has talked
18 about is not against the interest of the person who made
19 the statement. If you want to bring this in under another
20 section, which we now call the residual sections of the
21 hearsay rules, then you have not met those, and we will not
22 permit this testimony to go before this jury.
23 MR. TRAFICANT: Until I meet the requirements
24 of the residual law.
25 THE COURT: That's the law that you cited to

1 me that you were relying on.

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

3 --

4 THE COURT: Yeah --

5 MR. TRAFICANT: -- does speak to those

6 elements. And the bottom line is the Judge, having known

7 full well of that fruit basket ploy before he died, does

8 change the scope and dynamics of the hearsay law and can't

9 be in order. And to ignore it is to deny me the right to

10 examine witnesses who know truthful information.

11 THE COURT: We have a few more things to go

12 over here. We can let this witness step down. Thank you

13 very much.

14 MR. TRAFICANT: Are you going to allow him to

15 testify on that issue?

16 THE COURT: No. You didn't show any -- a

17 section that would permit that.

18 MR. TRAFICANT: I ask leave of the Court to

19 allow me to revisit this by Monday.

20 THE COURT: We have a lot of other things that

21 we have to get -- we still have a jury back there. While

22 we are here, there was a motion filed by the Government for

23 sanctions. I haven't gotten a response from you, and I

24 will need that.

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

1 I told them to shove the sanctions up their subpoena.
2 There is no justification for it, and I believe that they
3 have played their press more than I have, and now I'm going
4 to play the same game, folks. And I am going to release
5 tapes. If you are not going to allow the witnesses to
6 testify --
7 THE COURT: I haven't ruled on the tapes,
8 although you do have a motion in front of me, and it is
9 ready for ruling on, and you've submitted three tapes to
10 me. And I will be able to get that ruling out. You have
11 not ever submitted transcripts of any other tapes. Which
12 ones -- you said --
13 MR. TRAFICANT: I don't know which ones I'm
14 going to submit. I want to see what you will do with these
15 three.
16 THE COURT: We will deal with these three.
17 MR. TRAFICANT: It is my defense.
18 THE COURT: All right. I think there is --
19 MR. TRAFICANT: No now, I want to bring up
20 two issues for the Court for the record. Mrs. Ferrante--
21 THE COURT: Oh, yeah, the photographs.
22 MR. TRAFICANT: Before that, Ms. Ferrante
23 identified this document, and you did not allow me to let
24 her identify it. And so it can be identified as an
25 exhibit.

1 THE COURT: There may be someone who can do
2 something with it.
3 MR. TRAFICANT: She was able to.
4 THE COURT: She did not write the letter, and
5 you can't just put a witness, any witness on the stand,
6 hand them any piece of paper and make it evidence. There
7 is someone who wrote that letter. Call them in here. They
8 can put the letter on. They wrote it. You saw how that
9 worked.
10 MR. TRAFICANT: This woman was given a copy
11 of the letter by Mr. O'Nesti, who gave it to everybody, who
12 bragged he was not an LCN member and --
13 THE COURT: Bring in the person that wrote the
14 letter.
15 MR. TRAFICANT: You are forcing me to jump
16 through hoops where you don't need to do that. This woman
17 had knowledge of this letter. That should have been enough
18 to suffice.
19 THE COURT: That's not enough. Okay. Let's
20 talk about the photographs.
21 MR. MORFORD: I will hand them to you, your
22 Honor, because I don't believe you've seen this.
23 MR. TRAFICANT: I want to explain the
24 photographs.
25 MR. MORFORD: It is my motion, Congressman.

1 So why don't you just wait.

2 MR. TRAFICANT: I will take my instructions

3 from the bench, Mr. Morford.

4 THE COURT: I don't have to give them every

5 time. If you will sit down, you know it will allow him to

6 talk the way he should. And if you have an objection, just

7 stand.

8 MR. TRAFICANT: Well, just keep helping him.

9 None of the pictures that I have in my hands here

10 have anything to do with the testimony that this gentleman

11 gave me. These are all --

12 MR. TRAFICANT: These are Mr. Marchese, and I

13 am not going to voir dire any more. You are not pulling in

14 another witness and listening to testimony from them.

15 THE COURT: Are you trying to offer --

16 MR. TRAFICANT: Mr. Marchese took these

17 photographs. The photographs speak to the testimony of

18 Mr. Sinclair, who stated he purchased the house after he

19 left my employ. These are photographs of the house he used

20 to own, photographs of the house he now owns, photograph of

21 his building that he made major improvements on, and shows

22 two neighborhood homes that show the quality and high

23 caliber, expensive neighborhood in which he now lives.

24 THE COURT: So he can come in and testify if

25 he took these pictures. The question is how will the

1 pictures be used. I don't know when he took them, if he
2 took them.
3 MR. TRAFICANT: That's why I want to bring
4 him in.
5 THE COURT: Okay.
6 MR. MORFORD: My objection, your Honor, if
7 they are not admissible in the first place, they shouldn't
8 be brought in, have this witness talk about them, put up on
9 the overhead. I have no problem with picture 602 of
10 Overhill. We would stipulate to that. As to the other
11 pictures, 500 is Allen Sinclair's prior house. 601 and 600
12 are pictures of his new house. 604 and 603 are pictures of
13 houses in the neighborhood, and it should be inadmissible,
14 extrinsic evidence. Allen Sinclair is not on trial, and he
15 was asked on cross-examination if he used to have a house
16 in Youngstown, if he sold that house, and if he bought a
17 new house, and he testified about the amount he paid for
18 the house. But, anything beyond that would be
19 inadmissible, extrinsic, irrelevant under both rules --
20 MR. TRAFICANT: And having said that --
21 MR. MORFORD: -- Rules 403(a) and (b), and we
22 feel that's not admissible.
23 MR. TRAFICANT: I would like to respond.
24 THE COURT: I don't think you will need to.
25 Four of these pictures are certainly pictures he can

1 identify that he took and that could be useful to the jury
2 because of the prior testimony they had. So I don't have
3 any problem with those --
4 MR. TRAFICANT: I have no problem with the
5 other two. If you want to throw them out, you can throw
6 them out.
7 THE COURT: -- and are inadmissible, and
8 these might be useful to the jury. Is he here? He can
9 testify to them.
10 MR. TRAFICANT: I will call him now.
11 MR. MORFORD: Your Honor, rather than call
12 the witness back and waste time with that, we will
13 stipulate they are pictures of Allen Sinclair's current
14 home, past home, and --
15 THE COURT: You will have to meet with your
16 colleague and tell him that.
17 We will bring in the jury.
18 (Proceedings held in the presence of the jury:)
19 BY MR. TRAFICANT:
20 Q. Dominic, do you recall my questions when I asked --
21 you were asked did you take any other photographs?
22 A. Yes.
23 Q. And did you take other photographs?
24 A. Yes, I did.
25 Q. What photographs, in fact, did you take?

1 A. I took a photograph of the 11 Overhill Drive, the
2 former office. I took a photograph --
3 MR. MORFORD: Your Honor, I'm going to object
4 to anything, except the documents that have actually been
5 ruled on.
6 THE COURT: Okay. Okay.
7 MR. MORFORD: More specific photos.
8 THE COURT: Maybe if you'd hand him the
9 photographs.
10 Q. I am going to ask you, four photographs, and I will
11 ask you if you, in fact, made these photographs and took
12 them?
13 A. Yes, I took each of these.
14 MR. TRAFICANT: Can I put them on the screen,
15 your Honor?
16 THE COURT: Yes. Say the numbers as you put
17 them up.
18 BY MR. TRAFICANT:
19 Q. Do you remember the office at Overhill before 1998?
20 A. Yes, I do.
21 Q. Did you take this picture?
22 A. Yes, I did.
23 Q. Have there been improvements made to that building?
24 A. Appeared to be all landscaping. That whole front is
25 now shrubbery and different mulches, and used to be able to

1 drive right off the road in there.
2 Q. That is AS-602.
3 I'm now going to put on the board a picture of
4 AS-500. Did you take that picture?
5 A. Yes, I did.
6 Q. And what is that a picture of?
7 A. My understanding, a former home of Mr. Sinclair.
8 Q. Can you identify this picture, AS-600?
9 A. That would be the side and rear view of the new home.
10 Q. And do you know where that's located?
11 A. Newport Drive, I believe.
12 Q. Is that an exclusive neighborhood?
13 A. Very nice homes, yes.
14 Q. And would you identify AS-601?
15 A. That would be the front of the home on Newport Drive.
16 Q. Dominic, do you recall what day you had taken these
17 photographs?
18 A. Yes. It was February 26th.
19 Q. Did you keep diaries of your activities while you
20 were a member of my staff, Dominic?
21 A. I just kept desk notes of times and dates.
22 Q. I would just like for you to look at that. Does that
23 have an identification number on it?
24 A. Exhibit DOM-700.
25 Q. Is this, in fact -- did you bring with you all of

1 your diaries that you've had, and is this the way you
2 memorialized your work as my staff representative?
3 A. Those are my desk notes that I log, every telephone,
4 what time, who comes in, what it is about. If I didn't, I
5 wouldn't be able to keep up with what I'm doing for
6 individuals.
7 Q. I want you now to address yourself to the date 6-26
8 -- I mean 2-26, February 26th on there. What does it say?
9 A. 2-26, 8:30 A.M., called in for a half day vacation.
10 Q. What is your next -- when is your next report? When
11 do you report in?
12 A. 1:00, and it is noted that I'm in.
13 Q. You are in where?
14 A. I'm in the office at 1:00.
15 Q. Okay. Follow 6-26 all the way down through your last
16 entry?
17 A. 1:15, returned call from Richard Houk.
18 Q. Not every one. Go to the last date and notation you
19 have on February 26th?
20 A. 6:05, I have received a call from a certain number,
21 and no one answered. So I checked it on Star 69. The next
22 page on this copy --
23 Q. Yes?
24 A. -- does show a part of the word that says out, but it
25 doesn't show the time that I was out.

1 Q. Would it be out after 6:05 at least?
2 A. Oh, yeah. I would say it was around 7:00, but we
3 should have one that was copied that has it in it. This is
4 a copy.
5 Q. All right. Let me ask you, under law, are you
6 familiar with how many hours a federal employee is required
7 to work a week?
8 A. I was told 30 hours when I started.
9 Q. Do you work 30 hours a week?
10 A. I always work more than that.
11 Q. How many hours a week do you average?
12 A. Probably 39.
13 Q. Why would you say 39?
14 A. Because I stay a lot of evenings working on cases,
15 and there are a lot of times I go to meetings at night that
16 I didn't get home until 9:30 or 10:00, agriculture or DAV
17 Services, and I count those. I don't think I have ever
18 just worked 30 hours. In fact, that's the notes of every
19 day since the day I started. Every day is on there and
20 would show hours worked, if you want to go through those.
21 Q. Are these all your notes here?
22 A. Yeah.
23 Q. Do you work evenings for the Congressman?
24 A. Say again.
25 Q. Do you work evenings for the Congressman?

1 A. Yes, if we have to go to things.
2 Q. Do you represent me at events and speak for me at
3 events?
4 A. Yes, I do.
5 Q. Do you log even those on here?
6 A. Yes, I do.
7 Q. Do you always put down the exact amount of time you
8 spent?
9 A. Yes.
10 Q. Did anyone ever require you to do this?
11 A. No, but when I started, I couldn't keep up with the
12 number of people coming in and calls, and I had -- now,
13 these are just notes. We have cases for each one of these
14 individuals that we work on. They are in the manila
15 folders. They are a case file. I have a few of them with
16 me today, but I don't have them up here.
17 Q. Do you have the original? Is this your original two
18 pages? Look at the first and second page. I think I
19 rewrote the original on it.
20 A. Okay. 7:02 P.M. on 2-26, I left.
21 Q. 7:02 P.M. on the original?
22 A. Yes. And I was in at 1:00. I didn't go to lunch
23 either because I already had something; so whatever amount
24 of hours that was that day.
25 Q. And these are your personal handwritten notes?

A. Yeah.

Q. You can hold that.

MR. TRAFICANT: No further questions at this time.

MR. MORFORD: Nothing, your Honor.

THE COURT: Thank you. You can step down.

MR. TRAFICANT: Your Honor, having no more witnesses here and waiting on a welder that will be here tomorrow, I want to announce to you that I have no witnesses since two were not able to testify. And, thus, I have no one else now to call, unless you want me to recall Mr. Terlecky, who is still available.

THE COURT: No. But, we will begin again tomorrow at 9:00, and I would expect that you ought to be able to give us a report on the truck --

MR. TRAFICANT: I will do that.

THE COURT: -- and what's happening with the welder. But, please bring enough witnesses tomorrow to the court.

MR. TRAFICANT: Your Honor, I did have enough witnesses today. Two of my witnesses would have taken an extensive amount of time if they would have been allowed to testify.

THE COURT: I will ask you guys to set that aside. I really have good news for you. These gentlemen

1 have all decided together, and I agree with that, that
2 because this is a week that contains Passover and Good
3 Friday in it, that we should allow this case to be in
4 recess on Friday and not require you to come in, which will
5 give you a good weekend back in your other lives. We do
6 have to come in tomorrow, though, and Thursday. Okay? Be
7 safe going home. We will see you, and remember your
8 admonitions.
9 (Proceedings out of the presence of the jury.)
10 THE COURT: But for the lawyers and anyone
11 else that wants to be here, we will allow Mr. Saadey to
12 make his statements before the jury comes in.
13 MR. MORFORD: Again, I request that
14 Congressman Traficant be specifically instructed not to do
15 again what he just did in front of the jury now about his
16 witnesses that weren't allowed to testify. He knows that's
17 improper. And we have been over this before.
18 Number two, I would like to ask that some time
19 tomorrow, preferably in the morning, that the jury be given
20 some instruction to disregard the little bit of testimony
21 they heard about Mr. Terlecky.
22 THE COURT: I understand that you asked for
23 that, and I have to read the transcript, which I don't
24 have, and I will read the transcript tonight. And I will
25 also make an effort to get some rulings out on the issue of

1 sanctions that you put before the Court, and I understand
2 you filed a response. I was not aware of that.
3 MR. TRAFICANT: I filed it with the clerk and
4 handed your assistant a copy.
5 THE COURT: Good.
6 MR. TRAFICANT: This morning.
7 THE COURT: And I will be able to deal with
8 it. Thank you.
9 MR. TRAFICANT: But I object to Mr. Morford's
10 statement of requiring sanctions.
11 THE COURT: That's a motion, Congressman. I
12 will consider it and rule.
13 MR. MORFORD: One more thing for purposes of
14 the record, your Honor, I don't think the Court noted on
15 the record the two photographs that were excluded by
16 number, just that there be an accurate record of this.
17 THE COURT: I didn't do that, but if you can
18 tell me the numbers and put them on for George.
19 MR. MORFORD: They were Defendant's Exhibit
20 AS-603 and Defendant's Exhibit AS-604.
21 MR. TRAFICANT: Your Honor --
22 THE COURT: Thank you.
23 MR. TRAFICANT: -- your Honor, for the
24 purposes of offering this evidence, I want to offer AS-601,
25 which is the front photograph of the Sinclair home.

1 THE COURT: Right. I think you can do those
2 as a group if you just give us the numbers.
3 MR. TRAFICANT: AS-601, which is the front
4 view of the Sinclair home, AS-600, which is the side view
5 from the rear of his new home; AS-500, picture of his older
6 home on Atlanta Drive, and AS-602 with the improvements
7 made to the office on --
8 THE COURT: Any other exhibits, Congressman?
9 MR. TRAFICANT: Yes, and I know SBF-1, a
10 photograph of the Horse and the -- Ms. Ferrante.
11 THE COURT: Okay. Very well. Any
12 objections?
13 MR. MORFORD: No.
14 THE COURT: They will all be admitted, and
15 now we want to let the jury out. They are all ready to go.
16 (Pause.)
17 MR. TRAFICANT: Your Honor, I would also like
18 to offer in evidence Defendant's Exhibit DOM-700, the diary
19 notes of Dominic Marchese relative to the four pictures.
20 THE COURT: I don't know that those are
21 relative to the four pictures.
22 MR. MORFORD: I object on grounds of
23 relevance.
24 MR. TRAFICANT: That he had to take a
25 vacation day to take those pictures under federal threats

1 he might receive later, and C-8 I would offer, and it says
2 -- it is showing the garage remains of his burned home
3 where he testified had burned down where the generator had
4 been stored.
5 THE COURT: All right.
6 MR. MORFORD: I have no objection to the
7 picture of the burned down garage, but the other exhibit,
8 that that is not charged in this case, and it really
9 doesn't have any bearing on this case and not relevant.
10 THE COURT: It is not relevant and won't be
11 admitted.
12 MR. TRAFICANT: What is not?
13 THE COURT: The diary that you just talked
14 about.
15 MR. TRAFICANT: You will admit the --
16 THE COURT: The photograph will be admitted.
17 MR. TRAFICANT: But the diary is not.
18 THE COURT: Is that it?
19 MR. TRAFICANT: No, it is not.
20 THE COURT: No, it is not?
21 MR. TRAFICANT: I will have other admissions
22 for tomorrow, and I am going to stay here tonight. And if
23 I have any news, I might have to ask of the Court, if
24 necessary --
25 THE COURT: I don't know what you are talking

1 about.

2 MR. TRAFICANT: On this welder. We might

3 have to have the Government make a trip and certify to the

4 Court that it has never, in fact, been used if I can't get

5 it up here. I am trying to get it up here and running a

6 trailer, and I haven't been able to be in contact with him,

7 and I am a little upset myself.

8 THE COURT: This comes up every day, but

9 eventually your case will come to a conclusion, and we have

10 it or we don't. But we wouldn't require the Government to

11 send someone somewhere else to look at it. That's

12 something you could have worked out a long time ago. We

13 are in the middle of your presentation of evidence.

14 So if it comes and it can be shown to the jury, we

15 still have to see whether it will get in the courthouse and

16 so forth, but we will certainly arrange for the jury to see

17 it if it passes all those tests.

18 MR. MORFORD: Your Honor, I also move that

19 Congressman Traficant advise the Court and counsel as to

20 who is coming tomorrow because this is the second day in a

21 row we have wasted juror time because of this kind of

22 thing.

23 THE COURT: Just tell us who is lined up for

24 tomorrow.

25 MR. TRAFICANT: Mr. Saadey will be here

first. Mr. Johnson will be here. Mr. Hooker is scheduled to be here, and that -- I don't know right now.

MR. MORFORD: What is Mr. Hooker's first name?

MR. TRAFICANT: Pardon?

MR. MORFORD: What is Mr. Hooker's first name?

MR. TRAFICANT: George.

MR. MORFORD: Your Honor, as to Mr. Johnson, that will require a voir dire.

THE COURT: That's right. The Congressman knows that. Maybe we can fit him in --

MR. TRAFICANT: Why would Mr. Hooker require a voir dire?

THE COURT: He said Johnson.

MR. TRAFICANT: Yes. He has been here five days, and his wife had to go the the doctor. He is remarried and pregnant.

THE COURT: We don't need the jury for him. We need Saadey first to see what he is going to do. We don't know if he is going to take the Fifth Amendment or if so on what, and then we need Johnson. Can you have Johnson here at 8:30, too?

MR. TRAFICANT: Well, I have had Mr. Johnson here for five days in a row.

1 MR. MORFORD: In fact, he was not here on
2 Friday when you asked him to be here.
3 MR. TRAFICANT: Because I had Terlecky here,
4 and I thought Terlecky and he had basically the same
5 testimony, and you wanted to voir dire someone with that
6 testimony.
7 THE COURT: Well, he came here Thursday --
8 MR. TRAFICANT: I will have Mr. Johnson here
9 tomorrow at 8:30, but I ask that Mr. Saadey go first since
10 he will be making a statement against interest if he
11 testifies.
12 THE COURT: Okay. Following that you have
13 one other witness. If you have more witnesses, you should
14 get them down here for tomorrow.
15 MR. TRAFICANT: I will be on the phone, and
16 hopefully, we would have time, and I am hoping to have that
17 welder here.
18 THE COURT: Right.
19 MR. TRAFICANT: Today yet.
20 THE COURT: Okay. But the welder is just a
21 viewing. So we will need more witnesses to fill up the
22 day.
23 MR. MORFORD: I do have one last continuing
24 request. I have requested on numerous occasions that we be
25 provided with discovery prior to the time the Congressman

1 walks up to a witness. It now turns out that those last
2 four photographs were taken in February of this year, and
3 he never provided them to us.
4 I will again ask if he has physical evidence, just as
5 we gave him all our evidence months before trial, he was
6 supposed to do the same, and we not be constantly handed
7 documents, exhibits, photographs two seconds before he
8 hands them to a witness.
9 MR. TRAFICANT: I would like to reply. With
10 Mr. Marchese, he didn't think he would be on until the
11 afternoon. He didn't get around to identifying the other
12 ones. This is first the time I saw them. They got them as
13 soon as I got them.
14 THE COURT: Let's talk about three witnesses
15 you have named. If you have any documents or papers that
16 relate to them, you have to turn that over to the
17 Government.
18 MR. TRAFICANT: All I have, and these
19 individuals are the 302s.
20 MR. MORFORD: There is no other physical
21 evidence; is that right?
22 MR. TRAFICANT: I have a tape.
23 THE COURT: Okay. Which one? One I've seen?
24 MR. TRAFICANT: No. You have not seen the
25 tape on Saadey.

1 THE COURT: I need the transcript.
2 MR. TRAFICANT: I want to see what he does,
3 and I have a right to do that.
4 MR. MORFORD: He has a responsibility under
5 discovery to give us any physical evidence, which he never
6 has.
7 MR. TRAFICANT: I may not introduce the tape.
8 THE COURT: You are going to have to --
9 MR. TRAFICANT: If I decide to introduce that
10 tape, then they will get it when I decide to introduce it,
11 and I am under no requirement under -- and this is the
12 Jencks Act we are working with here, fellows.
13 THE COURT: No. No, it is not the Jencks Act.
14 MR. TRAFICANT: Yes, it is. I'm not sure I
15 will have this witness, and I don't know if I want that
16 tape admitted to the Court.
17 MR. MORFORD: I would like it on the record
18 when the Congressman received the tape, and based on that,
19 I may move to exclude it as a violation of discovery. He
20 has been given notice time and time again that he cannot do
21 do this.
22 THE COURT: When did you receive the tape,
23 sir?
24 MR. TRAFICANT: I don't know. I would have
25 to look back at the dates. I have to look at the date.

1 THE COURT: Is this one of the nine or ten
2 that you talked about before, or is this a different one?
3 MR. TRAFICANT: Your Honor, I don't know how
4 many tapes I have, but I find it strange that there is not
5 one tape on me without no corroborative testimony, and I
6 taped every one of their witnesses.
7 THE COURT: It has nothing to do with this.
8 MR. TRAFICANT: Well, I will let the Court
9 know. I may not give them to the Court because I don't
10 believe the Court will let them in, frankly, and I want to
11 state that for the record, but if I decide to use them --
12 THE COURT: We don't know what the tape is.
13 MR. TRAFICANT: I will present them if I
14 decide to use them.
15 THE COURT: Who is on the tape, sir?
16 MR. TRAFICANT: I am on the tape.
17 THE COURT: And who else?
18 MR. TRAFICANT: Mr. Saadey relative to his
19 brother-in-law James Sabatine.
20 THE COURT: And when was the tape made?
21 MR. TRAFICANT: I don't know. I would have
22 to look back. I don't have it with me.
23 THE COURT: Was it made within the last
24 month?
25 MR. TRAFICANT: I would have to look.

1 THE COURT: You don't remember? Is it a
2 telephone tape?
3 MR. TRAFICANT: No, it wasn't.
4 THE COURT: Okay. Is it more than a week ago
5 that you made it?
6 MR. TRAFICANT: I have to look back at the
7 date.
8 THE COURT: You can't remember.
9 MR. TRAFICANT: I can't remember at this
10 point the exact date, and I will not be held to an exact
11 date.
12 THE COURT: I was asking you a zone, not an
13 exact date.
14 MR. TRAFICANT: No. And I don't think I am
15 compelled to tell the exact date.
16 THE COURT: He doesn't have to tell me,
17 but --
18 MR. TRAFICANT: If I decide to use it, I want
19 to see what Mr. Saadey's actions are tomorrow. If he takes
20 the stand, I may not, may not use that tape, but if he
21 takes the takes the stand, I want it to be known he has
22 been convicted and the same law you allowed for the
23 prosecution against interest since he is subject to being
24 sentenced in a criminal matter.
25 THE COUR: He is coming in tomorrow because he

1 is subject to being sentenced in a criminal matter, but you
2 do it at your own risk. There is a whole section of the
3 Rules of Criminal Procedure that deal with your
4 responsibility to disclose, and I will refer you to them so
5 you can look at them. It is Rule 16. Read it tonight.
6 MR. TRAFICANT: I will try and read it, but I
7 will say this to you, and I wish you the happiest of
8 holidays this weekend and nothing personal, but I don't
9 believe you will leave in any of my tapes or examine any
10 witnesses, and I am probably going to end up waiting for
11 this trial to be over to play the tapes, and I may not
12 introduce the tape. But I may play the tapes before the
13 trial.
14 THE COURT: But you know --
15 MR. TRAFICANT: I have a First Amendment
16 right. I am not an attorney, and I will not be bound by
17 the oath these three fellows are. I haven't been able to
18 examine witnesses, gotten technicality after technicality.
19 And no matter whom the attorney is, there are many
20 incompetents that can't face a RICO trial. I think one or
21 two beat them and wanted to get the other guy's name.
22 Having defeated the Justice Department in a RICO case and
23 the only pro se Defendant to have done so, I have decided
24 that you are completely with the prosecution because that's
25 the only way you can be removed from office, retirement or

1 death, and I feel bad about that, and I feel you are a nice
2 person, but for the record I will play my tapes for the
3 public.
4 THE COURT: Tonight I will consider their
5 motion and see how we go forward in the morning.
6 MR. TRAFICANT: See you in the morning, your
7 Honor.
8 THE COURT: I will see you tomorrow morning.
9 MR. TRAFICANT: Your Honor, they weren't
10 required to give me Sandy Ferrante's material.
11 MR. MORFORD: That's your witness,
12 Congressman Traficant.
13 THE COURT: They didn't call her.
14 MR. TRAFICANT: They did under the Jencks
15 Act.
16 THE COURT: You should read that act, also.
17 MR. TRAFICANT: I will tell you the truth, I
18 haven't read anything in this case. I will continue as I
19 have been in the case and feel quite comfortable, your
20 Honor. You are denying my rights. And even Bernard Smith
21 knows it. Look at the look on his face.
22 (Proceedings adjourned.)
23
24
25

1 DIRECT EXAMINATION OF JOHN INNELLA..... 4790
2 CROSS-EXAMINATION OF JOHN INNELLA..... 4804
3 DIRECT EXAMINATION OF DOMINIC MARCHESE..... 4812
4 CROSS-EXAMINATION OF DOMINIC MARCHESE..... 4839
5 REDIRECT EXAMINATION OF DOMINIC MARCHESE..... 4862
6 DIRECT EXAMINATION OF MICHAEL TERLECKY.....4875
7 DIRECT EXAMINATION OF DOMINIC PAOLONE..... 4901
8 CROSS-EXAMINATION OF DOMINIC PAOLONE..... 4913
9 REDIRECT EXAMINATION OF DOMINIC PAOLONE..... 4916
10 VOIR DIRE EXAMINATION OF MICHAEL TERLECKY.....4925
11 DIRECT EXAMINATION CONTINUED OF MICHAEL TERLECKY.....4948

12 C E R T I F I C A T E

13 I certify that the foregoing is a correct
14 transcript from the record of proceedings in the
15 above-entitled matter.
16
17
18
19 _____
Shirle M. Perkins, RDR, CRR
20 U.S. District Court - Room 539
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21 Cleveland, Ohio 44114-1201
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22
23
24
25

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

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

8 - - - - -

9 TRANSCRIPT OF PROCEEDINGS HAD BEFORE

10 THE HONORABLE LESLEY WELLS

11 JUDGE OF SAID COURT,

12 ON WEDNESDAY, MARCH 27, 2002

13 **Jury Trial**

14 **Volume 27**

15 - - - - -

16

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

1 MORNING SESSION, WEDNESDAY, MARCH 27, 2002 8:50 A.M.
2 (Proceedings had out of the presence of the
3 Jury:)
4 THE COURT: Thank you. Be seated.
5 Congressman?
6 MR. TRAFICANT: I call attorney Brian Kopp
7 for Russell Champ Saadey.
8 THE COURT: Mr. Kopp, if you would like to say
9 something you can. We were going to have a voir dire at
10 8:30 of your client on an issue. So perhaps you can
11 enlighten us.
12 MR. KOPP: It is obvious I am here and my
13 client is not. I did receive a call this morning at about
14 7:00 clock. I did not get a return call. I left Youngstown.
15 Mr. Saadey and I were to meet around 7:00 o'clock and drive
16 up.
17 I did get a call and informed the Congressman about
18 20 minutes ago. Mr. Saadey claimed to be ill. I told him
19 that was not a sufficient excuse to a subpoena. He is en
20 route, which is my understanding.
21 I want to apologize. I made a representation to this
22 Court that I would be here with my client promptly at 8:30
23 because we requested you excuse us the other day. I did
24 speak to the Congressman and made that representation to
25 him that I would have my client here at 8:30.

1 THE COURT: So as far as you know, he is on
2 his way here.
3 MR. KOPP: That's correct. I told him from
4 yesterday, it seemed like we took a break at 10:30, and he
5 had no choice but to be here before 10:30.
6 THE COURT: We take a morning break, and we
7 can do that maybe then.
8 MR. KOPP: It came to my attention there may
9 have been a tape of my client, and I heard that only
10 through the media last night. I did address that with the
11 Congressman today. Obviously, my concern was to counsel him
12 on Fifth Amendment issues whether or not that tape was
13 going to come into evidence.
14 That tape, there were questions asked, I believe, in
15 regards to things that are subject to gag order out of
16 Judge O'Malley's Court. I do not believe my client answered
17 any of those questions. The Congressman has assured me that
18 is not going to be an issue, that the tape has been
19 destroyed and is not something he plans to use in evidence
20 in any way.
21 THE COURT: What tape has been destroyed?
22 MR. KOPP: I guess there was a tape
23 conversation with my client.
24 THE COURT: We can inquire of that, but you
25 have been assured there is no such tape.

1 MR. KOPP: That's correct.
2 THE COURT: Okay. I'm glad you have your
3 client under a responsibility to be here, and we will be
4 able to do that voir dire later. But, if in fact there is
5 some sort of tape, then the Congressman needs to allow you,
6 an attorney, as his lawyer to have access to that.
7 Congressman?
8 MR. TRAFICANT: I have stated that. I had
9 asked counsel, if necessary, to have the Marshals produce
10 his client.
11 THE COURT: Well, that doesn't sound like it
12 is necessary, and generally I'm the one who tells the
13 Marshals --
14 MR. TRAFICANT: No. But I was misrepresented.
15 I want that on the record.
16 THE COURT: Okay.
17 MR. TRAFICANT: Second of all, that there
18 were no violations by his client, but there were elements
19 of questioning regarding --
20 THE COURT: I don't know what you are
21 talking about, Congressman.
22 MR. TRAFICANT: And I have destroyed the
23 tape.
24 THE COURT: Well, we have never seen the
25 tape. The tape hasn't been admitted into evidence. I don't

1 know anything about that tape except you made
2 representations here in Court regarding it, I think
3 yesterday.
4 MR. TRAFICANT: I've informed counsel of
5 same.
6 MR. MORFORD: Your Honor, if he is planning
7 to call Champ Saadey, then he is telling the Court he
8 destroyed Jencks material he never gave to the Government.
9 THE COURT: Well, we will have to deal with
10 that separately. Okay? I want to move to a couple of
11 different issues.
12 MR. TRAFICANT: I have never moved any
13 evidence and have just subpoenaed Mr. Saadey, and Mr.
14 Saadey has become a recent issue.
15 THE COURT: Okay. Well, in any event, Mr.
16 Saadey is going to be here sometime this morning, and we
17 will make inquiry at the appropriate times about anything
18 that may, in fact, happen as opposed to what everybody
19 thinks may have happened. Okay?
20 But thank you, sir. I'm glad, Mr. Kopp, that you
21 came.
22 Now let me move on to a couple of other issues.
23 We were given a flurry of new motions by you,
24 Congressman, this morning. I haven't had a chance even to
25 read what they are, but I want to know whether they were

1 served on the Government.
2 MR. MORFORD: Yes, they were, your Honor,
3 about five minutes ago.
4 THE COURT: Okay. Congressman, who do you
5 have here today for witnesses?
6 MR. TRAFICANT: I have Denny Johnson. Now
7 with the Saadey thing that I thought would be very lengthy,
8 I have Dennis Johnson here --
9 THE COURT: We can do a voir dire of him
10 right now.
11 MR. TRAFICANT: We can do him right now.
12 THE COURT: Okay. That will be a good idea.
13 Bring him down.
14 MR. MORFORD: Can we know who else, Your
15 Honor?
16 THE COURT: Yes. We do need to know your
17 witnesses.
18 MR. TRAFICANT: I am sorry. I have a Robert
19 Barlow, a Linda Kavulic, Anthony Traficanti, and a Mr.
20 George Hooker, plus I have Mr. Johnson present and was to
21 have Mr. Saadey present.
22 THE COURT: I can hand down an order I just
23 journalized regarding the Defendant's motion regarding
24 hearsay, and that will give you a chance to look it over
25 while we wait for Mr. Johnson to come down.

1 MR. TRAFICANT: I would request to address
2 these after this witness since my motions concern proffers
3 concerning your orders.
4 THE COURT: Would you raise your right hand,
5 sir?
6 DENNY JOHNSON,
7 of lawful age, a witness called by the Defendant,
8 being first duly sworn, was examined
9 and testified as follows:
10 THE COURT: Thank you, sir. Have a seat. I
11 mean, just sit down.
12 Congressman, this ruling that I just handed out, I
13 just want you to be aware of it, and it was issued before
14 whatever your motions are that you filed this morning came
15 to my attention. So I haven't had a chance to read your
16 motions. I was just given them before I walked out on the
17 bench.
18 MR. TRAFICANT: Okay. I just --
19 THE COURT: You don't need to talk about
20 them. We will give the Government an opportunity to
21 respond, as we always do, before we rule on them, and we
22 will go forward as we normally do.
23 How are you this morning?
24 THE WITNESS: Fine, Your Honor.
25 THE COURT: Okay. This is a limited inquiry.

1 The judges refer to these sometimes as dry runs. What they
2 do is allow us to explore further issues that are legal
3 issues out of the hearing of the jury so that the Court can
4 make proper determinations under the rules of evidence
5 about whether or not further testimony may or may not be
6 admitted.
7 MR. TRAFICANT: I object to this process.
8 THE COURT: I understand. The Congressman
9 objects to this process. Nonetheless, we follow it in any
10 case where we have these issues.
11 So there are several ways we can do it. There were a
12 couple of objections during your direct examination that
13 were made by the United States to questions that were asked
14 of you.
15 THE WITNESS: Yes, ma'am.
16 THE COURT: And when those questions were
17 put, there is a transcript of that that is developed, and I
18 am reading out of the transcript of that day's testimony.
19 And unless somebody has something else they want to do, I
20 will just go to the particular questions. I will identify
21 where they are in the transcript. I will ask the questions,
22 and this time we will get the answers from you, and then I
23 will have an opportunity to evaluate those. Okay?
24 MR. TRAFICANT: Before you read the
25 transcript, Your Honor, I would like the opportunity to

1 direct examine this witness.

2 THE COURT: You had him on direct.

3 MR. TRAFICANT: Yes, and you stopped the

4 examination.

5 THE COURT: Right. Well, I think what may

6 happen -- we didn't really stop the examination.

7 MR. TRAFICANT: Yes. You discontinued it, and

8 you removed the jury and said we'd take it up later.

9 THE COURT: Okay. We are going to those

10 areas of the transcript.

11 MR. TRAFICANT: I would like to do the

12 examination of the witness.

13 THE COURT: All right. Fine. You can

14 begin.

15 VOIR DIRE DIRECT EXAMINATION OF DENNY JOHNSON

16 BY MR. TRAFICANT:

17 Q. Good morning, Denny.

18 A. Good morning, sir.

19 Q. The Friday that you did not attend, was it your

20 fault?

21 A. No, sir.

22 Q. What were you told?

23 A. Not to come on Friday.

24 Q. Were you told anything else?

25 A. Just not to attend, sir.

1 THE COURT: Sir, who told you that?
2 THE WITNESS: The Congressman, Ma'am.
3 THE COURT: Thank you.
4 BY MR. TRAFICANT:
5 Q. Did you know if I had anybody else that day for the
6 process?
7 A. You said you had Mr. Terlecky coming.
8 Q. Now, we had gone through an awful lot of
9 conversation. And isn't it a fact that you have admitted
10 that you have known both John J. Cafaro and Chuck O'Nesti?
11 A. Yes, sir.
12 Q. Did you have occasion to meet with Mr. Cafaro?
13 A. Yes, sir.
14 Q. What was your purpose of seeking meetings with
15 Mr. Cafaro?
16 A. You requested that I get a hold of Mr. Cafaro to make
17 arrangements to pick up titles of cars that you purchased
18 from him.
19 Q. Did you have occasion to be with Billy Coleman at a
20 north side restaurant?
21 A. Yes, I did.
22 Q. What restaurant was it?
23 A. Crystal Lounge on Mahoning Avenue, sir.
24 Q. Did you have occasion to see or meet with Mr. Cafaro
25 that day?

1 A. Yes, I did.
2 Q. And how did it occur?
3 A. Mr. Cafaro came in with a group of his associates and
4 sat at a big round table, and Mr. Coleman and I and some
5 friends were sitting at the far end of the restaurant, and
6 Mr. Cafaro got up eventually, and he walked over towards
7 the group I was with and asked me if he could speak to me
8 for a minute.
9 Q. And did he speak to you there?
10 A. No, he didn't. He said "Come with me," so I got up
11 and walked with him to the cash register.
12 Q. And what, if anything, did you do at the cash
13 register?
14 A. Well, I just kind of looked, and then he wanted to go
15 outside. So we walked out the front door in the alley that
16 goes along the restaurant.
17 Q. Were you in front of Mr. Cafaro or was he in front of
18 you?
19 A. No. He was walking in front of me.
20 Q. Where did the conversation take place?
21 A. In the driveway right alongside the restaurant where
22 you pull in to park in the back.
23 Q. Did you initiate the conversation?
24 A. No, I did not.
25 Q. What, if anything, happened?

1 A. When he was walking, he stopped real quick, and he
2 turned around and looked at me and he said, "Tell Jimbo
3 there was nothing he or I ever done that was illegal, and I
4 am having a little problem with the Chance situation," and
5 he stopped, and he looked at me. And I said, "Mr. Cafaro,
6 that's not why I called you."
7 Q. What at that time was the look or demeanor of
8 Mr. Cafaro?
9 A. Well, when I told him that's not why I called him, he
10 kind of looked at me funny. I kind of stopped him and I
11 told him, "That's not why I called you," and he kind of
12 looked at me for a second.
13 Q. How many times did you call him, his office?
14 A. At least three to four times.
15 Q. And did he ever return any of those calls?
16 A. No, sir.
17 Q. So when he had this befuddled look on his face, was
18 it your impression that he thought you were going to talk
19 about something else?
20 A. He gave me the impression that it surprised him when
21 I told him that's not why I called him, but he didn't
22 elaborate but kind of looked at me kind of funny.
23 Q. Was there any further conversation?
24 A. Yes, sir.
25 Q. What did you do? What did you say?

1 A. I told him the only reason I was trying to call him
2 to talk to him was that you requested that I get the titles
3 of the cars that you had purchased.
4 Q. And what, if anything, did he say?
5 A. He just looked at me. He said, "That has been a long
6 time ago." He said, "I don't even think I know where the
7 titles are," and he stopped and he said, "I think I know a
8 guy that does know," and he said, "I will get back with
9 you."
10 Q. Did he ever get back to you?
11 A. No, no.
12 Q. Did you report that to me?
13 A. Yes, I did.
14 Q. Were you instructed to contact Mr. Cafaro by me
15 relative to my case?
16 A. No, I wasn't.
17 Q. How many days have you traveled to Cleveland
18 involving this trial?
19 A. This will be the sixth day, sir.
20 Q. Now, were you asked to be here yesterday?
21 A. Yes. You did say to me you wanted me up here.
22 Q. What was the reason you were not up here yesterday?
23 A. I requested a week ago when we discussed it, my wife
24 had a doctor's appointment that was crucial to us, and she
25 wanted me to attend, and you said that would be fine.

1 Q. Have you been remarried?
2 A. Yes, I have.
3 Q. What was the purpose of your doctor's meeting?
4 A. My wife is pregnant, and we went to the baby doctor,
5 Congressman.
6 Q. Did you know Chuck O'Nesti?
7 A. Yes, I did.
8 Q. Did you know Chuck very well?
9 A. I knew him when he was running for councilman and
10 by talking and socializing. I knew Chuck fairly well.
11 Q. Did he help you with fund-raisers?
12 A. Yes, he did.
13 Q. Did you consider him a friend?
14 A. Yes, I did.
15 Q. Were you familiar with his representation?
16 A. Yes, I was.
17 Q. Now, over a period of years, how many times would you
18 say you had ever met with Mr. O'Nesti?
19 A. Over a period of when, sir?
20 Q. Over a period of years that you worked, when you
21 became part of this -- did your district become part of
22 the new 17th District?
23 A. Yes, it did.
24 Q. And who was your Congressman?
25 A. You was.

1 Q. And during that period of time did you have occasion
2 to meet with Mr. O'Nesti many times?
3 A. I met with Mr. O'Nesti at functions, and things of
4 that nature, yes.
5 Q. Did you have occasion to meet with him shortly before
6 he became very bedridden?
7 A. Yes, I did.
8 Q. Could you explain where you met him?
9 A. I was at the Open Hearth Tavern on Steel Street in
10 Youngstown, Ohio.
11 Q. Who were you with?
12 A. I was with Mr. Coleman.
13 Q. Is that the same fellow you were with at the other
14 restaurant when Mr. Cafaro came in?
15 A. Yes, I was.
16 Q. And what is Mr. Coleman's past employment history?
17 A. Well, Mr. Coleman last was the chief bailiff of the
18 Seventh District Court of Appeals.
19 Q. Did that cover your county?
20 A. Yes, it did.
21 Q. Was he a close personal friend?
22 A. Probably my best.
23 Q. Did he witness both of these meetings?
24 A. Yes, he did.
25 Q. I'm not talking about the conversations you had; I'm

1 talking about the approach of these respective people to
2 you.
3 A. Yes. He was both sitting right next to me.
4 Q. Now, when you were sitting with Mr. Coleman, what, if
5 anything, did you see happen?
6 A. Well, when we were sitting at the bar, sir, and
7 people come in and out, and every time the door opens I
8 look. I looked at this gentleman, and I paid no attention
9 to him when he walked in and continued our conversation,
10 but when he approached me there was something about the
11 voice, and I kind of leaned back and I looked when he
12 approached us, and I kept looking at him, and after awhile
13 I realized it was Chuck O'Nesti. But he looked very sick,
14 very thin, talked very low, and he moved very slowly.
15 Q. Did you arrange to meet with Mr. O'Nesti that day?
16 A. No, I did not.
17 Q. Did you come to find out how Mr. O'Nesti found you?
18 A. No. He just indicated he found out I was going to be
19 there, and he come down to meet with me.
20 Q. Did you meet with him in the presence of Mr. Coleman?
21 A. No, I didn't.
22 Q. Where did you go when you left Mr. Coleman's
23 presence?
24 A. We -- he asked to talk, and we got up and walked and
25 sat at the table in the back of the room, the main room,

1 but clear at the far end of it.
2 Q. Was there anybody else back there?
3 A. No, sir.
4 Q. Could Mr. Coleman see you from where you were seated?
5 A. Yes, he could.
6 Q. You think he could?
7 A. Yes, sir. I know he could. He could see us where we
8 were sitting.
9 Q. Who initiated the conversation?
10 A. Chuck O'Nesti did, sir.
11 Q. Describe his voice and his behavior.
12 A. Well, as I said, he talked very low, and it is not
13 usually like Chuck, but he was talking very quiet and
14 still, had that kind of ruffled voice that I recognized,
15 and his hair was falling out. He had a ball cap on. And
16 he just walked real slow and looked very thin. And when I
17 saw him he surprised me.
18 Q. Did you initiate the conversation or did he?
19 A. He did, sir.
20 Q. And what was the purpose of him coming to meet with
21 you?
22 A. When we sat down, he said, "Jim will not return my
23 phone calls."
24 Q. Okay.
25 A. And I am concerned that somebody is not giving him

1 the messages that I am calling him. He said, "I need to
2 talk to Jim. Please have Jim call me."
3 Q. What, if anything, did you tell him?
4 A. I told him I would get ahold of you and have you call
5 him, sir.
6 Q. And did you get ahold of me?
7 A. Yes, I did.
8 Q. Now, did Mr. O'Nesti proceed to say anything else?
9 A. When he sat there he looked at me after he kept
10 wanting to know why you hadn't called him and if I would
11 guarantee I would get in touch with you, and he looked at
12 me and said, "Denny, Jim did nothing wrong. They want me to
13 say some things that is not true, and they are going to
14 send me to the Army."
15 Q. They were going to send him to the Army?
16 A. Yes, sir.
17 Q. Did you cut him off when he started talking about the
18 Army?
19 A. Your Honor, about eight months ago -- prior to that
20 my wife died from brain cancer, and I knew it was close to
21 what Chuck had. I told Chuck, "Come on, I am just going to
22 get you home." I said, "You should be home." I promised him
23 I would get you to call him.
24 I got him up, walked him back to where Billy and I
25 was sitting. He walked down at the other end of the bar and

1 met an individual, and he said hi, and he left.
2 Q. Did you see him leave?
3 A. I saw him walking out the door, yes, sir.
4 Q. Do you believe he was close to or near death?
5 A. Yes, I do.
6 Q. Were you surprised he was even walking around at that
7 time?
8 A. Well, I can just tell you he looked very -- he was a
9 very sick man, Congressman.
10 Q. Now, when you said your wife died of brain cancer did
11 you see and recognize certain similarities in their actions
12 and behavior?
13 A. Yes, I did.
14 Q. Did you relate that message to me?
15 A. Yes, I did.
16 Q. Did I ever ask you to do anything illegal?
17 A. No, sir, you haven't.
18 Q. Did I speak at your fund-raisers?
19 A. Yes, you have.
20 Q. Did you pay me for speaking at your fund-raisers?
21 A. No, I didn't.
22 Q. Did you give me expense money for speaking at your
23 fund-raisers?
24 A. No, I haven't.
25 Q. Are you and I good friends, Denny?

1 A. I think we are, sir.
2 Q. What is your status with General Motors?
3 A. I am a production supervisor at General Motors, and I
4 am right now on a political leave of absence.
5 Q. And you are on my staff?
6 A. Yes, sir.
7 Q. Now, with the new redistricting due to the census, is
8 your county, Columbiana County, in the new 17th District of
9 Ohio?
10 A. No, it isn't.
11 Q. Do you live in the 17th District of Ohio?
12 A. No, I do not.
13 Q. Are you politically active throughout the 17th
14 District of Ohio?
15 A. Yes, I am.
16 Q. Were you the campaign chairman for Mr. Birch for
17 governor?
18 A. For the primary, yes, sir.
19 Q. Do you help me with my campaigns?
20 A. Not really, sir, unless you come down to my county in
21 the evenings; then I do, yes, sir.
22 MR. TRAFICANT: That's all the questions I
23 have of this witness.
24 THE COURT: Thank you.
25 VOIR DIRE CROSS-EXAMINATION OF DENNY JOHNSON

1 BY MR. MORFORD:
2 Q. Mr. Johnson, I don't believe you gave us any time
3 frames whatsoever. What was the date you met with Mr.
4 Cafaro?
5 A. I want to say it was early March 2000.
6 Q. And what makes you think it was early March?
7 A. Because it was cold, and that was, the best of my
8 knowledge, was somewhere right in around March.
9 Q. Sir, it is cold in December, January, February,
10 March. What makes you pick March?
11 A. Because that was the best time I could come up that I
12 was close to it, sir.
13 Q. Based on what?
14 A. Just when I can remember approximately when it was.
15 Q. Well, sir, you worked for Congressman Traficant,
16 correct?
17 A. Correct.
18 Q. And you have supported him politically over the years
19 correct?
20 A. Correct.
21 Q. And isn't it true you considered it a bombshell when
22 Mr. Cafaro made this statement to you, sir?
23 A. I didn't take it as a bombshell, sir.
24 Q. You didn't take it as very significant given the fact
25 that in March of 2000 the newspapers were reporting that

1 Congressman Traficant was under investigation for illegal
2 contact and conduct with USAG, and now the head of USAG is
3 telling you that he lied about Congressman Traficant, and
4 you didn't think it was a bombshell?
5 A. Well, being honest with you --
6 Q. That's what I want you to do.
7 A. I didn't think he was doing anything wrong, to start
8 with, and I didn't want to know, and I didn't know who that
9 company was to start with.
10 Q. Do you mean to tell this Court that you hadn't been
11 reading the papers about your boss, Congressman Traficant,
12 being accused of taking bribes and gratuities from USAG?
13 You had no idea about that?
14 A. Mr. Morford, I heard more stories going on than you
15 can shake a stick on.
16 Q. Were you following this case in the papers, sir?
17 A. I was reading it like everyone else, yes, sir.
18 Q. And isn't it true that in late February in the papers
19 there were numerous reports about alleged illegal conduct
20 between J.J. Cafaro and Congressman Traficant?
21 A. I don't know, sir.
22 Q. You don't know?
23 A. I don't. No, I don't.
24 Q. You don't remember that?
25 A. No, I don't.

1 Q. Might it refresh your recollection if I were to show
2 you a couple of those articles, sir?
3 MR. TRAFICANT: Objection. He says he doesn't
4 know.
5 THE COURT: That can lay a foundation for
6 him to refresh his recollection.
7 Q. So is your testimony, sir, that the time that J.J.
8 Cafaro made this statement to you -- and I want to see
9 again -- why don't you tell me again exactly what he said
10 to you.
11 A. He just turned around and said, "Tell Jimbo there is
12 nothing I can say to him, and there was nothing I ever did
13 was illegal."
14 Q. "Tell Jimbo" -- I am sorry?
15 A. Nothing I can say, that anything him and I ever done
16 was illegal.
17 Q. And isn't it true, sir, that at that very time that
18 he told you that you had already read in the papers
19 allegations about improper gratuities, allegations about
20 improper gratuities --
21 MR. TRAFICANT: Objection. Asked and
22 answered.
23 Q. -- that Mr. Cafaro was giving to Congressman
24 Traficant. You knew about that, correct?
25 A. Mr. Morford, I can't say I did not know about it. I

1 am just saying there was so much in the paper. You are
2 asking me specifics. I didn't pay that much attention to
3 every day what was going on.
4 Q. Well, sir, let me ask you this: How many years have
5 you been involved in politics?
6 A. Total?
7 Q. Yes.
8 A. Probably 20 years.
9 Q. And how many years were you the head of the
10 Democratic party in Columbiana County?
11 A. Approximately ten.
12 Q. And as the chairman, how many campaigns have you
13 helped run, sir?
14 A. Quite a few.
15 Q. How many, ballpark?
16 A. They change every year, sometimes two, sometimes
17 three. I don't know, 15, 20, 25. I don't know, sir.
18 Q. And isn't it true in March of 2000 your boss,
19 Congressman Traficant, was in one of the most contested
20 primary campaigns he had ever been in, sir?
21 A. Yes, sir.
22 Q. And isn't it true that these allegations of
23 misconduct, including the gratuities he was allegedly
24 receiving from USAG, were becoming a significant issue in
25 that primary, sir?

1 A. Mr. Morford, you are hitting me -- I don't recall
2 that. Really, I'm serious.
3 Q. You don't recall that being an issue in the primary
4 campaign, sir?
5 MR. TRAFICANT: Objection. It is the third
6 time he said he can't recall.
7 A. Like I said, there were so many stories coming out
8 every day. I do not recall that or I would tell you.
9 Q. There were so many stories you can't recall, but you
10 can recall what Mr. Cafaro told you, right?
11 MR. TRAFICANT: Objection. Fourth time. How
12 many times are you going to let him question him? He is
13 badgering my witness.
14 THE COURT: I am going to let him
15 cross-examine your witness.
16 MR. TRAFICANT: You don't let me do that.
17 THE COURT: Come on, Congressman.
18 MR. TRAFICANT: Objection. If the witness
19 can't recall, he can't recall. He said it four times. For
20 the record, I object.
21 THE COURT: Now will you please sit down,
22 having made your objection.
23 MR. TRAFICANT: I will sit down.
24 THE COURT: Thank you.
25 BY MR. MORFORD:

1 Q. How long after this conversation took place did you
2 call Congressman Traficant and tell him about it?
3 A. Next time I talked to him about it, which would have
4 been the same night or next day.
5 Q. And did you ever write down or memorize what Cafaro
6 told you?
7 A. No.
8 Q. You didn't think it was important?
9 A. It was important for me to tell him.
10 Q. Wasn't it important for you to write it down?
11 A. No, sir.
12 Q. You didn't think it was very important at that time,
13 sir?
14 A. All he asked me to do was check. I checked, and I
15 reported back to the Congressman what Mr. Cafaro said, sir.
16 Q. All he asked you to do was check?
17 A. On the titles.
18 Q. I am talking about this statement that you claim that
19 Mr. Cafaro made to you --
20 A. Okay.
21 Q. -- to tell Jimbo that there is nothing I can say
22 that anything him and I did was illegal.
23 A. Correct.
24 Q. You didn't think that was important enough to
25 memorize it?

1 A. No, sir, I did not.
2 Q. Wouldn't that be a good thing to do with a statement
3 like that?
4 MR. TRAFICANT: Objection. That's
5 speculation.
6 THE COURT: He can answer.
7 A. What was important, the important thing for me to do
8 was get a hold of the Congressman and confer our
9 conversation, which I did.
10 Q. Are you aware when law enforcement officers when they
11 receive information like that they memorialize it?
12 A. They could.
13 MR. TRAFICANT: Objection.
14 Q. You are not a law enforcement officer?
15 A. No, sir.
16 MR. TRAFICANT: I had objected to that
17 question. It was irrelevant.
18 Q. Now, sir --
19 THE COURT: It is not irrelevant. The
20 objection is overruled.
21 Q. You testified that when you first saw J.J. Cafaro he
22 looked a little surprised or nervous because you had been
23 calling him and he hadn't been returning your calls?
24 A. When he got up from the group of people, walked over
25 to me and looked at the TV and kind of said "hi" and looked

1 around, kind looked at me and said, "Can I talk to you, Mr.
2 Johnson?"
3 Q. Now, this was all prior to the time that Mr. Cafaro
4 was actually charged, correct, to the best of your
5 knowledge?
6 A. Best of my knowledge.
7 Q. And from what you have told us, Mr. Cafaro knew that
8 you had been calling him on several occasions but didn't
9 know why you had been calling him, correct?
10 A. Correct.
11 Q. And you and Mr. Cafaro had been involved politically
12 over the years, correct?
13 A. Yes, sir.
14 Q. And he supported your party with contributions down
15 in Columbiana County?
16 A. Yes, he has.
17 Q. And you knew he has been close with Congressman
18 Traficant over the years, correct?
19 A. I knew that they communicated, yes.
20 Q. Wasn't it true, sir, you knew they were close?
21 A. Well, I know one time they weren't even speaking.
22 Q. I am not talking in the early years, I am talking in
23 the three years prior to the conversation you just
24 testified about.
25 A. Yes.

1 Q. They were quite close?
2 A. They were close, yes, sir.
3 Q. They worked on a number of projects together,
4 correct?
5 A. Yes, sir.
6 Q. And isn't it true it is your impression when J.J.
7 Cafaro ran into you he seemed to think you had been calling
8 him to find out whether or not he was cooperating against
9 Congressman Traficant? Wasn't that your impression, sir,
10 based on the way he immediately said, "Hey, look, look"?
11 A. Yes, sir. The way he turned, yes, sir.
12 Q. And he knew at that time that you were a close
13 associate of Congressman Traficant, correct?
14 A. That's correct, sir.
15 Q. He knew you were working for Congressman Traficant,
16 correct?
17 A. Yes.
18 Q. And talking to you, he was talking to an agent of
19 Congressman Traficant, correct?
20 A. Yes, sir.
21 Q. And isn't it true, to the extent such statement even
22 was made, it was only made because he was trying to let
23 Congressman Traficant know through you that he was okay?
24 A. Well, again, I am going to say this, Mr. Prosecutor.
25 Q. Your impression: You were there.

1 A. Are you referring to that one incident about that
2 aerospace? I was not really aware of that.
3 Q. No, sir. I am just asking you as the person that was
4 there that day, wasn't it true that was your impression?
5 A. I got that impression, yes, sir.
6 Q. Now, with respect to Mr. O'Nesti and the alleged
7 statement by Mr. O'Nesti, isn't it true, sir, that Mr.
8 O'Nesti just thought the world of Congressman Traficant?
9 A. Yes, he did.
10 Q. Almost worshipped Congressman Traficant, correct?
11 A. Yes, he did.
12 Q. And Mr. O'Nesti at the time that he talked to you
13 knew you were quite close to Congressman Traficant,
14 correct?
15 A. Yes, sir.
16 Q. And again, it was your impression that in talking to
17 you it was as though he was talking to an agent for
18 Congressman Traficant, to get the word back to Congressman
19 Traficant, correct?
20 A. That's correct, sir.
21 Q. And isn't it true at the time he made this alleged
22 statement to you his primary purpose was he was trying to
23 get Congressman Traficant to call him and couldn't get
24 Congressman Traficant to return his calls?
25 A. That's correct, sir.

1 Q. Did he tell you why he wanted Congressman Traficant
2 to call him?
3 A. No, he didn't.
4 MR. MORFORD: May I have a moment, Your
5 Honor?
6 (Pause.)
7 VOIR DIRE REDIRECT EXAMINATION OF DENNY JOHNSON
8 BY MR. TRAFICANT:
9 Q. Denny, when you met with Mr. Cafaro, did you know he
10 had anything to do with U.S. Aerospace?
11 A. I did not know that. I didn't know about any laser. I
12 didn't know about that. I didn't pay attention. And maybe
13 I should have, but I didn't.
14 Q. Were we involved in the only significant campaign
15 that I ever had since my first race?
16 A. Basically, yes, sir.
17 Q. When you were on work hours did you do any
18 campaigning?
19 A. No, sir. People came up and talked to me, but going
20 out, no, sir.
21 Q. After work did you help campaign for me?
22 A. Yes, I did.
23 Q. Was that the most pressing thing on your mind and the
24 minds of our campaign staff, that election?
25 A. Well, I'm not saying we didn't want to get you

1 elected, because we should, but your Youngstown District
2 Office were to take care of the people and help the people.
3 Q. But I mean was our campaign and the people involved
4 with it very focused on that campaign because of the
5 dynamics of that campaign?
6 A. Yes, sir.
7 Q. Did you ever witness a more brutal campaign in your
8 life?
9 A. No. That's probably the best one I saw.
10 Q. Did you ever hear me say anything bad about anybody?
11 A. No, sir.
12 MR. MORFORD: Objection, Your Honor, as to
13 what this has to do with the motion in limine.
14 THE COURT: That's okay. We will take the
15 answer.
16 Q. Did you ever hear me say anything bad about any of my
17 opponents?
18 A. No, sir.
19 Q. Did you ever hear my opponents say anything bad about
20 me?
21 A. Yes, sir.
22 Q. Do you know if I beat the hell out of him -- them in
23 that election?
24 A. Yes, you did, sir.
25 Q. Do people back home fear me?

1 A. No, sir.
2 Q. Do people on my staff fear me?
3 A. No, sir.
4 Q. Did I ever threaten anybody on the staff?
5 A. Not that I'm aware of, sir.
6 Q. Did you work over all three counties?
7 A. Yes, I did, sir.
8 Q. Did you play a key role when the money was brought to
9 Columbiana County, the federal monies?
10 A. I hope I did, sir, yes, sir.
11 Q. Did you participate on behalf of Columbiana County in
12 projects?
13 A. Continuously.
14 Q. When I was a congressman --
15 THE COURT: Congressman, I don't understand
16 what this has to do with the case.
17 MR. TRAFICANT: Setting a foundation.
18 THE COURT: For what?
19 MR. TRAFICANT: For his involvement with Mr.
20 O'Nesti and the campaign.
21 THE COURT: Well, then, let's ask questions
22 directly toward that involvement.
23 MR. TRAFICANT: I am getting to that.
24 THE COURT: Okay. It would be good to go now
25 to that. We have a jury waiting.

1 BY MR. TRAFICANT:
2 Q. Did you communicate to me directly about some of
3 these projects?
4 A. Yes, I did.
5 Q. Who else did you communicate with?
6 A. Claire Maluso, Charlie Strawbush in Washington, D.C.,
7 mostly directly to you, and following up with them people.
8 MR. TRAFICANT: No further questions.
9 THE COURT: Thank you. Do you have anything
10 further?
11 MR. MORFORD: Nothing further.
12 THE COURT: Okay. Sir, you can step down.
13 We are going to permit you, Congressman, to present
14 whatever arguments you want to make about whether or not
15 there is some exception to hearsay here, but we will do
16 that at 4:30 today after the jury has gone home. The jury
17 is sitting back there. We got started late this morning,
18 and we need to bring them out. So if you would get your
19 first witness ready and go forward with the jury, and we
20 will deal with this issue at one of the breaks. If we
21 decide to do it earlier, we might do it at an earlier
22 break.
23 MR. MORFORD: Your Honor I would like the
24 Court to inquire before the jury is in the box whether
25 Congressman Traficant is going to attempt to elicit any

1 out-of-court statements from Mr. Barlow so we don't get
2 into it and don't have to have the jury leave again.
3 MR. TRAFICANT: To the best of my knowledge,
4 no.
5 THE COURT: Okay.
6 (Proceedings held in the presence of the jury.)
7 THE COURT: Thank you. Be seated, please.
8 Sir, if you will stand and raise your right hand.
9 ROBERT BARLOW,
10 of lawful age, a witness called by the Defendant,
11 being first duly sworn, was examined
12 and testified as follows:
13 DIRECT EXAMINATION OF ROBERT BARLOW
14 BY MR. TRAFICANT:
15 Q. Good morning, Bob.
16 A. Good morning.
17 Q. Would you give your full name -- and sit up closer to
18 the microphone, there is water there for you -- and give
19 your full name and spell your last name for the Court?
20 A. My name is Robert Barlow, B A R L O W.
21 Q. And where do you reside?
22 A. I reside in Boardman, Ohio.
23 Q. What is your work background, employment history?
24 A. My work background is -- I worked for General
25 Motors, which I am retired from, and I work for you,

1 Congressman, part of your staff.

2 Q. How long did you work for General Motors?

3 A. Twenty five years.

4 Q. Did you have any position at General Motors?

5 A. I had a position with the union.

6 Q. What was your position with the union?

7 A. I was chairman of the political arm for the UAW.

8 Q. And what is the UAW union?

9 A. United Auto Workers of America.

10 Q. Were you born in America?

11 A. No.

12 Q. Where were you born?

13 A. England.

14 Q. What age did you come to America?

15 A. I was around twenty eight.

16 Q. You were twenty eight years old --

17 A. Yes.

18 Q. -- when you came to America.

19 Do you still have a little bit of an accent?

20 A. I assume so.

21 Q. Now, what is your position on my staff?

22 A. I am the labor liaison.

23 Q. In how many counties do you work?

24 A. Excuse me?

25 Q. In how many of the counties do you work?

1 A. I work three counties.
2 Q. What are the three counties you work in?
3 A. Columbiana, Mahoning, and Trumbull.
4 Q. As a labor liaison, what did you do?
5 A. I assisted you with labor problems. I assisted some
6 of the retired pensioners from labor unions, and I assisted
7 you in resolving strikes.
8 Q. Who else assisted us in resolving strikes?
9 A. You did.
10 Q. Was there any other member of the staff that helped
11 us?
12 A. Yeah. Henry DiBlasio.
13 Q. Where were you located, in what office?
14 A. I was located at the Overhill office.
15 Q. What time in the morning would you arrive?
16 A. Approximately 6:00 o'clock in the morning.
17 Q. Would you meet with anybody in the morning?
18 A. Yes. I used to meet with Henry DiBlasio.
19 Q. Were you there before Mr. DiBlasio or was
20 Mr. DiBlasio there before you?
21 A. He was usually there before I arrived.
22 Q. Where was I usually during the week?
23 A. In Washington, D.C.
24 Q. Did you see me in the office on the weekends?
25 A. Yes.

1 Q. Who was all located at that time in the Overhill
2 office?
3 MR. MORFORD: Your Honor, he says "that
4 time," we are not given a year. We don't know what time
5 that is.
6 THE COURT: Just give us a time.
7 Q. At the time Mr. DiBlasio was administrative
8 assistant, who all was on our staff?
9 A. Are you talking prior to the staff moving into the
10 federal building?
11 Q. Yeah. After the staff moved into the federal
12 building, what became of the Overhill building?
13 A. Henry DiBlasio was stationed there, Allen Sinclair,
14 myself.
15 Q. And who else?
16 A. You.
17 Q. Did you see me and Henry together quite often?
18 A. Yes.
19 Q. Were you with us when we met?
20 A. Yes.
21 Q. Now, after Henry DiBlasio retired, do you know whom,
22 if anybody, was hired as a legal counsel to the staff?
23 A. Yes.
24 Q. Who was that?
25 A. Allen Sinclair.

1 Q. Did you ever see me with Mr. Sinclair?
2 A. Yes.
3 Q. Where was your office located in the building?
4 A. My office?
5 Q. Your office?
6 A. My office was located -- excuse me -- downstairs in
7 the lower level.
8 Q. You can get some water there. Now, after
9 Mr. DiBlasio left, where was my office?
10 A. Your office was where Henry DiBlasio had his office
11 originally.
12 Q. Whose office was right across the hall?
13 A. Allen Sinclair's.
14 Q. Did you see me with Mr. Sinclair?
15 A. Yes.
16 Q. Did you see me often with Mr. Sinclair?
17 A. Yes.
18 Q. Where would you see me with Mr. Sinclair?
19 A. You'd be sat across from his desk, back to the wall,
20 near the door, the entrance door to his office.
21 Q. What kind of a desk did Mr. Sinclair have?
22 A. He had an L-shaped desk.
23 Q. Could you get around the desk from both sides?
24 A. No.
25 Q. What side did you have to get around Mr. Sinclair's

desk from?

A. The right-hand side, facing on the right-hand side.

Q. Did you ever see me talking with Mr. Sinclair at any other place in the building?

A. Yeah, in what used to be the conference room there.

Q. And what was it then?

A. It was part kitchen and part conference room.

Q. And did you come up on occasions and join us?

A. Yes.

Q. Did Mr. Sinclair ever show any fear towards me?

A. No.

Q. Did any of my staff fear me?

A. No.

Q. Do you know of anybody that fears me back home?

A. No.

Q. Do I hug people?

A. Yes. You hug some people.

Q. Who do I hug?

A. People that you know, people that you like.

Q. Would you say these people were my friends?

A. Yes.

Q. Were you on occasions with me in public at public events?

A. Yes.

Q. How would I react to people at public events?

1 A. You would shake hands with them if you weren't
2 acquainted with them. If you were their friends you hugged
3 them. Some came up and hugged you.
4 Q. Did you know a Mrs. Jackie Bobby?
5 A. Yes.
6 Q. Do you know if she held a position in the campaign?
7 A. Yes.
8 Q. What was her position?
9 A. She was the treasurer.
10 Q. Was there a time when Mrs. Bobby left the staff?
11 A. Yes.
12 Q. Do you know why Mrs. Bobby left the staff?
13 A. Yes.
14 Q. Why did she leave the staff?
15 A. Because you hired Claire Maluso, and she didn't like
16 her.
17 Q. Do you hold a position now in the campaign?
18 A. Yes.
19 Q. What is that position?
20 A. Treasurer.
21 Q. Did you ask Mrs. Bobby for the records?
22 A. Yes.
23 Q. Did Mrs. Bobby give you the records?
24 A. She left some of the records in a box. She didn't
25 give them to me. She brought them into the office and

1 dropped them on the floor in a box.
2 Q. Did you have to sort those records out?
3 A. Yes.
4 Q. Did you like Jackie Bobby?
5 A. No.
6 Q. Did you attempt to contact her about matters
7 concerning the campaign --
8 A. Yes.
9 Q. -- records?
10 A. Yes.
11 Q. What, if anything, happened?
12 A. I got a notification from the FEC, Federal Elections
13 Commission, saying we had not filed a 48-notice on time,
14 and I was unaware of that, because I hadn't -- I wasn't
15 the treasurer at the time that it occurred. So I called
16 Jackie Bobby to ask her about it, and she didn't respond.
17 Q. Did she leave you hanging, learning the ropes on your
18 own?
19 A. Yeah.
20 Q. Did you know a Mrs. Grace Yavorsky?
21 A. Yes.
22 Q. Where did she work?
23 A. She worked in the federal building office.
24 Q. Where did Mrs. Bobby work?
25 A. In the federal building office.

1 Q. Do you have knowledge that they were close friends?
2 A. As far as I know, they were not close friends, no.
3 Q. Did Henry DiBlasio work hard?
4 A. Yes, yes.
5 Q. What kind of public persona did he have? How was he
6 in the public?
7 A. He was kind of a low key but conscientious person at
8 his job.
9 Q. Did he ever fail to do anything you requested of him?
10 A. No.
11 Q. When you discussed labor issues with him, did he
12 assist you?
13 A. Yes.
14 Q. Did there come a time when the federal courthouse
15 office had a Christmas party over on Overhill Road?
16 A. Yes.
17 Q. Do you have any idea when that was?
18 A. I have an idea. I'm not sure of the exact date. I
19 think it was in 1999.
20 Q. You are not sure of the year?
21 A. No. I am not absolutely sure.
22 Q. Without saying what you heard, did I say something
23 that day to the staff?
24 A. Yeah.
25 Q. What did I say?

1 MR. MORFORD: Objection. Hearsay.
2 THE COURT: Yes.
3 BY MR. TRAFICANT:
4 Q. Do you have knowledge of what I was referring to, to
5 the staff?
6 A. Yeah. You were referring to --
7 MR. MORFORD: Objection.
8 THE COURT: Whoa, whoa. You can't testify as
9 to what he said, because he could do that. Somebody can
10 testify to a statement if they want to, but we can't take
11 it to other people.
12 BY MR. TRAFICANT:
13 Q. Did I make a statement to the staff that day?
14 A. Yes.
15 Q. As a result of my having made that statement, what
16 did you observe?
17 A. I observed Chuck O'Nesti leave the room.
18 Q. Did he leave the room or the building?
19 A. The building.
20 Q. When is the next time you saw Mr. O'Nesti?
21 A. Approximately five or ten minutes later.
22 Q. When you looked at Mr. O'Nesti, how did he appear?
23 A. He was crying.
24 Q. How many years have you been my campaign treasurer?
25 A. Since 1998.

1 Q. Have you ever worked on my farm?
2 A. No.
3 Q. Have you ever been to my farm?
4 A. Yes.
5 Q. How many times have you been to my farm?
6 A. Several times.
7 Q. Did you ever do anything that wasn't office related
8 at my farm?
9 A. Excuse me?
10 Q. Did you ever do anything that wasn't office related
11 at my farm?
12 A. Yes.
13 Q. Explain that.
14 A. I was considered a mechanic because of my trade. I
15 was a tool and die maker. I removed cylinders from a high
16 lift tractor.
17 Q. When did you do it?
18 A. It was on a Saturday.
19 Q. How long did it take you to do it?
20 A. About 15, 20 minutes to remove it.
21 Q. After you removed it, did you take it anywhere, or
22 did you leave it?
23 A. No. I took it to a repair shop.
24 Q. Did you pay for it?
25 A. I don't recollect now.

1 Q. Have you ever paid for anything for me?
2 A. Yes.
3 Q. Were you repaid?
4 A. Yes.
5 Q. How were you repaid?
6 A. By check.
7 Q. As campaign treasurer, did you ever give me any
8 money?
9 A. No.
10 Q. Have I ever asked you for any money?
11 A. No.
12 Q. Now, do you know a Mr. John J. Cafaro, known as J.J.?
13 A. Yeah.
14 Q. What is his reputation?
15 A. Not very good.
16 Q. On what do you base that reputation?
17 A. I base it on a situation I had with him as the
18 treasurer of the campaign. I was running a golf
19 fund-raiser.
20 MR. MORFORD: Objection, Your Honor. This
21 violates the rule against specific instances of conduct. He
22 can testify to general reputation.
23 MR. TRAFICANT: Let me rephrase the question.
24 THE COURT: That would be good.
25 BY MR. TRAFICANT:

1 Q. When you said that his reputation was not very good,
2 was it based on personal knowledge you had, dealings with
3 Mr. Cafaro?
4 A. Yes.
5 Q. What dealings did you have with Mr. Cafaro?
6 MR. MORFORD: Objection.
7 THE COURT: That will be the same objection.
8 You can get into his general reputation.
9 BY MR. TRAFICANT:
10 Q. Did Mr. Cafaro attend our fund-raisers?
11 A. Yes.
12 Q. What, in fact, would he contribute to the
13 fund-raisers?
14 MR. MORFORD: Objection.
15 THE COURT: You can answer that, if you know
16 what he would contribute to the fund-raisers. Is that the
17 question?
18 MR. TRAFICANT: Yes.
19 Q. What would he contribute to the fund-raisers?
20 A. He would contribute money to the fund-raiser. We had
21 a system of raising the money. We had a green fee, posted
22 a sign with his name on it to advertise it. We also allowed
23 him to put golfers into the golf game, and --
24 MR. MORFORD: Objection. There is no
25 question, Your Honor.

1 THE COURT: He is answering the question.
2 MR. TRAFICANT: He is answering the question.
3 I object to these objections.
4 THE COURT: All right. Then let's just let
5 him answer, counsel.
6 THE WITNESS: Can I continue, Judge?
7 THE COURT: Yeah, as to this answer of what
8 did he contribute to the fund-raiser.
9 Q. Did he pay for the team and for his commercials as he
10 had alleged to do?
11 A. No.
12 Q. Did you send him an invoice?
13 A. He told me to send him an invoice. I sent three
14 invoices.
15 Q. Did he ever pay?
16 A. No. He never paid.
17 Q. Was his name widely spread around the golf course?
18 A. Yes.
19 Q. Had he made some contributions to the campaign over
20 the years?
21 A. Yes.
22 Q. Is that when you developed that he had a bad
23 reputation, because he lied to you about paying for this
24 green fees and the team on the golf outing?
25 A. Yes.

1 Q. Did Mr. Cafaro tell you personally he would pay?
2 A. He did.
3 Q. Now, having made contributions, did you expect him to
4 keep his word?
5 A. Yes.
6 Q. And he did make some contributions, had he not?
7 A. Prior to that, yes.
8 Q. Is that the first time he gave us the shaft?
9 A. Yeah.
10 Q. Do you know approximately what year that might have
11 been?
12 A. It was probably in 1999, around that area. I'm not
13 sure of the date, no.
14 Q. It could have been earlier? Are you sure of the exact
15 date?
16 A. It couldn't have been earlier than 1998 because
17 that's when I took over as treasurer.
18 Q. Now, where was the golf outing held?
19 A. It was held at Avalon South in Warren.
20 Q. Do you know if he showed up?
21 A. Yes, he was there.
22 MR. MORFORD: Objection, Your Honor. Again,
23 this goes back to the earlier objection.
24 THE COURT: I think he can testify to this,
25 and there is a different reason than the objection you are

1 posing. I think this may relate back to testimony that
2 Cafaro made while he was on the stand, so I'm going to let
3 you continue, but I don't want to go over the same ground,
4 Congressman. You can continue with this as to this golf
5 outing if you have some new information to release.
6 Q. When Mr. Cafaro showed up did he present you with a
7 check for what he owed you?
8 A. No.
9 Q. Well, were Jackie Bobby and Grace Yavorsky good
10 friends?
11 A. No.
12 Q. Do you know if Jackie Bobby and Grace Yavorsky were
13 fired?
14 A. If they were what?
15 Q. Fired?
16 A. No, they weren't fired.
17 Q. What, if anything, did they do?
18 A. They resigned, or they left. I don't know what their
19 official reason was, but they just walked out.
20 Q. Did Jackie walk out first?
21 A. Yes.
22 Q. Did Grace then walk out later sometime?
23 A. About a month later, yes.
24 Q. Was it common knowledge why they left?
25 A. Yes.

1 Q. And what was that reason?
2 A. Because of the hiring of Claire Maluso.
3 MR. TRAFICANT: No further questions at this
4 time.
5 THE COURT: Thank you. Cross-examination.
6 You may have to speak a little louder this time. I
7 think it is hard to hear your voice way back.
8 THE WITNESS: You want me to get closer to
9 the mike?
10 THE COURT: Well, I think that will help.
11 Okay. Very well.
12 CROSS-EXAMINATION OF ROBERT BARLOW
13 BY MR. MORFORD:
14 Q. Good morning, Mr. Barlow.
15 A. Good morning.
16 Q. Mr. Barlow, would it be fair to say that you don't
17 come into this Court as an unbiased witness in this case,
18 do you, sir?
19 A. Yes.
20 Q. Well, sir, isn't it true that you are a very close
21 personal friend of Congressman Traficant?
22 A. Yes. I am a very close friend.
23 Q. And, in fact, you are one of his closest, if not most
24 trusted staff members, correct?
25 A. I believe I enjoy that position.

1 Q. And, in fact, you are the one that goes and gets him
2 up many mornings at the office. Is that correct?
3 A. Gets him up?
4 Q. Does he sometimes sleep at the office, sir?
5 A. Yeah.
6 Q. And aren't there days that you go there and get him
7 up and make the coffee, and the two of you have coffee?
8 A. I make the coffee. He is always up when I get there.
9 Q. But you are usually the first person to see him in
10 the morning, correct?
11 A. Yes.
12 Q. And you have worked for the Congressman for what,
13 about eleven years now?
14 A. Eleven years.
15 Q. And it was the Congressman who hired you in 1991,
16 correct?
17 A. That's correct.
18 Q. And it is the Congressman who sets your salary,
19 correct?
20 A. That's correct.
21 Q. What is your current salary?
22 A. My current salary is $47,000 per year.
23 Q. $47,000 per year?
24 A. That's right.
25 Q. And how many hours do you have to work a week under

1 office policy to earn your $47,000 a year?
2 A. I believe the official hours that I have to work are
3 30 hours per week.
4 Q. 30 hours per week?
5 A. Yeah.
6 Q. And how many hours do you actually work per week?
7 A. 40, 50.
8 Q. Sometimes less, sometimes more?
9 A. Not less, never less.
10 Q. Well, let me ask you this, sir:
11 During the week there is really nobody there to
12 supervise you, correct?
13 A. That's correct.
14 Q. You kind of work on your own. Is that correct?
15 A. Not entirely on my own, no.
16 Q. Who is your direct supervisor?
17 A. My direct supervisor is the Congressman.
18 Q. He is your only boss, correct?
19 A. Yeah.
20 Q. And on Mondays he would generally drive to
21 Washington, D.C., correct?
22 A. That's correct.
23 Q. And he would be there Tuesday through Thursday,
24 correct?
25 A. Usually.

1 Q. And then he would drive back on Fridays?
2 A. Yes.
3 Q. And isn't it true on the weekends he is spending a
4 fair amount of time out at his farm?
5 A. Yes.
6 Q. He does a lot of work out at the farm, doesn't he,
7 sir?
8 A. In the summer he does.
9 Q. Well, also in the spring and fall?
10 A. I don't know what he does during the spring or fall.
11 I only know he does a lot during the summer because it is
12 hay time.
13 Q. And, sir, the Congressman can actually fire you at
14 will without cause at any time if he so chooses, correct?
15 A. I believe so.
16 Q. Now, in addition to being an employee of the
17 Congressman, you are also a long time political crony of
18 the Congressman, correct?
19 MR. TRAFICANT: Objection to the word
20 "crony."
21 THE COURT: Okay. You can phrase that in
22 another way.
23 Q. You are a long time political supporter and -- well,
24 let's just go with supporter. You are a long time political
25 supporter of the Congressman?

1 A. Yes.
2 Q. And during the time you were the head of the
3 political arm of the UAW you were a strong supporter of the
4 Congressman?
5 A. Yes.
6 Q. And the last four years, you not only worked for him
7 on his Congressional staff but helped run his campaigns,
8 correct?
9 A. That's correct.
10 Q. Do you get paid to be his campaign treasurer?
11 A. No.
12 Q. Now, you are not allowed to do any of your campaign
13 treasurer duties on official office time. Is that true?
14 A. That's correct.
15 Q. But there is no one there to supervise you. Is there
16 any procedure set up to keep you from doing that, or checks
17 and balances to make sure you are not doing that?
18 A. My integrity.
19 Q. But beyond that, there is no other checks and
20 balances, correct?
21 A. No.
22 Q. Now, you served as the treasurer in this past
23 campaign, in 2000, correct?
24 A. Right.
25 Q. And you worked very hard to try to get him elected to

1 keep him in Congress, correct?
2 A. Yes.
3 Q. Now, when did you and Congressman Traficant first
4 begin discussing the possibility of you testifying as a
5 witness for him in this case, how long ago?
6 A. Maybe a couple months ago.
7 Q. Now, as someone who's very close with Congressman
8 Traficant, probably as close as anyone, and who meets
9 almost every morning with coffee, there were times you
10 discussed this case with him, correct?
11 A. Not the trial, no.
12 Q. You never discussed the trial with Congressman
13 Traficant prior to coming in here to testify today?
14 A. No, only what I read in the papers, that's all, only
15 what's public news.
16 Q. Do you meet with him every day?
17 A. No.
18 Q. How about prior to trial, were you meeting with him
19 every day prior to trial?
20 A. Prior to trial.
21 Q. Yes.
22 A. No.
23 Q. How often do you meet with him?
24 A. The weekends.
25 Q. And during the times you met with him during the

1 weekends, it is your testimony that you never discussed
2 anything with him about this trial?
3 A. Yeah. I'm sure we did.
4 Q. So you did talk about the trial with him?
5 A. Yeah.
6 Q. How many times have you and Congressman Traficant
7 discussed your potential testimony here today?
8 A. I haven't.
9 Q. Prior to coming in here today he never went over with
10 you what areas he was going to ask you about?
11 A. He told me basically what I'd be testifying to.
12 Q. So then you did talk to him about your testimony
13 today before you testified, correct?
14 A. Yes, the information he gave me, what would happen.
15 Q. And isn't it true that during the time he talked with
16 you he told you he was going to ask you about Henry
17 DiBlasio, correct?
18 A. Yes.
19 Q. And didn't he tell you he would need you to say that
20 Henry DiBlasio worked hard?
21 A. No. Everything he has ever said to me concerning the
22 trial was to tell the truth.
23 Q. But in addition to that, when he was telling you the
24 areas he would talk to you about, isn't it true that he
25 suggested he would need to have you talk about how hard

1 Henry DiBlasio worked?
2 A. I didn't need to be told that.
3 Q. You are saying he didn't discuss that fact with you?
4 A. No.
5 Q. Not at all?
6 A. No.
7 Q. Now, isn't it true that Congressman Traficant
8 requested and received an order from this Court ordering
9 the potential witnesses were not allowed to watch or listen
10 to any part of this trial before they testified?
11 A. I believe it was, yes.
12 Q. And isn't it true that despite that order that
13 Congressman Traficant requested that you actually went
14 downstairs and watched portions of this trial?
15 A. No. I didn't go downstairs and watch it on my own
16 volition.
17 Q. That's not my question. Weren't you sitting in the
18 room downstairs?
19 A. I was sitting in the room downstairs.
20 Q. And you watched Allen Sinclair testify, correct?
21 A. No. I didn't watch Allen Sinclair.
22 Q. Who did you watch testify?
23 A. I didn't watch anybody testify.
24 Q. Well, you were in the room, sir?
25 A. I was in the room. I was on the right-hand side of

1 the room where the screen was turned off. The screen wasn't
2 on. When I got into that room, the left-hand side of the
3 room where the screen was was all occupied by the press and
4 other people.
5 Q. And isn't it true that the press and the other people
6 were watching the proceedings in that room, sir?
7 A. Yeah, they were.
8 Q. And you were there with them while they were watching
9 the proceedings, correct?
10 A. Not until some people left, and I moved over to where
11 I could see the screen.
12 Q. Well, sir, you were in the room where the screen,
13 where the trial was on, correct?
14 A. Yeah.
15 Q. But it is your testimony you weren't watching it?
16 A. No. I couldn't see.
17 Q. What were you doing in the room in the first place?
18 A. I was -- I was inadvertently led to that room.
19 Q. Well, when you got to the room you realized that was
20 the trial on the TV screen, correct?
21 A. Yes.
22 Q. And you knew because you talked to Congressman --
23 A. No. I did not know that the witnesses were
24 prohibited from being -- having access to what was going
25 on at the trial. I did not know that until after I had come

1 out of the room.
2 Q. You mean to say that Congressman Traficant, who had
3 talked to you about being a witness in this case, hadn't
4 bothered to tell you that he had an order from the Court
5 that all witnesses were to be excluded from watching these
6 proceedings, sir?
7 A. I was never informed of that.
8 Q. Congressman Traficant didn't bother to tell you that?
9 A. No.
10 Q. Okay.
11 A. As a matter of fact, I didn't learn it until I read
12 it in the newspaper.
13 Q. So during the times he talked to you about testifying
14 he never told you that?
15 A. No.
16 Q. Now, you were asked some questions by Congressman
17 Traficant regarding strikes, whether Henry DiBlasio helped
18 settle strikes. Settling of strikes was not a daily duty
19 or occurrence for you guys, was it? That was not something
20 you were doing every day?
21 A. No.
22 Q. Every week?
23 A. No.
24 Q. Every month?
25 A. No.

1 Q. It was actually fairly infrequent occasion, correct?
2 A. Infrequent, yeah.
3 Q. A couple strikes?
4 A. Three or four, yeah. Four.
5 Q. Over a period of eleven years we are talking three or
6 four strikes?
7 A. Yeah.
8 Q. You were also asked some questions about the office
9 setup. Isn't it true that during the time that the entire
10 staff was at 11 Overhill Road before they opened up the
11 federal courthouse there was actually a two-story setup;
12 that all of the staff, except for Henry DiBlasio and
13 Congressman Traficant, were downstairs?
14 A. Yes.
15 Q. And then Henry DiBlasio had his law office upstairs,
16 correct?
17 A. Right.
18 Q. And then Congressman Traficant had like a little
19 studio apartment, correct?
20 A. Yes.
21 Q. And he sometimes slept in that studio apartment,
22 correct?
23 A. I don't know.
24 Q. You don't know that?
25 A. I can't testify to that.

1 Q. Well, you worked there for eleven years, did you not,
2 sir?
3 A. Yes.
4 Q. Have you ever been in that apartment?
5 A. Not until after he moved into the office -- not
6 until they went -- I had never been in that office
7 upstairs until after the staff moved to the federal
8 building.
9 Q. What year did you start, 1991?
10 A. 1991, yes.
11 Q. And what year did they move to the federal building?
12 A. I'm not sure what year.
13 Q. Approximately? How many years after you started?
14 A. About '95.
15 Q. So you worked there for about four years before you
16 moved to the federal building?
17 A. Yes.
18 Q. And it is your testimony you worked for the
19 Congressman for four years, and you never stepped foot in
20 his office?
21 A. Yes.
22 Q. After they moved to the federal building, there were
23 times that you were inside that apartment, correct?
24 A. Yes.
25 Q. And isn't it true it was more of a studio apartment

1 than an office?
2 A. It was set up like an office.
3 Q. Was it also set up like a studio apartment?
4 A. No.
5 Q. Were there clothes?
6 A. There were clothes, yeah.
7 Q. Is that an ordinary thing to see in a working office?
8 A. It is in Congressman Traficant's office.
9 Q. Was there a little kitchenette?
10 A. I'm not sure of that.
11 Q. How many times were you in his office, sir?
12 A. Probably in there several times.
13 Q. You don't know if there was a kitchenette?
14 A. No. I don't know if there was a kitchenette.
15 Q. Were you ever in the office at Raccoon Road, the
16 office he moved to after he left Overhill?
17 A. Yeah.
18 Q. Describe to me the layout of that office, if you
19 would.
20 A. Pardon?
21 Q. Describe the layout of that office, if you would.
22 A. The office consists of three rooms.
23 Q. All on one floor?
24 A. All on one floor.
25 Q. And what are those three rooms?

1 A. There is the main room that you walk into when you go
2 in the office, there is the Congressman's office off the
3 main room, and there is a back office, which is my office,
4 and there is a closet.
5 Q. Is there also an apartment upstairs?
6 A. Yes.
7 Q. And who has the apartment upstairs?
8 A. The Congressman.
9 Q. Is that paid for with Congressional funds, to your
10 knowledge?
11 A. Not to my knowledge.
12 Q. You work there in the building, do you not, sir?
13 A. Yeah, I work in the building.
14 Q. And what's your understanding, that's something he
15 rents apart from the Congressional space?
16 A. I don't have anything to do with the financial part
17 of paying for that office.
18 Q. So you have no idea whether that's part of the
19 overall rental office by Congress?
20 A. No. I don't know what the agreement is on that.
21 Q. And he sleeps in that apartment, correct?
22 A. No.
23 Q. Aren't there times that you go there and he slept in
24 that apartment, sir?
25 A. No.

1 Q. Have you ever been up in that apartment?
2 A. Yeah. I've been up in that apartment.
3 Q. Does he have clothes up in that apartment?
4 A. Yeah, he has clothes.
5 Q. What else is up in that apartment?
6 A. A kitchen and a bathroom.
7 Q. Is there any kind of a bed?
8 A. No.
9 Q. Couch?
10 A. No.
11 Q. Nothing, just a big empty room?
12 A. He has a big table up there.
13 Q. Anything else?
14 A. And a chair.
15 Q. No couch, no bed, nothing?
16 A. No.
17 Q. Is there anyplace anyone could sleep up there?
18 A. Anyplace --
19 Q. That anyone could sleep up there?
20 A. If they wanted to sleep in the chair, yeah.
21 Q. It is your testimony you are never aware of him
22 having slept up in that office?
23 A. No, I'm not.
24 Q. What's that used for, that apartment?
25 A. Just storage.

1 Q. Now, you testified on direct examination about farm
2 work, and you said that you'd never done work out at the
3 farm. Is that correct?
4 A. Yes.
5 Q. And then you came back and said there was one time
6 when you went out and helped fix the machine?
7 A. Yeah, but I -- let me clarify that. When you asked
8 if I worked at the farm, I assumed I was asked if I was
9 doing farm work. That was not farm work. I considered farm
10 work working in the fields, working in the stables.
11 Q. How about fixing farm equipment, you don't consider
12 that farm work?
13 A. No.
14 Q. In response to his question you said there was one
15 time you were out there to fix machines. Isn't it true
16 there were several times you went out there to fix farm
17 equipment, not just one?
18 A. Twice I went out there to fix farm equipment.
19 Q. Just twice?
20 A. I put a grease nip on a rake in a matter of 15
21 minutes.
22 Q. So it is your testimony you had just been out there
23 doing that on two occasions?
24 A. Yeah.
25 Q. When you did go out to the farm, it was at

1 Congressman Traficant's direction, correct?
2 A. Not necessarily, not necessarily.
3 Q. At whose direction did you go out there?
4 A. My own.
5 Q. Do you recall being asked these questions when you
6 testified before the grand jury on October 10th, 2000:
7 "Question: On how many occasions have you
8 been sent out to the farm?
9 "Answer: I was not sent out. We went out.
10 "Question: Went out. Okay. On how many occasions
11 have you gone out?
12 "Answer: About four."
13 Do you recall that?
14 A. No.
15 Q. Was there an occasion where you went out with another
16 staffer named Denny Johnson to do work at the farm?
17 A. The night that I told you I put a grease nip on,
18 yeah, Denny Johnson was with me. He brought me a pair of
19 vice grips with me.
20 Q. At the times you have been out there to fix equipment
21 you have never been paid. Is that correct?
22 A. That's correct.
23 Q. You were asked some questions about Henry DiBlasio's
24 duties. Isn't it true in addition to whatever Congressional
25 duties Henry DiBlasio was doing that he had a full-time law

1 practice that he was engaged in?
2 A. I believe so.
3 Q. Well, you worked there, sir. I'm not asking what you
4 believe. Isn't it true he had a full-time law practice?
5 A. No. I didn't -- I worked there, but I worked
6 downstairs, and I didn't know what Henry DiBlasio was doing
7 during the day.
8 Q. So you didn't know what Henry DiBlasio did during the
9 day?
10 A. No. I only know what he was doing when I was with
11 him in the mornings.
12 Q. And you were not with him very much during the day,
13 correct?
14 A. Not during the day.
15 Q. You would meet with him for coffee in the mornings?
16 A. In the mornings, yes.
17 Q. And for the rest of the day you had no idea what he
18 was doing, did you?
19 A. No.
20 Q. So whether he was doing Congressional work or law
21 work, you have no way of knowing that, do you?
22 A. The only way I have of knowing is what he told me.
23 Q. Apart from what he would tell you he was doing, if he
24 was sitting up in his office working on law work and
25 telling you he is doing Congressional work, you have no way

1 of knowing that, do you, firsthand knowledge?
2 A. No.
3 Q. You did know this, sir: Isn't it true that some of
4 the other staff employees complained to you at times they
5 felt Henry DiBlasio was not doing Congressional work to the
6 extent he was supposed to?
7 A. Can you be more specific about who complained?
8 Q. I want to ask you, do you ever recall any of the
9 other staff members coming to you and complaining that
10 Henry DiBlasio was not doing the amount of work he should
11 be doing?
12 A. No. Nobody would complain to me. That wasn't my
13 position.
14 Q. Well, do you recall testifying again before the grand
15 jury on October 10th, 2000, being asked these questions and
16 giving these answers:
17 "Question: Have you ever heard or had anyone
18 ever suggested that anyone that was employed" -- excuse
19 me, wrong question.
20 "Were you aware that there were several employees who
21 were dissatisfied with the fact that Henry DiBlasio in
22 their opinion was doing very little work but getting the
23 most pay? Did you ever hear people complain about that
24 type of thing?
25 "Answer: Yeah. I heard that.

1 "Question: Who were the people that made those
2 comments?
3 "Answer: Jackie Bobby, Grace Yavorsky."
4 Wasn't that your testimony before the grand jury,
5 sir?
6 A. Yeah. But you asked if they complained to me. They
7 weren't complaining to me.
8 Q. Who were they complaining to?
9 A. They were complaining amongst themselves, Grace and
10 Jackie.
11 Q. So you were aware that employees were complaining
12 about the fact that Henry DiBlasio --
13 A. You asked me if they complained to me. No, they did
14 not complain to me.
15 Q. But you are aware that there were people making that
16 --
17 A. I was --
18 MR. TRAFICANT: Objection. Asked and
19 answered.
20 THE COURT: You can answer, sir.
21 A. I can answer. Would you repeat the question, please?
22 Q. But you were aware that employees were complaining
23 about the fact that Henry DiBlasio was making the most
24 money and doing the least amount of work, correct?
25 A. There was animosity, yeah. There was animosity

1 amongst two members of the staff.
2 Q. And you yourself had no idea how much Congressional
3 work Henry DiBlasio was doing, correct?
4 A. No.
5 Q. Now, you were asked some questions about J.J. Cafaro
6 agreeing to underwrite something for the golf outing and
7 failing to do it. Do you recall that?
8 A. Yes.
9 Q. Now, you and Congressman Traficant talked about that
10 before you came in here today, correct?
11 A. Yes.
12 Q. And you are the campaign treasurer, correct?
13 A. That's correct.
14 Q. And all you had to do was pick up the report and look
15 at it to look and see whether J.J. Cafaro wrote a check or
16 didn't write a check, correct?
17 A. Yes. I could have done that, yes.
18 Q. Did you bother doing that?
19 A. No.
20 Q. So when you testified it might have been 1998 that
21 J.J. Cafaro stiffed the campaign, you have no idea whether
22 that's true or not?
23 A. Yeah. I'm talking from memory.
24 Q. But you could have looked at the report, sir,
25 correct?

1 A. I could have looked at the report.
2 Q. Is that what you are --
3 A. I could have looked at the report. First of all, I am
4 not exactly sure of which year it was, but I'm absolutely
5 sure that the last time that he attended our golf outing
6 that he did not pay for what he committed to.
7 Q. But as far as the year, whether it was 1998 or 1999,
8 I would like to show you what I'm going to mark as
9 Government Exhibit -- make this 8-100.
10 MR. MORFORD: Your Honor, may I put this up
11 on the screen?
12 MR. TRAFICANT: I would like to see a copy of
13 it --
14 THE COURT: All right.
15 MR. TRAFICANT: -- before he puts it on the
16 screen. I ask it be made a Joint Exhibit.
17 THE COURT: It can be a Joint Exhibit, but
18 it is 8-100.
19 MR. MORFORD: 8-100.
20 THE COURT: Do you want to say something
21 about what it is?
22 BY MR. MORFORD:
23 Q. Mr. Barlow, I'm going to hand this to you for a
24 minute before I put it on the screen and have you identify
25 it.

1 Do you recognize this document, sir?
2 A. Yeah, I recognize it.
3 Q. Is that your signature at the bottom?
4 A. It is my signature.
5 Q. Would you tell the jury what this is?
6 A. This is a report of the receipts and disbursements
7 for the year 1998.
8 Q. And this is a report that you have to file with whom?
9 A. The FEC, Federal Election Commission.
10 Q. And this is, in fact, a report you did file with the
11 Federal Election Commission, right?
12 A. That's right.
13 Q. I'd like to turn your attention to what is marked at
14 the top here as Page 3 of 4, particularly down here, there
15 is an item that says "full name and mailing address, John
16 J. Cafaro."
17 A. Yeah.
18 Q. "Name of employer, Cafaro Company"?
19 A. Yeah.
20 Q. "Date; month, day, year; August 5th, 1998, $900." Do
21 you see that?
22 A. Yeah.
23 Q. And that related to the golf outing, correct?
24 A. Yes.
25 Q. So as far as you not being able to remember what year

1 it is, the year that you weren't paid would have been 1999,
2 not August of 1998, correct?
3 A. I don't know what year it was.
4 Q. Well, you know you were paid in 1998 because you
5 reported it?
6 A. Yeah. I was paid in 1998.
7 Q. Okay. And you said you were not the campaign
8 treasurer prior to 1998, correct?
9 A. Yes, I was not.
10 Q. So it would have had to have been some year after
11 that?
12 A. Yes.
13 Q. And you don't know whether it was 1999 or 2000?
14 A. No.
15 Q. But one of those two years?
16 A. One of those, yeah.
17 Q. Now, I want to ask you a little bit more, Congressman
18 Traficant had asked you about your duties as campaign
19 treasurer and asked you whether or not you had ever given
20 him cash from a campaign. Was that the question?
21 A. Yes.
22 Q. And you said no, correct?
23 A. Right.
24 Q. Now, there is a system in which you allow him to
25 receive funds from the campaign to pay for his meals,

1 correct?
2 A. Yes.
3 Q. And why don't you go ahead and explain to the jury
4 how that works.
5 A. He submits -- he submits bills to me for travel and
6 food. He gives me the receipts.
7 Q. Now, as the rules are set up, he is only allowed to
8 give you receipts for meals that are directly related to
9 the campaign, and you are only allowed to reimburse those
10 to the extent they are directly related to the campaign,
11 correct?
12 A. Yes.
13 Q. But the truth is, you don't have any meaningful
14 procedure set up to in any way determine whether or not
15 when he gives you a receipt for meals it is actually
16 related to the campaign or not, correct?
17 A. No, I don't witness it, if that's what you mean.
18 Q. You don't have a form he signs, correct?
19 A. No.
20 Q. You don't have anything where he has to list out who
21 he took and what the political purpose was, correct?
22 A. No. The only form I do are the ones the FEC
23 requires.
24 Q. If he comes to you and gives you a restaurant
25 receipt, you write him a check based entirely on his word,

1 correct?
2 A. Yes.
3 Q. And whether it is personal or political, you have no
4 way of knowing other than by what he told you, correct?
5 A. Right.
6 Q. And isn't it true, in one year alone there were
7 $15,000 worth of meals that you gave him checks for?
8 A. I don't know that. I don't know that I gave him that
9 much.
10 Q. Well, how much is the largest amount you recall
11 giving him in a year?
12 A. I don't recall any amounts. I'd have to look through
13 the records.
14 Q. Do you recall a time when a newspaper ran an article
15 criticizing your campaign because the meal expenses were so
16 high compared to other local congressmen?
17 A. Yes.
18 Q. And isn't it true they requested from you the backup
19 documentation as to those meal expenses?
20 A. Yes.
21 Q. And isn't it true that you told them that you could
22 not give it to them because Congressman Traficant said he
23 would not provide that information?
24 A. No. I told them I would not give it to them.
25 Q. And if they said that you told them the Congressman

1 wouldn't, that was a misquote?
2 A. If they said that, yes.
3 Q. Okay.
4 A. I distinctly said I would not give it to them, and
5 they asked me why. I said there is ten reasons why.
6 Q. Why wouldn't you give them the backup?
7 A. The ten reasons for the way they treated Congressman
8 Traficant during an election, and I was not obligated to
9 give it to them. So the way they treated us, I treated them
10 likewise.
11 Q. And isn't it true, sir, that you have no backup?
12 A. That I have no --
13 Q. You have no backup to show that these were political
14 versus personal expenditures, correct?
15 A. I have all the receipts.
16 Q. But apart from all the receipts from a restaurant,
17 that doesn't show whether it is political or personal?
18 A. No.
19 Q. So you have no backup to show whether it is personal
20 or political?
21 A. The only backup I could have is if I was there at the
22 time.
23 Q. And the reason you have no backup is because you take
24 Congressman Traficant at his word, correct?
25 A. Correct.

1 MR. MORFORD: May I have a moment, Your
2 Honor?
3 THE COURT: Yes.
4 (Pause.)
5 MR. MORFORD: I have nothing further.
6 THE COURT: Congressman?
7 MR. TRAFICANT: Your Honor, it is 10:35. If
8 you want me to continue, I will continue. If you want to
9 take a break, we can take a break.
10 THE COURT: Then what we will do is give the
11 jury their break. It will be 30 minutes, because in the
12 interim we will do voir dire on break, some more things the
13 Court has to do with the lawyers, but you still get a
14 30-minute break. Okay.
15 MR. TRAFICANT: Your Honor, I will need five
16 minutes.
17 THE COURT: Okay. We will take a
18 five-minute break for the rest of the people who have to be
19 here so we can get organized to go into this next session
20 of this.
21 (Thereupon, a recess was had.)
22 (Proceedings in the presence of the Jury:)
23 THE COURT: Thank you, sir. You are still
24 under oath, and we need you to speak into that microphone.
25 Thank you.

1 REDIRECT EXAMINATION OF ROBERT BARLOW

2 BY MR. TRAFICANT

3 Q. Do you have immunity, Bob?

4 A. No.

5 Q. Did you ever meet with the FBI or the IRS?

6 A. No.

7 Q. Are we good friends?

8 A. Yes.

9 Q. Were you recommended by someone when you got the job?

10 A. Yes.

11 Q. Who recommended you for that job?

12 A. My predecessor, Jack O'Connell.

13 Q. Were you and I associates or friends before then?

14 A. Yes.

15 Q. Were we very close friends before you got hired?

16 A. Yes.

17 Q. Now, you recall a number of questions by the

18 prosecutor. Was J.J. Cafaro good for his word?

19 A. No.

20 Q. Now, when you were asked about Henry DiBlasio, did he

21 ever fail to report back to you on any issue or any problem

22 that you related to him?

23 A. No.

24 Q. Now, when you were asked about the newspaper wanting

25 information about expenses, you said you gave them ten

1 reasons. Why did you give them those ten reasons?
2 A. Those ten reasons was they were notifying the public
3 that they should not vote for you; that you weren't a
4 responsible Congressman.
5 Q. In other words, the newspaper -- your testimony is
6 the newspaper gave ten reasons why they should vote against
7 Jim Traficant?
8 A. Yes.
9 Q. And you said no?
10 THE COURT: That's a good example of the
11 testimony coming from the person asking the question, and I
12 will ask you to disregard that last question that had to do
13 with the newspaper.
14 BY MR. TRAFICANT:
15 Q. Is the reason why you gave the answer ten reasons --
16 MR. MORFORD: Objection.
17 Q. -- anything to do with the newspaper column?
18 THE COURT: It is the same problem.
19 Q. Were the FEC reports available to the public record?
20 A. Yes.
21 Q. Is there any place to sleep in the storage room out
22 in Canfield?
23 A. No.
24 Q. Is there a large table/desk in that room?
25 A. Yes.

1 Q. What, if anything, is it used for?
2 A. You use it for your paperwork.
3 Q. What else is that facility used for upstairs?
4 A. Storage.
5 Q. Where do I sleep in Canfield?
6 A. Downstairs in your office.
7 Q. What, if anything, is in my office downstairs?
8 A. Would you repeat that, please?
9 Q. What is in my office downstairs?
10 A. Oh, your desk and your couch, TV, clothes.
11 Q. Now, they showed you a '98 report. Is that correct?
12 A. Yes.
13 Q. Did J.J. Cafaro pay for the last golf outing?
14 A. No.
15 Q. Did you ever visit the farm in office clothes?
16 A. Yes.
17 Q. How many times?
18 A. A few times.
19 Q. Did we have a campaign strategy?
20 A. Yes.
21 Q. Was I very well known throughout my district?
22 A. Very well known.
23 Q. And what was one of those campaign strategies?
24 A. That you would circulate around restaurants and meet
25 with people. It was part of our campaign strategy to keep

1 us in the eye of the public. It was the cheapest way that
2 we could campaign. We didn't have a lot of money to
3 campaign, so we used it to the best of our advantage.
4 Q. In the campaign that was the most heated, was I the
5 incumbent?
6 A. Yes.
7 Q. Did my two opponents raise more money than I raised
8 in that race?
9 A. Yes.
10 Q. What did we have in the bank?
11 A. Now?
12 Q. No. What do we have in the bank now?
13 A. $40,000.
14 Q. What's the normal amount of money that a
15 Congressional campaign raises?
16 THE COURT: Your campaign? Excuse me. Your
17 campaign?
18 BY MR. TRAFICANT:
19 Q. What's the normal amount of money that we raise, Bob?
20 THE COURT: Thank you.
21 A. The normal amount of money that we raise is in the
22 range of $150,000.
23 Q. Now, did we have a carryover over many years?
24 A. Yes.
25 Q. If we did not have that carryover would we be able to

1 compete in that prime -- that campaign?
2 A. No.
3 Q. Do you know if I am a candidate for office this year?
4 A. Yes.
5 Q. Do you know on what party I am seeking election?
6 A. Independent.
7 MR. MORFORD: Objection. This is way beyond
8 the scope of cross.
9 THE COURT: You can answer.
10 Q. Do you know what party I am seeking reelection as?
11 A. As an independent.
12 Q. What have I always been elected as?
13 A. As a Democrat.
14 MR. TRAFICANT: No further questions.
15 THE COURT: Thank you.
16 MR. MORFORD: Nothing, Your Honor.
17 THE COURT: Thank you, sir. Now you are
18 excused.
19 THE WITNESS: Now I'm excused?
20 THE COURT: Yes, sir. Thank you.
21 THE WITNESS: Thank you.
22 MR. TRAFICANT: Your Honor, I call Mr. George
23 Hooker.
24 THE WITNESS: Judge, can I ask you a
25 question?

1 THE COURT: Not right now, sir, sorry,
2 because we are in the middle of a hearing. Okay? Maybe my
3 staff can help you if you have a question, someone right
4 there in the hall. There is a door on the left. Ring the
5 doorbell.
6 THE COURT: Good morning, sir. Come around
7 and up these steps. Okay. Would you please raise your right
8 hand?
9 GEORGE HOOKER,
10 of lawful age, a witness called by the Defendant,
11 being first duly sworn, was examined
12 and testified as follows:
13 THE COURT: Thank you, sir. Have a seat. You
14 have to speak up in this room. It is a very big room, and
15 they need to hear you all the way in the back. There is a
16 microphone. If you want to do that and talk into it, you
17 can do that.
18 DIRECT EXAMINATION OF GEORGE HOOKER
19 BY MR. TRAFICANT:
20 Q. George, give us your full name, and spell your last
21 name for the record.
22 A. George Hooker.
23 Q. And how do you spell that?
24 A. H O O K E R.
25 Q. And where do you reside?

1 A. Uhrichsville, Ohio.
2 Q. Were you scheduled to be here yesterday?
3 A. Yes, I was.
4 Q. Was there a reason why you couldn't be here
5 yesterday?
6 A. Yeah. I was sick yesterday.
7 Q. Did you notify me of that?
8 A. Yes. I called you.
9 Q. What is your current employment?
10 A. I am self-employed.
11 Q. And what, if anything, do you -- what is your
12 pursuit of business?
13 A. I am in the trucking business.
14 Q. And how many years?
15 A. Oh, over 50.
16 Q. Did you ever work at my farm?
17 A. No.
18 Q. Did an agent of the Federal Bureau of Investigation
19 come to visit you?
20 A. Yes.
21 Q. Approximately when?
22 A. Maybe seven or eight months ago.
23 Q. What was the purpose of his visit?
24 A. He questioned me about a horse that I had sold to
25 you.

Q. When did you sell me that horse?

A. In 1985.

Q. 1985?

A. Yes.

Q. Do you remember the name of that horse?

A. Peter Wolf.

Q. Was he a registered horse?

A. Yes, he was.

Q. What breed?

A. American Saddlebred.

Q. Did I buy that horse?

A. Yes, you did.

Q. What were the terms of the sale?

A. $3,500.

Q. Was that the total paid for the horse?

A. Yes.

Q. Did you require a deposit?

A. Yes, I did, $500.

Q. Did you know if I had $500 on me?

A. Well, you came up with it, the $500, yes.

Q. Was there anybody with me?

A. Yes, your trainer.

Q. Who was that?

A. Sandy Ferrante.

Q. What do you know about Sandy Ferrante?

1 A. Well, I only know her through the horse shows and
2 breeding of horses. I know her for 30 or 40 years.
3 Q. Did anyone in your family show horses?
4 A. Yes, my son showed.
5 Q. Was Sandy a reliable person?
6 A. What was that question?
7 Q. Was Sandy a reliable person?
8 A. Well, I found her to be, so, yes.
9 Q. Do you know her mother?
10 A. Yes, I did know her mother.
11 Q. What was her nickname?
12 A. I believe it was Turnpike. I'm not sure about that,
13 but I think it was.
14 Q. George, who delivered the horse?
15 A. I did.
16 Q. And where did you deliver the horse to?
17 A. To your farm.
18 Q. Do you know where that was?
19 A. I can't tell you exactly. It was up at Boardman
20 someplace, but I'm not exactly sure where.
21 Q. Did you get paid, and did you receive money when you
22 delivered that horse?
23 A. Yes. I had a $500 deposit, and I got a check for
24 $3,000.
25 Q. Was that the total amount of money that that horse

1 sold for?
2 A. Yes.
3 Q. Did you once offer to sell me another horse?
4 A. Yeah. I offered to sell you another horse.
5 Q. Do you remember how much you offered to sell me the
6 horse for?
7 A. Which horse are you referring to?
8 Q. Did you have occasion to show me a horse behind the
9 barn with a low back?
10 A. The low back, yes, I remember that.
11 Q. And how much did you offer to sell me that horse for?
12 A. I believe it was $1,500.
13 Q. Did I buy the horse?
14 A. No.
15 Q. Did you end up selling the horse?
16 A. Yes.
17 Q. How much did the horse bring?
18 A. $45,000.
19 Q. Do you ever know what happened to Peter Wolf?
20 A. Yeah. I heard what happened to him, yes.
21 Q. What, if anything, happened to Peter Wolf?
22 MR. KALL: Objection, Your Honor. This calls
23 for hearsay.
24 THE COURT: You can answer if you know what
25 happened to Peter Wolf.

1 THE WITNESS: Yeah. I know what happened to
2 him.
3 BY MR. TRAFICANT:
4 Q. What happened to him?
5 THE COURT: Ask him how he knows, and then
6 we will get there.
7 Q. How did you know about it?
8 A. I ran into -- I think you traded him first to Dr.
9 Roberts, and Dr. Roberts told me --
10 THE COURT: Okay. That's hearsay, and you
11 have to disregard what Dr. Roberts said. Okay.
12 BY MR. TRAFICANT:
13 Q. To the best of your knowledge, did Peter Wolf become
14 a great show horse?
15 A. He became a carriage horse, and he did well as a
16 carriage horse.
17 Q. Would that be considered a major or minor class?
18 A. I would say major.
19 MR. TRAFICANT: No further questions.
20 THE COURT: Thank you. Any questions?
21 MR. KALL: No questions, Your Honor.
22 THE COURT: Sir, you are released. You can
23 step down. Be careful of the steps.
24 THE COURT: Who's next?
25 MR. TRAFICANT: Anthony Traficanti.

1 THE COURT: Sir, good morning.
2 THE WITNESS: Good morning, Judge.
3 THE COURT: Would you put up your right hand
4 up, please?
5 ANTHONY T. TRAFICANTI,
6 of lawful age, a witness called by the Defendant,
7 being first duly sworn, was examined
8 and testified as follows:
9 THE COURT: Thank you, sir. Have a seat, and
10 use the microphone if you need to, but make your voice is
11 heard throughout.
12 THE WITNESS: Okay. May I have some water?
13 THE COURT: Yes. Go ahead and pour it.
14 That's what it is there for.
15 THE WITNESS: Thank you.
16 DIRECT EXAMINATION OF ANTHONY T. TRAFICANTI
17 BY MR. TRAFICANT:
18 Q. Good morning, Anthony. Can you hear me?
19 A. Yes, sir. Good morning to you.
20 Q. Would you give your complete name and spell your last
21 name for the jury?
22 A. My complete name is Anthony Todd Traficanti. It is T
23 R A F I C A N T I.
24 Q. And where do you reside?
25 A. 2817 Poland Village Boulevard, Poland, Ohio.

1 Q. And where are you currently employed?
2 A. With the Congressional office by Congressman James A.
3 Traficant, Jr., Youngstown, Ohio.
4 Q. What position do you hold?
5 A. Title of regional director.
6 Q. What office do you work out of?
7 A. The Youngstown office, federal courthouse building.
8 Q. Now, as regional director, how many counties do you
9 have?
10 A. Mahoning and Columbiana County.
11 Q. Do you have any other employment?
12 A. Yes.
13 Q. What other employment do you have?
14 A. I am a part-time instructor at Youngstown State
15 University, and I also have my own trucking business.
16 Q. What do you teach at Youngstown State University?
17 A. I am in the sociology department.
18 Q. What courses?
19 A. Intro level courses, political sociology, intro,
20 those types of courses, deviants, those types of classes.
21 Q. Are you in your trucking business affiliated with any
22 company?
23 A. I don't understand your question.
24 Q. Is your trucking business associated with any other
25 trucking firm?

A. No, sir.

Q. Is it located at any other trucking firm?

A. No, sir.

Q. Is your father involved in the trucking business?

A. Yes.

Q. And in what company is he involved?

A. B&T Express.

Q. What is your total annual income from all of these sources?

A. This is only an estimate, and I can't be exact, but probably somewhere about $300,000.

Q. A year?

A. Yes. But I'm just giving you an estimation.

Q. How long have you worked for me?

A. It will be eleven years.

Q. How did we first come to meet relative to employment?

A. You have been a lifelong friend of my family, and I have known you since I believe I have been in the seventh grade. My dad introduced me to you.

Q. What, if anything, did you request of me?

A. I asked you for a job.

Q. Did you ask for a job with me or for a job?

A. Help getting a job.

Q. Did you get a job?

A. With you I did.

1 Q. Were you able to get a job with anybody else?
2 A. No, sir.
3 Q. Did you ever explain to me why you had a rough time
4 getting a job anywhere else?
5 A. Yeah. The discussion ensued concerning my dad's
6 involvement in your first trial.
7 Q. Do you know what the status of your father was in my
8 first trial?
9 A. My best recollection, I think he was a campaign
10 worker. I can't really recall. That was almost, I believe,
11 20 years ago.
12 Q. Do you know if he was mentioned in the indictment?
13 A. Which indictment?
14 Q. In my first trial?
15 A. Yes.
16 Q. Do you know how he was related, called, or termed in
17 the first trial?
18 A. I couldn't hear that.
19 MR. MORFORD: Objection.
20 THE COURT: You will need to show how this
21 connects back into something we are talking with this
22 witness about now.
23 Q. Do you have any knowledge of to what your father's
24 involvement was in the first trial?
25 A. Over the years I came to know it to be that he was

1 the unindicted co- --

2 MR. MORFORD: Objection. If it is coming

3 from over the years, Your Honor. It is hearsay.

4 THE COURT: Okay. We can't do it that way,

5 Congressman.

6 BY MR. TRAFICANT:

7 Q. Do you have knowledge of what your father had to do

8 in the first trial?

9 MR. MORFORD: Your Honor, I'm going to object

10 unless he can show firsthand knowledge.

11 THE COURT: Well, right. Let's see whether

12 or not he can. You said it was twenty years ago. Do you

13 have some personal knowledge about it or is it all

14 something someone else told you?

15 THE WITNESS: I now know what he was involved

16 with, what he was --

17 THE COURT: But do you know it because you

18 had a way of being involved in it, or is it something that

19 you have been told?

20 THE WITNESS: I have been told.

21 THE COURT: Okay. That's the problem.

22 MR. TRAFICANT: Pardon?

23 THE COURT: That's the problem. Whoever told

24 him you can bring in, if you want to, put him on the stand

25 under oath so they can be cross-examined.

1 BY MR. TRAFICANT:

2 Q. Do you know if I was acquitted?

3 A. Yes.

4 Q. When you came to me for employment were you a college

5 graduate?

6 A. Yes.

7 Q. Where did you graduate from?

8 A. Youngstown State University.

9 Q. Have you received any additional education?

10 A. Yes.

11 Q. What is it?

12 A. Master's of science degree in education from

13 Youngstown State University, and I am also a licensed

14 social worker in the State of Ohio.

15 Q. What duties do you perform in my one regional office?

16 A. I am in charge of the managerial aspects of the

17 office. I coordinate all staff activity in relation to

18 constituent services, helping people fill their calls, a

19 litany of things. Reading mail, writing letters, and so

20 forth.

21 Q. Did at some point the FBI send evidence relative to

22 this case? Do you have knowledge that the Government sent

23 documents to the Youngstown federal courthouse relative to

24 this case?

25 A. Yes.

1 Q. And who, in fact, took possession of them?
2 A. I accepted them on your behalf.
3 Q. Where are they now?
4 A. They are locked in your office in the downtown
5 federal building.
6 Q. Have I looked at them?
7 MR. MORFORD: Objection.
8 THE COURT: You can testify to that but he
9 can't testify whether you looked at them.
10 Q. To the best of your knowledge, have I ever come down
11 there to look at the documents?
12 A. No, sir.
13 Q. Did you become concerned about that?
14 A. Yes.
15 MR. MORFORD: Objection as to relevance of
16 this.
17 THE COURT: You can answer.
18 A. Yes.
19 Q. Did you send partial things up to me in my
20 administrative office?
21 A. Yes.
22 Q. Do you have any knowledge that I looked at those?
23 A. I would assume you would have.
24 THE COURT: Well, we have to talk --
25 A. -- but I have no knowledge that you did.

1 THE COURT: That's fine.
2 Q. Did you have any knowledge that I looked at it?
3 A. I would assume that you did. I would hope you did.
4 Q. Did you have knowledge that I did?
5 THE COURT: He has already testified three
6 times.
7 MR. TRAFICANT: He said he assumed.
8 THE COURT: Well, and then he said he hoped
9 you would.
10 MR. TRAFICANT: He assumed, he hoped.
11 Q. I'm asking, did you have knowledge, did you see me
12 look at any of the evidence?
13 A. I can't answer that. I wasn't -- I assume you did.
14 You told me that you did, but I don't know. I sent it to
15 you as you requested that I do.
16 Q. How much of it did you send?
17 A. A couple envelopes. I couldn't recall the exact
18 pages, but there were certain specifications and items that
19 you asked for that I sent up there. I don't recall.
20 Q. Is a lot of this stuff still down at the courthouse?
21 A. Yes.
22 Q. Do you have immunity, Anthony?
23 A. No, sir.
24 Q. Do you know what immunity is?
25 THE COURT: We are going to instruct the

1 jury on that. I do that, not you, Congressman, not through
2 a witness. You remember that, right? We have been over
3 that four, maybe five times.
4 Q. Do you instruct course work relative to any criminal
5 activities at the university?
6 A. I have taught an intro to criminal justice course at
7 Youngstown State.
8 Q. Do you have personal knowledge of what immunity
9 means?
10 MR. MORFORD: Objection.
11 A. Yes.
12 THE COURT: Congressman, stop it.
13 MR. TRAFICANT: I object for the record.
14 BY MR. TRAFICANT:
15 Q. Now, Anthony, when is the first time the FBI
16 contacted you?
17 A. It was in June, I think June 6th of 2000, they came
18 to my house. I could be wrong with the date, but to my best
19 knowledge, I believe it was a Wednesday.
20 Q. Did you get any prior notice?
21 A. I received a phone call from a gentleman that advised
22 me that he would be at my door within two minutes. The
23 conversation went, they know who I am, I don't know who
24 they are, but please be at your door in two minutes.
25 I was in a hurry that morning. I had to present a

1 flag for you at the Poland Library dedication, and it just
2 happened so fast, and they'd come to my door in about two
3 minutes. It was the FBI.
4 Q. Did they ring the buzzer, or how did they --
5 A. No. They hit the door pretty hard with their hand,
6 with their fist. It scared me.
7 Q. What was that?
8 A. It scared me.
9 Q. Was there anybody in the home with you?
10 A. Yes.
11 Q. Who was home with you at the time?
12 A. My mother.
13 Q. Did they identify themselves?
14 A. When I came to the door, yes.
15 Q. Did your mother know who they were?
16 A. No. She woke up out of bed and was looking out of
17 the window and was asking me what was wrong, who hit the
18 door and who was there.
19 Q. And when you told her who was there, what was her
20 reaction?
21 A. Well, she wasn't happy. She was kind of startled and
22 concerned.
23 Q. What, if anything, did you tell -- how many agents
24 came to your house?
25 A. Two.

1 Q. What, if anything, did they want?
2 A. They wanted to talk to me. They asked if they could
3 come in, and they told me in relation to basically what the
4 investigation was about, and I had advised the agents that
5 I had a deadline to be at Poland Library down at the town
6 hall. It was quarter to 9:00, and I had to present a flag
7 for you and be there, and they insisted on staying. But I
8 told them I had to go, and I would be more than happy to
9 talk to them after, and they said, "Fine, we will follow
10 you down there, and then when you are done presenting the
11 flag on behalf of the Congressman, meet us in the second
12 floor of -- the second floor of the village hall, town
13 hall."
14 Q. Now, I would like to become specific, and I would
15 like you to respond to me in brief terms. I want to make
16 some points here.
17 Did you at the conclusion of presenting that flag go
18 to the Poland City Hall?
19 MR. MORFORD: Objection, Your Honor. This is
20 his witness, and there should not be leading questions with
21 his witness.
22 THE COURT: Just ask --
23 Q. Did you go to the Poland Village Hall after you
24 presented the flag?
25 A. Yes.

1 Q. Did you meet with the two agents?

2 MR. MORFORD: Objection as to who is

3 testifying here.

4 THE COURT: There is a way to ask these

5 questions so that he can provide the answers, because the

6 jury can only consider the answers he provided. So it very

7 much will help you along if you will ask them, and you know

8 how to do it. Just take a minute and ask him.

9 BY MR. TRAFICANT:

10 Q. Did you go across the street to the Poland Village

11 Hall and meet with the two agents as they requested?

12 A. Yes.

13 MR. MORFORD: Objection to the leading

14 questions of his witness.

15 THE COURT: All right. Let's go back around,

16 take a minute, and think about what it is you are trying to

17 establish as evidence, and get it to come from the witness.

18 Q. Did you present the flag at the Poland Village Hall?

19 A. Yes.

20 MR. MORFORD: Objection. He is testifying. I

21 object to leading questions.

22 Q. What, if anything, did you do after you left your

23 house, Anthony?

24 A. I went to the event and I sat through the ceremony.

25 Q. What event?

A. The dedication of the unveiling of the new Poland Library. The architects and so forth were there.

Q. Then what did you do?

A. As I was told. I went up to the second story of the village hall. I call it the village hall, town hall, and the agents were there waiting for me.

Q. How many agents were in the room?

A. There were two.

Q. How big was the room?

A. Eight by ten, eight by eight, I don't know. Something. It was not that big.

Q. Did both agents question you?

A. No.

Q. Only one agent questioned you?

A. One agent did the questioning.

Q. What did the other agent do?

A. Just stared at me.

Q. Did you feel intimidated?

A. Yes. I was scared, nervous, sure.

Q. Did that second agent ever stop staring at you?

A. No.

Q. Did the FBI ever --

MR. MORFORD: Objection. He is doing the testifying, and he is saying yes or no. It is his witness.

THE COURT: You know the old journalistic

1 list of questions, who, what, when, where, how? You are
2 trying to get testimony out of him, not you, because he
3 can't consider what you say.
4 BY MR. TRAFICANT:
5 Q. Was it your knowledge that you were free to leave?
6 A. No, not when they were questioning me, absolutely
7 not.
8 Q. Did they ever tell you you couldn't leave?
9 A. No.
10 Q. Did you answer their questions truthfully?
11 A. Yes.
12 Q. What, if anything, happened at that meeting?
13 A. It was a lot of questions. It was all about you.
14 Q. After that meeting, what did you do?
15 A. I left and went home, called my dad. I was very shook
16 up.
17 Q. What, if anything, did you learn subject to that
18 phone call?
19 A. That the FBI raided my father's business.
20 Q. How many times did you meet with the FBI, Anthony?
21 A. Twice.
22 Q. Were they the same two agents that came the first
23 time?
24 A. Yes -- no. No, not the second meeting I had. The one
25 agent was there, but the other agent wasn't. There was a

1 different agent. Mr. Denholm and Mr. Pikunas.
2 Q. Do you know who was at the first meeting?
3 A. Agent Pikunas and I believe Agent Wilson.
4 Q. Did you go to work that day?
5 A. Later that afternoon, yes.
6 Q. What was your status when you were first employed?
7 A. I was -- with you, Congressman?
8 Q. Yes.
9 A. Part-time, part-time faculty -- or case worker. I
10 actually volunteered before I was on part time, but my
11 employment history was you started me part time.
12 Q. Did you work with a man by the name of Richard
13 Rovnak?
14 A. Yes.
15 Q. Did he come to the office?
16 A. Yes.
17 Q. Did he come to the office regularly?
18 A. I seen him there when I was there.
19 Q. Did you have knowledge of what his employment status
20 was?
21 A. Case worker. He worked on cases and answered phones
22 like I did.
23 Q. Do you know if he was full time or part time?
24 A. I believe he was part time, to the best of my
25 knowledge.

1 Q. Did you work together with Mr. Rovnak?
2 A. Yes.
3 Q. Did you ever see him absent for weeks at a time?
4 A. Weeks at a time?
5 Q. Yeah.
6 A. No.
7 Q. Did you ever noticeably see him miss work?
8 A. No.
9 Q. Do you know if Mr. Rovnak was ever put on full time
10 on the Congressman's staff?
11 A. I don't believe so. I don't think he was.
12 Q. Did you know Jackie Bobby?
13 A. Yes.
14 Q. Did you like Jackie Bobby?
15 A. Deep down, no.
16 Q. Did she ever ask you to escort her anywhere?
17 A. Yes.
18 Q. Where did she ask you to escort her to?
19 A. To the bank, get an ice cream cone.
20 Q. Did you go to the bank with her?
21 A. Yes.
22 Q. Did you ever make deposits at the bank?
23 A. Yes.
24 Q. Are these downtown banks you are talking about?
25 A. Downtown Youngstown and downtown Boardman. I worked

1 on Overhill, the Overhill Road office.
2 Q. Did you ever see her make any deposits when she
3 worked at Overhill Road?
4 A. Yes.
5 Q. Did she make any cash deposits?
6 A. I believe once I witnessed her do that. She purchased
7 bonds for her grandkids.
8 Q. Did you know Grace Yavorsky?
9 A. Yes. Excuse me, yes.
10 Q. Were Grace and Jackie friends?
11 A. No. Maybe on the surface, but not -- I wouldn't say
12 they were, the information I had working with them, no.
13 Q. How would you describe their relationship?
14 A. Like I said, on the surface, they appeared to be
15 friendly, but they were mainly -- they were adversaries.
16 Q. Adversaries over what?
17 A. Well, one would talk about the other, and they always
18 complained about their salaries, you know. One felt one was
19 more qualified than the other, and they used to complain a
20 lot. Jackie said she should be making more money than Grace
21 because she had a college degree, those types of things.
22 There was a lot of ego, power struggles between the two.
23 Q. Did you know Chuck O'Nesti?
24 A. Yes.
25 Q. Was Chuck O'Nesti close friends with Jackie Bobby --

1 A. No.
2 Q. -- and Grace?
3 A. No.
4 Q. So you had once worked and were located on Overhill
5 Road, correct?
6 A. Yes.
7 Q. And where was the Congressional office located?
8 A. Well, we eventually moved downtown into the federal
9 courthouse building.
10 Q. When you were on Overhill Road, where was the service
11 sector of the office located?
12 A. Youngstown.
13 Q. On Overhill Road, where was -- how many floors were
14 there at Overhill Road?
15 A. Two.
16 Q. Where was the service section of the office located
17 on Overhill Road?
18 A. First floor.
19 Q. And was there an upper floor?
20 A. Yes.
21 Q. And what was the upper floor used for?
22 A. Henry DiBlasio's offices was up there.
23 Q. Who else's offices were up there?
24 A. Yours.
25 Q. What was that office space known as?

1 A. Which one, Congressman?
2 Q. The upper floor?
3 A. Administrative office, your office.
4 Q. Did you meet with Mr. DiBlasio?
5 A. Yes.
6 Q. Did you go up there and talk with him?
7 A. I went up on occasions, but Henry always came
8 downstairs and talked to me. Yeah, I talked to him.
9 Q. Were you a friend of Henry's?
10 A. Yes.
11 Q. What kind of matters did you refer to Henry DiBlasio?
12 A. Matters dealing with technicalities of law, economic
13 development issues, those types of things.
14 Q. Did he ever fail to perform those duties?
15 A. No. Henry was pretty prompt if you asked him to do
16 something or if he gave you something. He expected that
17 you would answer him as he would you.
18 Q. What kind of an administrator was he?
19 A. Delegator, dedicated to his work, nice guy.
20 Q. Did Henry DiBlasio have a law practice there?
21 A. I believe he did.
22 THE COURT: Congressman, it is noon.
23 MR. TRAFICANT: I have more questions, Your
24 Honor, and I ask that we take a break.
25 THE COURT: Very well. We are going to

1 recess for lunch. I'm going to ask the lawyers to stay
2 here because we have to do some work. We will recess the
3 jury until 1:30. You are on recess until 1:30. Thank you.
4 (Proceedings held out of the presence of the jury.)
5 THE COURT: The jury hasn't come out yet, so
6 what we will do is give everybody five minutes. That will
7 give the jury time to get out. We will just give you five
8 minutes right now, the court reporters as well, and then
9 come back in, and we will work along with you, Mr. Kopp, on
10 this issue.
11 MR. TRAFICANT: We are free to leave now?
12 THE COURT: Well, you have five minutes
13 because the jury is out.
14 (Recess had.)
15 THE COURT: Do we have everybody here right
16 now?
17 MR. KOPP: Are you ready to have him now?
18 THE COURT: Yes.
19 MR. KOPP: Let me just tell him to come in.
20 THE COURT: Let's all be seated.
21 THE COURT: Hello, you can come right up to
22 the witness stand, and your lawyer can come right with you.
23 THE WITNESS: Hi. Let me put you under oath.
24 RUSSELL SAADEY, JR.,
25 of lawful age, a witness called by the Defendant,

1 being first duly sworn, was examined
2 and testified as follows:
3 THE COURT: Have a seat. Mr. Kopp, you can
4 sit where you wish. That seat is on casters, and don't go
5 flying.
6 MR. KOPP: I will take my chances.
7 THE COURT: We need to put a little bit on
8 the record here because we are in a different day, and this
9 came up yesterday. So I just want to have you put your
10 name on the record right now, if you will, sir and we will
11 have your lawyer identify himself. And then I am going to
12 make a few remarks about what this inquiry is about.
13 THE WITNESS: Russell Saadey, Jr.
14 THE COURT: Can you spell your last name?
15 THE WITNESS: S, like in Sam, A A D E Y.
16 THE COURT: Mr. Kopp?
17 MR. KOPP: Yes. I am Brian Kopp, B R I A N, K
18 O P P, and I am the attorney for Russell Saadey.
19 THE COURT: Okay. And this all arose as a
20 result, as I understand it, of a subpoena for you to appear
21 as a witness for the Defendant, and your attorney was here
22 in Court, and we arranged now for a time out of the hearing
23 of the jury to accommodate what your attorney anticipated
24 might occur in the event that you were to testify here
25 regarding both direct and, I guess, cross-examination.

1 Is that correct, Mr. Kopp?

2 MR. KOPP: That is correct.

3 THE COURT: All right. Congressman?

4 VOIR DIRE DIRECT EXAMINATION OF RUSSELL SAADEY, JR.

5 BY MR. TRAFICANT:

6 Q. Do you have a nickname?

7 A. Yes, I do.

8 Q. And what is it?

9 A. Champ.

10 Q. Are you related to me?

11 A. Through marriage, yes.

12 THE COURT: Maybe you can -- if you want to

13 hold that in your hand, make it easier for you.

14 THE WITNESS: I feel like a rock star.

15 THE COURT: Sure.

16 Q. Have you and I been friends?

17 A. Yes.

18 Q. Are you related to James Sabatine?

19 A. Yes, I am.

20 Q. How are you related to James Sabatine?

21 A. He is my brother-in-law. He is married to my sister

22 Geri.

23 Q. Did you have occasion to meet with Mr. Sabatine

24 shortly after a visit by the FBI?

25 A. Yes.

1 Q. How was he behaving? How did he look? What was his
2 appearance?
3 A. Quite nervous.
4 MR. MORFORD: Your Honor, can we get a time
5 frame on that?
6 THE COURT: I'm sorry. What?
7 MR. MORFORD: Can we get a time frame on
8 that?
9 THE COURT: Well, the Congressman can ask
10 him.
11 BY MR. TRAFICANT:
12 Q. Do you remember a rough time frame?
13 A. It was around the time that he met with the FBI. We
14 are a very close family, so I see a lot of my family.
15 Q. Do you love Jimmy Sabatine?
16 A. Absolutely.
17 Q. Was he visibly shaking?
18 A. Yes.
19 THE COURT: Okay. Now, Congressman, there is
20 an example of where if we had a jury here, the jury would
21 have trouble sorting that out. You could ask him, you know,
22 why do you think he was whatever he was testifying what he
23 was, and let him describe what it was.
24 BY MR. TRAFICANT:
25 Q. Why did you testify he was very stressed out?

1 A. Why did I testify that he was very stressed out?
2 Q. Yes.
3 A. Because he was visibly upset.
4 Q. Was there any other mannerisms about him?
5 A. No. He was just upset.
6 Q. Did Mr. Sabatine make statements to you about why he
7 was upset?
8 A. Yes, he did.
9 Q. Do you have knowledge of what Mr. Sabatine said
10 specifically?
11 THE WITNESS: Can I talk to my lawyer for a
12 minute, please?
13 THE COURT: Yes, okay.
14 MR. KOPP: Your Honor, he has a question.
15 If I may, are you asking him, Congressman, what he
16 said after the interview?
17 BY MR. TRAFICANT:
18 Q. Shortly after the interview with the FBI, did he make
19 a statement to you when he was stressed?
20 (Consulting with lawyer.)
21 A. Yes.
22 THE COURT: You should show the consulting
23 with the lawyer. I know you are not used to doing that, but
24 that should be in the transcript. Thank you.
25 BY MR. TRAFICANT:

1 Q. When he made the statement, was he still in a state
2 of stress?
3 A. Yes, he was.
4 Q. What statement did he make to you?
5 A. He was nervous about -- he was forced to cooperate
6 or he would lose everything he had.
7 Q. Was he still under stress when he made that statement
8 and further statements?
9 A. Yes, he was.
10 Q. Did he make any further statements?
11 (Consulting with lawyer.)
12 A. Not off the top of my head, I don't remember. He was
13 just upset that he had to -- he had to cooperate or he
14 would lose everything that he had.
15 Q. Did he ever bring up the term bribes?
16 A. He had told me he never bribed you. He said he
17 donated to your campaign.
18 Q. Was he still in a state of stress when he made that
19 statement?
20 A. He has been pretty well stressed out for the last few
21 months, sir, or since this began.
22 Q. Was he much more stressed out right after the FBI as
23 he is now?
24 A. Oh, absolutely.
25 Q. Did you ever meet with the FBI relative to my case?

1 A. I have to exercise my Fifth Amendment rights on the
2 advice of my attorney.
3 Q. Did the FBI ever make any representations to you that
4 if you would cooperate with them they would help you in
5 your problem?
6 ^ (consulting with attorney.)
7 MR. KOPP: Your Honor, the way that is asked,
8 we would once again raise our rights, but I don't know if
9 he is getting into his interview in relation to Mr.
10 Saadey's case --
11 THE COURT: You will just have to advise
12 your client. The Congressman asks the questions.
13 BY MR. TRAFICANT:
14 Q. Did you meet with the FBI --
15 A. I'm sorry. Will you go ahead and ask the question
16 again?
17 Q. When you met with the FBI, did they bring up my case?
18 (Witness conferring with his counsel.)
19 A. On the advice of my counsel, with that question I
20 would have to raise my Fifth Amendment right.
21 Q. Have you been convicted by a jury for a felony
22 offense?
23 A. As far as I know, a jury has found me guilty.
24 Q. Have you yet to be sentenced?
25 A. That is correct.

1 Q. Did the FBI ever make any representations to you
2 regarding me?
3 (Witness conferring with his counsel.)
4 A. I was contacted by the FBI.
5 Q. And did they make any representations to you
6 regarding me?
7 (Witness conferring with his counsel.)
8 A. I once again have to exercise my Fifth Amendment
9 right on the advice of my attorney.
10 Q. Did the FBI ask questions of you concerning me?
11 (Witness conferring with his counsel.)
12 A. Yes, they did.
13 Q. What was the purposes of their questions asked of you
14 concerning me?
15 THE COURT: Congressman -- don't answer
16 that question. Congressman, the purpose of somebody else
17 can't be answered by this witness.
18 BY MR. TRAFICANT:
19 Q. What did you say to the FBI when they, in fact --
20 A. I have to exercise my Fifth Amendment right on the
21 advice of my counsel.
22 Q. Is there anything of that meeting with the FBI that
23 you could testify to that would explain your state of mind
24 at that time?
25 (Witness conferring with his counsel.)

1 A. It was my understanding if I cooperated I would be
2 given consideration.
3 Q. Were the U. S. Attorneys ever mentioned in that
4 conversation?
5 A. No.
6 MR. SMITH: Did he answer?
7 A. I said no. I'm sorry, Bernie, Mr. Smith.
8 Q. Now, when they said cooperation, did you make any
9 statements to the FBI?
10 A. I need to exercise my Fifth Amendment right on the
11 advice of my attorney.
12 Q. When they used the term cooperation, were they
13 referring to anything, whether it was true or not?
14 MR. SMITH: Well, I would object if a jury
15 were here, given what the FBI was thinking.
16 THE COURT: It is the same problem. He won't
17 know what was in their minds. If you ask -- you may be
18 able to ask the question --
19 BY MR. TRAFICANT:
20 Q. What was your impression when they used the term
21 cooperation?
22 (Witness conferring with his counsel.)
23 MR. KOPP: Can we have the question read back?
24 THE COURT: Yes. Can you read it back?
25 (Question read by the reporter.)

1 (Witness conferring with his counsel.)
2 A. I was told by the FBI agent that I would be given
3 consideration for testimony or information.
4 Q. What consideration did they discuss with you?
5 (Witness conferring with his counsel.)
6 (Question read by the reporter.)
7 (Witness continuing to confer with his counsel.)
8 A. Leniency or possibly immunity.
9 Q. When they discussed leniency or helping you, what was
10 your impression of the information they wanted?
11 A. I have to exercise my Fifth Amendment.
12 Q. Was it your impression that these were promises made
13 by the FBI?
14 A. I would have to say yes.
15 Q. Was it your impression that your statements needed to
16 be truthful?
17 (Witness conferring with his counsel.)
18 A. Absolutely.
19 Q. Did you ever get the impression that if you weren't
20 truthful you could have received the same consideration?
21 MR. KOPP: The question was impression?
22 (Question read by the reporter.)
23 (Witness continues to confer with his counsel.)
24 A. My impression was whatever consideration I can give
25 would bring me -- whatever information I could give would

1 bring me consideration.

2 Q. Could you have at that time given them a lie and made

3 a deal?

4 Was it your impression that at that time, if you gave

5 them something false, you could make a deal?

6 MR. SMITH: Well, again, if a jury were here

7 I would object on grounds of speculation.

8 THE COURT: Yeah, but there is no jury here.

9 MR. TRAFICANT: There is no jury here --

10 MR. SMITH: I don't want to waive my rights.

11 I object.

12 THE COURT: Congressman --

13 MR. TRAFICANT: I object to his objection.

14 THE COURT: Do you want to have this

15 inquiry, Congressman?

16 MR. TRAFICANT: Yes, I do.

17 THE COURT: Thank you. Would you allow us to

18 go forward now?

19 MR. TRAFICANT: I'm trying to.

20 THE COURT: Thank you.

21 MR. KOPP: I would like to say something for

22 the record because we are getting into some --

23 THE COURT: Okay, you can, but your main

24 purpose is to advise your client during a voir dire, during

25 which he has and may continue to on some questions invoke

1 the Fifth Amendment and on others not invoke the Fifth
2 Amendment. So we are just trying to gather all of these up
3 so they can be analyzed and handled in a proper way and
4 handled outside the hearing of the jury.
5 A. I invoke my Fifth Amendment.
6 THE COURT: Thank you.
7 BY MR. TRAFICANT:
8 Q. Was it your impression that they were attempting to
9 have you make statements that were false?
10 (Witness conferring with his counsel.)
11 A. My impression was they were putting a lot of pressure
12 on me, and what they wanted from me, I cannot say.
13 Q. You are under oath. You have the right to that the
14 Fifth Amendment. I am going to ask you this question again:
15 Did they care whether or not you made a truthful or
16 untruthful statement to them at that time?
17 MR. SMITH: Objection. He has no knowledge
18 what they were thinking.
19 THE COURT: He can't talk for what somebody
20 else was doing, but you can rephrase the question.
21 BY MR. TRAFICANT:
22 Q. Was it your impression at that time that they didn't
23 really care if what you said was true or false, that they
24 just wanted a statement for your deal?
25 MR. SMITH: Same objection.

1 THE COURT: Well, it is a different
2 situation. You can answer.
3 (Witness conferring with his counsel.)
4 A. I have to invoke my Fifth Amendment right.
5 Q. Champ, isn't it a fact that you would like to see
6 some of the things that happened in your case as evidence
7 in my case be stopped?
8 (Witness conferring with his counsel.)
9 A. My case is still pending. Any reference concerning my
10 case, I am going to have to invoke my Fifth Amendment
11 right.
12 Q. Isn't it your impression that things are going on in
13 my case that you have personal knowledge of with Jim
14 Sabatine you would like to see stopped?
15 (Witness conferring with his counsel.)
16 A. Yes.
17 Q. Why?
18 (Witness conferring with his counsel.)
19 A. In my opinion, pressure can put witnesses in tough
20 positions.
21 Q. And is it your impression that putting witnesses in
22 tough positions would imply that the FBI would accept a
23 false statement?
24 MR. SMITH: Again, we will object on the
25 basis of what the FBI was willing to accept. He doesn't

1 know.

2 THE COURT: Right.

3 MR. TRAFICANT: I'm asking his impression.

4 MR. SMITH: Well, that's just another way of

5 asking the same thing.

6 THE COURT: It is another way of asking the

7 same thing. There may be another question you can pose.

8 MR. TRAFICANT: Would you read the question

9 and the witness' answer?

10 (Record read.)

11 THE COURT: If you can ask a different

12 question to get at what you are trying to get at.

13 BY MR. TRAFICANT:

14 Q. When the FBI was talking to you at that time, were

15 you in a stressful situation?

16 A. I exercise my Fifth Amendment right.

17 Q. When you said that witnesses are put under extreme

18 pressure, did you feel that pressure was being levied on

19 you to make a statement?

20 A. I have to exercise my Fifth Amendment right.

21 Q. Did the FBI ever say to you that if you gave them

22 what they wanted you would walk?

23 (Witness conferring with his counsel.)

24 A. As I stated earlier, I was told if I cooperated that

25 I would be given immunity or consideration.

1 Q. Yes. But you said your impression was that witnesses
2 are under extreme pressure, and having said so --
3 THE COURT: I think he said a lot of
4 pressure.
5 MR. TRAFICANT: Pardon?
6 THE COURT: I think he said a lot of
7 pressure.
8 MR. TRAFICANT: Lot of pressure.
9 BY MR. TRAFICANT:
10 Q. You do agree there was pressure on or about the time
11 that you were meeting with those FBI agents? Yes or no.
12 (Witness conferring with his counsel.)
13 THE COURT: Designate which case you are
14 talking about so he knows --
15 MR. TRAFICANT: Mr. Saadey himself.
16 THE COURT: I know. But in his case or in
17 your case?
18 MR. TRAFICANT: Relative to my case.
19 THE COURT: Okay. Thank you.
20 MR. TRAFICANT: Not relative to his case;
21 relative to my case.
22 THE COURT: Okay.
23 MR. TRAFICANT: I want to stipulate for the
24 record that I am not inquiring about Mr. Saadey's case, nor
25 trying to involve his case. I simply want information he

1 has or has knowledge of concerning anything that was said
2 by anyone relative to my case alone.
3 THE COURT: Thank you for that
4 clarification.
5 BY MR. TRAFICANT:
6 Q. Now, relative to my case, was it your impression that
7 the FBI was willing to accept any statement you would make
8 for this cooperation?
9 THE COURT: He can't testify as to what the
10 FBI was willing to do. You can get that maybe from
11 somebody, but you can't get it from him
12 BY MR. TRAFICANT:
13 Q. Was it your impression --
14 MR. SMITH: Same objection, same question.
15 Q. -- as demonstrated by their behavior that they would
16 accept any statement from you to secure a deal?
17 THE COURT: You can answer that, or you can
18 consult with your lawyer about whether you want to answer
19 that.
20 THE WITNESS: Thank you, Your Honor.
21 (Witness conferring with his counsel.)
22 A. It was my impression that if I cooperated I would be
23 given leniency or immunity.
24 Q. Was it your impression that if you didn't, quote
25 unquote, cooperate that you would face serious problems?

(Witness conferring with his counsel.)

MR. KOPP: Can I have the question back?

(Question read by the reporter.)

A. That's what the FBI told me.

Q. Then was it your impression that if you lied about Jim Traficant you would have no more problems?

(Witness conferring with his counsel.)

A. My impression was if I cooperated I would be given leniency or immunity.

Q. Under the circumstances, facing sentencing, are you concerned about being here?

A. Yes.

Q. Do you feel that you could jeopardize yourself and possibly get a harsher sentence if you were, in fact, to be a witness in this case?

A. I have to exercise my Fifth Amendment right on the advice of my counsel.

Q. How many times did you meet with the FBI?

A. I have to exercise my Fifth on the advice of my counsel.

Q. Did any FBI agent ever make a threat towards me through you?

(Witness conferring with his counsel.)

A. On the advice of my counsel, I must exercise the Fifth.

1 Q. I am going to ask a direct question one last time.
2 Was it your impression that if you lied, all of your
3 problems would go away?
4 MR. SMITH: I am going to object. Again, he
5 can lead him all he wants. But he asked the question
6 before, and it is the same question as we have already had.
7 THE COURT: You can answer this question if
8 you want to after you listen to your counsel.
9 (Witness conferring with his counsel.)
10 A. On the advice of my counsel, I must take the Fifth.
11 Q. Did Mr. Sabatine -- do you want to confer some more?
12 MR. KOPP: No. We are okay.
13 BY MR. TRAFICANT:
14 Q. Did Mr. Sabatine willingly offer you this statement
15 and declaration --
16 THE COURT: He can't testify as to
17 Mr. Sabatine's willingness.
18 Q. Did Mr. Sabatine make this statement to you when your
19 impression of him was he was --
20 THE COURT: Well, ask him what his
21 impression was.
22 Q. What was your impression when he made the statement
23 to you that he did not bribe me?
24 THE COURT: Thank you.
25 A. Can you repeat that, please? I am sorry.

1 THE COURT: Would you re-read the question
2 for the witness?
3 (Question read by the reporter.)
4 A. My impression was he was doing whatever he had to do
5 to save his ass.
6 Q. When he made that statement, he was doing what he had
7 to do, did he say who, in fact, was responsible for making
8 him make such a false statement?
9 MR. SMITH: Objection. There has been no
10 testimony that Mr. Sabatine made a false statement, not
11 from this witness, not from Sabatine.
12 THE COURT: Right.
13 BY MR. TRAFICANT:
14 Q. Did you not say earlier that Mr. Sabatine admitted
15 under stress that he did not give me any bribes?
16 MR. SMITH: He is not charged with giving him
17 bribes. He is charged with giving him gratuity.
18 Q. Did Mr. Sabatine ever say he gave a bribe or a
19 gratuity to you?
20 A. Not a bribe, but contributions; not a bribe, campaign
21 contribution.
22 Q. Did he say he gave it all at one time or over a
23 period of years?
24 A. Well, every time you ran, I mean, fund-raisers.
25 Q. When Mr. Sabatine -- was it your impression that

1 Mr. Sabatine was in a stressful state throughout the entire
2 time he made these statements to you.
3 (Witness conferring with his counsel.)
4 A. Yes.
5 Q. Do you have any personal knowledge that an Agent
6 Anthony Speranza had raped one of my constituents?
7 MR. SMITH: Objection.
8 THE COURT: Sustained. Don't answer. We
9 ordered you to leave that issue aside, and there are good
10 reasons for it recited in prior orders of this Court.
11 Congressman, you may not do that, even when the jury is not
12 present.
13 MR. TRAFICANT: I have a couple more
14 questions, Your Honor.
15 Q. Champ, did you try to avoid this subpoena today?
16 (Witness conferring with his counsel.)
17 A. On the advice of my counsel, I must exercise my Fifth
18 Amendment right.
19 Q. Did you consult with your attorney as soon as you had
20 been in receipt of said subpoena?
21 MR. KOPP: That's privileged, Your Honor.
22 THE COURT: Well, if you want to assert that
23 you can, whatever.
24 (Witness conferring with his counsel.)
25 A. I'm not going to answer that question. That's

1 privileged.
2 Q. Do you understand that my examination of you in this
3 trial would be only about the statements made by
4 Mr. Sabatine relative to my case only?
5 A. That's what you have represented to me, yes.
6 MR. TRAFICANT: No further questions at this
7 time.
8 MR. SMITH: Your Honor, under Rule 26.2, we
9 ask the Congressman to produce the tape of the conversation
10 he had with Mr. Saadey which he said yesterday existed. We
11 ask that that be produced now.
12 MR. TRAFICANT: I have instructed, after
13 having talked with counsel yesterday his concern was about
14 the tape, and he can speak as to what he requested me to
15 do.
16 MR. SMITH: I am asking for the tape.
17 THE COURT: We need the tape.
18 MR. TRAFICANT: I don't have the tape.
19 THE COURT: Where is it?
20 MR. TRAFICANT: I have destroyed the tape.
21 MR. KOPP: I feel the need to speak up here.
22 I am an officer of this Court.
23 Okay. Cool it. We have too many people
24 talking at one time. It is an important issue, and so what
25 we will do, because the Government is about to have an

1 opportunity to ask cross-examination questions of this
2 witness -- is that why you are asking this now?
3 MR. SMITH: There are two reasons. Number
4 one, I do wish to cross-examine, but before that, the
5 Government does have a motion to prevent any further
6 testimony by this witness in this case based upon a
7 violation of 26.2.
8 Do you wish me to make that motion now or later?
9 THE COURT: I think you can make that motion
10 now, and then we will allow a response from the
11 Congressman.
12 MR. SMITH: Yes, Your Honor. The Congressman
13 has stated that he destroyed a tape that he made with Mr.
14 Saadey. Obviously, that was a prior interview. We would
15 refer the Court to 4962 and 4963 of yesterday's transcript
16 in which the Government asked the Congressman to produce
17 the tape under discovery, and in response to that, the
18 Congressman himself referred to that tape as Jencks
19 material.
20 Under Rule 26.2 of the Federal Rules of Criminal
21 Procedure, Your Honor, Subsection F defines the word
22 statement as including a recording of mechanical,
23 electrical, or other recording of an oral statement. So
24 the tape that the Congressman made with Mr. Saadey clearly
25 comes within 26.2.

1 The Congressman has now destroyed that Jencks Act
2 statement. We, therefore, ask this Court to impose the
3 sanction called for by Rule 26.2(e), which states, quote,
4 "If the other party elects not to comply with an order to
5 deliver a statement to the moving party, the Court shall
6 order that the testimony of the witness be stricken from
7 the record and that the trial proceed," and then that's the
8 end of the part of the rule I am quoting.
9 Since the Congressman stated yesterday that he had
10 the tape, had not yet decided whether or not he was going
11 to use it, that clearly demonstrates out of his own mouth
12 that that tape existed yesterday. He deliberately destroyed
13 it last night after we asked for it in discovery and after
14 he referred to it as Jencks material. Therefore, we ask
15 that you impose the sanction of 26.2(e)and bar any further
16 testimony by this witness in any regard in this case.
17 MR. TRAFICANT: I would like to respond.
18 THE COURT: Fine.
19 MR. TRAFICANT: The tape is not an issue.
20 THE COURT: Well, it is an issue right now.
21 MR. TRAFICANT: I would like to respond. I
22 would like to respond.
23 THE COURT: Respond to what he --
24 MR. TRAFICANT: I am going to respond, but I
25 would respond to what my particular rule is and what my

1 attempts were to bring Mr. Saadey in as a witness.
2 Number one, I think it is inapplicable, since the
3 tape --
4 THE COURT: What's inapplicable? What are
5 you talking about now?
6 MR. TRAFICANT: His statements are
7 inapplicable. I am not attempting to use a tape, nor had I
8 intended to use a tape, and if Mr. Saadey has just been
9 subpoenaed, I would not have been required to come with
10 Jencks until I called him, like they did with me. I did not
11 get Ms. Ferrante's testimony until the day that she came --
12 THE COURT: They didn't call her.
13 MR. TRAFICANT: But I want to cite 803.2
14 dealing with statements made immediately after a stressful
15 situation by a declarant.
16 THE COURT: That's not responsive to the
17 issue of the tape. We need you to respond on the issue of
18 the tape because they are entitled to have that issue taken
19 care of before they get into cross-examination.
20 MR. TRAFICANT: I had destroyed the tape to
21 protect the interests of Mr. Saadey, period.
22 THE COURT: Tell us what the tape involved.
23 MR. TRAFICANT: The tape involved -- and I
24 can only speak, and I will only speak because I am not
25 under oath and I am not an attorney --

1 THE COURT: Well, yeah, is this another one
2 of your telephone tapes?
3 MR. TRAFICANT: Did confirm the fact that
4 Mr. Sabatine had, in fact, told his brother-in-law shortly
5 after meeting with the FBI, in a stressful situation, that
6 he did not bribe or give gratuities of any kind to the
7 Congressman. He did what he had to do.
8 He further stated on that tape that he had millions
9 to lose. This was your family, your own blood, and Mr.
10 Saadey, Champ Saadey, as we know him, was very upset and
11 did question him further about it. He was very upset, he
12 was very emotional, and I bring in the fact that
13 Mr. Sabatine's statements made to Mr. Saadey are now
14 relevant.
15 Now, the counselor -- I am no attorney. I am John Q.
16 Citizen. If counsel representing Mr. Saadey wants to make
17 a statement about the tape now he may do so, but I will
18 make no further statements.
19 THE COURT: At this time, that is the
20 statement that the Defendant is willing to make. Anything
21 else you want to say?
22 MR. SMITH: Yes, Your Honor. The Congressman
23 has now acknowledged that that tape contained information
24 which went to the heart, goes to the heart of what he
25 intends to elicit as the subject matter of the direct

1 examination. Under the Jencks Act, and as applies to
2 defendants under 26.2, that tape clearly is producible,
3 whether he intended to put it into evidence or not. He did
4 not do so. He destroyed it. This witness' testimony should
5 be excluded.
6 MR. TRAFICANT: Now, I would like to respond
7 to that. There were other elements of discussion on that
8 tape that clearly, when the tape became known to the
9 counsel of the Defendant, the counsel --
10 THE COURT: Counsel is here, and counsel is
11 going to be able to speak about that himself.
12 MR. TRAFICANT: When he heard about the tape
13 and what was on the tape, the counsel did have
14 conversations with me, and he can speak for himself.
15 THE COURT: Yes, that's certainly true.
16 MR. TRAFICANT: I am just a son of a truck
17 driver.
18 THE COURT: Excuse me. The jury is here,
19 and we will let the jury in and stop the proceedings
20 temporarily while we do that.
21 (Pause.)
22 THE COURT: Thank you. Mr. Kopp, if you want
23 to make a statement, then this would be a good time to make
24 it. And then I think everyone needs some lunch, so we will
25 allow ourselves a brief lunch as well. But if there is

1 something you want to say in response to this --
2 MR. KOPP: I think it is only necessary that
3 I say as an officer of this Court, I never requested the
4 destruction of a tape or any other piece of evidence in
5 this case. I was called last night by the U.S. Attorney's
6 Office, which confirmed after I heard it on the news that
7 there may be a tape in existence.
8 Quite simply, I asked if it was going to be used this
9 morning and what the contents of it were, at which point in
10 time I was told it was not going to be used and it no
11 longer existed. That's the extent.
12 That being said, my interest in any Rule 26 sanction
13 motions have no bearing on this case, but as an officer of
14 this Court, I need to make clear that in no way did I
15 request on behalf of myself or my client the destruction of
16 any piece of evidence in this case.
17 THE COURT: Thank you very much.
18 What I suggest we do is, because you are still
19 entitled to do cross-examination, and I really need to hear
20 what it would be on a dry run so I know how we go to the
21 next stage of this, this is more complicated than it may
22 seem. I think we all understand we are talking about the
23 Fifth Amendment, but on top of that, in this case we are
24 also talking about a situation that has been presented by
25 the Defendant calling someone who then asserts his Fifth

1 Amendment as to some testimony, not to all, and the Court
2 needs to hear it so I can make the proper determinations
3 about the impact of that, and some of that comes, depending
4 on whether or not the Fifth Amendment is asserted during
5 any cross-examination, so that's another part we have to
6 do.
7 But we shouldn't do it bone dry and hungry. We should
8 have a break. The jury is here. They take their next break
9 at around are 3:00 o'clock, and so I suggest that we have
10 to move this over and continue to discuss it or to do the
11 cross-examination at 3:00. We know we have to be here at
12 4:30 today on some other issues, and so it may be that I
13 can't analyze this until I have heard the other half of it.
14 It may be that this newest issue that is being
15 presented to the Court about the destruction of the tape
16 will also have to be handled at 4:30. However, I don't see
17 how Mr. Kopp has anything to do with that one. And,
18 therefore, we will try and have lunch and be back here at
19 1:30 so we can go forward with the jury.
20 And at 3:00 o'clock, sir, you will have to be here,
21 and you will have to be here so we can go forward with
22 cross-examination on this issue.
23 The case has a whole lot of issues in it.
24 MR. TRAFICANT: Your Honor, I had two
25 witnesses that I'm waiting on, and I haven't been able to

1 get them here. I have only one remaining witness after
2 Mr. Anthony Traficanti. I don't know how long they were
3 going to take with him, and we do have this issue.
4 THE COURT: Right. And if you could update
5 us on the issue of the welder.
6 MR. TRAFICANT: Yes. I'm trying to find that
7 out myself.
8 THE COURT: That will be something maybe you
9 can get someone to help you with over lunch, and I will
10 decide how long the jury will be here. And we have our work
11 cut out today, but I want to hear all the witnesses you
12 have brought to the courthouse today.
13 MR. SMITH: What time do you want us back?
14 THE COURT: 1:30.
15 MR. TRAFICANT: Can we have 1:45?
16 MR. SMITH: Time to run up to the snack bar.
17 THE COURT: We will do it until 1:45. I need
18 you to be ready to go at 1:45, and I need you to be ready
19 at 3:00.
20 You, sir, can step down and go with your lawyer.
21 THE WITNESS: 3:00 o'clock, Your Honor?
22 THE COURT: Around 3:00.
23 MR. TRAFICANT: Your Honor, I don't know how
24 long they are going to take with Mr. Traficanti, but I have
25 one other witness after that.

1 THE COURT: Fine.

2 MR. TRAFICANT: And if that doesn't take us

3 until 4:30 --

4 THE COURT: Then we will deal with wherever

5 we are, but I want you to be sure that you keep your

6 witnesses here.

7 MR. TRAFICANT: I am keeping what witnesses I

8 do have.

9 THE COURT: Excellent. Okay.

10 (Luncheon recess taken.)

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1 Wednesday Session, March 27, 2002, at 1:45 P.M.

2 THE COURT: Sir, you are still under oath.

3 DIRECT EXAMINATION OF ANTHONY TRAFICANTI

4 BY MR. TRAFICANT:

5 Q. Good afternoon, Anthony.

6 A. Good afternoon, Congressman.

7 Q. You always call me Congressman?

8 A. Sometimes. No.

9 Q. Going back to the beginning, we talked about a second

10 meeting with the FBI. Where was that meeting again?

11 A. The meeting was held at the Boardman FBI office in

12 Boardman, Ohio.

13 Q. That's their main office in our area?

14 A. I think, yes.

15 Q. Was there any unusual circumstances about the meeting

16 regarding the time of the meeting?

17 A. Yes, it was scheduled -- the meeting was initially

18 scheduled during regular business hours.

19 Q. What, if anything, do you know happened relative to

20 that meeting time?

21 A. Well, I told you that I had to go, and you weren't

22 very happy because it was during regular business hours.

23 And you weren't very happy with that.

24 Q. What time did the meeting occur?

25 A. Well, eventually, it occurred about 5:00 to the best

1 of my knowledge.
2 Q. How many agents were there at that time?
3 A. Two agents.
4 Q. Did they make any requests of you at this particular
5 meeting?
6 A. Yes.
7 Q. What request did they make of you?
8 A. They asked me to turn over my pay stubs from the
9 checks, my congressional checks.
10 Q. Did you have those checks with you?
11 A. Not with me.
12 Q. Did you eventually comply with that request?
13 A. Yes.
14 Q. Did you feel that you were compelled to comply with
15 that request?
16 A. Agent Denholm informed me that it was necessary for
17 the Traficant investigation, and I turned those pay stubs
18 over to him.
19 Q. Was there a court order or subpoena for those?
20 A. No, not to my knowledge. If there was, my attorney
21 was present that day.
22 Q. Did you feel intimidated out there at the FBI office?
23 A. No.
24 Q. Was that after you agreed to comply with giving them
25 the paychecks?

MR. MORFORD: Your Honor, again, I'm going to object to the suggested nature of the questions. This witness needs to testify, not the Congressman.

THE COURT: Right. The jury has to disregard what the Congressman is saying what he's answering.

Q. Did you ever do work at my farm, Anthony?

A. I lent you a hand on occasions, if you want to call it work.

Q. When did most of that work occur?

A. Can you be more specific?

Q. During the week, weekend?

A. Maybe on weekends, but on occasions, one or two days during the week, very sporadic, but I was usually helping you on weekends.

Q. What would you basically do?

A. Helped you bale hay, unload a wagon, things like that.

Q. Were you forced to do that?

A. No, sir.

Q. Why did you do it?

A. Did it to help you.

Q. Did you derive any benefit from it?

A. Shed some bounds. Shed some pounds, got some exercise, yeah, it was beneficial.

Q. Did you ever request to help bale hay?

1 A. I volunteered a few times to help you.
2 Q. Did I participate in that work?
3 A. Yes, sir.
4 Q. Did you ever clean any stalls?
5 A. No, sir.
6 Q. Did you ever see me clean stalls?
7 A. Yes, sir.
8 Q. Did there come a point when you no longer would help
9 bale hay?
10 A. Yes.
11 Q. What was the reason for that?
12 A. I became very asthmatic. I had allergies.
13 Q. Well, how did you help in the first place?
14 A. I wore a mask on occasions.
15 Q. Are you familiar with George Buccella?
16 A. Yes.
17 Q. Were you ever out there with George Buccella?
18 A. Yes.
19 Q. Did you ever do anything other than farm work with
20 Mr. Buccella?
21 A. Unloaded a hay wagon and went with him one time to
22 haul sawdust.
23 Q. How well did you know Chuck O'Nesti?
24 A. He was a friend.
25 Q. Did you know of his reputation?

A. In what respect?

Q. The bad reputation.

A. Yeah, there was a lot of things people said about Chuck that wasn't kind and things in the paper about him, yeah.

MR. MORFORD: Your Honor, I'd like you to look at this, and maybe we can --

Q. Anthony --

THE COURT: Let me look at it first.

Q. Anthony, what is the address of your office?

THE COURT: Let me look at it before you show it to the witness.

MR. TRAFICANT: I'd like to know why I have to show it to you before I ask a question.

THE COURT: Well, you just showed it to the Government lawyers, and so --

MR. TRAFICANT: They didn't object. They asked to you look at it.

THE COURT: Well, and I need to look at it after they've looked at it. That's just the way we do it.

BY MR. TRAFICANT:

Q. Is my address 125 Market Street?

A. Yes.

Q. Am I located there at 125 Market Street?

A. The regional service office is.

1 Q. Where am I located?

2 MR. MORFORD: Your Honor, I'm going to object

3 to the relevance regarding this document for reasons that

4 we discussed in the past.

5 THE COURT: I don't know what's he's going to

6 do with the document. Are you going to give it to this

7 witness?

8 Q. Am I located at 125 Market Street?

9 A. No.

10 Q. I'm going to show you a document and ask you if you

11 just could identify that document, and don't make any

12 comments.

13 THE COURT: Thank you.

14 THE WITNESS: Um-hum.

15 Q. Do you remember that document?

16 A. Yes.

17 Q. Did you maintain a copy of this document?

18 A. Yes.

19 Q. Did you maintain it in your files on Market -- 125

20 Market Street?

21 A. Yes.

22 MR. TRAFICANT: Your Honor, can I put this on

23 the screen?

24 MR. MORFORD: Objection, your Honor, based on

25 relevance and hearsay.

1 THE COURT: Well, the hearsay issue that it
2 relates to we have to address at the break, as you know. I
3 don't know about relevance yet. But on the hearsay issue,
4 you have to do it at this break, Congressman.
5 MR. TRAFICANT: Your Honor, this is the
6 second witness who's testified -- seeing this document.
7 MR. MORFORD: I object to this in front of
8 the jury. You instructed him before.
9 THE COURT: Yeah, you have to do it at a
10 break. Let's do it at the break. You'll get a chance.
11 BY MR. TRAFICANT:
12 Q. Anthony, who handed you this document?
13 A. Chuck O'Nesti.
14 Q. Do you know if Mr. O'Nesti was passing this all
15 around?
16 A. Yes, he did in the office.
17 Q. The times you came to the farm, what percentage of
18 times would you have on office clothes versus farm work
19 clothes?
20 A. 80 percent of the time I was mainly in a suit and
21 tie.
22 Q. At some point in time, did you receive different --
23 different responsibility with the Congressman's office?
24 A. We -- I'm not clear on your question, Congressman.
25 I'm sorry.

1 Q. Did you -- were you promoted to another position that
2 took you out of Youngstown?
3 A. Yes.
4 Q. What was that position?
5 A. Congressional liaison.
6 Q. And as congressional liaison, what did you do?
7 A. I travelled back and forth to Washington, D.C. with
8 you.
9 Q. And how did we travel back and forth?
10 A. By car. We drove back and forth.
11 Q. Was there any specific car that you remember that we
12 had difficulty with?
13 A. Yes.
14 Q. Would you describe that car.
15 A. It was a black Avanti.
16 Q. What problems did we have with it, Anthony?
17 A. The car always would overheat. It heated up, the
18 temperature gauge would rise, things of that nature.
19 Q. Were there any other problems with the car?
20 A. Outside of the overheating, we'd have to pull over.
21 Q. How often would we have to pull over?
22 A. Quite a bit, quite often, maybe five or six times.
23 Q. And how long would we have -- how long of a time
24 period we have to wait for the car to be ready to be used
25 again?

A. 20 minutes to half hour depending.

Q. Did it make the trip quite lengthy?

A. Yes.

Q. How many times approximately did we take that car to Washington?

A. More than once, but I don't -- I don't have the specific amount, but it was more than once.

Q. Were there any other difficulties with that car?

A. I remember one time I had to jump it by the Rayburn Building. Batteries were completely dead.

Q. You know if it was a new car or an old car?

A. I wouldn't have any idea. Looked new.

Q. Were there some plastics on the seats?

A. Yes.

Q. Do you know where that car is now?

A. Yes.

Q. Do you know how long that car has been there?

A. Every bit of ten years.

Q. And where is it?

A. It's a B & T Express.

Q. Any specific building?

A. Yes, it is.

Q. Whose building?

A. My father's.

Q. For most of the time it was in storage, could you

1 describe how it was stored?
2 A. It was at one point I remember it was on jack stands
3 and covered with tarp, and then at some point the tires had
4 to be put back in the car because it had to be moved and
5 still in the same building but on the opposite side, and
6 it's sitting there.
7 Q. Do you have any knowledge that the Government tried
8 to seize that car?
9 MR. MORFORD: Objection, unless he has
10 firsthand knowledge, your Honor.
11 THE COURT: Firsthand knowledge. What do you
12 actually know yourself as opposed to what someone else may
13 have told you because they can be brought in to testify.
14 MR. MORFORD: I would also object to the
15 basis of the question.
16 THE COURT: Well, let's start first. You
17 have any firsthand knowledge?
18 THE WITNESS: Yes.
19 THE COURT: Okay.
20 BY MR. TRAFICANT:
21 Q. You have firsthand knowledge, Anthony?
22 A. Yes.
23 Q. Go ahead and answer the question.
24 A. The FBI came to the business, they asked my father if
25 there was an --

1 MR. MORFORD: Objection. That's hearsay
2 unless he was there.
3 THE COURT: Yeah. Were you there?
4 THE WITNESS: No, ma'am.
5 THE COURT: Okay. So somebody told you
6 something?
7 Q. Have you seen the car since the FBI had served a
8 search warrant at your farm?
9 MR. MORFORD: Objection. That's just not
10 true.
11 MR. TRAFICANT: Or have you seen the car
12 since the FBI raided the B & T Express.
13 MR. MORFORD: Objection as to that, too.
14 THE COURT: Objection sustained.
15 BY MR. TRAFICANT:
16 Q. Have you seen the car --
17 MR. MORFORD: I'm going to object to the
18 leading questions.
19 THE COURT: Why don't we move along,
20 Congressman, or you find another way to ask your questions
21 so that the witness testifies and not you.
22 Q. Do you have knowledge that the car is still at B & T
23 Express?
24 A. Yes, sir.
25 Q. When was the last time you saw it?

A. Last weekend.

Q. Do I hug people, Anthony?

A. Yes.

Q. Who do I hug?

A. Your friends.

Q. Have you been out with me in public?

A. Many times.

Q. What's my behavior in public?

A. Besides shaking hands, you're usually answering questions or talking to people.

Q. Do people approach me?

A. Oh, yes.

Q. Do they hug me?

A. Yes, they do.

Q. Do people fear me back home?

A. No.

Q. Do you know anybody that fears me back home?

A. Outside of your political opponents, nobody.

Q. Did anybody on my staff, to the best of your knowledge, fear me?

A. Absolutely not.

Q. And after Mr. DiBlasio left, who was hired to replace him?

A. I believe it was Allen Sinclair.

Q. Did you have occasion to visit -- occasion to visit

1 the Overhill office when Mr. Sinclair and I were present?
2 A. Yes.
3 Q. Where, in fact, did you see us?
4 A. You were sitting in his office. I've seen him in
5 your office, sitting down, having coffee one time. I think
6 it was coffee.
7 Q. Do you remember times when I was in Mr. Sinclair's
8 office?
9 A. Yes.
10 Q. Could you describe his office?
11 A. It had like a big old desk, like a cherry desk, very
12 nice office, kind of plush with a chair and a computer,
13 picture.
14 Q. Could you get around both sides of the desk?
15 A. Only from the right side. You have to enter into the
16 back.
17 Q. Where would I be seated when you would see me?
18 A. In the front, front of his desk, sitting in the
19 chair.
20 Q. Would I be near the door or near the opening going
21 behind the desk?
22 A. Well, the chairs were -- you know, right by the
23 doorway, so you were in one of those chairs in front of his
24 desk by the door.
25 Q. And where was Mr. Sinclair?

A. Behind his desk.

Q. You know if Mr. Sinclair and I were friends?

A. I would assume you were. He worked for you, yeah.

Q. Did you ever get paid for any work you did at the farm?

A. No.

Q. Did I ever help you or your father?

A. You hired me.

Q. In addition to that, did I ever do any labor for you or your father?

A. Yes.

Q. What was it?

A. You helped us tear out our driveway at our house, and you came out and you dug some fence hole posts with your auger -- I think that's what you call it -- at my dad's business.

Q. And what did your dad do after those holes were dug?

A. Put a fence in.

Q. Do you know if I charged your father?

A. I don't know if you did. You would know that. I don't know.

MR. TRAFICANT: No further questions at this time.

THE COURT: Thank you.

1 CROSS-EXAMINATION OF ANTHONY TRAFICANTI

2 BY MR. MORFORD:

3 Q. Good afternoon, Mr. Traficanti.

4 A. Good afternoon, Mr. Morford.

5 Q. Mr. Traficanti, is it fair to say that you don't come

6 before this jury as an entirely unbiased witness in this

7 case?

8 A. I hold no biases against anyone.

9 Q. No, but you do hold a bias for Congressman Traficant,

10 do you not, sir?

11 A. A bias?

12 Q. Yes.

13 A. In what respect would I have a bias?

14 Q. Well, in the respect -- let's start with the fact

15 he's a close personal friend of yours, correct?

16 A. Oh, yes.

17 Q. He's someone you look up to greatly?

18 A. Yes.

19 Q. And have since the time you were a boy?

20 A. Yes.

21 Q. Someone that your dad has been close to over the

22 years?

23 A. Yes.

24 Q. He's also your current boss; is that correct?

25 A. Yes, sir.

1 Q. And you testified on direct that he is the person
2 that actually hired you?
3 A. Yes.
4 Q. And you said he gave you a chance and a job when
5 other people would not give you a chance or a job because
6 of the reputation of your family?
7 A. Yes.
8 Q. And you testified on direct that the problem with
9 your family's reputation was because of the Congressman's
10 trial, correct?
11 A. Yes, sir.
12 Q. But isn't it true, sir, that the problem with your
13 family's reputation was your father's association with the
14 Carabbi brothers in Struthers?
15 A. I don't see the relevance to that. I don't know
16 where you're getting that from.
17 Q. Well, isn't it true your father was a close associate
18 and friend of the Carabbi brothers?
19 A. He may have been a friend, but I don't know why
20 you're referring it as close associate. I have no
21 knowledge of that, sir.
22 Q. Well, you have no knowledge of what went on in the
23 trial either, do you, sir?
24 A. Which trial, Mr. Morford?
25 Q. The trial that you testified to on direct involving

1 Congressman Traficant, the original criminal trial.
2 A. Only what I have read and the people have told me
3 that I've heard over the years. I was very young when that
4 happened.
5 Q. You knew nothing about that trial whatsoever, did
6 you, sir, other than what people have told you or what
7 you've read, correct?
8 A. That's a fair assumption.
9 Q. But isn't it true people also told you that your dad
10 at one time was hanging out with the Carabbis?
11 A. No one's mentioned that to me.
12 Q. No one has ever mentioned that?
13 A. Not to me my dad was hanging with them.
14 Q. Did your dad tell you that's why he was a witness in
15 that case?
16 A. No.
17 Q. So you really don't know much about that, do you,
18 sir?
19 A. Not really, Mr. Morford. I told you it was a long
20 time ago.
21 Q. So the reputation problem that you had in getting a
22 job in Youngstown had nothing to do with your dad's
23 reputation of associating with organized crime type people,
24 is that your testimony?
25 A. I asked the Congressman for the -- for a job. I

1 never mentioned anything about organized crime.
2 Q. Do you know who the Carabbi's are, sir?
3 A. Yes.
4 Q. Who are they?
5 A. They were Mafia people in Youngstown.
6 Q. And you knew that your dad was friendly with them,
7 correct?
8 A. No, sir, I don't.
9 Q. Do you know if he had any association with them
10 whatsoever?
11 A. Only thing that I've heard that he was a -- that he
12 was friends with them, that he, you know -- he had a gas
13 station in Struthers.
14 Q. Isn't it true that was one of the reasons you
15 couldn't get a job, was your family's reputation?
16 A. That never was inferred in that sense.
17 Q. But it's your testimony that you needed a job. You
18 couldn't find a job, and Congressman Traficant gave you a
19 job, correct?
20 A. That's correct.
21 Q. And he did so as a favor to your father, correct?
22 A. Well, if my dad had something to do with it, so be
23 it, but the Congressman did hire me, and I asked him, and I
24 was qualified and educated for the job. I had a college
25 degree.

1 Q. With respect to your current job, how much money do
2 you make a year from the Congressman?
3 A. $51,000 a year.
4 Q. And how many hours are you required to work per week?
5 A. 30 hours by OMP standard.
6 Q. How many hours do you work?
7 A. In excess of 40 hours a week at times.
8 Q. Now, you're not actually in the same office as the
9 Congressman, are you, sir?
10 A. That's correct.
11 Q. You're actually down at the office in the federal
12 courthouse, correct?
13 A. Yes.
14 Q. And Congressman Traficant is out in an office out on
15 Raccoon Road or that general vicinity, correct?
16 A. Canfield.
17 Q. About how far is that from the office in downtown
18 Youngstown?
19 A. 15-minute drive. You know, something around there.
20 Q. Now, the Congressman has a big fancy office inside
21 the courthouse congressional office, doesn't he?
22 A. It's pretty nice.
23 Q. But he's never in there, is he?
24 A. Not all the time, no. His office is -- he's not
25 stationed there.

1 Q. Isn't it true he's hardly ever there, sir?
2 A. Not all the time, no.
3 Q. Let's say since the time that you moved from Overhill
4 to the courthouse in Youngstown, how many times have you
5 seen the Congressman working out of the office in the
6 federal courthouse?
7 A. Couldn't say specifically.
8 Q. Under ten, under ten?
9 A. No, more than that, more than ten.
10 Q. More than twice a year?
11 A. More than twice a year?
12 Q. Yes.
13 A. Yes, that's fair.
14 Q. How often?
15 A. More than twice a year.
16 Q. Seldom?
17 A. I wouldn't say seldom.
18 Q. Well, if there's 365 days an in a year, how many days
19 a year is he in that office, sir?
20 A. Mr. Morford, that's not his office. His office is in
21 Canfield.
22 Q. How often do you see him in that office?
23 A. Not that often.
24 Q. Who's your direct supervisor?
25 A. The Congressman.

1 Q. Do you answer to anyone other than the Congressman?
2 A. No, only to him.
3 Q. So in your office, the courthouse, there's really
4 nobody watching to see what you do or don't do, correct?
5 A. That's true.
6 Q. Who sets your duties?
7 A. The Congressman.
8 Q. Who sets your salary?
9 A. The Congressman.
10 Q. And isn't it true he could fire you at any point at
11 will without cause?
12 A. Oh, yes.
13 Q. Now, sir, you testified about Richard Rovnak, do you
14 recall that?
15 A. Yes, sir.
16 Q. And you testified that he worked in the office, and
17 you didn't see him absent very much, do you remember that?
18 A. Yes.
19 Q. Now, the truth of the matter is, you didn't actually
20 start working for Congressman Traficant until the spring of
21 1991, correct?
22 A. Mr. Morford, I couldn't be exact but sometimes in
23 that vicinity.
24 Q. And isn't it true that at the time you started
25 Mr. Rovnak had already been working at the office for some

1 time?
2 A. Mr. Rovnak was an employee when I was brought on.
3 That's how I met him. He was in the office.
4 Q. So to the extent that Mr. Rovnak was -- let's just
5 say for sake of argument, if he was out at the farm working
6 and not in the office part of the time you started, you
7 have no way of knowing that, do you?
8 A. Mr. Morford, I haven't really worked at the farm
9 until I read what was in this trial. I saw Rich Rovnak
10 very much in that office. I worked with him.
11 Q. That's not my question, sir. My question is: During
12 the time before you started when he was working in the
13 office, you have no idea what he was doing, correct?
14 A. Before I started there?
15 Q. Yes.
16 A. I never knew the man.
17 Q. When did you start?
18 A. 1991.
19 Q. What month?
20 A. I'm going to say April or May.
21 Q. Who else was working at the office at the time you
22 started?
23 A. Bill Pierce, Grace Yavorsky, Jackie Bobby, Chuck
24 O'Nesti.
25 Q. Who else?

1 A. Sonny Drummond, John Cisliano, and Henry DiBlasio.
2 Q. Also somebody name Rosselli or something like that?
3 A. Yes. Gloriann Rossi, she was, I believe, part-time.
4 Q. How many people are we talking about out of your
5 office where you work, ten?
6 A. Now or --
7 Q. No, at that time when you started, 1991.
8 A. Yeah, I would imagine about ten people.
9 Q. Ten people, correct?
10 A. Yeah.
11 Q. And when you started, you started basically in what
12 kind of capacity?
13 A. Case worker, answer phones.
14 Q. Sort of a gopher in the beginning, would that be
15 fair?
16 A. A gopher?
17 Q. Yes. Do this and that as assigned, whatever duty?
18 A. Yes. In the office, I was told what to do.
19 Q. You didn't have a position of supervision, did you,
20 sir?
21 A. No, sir, I did not.
22 Q. And you didn't sit around figuring who was there and
23 who was not each day, did you?
24 A. No.
25 Q. You can't tell us how many days Henry DiBlasio was

1 there or wasn't there, can you, sir?
2 A. I couldn't account for how many days I was there.
3 How can could I do that? It's humanly impossible.
4 Q. You can't account for how many days Jackie Bobby was
5 there or not there, can you, sir?
6 A. No, but I saw her. I worked with her everyday.
7 Q. You just said it's humanly impossible for you to even
8 tell us how many days you were there or not there let alone
9 how many other employees there were?
10 A. That's true, but I know I was there.
11 Q. How about Grace Yavorsky, how many days she missed
12 from the first day you worked there?
13 A. I couldn't remember that, sir.
14 Q. Jackie Bobby?
15 A. I couldn't remember that.
16 Q. And you can't remember for sure how many days
17 Mr. Rovnak was there, can you, sir?
18 A. Well, I can remember Mr. Rovnak because me and
19 Mr. Rovnak did not hit it off well at first. We used to
20 fight over who's going to sit at the receptionist desk
21 because there's not enough room for the employees there,
22 Mr. Morford.
23 Q. Tell me how many days he worked and how many days he
24 missed during the first year you worked there, during 1991?
25 A. To my knowledge, what I can remember, Mr. Rovnak was

1 there the days I was there, but he was part-time.
2 Q. And you don't even know what his hours were, do you?
3 A. No.
4 Q. When he was supposed to work and when he wasn't
5 supposed to work, you don't know, do you, sir?
6 A. To my best knowledge, he was there three days a week.
7 Q. But you don't know what his exact hours were, do you?
8 A. Well, he was there when I was there. That's all I
9 can tell you. His hours should have been what my hours
10 are.
11 Q. Were you running around and checking up on him to
12 make sure he was where he was supposed to be? Was that
13 part of your duties, sir?
14 A. No, I worked with Mr. Rovnak, Mr. Morford. I told
15 you. He helped me with cases, he even oriented me --
16 Q. Sir --
17 A. -- some of the doings in the office.
18 Q. Prior to testifying here today, did you talk to
19 Congressman Traficant about your testimony?
20 A. Yes.
21 Q. Did he tell you he was going to ask you some
22 questions about Mr. Rovnak?
23 A. About Mr. Rovnak and other people?
24 Q. Yes.
25 A. Yes.

1 Q. Did he tell you he wanted you to say that Mr. Rovnak
2 was in the office a lot?
3 A. No. He didn't infer me to say anything. He just
4 asked me what knowledge I had.
5 Q. Did you tell him it would be humanly impossible, as
6 you just said, for you to be able to tell what employees
7 were there and weren't there?
8 A. He didn't can me the way you asked, Mr. Morford.
9 Q. Sir, let me ask you about this:
10 You were asked some questions by the Congressman
11 about a time when you were something called a congressional
12 liaison; is that correct?
13 A. Congressional liaison.
14 Q. Isn't it true your main function as congressional
15 liaison was to chauffeur Congressman Traficant back and
16 forth from Youngstown to Washington?
17 A. Well, I did drive at times, but so did the
18 Congressman, but my duties were to go back and forth with
19 him.
20 Q. But in terms of liaison duties, what did that entail?
21 A. It entailed me going to Washington and being with the
22 Congressman.
23 Q. Didn't he have a whole staff of people in Washington,
24 sir?
25 A. Yes, he did.

1 Q. You didn't have any specific duties, did you, sir?
2 A. Oh, yes.
3 Q. Were you doing legislative duties?
4 A. I started getting into legislation with our former
5 chief of staff, West Richards, and some of the other staff
6 people I can't recall.
7 Q. Let me ask you this: On your trips to Washington,
8 were there times during work hours where you went out and
9 worked on the Congressman's boat?
10 A. Worked on his boat?
11 Q. Yes.
12 A. I was on his boat. I lived on the boat.
13 Q. Sir, that's not my question. My question is: During
14 those times you were driving him back and forth to
15 Washington, were there times you went out and worked on his
16 boat?
17 A. There was one time when I got hired that I did do
18 some work on his boat, yes.
19 Q. Now, when you would do this congressional liaison
20 work and drive with him back and forth to Washington, where
21 did you stay in Washington?
22 A. I stayed on the boat and sometimes in the office.
23 Q. Did you have any problems staying on the boat?
24 A. Yes.
25 Q. What were those problems?

1 A. I couldn't fit in the shower. It was very hard for
2 me to bathe and shower. The shower was very small, and the
3 hot water would always run out.
4 Q. Did you like staying on the boat?
5 A. It was fun at first. I have to admit. It was -- it
6 was different. I never been on a boat or around a boat,
7 and I thought it was quite intriguing. I kind of liked it.
8 Q. Is it fair to say the boat needed a fair amount of
9 work, sir?
10 A. Outside of what I saw on the outside of the boat, the
11 inside was beautiful. I don't think the inside needed much
12 work.
13 Q. How about the outside?
14 A. There was a step that I remember that was rotted
15 because the Congressman would tell me don't put your foot
16 on that step, you'll rip it out. Other than that, I'm not
17 an expert in boats.
18 Q. Well, sir, isn't it true it was your view that the
19 boat was in tough shape on the outside and needed a lot of
20 work?
21 A. I know it needed a paint job, but I couldn't attest
22 to what the structural mechanisms of the boat were or what
23 its faults would be. I just don't know that.
24 Q. You're saying you didn't mind sleeping on the boat?
25 A. No.

1 Q. Well, sir --
2 A. Outside of the shower.
3 Q. Do you remember testifying before the Grand Jury on
4 August 16, 2000, stating this: If not, we would sleep in
5 the office, and I'd come down to the boat and try to take a
6 shower in the morning, and the night before so I looked
7 halfway decent the next day, and that was frustrating for
8 me. Jim didn't need a lot of amenities. I did, I needed
9 to bathe twice a day, and it became a problem.
10 A. That's true.
11 Q. Isn't it true sleeping on the boat became a real
12 problem, it was something you were opposed to?
13 A. Well, something I would prefer not having to do, but
14 like I said, I actually liked it, it was fun. It was
15 different. Outside that, I couldn't get the proper
16 hygiene. It was frustrating at times, yes, Mr. Morford.
17 Q. Now, isn't it true that at one point you and your dad
18 and a mechanic from your dad's company took the boat down,
19 had it pulled out of the water and spent the day scraping
20 barnacles off the hull?
21 A. Yes, I recall that.
22 Q. And that was during working hours, was it not, sir?
23 A. My best knowledge, it could have been, yes, but I
24 couldn't say with specificity.
25 Q. Sir, isn't it true that that was a day where you

1 should have been in the office. You can say that with
2 specificity?
3 A. To my best knowledge, it was a long time ago.
4 Q. So what is your answer?
5 A. I couldn't answer that truthfully. I can't really
6 recall that.
7 Q. Well, did you recall it when you testified before the
8 Grand Jury?
9 A. If you'd refresh my memory.
10 Q. Question: In other words, you would drive into
11 Washington, stay there for a week or whatever the time was
12 and driving back to the district at the end of the week.
13 Answer: I worked in the office.
14 Question: Well, on this day, when the boat is being
15 worked on, you're not in the office?
16 Answer: No, not that day.
17 Question: That day, you're doing what? Cleaning the
18 boat, right?
19 Answer: I was -- yeah. I was with the Congressman
20 that day working on the boat.
21 Wasn't that your testimony then?
22 A. Yes, the Congressman was with me. I did recall that.
23 Q. Now, that was the day you were supposed to be in the
24 office, correct?
25 A. If I was supposed to be in the office, that day I was

1 excused for me at my request or the Congressman's request.
2 Q. Excused by you by whom?
3 A. I'm sure I had to ask the Congressman if I could have
4 the time to do that.
5 Q. So you'd say, Congressman, can I have a day off today
6 for my official duties so I can go work on your boat?
7 A. I wouldn't infer to it in that sense, no.
8 Q. What sense would you do it, sir?
9 A. I can't really recall, Mr. Morford, how it happened,
10 but I do know on that specific day I was helping with the
11 duties on the boat to do that.
12 Q. Well, you testified on direct that when the FBI
13 called and asked you to meet at their office, you were told
14 by the Congressman you can't go do that during official
15 hours, correct?
16 A. That's true.
17 Q. But he had no problem with you working on the boat on
18 official hours, correct?
19 A. Not that day.
20 Q. Isn't it true, sir, that during the time you worked
21 in the office from 1991 until at least 1998 there was no
22 system regarding vacation days?
23 A. I don't recall us ever having to do time slips. I
24 reported my vacation days to Jackie and to Chuck O'Nesti.
25 That's who I was told to report to, and they would clear

1 it.

2 Q. That's not my question, sir. Isn't it true there was

3 no actual system for vacation days?

4 A. No, we didn't -- no, we didn't fill out no slips or

5 nothing.

6 Q. In fact, wasn't the rule on vacation the Congressman

7 could give you as many days as he saw fit?

8 A. Not actually, but he is the boss.

9 Q. Well, let me read you this again from your Grand Jury

10 transcript, August 16, 2000.

11 Question: So the fact that he's saying take a

12 vacation day doesn't have a whole -- doesn't have a real

13 meaning under the way your office was set up, does it?

14 Answer: I don't understand.

15 Question: In other words, he can give you as many

16 vacation days as he wants at his pleasure. The fact that

17 he says take a vacation day doesn't mean a whole lot, does

18 it, because he can make it up to you later?

19 Answer: I never interpreted it that way.

20 Question: When he says take a vacation day, that

21 doesn't necessarily mean you're going to lose a vacation

22 day, does it?

23 Answer: That he never said.

24 Question: In fact, they didn't keep track of

25 vacation days, did they?

1 Answer: Not to my knowledge.
2 Was that your testimony then?
3 A. Yes.
4 Q. Is that your testimony today?
5 A. Right, nothing I can recall. I told you I reported
6 my time to Jackie and to Chuck if I was to take a vacation
7 day. There was no formal procedure or forms that we were
8 required to fill out. Jackie was the supervisor, and so
9 was Chuck.
10 Q. And it's your testimony then that on those days the
11 Congressman Traficant asked you to go out and do personal
12 work for him somewhere he would just tell to you take a
13 vacation day, correct?
14 A. Yes.
15 Q. And then later, if he wanted to, he could give you
16 more vacation days, correct?
17 A. If I asked him.
18 Q. Now, you testified about some farm work; is that
19 correct?
20 A. Yes.
21 Q. Work out at the farm. If you'd give me a minute, I
22 just want to go back to my notes and make sure I get this
23 accurately.
24 I believe when you testified on direct, when you were
25 asked if you ever went out and worked at the farm, you said

1 quote: I lent him a hand on occasions if you want to call
2 that work.
3 Was that your answer?
4 A. If that's what I said, I said, yes.
5 Q. Isn't it true, sir, that, in fact, you considered it
6 to be real hard work?
7 A. It was hard at times.
8 Q. Then, what did you mean on direct when you said if
9 you want to consider it work?
10 A. It's nothing I was forced to do. I enjoyed helping
11 him. It was nothing hard about it.
12 Q. Now, at the times you went out to the farm, you did
13 that at the Congressman's request, correct?
14 A. Yes.
15 Q. That wasn't something you thought up on your own,
16 correct?
17 A. No.
18 Q. And isn't it true that you've stated in the past that
19 baling hay is not fun work?
20 A. That's true, it's not.
21 Q. You testified that it's very, very hot sometimes?
22 A. Yes.
23 Q. You get very sweaty?
24 A. Oh, yes.
25 Q. You get hay chaff and bugs and flies on you?

1 A. Yeah.
2 Q. There were times when you were out there and got
3 poison ivy?
4 A. That's true.
5 Q. Times when your allergy got so bad that you had
6 serious problems from that?
7 A. Yes, sir.
8 Q. And you still want to say you lent him a hand if you
9 want to call that work?
10 A. I enjoyed being with the Congressman, Mr. Morford. I
11 loved working with Jim. He worked harder than anybody else
12 out there that I ever saw, and I liked being with him.
13 Q. Isn't it true there were times you complained to
14 other employees about having to go out to the farm to bale
15 hay, sir?
16 A. I believe I complained when I got poison ivy.
17 Q. Isn't it true that you've testified before that you
18 may have gotten mad enough and said some choice words?
19 A. That's possible. That happens on a daily basis, yes.
20 Q. During the time that you were out at the farm, there
21 were times that you were actually out there during working
22 hours, weren't you, sir?
23 A. Yes.
24 Q. And isn't it true that you began to worry about that
25 and went and asked the Congressman Traficant because you

1 had concerns about doing his personal work on official
2 taxpayer time?
3 A. I made sure with the Congressman that what I was
4 doing was okay, and that the Congressman says you take a
5 vacation day, there's no fault in it.
6 Q. And we've already established that when you take that
7 vacation day, you can always have it given back to you if
8 you need it later, correct?
9 A. That was never said to me.
10 Q. Well, that was the system, wasn't it, sir?
11 A. I'm not -- what are you referring?
12 Q. I'm not inferring anything; I'm asking you a
13 question.
14 A. Bought vacation days back, Mr. Morford?
15 Q. Isn't it true the Congressman could give you as many
16 vacation days as he wanted?
17 A. I guess he could. He's the boss.
18 Q. And that was the system, correct, if the Congressman
19 Traficant decided he wanted to give you 20 days vacation,
20 he could do so, right?
21 A. He's the boss.
22 Q. Is that a yes?
23 A. Yes.
24 Q. Isn't it true that you've stated before that being
25 out at the farm is not how you wanted to spend your free

1 time, sir?
2 A. I don't believe I said that. If you restate the
3 question or refresh my memory.
4 Q. Okay.
5 Question. -- this is before the Grand Jury once
6 again on August 16, 2000.
7 Question: And let's face it, from what you've told
8 us about this work, it wasn't the way you wanted to spend
9 your off weekends, correct?
10 Answer: No, not at time, Mr. Morford.
11 Wasn't that your testimony then?
12 A. That's what it says there, that's what it says.
13 Q. So isn't it true that's not how you wanted to be
14 spending your free time, sir?
15 A. Well, not on weekends, and I usually helped the
16 Congressman on weekends, and there were other things I
17 could be doing, but I wanted to be with him.
18 Q. But isn't it true you really didn't want to be out
19 there baling hay, sir?
20 A. There were times I didn't want to be there.
21 Q. And isn't it true, sir, from your own testimony on
22 direct you were a very busy man?
23 A. I'm very busy man.
24 Q. You're running a trucking company?
25 A. Not myself, but I own my own trucks.

1 Q. Well, who's running it?
2 A. My father.
3 Q. Didn't Congressman Traficant ask you if there was any
4 connection between your trucking company and B & T, and you
5 said no?
6 A. We are B & T Express. I'm B & T Express.
7 Q. On direct, when Congressman Traficant was asking you
8 about the connection of your trucking company to your
9 father's, I thought you said there was not a connection?
10 A. No. We all have trucks, we are all B & T Express.
11 My father owns the real estate, Mr. Morford.
12 Q. Wasn't it true you were putting time into that
13 trucking business and taking up some of your time?
14 A. Yes, sir, yes.
15 Q. From what you've testified before, probably ten hours
16 a week or so, that would be fair?
17 A. That's fair, yes.
18 Q. You're also teaching classes at Youngstown State
19 University?
20 A. Yes.
21 Q. And you teach a couple of those classes a week,
22 correct?
23 A. Two days a week.
24 Q. And those are two-hour classes, correct?
25 A. Yes.

1 Q. And you have to prepare for those classes, correct?
2 A. That's true.
3 Q. You don't just go and wing it?
4 A. Wish I could, no.
5 Q. In addition, you own some apartments; is that
6 correct?
7 A. Yes, sir.
8 Q. And you have to maintain those apartments, correct?
9 A. Yes, sir.
10 Q. Now, there's some lawn type work that needs to be
11 done at your apartments, correct, to keep them up?
12 A. Yes, sir.
13 Q. And you don't do that yourself, do you?
14 A. I used to.
15 Q. How long ago?
16 A. 1995, '96.
17 Q. Since 1996, isn't it true you've hired somebody else
18 to mow your grass?
19 A. I have a person who cuts my lawns.
20 Q. You didn't want to get out there and get the exercise
21 yourself?
22 A. No, because of the allergies. I enjoy getting
23 exercise, but the sneezing part became hard because of the
24 grass.
25 Q. Wasn't it true you testified on direct that one of

1 the reasons you went out to the farm was you wanted to get
2 some exercise?
3 A. That's true.
4 Q. But you weren't mowing your own lawn to get exercise?
5 A. Mr. Morford, we got to put this in a time
6 perspective.
7 Q. Let's start 1996 on.
8 A. Right.
9 Q. From 1996 on, you were paying somebody else to mow
10 your grass, correct?
11 A. That's true.
12 Q. And yet, during that same time period, you're going
13 out to the farm to bale the Congressman's hay, to get
14 exercise?
15 A. You're making it sounds like I lived at the farm.
16 That's not true. I was only there on occasions. It's not
17 that I was there everyday. That's what I'm wondering from
18 your question.
19 Q. Sir, I'm not making it sound like anything. I'm
20 taking direct testimony, which was that there were times
21 you went out to the farm, because you wanted to get
22 exercise.
23 A. That's true. But I did not own apartments buildings
24 in 1991, '92 or '93. I was a young kid, a young man. I
25 was capable of doing that. I didn't have as much weight as

I do now, unfortunately.

Q. Sir, isn't it true the reason you would go out to the farm and bale hay was because you felt obligated to go out there because of your boss, the Congressman wanted you out there?

A. I felt obligated. He's my boss, yes, but I enjoyed being with him.

Q. But you went out of there, at least in part, because of obligation because your boss, the Congressman, was asking you to go out there, correct?

A. That's true.

Q. Now, in addition to you going out to the farm, weren't there times you were out with George Buccella?

A. Yes.

Q. And on many of those days when it was hot and sticky and bad, you and George Buccella would complain about having to be out there, wouldn't you, sir?

A. That's true.

Q. And, isn't it true, sir, that there were times when you were out there for a week at a time during the hay season?

A. Not me.

Q. Are you sure about that?

A. A week at a time?

Q. Yes, sir.

1 A. Mr. Morford, I've tried to clear this up on many
2 occasions. There were a couple times during the week,
3 during the summers that I was there, but I mainly helped
4 the Congressman on weekends. I was never there five days
5 or -- in a row.
6 Q. How many days in a row can you remember being out
7 there at the most in any given week?
8 A. Usually on a Friday, sometimes a Thursday, depending
9 on when the Congressman would ask me, but I was mainly
10 there on weekends.
11 Q. You're saying under oath today that you don't recall
12 ever being there more than two days in a row, is that your
13 testimony, sir?
14 A. I was there at least two days, but I mainly helped
15 him on the weekends. Are you saying I was there everyday
16 during the week?
17 Q. No. I'm asking you if there were times where you
18 were there as much as a week at a time?
19 A. You mean total? I don't understand.
20 Q. Simple question: Were you ever there working on the
21 farm for as long as a week at a time?
22 A. Days in a month, is that what you're referring to? I
23 was never there Monday through Friday as you're trying to
24 suggest. If it's a total of a week that I would have been
25 out there, weekends and including workdays, that's a fair

1 assumption, but I can't be exact. I was mainly there on
2 weekends.
3 Q. Now, with respect to the times that you were out at
4 the farm, how many days a year would you say you were out
5 at the farm working?
6 A. I couldn't say with any specificity. I really don't
7 know.
8 Q. You didn't keep track?
9 A. I couldn't remember. It's quite awhile.
10 Q. Can't you go back and look at the vacation days and
11 see how many you wrote off at the farm?
12 A. I don't have those records. I told you, Jackie Bobby
13 was the manager who would know that information.
14 Q. Wasn't it true, sir, that you were out there
15 sometimes 20, 30 days a year?
16 A. That's not true. 20, 30 days a year?
17 Q. Yes.
18 A. In what capacity, outside of me going and picking the
19 Congressman up? Are you trying to --
20 Q. I'm asking you questions?
21 A. That's not true.
22 Q. How many days a year?
23 A. I couldn't be specific, five.
24 Q. Just five days out of an entire year you're
25 testifying that you'd be out there working, baling hay?

1 A. That's true.
2 Q. Moving sawdust?
3 A. Total of five days.
4 Q. And for how many years were you out there?
5 A. Three or four. I can't recall. My allergies became
6 bad. It became tough.
7 Q. I'd like to ask you some questions about Henry
8 DiBlasio. Do you recall being asked questions by
9 Congressman Traficant about Henry DiBlasio?
10 A. Yes.
11 Q. Now, I believe Congressman Traficant asked you about
12 there's an upper floor and lower floor, do you remember him
13 asking you that?
14 A. Yes.
15 Q. You said the upper floor was known as what?
16 A. The administrative office.
17 Q. Administrative office?
18 A. Right.
19 Q. And he asked you about how often you'd speak with
20 Henry DiBlasio. Do you recall that?
21 A. Yes.
22 Q. And you said sometimes you'd go upstairs and talk to
23 Henry DiBlasio, correct?
24 A. When I was out there, I'd see Henry, yes.
25 Q. How often were you up there?

A. Not that often, but when I was, I would see Henry.
Q. How often?
A. It was a long time ago. A couple -- two days a week, one day a week I'd go up there and come back. It had something to do with a particular economic development issue, something along those lines.
Q. So you'd be up there once or twice a week talking about economic development?
A. If the issue dealt with economic development, it would be directed to Henry, but I didn't have much involvement with Henry, Mr. Morford. I would see him on occasions, refer things to him.
Q. You also said that in response to Congressman's questions there were times Henry DiBlasio would come downstairs and talk with you, correct?
A. Yes. He'd come down to the office where I was at.
Q. And that you and Henry DiBlasio were friends, correct?
A. In a working capacity, yes.
Q. Well, sir, that's not what you testified to before the Grand Jury, is it?
A. I don't remember. You'll have to refresh my memory, Mr. Morford.
Q. You don't remember what you testified to about Henry DiBlasio before the Grand Jury?

1 A. I've been up here twice to the Grand Jury. I -- I
2 don't recall which session we're referring to.
3 Q. Well, how good is your memory about the amount of
4 interaction you had with Henry DiBlasio?
5 A. Just what I said.
6 Q. How many years ago was it that you were dealing with
7 Henry DiBlasio?
8 A. I remember Henry was there when I started.
9 Q. With the exception of your testimony about
10 Mr. Rovnak, you said several times that you have a hard
11 time remembering things that happened awhile back, correct?
12 A. That's true, I do.
13 Q. Did Congressman Traficant help refresh your
14 recollection about Henry DiBlasio before you testified here
15 today, sir?
16 A. He mentioned Henry to me, that he questioned me about
17 Henry.
18 Q. Did he ask you to testify that Henry DiBlasio had
19 done a lot of work?
20 A. No. He just asked me what my relationship was with
21 Henry and what I remembered in the office with Henry.
22 Q. And without any prompting from the Congressman, you
23 told him what you told the jury here today?
24 A. He didn't prompt me to do anything.
25 Q. He didn't suggest to you that it would be helpful if

1 you testified that Henry did a lot of work?
2 A. That never was suggested to me or said. Obviously, I
3 worked with Henry. I've seen Henry.
4 Q. Let me ask if you remember these questions and
5 answers when you testified before the Grand Jury on August
6 16, 2000:
7 Question: Let me ask you some questions about Henry
8 DiBlasio. You worked with him for a number of years,
9 correct?
10 Answer: I didn't work for Henry. Henry worked
11 upstairs, and he was on the Congressman's payroll.
12 Question: Henry DiBlasio was supposed to be the
13 district director, correct, or the chief, whatever the
14 title was?
15 Answer: Administrative assistant.
16 Question: Administrative assistant? And he had an
17 office in the same building where you worked for
18 Congressman Traficant?
19 Answer: Yes.
20 Question: And he also maintained a full-time law
21 practice, was that your understanding?
22 Answer: That was my understanding.
23 Question: Tell us Henry's duties as you understood
24 it as a full-time staffer working in the office where Henry
25 was listed as the administrative assistant.

1 Answer: I never worked directly with Henry. I would
2 see Henry from time to time. The only thing I understood
3 and what I was told he was staff counsel for the
4 Congressman, and that Henry was involved in a few union
5 strikes that the Congressman was asked to get involved with
6 because I remember seeing Henry on the news. But Henry and
7 me were hi and good-bye. Really nobody was allowed to go
8 up to that floor. There was other attorneys in there. And
9 I never had any business to go up there.
10 Wasn't that your testimony before the Grand Jury,
11 sir?
12 A. That's what I recall.
13 Q. That's not what you testified to this morning on
14 direct, is it?
15 A. No, that's not true. I did have a relationship with
16 Henry. I would see Henry in the office, Mr. Morford.
17 Q. Isn't it true that in the Grand Jury, you testified
18 that your relationship with Henry was hi and good-bye, and
19 that nobody was allowed to go up on that floor, that you
20 described this morning that as the administrative floor
21 because there were other lawyers up there?
22 A. I was told not to go upstairs, but Congressman
23 Traficant would ask me to come upstairs. I would come
24 upstairs, and I seen Henry, Mr. Morford. Henry came
25 downstairs to the office. I did talk to Henry, and we did

1 go over things, and Henry always, always spoke to me when
2 he saw me.
3 Q. Sure, to say hi and good-bye, correct?
4 A. He did that at times, yes.
5 Q. Let me continue.
6 Question: -- again at the Grand Jury. And he,
7 meaning Henry DiBlasio, and he never came down much, did
8 he?
9 Answer: Not much. On occasions, you'd see him, but
10 usually he would beep people on the telephone to come
11 upstairs. I was just a young new face in that office, and
12 it was kind of a hostile environment down there. People
13 weren't very friendly to me. Only the elite got to go
14 upstairs, and I wasn't the elite. Wasn't that your
15 testimony?
16 A. That was true.
17 Q. Who were the elite?
18 Answer: Jackie Grace and Chuck got to go upstairs.
19 Question: Other than him, Henry DiBlasio, being on
20 TV, having helped settle a couple union strikes, do you
21 remember any specific duties that Henry did?
22 Answer: No, sir.
23 Question: And so for all you know, based on your own
24 personal experience, he may not have been doing much of
25 anything, correct, for all you know?

1 Answer: For all I know.
2 Wasn't that your testimony before the Grand Jury?
3 A. That's what I said, I said.
4 Q. So isn't it true you had no idea what Henry DiBlasio
5 was doing up there, sir?
6 A. I know what Henry was doing.
7 Q. How, if you weren't going up -- if you weren't going
8 up the stairs and he wasn't coming down the stairs and you
9 had a hello-good-bye relationship, and you testified before
10 the Grand Jury that based on your own personal experience,
11 he may not have been doing much of anything up there, how
12 do you know what he was doing?
13 A. Mr. Morford, I recall Henry would send a lot of memos
14 to the staff. Henry came downstairs. He just not came to
15 me; he came and spoke to other staff people. I did not
16 have a direct relationship with Henry. I didn't refer
17 things to Mr. DiBlasio. He was a very nice man.
18 Q. You were asked the questions. You never provided any
19 of that, did you?
20 A. Mr. Morford, I was totally petrified during the Grand
21 Jury session. I can't remember hardly anything that I
22 said.
23 Q. Well, sir --
24 A. A lot of things after the Grand Jury have come to my
25 fruition as this trial has proceeded. It's a lot of

1 things.
2 Q. And they came to your fruition as you talked to
3 Congressman Traficant about your testimony, didn't it?
4 A. That's not true. That's not true.
5 Q. Sir, isn't it true there were times when Jackie
6 Bobby, Grace Yavorsky, and Chuck O'Nesti complained to you
7 about the amount that Henry DiBlasio was working versus the
8 amount of work that he was doing?
9 A. There was a lot of jealousy and statements made by
10 Jackie and Grace against Henry, that's true.
11 Q. And Chuck O'Nesti, also, wasn't that true, sir?
12 A. Yes.
13 Q. Why did you just say Jackie and Grace and you left
14 out Chuck O'Nesti, if that's true?
15 A. What reason would I mention Chuck?
16 Q. Because I just asked you about Chuck.
17 A. I answered it.
18 Q. And you said yes as to Grace and Jackie, and you left
19 out Chuck. Why?
20 A. He wasn't on the thought process. You mentioned it,
21 and I said yes. They always complained, Mr. Morford, about
22 Henry. They were jealous of Henry.
23 Q. How do you know that's why they were complaining?
24 You don't even know how much work Henry DiBlasio was doing,
25 do you, sir?

1 A. I worked in the office with those people. I heard
2 their complaints. They made complaints to me about him.
3 Q. And they made the complaint he wasn't doing much
4 work, correct?
5 A. I heard Jackie say that.
6 Q. And you heard Grace say that?
7 A. Grace said that.
8 Q. And you heard Chuck say that, right?
9 MR. TRAFICANT: Objection on hearsay.
10 THE COURT: You can continue.
11 BY MR. MORFORD:
12 Q. And you heard Chuck say that, correct?
13 A. Yes.
14 Q. And having them said that, you have no idea what
15 Henry was or wasn't doing in terms of his actual assigned
16 duties, correct?
17 A. Mr. Morford, outside of what I already testified to,
18 those three individuals that you refer to were very jealous
19 of Henry, and they were jealous at the amount of money he
20 was making. That was obvious. That's all they complained
21 about.
22 Q. And he was the highest paid staff member on the staff
23 at that time, correct?
24 A. To my best knowledge, I would say yes, but I don't
25 know that to be true. There could have been someone else.

1 Q. Now, did there come a time when Congressman Traficant
2 asked you to help a guy by the name of Dave Sugar?
3 A. Yes.
4 Q. And he asked you to help Dave Sugar regarding a DUI
5 case involving Dave Sugar's son, correct?
6 A. Yes.
7 Q. And you performed a number of duties to assist the
8 Sugars at the Congressman's direction, correct?
9 A. Yes.
10 Q. But isn't it true that when you were asked about your
11 knowledge of congressional assistance to Dave Sugar on
12 August 16, 2000, you failed to tell the Grand Jury anything
13 about any assistance that you gave to Dave Sugar, correct?
14 A. You never asked me specifically, Mr. Morford, but I
15 believe you cleared that up with the second time that you
16 had me up here.
17 Q. Isn't it true that you had to come up a second time
18 because you didn't tell us in the Grand Jury about the work
19 you'd done for Dave Sugar the first time, sir?
20 A. That's what you explained to me the reason why that
21 you brought me back.
22 Q. Well, let me see if you remember these questions and
23 answers on that first Grand Jury appearance, August 16,
24 2000.
25 Have you ever heard of any dealings between

1 Congressman Traficant and/or his staff and Mr. Sugar?
2 Answer: Just what was involved in the papers
3 about --
4 Question: You're talking within the last couple
5 months?
6 Answer: Yes.
7 Question: Do you remember the time you worked for
8 Congressman Traficant you never heard of him or anyone in
9 your office.
10 Answer: I heard of Dave. Dave dealt a lot with
11 Chuck. I remember a workmen's comp problem Dave had years
12 ago when I first started. He came to the office with a
13 bunch of material, and I talked to him, and it was a
14 workmen's comp problem, given to Chuck, it was very in
15 depth. It was given to Chuck, and Chuck took it over. I
16 don't know what happened after that.
17 Now, you didn't tell the Grand Jury that day in
18 response to the question have you ever heard of any
19 dealings between Congressman Traficant and/or his staff and
20 Mr. Sugar; that you had actually been involved in a very
21 detailed way in a constituent services case helping
22 Mr. Sugar and his son with a DUI case, did you?
23 A. Mr. Morford, my best recollection of that proceeding
24 was you never asked me about Dave Sugar, Junior. You asked
25 me about Mr. Sugar, Senior, and we addressed that issue.

1 Q. Isn't it true when the case first came up Congressman
2 Traficant asked you to call Dave Sugar, Senior?
3 A. That's true.
4 Q. And the two were related, correct?
5 A. I take that back. The Congressman mentioned -- told
6 me that Dave Sugar, Junior would be calling me, that he had
7 a problem, and that he'd like us to help him.
8 Q. Now, in terms of the work that you actually did,
9 isn't it true that at Congressman Traficant's direction you
10 drafted a letter to be sent to the Judge that was the
11 sentencing Judge in his case?
12 A. Per the Congressman's instruction and also the
13 attorney that was involved.
14 Q. And who was the attorney that was involved?
15 A. Attorney Mark Colucci.
16 Q. Who got attorney Mark Colucci involved?
17 A. I did.
18 Q. At whose direction did you get attorney Mark Colucci
19 involved?
20 A. Congressman Traficant.
21 Q. So Congressman Traficant instructed you to get Mark
22 Colucci to represent Dave Sugar's son, correct?
23 A. If I may, sir, the way the situation entailed was I
24 did speak to Dave Sugar, Junior, and his problem required
25 the assistance of an attorney, outside the scope of what I

1 could do, and I did tell the Congressman that, and he said
2 see if Mark Colucci would be able to take the case, and I
3 called Attorney Colucci.
4 Q. Now, isn't it true that after Mr. Colucci took the
5 case that he would send you detailed memos regarding a
6 status of the case for you to forward to the Congressman?
7 A. Yes. He did send me memo to that.
8 Q. And isn't it true that that was an incredibly unusual
9 thing?
10 A. In which respect?
11 Q. Have you ever referred constituents to an attorney
12 before?
13 A. Yes, Attorney Colucci would be the one.
14 Q. And isn't it true there was never another case where
15 after you made the referral, that Mr. Colucci would
16 actually send memos to you to give the Congressman, to
17 advise him on the details of how the case was going?
18 A. Outside of the Sugar case, I can't recall any that
19 comes to mind.
20 Q. And isn't it true when you testified at the Grand
21 Jury you testified it was unusual for that to happen?
22 A. Unusual in the respect that the Congressman, in fact,
23 asked me personally to get involved in it, but outside of
24 the fact of Mark setting it up, since we initially asked
25 him to do it, I didn't see what would be unusual about it.

1 It was quite informative.
2 Q. But isn't it true you said it was unusual for the
3 Congressman to take that kind of interest to actually be
4 monitoring what the lawyer you would refer was doing?
5 A. In that respect, it could be unusual, but the
6 Congressman monitored a lot of things that he would ask me
7 to do.
8 Q. Can you think of another time that he monitored the
9 representation of an attorney where you referred a
10 constituent, sir?
11 A. Not to my knowledge.
12 Q. I'd like to show you Government's Exhibits --
13 actually, if you want to write these down, pull them out of
14 your evidence 5-2(1), 5-3(1), 5-2(2), 5-4(1), and 5-5. 5-1
15 and 5-5 have been admitted into evidence. 5-2(1), 5-3(1),
16 and 5-2(2) have been provided to the court by the Defendant
17 and not yet been placed into evidence.
18 I'm going to first show you Exhibits 5-2(1), 5-3(1),
19 and 5-2(2.)
20 THE COURT: We only have one of the ones in
21 evidence you mentioned: 5-2(2) is in evidence and is a
22 joint exhibit.
23 MR. MORFORD: I'm sorry, your Honor. I also
24 had 5-4(1) and 5-5 as joint exhibits. I'm not sure. Is
25 that right?

1 THE COURT: Is 5-5 in evidence?
2 MR. TRAFICANT: I'd like to know which ones
3 are joint exhibits.
4 THE COURT: Both -- 5-5 is admitted as a
5 joint exhibit. 5-4(1) has a joint exhibit sticker on it,
6 but we don't have a record of it being admitted.
7 MR. MORFORD: We had it as -- I can set the
8 foundation and go back through it.
9 THE COURT: Okay. We've got the transcripts.
10 We can check it.
11 MR. KALL: Page 3009 in the transcript.
12 Q. Sir, I'm going to walk you through a couple
13 documents. Let's start with 5-2(1)?
14 THE COURT: It's admitted. You're correct.
15 MR. MORFORD: Which one?
16 MR. TRAFICANT: 5-1(1).
17 THE CLERK: 5-4(1) is, but not 5-4(1).
18 MR. MORFORD: Okay.
19 MR. TRAFICANT: Which document are we talking
20 about now?
21 MR. MORFORD: 5-4(1) is a joint exhibit in
22 evidence as is 5-5.
23 I am right now showing the witness Exhibit 5-2(1). I
24 apologize for not using my parentheses. That's my fault.
25 THE COURT: That's okay. Everybody has to be

1 patient with this. This is one of the great features of
2 the system. This is the way of preserving things after
3 they happen, so that somebody can go back and actually
4 assess them. It's a very important part of our system, but
5 it's boring for everybody.
6 BY MR. MORFORD:
7 Q. Do you recognize this Exhibit 5-2(1)?
8 A. Yes, sir.
9 Q. And is this a memorandum that you prepared?
10 A. Yes, sir.
11 Q. Did you prepare it in the ordinary course of
12 business?
13 A. Yes.
14 Q. How about Exhibit 5-3(1), do you recognize that?
15 A. Yes, sir.
16 Q. Is this a fax that you received from Mr. Colucci?
17 A. I would say yes, it is.
18 Q. And did you keep a copy of that in the ordinary
19 course of business as part of your files?
20 A. I should have, yes, I would have kept a copy,
21 Mr. Morford.
22 Q. How about 5-2(2)?
23 A. Yes, sir.
24 Q. What is that?
25 A. This is a memo that I gave to the Congressman.

1 Q. This is a memo you created in the ordinary course of
2 business, correct?
3 A. Yes.
4 Q. And all these are documents you would have made and
5 maintained as part of your files on the Sugar case,
6 correct?
7 A. Yes, sir.
8 MR. MORFORD: Your Honor, at this time, can I
9 please put this on the overhead?
10 THE COURT: Yes.
11 MR. TRAFICANT: I ask they all be made joint
12 exhibits.
13 THE COURT: That's fine, and, of course, we
14 always try to do that at a break. But it's fine,
15 Congressman.
16 MR. TRAFICANT: For the record.
17 BY MR. MORFORD:
18 Q. First document, you said it is a memorandum, correct?
19 A. Yes.
20 Q. And this is a memorandum from you to Congressman
21 Traficant, correct?
22 A. Yes, sir.
23 Q. And the subject says case in summary, Dave Sugar,
24 Junior?
25 A. Yes.

1 Q. And then what's the date on that, sir? Can you see
2 that?
3 A. It's kind of blurry for me here, June 16, '99.
4 Q. Okay.
5 A. Yeah.
6 Q. And this was a memorandum attaching a memo from Mark
7 Colucci, right?
8 A. It could have been, yes.
9 Q. Well, it says please find attached a case summary, 12
10 pages including cover page of Dave Sugar, Junior, as you
11 requested. It is Colucci's understanding that he continues
12 to be Mr. Sugar's representative unless otherwise advised,
13 correct?
14 A. Yes.
15 Q. And did you write this memo base based on your
16 conversation was Mr. Colucci?
17 A. Yes.
18 Q. Exhibit 5-3(1), what is this document?
19 A. That's a fax -- I believe that's a fax that Mark
20 Colucci sent to my attention for the Congressman.
21 Q. And what was Mr. Colucci asking you to have the
22 Congressman do?
23 A. Just what it says there, write a letter of support
24 for an appellate bond matter.
25 Q. And next is the memo marked 5-2(2), do you see that

one?

A. Yes.

Q. And that's also dated June 16, correct?

A. Yes.

Q. And this is to Congressman Traficant from you?

A. Yes.

Q. And the subject is address for Judge Spahr, sentencing judge?

A. Yes.

Q. And isn't it true that you were trying to get the Congressman to send a letter to the Judge that Dave Sugar's son would get a lesser sentence?

A. Attorney Colucci asked that if we send a letter from the Congressman it would help.

Q. That's not my question. My question was, that's what you were trying to accomplish. You were trying to get the Congressman to send a letter to the Judge so that Mr. Sugar could get a lesser sentence, correct?

A. If he was -- yes, I would imagine, but I don't know if he was being sentenced. I can't recall what his actual issue was. Attorney Colucci said an appellate bond issue. I am not an attorney, so you're going above my head a little bit.

Q. Did you, in fact, write and send a letter to the Judge on behalf of Mr. Sugar?

A. Yes, I did.
Q. And isn't it true that before that letter went out you had Congressman Traficant review that letter?
A. Yes.
Q. And he did review it, correct?
A. Yes.
Q. And then you sent it out at his direction, correct?
A. Yes.
Q. You also sent a letter to Mr. Billak, Rick Billak at the Community Corrections Association on behalf of Dave Sugar, Junior, correct?
A. Yes, sir.
Q. Before that letter went out, you gave it to Congressman Traficant to review, correct?
A. Yes.
Q. And you sent that letter at his direction, correct?
A. Yes.

THE COURT: Is this a good time for a break?

MR. MORFORD: Yes, your Honor.

THE COURT: All right.

We'll give you a 30-minute break for the jury. You'll have to come back. Okay?

THE WITNESS: Yes.

(Proceedings in the absence of the jury:)

THE COURT: I understand there's been some --

1 there's been some discussion about whether we should
2 rearrange the way testimony is going to come in today, and
3 I need to know things I don't know. We have Mr. Saadey
4 here with his lawyer, ready to go forward. The jury is in
5 the back.
6 Congressman, do you have another witness today? I
7 thought you had one more person.
8 MR. TRAFICANT: I do have one more person,
9 but Mr. Saadey has asked that he and his attorney asked if
10 they can clear up their matter today.
11 THE COURT: Um-hum. Well --
12 MR. TRAFICANT: And I want to state for the
13 record one thing, clearly, really clearly --
14 THE COURT: Who's your witness first.
15 MR. TRAFICANT: Linda Kovachik is here.
16 THE COURT: Okay.
17 MR. TRAFICANT: I want to state for the
18 record I was never asked by the counsel of the Defense to
19 do anything. He found out, and in the paper there was a
20 tape. He contacted me up here relative to concerns that it
21 might have something to do with the particular case
22 involving his client.
23 As a result of that, he asked me not to do anything.
24 I upon my own took an action because of things that may or
25 may not have been harmful to his client, period.

1 THE COURT: I think his client -- I mean, I
2 think the attorney has made that clear. It does raise a
3 whole new issue regarding the cross-examination that we're
4 going to do with this gentleman, but I thought about that,
5 and there is an issue that we have to decide that has to do
6 with whether or not there has been something which would
7 invalidate, basically, the testimony of this witness, which
8 is what you heard the Government claiming.
9 I don't mind handling that -- oh, the jurors are
10 here. Okay. Hold on. We got to take some jurors through.
11 (Pause.)
12 THE COURT: There are issues under Rule 26.
13 Now, as the trial Judge, I have a whole bunch of
14 obligations, and one is to this case, and I will go forward
15 with the cross-examination of this witness so there is an
16 accurate record of it. We're doing it out of the hearing
17 of the jury, just as we have originally planned to do. It
18 may turn out when we have time after they've gone and
19 everybody's gone to discuss the impact, if any, that the
20 Government is suggesting there may be because of the
21 actions you took apparently with this tape yesterday.
22 And then -- then we'll deal with that, but at least
23 we'll have the testimony recorded when these people are
24 here, and we need to do that, even though in the long run
25 we may not be able to proceed in the way we had thought we

1 could. This case has so many issues in it.
2 MR. MORFORD: Your Honor, not to create
3 another issue, but I have just two last questions of
4 Mr. Traficanti. Mr. Smith has advised me it will probably
5 take 30 minutes to go through the cross-examination, and I
6 was going to suggest to the Court and move that perhaps we
7 could finish Mr. Traficanti, let the jury go, and not have
8 the jury have to sit in the back room for what could be
9 between 3:30 and 4:30 when they'd have to go anyway.
10 THE COURT: Hold on a second. Is the whole
11 jury back now.
12 DEPUTY MARSHAL: Yes, your Honor.
13 THE COURT: So what he's suggesting is that
14 I -- we wait a few moments and complete your
15 cross-examination of Mr. Traficanti. I'll let you respond
16 to that.
17 MR. TRAFICANT: Only thing that bothers me, I
18 don't want Mr. Traficanti to have to come back up here
19 tomorrow and eliminate my time to go ahead on redirect.
20 Now, if you're going to take five minutes, fine.
21 MR. MORFORD: Two minutes.
22 THE COURT: Two minutes.
23 MR. SMITH: We're suggesting we do Mr. Saadey
24 at 4:30 is what we're suggesting.
25 THE COURT: Oh, yeah. But, see, what I don't

1 know is how long they think it's going to take so I have to
2 rely on you.
3 MR. TRAFICANT: I would like to see the jury
4 leave as soon as we're through with Mr. Traficanti. If
5 they're only going to take two minutes, I will then be
6 allowed to do my redirect of Mr. Traficanti, and if we're
7 done at 4:00, then -- or whatever it might be.
8 THE COURT: We'll let the jury go.
9 MR. TRAFICANT: Let the jury go whatever that
10 be for Mr. Saadey.
11 THE COURT: That sounds like a really good
12 solution. So it's good for everybody except the people who
13 have to wait. But, hey, okay.
14 MR. KOPP: I'm already a day and a half
15 longer than I thought.
16 (Laughter.)
17 THE COURT: Okay. You'll have to go and wait
18 in an appointed place, sir. Thank you.
19 MR. SAADEY: Thank you.
20 THE COURT: We'll bring in Mr. Traficanti and
21 bring out the jury.
22 (Proceedings resumed in the presence of the jury:)
23 THE COURT: Sir, you're still under oath.
24 THE WITNESS: Yes, ma'am.
25 THE COURT: All right.

1 BY MR. MORFORD:
2 Q. Mr. Traficanti, did you talk with your boss at all
3 over the break about your testimony?
4 A. No.
5 Q. I just have one last area to ask you about rather
6 quickly. During the years 1991 and 1996, the first five
7 years you worked with Congressman Traficant's office, you
8 received your pay by paychecks that were mailed to you,
9 correct?
10 A. Yes.
11 MR. MORFORD: I have nothing further, your
12 Honor.
13 THE COURT: Thank you.
14 REDIRECT EXAMINATION OF ANTHONY TRAFICANTI
15 BY MR. TRAFICANT:
16 Q. Anthony, you just been subject to pretty serious
17 questioning. Is that a fact?
18 A. Yes.
19 Q. Is that the way you've been treated by the Government
20 from the beginning?
21 A. It's been.
22 MR. MORFORD: Objection.
23 Q. Were you indicted for lying to the Grand Jury?
24 A. No.
25 Q. How old were you when I went to trial?

1 A. About seventh grade, 11, 12 years old.
2 Q. Did I ever compel you to work at the farm?
3 A. No.
4 Q. Aren't there federal regulations that govern --
5 MR. MORFORD: Your Honor, I'm going to
6 object. It's his witness, and we're getting back into his
7 testimonial questions, calling for yes or no answers.
8 THE COURT: Well, if you've been made known
9 about governmental -- what are they? It depends on what
10 you know about them firsthand or not.
11 THE WITNESS: Could he repeat the question?
12 THE COURT: We'll see.
13 BY MR. TRAFICANT:
14 Q. Anthony, when you went to Washington, D.C., were you
15 just my chauffeur?
16 A. No.
17 Q. Did you work during the week in the office?
18 A. Yes.
19 Q. And you talked about a hot shower and hot water. Who
20 would shower first?
21 A. Usually, you would.
22 Q. Why?
23 A. Because I would run the hot water tank out.
24 Q. Now, you have testified the inside of the boat was
25 beautiful, was that your testimony?

1 A. Yes.
2 Q. Was it unusual wood of a classic style boat?
3 MR. MORFORD: Objection to the testimonial
4 questions, your Honor. He can ask open questions.
5 Q. How would you describe the inside of that boat?
6 A. It had -- it had cherry wood -- like cherry wood
7 trim, had a wooden table, like a little living room, and it
8 had like a little bedroom down to the left, nice wood,
9 bathroom, shower.
10 Q. Was it a small boat or big boat?
11 A. Fairly big. It wasn't massive. I think it was a
12 38-footer. I can't remember.
13 Q. Now, when your father come down, was I present with
14 you?
15 A. Yes.
16 Q. Did I work with you.
17 A. Yes.
18 Q. Was there ever any time that you were in Washington,
19 D.C. that you failed to put in 40 hours?
20 A. No, not -- I worked long hours.
21 Q. Now, if the Congress was opened and in session until
22 midnight, where would you be?
23 A. Right there in the office.
24 Q. Now, he asked you some questions about Mr. Rovnak.
25 Do you recall those questions?

1 A. Yes.
2 Q. When you worked for the congressional office, did
3 Mr. Rovnak come to work?
4 A. Yes, I said that.
5 Q. And you had personal knowledge that he came to work?
6 A. I seen him there, yes.
7 Q. Did you work close to him?
8 A. Yeah, yes.
9 Q. Did you share furniture?
10 A. Yes. We used to fight over the front receptionist
11 desk for a place to sit because there was no room.
12 MR. MORFORD: Objection, your Honor. He's
13 got to ask open-ended questions. It's his witness.
14 BY MR. TRAFICANT:
15 Q. Did you ever volunteer --
16 THE COURT: You have to -- you have to put
17 whatever it is you're hoping to put before this jury into a
18 form that will allow the testimony to come from the person
19 who's on the stand.
20 Q. Did you ever volunteer to do work for me?
21 A. Yes.
22 MR. MORFORD: Objection, it's the same thing.
23 THE COURT: That's not it. You have to
24 disregard that.
25 BY MR. TRAFICANT:

1 Q. To the best of your knowledge, did Congress of the
2 United States have rules and regulations?
3 A. Yes.
4 Q. When a case reaches a point where it cannot be
5 resolved, whom, if anybody, is the person of last resort in
6 our District Office?
7 A. You.
8 Q. How many times does that occur?
9 A. Quite a few.
10 Q. What, if anything, do I do when that occurs?
11 A. You never fail to take action. You jump right in.
12 Q. Was there anything different about that in the Sugar
13 case?
14 A. In what respect?
15 Q. I mean, isn't that something that I would do in any
16 other case?
17 A. That's fair to say yes.
18 Q. You testified earlier to a gross of $300,000, is that
19 your statement?
20 A. Yes.
21 Q. What is your net, rough net approximate income?
22 A. Net?
23 Q. Yes.
24 A. After taxes, maybe less than $100,000. I don't know.
25 I don't have my return in front of me. So I couldn't

1 answer honestly. It's a fair assumption.
2 Q. Do you know if the IRS was at any of the meetings
3 with the FBI?
4 A. With who?
5 Q. Whenever they met with you.
6 A. No. I don't recall any IRS people being there.
7 Q. Do you know if the IRS -- you have any knowledge that
8 the IRS was at the trucking company?
9 A. I believe there was an IRS agent that met with an
10 associate of the trucking company, yes.
11 THE COURT: Were you there?
12 THE WITNESS: No, ma'am.
13 THE COURT: Please stop testifying to things
14 that you don't have personal knowledge of.
15 THE WITNESS: Okay. It was told to me.
16 THE COURT: Right. That's what we're
17 referring to.
18 THE WITNESS: Okay. Help me out.
19 THE COURT: Okay.
20 Q. Who would call to you come upstairs on Overhill Road?
21 A. You.
22 Q. Would you come up?
23 A. Yes.
24 Q. In your mind, did you ever abuse vacation days?
25 A. No.

1 Q. In your mind, did you ever take advantage of vacation
2 time?
3 A. No.
4 Q. Would you rather have taken your girlfriend to lunch
5 than put hay in a barn?
6 A. That's true.
7 Q. To your knowledge, did there come a time when we
8 decided that Mr. Sugar needed some --
9 MR. MORFORD: Objection again as to the form
10 of the questions.
11 Q. Was it your impression that Mr. Sugar needed some
12 form of legal counsel?
13 A. Sugar, Junior did.
14 Q. Sugar, Junior?
15 A. Yes.
16 Q. Did you and I converse about that?
17 A. Yes.
18 Q. Did you make any recommendations?
19 A. Yes.
20 Q. What, if anything, happened on the strength of those
21 recommendations?
22 A. It was given to Attorney Colucci.
23 Q. Now, they put a number of documents up on the board,
24 with memos and faxes. Is that unusual that -- to
25 communicate about cases in a congressional office?

1 A. No, memos and faxes come over the machine all the
2 time, E-mails, whatever.
3 Q. And are they not, in fact, confidential?
4 A. I guess. They should be.
5 Q. Were you ever asked by the federal government to give
6 you any confidential files?
7 A. Was I asked to give the federal government?
8 Q. Yes.
9 A. Outside of my pay stubs, no, I wasn't compelled to
10 give anything to them.
11 Q. Was it your impression that you were compelled to
12 give it to them?
13 MR. MORFORD: Objection, your Honor, as to
14 who's testifying.
15 THE COURT: Sustained.
16 THE WITNESS: My -- you are referring to my
17 pay stubs --
18 THE COURT: That's okay, just wait. Let the
19 Congressman rephrase the question.
20 THE WITNESS: Oh.
21 BY MR. TRAFICANT:
22 Q. Now, the Prosecutor brought up the fact that you had
23 sent a letter to the Judge; is that correct?
24 A. Yes, he did.
25 Q. He brought up the fact that I had reviewed that

1 letter; is that correct?
2 A. Yes, he did.
3 Q. Do you know or have knowledge of cases where I do
4 intervene and review communications?
5 A. Yes.
6 Q. Do I know of every DUI or constituent complaint that
7 comes to our offices, Anthony?
8 A. No.
9 Q. Do I get a report of John Doe or Jane Doe and what
10 happened to them every week?
11 A. No.
12 Q. Who is responsible in Columbiana County for that?
13 A. Myself.
14 Q. Now, was the tone and tenor of the first meeting you
15 had with the FBI as aggressive as the tone and tenor of
16 Mr. Morford's prosecution of you here today?
17 MR. MORFORD: Object.
18 THE COURT: Sustained.
19 Q. Why were you twice at the Grand Jury, Anthony?
20 A. To testify.
21 Q. Did any of the member of the Government give you the
22 reasons why they called you back a second time?
23 A. Well, I found out when I was there. They had more
24 questions for me. They dealt with my lawyer.
25 Q. Did the Government ever attempt to twist your words

1 into some other intent?

2 MR. MORFORD: Objection, again. He's

3 testifying.

4 THE COURT: Sustained.

5 Q. Did you have an impression that what you said was not

6 being received satisfactorily by the Government?

7 MR. MORFORD: Objection.

8 THE COURT: Sustained, sustained. Move on to

9 something else, Congressman.

10 Q. What was your impression of your testimony at the

11 Grand Jury?

12 MR. MORFORD: Objection.

13 THE COURT: You're asking him for his

14 impression of his own testimony?

15 MR. TRAFICANT: Yes.

16 THE COURT: Well, you can answer that. If

17 you have an impression of your own testimony.

18 THE WITNESS: My impression was that I was

19 very truthful.

20 BY MR. TRAFICANT:

21 Q. Now, you remember the Prosecution asking you that

22 Congressman Traficant give you 20 days of vacation?

23 A. Yes.

24 Q. Are you familiar with federal rules and regulations

25 regarding operations of congressional offices?

1 A. Yes. Not an expert, but --
2 Q. In recent years, have there been changes?
3 A. In which respect, Congressman?
4 Q. Relative to rules of the Congress.
5 A. I know that Congress is a body in and unto itself
6 that polices itself, but our vacation days, our work hours
7 are set according to OPM standards, is what Congress bases
8 those guidelines on. But I couldn't get into anything in
9 depth, to any legalities of that sort.
10 Q. Do you recall your first meeting with the FBI?
11 A. Yes.
12 Q. Did they refer to me as a target?
13 MR. MORFORD: Objection. This is way beyond
14 the scope of any cross-examination, and it's been asked and
15 answered.
16 THE COURT: You can answer this.
17 THE WITNESS: Yes.
18 Q. When was the first time you met with them?
19 A. June 2000. It was either June 6 or June 9th. I
20 can't remember the exact day. It was a Wednesday, I
21 believe.
22 Q. And that was the same date they raided your dad's
23 company?
24 MR. MORFORD: Objection. He wasn't there.
25 He has no firsthand knowledge of that.

1 THE COURT: It's okay. You can testify to
2 that. You testified that you found out about that, right?
3 THE WITNESS: Yes, that's true. Yes, I found
4 out about it. I wasn't there.
5 BY MR. TRAFICANT:
6 Q. As a congressional liaison, in addition to your
7 driving, how many hours did you put in that office?
8 A. When I worked in Washington?
9 Q. Yes.
10 A. 40-plus hours a week.
11 Q. How long did it take us to get back and forth?
12 A. Six hours, could be longer, depending on traffic,
13 weather, those sorts of things.
14 Q. How about when we were in the black Avanti?
15 A. Took a lot longer.
16 MR. TRAFICANT: No further questions, your
17 Honor.
18 THE COURT: Thank you.
19 MR. MORFORD: Nothing, your Honor.
20 THE COURT: Thank you, sir. You may step
21 down.
22 THE WITNESS: Thank you, Judge.
23 THE COURT: Carefully.
24 The steps are very old.
25 THE WITNESS: Okay.

1 THE COURT: You have one more witness here?
2 MR. TRAFICANT: Yes, I was --
3 THE COURT: Good.
4 MR. TRAFICANT: Do you want me to bring that
5 witness on?
6 THE COURT: You brought a witness here today.
7 We'll do your witness. You got a jury here.
8 MR. TRAFICANT: I was under the impression we
9 were going to let the jury go --
10 THE COURT: We'll let the jury go after we've
11 heard your witnesses that you've brought today.
12 MR. TRAFICANT: This witness.
13 THE COURT: And 4:00 or 4:30, whichever is
14 earlier. Okay? We stay here until up to 6:00 if we have
15 to, but you got a witness, we're here to hear it.
16 MR. TRAFICANT: Well, I'd like to move that
17 the -- since it's going to be some length of time with this
18 witness, that we dismiss the witness and move forward with
19 Mr. Saadey.
20 THE COURT: No, no, no. We have a witness
21 here, and we have a jury here, and the Judge is here, and
22 it's not 4:30. We put testimony on for the jury. You and
23 I work in the other areas after the jury goes or during the
24 breaks when we don't need them. Please call your next
25 witness.

1 MR. TRAFICANT: I have to do it myself.
2 THE COURT: Well, that's okay.
3 THE COURT: Raise your right hand.
4 LINDA J. KOVACHIK,
5 of lawful age, a witness called by the Defendant,
6 being first duly sworn, was examined
7 and testified as follows:
8 DIRECT EXAMINATION OF LINDA J. KOVACHIK
9 BY MR. TRAFICANT:
10 Q. Would you please give your name, and spell your last
11 name then for the jury?
12 A. Linda, L-I-N-D-A, J-A-N-E, Kovachik, K-O-V-A-C-H-I-K.
13 Q. Where do you reside?
14 A. 454 Flagler Lane, Boardman, Ohio 44511.
15 Q. What street was that again?
16 A. Flager, F-L-A-G-L-E-R, Lane, Boardman, Ohio.
17 Q. And you own your own home?
18 A. No, I rent.
19 Q. How long have you lived there?
20 A. Approximately eight years.
21 Q. Where are you currently employed?
22 A. Congressman Traficant's office, 125 Market Street,
23 Youngstown, Ohio 44503.
24 THE COURT: Can the people in the back hear
25 this witness? Put up your arms up if you can't. No, yes?

1 They can. Very well. You're doing a good job.
2 MR. TRAFICANT: There's water there.
3 THE COURT: Everyone's nervous.
4 THE WITNESS: Yes.
5 MR. TRAFICANT: There's water there. I don't
6 know if that water was left by somebody else.
7 THE COURT: I don't think it's possible to be
8 a witness on the stand and not be nervous.
9 THE WITNESS: Thank you.
10 BY MR. TRAFICANT:
11 Q. When did you first start working for my congressional
12 office?
13 A. January 1985.
14 Q. In what capacity were you hired?
15 A. A staff representative.
16 Q. Were you full-time?
17 A. Part-time and then turning into full-time.
18 Q. How long were you part-time?
19 A. I'm trying to remember. Possibly six months or so.
20 Q. And then you were promoted to full-time position?
21 A. Yes, sir.
22 Q. And where were you working, located at that time?
23 A. I'm sorry, sir. Would you repeat that, please?
24 Q. Where was your duty station located at that time?
25 A. Overhill. I'm trying to think of the address there.

1 Is it 20 Overhill Drive?
2 Q. Is that in -- on the -- where is that located?
3 A. It's off Market Street in Youngstown, Ohio, Overhill
4 Drive. It's been so long since I've been there.
5 Q. Is downtown a little bit out of town?
6 A. It's called uppertown, Market Street, uptown Market
7 Street, between the Boardman area and Youngstown.
8 Q. Was the federal courthouse built at that point?
9 A. No, sir.
10 Q. What did you do before you worked for me?
11 A. At that time, I was shipping -- shipping clerk, doing
12 textile type work.
13 Q. Who did you work for?
14 A. Serv-a-Clean on Madison Avenue, Youngstown, Ohio.
15 Q. 1985 did you come to meet members of the staff?
16 A. Yes.
17 Q. Did you know a Jackie Bobby?
18 A. Yes.
19 Q. Did you know a Grace Yavorsky?
20 A. Yes.
21 Q. Did you know a Chuck O'Nesti?
22 A. Yes. Can you hear me back there? That was a yes.
23 Q. Did you know a Henry DiBlasio?
24 A. Yes.
25 Q. Was there a time when you parted service with the

1 congressional office?
2 A. Yes.
3 Q. At approximately what date?
4 A. Christmas time, Christmas party, 1985.
5 Q. And how did you come to be released, or how did
6 you -- were you -- how was your employment terminated?
7 A. I was not terminated. I resigned.
8 Q. You resigned?
9 A. Yes.
10 Q. Was there any specific reason why you resigned?
11 A. I was doctoring for -- my nerves were bad. I had ill
12 feelings in the office with management, and it got so over
13 the years that it played to my nervous system, and I -- I
14 just decided I would part and respect you in your job and
15 your ways and go on with my life. It wasn't a pleasant
16 thing, but that's what I decided.
17 Q. You only worked one year then, is that a fact?
18 A. No. I worked until 1990.
19 Q. So you resigned in 1990?
20 A. Yes.
21 Q. Now, you said that your nerves were frayed. What
22 were some of the causes for your nerves to be frayed?
23 A. Well, in an office with women, I don't know about
24 gentlemen, but you've got to go along to get along, and I
25 try to do that, and I felt that I did it, and I carried my

1 weight, as best I could, to the best of my knowledge. But
2 sometimes I was a little belittled.
3 Q. Who belittled you?
4 A. Betrayed.
5 Q. I didn't hear you. I'm sorry. I thought you
6 completed your statement. You said belittled?
7 A. I'm trying to think of the way I felt, and I was
8 belittled and betrayed in the office, and I felt very ill
9 about that, to think that could happen because I felt I was
10 pretty devoted.
11 Q. Who belittled you?
12 A. My superior, and it would be manager at the time.
13 Q. Who was your superior?
14 A. Would be Jackie Bobby.
15 Q. What, if anything, did she do to you?
16 A. Well, she got kind of into my social life after work,
17 where I went, where I partied. I didn't type, and she knew
18 that. I was the receptionist at the time, and I was so
19 proud to be a part of the congressional office that I would
20 learn or do anything, which I did attend typing class, but
21 something just didn't quite please my manager, and it was a
22 sad time for me.
23 But I made a decision to do this on my own. I was
24 never fired.
25 Q. Did you take courses to learn --

1 A. Yes, I did.
2 Q. -- how to type?
3 A. Yes.
4 Q. When you say that you were belittled, in what forms
5 were you belittled?
6 A. Well, I seem to come to be the in-between of two
7 people in the office that had rivalry, to take power over
8 the office. I was like Mrs. In between, and I was being
9 squished there. I didn't want a part of this game plan,
10 and I could see it. I worked with it. I experienced it.
11 My friends, my family, they -- it's easy to tolerate some
12 things, but others get too aggressive. It's a woman's
13 thing, I believe.
14 It was either convert or exit. I took the exit with
15 the recommendation of my doctor. I talked to my doctor
16 about it, and it wasn't good for my health at the time.
17 Q. Was it your impression that you had to maybe take
18 sides with rivalries?
19 THE COURT: Now you're making the statement
20 for her. You need to ask her questions. You need to speak
21 louder because I don't think everybody can hear you, and
22 it's really important since you're here that we hear you.
23 So take it out of the stand.
24 THE WITNESS: Oh, take it out?
25 THE COURT: If you want. That makes it a

1 little easier. Hold it near your mouth, right on your
2 mouth but near.
3 THE WITNESS: How's that? Everybody hear me?
4 Okay.
5 THE COURT: All right. Let's go.
6 THE WITNESS: I'm sorry, I'm nervous.
7 BY MR. TRAFICANT:
8 Q. When you use the term rivals, to whom were you
9 referring to?
10 A. Jackie Bobby and Grace Yavorsky at the time. Kavulic
11 I believe her name is now but Grace Yavorsky.
12 Q. Do you know if she's since been married?
13 A. Yes, she has gotten married.
14 Q. You know her last name?
15 A. I believe it's Kavulic, something like that. I'm not
16 remembering exact spelling of the last name, but she did
17 get married. She got married.
18 Q. Was there tension in the office?
19 A. Pretty much everyday. Pretty much everyday there was
20 tension.
21 Q. Did you like Mrs. Bobby?
22 A. Yes. I just didn't like her ways. Nice person,
23 personally. She's a nice person.
24 THE COURT: Congressman, it's getting on.
25 It's after 4:00. So if you'd move along a little more with

1 these questions, it would help.

2 BY MR. TRAFICANT:

3 Q. Did you like Mrs. Yavorsky?

4 A. Yes. I respected -- I respected my superiors. I

5 respected my instructions of what to do and how to retain

6 myself. I respected that. I just came to not liking them

7 as the years had gone by and certain things that happened.

8 Q. What types of things that happened?

9 MR. KALL: Objection.

10 THE COURT: Well, I don't know what it's

11 going to be relevant to, but answer the question. If

12 there's something you have in your mind, tell us what it is

13 that happened, these certain things.

14 THE WITNESS: It was more or less a power

15 struggle of who wanted to represent the Congressman, who

16 didn't. She stays home; she stays in the office; don't

17 tell Grace Jackie's doing this; don't tell Grace; don't

18 tell Jackie Grace is doing this.

19 I couldn't quite keep up with this tennis type

20 office, and that's what it got to. It was -- at times, I

21 wondered who was the Congressman.

22 Q. Did I look over people's shoulders at work?

23 A. Pardon me, sir.

24 Q. Did I look over people's shoulders at work?

25 A. Never, never, absolutely not. You had a lot of trust

1 in your staff, and I think they did a qualified job for
2 you.
3 Q. Did you know Mr. O'Nesti?
4 A. Yes, I did.
5 Q. Were you a friend of Mr. O'Nesti's?
6 A. Yes.
7 Q. Would you meet with him often?
8 A. Yes. I confided in him. He confided in me. I
9 explained a lot of things to him that were going on in the
10 office because as chain of command, that's what we were to
11 do. It was like the top person on down, and I would
12 confide in him, and he would tell me that there's things
13 that are beyond his way of handling it because some things
14 would get out of control.
15 If it's getting a bit too much for me, he'd try to
16 help resolve it and talk to people. He did, but things
17 persisted in happening the same as always until I told him
18 one day, I said that nice man, I have a lot of respect for
19 Chuck O'Nesti. I treat him like a superior, and we can
20 correspond as far as anything related to work, and he was
21 there for me.
22 And I -- I was sad when I told him I was going to
23 resign, and he was also saddened, but he understood.
24 Q. Did you have knowledge of whether or not he got along
25 well with Jackie Bobby and Grace Yavorsky?

1 A. Well, in my presence of being there, it wasn't too
2 pleasant when they would be arguing. I didn't care for
3 that at all. I didn't care for the outrages and the power
4 struggle again, who said this, who said that and seemed
5 like Chuck was always in the middle, and I was a neutral
6 person. And I -- I didn't want to say too much. I don't
7 think it was my part to do that.
8 Q. To the best of your knowledge, did Chuck like Jackie
9 Bobby and Grace Yavorsky?
10 A. He wouldn't let them in his room.
11 Q. I didn't hear you.
12 A. I don't want to laugh, but Chuck would kind of shut
13 the door and kind of keep the ladies out, and I respected
14 that, too, because I didn't want to be running his into
15 room either, but Chuck was like, if you need me in case of
16 emergency, come and -- going at each other's throat here.
17 So I respected that.
18 Q. Did you ever see Chuck argue with those two?
19 A. Many times, many, many times.
20 Q. Did you ever hear Chuck complain about those two?
21 A. All I know is, as the years went by, I spent five
22 years there, and I -- I just kind of shook my head one day
23 and said, Chuck, I don't know, you're Q towering. It's
24 hard working with women, I know -- he said I can't really.
25 MR. KALL: Objection, your Honor. That's

1 hearsay.

2 THE COURT: Right. We can't take from you

3 what he said; just what you know.

4 Q. Did you have many private conversations with

5 Mr. O'Nesti?

6 A. Yes.

7 Q. Now, did there come a time -- after you resigned from

8 the congressional office, what did you do?

9 A. I went on with my life and with my unemployment. I

10 did receive unemployment, and I felt very hurt,

11 Congressman, because it -- it was a great privilege and

12 honor to work with you, and sometimes health comes in

13 between, nerves and whatever, and I just, you know, I went

14 on with my life, went to the welfare department and got

15 into another job, working with people.

16 Q. Did you have any jobs after that?

17 A. Yes.

18 Q. And what jobs did you have?

19 A. The Human Services on Harland Avenue.

20 Q. What kind of services?

21 A. Human Services.

22 Q. You worked for the Human Services Department?

23 A. Yes, yes.

24 Q. And for how many years?

25 A. '91 I believe I got that job in '92. I went into

1 the limousine service.
2 Q. In '92, what did you do?
3 A. I went into the limousine service.
4 Q. Was it your own limousine service?
5 A. Yes, I was trying it out.
6 Q. Did there come a time when you rejoined the
7 congressional staff?
8 A. I always kept in touch with Chuck O'Nesti because he
9 had respect for me, and I had respect for him, and he was
10 kind of -- he was a caring person, and he knew that I was
11 hurt over it all. I talked to you several times, and we
12 supported you as Congressman. Personally with my work in
13 the office, I left them there and shut the door.
14 THE COURT: Now, the question was: Did there
15 come a time when you rejoined the congressional staff? And
16 that would be the question you want to try and answer.
17 MR. TRAFICANT: Yes.
18 Q. Did there come a time you rejoined the congressional
19 staff?
20 A. Yes. I rejoined the staff after talking to Chuck
21 O'Nesti and with his encouragement to say Linda, go back to
22 the Congressman's office. I know you're a good worker and
23 the Congressman needs you. I said I don't know about these
24 kickbacks, Mr. O'Nesti. He says I had not --
25 MR. KALL: Objection, your Honor.

1 THE COURT: Okay, whoa, whoa, whoa. As the
2 Congressman knows, that's precisely the sort of statement
3 that we have to deal with out of the hearing of the jury
4 before we present it to the jury.
5 MR. TRAFICANT: Your Honor --
6 THE COURT: Don't "your Honor" me, Congressman
7 Traficant. You can continue if you have other questions,
8 but not that one.
9 BY MR. TRAFICANT:
10 Q. When did you rejoin my staff?
11 A. I rejoined it February 2, 2000.
12 Q. What was your position at that time?
13 A. Staff representative.
14 Q. Were you part-time or full-time?
15 A. Full-time.
16 Q. Was Jackie Bobby still on the staff?
17 A. No, sir, she was not. Jackie was gone.
18 Q. Was Grace Yavorsky still on staff?
19 A. No, sir.
20 Q. Did you have a conversation with me relative to
21 rejoining the staff?
22 A. Yes, sir.
23 Q. As a result of that conversation, what happened?
24 A. Well, I think that you realized --
25 MR. KALL: Objection, your Honor.

1 THE COURT: Don't talk about what you think
2 he realized. Talk about what happened. What happened that
3 you have personal knowledge of?
4 BY MR. TRAFICANT:
5 Q. When you talked to me about coming back to work, did
6 you come back to work?
7 A. Yes. I was happy to come back to work.
8 Q. Have you worked there ever since?
9 A. Yes, sir.
10 Q. And what service center do you work out of now?
11 A. Downtown Youngstown, at the courthouse, 125 Market
12 Street, Youngstown, Ohio 44502.
13 Q. During the time that you were not in my employ, did
14 you still -- were you still active in political campaigns?
15 A. Oh, yes.
16 Q. Did you support my campaign?
17 A. Absolutely, absolutely. Family and friends, even
18 when we departed --
19 THE COURT: Just answer the question.
20 THE WITNESS: Okay.
21 Q. Did you ever campaign on work hours?
22 A. No, absolutely not.
23 Q. Are you still a campaign, volunteer campaign worker?
24 A. Sure I am.
25 Q. Did you trust Jackie Bobby?

1 A. After my experience with them, no. After my
2 experience with Jackie Bobby, no.
3 Q. Did you trust Grace Yavorsky?
4 A. No, not after my experience.
5 Q. Did you ever have reason to confront them?
6 A. Yes. I confronted -- may I say this, Judge?
7 Q. What, if anything, happened?
8 MR. KALL: Objection.
9 THE COURT: Yeah, you just have to sort of
10 wait until he gets to the next question. It's question,
11 answer, question, answer is the way we do this. I think
12 there's an objection.
13 MR. KALL: Just object to relevance.
14 THE COURT: Okay. You can answer.
15 THE WITNESS: I can?
16 THE COURT: Yes. Ask her the question,
17 Congressman, so she can answer it.
18 Q. Would you please --
19 MR. TRAFICANT: I object to these continuous
20 objections. Would you please read --
21 THE COURT: As you know, and as you yourself
22 do, lawyers and people representing themselves have an
23 obligation to object when there's something. I think the
24 jury understands that. Okay.
25 Let me go back and read it for you.

He had asked you: Did you ever have reason to confront them, and you said yes, I confronted -- may I say this, Judge, and then he said what, if anything, happened. Now, you can answer what, if anything, happened.

THE WITNESS: I was confronted by my social activities after work, that I had been drinking too much, staying out maybe too late, which was irrelevant with the office, having anything to do with it.

I was set back pretty far on that one.

Q. Was it your impression that you were not liked?

A. Yes, and hurt, very hurt over it. I hadn't done anything to these two people, believe me.

Q. Were you ever belittled?

A. Yes.

THE COURT: She's testified to these things. We have five minutes left with the jury, Congressman.

Q. Did anyone other than Jackie Bobby or Grace Yavorsky belittle you?

A. Not to my knowledge, no.

MR. TRAFICANT: No more questions at this time.

THE COURT: Thank you. Ladies and gentlemen, we will recess you for --

MR. KALL: Your Honor --

THE COURT: We'll bring you back tomorrow --

1 excuse me. You're going to have to be back here tomorrow
2 morning, ready to go, be here about 10 of 9:00.
3 MR. KALL: Your Honor, if it helps, we have
4 no questions unless we get into something on that other
5 matter.
6 MR. TRAFICANT: Well, I think it's an issue
7 on the other matter that she stay.
8 THE COURT: Okay. You'll have to come back,
9 I guess. The Congressman told you if he wants you back
10 here, you'll be here 10 after 9:00 tomorrow -- or 10 of
11 9:00 tomorrow. Okay?
12 MR. TRAFICANT: Your Honor, unless we handle
13 it tonight after we handle the other matter.
14 THE COURT: We have a lot of work ahead of us
15 tonight, and I'm not in the business of calling people's
16 witnesses late at night. You want her back here, she'll be
17 back here if it turns out she's not needed, fine, she
18 won't be needed, and she can go home. Okay? See you
19 tomorrow. Remember all your admonitions. And don't let
20 anyone talk to you. Don't read anything, listen to
21 anything, watch anything on TV or get on line with anything
22 regarding this case. And that's not easy. Okay.
23 (Proceedings in the absence of the jury:)
24 THE COURT: In between, Congressman, I want
25 to go back to something that will be coming up in a few

1 minutes and what we're going to be spending some time on
2 after the jury actually leaves today, but before this
3 cross-examination of Mr. Saadey begins, again, I'm going to
4 order you to produce to the United States all, any and all
5 documents or tapes or statements of any kind, whether they
6 are oral, written, oral and summarized, written, whether
7 they're recorded or in any form that relate to the subject
8 matter concerning which he has already testified on direct
9 examination.
10 United States is entitled to those. You know they're
11 entitled to them, and they have the opportunity to examine
12 them and use them before they cross-examine the witness.
13 We went over this yesterday. And I want you to give them.
14 Everything. I'm going to take the five-minute break after
15 the jury goes out. You give them every single document you
16 have. That's an order. Now, we'll -- I'll be back in five
17 minutes. You guys can work all that out. We'll let the
18 jury go right now.
19 MR. TRAFICANT: I object for the record.
20 (Thereupon, a recess was taken.)
21 THE COURT: You can come up, gentlemen.
22 MR. KOPP: Thank you, your Honor.
23 THE COURT: Mr. Smith?
24 MR. SMITH: Before I start, I'd like to put
25 on the record, despite the Court's orders a few minutes

1 ago, the Government has received nothing from the
2 Congressman.
3 Thank you, your Honor.
4 MR. TRAFICANT: I have no Jencks material for
5 the Government.
6 THE COURT: It's not Jencks, sir, we're
7 asking --
8 MR. TRAFICANT: I have no documents for the
9 Government concerning Mr. Saadey, period.
10 MR. SMITH: I'm asking about the tape as
11 well, your Honor.
12 MR. TRAFICANT: I do not have the tape. I
13 have destroyed the tape.
14 THE COURT: Okay. When did you do that?
15 MR. TRAFICANT: I did that last night.
16 THE COURT: Okay. And does it totally -- I
17 mean, I don't know how you did it but totally destroyed?
18 MR. TRAFICANT: It is gone. I have destroyed
19 the tape, and I do not want to discuss the elements of the
20 tape and --
21 THE COURT: Well, what you want to discuss
22 and what needs to be done are two different things, but
23 right now we have Mr. Saadey here.
24 MR. TRAFICANT: I will say this for the
25 record. I have been conducting a congressional

1 investigation and have nothing about Mr. Saadey in his
2 case, other than some people that I was investigating that
3 were involved in this case, period.
4 THE COURT: I don't know what we're talking
5 about here.
6 MR. TRAFICANT: They do not pertain to Mr.
7 Saadey.
8 THE COURT: Well, Congressman, no one will
9 ever know except you, I guess, until and unless you made a
10 transcript, which I had asked to you make. Did you make a
11 transcript of that tape?
12 MR. TRAFICANT: No. I have no -- no
13 information.
14 THE COURT: Okay. Well, we discussed this at
15 length yesterday.
16 MR. TRAFICANT: All I have dealing with that
17 tape has been destroyed, period.
18 THE COURT: Okay. We'll deal with that
19 issue, but as I said before, because we have this gentleman
20 here and his lawyer and they've been here for a good part
21 of the day, we're going to go ahead and preserve whatever
22 the cross-examination would be here, but it's all subject
23 now to this new thing that has come up with you destroying
24 the tape. So we will now go forward. Okay. Just so that
25 there's a correct record that everyone can see of what is

1 happening when this witness is cross-examined in terms of
2 his Fifth Amendment and how that may or may not impact on
3 the other issue that we had been spending a lot of time
4 considering in this case. Okay?
5 MR. SMITH: Yes, your Honor.
6 THE COURT: Thank you.
7 VOIR DIRE CROSS-EXAMINATION OF RUSSELL SAADEY
8 THE COURT: Are you ready? You're still
9 under oath, and your lawyer's right there at your side.
10 THE WITNESS: Thank you, your Honor.
11 THE COURT: And you should know when there's
12 a consultation for the record. Thank you.
13 BY MR. SMITH:
14 Q. Mr. Saadey, you and I first met last October in Judge
15 O'Malley's courtroom down on the first floor; is that
16 right?
17 A. Yes, sir, I believe so.
18 Q. And was I one of the Prosecutors in the case which
19 you were prosecuted in Judge O'Malley's courtroom?
20 A. Yes, sir.
21 THE COURT: Can you just pull that up maybe
22 and -- there we go.
23 THE WITNESS: I'm sorry.
24 THE COURT: That's okay.
25 Q. In that trial, did the jury find you guilty of ten

1 felony counts.
2 (Witness conferring with counsel off the record.)
3 THE WITNESS: The record speaks for itself.
4 Q. Were you found guilty of ten felony counts? That's
5 my question.
6 A. I don't know.
7 Q. You don't know what the jury found?
8 Witness and counsel conferring off the record.)
9 A. I don't remember how many counts I was convicted of.
10 Q. Well, the jury returned a verdict finding you guilty
11 of a RICO violation, correct?
12 A. If you say so. I'm telling you right now, I don't
13 remember.
14 Q. All right.
15 And you don't remember being found guilty by a jury,
16 by a jury verdict, in which the RICO enterprise as alleged
17 was that you were part of an enterprise consisting of
18 judges, Mahoning County Prosecutor James Philomena, and
19 certain attorneys to fix drunken driving cases in the
20 Mahoning County court system? Were you found guilty of
21 that by the jury.
22 (Witness conferring with counsel off the record.)
23 A. I exercise my Fifth Amendment.
24 Q. Sir, I am not asking if you did it; I'm asking, did
25 the jury find you guilty of it?

1 A. My Fifth Amendment I exercise. Thank you.
2 MR. TRAFICANT: Asked and answered.
3 THE COURT: Okay. Well, I have to evaluate
4 each one of these to -- under the standards we have, to
5 look at them. Whether or not it's a proper exercise of the
6 Fifth Amendment, which I'm not going to go since there's so
7 many until we get a transcript of it, which I'll have
8 tonight, so just go right ahead, ask the next question. It
9 is the defendant's burden to show that it is a proper
10 exercise to meet the challenge.
11 Q. Sir, did you accept $200,000 from Phil Courtney and
12 Bob Harvey in connection with their criminal case in order
13 to try to fix their criminal case with the Mahoning County
14 Prosecutor's office?
15 Witness and counsel conferring off the record.)
16 A. I exercise my Fifth Amendment.
17 Q. Did you, in fact, tell Prosecutor Philomena that you
18 only got $100,000 from Phil Courtney and Bob Harvey so you
19 could keep a larger share of the case fixing proceeds for
20 yourself?
21 A. Once again, I exercise my Fifth Amendment.
22 Q. Did you lie to the Prosecutor that you were in
23 cahoots with to fix cases about the Courtney-Harvey case?
24 (Witness and counsel conferring off the record.)
25 A. Once again, I exercise my Fifth Amendment.

1 Q. Did you accept at least $15,000 from a drunken driver
2 named Randy Bailey in an effort to fix his DUI case in the
3 Mahoning County court system?
4 A. Once again, I exercise my Fifth Amendment.
5 Q. And at the time that you did that, was Randy Bailey a
6 multiple repeat DUI offender?
7 A. Once again, I exercise my Fifth Amendment.
8 Q. Did you keep over $9,000 of Randy Bailey's money for
9 yourself and pass the rest on?
10 A. Once again, I exercise my Fifth Amendment.
11 Q. Did you solicit $16,000 from a gentleman named Ken
12 Olsavsky on a DUI case?
13 A. Once again, I exercise my Fifth Amendment.
14 Q. Was Mr. Olsavsky pulled over by the police in the
15 parking lot of the Upstairs Lounge, that you were in that
16 parking lot when the pullover happened?
17 A. Once again, I exercise my Fifth Amendment right.
18 Q. Didn't you see a golden opportunity arrive right
19 before -- here's a guy I can go to to get money out of to
20 fix his case?
21 A. Once again, I exercise my Fifth Amendment right.
22 Q. Because that wasn't the first time you dealt with
23 Mr. Olsavsky, was it?
24 A. Once again, I exercise my Fifth Amendment right.
25 Q. Now, sir, did the jury also find you guilty of one

1 count of extortion in violation of a Hobbs Act by virtue of
2 their verdict?
3 A. Once again, I exercise my Fifth Amendment right.
4 Q. Did the jury also find you guilty of filing false
5 federal income tax returns for three separate tax years?
6 A. Once again, I exercise my Fifth Amendment right.
7 Q. Did the jury also find you guilty of making false
8 statements to financial institutions on five different
9 credit card applications?
10 A. Once again, I exercise my Fifth Amendment right.
11 Q. Now, you still await sentencing; is that right?
12 A. Once again, I exercise my Fifth Amendment right.
13 Q. Well, when you're sentenced, you intend --
14 THE COURT: Well, wait, wait, just a minute.
15 I think before we begin this, the Court was put under the
16 impression anyway that you are a person in between the time
17 when you had a conviction and you're to appear to be
18 sentenced, and it does make a difference to whether or not
19 you assert any Fifth Amendment rights if you've already
20 been sentenced.
21 We're in a different zone, and I'm assuming you
22 haven't been sentenced. So I need -- I need somehow --
23 somehow we need to clear this up.
24 MR. SMITH: I'll rephrase.
25 Q. You have not been sentenced yet, correct?

1 A. That is correct.
2 Q. All right.
3 THE COURT: Thank you.
4 Q. After your sentence, you intend to pursue an appeal,
5 correct?
6 A. That is correct.
7 Q. So as you sit here today, you still intend to
8 continue fighting against the Government with respect to
9 the criminal case in which you were prosecuted, correct.
10 (Witness conferring with counsel off the record.)
11 A. I plan to preserve my appellate rights.
12 Q. So your relationship to the U.S. Attorney's Office
13 for the Northern District of Ohio has been and will be
14 adverse; is that correct.
15 (Witness conferring with counsel off the record.)
16 MR. TRAFICANT: Can you repeat the question?
17 BY MR. SMITH:
18 Q. Mr. Saadey, your relationship to the United States
19 Attorney's Office for the Northern District of Ohio has
20 been and will remain adverse for the foreseeable future; is
21 that correct.
22 (Witness conferring with counsel off the record.)
23 A. I exercise my Fifth Amendment right.
24 Q. Now, on your direct examination by the Congressman,
25 you testified about certain statements made to you by one

1 James Sabatine; is that correct?
2 A. Yes.
3 Q. And you testified that in your view, James Sabatine
4 was under pressure to plead guilty, correct.
5 (Witness conferring with counsel off the record.)
6 A. I don't believe that's exactly what I said.
7 Q. All right. Well, at any rate, Mr. Sabatine never
8 denied to you that he was guilty of the offenses to which
9 he pleaded guilty, did he?
10 Witness and counsel conferring off the record.)
11 A. He said he gave political contributions, not bribes.
12 Q. All right. And do you know what -- do you know
13 specifically what offense that Mr. Sabatine was charged
14 with respect to the Congressman.
15 (Witness conferring with counsel off the record.)
16 A. I don't, sir.
17 Q. Do you even know if Mr. Sabatine was charged with
18 bribing the Congressman?
19 A. I believe I -- I remember reading that.
20 Q. You think that the -- you think that James Sabatine
21 has been charged with bribing the Congressman under federal
22 law.
23 (Witness conferring with counsel off the record.)
24 A. I don't know. I don't know.
25 Q. Do you know the difference between bribery and

1 gratuity under federal law?
2 A. No.
3 Q. Mr. Sabatine never told you that the Government said
4 anything to force him to say -- to testify untruthfully;
5 isn't that right?
6 (Witness and counsel conferring off the record.)
7 THE WITNESS: Can I have that reread, please?
8 MR. SMITH: Yeah.
9 Q. James Sabatine never told you that the Government
10 said anything to force Mr. Sabatine to testify falsely;
11 isn't that right?
12 (Witness and counsel conferring off the record.)
13 MR. TRAFICANT: Can you repeat that question?
14 THE COURT: No, he's considering it.
15 THE WITNESS: He was under pressure to do
16 certain things so he could protect himself.
17 Q. All right. Mr. Sabatine was feeling pressure. You
18 agree with that?
19 A. Yes, sir.
20 Q. Now, you've been a RICO Defendant yourself, correct?
21 A. Yes, sir.
22 Q. And you felt pressure simply by the virtue of the
23 fact you were charged with a criminal offense; is that
24 right?
25 A. I exercise my Fifth Amendment.

1 Q. Well, isn't it true that you personally experienced
2 pressure simply by virtue of the fact that you've been
3 charged with a criminal offense; isn't that true?
4 A. I exercise my Fifth Amendment right.
5 Q. I mean, the Government doesn't have to say anything
6 to a criminal defendant in order for a defendant to feel
7 pressure once they've been charged, right?
8 A. I exercise my Fifth Amendment right.
9 (Witness conferring with counsel off the record.)
10 Q. You said that Mr. Sabatine was feeling pressure,
11 correct.
12 (Witness conferring with counsel off the record.)
13 A. Yes.
14 Q. What was the source of that pressure, as you
15 understood it?
16 Witness and counsel conferring off the record.)
17 A. I believe the pressure was coming from the FBI.
18 Q. All right.
19 And what specifically did the FBI do to create that
20 pressure on Mr. Sabatine?
21 Witness and counsel conferring off the record.)
22 A. They threatened to take everything he had.
23 Q. And how do you know that, that they said something
24 like that?
25 A. It was in our conversation.

1 Q. So Mr. Sabatine told you that the FBI threatened to
2 take everything he had, or was that the conclusion he drew
3 from the conversation? Which was it?
4 Witness and counsel conferring off the record.)
5 A. Will you repeat that, please, Mr. Smith?
6 Q. Did Mr. Sabatine come to the conclusion that he was
7 being threatened with the loss of everything he had through
8 something that the FBI said to him or through his own
9 mental processes?
10 MR. TRAFICANT: Objection. How would he know
11 what's in Mr. Sabatine's mind?
12 Q. Well, you just said you had a conversation with
13 Mr. Sabatine, didn't you?
14 MR. TRAFICANT: Ask him about the
15 conversation.
16 MR. SMITH: That's what I just did.
17 MR. TRAFICANT: Not what was in his mind.
18 THE COURT: You can answer. If you know, you
19 can answer.
20 MR. TRAFICANT: I object to this.
21 THE COURT: I understand you do, but --
22 MR. TRAFICANT: You never allowed anybody to
23 testify regarding what was in their mind about my
24 questions.
25 THE COURT: The jury is not here. This is a

1 special voir dire, and this is the Government's time --
2 THE WITNESS: I don't know.
3 THE COURT: -- to cross-examine. He has his
4 lawyer sitting next to him. He's doing very well. Thank
5 you.
6 MR. TRAFICANT: I'm trying to do my best as
7 well.
8 THE COURT: No problem.
9 BY MR. SMITH:
10 Q. Did Mr. Sabatine say that the threat that he was
11 going to lose everything he had -- did he say it came from
12 the FBI or that it came from his own reaction to the visit
13 by him?
14 A. I don't know.
15 Q. And so as you sit here today, you can't say for sure
16 that the pressure that Mr. Sabatine felt about everything
17 he owned came from the FBI, can you.
18 (Witness conferring with counsel off the record.)
19 A. That's where the pressure came from originally with
20 him.
21 Q. All right.
22 MR. TRAFICANT: I didn't hear the answer.
23 MR. SMITH: Mr. Sabatine --
24 MR. TRAFICANT: I didn't hear the answer.
25 THE COURT: That's where the pressure came

1 from originally with him was the answer.
2 BY MR. SMITH:
3 Q. And certainly, there was a threat of Prosecution of
4 Mr. Sabatine, correct?
5 A. I believe so.
6 Q. And you would agree the FBI is in the business of
7 developing cases to prosecute people. That's their job,
8 correct?
9 Witness and counsel conferring off the record.)
10 A. Yes.
11 Q. All right.
12 So again, did Mr. Sabatine tell you that the threat
13 of losing everything he owned, did that come -- did
14 Mr. Sabatine say that came from something the FBI told him,
15 or did that come from Mr. Sabatine's own mental reaction to
16 the visit by the FBI?
17 A. I wouldn't know that.
18 Q. And so, therefore, you cannot say that Mr. Sabatine's
19 feeling about being threatened as to everything he owned
20 came from a statement made to him by the FBI. You can't
21 say that, can you?
22 (Witness conferring with counsel off the record.)
23 A. I guess I can't say that.
24 Q. All right. Now, your father, Russell Saadey, Senior
25 at one time was the vice chairman of Mahoning County

1 Democratic party; is that right?
2 (Witness conferring with counsel off the record.)
3 A. I exercise my Fifth Amendment right.
4 Q. Was your family involved in a business known as the
5 Upstairs Lounge on Mahoning Avenue in Austintown?
6 A. I exercise my Fifth Amendment right.
7 Q. Was the Upstairs Lounge frequented by politically
8 active people in the Democratic party?
9 A. I exercise my Fifth Amendment right.
10 Q. Did the chairman of the Columbiana County Democratic
11 Party, Dennis Johnson, frequent the Upstairs Lounge?
12 A. I exercise my Fifth Amendment right.
13 Q. Did you on more than one occasion meet with
14 Mr. Johnson at the Upstairs Lounge?
15 A. I exercise my Fifth Amendment right.
16 Q. Did you ever meet with Mr. Johnson about a case known
17 as the Silvestri case?
18 A. I exercise my Fifth Amendment right.
19 Q. Did you ever call Mr. Johnson and ask him to
20 intervene with a county prosecutor's office about the
21 Silvestri case?
22 A. I exercise my Fifth Amendment right.
23 Q. Now, sir, you were asked on direct examination by the
24 Congressman about this meeting that you had with the --
25 you -- that you had with the FBI agents; is that right?

1 A. I don't recall.
2 Q. Well, didn't the Congressman go through a long litany
3 of questions about contact that you had with FBI agents
4 where they supposedly promised you immunity and leniency?
5 Didn't you testify about that on direct?
6 (Witness and counsel conferring off the record.)
7 A. Yes, there was one meeting.
8 Q. All right.
9 When did that meeting with those FBI agents occur?
10 A. I don't want to guess, and I really don't remember
11 the exact date.
12 Q. How about a year?
13 (Witness and counsel conferring off the record.)
14 A. Can I get back to you at another time because I don't
15 have it with me, but I can get it.
16 Q. All right. Let's try it this way.
17 Were you indicted on December the 7th, 2000, and
18 arrested shortly thereafter in connection with the cases
19 you were tried before Judge O'Malley on?
20 (Witness and counsel conferring off the record.)
21 A. I believe so, December of 2000.
22 Q. December 2000 was the month that you were indicted,
23 correct?
24 A. If you tell me, I really don't remember, being honest
25 with you.

1 Q. All right.
2 Did the meeting that you had with the FBI occur
3 before or after you got indicted?
4 A. Before.
5 Q. How long before?
6 A. I'm sorry. I just don't remember.
7 Q. Can you give any estimate to the number of months
8 before?
9 A. I can find out if I go through files.
10 Q. All right. Well, isn't it true that in 1998,
11 specifically on August the 19th of 1998, that you were
12 interviewed by two agents with the IRS?
13 Witness and counsel conferring off the record.)
14 A. I exercise my Fifth Amendment right.
15 Q. Specifically, did IRS special agents, Dennis Dolis
16 and Patricia Reese interview you solely and exclusively
17 about your tax situation in August of 1998?
18 A. I exercise my Fifth Amendment right.
19 Q. And they didn't solicit your cooperation in any way,
20 shape, or form, did they, those two IRS agents?
21 A. I exercise my Fifth Amendment right.
22 Q. Now, you said that these FBI agents before you got
23 indicted, promised you leniency or immunity if you
24 cooperated; is that right?
25 (Witness conferring with counsel off the record.)

1 A. Yes.
2 Q. Did they make -- did they make any statement to you
3 that their representations had been approved in any way by
4 the U.S. Attorney's Office.
5 (Witness conferring with counsel off the record.)
6 A. Will you repeat that one more time, Mr. Smith?
7 Q. Did the agents, who allegedly promised you immunity
8 and/or leniency, make any representation to you that their
9 promise or promises had been approved by the United States
10 Attorney's Office?
11 (Witness conferring with counsel off the record.)
12 A. I can't remember.
13 Q. Now, on direct examination, did you indicate that
14 when your cooperation was solicited by the FBI, that you
15 thought that you would need to be truthful? Did you say
16 that on direct examination?
17 (Witness conferring with counsel off the record.)
18 A. I don't recall the specific answer to that.
19 Q. Didn't you say on direct examination you got the
20 impression if you cooperated with the FBI, that you would
21 need to be truthful? Didn't you say that on direct here
22 today?
23 (Witness conferring with counsel off the record.)
24 A. If you say I said it. I don't think you're lying to
25 me.

1 Q. Well, did any FBI agent that interviewed you that day
2 ask you to lie?
3 (Witness conferring with counsel off the record.)
4 A. Nobody specifically asked me to lie.
5 Q. Nobody asked to you lie that day, right?
6 (Witness and counsel conferring off the record.)
7 A. Nobody specifically asked me to lie.
8 Q. All right.
9 Did the FBI agent say to you I don't care if you tell
10 the truth or not, or if you tell lies, cooperate and you
11 get a deal? Did the FBI agent say anything remotely close
12 to that to you?
13 (Witness conferring with counsel off the record.)
14 A. Yes.
15 Q. So you're telling us, under oath, that an FBI agent
16 told you, in words, in words, that it didn't matter if you
17 told the truth or if you lied, that you could get a deal;
18 is that what your testimony is?
19 THE WITNESS: Is that what he just asked me?
20 MR. SMITH: Yes. That's what I just asked
21 you.
22 THE WITNESS: Would you reword the question
23 please?
24 MR. SMITH: Sure.
25 Q. Did an FBI agent tell you, in his own words, that you

1 could get a deal to benefit yourself, and it didn't matter
2 if you told the truth or if you lied?
3 (Witness conferring with counsel off the record.)
4 A. I said -- I think he never specifically said if I
5 lied.
6 Q. So isn't it true that anything about telling a lie
7 and getting a benefit for it was what was going on in your
8 mind?
9 A. That's correct.
10 Q. So you were thinking, hey, maybe I can pull -- maybe
11 I can pull a snow job on these guys if I tell them a lie
12 and they buy it, I can get myself a deal. That's what was
13 going on in your head; is that correct.
14 (Witness conferring with counsel off the record.)
15 A. I exercise my Fifth Amendment right.
16 Q. Wasn't based on what the agents said; it was what was
17 going on in your mind; you thought you could lie and get a
18 deal, right?
19 A. Once again, I take my Fifth Amendment right.
20 Q. After all, you would lie to Jim Philomena, the
21 Prosecutor of Mahoning County, about a bribing scheme,
22 wouldn't you?
23 A. I exercise my Fifth Amendment right.
24 Q. Now, sir, when the agent solicited your cooperation,
25 they -- they made a general request for your cooperation

1 about anything that you might have knowledge about; isn't
2 that right?
3 (Witness and counsel conferring off the record.)
4 A. I don't know.
5 Q. Well, they certainly never said we want you to
6 cooperate, solely, exclusively, against Congressman
7 Traficant. They never told you that, right?
8 (Witness conferring with counsel off the record.)
9 A. Philomena, Traficant, and any other information I can
10 share with you.
11 Q. All right.
12 At the time, you were -- you were indicted with a
13 co-defendant by the name of James Vitullo, correct?
14 A. No.
15 Q. Were you tried jointly with James Vitullo?
16 (Witness conferring with counsel off the record.)
17 A. I exercise my Fifth Amendment right.
18 Q. You said that the agent solicited your cooperation as
19 to Prosecutor Philomena, right?
20 A. Yes.
21 Q. So it stands to reason then that your cooperation was
22 solicited before Mr. Philomena pled guilty, correct?
23 Witness and counsel conferring off the record.)
24 A. Correct.
25 Q. When did Mr. Philomena plead guilty?

1 A. You tell me. I mean, I don't mean to be smart. I
2 think you've got it written down.
3 Q. You were jointly tried with Mr. Vitullo; is that
4 right?
5 A. That's correct.
6 Q. And you understood the Government's offer of
7 cooperation to extend to anything you might have to say
8 about Mr. Vitullo as well, didn't you?
9 MR. KOPP: I'm sorry, the question was?
10 Q. You understood the FBI's offer of -- offer to have
11 you cooperate as extending to what you could tell them
12 about Mr. Vitullo as well, correct?
13 (Witness conferring with counsel off the record.)
14 A. No, Vitullo's name never came up when I was
15 interviewed by a specific agent when he mentioned --
16 Q. My question is: Did you understand the offer of
17 cooperation -- did you understand their offer of what you
18 could cooperate about to include Mr. Vitullo in your own
19 mind?
20 A. No.
21 MR. TRAFICANT: Repeat that question for me,
22 please.
23 (Thereupon, the record was read back by the Court
24 Reporter.)
25 MR. TRAFICANT: What was the answer?

1 THE COURT: No.
2 BY MR. SMITH:
3 Q. Now, when the FBI asked you to cooperate, did you
4 feel pressured.
5 (Witness conferring with counsel off the record.)
6 A. I exercise my Fifth Amendment right.
7 Q. Isn't it a fact, sir, that simply by virtue of having
8 had contact with the FBI and having been informed by them
9 that you are a target of a criminal investigation, that
10 merely that information was sufficient for you to feel
11 pressured?
12 A. I exercise my Fifth Amendment right.
13 Q. A FBI agent would have to do nothing at all improper
14 in order for a person who's a target of their investigation
15 to feel pressure, would it?
16 (Witness conferring with counsel off the record.)
17 A. Are you asking regards to me or in general?
18 Q. You.
19 A. I exercise my Fifth Amendment right.
20 MR. SMITH: Your Honor, I think we'll stop
21 there. Thank you.
22 THE COURT: Thank you.
23 MR. TRAFICANT: Your Honor, I have some
24 redirect questions for this witness.
25 THE COURT: Okay. You can do it.

1 MR. TRAFICANT: Pardon?
2 THE COURT: You can do a few. What would
3 be -- remember that the point of this inquiry is limited.
4 What we're trying to do here is to see where this Defendant
5 wishes to assert his Fifth Amendment and where he doesn't
6 so that we can compare direct and cross in terms of a very
7 technical Rules of Evidence that has evolved in this case.
8 VOIR DIRE REDIRECT EXAMINATION OF RUSSELL SAADEY
9 BY MR. TRAFICANT:
10 Q. Mr. Saadey, did the FBI ever say to you that they
11 would give you leniency if you made statements against me?
12 (Witness conferring with counsel off the record.)
13 A. Yes.
14 Q. Was your present state of mind a result of your own
15 impressions or the FBI's pressure?
16 (Witness conferring with counsel off the record.)
17 A. I exercise my Fifth Amendment right.
18 Q. The Government asked you a lot of questions about
19 your case, is that not correct?
20 A. They did.
21 Q. Have I asked you questions about your case?
22 (Witness conferring with counsel off the record.)
23 A. Reread the question, please, I'm sorry.
24 (Thereupon, the record was read back by the Court
25 Reporter.)

1 (Witness conferring with counsel off the record.)
2 A. No, not that I remember you asking me any questions
3 about my case.
4 Q. Were not all my cases and were not all my questions
5 directed to the state of pressure that was visibly observed
6 by you on Mr. Sabatine?
7 (Witness conferring with counsel off the record.)
8 A. Yes.
9 Q. You answered?
10 A. Yes.
11 Q. So all of my questions have been regarding your
12 conversation concerning Mr. Sabatine; is that correct?
13 MR. SMITH: Objection. It's not even true,
14 according to the transcript.
15 THE COURT: Okay. Well, the transcript is
16 the one record, but you also can inquire as to what his
17 memory reflects.
18 BY MR. TRAFICANT:
19 Q. To the best of your memory, were my questions
20 directed towards your conversation with Mr. Sabatine
21 immediately after he had been interviewed by the FBI?
22 (Witness conferring with counsel off the record.)
23 A. A good portion of it, yes.
24 Q. Was it your testimony that he was extremely -- that
25 he was very upset and nervous because of that meeting with

1 the FBI?
2 A. Yes.
3 Q. And did he say to you that he was being pressured to
4 make false statements against Jim Traficant?
5 (Witness conferring with counsel off the record.)
6 A. He said he was under pressure to cooperate.
7 Q. Was he still in the same state of being upset and
8 nervous when he said he did not bribe Jim Traficant?
9 A. Yes.
10 Q. Was he in the same state of nervousness when he said
11 he made contributions?
12 A. Yes.
13 Q. Did he say that those -- was he in the same state of
14 nervousness when he said that the contributions he made had
15 been spread out over a number of years?
16 A. Yes.
17 Q. In all of the years that you've known Mr. Sabatine,
18 have you ever seen him that nervous and upset?
19 (Witness conferring with counsel off the record.)
20 A. No.
21 Q. While he was nervous and upset, did he say to you
22 that the Government was going to take his house and all his
23 money?
24 MR. SMITH: You know, this is leading to the
25 extreme.

1 THE COURT: It is over the edge. You can't
2 lead that way. You know that, Congressman. Find another
3 way to ask a question so that we can hear the witness.
4 BY MR. TRAFICANT:
5 Q. While Mr. Sabatine was under -- was he under
6 continuing stress when he told you -- when he talked about
7 the Government taking his property and all his money?
8 MR. SMITH: Object to the leading again.
9 THE COURT: It's the same objection, and it's
10 sustained. Move on to something else if you can't rephrase
11 it.
12 Q. While Mr. Sabatine was under continuing stress, did
13 he make any statements to you regarding his property and
14 his money?
15 (Witness conferring with counsel off the record.)
16 A. Yeah. I believe I already told you what he said.
17 Q. And that's a yes?
18 A. Yes.
19 Q. Did Mr. Sabatine ever under any circumstances of any
20 degree of being upset ever make to you any statements that
21 were so critical?
22 (Witness conferring with counsel off the record.)
23 A. So critical of what, counsel?
24 Q. So critical of his own welfare.
25 A. No.

1 Q. When you said he was nervous, did you notice him
2 shake at all?
3 MR. SMITH: Leading again.
4 THE COURT: Well, we went over this when you
5 had him on direct. We don't need to go over it again.
6 BY MR. TRAFICANT:
7 Q. When Mr. Sabatine made these statements to you under
8 stress, did you, in fact, make any comments or make any
9 statements back to Mr. Sabatine?
10 (Witness conferring with counsel off the record.)
11 A. I must exercise my Fifth Amendment right.
12 Q. Would you be willing to testify under oath if the
13 questions were limited simply to the incident immediately
14 following Mr. Sabatine's meeting with the FBI and his
15 stressful situation and nothing more? ?
16 (Witness conferring with counsel off the record.)
17 THE COURT: Are you saying with no
18 cross-examination and all that? Is that what you mean by
19 nothing more?
20 MR. TRAFICANT: No. I'm saying if it was
21 limited strictly to his conversation with Mr. Sabatine and
22 the statements and declarations made by Sabatine under
23 pressure.
24 MR. SMITH: And I would object that it is
25 irrelevant what this witness would care to testify about or

1 not. It's not up to the witness.
2 THE COURT: No, it's not, but I think it is
3 all right for you to ask him the question. But I'm not
4 clear whether you're asking him in regard to just
5 cross-examination -- I mean, just direct examination or
6 cross-examination?
7 MR. TRAFICANT: Your Honor, I'm going
8 stipulate for the Court that there are compelling factors
9 regarding this witness, and that this witness' knowledge,
10 dealing with the Traficant case, is the only thing that I'm
11 concerned about.
12 THE COURT: All right.
13 Q. Now, having said that, would you be willing to
14 testify if this examination of you would simply be limited
15 to the Sabatine issue that dealt with me and had nothing to
16 deal with concerning anything else?
17 (Witness conferring with counsel off the record.)
18 THE WITNESS: I can only answer on a
19 question-by-question basis.
20 Q. If the Judge were to immunize you --
21 THE COURT: Wait. He has his lawyer here.
22 He is asserting his Fifth Amendment rights, which he is
23 entitled to do, and, in fact, asserting them question by
24 question is what -- is the way that you do those.
25 So he has to listen to his lawyer.

1 MR. TRAFICANT: I didn't get all of your
2 answer.
3 THE COURT: Well, that's because his answer
4 wouldn't be appropriate to that question.
5 MR. TRAFICANT: Okay.
6 THE COURT: His lawyer is here to advise him
7 about what he's going to do.
8 BY MR. TRAFICANT:
9 Q. Are you concerned with any other statements that may
10 or may not have been made to me, other than my case?
11 (Witness conferring with counsel off the record.)
12 A. I really don't know what you're asking me. Ask you
13 -- say that again, or rephrase it or --
14 Q. Would you be concerned about any statements you may
15 or may not have said to me regarding my case or other
16 matters?
17 (Witness and counsel conferring off the record.)
18 A. I must exercise my Fifth Amendment right.
19 Q. Did Agent Speranza threaten you?
20 (Witness conferring with counsel off the record.)
21 A. Sorry. I must exercise my Fifth Amendment right.
22 Q. Did Mr. Speranza discuss with you the congressional
23 investigation concerning his rape of one of my
24 constituents?
25 MR. SMITH: Objection.

1 THE COURT: Sustained. That will conclude
2 this part of these proceedings. You have any -- you have
3 any redirect -- I mean any recross?
4 MR. SMITH: Just one question.
5 VOIR DIRE RECROSS-EXAMINATION OF RUSSELL SAADEY
6 BY MR. SMITH:
7 Q. When did the conversation with Mr. Sabatine occur in
8 which he made those statements to you? When was it?
9 (Witness conferring with counsel off the record.)
10 A. Mr. Smith, I can't recall the specific time. I mean,
11 we're a close family, and I mean, I see him a lot at my
12 mother's house, his house. It was right after his
13 incident. I mean, I don't know the specific dates or
14 times. I'm sorry.
15 Q. Can you give us even a year?
16 A. I swear to God, what I been through the last six
17 years, you know -- I don't remember.
18 MR. TRAFICANT: Objection. Asked and
19 answered.
20 THE WITNESS: I have to go reference to
21 reference. I can't -- and I don't know, why lie?
22 THE COURT: Okay.
23 MR. TRAFICANT: Can I have a redirect?
24 THE COURT: No. You can't have any more
25 right now. We have a lot of other issues to go to, and you

1 persist in bringing up things that you're not allowed to
2 bring into this case. So we're going to conclude this
3 right now and release you.
4 MR. KOPP: Your Honor, may I put one thing on
5 the record before we leave? As you know, this not only
6 affects this case, but --
7 THE COURT: Yes, you can.
8 MR. KOPP: If I could.
9 THE COURT: Yeah, just say it so everybody
10 can hear.
11 MR. KOPP: I'll step down here.
12 THE WITNESS: Thank you, your Honor.
13 THE COURT: You're welcome.
14 MR. KOPP: Your Honor, as you are aware, we
15 are here because he was properly -- or Mr. Saadey was
16 properly served with a subpoena.
17 THE COURT: Right.
18 MR. KOPP: When he presented himself in court
19 yesterday, I cited you two cases, which my understanding in
20 our circuit is quite simply this. If we have to present
21 ourselves and inform the Court that we intend to exercise
22 our Fifth Amendment right, that the Court then is entitled
23 to voir dire, do whatever process it chooses. We never
24 intended this process in any way, shape, or form to waive
25 our Fifth Amendment right. We tried to give you our best

1 indication as to where we would raise that issue.
2 THE COURT: Right.
3 MR. KOPP: There are limited issues where
4 right now we cannot foresee any criminal prosecution. In
5 particular, with the conversation he had with Mr. Sabatine.
6 He was never threatened in any conspiracy, never made aware
7 by the Government, never charged in either Columbiana
8 County or the federal case with anything that had to do
9 with Mr. Sabatine.
10 That being said, we in good faith answered those
11 questions before the Court today without frivolously
12 raising our Fifth Amendment rights.
13 We never intended that to be a waiver. It was only
14 for the Court to make a decision here today. And I think
15 that would make clear for the record, if for some case or
16 some instance Mr. Saadey's case is overturned by the Court
17 of Appeals and comes back down and intends to take the
18 stand.
19 THE COURT: Okay. Thank you very much.
20 MR. SAADEY: Thank you, your Honor.
21 MR. KOPP: Thank you, your Honor.
22 THE COURT: You're welcome.
23 We have several other issues that were raised that we
24 should handle, but we're only going until 6:00. So,
25 Congressman, can you update us on the welder?

1 MR. TRAFICANT: I have -- I haven't been able
2 to communicate. My congressional liaison was in an
3 accident yesterday. I haven't even had the opportunity to
4 make a phone call.
5 THE COURT: So is the answer no, we don't
6 have any new information?
7 MR. TRAFICANT: I don't know, I am -- I'll
8 try to have it here as early as possible and look into it
9 myself this weekend if I don't have it here tomorrow. I
10 will work on it tonight.
11 THE COURT: How many witnesses do you have
12 for tomorrow?
13 MR. TRAFICANT: I have to lineup witnesses
14 for tomorrow. We still have --
15 THE COURT: Well, you're going to have to --
16 you know your case; can't just --
17 MR. TRAFICANT: No. I know that. I'm trying
18 to say --
19 THE COURT: You have to get your witnesses
20 in, get the welder down here, because we're -- we need to
21 be giving the jury work to do, and they're coming in
22 tomorrow at 9:00. What they have when they get in here is
23 very brief.
24 MR. TRAFICANT: I plan to call tonight some
25 bankers, and I would hope that I'd be able to offer them

1 tomorrow. I would also be trying to bring in Attorney Mark
2 Colucci tomorrow as a witness. I don't know how long the
3 bank situation is going to take. It could be quite
4 lengthy.
5 Now, I will also notify the Prosecution in the
6 morning if, in fact, I have any other witnesses that I've
7 been able to subpoena. I've been trying to make service on
8 -- subpoenas in some cases and have been made to and
9 haven't been able to make those subpoenas and been working
10 very hard to do so.
11 And if they're made, they'll be here, but I'm going
12 to call tonight to have a banker here, tomorrow relative to
13 some statements. The banker may have to be recalled
14 because not all the statements that I have requested have
15 yet been here, but I have turned over expeditiously upon
16 receipt as soon as I possibly could, had them copied to the
17 Prosecution.
18 MR. SMITH: We got one batch way back.
19 MR. MORFORD: No. When?
20 MR. SMITH: Yeah; hasn't been since the first
21 batch.
22 THE COURT: Okay. What is it that you say
23 you've turned over?
24 MR. TRAFICANT: I've turned over matters that
25 are significant to the case that I plan to use regarding

1 Home Savings and Loan accounts, and I turned them over to
2 the Government as soon as I could have them copied.
3 MR. MORFORD: My question is: The records
4 he's talking about having this banker testify to tomorrow,
5 has he given us those yet?
6 THE COURT: Have you?
7 MR. TRAFICANT: Yes, I have. I've given them
8 to you in boxes.
9 MR. MORFORD: Okay. You're not bringing in
10 any records tomorrow that we haven't seen?
11 MR. TRAFICANT: Unless between now and
12 tomorrow I get some certain things that I have yet to
13 receive, and I will give them to you immediately, even
14 if -- I don't have time to copy them. I will share them
15 with you.
16 THE COURT: Okay. Well, I have another
17 concern, which is that we have an entire court staff plus a
18 jury to deal with on a day of your trial, presenting your
19 defense, and so far I've only heard that you have one or
20 maybe two witnesses, and I can't imagine that you can take
21 up the jury's time with one or two witnesses, even if the
22 welder arrives and we have a welder to view. You've got to
23 put on your case.
24 MR. TRAFICANT: I am, your Honor, and I'm
25 putting on my case. And there are people that are ducking

1 my subpoenas. It took me a long time to subpoena Mr.
2 Saadey.
3 THE COURT: Well, we're talking about
4 tomorrow. Which other witnesses are you going to bring in
5 here?
6 MR. TRAFICANT: I know that I'm trying to get
7 Colucci up here. I'm trying to get -- I'll bring the
8 banker up here.
9 THE COURT: That's two.
10 MR. TRAFICANT: I still do not have all the
11 information from the banker that I want, but I'll bring in
12 that banker --
13 THE COURT: We need more witnesses than that
14 unless you're going to conclude tomorrow. If you're going
15 to conclude --
16 MR. TRAFICANT: No. I'm not going to
17 conclude tomorrow.
18 THE COURT: Well, you get your witnesses in
19 here. How many more witnesses do you have?
20 MR. TRAFICANT: Well, I have about seven or
21 eight subpoenas out there, and I am a hoping that they will
22 be served. And if they are, I'll have those people here
23 tomorrow.
24 MR. MORFORD: Can we have a list of who they
25 are.

1 THE COURT: They aren't served?
2 MR. TRAFICANT: They haven't been served. I
3 haven't been able to reach certain witnesses.
4 THE COURT: Okay. Give us the names so we
5 know who you're serving.
6 MR. TRAFICANT: I don't have the list with
7 me, but I know we're trying to service Tyson, Greg Tyson, a
8 Josephine Hewlitt. There are several banks that said they
9 weren't able to provide the information that we would need
10 for several weeks. I do have information -- some
11 information that I shared already with the Government.
12 THE COURT: Okay. Now, I have three
13 witnesses: Greg Tyson, Josephine Hewlitt, and Colucci.
14 Who else?
15 MR. TRAFICANT: And the banker.
16 THE COURT: And the banker. That's four.
17 That's not going to take an entire day.
18 MR. TRAFICANT: It may, it would be an
19 extensive --
20 THE COURT: If it takes --
21 MR. TRAFICANT: That banking business is
22 going to be very extensive.
23 THE COURT: If it takes an entire day, that's
24 very interesting, because I -- it's unusual to only have to
25 call four people to take up a whole trial day.

1 MR. TRAFICANT: Your Honor, we have one trial
2 day here. They've taken --
3 THE COURT: Give us some more. Give us some
4 more.
5 MR. TRAFICANT: No. They've taken up several
6 weeks of a trial, and they used one day alone just for
7 Bucci and one other case.
8 THE COURT: Are you expecting that any of
9 these three that you've told me about, Josephine Hewlitt,
10 Greg Tyson, or Colucci, are going to take a day or half a
11 day?
12 MR. TRAFICANT: I don't know how long they're
13 going to take. I don't know how much time we're going to
14 take.
15 THE COURT: How long for you, and then as
16 they've always said, they can maybe estimate how long
17 theirs will take.
18 MR. TRAFICANT: I don't know. I can't
19 predetermine the banker situation.
20 THE COURT: Forget the banker for a minute.
21 MR. TRAFICANT: I would feel that they would
22 take up half the day if I was able to get those three, and
23 I'm sure the banker would take up the morning, maybe even
24 more than that.
25 MR. MORFORD: Your Honor, he said seven or

1 eight witnesses. Can he tell who the other four are?
2 MR. TRAFICANT: I don't know who they are out
3 there. I have to look at my list. Why does the Government
4 have to know my list?
5 THE COURT: We have to know how to spend the
6 time in a trial --
7 MR. TRAFICANT: I'm hoping they have --
8 THE COURT: -- of jurors, alternates, staff,
9 two court reporters and a whole lot of people. We handle
10 many cases inside this courtroom. I have five pending
11 death penalty habeas cases. We have to allocate our time.
12 And we can't have you using a little piece of a trial day.
13 MR. TRAFICANT: Your Honor, I object to that.
14 They have taken several weeks on --
15 THE COURT: You can take more time.
16 MR. TRAFICANT: I have taken one week, and I
17 plan to finish next week.
18 THE COURT: But I want you to fill the trial
19 days.
20 MR. TRAFICANT: I am going to do that. I
21 would hope to conclude by next week, but -- with but two
22 weeks of defense, after they've taken seven weeks and taken
23 a lot of time -- they filled up two days with two
24 witnesses.
25 THE COURT: It sounds as if you don't yet

1 know who your witnesses will be.
2 MR. TRAFICANT: If I can't get them
3 subpoenaed, how can I get them here? I have a list out. I
4 am trying to get Mr. Cascarilla here. That's another one
5 who wrote the letter where Morford stated O'Nesti was not a
6 member of organized crime that you would not allow in, and
7 before I leave, I want to introduce some evidence into the
8 record today.
9 THE COURT: Okay. Well, that's one of the
10 other items we have on here, which is that this letter,
11 which I think you've offered to two separate witnesses.
12 MR. TRAFICANT: That has been identified --
13 THE COURT: Something that they got, yeah.
14 MR. TRAFICANT: And had knowledge, personal
15 knowledge.
16 THE COURT: Right. But they didn't offer the
17 letter. And so I said that we would at a break take the
18 time we need to take in order to have you establish why it
19 is that either of these witnesses might be able to do
20 something with this letter. But if you're going to bring
21 in the author of the letter --
22 MR. TRAFICANT: I don't know if I can bring
23 the author in a timely manner. If you want to stay here
24 until July. These people are ducking me. I tried to get
25 Tony Bucci at Rotatori's and never got a call back. I want

1 Tony Bucci on the stand again.
2 THE COURT: Let's talk about this letter.
3 MR. TRAFICANT: I want to talk now about the
4 letter. Two witnesses have identified that they were
5 handed to them by Chuck O'Nesti, had personal knowledge,
6 had seen it, and had read it, and, in fact, Mr. O'Nesti was
7 circulating said thing in his own behalf.
8 THE COURT: Now we'll let the Government
9 respond.
10 MR. MORFORD: Your Honor, first of all, the
11 letter is entirely irrelevant. It was Congressman
12 Traficant who first broached the topic of Mr. O'Nesti's
13 reputation. The testimony has been that he had a
14 reputation of being a liaison between Mahoning Valley
15 politicians and the mob. There's never been any suggestion
16 that he was made a member of the LCN. That letter was a
17 request by Mr. O'Nesti's attorney because it would make
18 Mr. O'Nesti happy to have us say what is true, that he was
19 not a made member of the LCN, didn't go through the
20 ceremony, didn't play the part of an assistant, and all
21 that other stuff.
22 No one has suggested in this trial or outside this
23 trial that Congressman Traficant 's chief aide was a member
24 of the Mafia. He is not. But, the letter is entirely
25 irrelevant. It's confusing. It has nothing to do with the

1 facts of this case. It was -- the topic of his reputation
2 was only brought up by the Congressman in the first place,
3 and it's been asked of other witnesses because it was
4 brought into the trial.
5 Number 2, it's hearsay.
6 MR. TRAFICANT: I object. It is not hearsay.
7 THE COURT: Well, that's what we're having a
8 hearing about. Tell us why it's not hearsay. Okay? We
9 already have established --
10 MR. TRAFICANT: The problem established, the
11 Prosecution put their case on first. They reported to
12 every witness the reputation of Mr. O'Nesti as a bag man
13 for the mob. Now, I have a letter when he was cooperating
14 with them in a former case, that he was not such a person.
15 Now, he writes a letter to the attorney because evidently
16 the Congressman wanted to know what those phone calls of
17 Strollo were about, and Mr. Morford said that they never
18 alleged that he was affiliated with any organized crime
19 entity.
20 MR. MORFORD: No.
21 MR. SMITH: Member.
22 MR. TRAFICANT: Member of or involved --
23 whatever it was.
24 MR. SMITH: Member.
25 MR. TRAFICANT: Now, the point is, they

1 referred to him as a bag man to, in fact, infer that me as
2 his boss had a bag man on my staff to hurt my case.
3 THE COURT: Okay.
4 MR. TRAFICANT: They broached the subject and
5 I think Morford's letter stating that Mr. O'Nesti was not
6 affiliated with organized crime, and I think we should get
7 the letter out and look at it.
8 THE COURT: Certainly, we have to get the
9 number on it on the record. And then we have to establish
10 who actually wrote the letter.
11 MR. TRAFICANT: I think we already discussed
12 that.
13 THE COURT: Well, you keep saying it's the
14 Morford letter.
15 MR. TRAFICANT: The bottom line is,
16 regardless of whom, it wasn't -- it was sent to me at 125
17 Market Street, and I don't answer the mail at 125 Market
18 Street. And in that regard, that makes that evidence,
19 regarding Mr. O'Nesti, absolutely -- here is the letter,
20 and I want to read it into the record.
21 THE COURT: Well, if you want to -- you know.
22 MR. TRAFICANT: I want to proffer it for the
23 record right now.
24 THE COURT: We're trying to get you to
25 identify it so it's part of the record.

1 MR. TRAFICANT: It is O-1.
2 THE COURT: Thank you.
3 MR. TRAFICANT: It is not a facsimile and
4 regular mail dated December 22nd, 1997, addressed to
5 Congressman Traficant at 125 Market Street, Youngstown,
6 Ohio, re: Charles P. O'Nesti: Dear Congressman Traficant.
7 THE COURT: Slow down a little now so she can
8 write it. Slow down.
9 MR. TRAFICANT: I write on behalf of -- and
10 at the request of my client, Mr. Charles P. O'Nesti,
11 regarding recent public disclosures alleging Mr. O'Nesti to
12 be a member of the Pittsburgh La Costa Nostra organized
13 crime family.
14 I have received clarifications from AUSA Attorney,
15 Craig S. Morford, that the Government does not contend, nor
16 has it alleged in any filing through the Court, that
17 Mr. O'Nesti is a member of the Pittsburgh LCN or any other
18 organized crime family.
19 Yet, they convicted him for his involvement with mob
20 boss, Lenny Strollo.
21 MR. MORFORD: Yeah.
22 MR. TRAFICANT: I further read into the
23 letter --
24 THE COURT: Okay. Please --
25 MR. TRAFICANT: I trust this information will

1 be of assistance to you in assessing the statements made
2 about Mr. O'Nesti in the local media.
3 If you desire any further information concerning this
4 matter, please do not hesitate to contact me. CC
5 Mr. Charles P. O'Nesti.
6 Now, the words or any other organized crime family --
7 THE COURT: Read who signed the letter so we
8 know whose letter it is.
9 MR. TRAFICANT: Attorney Ralph E. Cascarilla
10 of Cleveland, and I'm attempting to have him served.
11 Now, the point I'm making though, he doesn't just say
12 a member or any other organized crime family. He was -- he
13 was subpoenaed in.
14 THE COURT: Well, it says what it says,
15 Congressman. The point is, tell me now why it's not
16 hearsay. That's what we're here for. Tell me why it's not
17 hearsay.
18 MR. TRAFICANT: Because these people have
19 personal knowledge that received this letter directly from
20 O'Nesti.
21 THE COURT: Or bring in the man who wrote the
22 letter.
23 MR. TRAFICANT: I'm trying to do that. If I
24 have him -- and I will have him here tomorrow, he's -- let
25 me tell you this: The Government is trying to have it both

1 ways. During the Strollo trial, they have him tied in with
2 Strollo and convict him for perjuring himself in the
3 Strollo case, and Strollo is supposedly the mob boss. Then
4 they referred to him as the bag man in the Traficant case
5 in front of the jury --
6 THE COURT: The Government has not referred
7 to him that way.
8 MR. TRAFICANT: They have if you look through
9 the testimony.
10 THE COURT: Witnesses have. But anyway, I'm
11 still waiting to hear why that's not hearsay.
12 MR. TRAFICANT: Well, I would like to have
13 the opportunity to just try and continue to subpoena this
14 witness. I'll try to have this witness here tomorrow.
15 THE COURT: Okay. Very well. Now we've got
16 a couple more things that's really getting in the wire
17 here. Let's see what we reserved.
18 MR. TRAFICANT: I have some exhibits I want
19 to introduce, your Honor.
20 THE COURT: Okay. Just one second.
21 MR. TRAFICANT: You'll have to determine --
22 THE COURT: There was a hearsay issue that we
23 said you could handle with Kovachik. Am saying that right?
24 And also with Johnson.
25 MR. TRAFICANT: Did you rule on that? And

1 also I have under subpoena Mr. Saadey. He's been standing
2 around here missing --
3 THE COURT: Well, he's come in.
4 MR. TRAFICANT: Is he allowed as a witness?
5 THE COURT: I haven't decided all that. I
6 have to go through the whole transcript of all of his
7 claims of --
8 MR. TRAFICANT: Well, he is a subpoenaed
9 witness of mine.
10 THE COURT: Okay. He can respond, and he
11 came here today.
12 MR. TRAFICANT: Yes, he has.
13 MR. KOPP: Your Honor, just so I know, is he
14 required to be here tomorrow?
15 THE COURT: No.
16 MR. KOPP: Okay.
17 THE COURT: If he's required to come back,
18 it'll be after we -- after we rule on the various levels of
19 ruling that we have to rule in the case as it involves him.
20 MR. TRAFICANT: Well, your Honor, almost all
21 of my witnesses you have declined the opportunity for them
22 to testify on exceptions to the hearsay rule in support of
23 the Government.
24 THE COURT: Well, we have --
25 MR. TRAFICANT: We clearly have a fellow here

1 who has, without immunity --
2 THE COURT: Johnson was here this morning.
3 We did the voir dire. Now I can listen to your argument on
4 the hearsay problems with Johnson. You know, you did a
5 whole -- I was prepared to just read you the questions out
6 of the prior transcript, but you did a whole new inquiry
7 with it. So --
8 MR. MORFORD: Your Honor, can I address that
9 for a moment? We've got some new filings from Congressman
10 Traficant today, and because all of our breaks have been
11 used up in hearings, we haven't even had a chance to read
12 them, let alone decipher them and be ready to address them
13 with the Court.
14 THE COURT: I haven't read them. I think I
15 have seven new motions that came in today. So --
16 MR. TRAFICANT: Your Honor, from day one,
17 I've been deluged by papers from the Government and --
18 THE COURT: This is a paper intensive case.
19 MR. TRAFICANT: I am beginning to proffer
20 into the record those things that you have not allowed
21 witnesses to testify to.
22 THE COURT: Well, this is what we have here.
23 We have -- we wanted arguments regarding the Johnson
24 hearsay. And he was voir dired this morning. So --
25 MR. MORFORD: Your Honor, that's what I'm

1 addressing. One of the things Congressman Traficant filed
2 this morning relates to that and apparently brings up some
3 new arguments we've never heard before, and we've got to go
4 back through all that.
5 THE COURT: So we'll have to postpone that.
6 MR. MORFORD: That's what I'm trying to say.
7 THE COURT: We have a list that's here which
8 we try to keep up with.
9 MR. TRAFICANT: One question, not to
10 interrupt --
11 THE COURT: Kovachik hearsay, there was one
12 we put over on Kovachik. I think we can probably pull that
13 up.
14 MR. TRAFICANT: I want her called back. That
15 was an unsolicited statement that was made by a witness,
16 and I -- that witness should have the opportunity to
17 make -- and be at least given the opportunity to testify.
18 THE COURT: She is coming back tomorrow, I
19 think.
20 MR. TRAFICANT: Well, they rested on her.
21 THE COURT: Did you rest on her?
22 MR. MORFORD: Yes, we did, your Honor, but
23 there's absolutely no hearsay exception for that statement
24 whatsoever.
25 THE COURT: Put on the record what statement

1 we're talking about so we have this all clear.
2 MR. MORFORD: She's your witness.
3 MR. TRAFICANT: I'd have to read it and hear
4 it myself. I didn't -- I wasn't leading in that direction.
5 I was leading more or less into the relationship that Chuck
6 had with Jackie Bobby and Grace Yavorsky, and she come out
7 with something relative to Chuck O'Nesti --
8 THE COURT: Okay. Let me just --
9 MR. TRAFICANT: -- and kickbacks, and it may
10 be something that hurts me for that matter. I don't even
11 remember.
12 THE COURT: Okay. Let me go back and see
13 whether there's a hearsay objection to that rule.
14 MR. TRAFICANT: I'm sure if it hurts me, the
15 Government wants it in.
16 THE COURT: Congressman, if you can just be
17 quiet, it will help me because I have to search a whole
18 record here.
19 MR. TRAFICANT: I'll try.
20 THE COURT: Thank you. Okay. The question
21 put to her was: Did there come a time you rejoined the
22 congressional staff? Her answer was yes, I rejoined the
23 staff after talking to Chuck O'Nesti. And with his
24 encouragement to say Linda go back to the Congressman's
25 office. I know you're a good worker, and the Congressman

needs you. I said, I don't know about these kickbacks, Mr. O'Nesti. He said -- that's the issue that I reserved -- he says I had not. Objections. Okay, whoa, whoa, whoa. As the Congressman knows, that's precisely the sort of statement we have to deal with out of the hearing of the jury before we present it to the jury.

MR. TRAFICANT: Your Honor, could we please repeat my question?

THE COURT: Um-hum. Did there come a time when you rejoined the congressional staff? Her answer was not responsive exactly to the question. She answered it, but she kept going. She answered -- she said, yes, I rejoined the staff after talking to Chuck O'Nesti and with his encouragement to say Linda, go back to the Congressman's office. I know you're a good worker, and the Congressman needs you -- those are all quotes from O'Nesti. And then she says, I said I don't know about these kickbacks, Mr. O'Nesti -- she gets into a whole other area.

MR. TRAFICANT: And then what did she say?

THE COURT: And then Mr. Kall objected. Then she said he says I have not -- objection, your Honor.

MR. TRAFICANT: Your Honor, we have had under oath now Mr. Johnson. Now you have a statement from Linda Kovachik.

THE COURT: Regarding what Mr. O'Nesti said.

1 We're back in this area a lot.
2 MR. TRAFICANT: Yes, yes, like a startling
3 surprise type thing. You have a statement unsolicited of
4 Mr. Johnson, Mr. Cafaro. When he wants to talk to him
5 about titles to a car, and Cafaro thinks he wants to talk
6 to him about the case. I mean, clearly, then you look at
7 Mr. Saadey's case. He is -- he is talking about a person
8 who is immediately under stress, never seen him so
9 stressed.
10 THE COURT: I haven't ruled on that.
11 MR. TRAFICANT: Made a statement immediately
12 after a meeting with the FBI.
13 THE COURT: You have all that on the record
14 now. We'll evaluate that, but we haven't had time to
15 evaluate that.
16 MR. TRAFICANT: When will we do that?
17 THE COURT: You want to respond on this
18 question. Mr. Kall, you posed the objection.
19 MR. KALL: Again, your Honor, a timely
20 statement was made apparently February of 2000. There's no
21 circumstantial guarantees of trustworthiness at that time.
22 Mr. O'Nesti was still on staff -- excuse me --
23 February of -- excuse me -- at that time he was off staff
24 but still very close with Congressman Traficant. And
25 there's no circumstantial guarantees of trustworthiness

1 when his former boss and very close friend, he's making
2 statements that exculpate that person. There's no
3 circumstantial guarantees of trustworthiness as to a
4 statement such as that.
5 THE COURT: Okay. Well, it's up to the
6 Congressman to establish something like that, and this is
7 your chance to do it.
8 MR. TRAFICANT: Okay. That is not a truthful
9 statement.
10 THE COURT: That's not going to help you,
11 Congressman.
12 MR. TRAFICANT: Okay. Hear me. I want to
13 just make it. I'm not saying he's lying. But -- we have a
14 witness that was voir dired, that said I wasn't returning
15 Mr. O'Nesti's calls. So evidently, I wasn't all that close
16 with Mr. O'Nesti at that time. Or I wasn't getting a
17 message, so Mr. O'Nesti evidently went out of his way
18 hearing what when he found out Mr. Johnson was evidently in
19 a certain place; went out of his way to be taken there, to
20 talk to him for me to talk to him. Now, for them to say
21 that I was in close contact with my close friend is a
22 misrepresentation of that period of time when such
23 statements made out of court to a party with no interest --
24 THE COURT: Okay.
25 MR. TRAFICANT: -- now leaves it to a point

1 where you're looking at the stress factor of Sabatine.
2 You're looking at the unsolicited remarks of Cafaro, who
3 thought he was talking -- going to be talking about cars --
4 would you fellows let me finish?
5 MR. SMITH: I'm talking to him. I'm not
6 talking to you.
7 MR. TRAFICANT: Yes. You're talking while
8 I'm speaking.
9 THE COURT: I'm listening.
10 MR. TRAFICANT: Mrs. Kovachik, she was close
11 to O'Nesti. I'm getting towards O'Nesti's relationship
12 with Bobby and Yavorsky, that he would have never talked
13 with them at all.
14 THE COURT: Okay.
15 MR. TRAFICANT: And that was my purpose.
16 THE COURT: Okay.
17 MR. TRAFICANT: Now, if you want to voir
18 dire -- I'm tired of having my witnesses come in and go
19 through double jeopardy in a trial, and I think they should
20 be allowed to testify. They could object if they want, and
21 you can strike it.
22 THE COURT: Thanks.
23 MR. TRAFICANT: My God, you let them bring in
24 testimony here of two vindictive women that weren't even
25 liked by the guy, wouldn't let him in his room. The

1 testimony was brought out.
2 THE COURT: Thank you. Now we're adjourned.
3 It's a few minutes after 6:00. See you in the morning --
4 MR. TRAFICANT: Your Honor, can I please
5 submit some evidence tonight so I don't forget it?
6 THE COURT: Okay. Okay. Let's --
7 MR. TRAFICANT: I have some things that were
8 photographs taken yesterday, and I ask they be placed on
9 the record. First of all --
10 THE COURT: Well, who took the photographs?
11 Was it someone who was --
12 MR. TRAFICANT: He testified to them
13 yesterday, Mr. Marchese.
14 THE COURT: Show them to the Government.
15 MR. TRAFICANT: Yes. They were the pictures
16 of the -- of the house. Just the ones that deal with the
17 house. There are some photographs in there, and I was
18 going to take them --
19 THE COURT: We have to do that in the
20 morning.
21 MR. TRAFICANT: I would like to, at least,
22 put in tonight the check of Susan Bucci that she
23 identified. That was TB-4, a check for $1,000, endorsed by
24 Susan Bucci and testified to yesterday.
25 THE COURT: Okay. Yes.

MR. SMITH: No objection.

THE COURT: No objection. It will be admitted. And we'll look at the pictures tomorrow because they haven't seen them. Okay. Thank you very much. See you at 9:00.

(Proceedings adjourned.)

1 VOIR DIRE DIRECT EXAMINATION OF DENNY JOHNSON 4977
2 VOIR DIRE CROSS-EXAMINATION OF DENNY JOHNSON 4988
3 VOIR DIRE REDIRECT EXAMINATION OF DENNY JOHNSON 4999
4 DIRECT EXAMINATION OF ROBERT BARLOW 5003
5 CROSS-EXAMINATION OF ROBERT BARLOW 5019
6 REDIRECT EXAMINATION OF ROBERT BARLOW 5047
7 DIRECT EXAMINATION OF GEORGE HOOKER 5052
8 DIRECT EXAMINATION OF ANTHONY T. TRAFICANTI 5058
9 VOIR DIRE DIRECT EXAMINATION OF RUSSELL SAADEY, JR. 5079
10 DIRECT EXAMINATION OF ANTHONY TRAFICANTI..... 5107
11 CROSS-EXAMINATION OF ANTHONY TRAFICANTI..... 5121
12 REDIRECT EXAMINATION OF ANTHONY TRAFICANTI..... 5174
13 DIRECT EXAMINATION OF LINDA J. KOVACHIK..... 5187
14 VOIR DIRE CROSS OF RUSSELL SAADEY.....5207
15 VOIR DIRE REDIRECT OF RUSSELL SAADEY.....5228
16 VOIR DIRE RECROSS OF RUSSELL SAADEY..... 5235

17 C E R T I F I C A T E

18 I certify that the foregoing is a correct
19 transcript from the record of proceedings in the
20 above-entitled matter.
21
22 George Staiduhar, RPR, FCRR
U.S. District Court - Room 539
201 Superior Avenue
23 Cleveland, Ohio 44114-1201
(216) 575-1727
24
25

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

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

8 - - - - -

TRANSCRIPT OF PROCEEDINGS HAD BEFORE
9
THE HONORABLE LESLEY WELLS
10
JUDGE OF SAID COURT,
11
ON THURSDAY, MARCH 28, 2002
12
Jury Trial
13
Volume 28
14
- - - - -
15
16

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24	Cleveland, Ohio 44114-1201
	(216) 241-5622

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

1 MORNING SESSION, THURSDAY, MARCH 28, 2001 9:20 A.M.
2 THE COURT: Thank you. Be seated, please.
3 Good morning.
4 MR. MORFORD: Good morning, Your Honor.
5 MR. SMITH: Good morning.
6 THE COURT: We have still the issue before
7 the jury comes out of the objection that was posed to
8 questioning of the last witness, your staff member, and I
9 think she was going to come back. They had no
10 cross-examination, or I don't know if it was recross.
11 MR. MORFORD: There was no cross-examination,
12 period.
13 THE COURT: But there was a question that was
14 put to her, there was an objection posed, and this is your
15 opportunity to show us whether or not it falls outside of
16 hearsay.
17 MR. TRAFICANT: It was unsolicited. It was
18 made at a time when the individual was under no stress and
19 no obligation to have made such statement and had responded
20 in the fashion that was, in fact, made in conjunction with
21 a request or a conversation relative to her returning to
22 work and some of the allegations she read. It was a
23 spontaneous reaction.
24 THE COURT: By -- I just want to be clear,
25 by Ms. Kovachik here on the stand.

1 MR. TRAFICANT: To Ms. Kovachik, yes, on the
2 stand.
3 THE COURT: I am trying to figure out what
4 you are saying.
5 MR. TRAFICANT: Ms. Kovachik made the
6 statement Mr. O'Nesti told her she made no kickbacks.
7 THE COURT: She started to say -- at that
8 point there was an objection.
9 MR. TRAFICANT: She did say that. She said
10 Mr. O'Nesti said he made no kickbacks to Jim Traficant.
11 That's what I understood what was said.
12 THE COURT: We went over it yesterday, and I
13 will go over it again. "Did there come a time when you
14 rejoined the Congressional staff?". That was your
15 question. And her answer was, "Yes. I rejoined the staff
16 after talking to Chuck O'Nesti, and with his encouragement
17 to say" -- and now the hearsay part -- "Linda, go back to
18 the Congressman's office. I know you are a good worker and
19 the Congress needs you."
20 That's an area of hearsay. Then she says, "I said"
21 -- she is talking about herself at that point -- "I said I
22 don't know about these kickbacks, Mr. O'Nesti."
23 "He says" -- now she is talking about hearsay again,
24 "I had not" -- and there was an objection posed. That's
25 the issue that we told you we would address if you want to

1 address it, and we told her to come back so we could do it.
2 MR. TRAFICANT: She is here to be voir dired.
3 THE COURT: All right. So we will do that.
4 MR. TRAFICANT: He said he had not.
5 THE COURT: That's what you say, but that's
6 not what the transcript is, and she may come in and say
7 that. I don't know what she is going to say.
8 MR. TRAFICANT: We will voir dire her later.
9 I do have witnesses here and expecting others, however you
10 want to handle it.
11 I understand you ruled on the tapes. I was told by
12 the press outside you ruled on tapes. Is that a fact?
13 THE COURT: I think we issued rulings
14 yesterday or the day before. Did we issue rulings? We have
15 so many motions in this case --
16 MR. TRAFICANT: Did I receive a ruling on the
17 tapes?
18 THE COURT: You get all my rulings.
19 MR. TRAFICANT: Who handed it to me?
20 THE CLERK: After the Judge announced it I
21 walked up and handed it to you.
22 MR. TRAFICANT: When did you hand it to the
23 prosecutor?
24 THE CLERK: The second after I handed it to
25 you.

1 MR. TRAFICANT: When did you hand it to me?
2 THE CLERK: Right after the Judge --
3 THE COURT: In any event, it is docketed.
4 MR. TRAFICANT: Mr. DiBlasio is taking the
5 Fifth Amendment. He is not available.
6 THE COURT: We have been through this,
7 Congressman.
8 MR. TRAFICANT: His tapes should be
9 admissible.
10 THE COURT: We have been through that, and --
11 MR. TRAFICANT: And you are not going to
12 admit the DiBlasio tape.
13 THE COURT: Whatever is in that order is the
14 order I made in the case. You should read the docket and
15 the order in the case. They affect you. If you were
16 surprised by it when you went out and talked to the press,
17 I'm sorry.
18 MR. TRAFICANT: I didn't talk to them. They
19 notified me. "What are you going to do now the tapes are
20 thrown out?"
21 THE COURT: We will tell you when it was
22 docketed.
23 MR. TRAFICANT: When was it filed?
24 THE COURT: When was what filed?
25 MR. TRAFICANT: What was the date of the

1 motion? Show me the date of the motion.
2 THE COURT: Hold on. Just relax. We will
3 get a docket entry.
4 MR. TRAFICANT: I am upset. You are denying
5 me the opportunity to defend myself.
6 THE COURT: It was issued on March 27th at
7 8:34 in the morning. It is an order denying Defendant's
8 motion regarding hearsay. It was posted on the docket at
9 that time. It was handed to you here in the courtroom, and
10 it probably also was sent out the usual way.
11 MR. TRAFICANT: Does it delineate the
12 tapes --
13 THE COURT: Do you still not have a copy of
14 it?
15 MR. TRAFICANT: I don't have it with me.
16 THE COURT: Would you like a few moments to
17 read a copy of it?
18 MR. TRAFICANT: I would appreciate it.
19 THE COURT: Thank you. And now you should
20 learn to read the docket. The docket has a big impact on
21 your case.
22 MR. TRAFICANT: Let me tell you what I know
23 about this case. All the impact --
24 THE COURT: We have all the motions you filed
25 and they filed, Congressman. You filed motions and they

1 filed motions. I think seven were filed yesterday morning.
2 I have a whole bunch of responses filed this morning.
3 That's part of your lawsuit. You have to pay attention to
4 it.
5 MR. TRAFICANT: Your Honor, I file motions
6 and you deny them. They file motions, and you sustain
7 them. And you have not had a level playing field here,
8 again for the record. You are a prosecution witness, as
9 far as I am concerned.
10 THE COURT: It would be a good idea --
11 MR. TRAFICANT: I would like to subpoena you,
12 put you on the stand, quite frankly.
13 THE COURT: Congressman, it would be a good
14 idea if you would remember the rules this courtroom
15 operates under that we started with long before the trial
16 began.
17 MR. TRAFICANT: I would like to ask into
18 another matter.
19 THE COURT: No, no. We are going to finish
20 with some of these matters.
21 MR. TRAFICANT: Fine.
22 THE COURT: The docket is what carries the
23 orders of the Court in the case. If you are not going to
24 read the docket yourself or have anyone else read it for
25 you, then you will continue to be surprised, because courts

1 rule on motions that are in front of them.
2 MR. TRAFICANT: Your Honor, I am not
3 surprised at any of your motions. I haven't even looked at
4 their evidence, and quite frankly, I know how you are going
5 to move an order before you do. But I was informed by the
6 press today, and if it was given to me yesterday by Jeff,
7 that I would state that I didn't see it.
8 Now, if you have anything more to say with that, I'm
9 fine. If not, I would like to know, since this was
10 admitted into evidence shouldn't the Court have taken it
11 and made it part of the record, this check?
12 THE COURT: Well, it was admitted into
13 evidence. We don't hold on to the evidence.
14 MR. TRAFICANT: How does the jury see it?
15 THE COURT: Well, at the time that the case
16 is submitted to the jury all the evidence that has been
17 admitted is taken by the lawyers, put together, we go
18 through it before the jury sees it, and it is sent back
19 with them.
20 MR. TRAFICANT: So you do not maintain them
21 once they are admitted in your own control and custody, and
22 it is a requirement of the lawyers to maintain a piece of
23 evidence that has been admitted in evidence?
24 THE COURT: Yeah.
25 MR. TRAFICANT: Okay. Fine. I am just the

1 son of a truck driver here, you know?
2 Now, I do have witnesses. I want to know if you want
3 to voir dire Ms. Kovachik first, who is here, or if you
4 want to go forward with the jury.
5 THE COURT: That's up to you. We are giving
6 you an opportunity by putting her on the stand and having
7 her say what it is what she would have said were she
8 allowed to answer the question.
9 MR. TRAFICANT: Why don't we go through with
10 hers since they released it, and why don't we go ahead with
11 her at this particular point and go ahead with her.
12 THE COURT: Bring her down.
13 MR. TRAFICANT: And I would ask for the
14 opportunity to examine the witness.
15 THE COURT: We will ask the question that was
16 here. If you get into more direct there may be some
17 cross-examination. If you are just going to ask her the
18 question here and ask what I need to make the ruling and
19 make your argument, whatever it is about how it is a
20 hearsay exception --
21 MR. TRAFICANT: Your Honor, I already know
22 how you are going to move. I want a direct examination,
23 for the record.
24 THE COURT: Of this witness?
25 MR. TRAFICANT: Yes, on this issue.

1 THE COURT: Well, you can ask her the
2 question that we asked.
3 MR. TRAFICANT: And I cannot ask her nothing
4 more than that relative to the conversation she had with
5 Mr. O'Nesti?
6 THE COURT: There never was a
7 cross-examination of her. If you do that, if you go
8 forward with that, you are going to open yourself up and
9 the witness up to being cross-examined by the Government.
10 Right now the Government isn't in a position to do that
11 because they said they had no cross.
12 MR. TRAFICANT: Because they are scared to
13 death of any of these witnesses.
14 THE COURT: No, no. Come on, Congressman.
15 MR. TRAFICANT: They have the testicles of an
16 ant. And I have subpoenaed a witness who I tried to
17 service subpoenas.
18 THE COURT: One of your witnesses is coming
19 into the room, so if you would try and hold your tongue.
20 MR. TRAFICANT: I would ask you to ask the
21 prosecution to constrain themselves.
22 THE COURT: You are still under oath. We
23 need to reask you a question from yesterday pertaining to
24 your answer.
25 The question was, "Did there come a time when you

1 rejoined -- did there come a time you rejoined the
2 Congressional staff?"
3 THE WITNESS: Yes.
4 THE COURT: And you said, "Yes, I rejoined
5 the staff after talking to Chuck O'Nesti," and you went on
6 and said some other things.
7 The question that was put to you is, "Did there come
8 a time you rejoined the Congressional staff?"
9 THE WITNESS: Yes.
10 THE COURT: Okay.
11 THE WITNESS: I had been attending spaghetti
12 dinners, and Chuck O'Nesti was usually there -- or he
13 wasn't there, but this one day that he was there, he was
14 there, and I was going out of the hall, and he was sitting
15 at a table by himself. And I said, "How are you doing,
16 Chuck?"
17 "Sit down. Where are you going?"
18 "I'm just heading out. What are you doing?"
19 "You working yet?"
20 "No."
21 "I told you to call Jim. You are a good worker. Get
22 back there. The girls are gone."
23 THE COURT: So you are testifying to things
24 he said.
25 THE WITNESS: I don't know. Do you want me

1 to say this?
2 MR. TRAFICANT: I would like to examine the
3 witness.
4 THE COURT: Excuse me. You should be
5 testifying the way that the rules indicate, which is that
6 you have to speak from your own experience about what
7 happened.
8 THE WITNESS: Okay.
9 THE COURT: What you know.
10 MR. TRAFICANT: I move that the Court read
11 her final statements to her, and I ask then to direct
12 examine this witness.
13 THE COURT: You want me to read the part that
14 is in this transcript?
15 MR. TRAFICANT: The last four lines.
16 THE COURT: "Yes. I rejoined the staff after
17 talking to Chuck O'Nesti, and with his encouragement, to
18 say, 'Linda, go back to the Congressman's office. I know
19 you are a good worker, and the Congressman needs you.' I
20 said, 'I don't know about these kickbacks, Mr. O'Nesti.'"
21 THE WITNESS: Yes.
22 MR. TRAFICANT: Read the last of the
23 statement.
24 THE COURT: I'm trying to. The witness is
25 talking, he says I had. There you were interrupted.

1 MR. TRAFICANT: Your Honor, can I now examine
2 this witness?
3 THE COURT: Let her answer the way she was
4 answering the question.
5 MR. TRAFICANT: Go ahead and answer that
6 final question.
7 THE WITNESS: I had not gotten any kickbacks
8 from Jim.
9 THE COURT: Okay. All right.
10 VOIR DIRE DIRECT EXAMINATION OF KOVACHIK
11 BY MR. TRAFICANT:
12 Q. Were you there -- did you approach Mr. O'Nesti?
13 A. We kind of seen each other at the same time. I seen
14 him, he seen me, waved to me, sit down.
15 Q. How long were you with him?
16 A. Oh, we chatted for -- I can't tell the time exactly.
17 Q. Was this shortly before he died?
18 A. It was in the month of October of '99, before he
19 died. He died in February. He was very sickly at that
20 time.
21 Q. How was his voice?
22 A. He was weakly, and with that cancer it was hard for
23 him to talk. That's why I kind of sat down and heard him,
24 got a better hearing on his voice.
25 Q. What was the main reason for talking about the job

1 with Mr. O'Nesti?
2 A. I was unemployed, and I needed work.
3 Q. Did you have any knowledge of what happened in my
4 office?
5 A. What I read and heard, and hearsay.
6 Q. As of what? Were there job openings?
7 A. There were people that had left. There was a staff
8 opening there, and it was going to be available. I was
9 interested in coming back.
10 Q. Was there anybody else that left that concerned you?
11 A. Jackie Bobby and Grace Yavorsky.
12 Q. Would you have reapplied had Jackie Bobby and Grace
13 Yavorsky still had been employed?
14 A. No. I don't think so, no.
15 Q. Would you have reapplied if Mr. O'Nesti said he gave
16 kickbacks?
17 MR. KALL: Objection. Speculative.
18 THE COURT: Uh-huh. Objection sustained.
19 BY MR. TRAFICANT:
20 Q. Did you at some point contact me?
21 THE COURT: Congressman, remember the purpose
22 we are here for: There is no jury listening to this
23 testimony, so don't go beyond what you want to go beyond in
24 order to establish there is an exception to hearsay here.
25 Q. Were you rehired?

1 A. Yes, sir.

2 MR. TRAFICANT: No further questions.

3 THE COURT: Thank you.

4 MR. KALL: No questions.

5 THE COURT: Thank you. You can step down.

6 THE WITNESS: Okay. Thank you, Judge. Do I

7 leave now?

8 THE COURT: Yes. You can leave. You are

9 released.

10 MR. TRAFICANT: Would you be prepared to go

11 forward with witnesses or do you want time to rule against

12 this witness?

13 THE COURT: Congressman, I would like you to

14 just be seated.

15 MR. TRAFICANT: I would prefer to stand.

16 THE COURT: Well, I'm so sorry, but you can't

17 do that right now because I am about to talk about a

18 different topic.

19 We have people from the public who have come in from

20 time to time into this courtroom. Posted outside the door,

21 probably delivered to some people who are in the courtroom

22 now, are things called Information for Trial Participants.

23 We have been over those with you since long before this

24 actual trial began. We have been over parts of these

25 persistently throughout the trial, and because of the

1 childish remarks that you just delivered a few moments ago
2 regarding the other people who are participants up here in
3 this case, I'm going to review these with you so that you
4 are clear.
5 These rules apply to all people who practice in this
6 courtroom. They apply to pro se litigants. They even
7 apply to people who are here just in the galley, members of
8 the public and press, and there is a sheet called
9 Information for Trial Participants. You've had it over a
10 long period of time and on many occasions.
11 In terms of the sixth item there, courtroom decorum
12 for counsel and pro se defendants, the first one is to
13 stand when making an objection. The second one, "Do not
14 interrupt the Judge or counsel." That's a continuing
15 problem we've had in this case --
16 MR. TRAFICANT: I object to that.
17 THE COURT: -- is that you interrupt the
18 Judge and counsel.
19 The next one is, "Follow the Judge's directions on
20 how to proceed." The next one is, "Cursing or profanity is
21 not permitted." The next one is, "After you have objected
22 and made your record for appeal, do not reargue or protest
23 the Judge's ruling." The next one is, "Do not disrupt the
24 proceedings." The next one is, "Insulting other parties,
25 counsel, the Judge, or jury by voice or demeanor is not

1 permitted."
2 It says here that the Court and the Marshal will
3 enforce these rules.
4 Another rule that we have gone over with you
5 repeatedly has to do with bringing evidence before the jury
6 that this Court explicitly prohibited you from presenting
7 to the jury. Yesterday in the afternoon was yet one more
8 ridiculous example of your trying to get a question out to
9 a witness at the end that has repeatedly been ruled not
10 relevant to this case and not part of this case.
11 MR. TRAFICANT: I object. You did not ask
12 that witness if I had solicited that remark.
13 THE COURT: I am not talking about Kovachik.
14 I'm talking about the witness who was on the stand
15 yesterday afternoon.
16 MR. TRAFICANT: What witness was that?
17 THE COURT: So you continue to violate the
18 basic rules that everybody, everybody is required to pay
19 attention to, and just because you are who you are in some
20 respect you must believe that you can do whatever you want
21 to in a court of law, but that's not true.
22 So I would like to go forward since we have jurors
23 here today, and I would like to tell you one more time what
24 the rules are and ask you to follow them so we can proceed
25 in a case that is fair to both sides.

1 We need -- we want to get your witnesses on. We
2 want you to be able to get your evidence in front of the
3 jury.
4 MR. TRAFICANT: What evidence? You have
5 stricken every bit of evidence.
6 THE COURT: Well, that's certainly not true,
7 and you said you had witnesses today.
8 MR. TRAFICANT: I want to ask a question of
9 the Court. Which of those have I violated, and what
10 witness did I violate yesterday?
11 THE COURT: We will give you a long
12 opportunity when the jury is gone home to discuss that.
13 MR. TRAFICANT: You made it a matter of
14 public record here now, and I think contemporary --
15 THE COURT: It has been a matter of public
16 record for a long time. These rules are posted in the
17 courthouse.
18 MR. TRAFICANT: Yes. And I believe you have
19 interrupted me during cross-examination before I had even
20 reached a reason for my questioning. I want that placed on
21 the record.
22 THE COURT: Good.
23 MR. TRAFICANT: That you have also my records
24 from Chicago, which is very unusual, in your chambers, and
25 I want now and request the order of Judge Aldrich to

1 produce the $10,000 for the FBI to photocopy in that trial.
2 THE COURT: I have no idea what you are
3 talking about about $10,000.
4 MR. TRAFICANT: You have my documents, and I
5 request you to give me that. And I ask you to allow me to
6 subpoena Judge Aldrich since she was interviewed by the FBI
7 about the Bucci case.
8 THE COURT: I don't know what you are talking
9 about, but that's not relevant to this.
10 Do you have witnesses here today, Congressman? Do you
11 have any more witnesses?
12 MR. TRAFICANT: I want to subpoena Judge
13 Aldrich first.
14 THE COURT: Then issue a subpoena, but get me
15 your witness.
16 MR. TRAFICANT: I will get my first witness.
17 THE COURT: Who is it?
18 MR. TRAFICANT: I already told the
19 prosecutor, Mr. Mack Gibson.
20 THE COURT: Mr. Matt Gibson?
21 MR. TRAFICANT: Mack as in Mack truck.
22 THE COURT: Are there any papers or
23 statements, or anything else, that need to be given to the
24 Government regarding this witness?
25 MR. TRAFICANT: No. He was just subpoenaed

1 recently. I have no statements, nothing myself. They have
2 gotten exactly what I have, what they will hear.
3 THE COURT: Okay. We will bring in the jury.
4 (The following proceedings were held in the
5 presence of the jury:)
6 MR. TRAFICANT: Mack, just go up the
7 right-hand side there and sit up there beside the Judge.
8 THE COURT: Good morning, sir. Would you
9 raise your right hand?
10 THE WITNESS: Good morning.
11 ALBERT M. GIBSON, of lawful age,
12 a witness called by the Defendant,
13 being first duly sworn, was examined
14 and testified as follows:
15 DIRECT EXAMINATION OF ALBERT M. GIBSON
16 BY MR. TRAFICANT:
17 Q. Mack, there is water available to you, and if you sit
18 closer to the microphone you will be heard by the jury and
19 everyone else.
20 Would you please state your full name for the record,
21 and spell your last name?
22 A. Albert M. Gibson, G-i-b-s-o-n.
23 Q. And what is your address, Mr. Gibson?
24 A. 9231 Peck Road, Mantua.
25 Q. Heck?

1 A. Peck, P-e-c-k.
2 Q. Mantua?
3 A. Yes.
4 Q. Do you go by a nickname?
5 A. Mack, Mack.
6 Q. Would you be offended if I referred to you as Mack?
7 A. No.
8 Q. How long have you known me approximately?
9 A. Approximately -- it has been a few years, seven,
10 eight, ten.
11 Q. What do you do for a living?
12 A. Well, I paint barns and do carpenter work, paint
13 factories.
14 Q. Do you have any special equipment?
15 A. I have a boom truck that I can get up like 60, 70
16 feet in the air.
17 Q. Do you still own that truck?
18 A. Yes.
19 Q. Is it an old or new truck?
20 A. Well, I bought it in '78, and it doesn't have many
21 miles on it, but it runs real good.
22 Q. What year model is it?
23 A. '78 Ford, F 600.
24 Q. When you say a boom on it, what kind of a boom does
25 it have?

1 A. It has a pair ladder, 65 foot, where you can get up
2 65 foot and work on anything, and you can lift stuff up
3 with it, too.
4 Q. Well, how does it lift?
5 A. It has a winch. It has its own pair unit, a winch,
6 where you can run it out there and lift anything you want
7 to up.
8 Q. Does it slide, or does it fold, or does it --
9 A. It slides.
10 Q. Did you have to do any work on a farm in Greenford,
11 Ohio?
12 A. Yes.
13 Q. Do you recall how long ago that was?
14 A. Maybe five years ago.
15 Q. What was the first thing you did?
16 A. We put a roof on a small building up in the air, like
17 it must have been about 50 foot in the air.
18 Q. And how did you put that roof on?
19 A. We used that truck to get up there to get the roof
20 started on top of it because it was only a small building,
21 like eight by twelve or something.
22 Q. You said it was up high in the air?
23 A. Yeah, 50 foot.
24 Q. You thought it was 50 foot?
25 A. It was close to it, the top of it.

Q. Was your ladder extended to 50 foot?

A. I don't know that. It was pretty close.

Q. What was the building constructed out of?

A. Wood, shingles, panelling for the sides.

Q. Well, what kind of a building was it? What was the structure of the building?

A. It was supposed to be a deer stand, I guess.

Q. And what were the supports for this little building?

A. There were telephone poles or electric poles.

Q. Were the telephone poles already in the ground?

A. Yes.

Q. Was the platforms already done?

A. No, I don't think they was.

Q. What all did you do to the building?

A. We put a roof on it, put the sides on it, and I think we put a floor in it.

Q. So there was something to put the floor on?

A. I believe there was two-by-fours where it was framed up around it.

Q. Yes. Did you use new or used material for the walls?

A. It was used material.

Q. And to the best of your knowledge, what kind of materials were there?

A. It was parts from doors where they had these like garage doors, panels. It was real nice panels that had

1 dents in there, you know.
2 Q. And did you install them?
3 A. Yes.
4 Q. Did you put the trusses on the building?
5 A. Yes.
6 Q. Did you put the sheeting on the trusses?
7 A. Yes.
8 Q. Then you put on the shingles?
9 A. Yes.
10 Q. Were you paid for that job?
11 A. Yes.
12 Q. How were you paid?
13 A. By check.
14 Q. Who paid you?
15 A. You did.
16 Q. Now, did there come a time when you did a second job?
17 A. Yes.
18 Q. Can you describe what that job was?
19 A. You wanted a roof put on a silo.
20 Q. What is a silo?
21 A. It is a tank that stands about 50 -- some of them can
22 be 60, 70 feet high -- that you put feed in for the dairy
23 cows, or some of them put sawdust in them now to bed
24 horses.
25 Q. What was the silo made out of?

A. It was a cement structure.

Q. Was it --

A. Stakes.

Q. Was it round or square?

A. It was round.

Q. And what, if anything, did you do to that building, to that silo?

A. We put a roof on it.

Q. And how did you do that?

A. Well, we got up there and just started building a roof on it. We had to anchor into the wall with heavy screws and build on up from there.

Q. And did you complete the job?

A. Yes. We got a roof on it.

Q. Did you build the trusses?

A. Yes.

Q. What kind of roof did it have on it?

A. It didn't.

Q. When you got done what kind of roof did it have on it?

A. It had a nice peaked roof on it.

Q. What was the roof made out of?

A. Wood, shingles, plywood.

Q. Did you buy the material?

A. No.

Q. Was it provided to you?

A. Yes.

Q. Did you get paid for the job?

A. Yes.

Q. How did you get paid?

A. You paid me by check.

Q. Did I ever ask you to do any work on the farm other than that?

A. That's all.

Q. Did I ever hug you?

A. No.

Q. Did you ever hug me?

A. Not as I know of.

Q. What, if anything, did we do? Did we ever touch?

A. Just shake hands, I guess, when I met you.

Q. Do you fear me?

A. No.

Q. Do you live in my Congressional district? Do you have knowledge if you live in my Congressional district?

A. No, I didn't. I lived in Portage County. I don't think that was in your district.

Q. Do you know if Portage County is going to be in the new 17th District?

A. No. I heard maybe it was, but I didn't know.

Q. Were you referred to me by someone?

A. I think some guy I had worked for before, you know, referred me to you.

Q. Do you recall the name?

A. Dominic.

Q. Dominic. Did you do this job over a period of time?

A. Yes.

Q. And why was that?

A. You've got to work with the weather. You just can't work every day on something.

Q. Did you have other jobs in between?

A. I might have. It has been quite awhile. I can't remember whether I was doing two jobs then or not.

MR. TRAFICANT: Thank you, Mack. No further questions.

THE COURT: Just a moment, sir. They may have some questions.

MR. KALL: No questions, Your Honor.

THE COURT: All right. Thank you. You are released, sir.

MR. TRAFICANT: Your Honor, I will go get my next witness, see what I have there.

THE COURT: Thank you.

MR. TRAFICANT: Your Honor, I call Melinda Davies from Home Savings & Loan.

THE COURT: Fine.

1 MELINDA DAVIES,
2 of lawful age, a witness called by the Defendant,
3 being first duly sworn, was examined
4 and testified as follows:
5 THE COURT: Since everyone may want to hear
6 you in the back of the room, you may want to use the
7 microphone.
8 DIRECT EXAMINATION OF MELINDA DAVIES
9 BY MR. TRAFICANT:
10 Q. Linda, there is water there, and I will be with you
11 in a minute.
12 A. Thank you.
13 Q. Can you see this chart, Melinda?
14 A. Yes, I can.
15 Q. Have you been sworn under oath in this case before?
16 A. Yes, I was.
17 Q. Who did you testify for?
18 A. The prosecution.
19 Q. When you were interviewed by the prosecution, who was
20 the subject of their inquiry?
21 A. Basically it was with two different accounts, one for
22 a Henry DiBlasio and the other for R. Allen Sinclair.
23 Q. Did you testify to what they asked?
24 A. Yes, I did.
25 Q. In the matter regarding Mr. Sinclair, how many

1 accounts did they inquire about?

2 MR. MORFORD: Objection.

3 THE COURT: Well, if you remember or don't,

4 you can answer.

5 A. I believe we talked about one specific account.

6 Q. And what did that one account deal with?

7 A. That was Mr. Sinclair's personal account.

8 Q. And do you know what elements of the personal account

9 they had interest in?

10 A. Well --

11 MR. MORFORD: Objection as to what the

12 Government had interest in, Your Honor.

13 Q. Do you know what you testified to relative to the

14 prosecution's request?

15 THE COURT: Okay. That objection is

16 sustained.

17 Q. Do you know what you testified to and what checks you

18 testified to relative to the prosecution's request?

19 MR. MORFORD: Objection as to relevance.

20 THE COURT: You can answer if you know.

21 A. Yes. I do know what I testified to.

22 BY MR. TRAFICANT:

23 Q. And what was it?

24 A. There were questions concerning checking accounts and

25 deposits made into that account and checks that were

1 cashed.
2 Q. And where were those checks coming from?
3 A. Specifically there were U.S. Government paychecks.
4 Q. U.S. Treasury checks?
5 A. Yes, sir.
6 Q. Paychecks?
7 A. Yes, sir.
8 Q. Were you asked about anything other than that?
9 A. Yes.
10 Q. What was that?
11 A. Questions concerning the checking accounts of both
12 Mr. DiBlasio and Mr. Sinclair.
13 Q. Were you served with a subpoena by the Defendant?
14 A. Yes, sir.
15 Q. Did you comply with that subpoena?
16 A. I complied with as much as I was able to with the
17 reasonable amount of time provided.
18 Q. Are there still things pending that you have not yet
19 given me?
20 A. Yes, sir. We are still continuing the research.
21 Q. I want you to look through these, and I want you to
22 identify them for the jury. And if you would hold them up
23 one at a time, and then state if, in fact, these were given
24 to me by you, these documents.
25 THE COURT: Okay. Have you seen these?

1 MR. MORFORD: I don't know, Your Honor. We
2 may have, but we don't know if they are the same.
3 THE COURT: Okay. Congressman, you have to
4 let them see --
5 MR. MORFORD: Are these what you have given
6 us in the box, sir?
7 MR. TRAFICANT: These are all you have right
8 here.
9 MR. MORFORD: They are the same, right?
10 MR. TRAFICANT: They are exactly the same.
11 THE COURT: Okay. That's fine.
12 BY MR. TRAFICANT:
13 Q. Would you pick up the first packet and identify it?
14 A. The first packet is -- represents statements from
15 the personal checking account for R. Allen Sinclair and
16 Kimberly Sinclair.
17 Q. Does it have an exhibit number on it?
18 A. Yes, sir. HSL-1.
19 Q. -1?
20 A. Correct.
21 Q. And it is a personal joint account of --
22 THE COURT: Congressman, I don't know what
23 you are putting up there, but you can -- before we said
24 you can kind of keep notes as you go along, but you can't
25 testify from there to this jury, and you don't need to

1 reiterate her testimony, because they are hearing it.
2 Q. Is that the first account? Was there a second account
3 of the Sinclairs? What's the next exhibit that you have?
4 A. The next exhibit would be for KAS Enterprises.
5 Q. What's the next account that you have? What's the
6 exhibit number on KAS?
7 A. HSL-1D.
8 Q. What is the next account that you have?
9 A. The next account is a business account in the name of
10 R. Allen Sinclair, IOLTA trust account.
11 Q. What is an IOLTA trust account?
12 A. Stands for interest on lawyer trust account. It is
13 an account where lawyers and law firms deposit funds from
14 clients into a checking account for later repayment to
15 those clients.
16 Q. Now, are there any other further exhibits?
17 MR. MORFORD: Your Honor, we didn't get an
18 exhibit number on the IOLTA.
19 BY MR. TRAFICANT:
20 Q. What is the exhibit number on the IOLTA?
21 A. HSL-F.
22 Q. Was there another account?
23 A. I have another account in the name of Sinclair
24 Vending Company.
25 Q. And is there an exhibit number on that?

1 A. HSL-G.
2 Q. Is there another account for Mr. --
3 A. There is a business account in the name of R. Allen
4 Sinclair.
5 Q. And what is the exhibit number on that?
6 A. HSL-H.
7 Q. When you testified for the Government, you testified
8 relative to the treasury checks paid on payroll. Is that
9 correct?
10 A. Yes, sir. That was one of the areas I testified in.
11 Q. Now, I want to refer you to the -- first, let me ask
12 you: Are those the documents that you submitted to me?
13 A. Yes, sir.
14 Q. Have you reviewed them, and are they in the order
15 that you have delivered them to me?
16 A. Yes, sir.
17 Q. Would you know if I had delivered them to the
18 prosecution in the same order?
19 A. I would not know that.
20 Q. But have you gone through them and taken the time and
21 helped to identify them with defense exhibit numbers?
22 A. I went through them, yes, this morning.
23 Q. Now, I want you to look to the KAS account, and
24 whatever the exhibit number is, I want you to refer to
25 that.

1 But first, you can say there were five accounts
2 dealing with Mr. Sinclair. Is that correct?
3 A. That's correct.
4 Q. Of the five accounts, how many of those accounts
5 involve both Mr. and Mrs. Sinclair?
6 A. The personal account has both Mr. and Mrs. Sinclair
7 as signers. The KAS Enterprises has both Mr. or Mrs.
8 Sinclair as a signer, and Sinclair Vending has Mr. or Mrs.
9 Sinclair as a signer.
10 Q. What is the defense exhibit number for KAS again?
11 A. HSL-1D.
12 Q. Would you explain what that account is?
13 A. It is a business account that was opened with Home
14 Savings & Loan originally on November 30th, 1998.
15 Q. And who was listed as the person that had, in fact,
16 opened the account on November 30th, 1998?
17 A. Who opened the account in 1998?
18 Q. Yes.
19 A. The account was opened by R. Allen Sinclair.
20 Q. Were there any other names on the opening of the
21 first account?
22 A. No, sir.
23 Q. Now, was there later a second account opened?
24 A. The account was changed on December 11th, 1998, and
25 at that time, Kimberly A. Sinclair's name was added as a

1 signer to the account.
2 Q. Was R. Allen Sinclair still listed on the account?
3 A. Yes, sir.
4 Q. Was there any delineation as to titles?
5 A. The corporate agreement -- the corporate resolution
6 that the bank requires shows R. Allen Sinclair's name above
7 the line "president" and Kimberly A. Sinclair's name above
8 the line "secretary."
9 Q. I want you now to turn to page 2. Is page 2
10 identified by a defense exhibit number?
11 A. Yes.
12 Q. And what is the defense exhibit number?
13 A. HSL-1DA.
14 Q. 1DA. I want you to read the paragraph -- I would
15 like to see the documents since I only have that one copy.
16 I'd like to show it to the Judge.
17 Could you point to me the paragraph?
18 A. It would be the last paragraph.
19 MR. TRAFICANT: Your Honor, I would like for
20 you to look at the last paragraph before the signings.
21 I'd ask that you turn on the machine for me if one of
22 you can help.
23 MR. SMITH: Yes, sir.
24 MR. TRAFICANT: Thank you.
25 MR. SMITH: You are welcome.

1 MR. TRAFICANT: I would like to put this on
2 the screen.
3 THE COURT: Which paragraph do you want me to
4 read?
5 MR. TRAFICANT: The last paragraph before the
6 signatures is what I'm going to ask her to be witness to.
7 THE COURT: It was this one you wanted me to
8 read?
9 MR. TRAFICANT: The last paragraph before the
10 signatures.
11 THE COURT: All right. I read it.
12 BY MR. TRAFICANT:
13 Q. I would like you to look at this and look it over
14 first before I put it on the screen since it is a copy that
15 is, in fact, not as clear as it may appear on the screen.
16 So I want you to look at it. I want you to acclimate
17 yourself, and tell me when you have completed such.
18 Are you familiar with that last paragraph?
19 A. Yes, sir.
20 Q. Thank you.
21 MR. TRAFICANT: Can I darken this in any way,
22 fellows?
23 MR. SMITH: Flip it over, for one.
24 MR. TRAFICANT: Thank you. Can I borrow
25 another copy from the Government?

1 MR. MORFORD: Ours aren't labeled, but I
2 guess.
3 MR. TRAFICANT: Would you oppose letting me
4 use your document?
5 MR. MORFORD: If this is the right one.
6 Q. Since you cannot see all of this, I am going to ask
7 you to read the last paragraph as it is seen on the board
8 since it is not very clear.
9 A. "Further resolved that said Home Savings be and is
10 hereby authorized and directed to honor, pay, and charge to
11 any of the accounts of this corporation, without inquiry to
12 or responsibility for the application of the proceeds
13 thereof, all checks, drafts, notes, or other orders for the
14 payment, withdrawal, or transfer of funds or money
15 deposited in the account to the credit of this corporation,
16 and any instructions regarding same, and any authorizations
17 for the transfers of funds between different accounts of
18 the corporation, whether oral, by phone, or electronic
19 means, without inquiry as to the circumstances related
20 thereto and for whatever purpose or to whomever payable,
21 including requests for conversion of same into cash, as
22 well as for deduction from and payment of cash out of any
23 deposit, and whether or not payable to, endorsed, or
24 negotiated by or for the credit of any person signing same
25 or any other officer, agent, or employee of this

1 corporation when signed, accepted, endorsed, or approved as
2 evidenced by original or facsimile signature by any one of
3 the officers, agents, or employees of this corporation from
4 time to time holding the following offices of this
5 corporation."
6 Q. What, in essence, does paragraph two say about that
7 account?
8 A. That it would require one signature to withdraw
9 funds.
10 Q. Could either R. Allen Sinclair and Kimberly Anne
11 Sinclair without the consent of one another take funds from
12 that account?
13 A. Yes, sir.
14 MR. TRAFICANT: This is yours, gentlemen.
15 BY MR. TRAFICANT:
16 Q. Could you let me see the next exhibit? I would like
17 to put this up on the board. This will be known as Defense
18 Exhibit HSL-1DB. It is a corporate resolution designating
19 depository officers to sign for a corporation. It is two
20 pages and was signed November 30th. This is the very first
21 one that you had, in fact, testified to, the original
22 account, and who was listed as the president?
23 A. Raymond A. Sinclair.
24 Q. Now, were there checks deposited into this account?
25 A. Yes, sir.

1 Q. Did we give it a defense exhibit number?
2 Did you maintain these in some order? Could you find
3 the checks for KAS that were deposited? Take your time.
4 There is water over there if you need it.
5 A. Thank you. I'm fine.
6 THE COURT: She has them.
7 Q. Do you have the checks?
8 A. Yes, sir.
9 Q. Would you look at the checks? Are you now familiar
10 with the document?
11 A. Yes, sir.
12 MR. TRAFICANT: This is known as Defense
13 Exhibit HSL-1E.
14 Upon delivery of the subpoena did you submit this
15 note, and is this, in fact, your handwriting?
16 A. Yes, sir, it is.
17 Q. What is the reason for your statement on the bottom?
18 A. You had asked me whether or not one person was
19 eligible to withdraw from the KAS Enterprises account, and
20 according to the documents you subpoenaed, that information
21 was available to you. I was demonstrating to you where you
22 could find that document.
23 Q. Now, I'm going to turn this over without trying to
24 take this apart. Did your bank negotiate this check?
25 A. Yes, sir.

1 Q. And it is a United States Treasury check?
2 A. Yes, sir.
3 Q. And what amount is it made to?
4 A. I can't -- $330.12.
5 Q. Uh-huh. And how was it negotiated?
6 A. The check was deposited into the account KAS
7 Enterprises.
8 Q. Could you describe what that check is?
9 A. That's a U.S. Treasury check.
10 Q. And how much is it made out to?
11 A. $656 even.
12 Q. And who is it made out to?
13 A. KAS Enterprises.
14 Q. At what location?
15 A. The address on the check is 11 Overhill Road,
16 Youngstown, Ohio.
17 Q. Was that the address for KAS Enterprises?
18 A. Yes, sir.
19 Q. And was it, in fact, negotiated at your bank?
20 A. Yes, it was.
21 Q. And is that the order of deposit?
22 A. That is the endorsement stamp, yes, sir.
23 Q. Now, after having testified for the Government, were
24 these the amounts that were shown on Mr. Sinclair's pay
25 accounts, on his paychecks?

1 A. Were these checks the same amounts as his paycheck?
2 Q. Yes.
3 A. No, sir.
4 Q. Who was his paychecks made out to?
5 A. His paycheck was made payable to R. Allen Sinclair.
6 Q. Now, is this another check you negotiated?
7 A. Yes, sir.
8 Q. And how much was it for?
9 A. $303.48.
10 Q. Did you negotiate that check?
11 A. Yes, sir. It was deposited into the account for KAS
12 Enterprises.
13 Q. And how much was that check for?
14 A. $656 even.
15 Q. And who was it paid to?
16 A. Payable to KAS Enterprises.
17 Q. And "deposited by" stamp?
18 A. That's correct, deposited into account for KAS
19 Enterprises.
20 Q. What was that check in the amount of?
21 A. $134.66.
22 Q. And was it deposited, negotiated at your bank?
23 A. Yes, sir. It was deposited into the account of KAS
24 Enterprises.
25 Q. And negotiated at your bank?

A. Correct.
Q. What is the month and date of that one?
A. This check is dated November 22nd, 1999.
Q. And how much is it for?
A. $656 even.
Q. Have you had several checks that say $656 even?
A. Yes, sir.
Q. And was this negotiated at your bank?
A. Yes, it was. It was deposited into the account of KAS Enterprises.
Q. Would you identify this check and read the date?
A. The check is a United States Treasury check. It is dated December 20th, 1999.
Q. And how much is it for?
A. $656 even.
Q. And where was it sent?
A. To KAS Enterprises, at 11 Overhill Road, in Youngstown.
Q. And you negotiated that check?
A. Yes, sir. It was deposited into the account of KAS Enterprises.
Q. Would you read the date on this check?
A. January 21st, the year 2000.
Q. Did you negotiate that check?
A. Yes, sir. That check was deposited into the account

of KAS Enterprises.

Q. Does that language mean any special thing?

A. Those documents are used as that check went through our processing system at night.

Q. And how much was that check for?

A. $103.72.

Q. Was that negotiated at your bank?

A. Yes, sir, it was deposited into the account of KAS Enterprises.

Q. What is the date on that check?

A. February 18th, 2000.

Q. And for how much?

A. $656 even.

Q. Was it negotiated at your bank?

A. Yes, sir. It was deposited into the account of KAS Enterprises.

Q. And what date is that?

A. March 20th, 2000.

Q. And for what amount?

A. $656 even.

Q. Did you negotiate that check at your bank?

A. Yes. It was deposited to KAS Enterprises.

Q. Did you negotiate that check?

A. It was deposited into the account of KAS Enterprises.

Q. For how much?

1 A. $112.52.
2 Q. What was the date on this check?
3 A. April 20th, 2000.
4 Q. And for how much?
5 A. $656 even.
6 Q. And was it deposited where?
7 A. At Home Savings & Loan for KAS Enterprises.
8 Q. And how much was that check made for?
9 A. $164.48.
10 Q. And did you negotiate it?
11 A. Yes. It was deposited to KAS Enterprises.
12 Q. This is pretty hard to read, but can you read it?
13 A. Yes, I can read it.
14 Q. Go ahead and see if you can try and read it.
15 A. The amount of the check is $656 even. It is payable
16 to KAS Enterprises, and it was deposited into the account
17 of KAS Enterprises.
18 Q. And what is that?
19 A. When I delivered the subpoenaed documents to you, I
20 asked you to sign that you did receive the documents
21 pursuant to that subpoena.
22 Q. Now, I want you to take this document, and I want you
23 to count how many checks total $656, not the total of those
24 checks, but how many $656 checks were written and cashed
25 into that account?

1 A. Nine checks that total $656 even.
2 Q. Only nine?
3 A. That's correct.
4 Q. Did you search for any others?
5 A. We have searched for others, yes, sir.
6 Q. Now, do you have any other checks of $656?
7 A. I'm not aware of any at this time.
8 Q. Do you know how long Mr. Sinclair worked for the
9 Congressman?
10 A. No, sir.
11 Q. Do you know if it was more than nine months?
12 A. I don't know, sir.
13 Q. Now, with this KAS account, either or both could have
14 taken these dollars and used them for their personal use?
15 A. Any of the funds in the account KAS Enterprises could
16 be withdrawn by either R. Allen Sinclair or Kimberly
17 Sinclair.
18 Q. For example, could Mr. Sinclair buy a suit of
19 clothes?
20 A. I can testify that he could withdraw funds from that
21 account.
22 Q. And he could use it for whatever he wanted: Could
23 you testify to that?
24 A. Yes, sir.
25 Q. Did you find any other -- are there still matters in

1 my subpoena pending?
2 A. Yes, sir. All the research has not been completed up
3 to this point.
4 Q. How many accounts have you identified?
5 A. Five accounts.
6 Q. Were any of the accounts that we talked about today
7 paychecks?
8 A. Were any of the accounts paychecks, were any of the
9 accounts, did they have paychecks deposited into them.
10 Q. Yes.
11 A. The answer is yes, there appeared to be paychecks
12 deposited into the personal account.
13 Q. Was that a joint account?
14 A. Yes, sir.
15 Q. There were three joint accounts of the five?
16 A. Correct.
17 Q. Now, I want you to refer to the vending business.
18 What was the defense exhibit number on the vending
19 business?
20 A. HSL-G.
21 Q. I want you to look those documents over very
22 carefully. Who was eligible to the funds from HSL-G?
23 A. The signers on the check are R. Allen Sinclair or
24 Kimberly A. Sinclair.
25 Q. Did you find any $656 checks in there?

1 A. Not to my knowledge.
2 Q. Describe the volume of activity of HSL-G and how much
3 money had gone through HSL-G.
4 A. I don't have an actual dollar amount of funds either
5 being deposited or withdrawn from the account. There is
6 not a lot of activity on that account.
7 Q. By "not a lot of activity," how much activity? Would
8 you estimate it in hundreds or thousands? Could you look at
9 several?
10 For example, give me one document, and tell me how
11 much was deposited.
12 A. I have a statement dated January 31st of 2000. For
13 that one-month period there was one deposit to that account
14 for $490 even.
15 Q. And what was the nature of the deposit?
16 A. I don't know that.
17 Q. Could you see the back of it? Would you know if it
18 was cash or check?
19 A. I don't know that.
20 Q. Are you familiar with vending businesses?
21 A. Not really.
22 Q. It is your testimony there was very little, if any,
23 activity in HSL, in Sinclair Vending?
24 A. I would agree with that statement, not a lot of
25 activity in this business account.

1 Q. But you do not know whether or not these were cash
2 machines, or would you write a check for this vending
3 machine? Would you have any knowledge?
4 A. I don't understand the question, sir.
5 Q. When you use a vending machine, do you put cash into
6 it or checks into it?
7 MR. MORFORD: Objection, unless she has
8 knowledge about this company.
9 THE COURT: She said she didn't have any
10 special knowledge of vending.
11 BY MR. TRAFICANT:
12 Q. Have you ever purchased a bottle of soda?
13 THE COURT: It wouldn't matter.
14 Q. Would you put these back in some order and semblance
15 in which we had them? And I apologize for that.
16 Did the Government subpoena all of Sinclair's
17 accounts?
18 A. No, sir.
19 Q. What account did the Government subpoena?
20 A. The personal checking account.
21 Q. Is that all they asked for?
22 A. No. There was more information subpoenaed on other
23 accounts.
24 Q. I'm talking about the Sinclair account.
25 A. They subpoenaed just the information on the personal

1 checking account.
2 Q. Now, in concluding my testimony with you, there were
3 three accounts that both could take funds from
4 independently of the approval of the other party. Is that
5 a correct statement? Yes or no.
6 A. Yes.
7 Q. Do you know who withdrew from those accounts?
8 A. I would need to review each of the checks on all of
9 the accounts to positively identify who withdrew funds.
10 Q. Is that part of your continuing search?
11 A. Yes. There is some information yet that we are
12 continuing to search. I did provide many of the checks in
13 response to the subpoenas that you had issued.
14 Q. Did you respond to every and all $656 check that you
15 had in your possession? Is that all that you were able to
16 find through your search?
17 A. To this point, yes, sir.
18 Q. Could there be more $656 checks deposited to that
19 account?
20 A. That's possible.
21 Q. Do you memorialize and have a computer system?
22 A. Yes, sir.
23 Q. When an account of this nature pops up would not all
24 the activity of KAS pop up?
25 A. In doing research, the researched items are stored by

1 the bank in different areas, so deposited items are not
2 necessarily stored with the checks, which are not stored
3 with the statements. So it would take researching all the
4 areas, and that's a lengthy process generally.
5 Q. But you were able to find nine $656 checks?
6 A. Yes, sir.
7 Q. Now, wouldn't those checks all be kept in the same
8 location?
9 A. In our archival material, no, they are not all stored
10 together, no, sir.
11 Q. So you could find others from other accounts?
12 A. There could be other $656 checks that I have not been
13 able to research enough to find those at this point in
14 time.
15 Q. From your knowledge as a banker, could this check be
16 negotiated at any other banks?
17 A. Yes. It could be negotiated at another bank.
18 Q. So in other words, could Mrs. Sinclair come into
19 Jones Bank and sign it and endorse it, and would the bank
20 negotiate a U.S. Treasury check?
21 A. Generally speaking, it is common bank practice that a
22 check payable to a business needs to be deposited into an
23 account with that business name.
24 Q. So it should have been deposited at your account?
25 A. Correct.

1 Q. Would you accept another -- would you accept a U.S.
2 Treasury check that you did not have an account on?
3 A. If it was payable to a business, no. We would want
4 it deposited into an account. We would not just cash that
5 check.
6 Q. And you have found nine?
7 A. Yes, sir.
8 Q. Now, if you can approximate when the rest of your
9 subpoena search will be completed relative to the
10 Defendant's request of subpoena for material at the bank?
11 A. We received the first subpoena request on Friday,
12 March 8th; began the research on the 11th and 12th, and I
13 was required to appear here on the 13th with the documents.
14 At that point, we gathered as many documents as we could,
15 and at that time in order to comply fully with the subpoena
16 I had estimated about two months worth of time to look up
17 every deposited item on all five accounts.
18 Q. So you still need how many more days to conclude your
19 accounting?
20 A. A month and a half.
21 MR. TRAFICANT: No further questions at this
22 time.
23 THE COURT: Thank you. We will take our
24 morning break, 30 minutes. We will have to keep you
25 around. We will have a break. Okay? Thank you.

(Thereupon, a recess was taken.)

(Proceedings out of the presence of the jury.)

THE COURT: Congressman, are you ready to proceed?

MR. TRAFICANT: I did not rest with the witness?

THE COURT: You are standing up, so I wanted --

MR. TRAFICANT: Oh, I'm sorry. I thought I rested with the witness.

THE COURT: You didn't say anything. The witness is here. The Government may want to inquire of the witness.

MR. MORFORD: Yes, but I asked Jeff if I could address one matter. There is a witness who we have been told is going to testify today by the name of Mark Colucci, and I don't know what the Congressman intends to ask Mr. Colucci, but I would ask the Court if he intends to go into that area that we do it outside the jury's presence through a voir dire, because I don't believe it is relevant to the charges in this case, but it could result in a virtual mini trial on some things, and that has to do with his attempt to represent Clarence Broad in a civil suit he tried to file against me that Judge Nugent threatened him with sanctions.

1 THE COURT: Okay. If anything like that comes
2 up, you object, and we will deal with the objection.
3 MR. MORFORD: I just wanted to give the Court
4 a heads-up that that may arise.
5 MR. TRAFICANT: Your Honor, I may also
6 attempt to qualify Mr. Colucci as an expert having
7 practiced law for 18 years, but he is here to testify first
8 on another matter.
9 THE COURT: Good. What sort of an expert is
10 he going to qualify as?
11 MR. TRAFICANT: On the law.
12 THE COURT: The court determines whether
13 he'll qualify as an expert and instructs on law during the
14 trial. He can testify if he has something to say about the
15 facts of the case. Okay? Bring in the jury.
16 (Proceedings held in the presence of the jury.)
17 THE COURT: You can proceed.
18 MR. MORFORD: Thank you.
19 CROSS-EXAMINATION OF MELINDA DAVIES
20 BY MR. MORFORD:
21 Q. Good morning.
22 A. Good morning.
23 Q. The Congressman showed you a number of monthly checks
24 payable to KAS in the amount of $656 that were negotiated
25 with your bank. Is that correct?

1 A. Correct.
2 Q. And I believe you testified there were nine of them
3 that you found. Is that correct?
4 A. That's correct.
5 Q. Now, do you know if those checks were rent checks
6 that were payable to KAS?
7 A. I would have no way of knowing that from the face of
8 the check.
9 Q. He also showed you a number of lesser monthly checks
10 payable to KAS. Do you know if those were for utilities,
11 cleaning expenses, those kind of things?
12 A. Again, that's not stated on the face of the check. I
13 would not know that.
14 Q. So all you know is they were checks, and you don't
15 know what they were for?
16 A. Correct.
17 Q. Do you know the business for which KAS is engaged?
18 A. No.
19 Q. Now, Congressman Traficant asked you whether there
20 could be some additional $656 checks beyond the nine that
21 you have located, correct?
22 A. That's correct.
23 Q. Now, isn't it true that after a check clears it is
24 returned to the institution that originally originated the
25 check?

1 A. Yes.
2 Q. And could you tell from these checks what the
3 institution was that originated the checks?
4 A. Well --
5 Q. I will show you again, the Congressman showed you
6 HSL-1 -- just picking one randomly -- this one is dated
7 4-20-2000, $656, payable to KAS Enterprises?
8 A. Correct.
9 Q. And what is the institution that generated this check
10 originally?
11 A. United States Treasury.
12 Q. And does it indicate which branch of the Government?
13 A. At the top, the phrase says U.S. House of
14 Representatives, Washington, D.C.
15 Q. So to the extent that there were three or four months
16 of checks you can't find in the amount of $656, isn't it
17 true that the Congressman could go to Congress and find
18 those checks, because that's where they end up after --
19 MR. TRAFICANT: Objection.
20 THE COURT: She can answer.
21 Q. -- after your bank negotiates them, correct?
22 A. Yes.
23 MR. MORFORD: I have nothing further.
24 THE COURT: Any questions?
25 MR. TRAFICANT: Absolutely.

1 REDIRECT EXAMINATION OF MELINDA DAVIES

2 BY MR. TRAFICANT:

3 Q. Do you know if I served a subpoena on the U.S. House

4 of Representatives?

5 A. I don't know that, sir.

6 Q. Did the U.S. House of Representatives send the check?

7 A. It is a U.S. Treasury check.

8 Q. Is the U.S. House of Representatives a part of the

9 overall umbrella of the federal government, to the best of

10 your knowledge?

11 A. Yes, sir.

12 Q. And is the U.S. Treasury the depositor of revenue

13 funds?

14 MR. MORFORD: Objection unless she knows,

15 Your Honor.

16 THE COURT: Well, she has a chance to think

17 before she answers.

18 A. I believe so, yes.

19 Q. Does the U.S. Treasury write the checks for the

20 Government?

21 A. Yes.

22 Q. Are you still looking for checks?

23 A. Yes, sir.

24 Q. Were the $656 checks the same amount that the U.S.

25 Government showed you as payroll checks?

1 A. No.
2 Q. Did Mr. Sinclair have access to the checks that I
3 wrote on that paper and you testified to this morning?
4 A. Can you clarify that question for me?
5 Q. Could Mr. Sinclair go in and take the money out of
6 those accounts of KAS?
7 MR. MORFORD: Objection. It has been asked
8 and answered several times.
9 THE COURT: Many times.
10 MR. TRAFICANT: It was brought up on direct
11 -- on cross.
12 THE COURT: Well, whatever. I think the jury
13 has the information. You need to move on.
14 Q. Were the $300 checks, were they different than the
15 U.S. Treasury paychecks to Mr. Sinclair?
16 A. Yes.
17 Q. Was the $104 check different than the U.S. payroll
18 check to Mr. Sinclair?
19 A. Yes, sir.
20 Q. And on all five accounts, Mr. Sinclair needed no
21 permission to draw funds?
22 MR. MORFORD: Objection, again. This has
23 been asked and answered.
24 THE COURT: Go ahead and answer for the last
25 time. Thank you.

1 A. Yes.

2 MR. TRAFICANT: No further questions.

3 MR. MORFORD: Nothing further.

4 THE COURT: Thank you very much.

5 MARK COLUCCI,

6 of lawful age, a witness called by the Defendant,

7 being first duly affirmed, was examined

8 and testified as follows:

9 DIRECT EXAMINATION OF MARK COLUCCI

10 BY MR. TRAFICANT:

11 Q. Good morning, Mark.

12 A. Good morning, Congressman.

13 Q. Would you please give your name and spell your last

14 name for the jury?

15 A. Mark Colucci, C-o-l-u-c-c-i.

16 THE COURT: You can take that mike out if you

17 want to. It is up to you. We just need to hear you all

18 the way in the back.

19 THE WITNESS: Thank you, Judge.

20 Q. And where do you reside?

21 A. In Austintown, Ohio.

22 Q. And what is your current employment?

23 A. I am self-employed.

24 Q. And what is your pursuit of business?

25 A. I am a lawyer.

1 Q. Are you licensed in the State of Ohio?
2 A. Yes, I am.
3 THE COURT: It is probably easier for you to
4 take it out and hold it.
5 BY MR. TRAFICANT:
6 Q. Are you licensed to practice in any other states?
7 A. Well, I am licensed in the State of Ohio. I am
8 licensed in the United States District Court for the
9 Northern District of Ohio. I am licensed in the Sixth
10 Circuit Court of Appeals, Cincinnati. I am licensed in the
11 Third Circuit Federal Court of Appeals in Philadelphia. I
12 am licensed with the United States Supreme Court in
13 Washington, D.C., and I am a member of the American Trial
14 Lawyers Association.
15 Q. Have I asked you to do any research on laws ,numbers?
16 A. Yes.
17 Q. Was that research relative to laws and my strategy?
18 A. I believe so.
19 Q. How long have you known me?
20 A. I think I first met you when I helped you in your
21 campaign for sheriff back in the early '80s, 1980, and
22 maybe a little before that.
23 Q. How long have you been an attorney?
24 A. For 18 years.
25 Q. Were you an attorney when you helped me in the

1 sheriff race?
2 A. No. I was still in school.
3 Q. Law school?
4 A. I graduated in '83 from Cleveland State, but I think
5 I would have been at Hiram College at that time.
6 Q. Your undergrad was at Hiram?
7 A. Yes.
8 Q. Did you ever practice before the Supreme Court?
9 A. Well, I have a petition right now for certiorari
10 before the United States Supreme Court. I have never had
11 the honor or privilege of arguing the case there yet. I am
12 hopeful.
13 Q. What does the petition before the Supreme Court deal
14 with?
15 A. You have to set forth grounds why your case is worthy
16 of their taking a case and involves filing a written brief,
17 and a number of requirements. And I have done that a
18 number of times.
19 Q. Have you appeared before the Third Circuit Court in
20 Philadelphia?
21 A. Yes, I have.
22 Q. Have you appeared before the Sixth Circuit Court in
23 Cincinnati?
24 A. Many times.
25 Q. Have you appeared in the Northern District Court of

1 Ohio?
2 A. For 18 years.
3 Q. Do you own your own law firm?
4 A. Yes. It is just me.
5 Q. Do you know a man by the name of David Sugar, Jr?
6 A. Yes, I do.
7 Q. How did you come to learn that name?
8 A. I represented David, Jr. --
9 THE WITNESS: And Your Honor, for the
10 record, what I am about to say is all public record.
11 I represented him in a case in Delaware, Ohio, which
12 is near Columbus, a few years ago.
13 Q. What was the nature of that representation?
14 A. I believe it was a third DUI, third or fourth DUI.
15 Q. Was that matter referred to you, or did he come to
16 you personally?
17 A. Anthony from your office called and asked for help.
18 It was referred to me.
19 Q. Did you meet with Mr. Sugar?
20 A. Yes, I did.
21 Q. Jr?
22 A. Yes.
23 Q. Where did you meet with him?
24 A. Well, I was called the day before his sentencing, and
25 I met him when I went down to have his prior lawyer

1 discharged from the case because the prior lawyer for him
2 was actually the Magistrate Judge who took his arraignment
3 and set his bond, and then he ended up representing him.
4 Q. Was that a concern of the Sugar family?
5 A. Yes. I believe in general the concern was that
6 beside the fellow being the judge and then turning into the
7 lawyer that he said there would be a trial, and then right
8 at the end he pled him out. My understanding was they were
9 concerned that they were not being dealt with honestly with
10 that particular lawyer, and the judge in Delaware did order
11 him to withdraw and allowed me to enter an appearance.
12 Q. Did you then enter an appearance on behalf of David
13 Sugar, Jr.
14 A. Yes, I did. I represented him in the case.
15 Q. Was the case postponed because of that change?
16 A. Well, if I may say what happened, the day I went
17 down, the Judge -- I'm just going from memory -- he
18 allowed the change, but eventually, it was either that time
19 or the second time, he sentenced him. He went to jail, and
20 I pursued trying to file motions to have the judge give him
21 a bond for an appeal because of what I believed was a
22 serious matter.
23 The judge denied that, and the Court of Appeals
24 denied that, so there were several hearings. I went down
25 to Delaware at least three or four times, at least three

1 hours each way, and I did file and represent him in the
2 Fifth District Court of Appeals on that case. And I did
3 eventually win that appeal, and his conviction was
4 reversed, and that was about a year or a year-and-a-half or
5 two, in my recollection.
6 Q. Was it after he had finished his jail service?
7 A. He served his time, yes. Yeah, they would not allow
8 a bond.
9 Q. But after he served his sentence now, you had it
10 reversed on appeal?
11 A. Yes, a unanimous decision. The three judges reversed
12 his conviction and ordered a new trial because of the
13 ethics problem.
14 Q. Was there ever a new trial?
15 A. Well, at that time his father wouldn't pay for it,
16 and I withdrew. That was it. I wouldn't work for free. I
17 didn't on the first time.
18 Q. I didn't hear you about the first time.
19 A. Well, you know, I was retained. I represented him on
20 one, two, three -- at least three to four appearances in
21 Delaware. That's six hours each way. And then the appeal
22 in the Fifth District involved writing a brief and
23 appearing for an oral argument, and that's in Canton. So I
24 charged a fee, and he paid it.
25 Q. What was the fee you charged?

1 A. I mean, again, it is not a confidential thing, but it
2 was -- it was a standard fee. It wasn't anything heavy.
3 THE WITNESS: Should I --
4 THE COURT: You are the one that has to decide
5 if you can reveal it.
6 A. I mean, if he would sign a release I would tell you,
7 but I did not work for free. I did not work -- it was not
8 an excessive fee.
9 Q. Was it in excess of $5,000?
10 A. Well, I can't get into the particulars, but, yeah.
11 Q. Okay. Were you ever asked to represent him further?
12 A. Well, after going through the appeal, I mean, he
13 wanted -- he was just having a child, and he had to get
14 back to work, and he wanted to have a trial to get his
15 conviction or to get the current charge acquitted because,
16 you know, another charge like that would mean a bad thing.
17 Q. Did you charge the father, did you say the father's
18 fee would be $25,000?
19 A. Not to my recollection. In fact, I reviewed my file,
20 and if I can say, Congressman, I spoke to his father
21 numerous times on his father's cell phone on the
22 construction site. He knew what the fee was. He paid it.
23 And the second time I faxed a letter to his dad, and
24 it was almost -- I would be losing money doing the case,
25 but I wanted to try to help him because I had gone that

1 far.
2 Q. Did I ask you to bring with you today that letter?
3 A. Yes.
4 Q. When did you give it to me?
5 A. Well, maybe -- I had to go back to my car to get it.
6 In the jury room I gave it to you.
7 Q. How long ago?
8 A. Just before I came in here is when you got it.
9 Q. Would you look at that document. Does it have an
10 exhibit number on it?
11 A. It is marked as Defendant's Exhibit MC-100.
12 MR. TRAFICANT: Can I put this on the screen,
13 Your Honor?
14 Q. Would you object to that?
15 A. No. I don't believe that's confidential, statutory
16 confidential communication.
17 Q. I think it has to heat up awhile. Is there any way
18 to lighten these things up?
19 Is that your letterhead?
20 A. Yes, it is.
21 Q. Is that the exhibit number?
22 A. Yes.
23 Q. Is this the document you had given to me shortly
24 before you came in?
25 A. Yes.

1 Q. Is that big enough for you to read?
2 A. I could basically see it. I know what it says,
3 having been in my file.
4 Q. Would you please read that?
5 A. Well, it basically says, if I can just get to the
6 heart of it, it is about the new trial, and it is addressed
7 to David Sugar, Jr. and David Sugar, Sr.
8 Q. Why did you address it to both?
9 A. His father was involved in paying his fees.
10 Q. How old was his son?
11 A. He was a young man, in his late 20s, 30s. I am not
12 sure.
13 Q. Is that why you addressed it to both?
14 A. Well, no. With regards to -- well, first of all, as
15 a matter of my definite recollection, I had his permission
16 to discuss his case with his dad, which I did many times
17 over the phone, and his father was the one paying for the
18 defense. And that's why I addressed it both to my client
19 and to his father with regards to what I would be willing
20 to do for them, because he was complaining about having a
21 money problem, and it just says, basically, I would retry,
22 have a jury trial --
23 Q. I would like you to read the first paragraph.
24 A. "Please allow the correspondence to confirm our
25 discussion of this date where I advised you I would reduce

1 my requested fee as a courtesy to you from $15,000 to
2 $5,000 to try the above-referenced matter before the jury."
3 Q. Stop right there. What case was that now being
4 discussed?
5 A. This was the retrial after I had won the appeal, and
6 the case was sent back to the Delaware Court for trial.
7 Q. How many trips would it take you to make back and
8 forth to try this case?
9 A. Well, it would be a jury trial. There would be a
10 pretrial. At least five to six, seven maybe, depending if
11 I stayed overnight during the trial.
12 Q. Did that include expenses?
13 A. That was it. In my practice, if I take a case this
14 far, I try to stay with it to follow it through. Having
15 had it reversed, I would retry it because of the issue.
16 Q. I want you to read the second paragraph.
17 A. "I believe I am being very fair to you in light of
18 the time and travel" --
19 MR. TRAFICANT: Can I use your copy,
20 gentlemen, since you can read the board? Is this the same
21 copy that is on the board?
22 MR. MORFORD: Yes.
23 Q. Could you read the second paragraph and then hold?
24 A. "I believe I am being very fair to you in light of
25 the time and travel involved in this case. I would ask

1 that you make this payment no later than Friday, February
2 18, 2000. Unfortunately, if you do not make this payment,
3 I will be forced to withdraw as your counsel. As you know,
4 the trial is just about one month away, and I also have two
5 jury trials immediately preceding your case and need to
6 immediately begin preparing for all cases.
7 "In addition, I must again travel to Licking County
8 in light of the fact that this matter had to be reset due
9 to the birth of your child."
10 Q. Did you ever tell the Sugar family you demanded
11 $25,000 for this trial?
12 A. Not to my recollection. If I can state for the
13 record, that was faxed to Mr. Sugar, Jr.'s workplace.
14 That's why I put "office" on there. There is a shop fax on
15 there.
16 THE COURT: It is better if you wait until
17 there is a question before you give an answer.
18 THE WITNESS: Thank you, Judge.
19 BY MR. TRAFICANT:
20 Q. DUI laws in Ohio have changed significantly, have
21 they not?
22 A. I believe they have evolved. They are more complex
23 than when I first started practicing.
24 Q. The retrial was more directed, would you say, not to
25 the behavior but the conflict of the

1 attorney-judge-magistrate ruling?
2 A. I think that would have played a part in it, plus
3 those other facts.
4 Q. What were those other factors?
5 A. The probable cause issue, I believe he was stopped by
6 a park ranger, and the issue of the field sobriety test.
7 The usual defense you would put up in a case like this.
8 Q. Did you take the time to go over all records?
9 A. Yes.
10 Q. Did the Sugars comply with all records requests?
11 A. Yes. They cooperated with it.
12 Q. How many times did you travel and meet with the
13 Sugars?
14 A. I met with David Sugar, Jr. many times, and at the
15 proceedings.
16 Q. What courthouse?
17 A. Down in Delaware County toward Columbus.
18 Q. And you had to drive down there?
19 A. Yes.
20 Q. And how long would those meetings take?
21 A. Well, we would meet, for example, if we had a
22 hearing, I would meet him. I also visited him when he was
23 in the county jail, you know, an hour or two, then the
24 drive time is six hours.
25 Q. At any time did you make an excessive demand for

1 fees?
2 A. No, not at all.
3 Q. Whose decision was it not to proceed?
4 A. Well, it was my decision not to because they didn't
5 pay, and I just couldn't -- I had two other cases. I just
6 couldn't do it for nothing.
7 Q. Were you asked to do it for nothing?
8 A. No, no.
9 Q. Did you reduce your fee to $5,000?
10 A. Yes, for what I believe was the full circle.
11 Q. Is it difficult to get a case reversed on appeal?
12 A. Yes. About --
13 MR. MORFORD: Objection.
14 THE COURT: That would be hard, unless you
15 are talking about his own record.
16 Q. Is it difficult in your field, having dealt with
17 cases on appeal --
18 THE COURT: That won't work either.
19 MR. MORFORD: Objection.
20 THE COURT: Because we would have to have all
21 the appellate decisions.
22 Q. Do you have personal knowledge of having all the
23 traces --
24 MR. MORFORD: Objection.
25 THE COURT: The objection is sustained. Move

1 on, Congressman.
2 Q. Did David Sugar, Jr. have the money to proceed?
3 A. No.
4 Q. Okay.
5 THE WITNESS: I knew I'd do that. Sorry,
6 Judge.
7 THE COURT: That's okay.
8 BY MR. TRAFICANT:
9 Q. Do you know if Mr. Sugar was eventually moved to a
10 halfway house?
11 A. Yes, he was.
12 Q. Are you familiar with anything involving that?
13 A. Other than the judge in Delaware ordered it.
14 Q. Did you make that request?
15 A. Yeah, yes.
16 Q. Did anyone ask you to make that request?
17 A. I can't recall specifically, but I do -- I would do
18 it at any rate because he just had a baby, and we wanted
19 him to be back near his home. Quite frankly, I hope the
20 Judge doesn't get mad, but they didn't want him there.
21 They were done with him. He did his jail time. The judge
22 ordered him up there.
23 Q. Do you know if my office was involved with that?
24 A. Yes. I believe I asked you to write a letter for
25 him.

1 Q. Did you, in fact, know that I wrote a letter for him?
2 A. I think I've seen it in the file, sure.
3 Q. Have you ever been suspended by the State of Ohio for
4 any disciplinary action?
5 A. No.
6 Q. Would a one-year suspension be a significant
7 suspension in Ohio?
8 MR. MORFORD: Objection.
9 THE COURT: In his mind?
10 Q. In your mind, would a one-year suspension for an
11 attorney in Ohio be a significant suspension?
12 MR. MORFORD: Objection, because there is
13 nothing in this case about suspension as opposed to
14 probation.
15 THE COURT: In any event, you can answer that
16 question.
17 A. I think it would be. Any suspension would be
18 significant, in my view.
19 Q. Now, in your own mind, after having a one-year
20 suspension, if you were to have another, would that be
21 grounds for losing your license?
22 MR. MORFORD: Objection. Speculation.
23 THE COURT: Yeah, that is. You may be able
24 to qualify him if he has been on one of the commissions or
25 something like that.

1 Q. Have you served on any panels or been involved in any
2 membership or organizations to --
3 A. No. The only way I would have any foundational
4 knowledge is I am a member of the Ohio State Bar
5 Association, and every month the OBAR report comes out, and
6 they always have all the suspension cases, and every lawyer
7 reads those.
8 Q. Are you very familiar with the suspension laws in the
9 State of Ohio?
10 A. Well, I am familiar with the Code of Professional
11 Responsibility, and by reading the cases you develop a
12 sense of what facts and what situations will result in the
13 Court acting.
14 Q. From the result of your knowledge and membership in
15 the Ohio Bar Association, would you have knowledge that a
16 second offense could, in fact, remove a person's law
17 license?
18 MR. MORFORD: Objection.
19 THE COURT: We have to sustain the objection.
20 Q. Do you know a man name Clarence Broad?
21 MR. MORFORD: Objection.
22 THE COURT: You can answer.
23 A. Well, yes.
24 Q. How did you come to meet Clarence Broad?
25 A. I had several phone conversations with him with

1 regards to possibly representing him.
2 Q. As a result of those phone conversations, what did
3 you learn?
4 MR. MORFORD: Objection. Hearsay.
5 THE COURT: Sustained. That's hearsay.
6 Q. Were you asked to represent Mr. Broad?
7 A. You know, without violating any attorney-client
8 privilege, as a result of my conversations, my impression
9 was that he wanted to consult with me.
10 Q. What did he want to consult with you about?
11 A. Well --
12 MR. MORFORD: Objection. Hearsay.
13 THE COURT: Sustained.
14 Q. Were you ever his attorney?
15 A. Not formally, but he did try to consult with me, but
16 I never actually entered into an appearance for him in a
17 case.
18 Q. Did Mr. Broad want you to represent him?
19 A. Well, I think without getting into the specifics, my
20 impression was yes.
21 Q. Was it your impression that the attorney that was
22 representing him was not representing him fairly?
23 A. I had questions, but let me say it this way: Without
24 knowing all the facts I can't pass judgment on him, but I
25 had questions in my mind as a result of conversations had

1 with the potential client.
2 Q. Did he want to get rid of his attorney?
3 A. Well, again, without getting into -- try to answer
4 it this way: I continued to have conversations with him,
5 and the subject matter -- I don't think he would be
6 talking with me if he wanted to stay -- there would be no
7 other reason for him to talk to me. I don't know him.
8 Q. Was it your impression that he was being pressured by
9 that attorney?
10 MR. MORFORD: Objection, unless he has
11 firsthand knowledge.
12 THE COURT: Right.
13 Q. Was it your impression that he had been --
14 MR. MORFORD: Objection.
15 THE COURT: You are asking it the same way.
16 You need to -- the witness can answer what he has personal
17 knowledge of, but he can't answer anything more than he
18 knows.
19 Q. Do you have personal knowledge of the state of mind
20 of Mr. Broad at or about the time he was talking to you?
21 A. Absolutely.
22 MR. MORFORD: Objection.
23 THE COURT: If we are going to get into a
24 state of mind issue, you can lay the foundation.
25 BY MR. TRAFICANT:

1 Q. When Mr. Broad talked with you, was he nervous --
2 THE COURT: Don't testify for the other
3 person. Ask the questions.
4 Q. What was the tone of voice of Mr. Broad when you
5 conversed with him?
6 A. Again, I have to preface this for the record, without
7 revealing the contents --
8 THE COURT: Let me ask him, were you
9 representing him at the time that you are about to testify,
10 or not? Was this your client or not your client?
11 THE WITNESS: He consulted me to be his
12 lawyer.
13 THE COURT: Did you consider you were in a
14 lawyer-client relationship, or not?
15 THE WITNESS: Anytime someone consults with
16 me with regards to even potentially representing them I
17 like to err on the side of confidentiality and preserve
18 that.
19 THE COURT: All right. Go ahead.
20 BY MR. TRAFICANT:
21 Q. The question I asked, the tone, was it your
22 impression from the tone of conversation you had with Mr.
23 Broad that he was under pressure?
24 MR. MORFORD: Objection to the leading again.
25 THE COURT: Yeah.

1 BY MR. TRAFICANT:
2 Q. What was the tone of conversation of Mr. Broad?
3 A. Frightened.
4 Q. What was your impression as to the reason for his
5 frightfulness?
6 A. The Government --
7 MR. MORFORD: Objection. Again, it is all
8 based on hearsay, Your Honor.
9 THE COURT: Appears to be.
10 MR. MORFORD: And I would ask that that
11 answer be stricken.
12 THE COURT: It will have to be until we have
13 some kind of out-of-court session so the jury doesn't have
14 to go through things until we decide there is some sort of
15 exception at this point.
16 Let's move along to something else this witness can
17 testify to.
18 BY MR. TRAFICANT:
19 Q. Had you ever met Clarence Broad before this?
20 A. No, I hadn't.
21 Q. Are you and I friends?
22 A. I would like to think so.
23 Q. Do I hug you?
24 A. The infamous bear hugs, yeah.
25 Q. Whom do I hug?

1 A. Everybody, friends.
2 Q. You say friends?
3 A. Yeah.
4 Q. Have you ever been with me in public?
5 A. Yes.
6 Q. What do I do in public if I don't know anybody?
7 A. You talk to them.
8 Q. Do I touch?
9 A. I think you are that type. I think that's part of
10 your personality, yes.
11 Q. Do people back home fear me, Mark?
12 A. No.
13 Q. Have you ever known of anybody who feared me?
14 A. No, not at all.
15 Q. Has our office consulted with you over the years on
16 cases?
17 A. Yes, it has.
18 Q. Have you handled some minor cases?
19 A. Yes.
20 Q. Did you charge for some of those minor cases?
21 A. Well, the minor ones, if it involved elderly or
22 children, I would not charge. For example, if one of your
23 staff would say so-and-so called, has a problem with this
24 or that, and help them, then I would help them.
25 Q. Would it be pro bono?

A. Yes.

Q. Were you ever asked to do pro bono for the Sugar family?

A. No. In fact, just the opposite. I mean, no.

MR. TRAFICANT: No further questions at this time.

THE COURT: Mr. Morford, before you begin, I want to note that it is ten minutes before 12:00, and I don't know about your examination.

MR. MORFORD: I have a little ways to go, and if you want to take a lunch break I think I can probably organize it.

THE COURT: I think it might be better so you can proceed without interruption. We will see you back at 1:30, and enjoy yourself. It is pretty nice out today. Remember your admonitions.

(Thereupon, a luncheon recess taken.)

1 AFTERNOON SESSION, THURSDAY, MARCH 28, 2002 1:45 P.M.
2 THE COURT: Thank you, and be seated.
3 MR. MORFORD: Your Honor, before Mr. Colucci
4 takes the stand -- it is amazing what a good lunch hour
5 can do, I have no questions for Mr. Colucci.
6 THE COURT: All right. Thank you.
7 MR. TRAFICANT: I want to recall Mr. Colucci
8 right now.
9 THE COURT: Well, you concluded --
10 MR. TRAFICANT: No. I ask right now to call
11 Mr. Colucci as a witness.
12 THE COURT: Do you want to respond?
13 MR. MORFORD: Yes, Your Honor. The rules, as
14 I understand them, that are applied in every case, once you
15 tender your witness, you are done with your witness except
16 to go back and cover matters that were covered on cross.
17 Unless they talked about something over the lunch hour that
18 is new, there should be no further testimony under the
19 rules.
20 MR. TRAFICANT: These deal with matters that
21 delved into those issues that I want to be directed towards
22 Mr. Colucci.
23 THE COURT: No, Congressman. Call your next
24 witness.
25 MR. TRAFICANT: Then I want a side bar right

1 now.
2 THE COURT: Call your next witness.
3 MR. TRAFICANT: I want to proffer for the
4 record --
5 THE COURT: You can proffer as soon as the
6 jury is gone for the day.
7 MR. TRAFICANT: Call Mr. Greg Tyson.
8 (Pause.)
9 THE COURT: Come right up, sir, right up
10 here.
11 THE WITNESS: How are you doing?
12 THE COURT: Sir, would you raise your right
13 hand?
14 GREGORY C. TYSON,
15 of lawful age, a witness called by the Defendant,
16 being first duly sworn, was examined
17 and testified as follows:
18 THE COURT: Take a seat, and there is a
19 microphone there. It is a big space. And if you will
20 speak up in a loud voice or use the mike, that will help
21 us. Thank you.
22 THE WITNESS: Okay. Thank you.
23 DIRECT EXAMINATION OF GREGORY C. TYSON
24 BY MR. TRAFICANT:
25 Q. Good afternoon, Greg.

A. How are you doing, sir.

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

A. Gregory C. Tyson. That's T-y-s-o-n.

Q. And what is your address, Mr. Tyson?

A. 424 Oakhill Avenue, Youngstown, Ohio.

Q. When did you receive your subpoena to be here?

A. Yesterday morning.

Q. Did the Government ever subpoena you?

A. Concerning this, no, just for Grand Jury testimony.

Q. You were subpoenaed by the Government for Grand Jury testimony?

A. Yes, sir.

Q. Did you testify before the Grand Jury?

A. Yes, sir.

Q. How many times?

A. Once. Well, no, twice. One time was concerning a matter on the Buccis, and the Government was doing an investigation against them, and the other time was a matter concerning you.

Q. Did you ever meet with the FBI?

A. Yeah.

Q. How many times?

A. Met with their field agent Perkins. I don't know if he is FBI or IRS, one of them. And I met with the FBI

1 agents, I had them at my office, I welcomed them in and
2 told them there is our files for 20 years of business, you
3 know, and sat down with them and had them go through all
4 the records.
5 Q. So there were two different meetings you had with the
6 FBI and IRS?
7 A. Two or three, something like that.
8 Q. Do you know if Agent Perkins is in this room? You're
9 allowed to stand up if you want.
10 A. I don't see him.
11 Q. Are any of the FBI agents that interviewed you in
12 this room?
13 A. I don't think so.
14 Q. What is your employment, sir?
15 A. Right now I am an ex-contractor recovering from
16 almost dying in November of last year.
17 Q. Pardon?
18 A. I say I almost died. I had blood clots go through
19 my heart, lungs, and I was in intensive care.
20 Q. How long ago was that?
21 A. November of last year.
22 THE COURT: Can everyone hear? Okay. You
23 might want to pick that mike up. You can take it out of
24 the holder, just sort of talk with it near you.
25 THE WITNESS: Is this better?

1 THE COURT: Oh, yeah. Good.

2 BY MR. TRAFICANT:

3 Q. Are you afraid of being here?

4 A. No, sir.

5 Q. Are there any agencies you're afraid of?

6 A. Well, you have to have a healthy respect for the

7 Government.

8 Q. Are there any agencies that you're afraid of?

9 A. No, or I wouldn't want to say anything bad about some

10 people.

11 Q. How long have you known me?

12 A. Off and on maybe twenty years.

13 Q. In that twenty years, what was the nature of our

14 relationship?

15 A. Well, you were a Youngstown guy. I mean, you were a

16 legend. You were a sheriff, Congressman, football hero

17 before then, before I got, you know, going, and somebody

18 that you call a friend.

19 Q. And where did we meet?

20 A. Originally it was sheriff's banquets.

21 Q. As a candidate?

22 A. Well, you were already in the office, and I was just

23 getting into the construction business and, you know, I

24 ended up in one of those political gatherings and deals,

25 and hell, you started slapping me around like you knew me

1 and started a relationship.
2 Q. Did I ever ask you to do any work for me after I met
3 you when I was a sheriff candidate?
4 A. Not as a sheriff so much. I mean, one time, when I
5 did some work at your farm.
6 Q. Was that when I was running for sheriff?
7 A. No. You were in Congress about 18 years, 15 years,
8 something like that.
9 Q. Did there come a time when you contacted me regarding
10 a problem?
11 A. Yes, sir.
12 Q. What was the problem you were having?
13 A. Well, I was getting racially put down by the banks in
14 Youngstown.
15 Q. Why do you say you were getting racially put down by
16 the banks?
17 A. Because if I was a white contractor with the amount
18 of business that I had and the amount of collateral that I
19 had, I could have got three or four times the bonding
20 capacity on jobs. I could have had three or four times
21 the credit rating that I was getting at the bank.
22 Q. Did you own a company at that time?
23 A. Yes.
24 Q. What was the name of your company?
25 A. Big G Construction Company.

1 Q. Were you in the construction business when I was a
2 sheriff?
3 A. Yes. I was an apprentice with the bricklayers, and I
4 was just starting my company from, you know, a pickup type
5 company years ago. In fact, I got two apprenticeships, my
6 bricklayer's and my operating engineer's card, self-taught,
7 plus I am in the union.
8 Q. What union are you in?
9 A. Operating Local 66 and Bricklayers Local 8. I still
10 have both of those cards.
11 Q. Now, as an owner of Big G you are not in the union,
12 are you?
13 A. I kept my cards. I was proud of them. I earned
14 them. I didn't need them, but I kept them.
15 Q. When was the first time you contacted me for
16 significant help?
17 A. Well, I sent a letter to your office from an official
18 standpoint.
19 Q. And what did you request?
20 A. I requested assistance in securing our company the
21 financial aid we needed to go forward and become a viable
22 company to compete like other companies do, on the same
23 terms and basis that they had going for them.
24 Q. What, if anything, happened after that?
25 A. Well, a lot of things happened.

1 Q. Well, how did you and I get to meet?
2 A. Once I contacted you, I was actually kind of
3 surprised, because normally when you write politicians a
4 letter, nothing happens.
5 Q. Well, what, if anything, happened?
6 A. Well, you had your aide get ahold of me and find out
7 the details of what we needed and why we were getting ahold
8 of you and what the problem was, because I had been working
9 with the City of Youngstown and several banks in the
10 community, trying to participate through the Community
11 Reinvestment Act to secure a decent loan and financing for
12 my construction company.
13 Q. Were you familiar with what the Community
14 Reinvestment Act was designed for?
15 A. Well, I don't really have all the details, but I know
16 if you have a bank, and you have a community and you have
17 citizens that put their incomes in, that they should be
18 eligible, that the bank should loan money to those citizens
19 first, and it was not happening for black businesses. I
20 mean, there was no black businesses in Youngstown getting
21 anything.
22 Q. As the owner of Big G Construction, did you have a
23 boss?
24 A. No. I was the boss.
25 Q. What was the status of most black companies?

1 A. They were pickup-type companies. Some of them were
2 willing to work, but most of them guys were just little
3 shady companies that just put their name in the paper and
4 were willing to go sign up any deal with any white
5 contractor that were willing to give them a percentage.
6 Some of them didn't want the work.
7 Far and few between there was a guy, a craftsman,
8 that could do the work, but most of those guys were older
9 guys and couldn't do the paperwork, and had the wherewithal
10 to bid work and successfully complete it.
11 Q. Is it your testimony that the black contractors used
12 it as fronts?
13 A. They used it like -- excuse me -- like ladies of
14 prostitution. That's how they used it.
15 Q. Were you ever used liked that?
16 A. No, sir. I had some people that tried to use me like
17 that.
18 Q. Did you and I come to meet personally?
19 A. Yes, sir.
20 Q. What, if anything, did you say to me?
21 A. You have to refresh my memory.
22 Q. What were you talking about? What was your meeting
23 concerning?
24 A. Well, it was -- I think when -- you are talking
25 about the bank loan?

1 Q. Is that when you called me? Is that what you called
2 me about?
3 A. Oh, yeah. We were in trouble. I mean, we had work.
4 We had contracts. We could not make our payrolls in a
5 timely fashion because, you know, even though we would get
6 jobs, be on the jobs, and do the work, you know, then we
7 would get into the old go old boy stuff. Guys wouldn't pay
8 us on time. We still had to make our payrolls, and we were
9 having a hard time financing ourselves, keeping ourselves
10 going.
11 Q. Did you explain all that to me?
12 A. Well, yeah. But I mean, you weren't no dummy. I
13 mean, you knew what was going on. That's what was nice
14 about the problem. You were looking to get to the brass
15 tacks.
16 Q. What, if anything, did I say to you?
17 MR. SMITH: Objection. Hearsay.
18 THE COURT: Right. You can rephrase that,
19 Congressman.
20 Q. What was your impression of your conversation with
21 me?
22 MR. SMITH: Objection. That's the same
23 question.
24 THE COURT: Okay. You know what the problem
25 is. He can't testify for you.

1 BY MR. TRAFICANT:
2 Q. After your discussion -- after your conversation
3 with me, what, if anything, did you say back to me?
4 A. Well, going back, and I think what you are trying to
5 ask me is, you confronted me, and you said, "Look, Greg, I
6 like you."
7 MR. SMITH: Objection to anything the
8 Congressman said.
9 THE COURT: We can't -- he --
10 BY MR. TRAFICANT:
11 Q. What did you say to me?
12 A. What did I say to you?
13 Q. Yeah, after you first talked with me.
14 A. It was about the loan, you mean?
15 Q. Yeah.
16 A. Well, I answered your question, because you told me
17 that --
18 Q. What was the question?
19 A. Well, the question was, you says Greg, I have to know
20 --
21 MR. SMITH: Objection to anything the
22 Congressman said.
23 THE COURT: It is hard for witnesses, and it
24 is hard for the jury, but it goes back to the same
25 principle of hearsay, which is if somebody is under oath,

1 subject to cross-examination, and you can see their
2 demeanor while they are testifying, it meets standards of
3 reliability the laws have established. So one person
4 cannot talk and say what somebody else could say.
5 Q. What was your impression of my concerns?
6 A. Well --
7 MR. SMITH: Your Honor, that has to be based
8 upon what the Congressman said.
9 MR. TRAFICANT: I am asking about his
10 impression, Your Honor, and I object to these continuing
11 objections.
12 THE COURT: Well, the objections are proper,
13 and you have successfully found ways to ask questions to
14 elicit testimony from witnesses now for quite a long time.
15 I know you can do it. Just take the time to think it
16 through, and you will be able to do it.
17 Q. Did we talk about your bank loan?
18 A. Yes, you did.
19 Q. Were there concerns about your bank loan?
20 A. You had a big concern.
21 Q. What was your impression of those concerns?
22 MR. SMITH: Objection. It is the same
23 objection.
24 THE COURT: You can answer that one. What
25 was your impression?

1 THE WITNESS: Well, Your Honor, I mean, the
2 Congressman pulled me aside and says, "You contacted my
3 office" --
4 MR. SMITH: Objection to anything the
5 Congressman said.
6 BY MR. TRAFICANT:
7 Q. What was your impression of my concerns directed
8 towards you?
9 A. You wanted to make sure that I was 100 percent
10 legitimate, I was 100 percent committed to fulfill the
11 obligations of this loan. If you went to bat for us in
12 securing this loan, you wanted to make sure that I was a
13 sincere person and there wasn't no scam, no BS, nobody was
14 prompting me up on this thing. I could stand on my own
15 two feet, look you in the eye, and tell you I agreed to do
16 what we agreed to do.
17 Q. Did we discuss financing?
18 A. Yes, sir. You told me your office --
19 MR. SMITH: Objection to anything the
20 Congressman said.
21 Q. What was your impression of our discussion relative
22 to financing?
23 A. You were concerned that we were legitimate. You were
24 concerned from the standpoint of making a loan for a black
25 business, and you were concerned from the standpoint of

1 putting your office at risk for backing up someone that all
2 the banks in the investors community had ostracized.
3 Q. Were you ostracized by the banks?
4 A. Certainly, because I was a black contractor.
5 Q. Did you convey that to me?
6 A. Yes.
7 Q. Were you asked at any point to prove your legitimacy?
8 A. Yes, sir.
9 Q. And how did you do that?
10 A. I took you out to my concrete plant. I brought in
11 contracts that showed you that I had with Big G. I showed
12 you my work force. I showed you the jobs I had in
13 progress. I gave you a track record and the history that
14 was verifiable, and I also had a record of work with bonded
15 jobs, completed on time successfully; backed up my
16 statements.
17 Q. At that time, did any minority -- were there hardly
18 any minority loans made in Youngstown?
19 THE COURT: You can answer.
20 A. Minuscule ones.
21 Q. Minuscule?
22 A. Minuscule.
23 Q. Would you say meaningless?
24 A. You could say that.
25 Q. How much money were you seeking?

1 A. I think at the time I financed the concrete plant --
2 Q. What concrete plant?
3 A. Capital Ready Mix.
4 Q. Where was Capital Ready Mix located?
5 A. In Warren, Ohio.
6 Q. Who owned Capital Ready Mix?
7 A. I owned 51 percent of Capital Ready Mix.
8 Q. Who were the other partners?
9 A. Joe Sattarelle and 422 Limited Partnership.
10 Q. And who is the other partner?
11 A. Specifically I signed an agreement with Dan Bucci,
12 and his two brothers were partial owners of his share.
13 Q. And who are his two brothers?
14 A. The Bucci brothers, Tony and Bob.
15 Q. Did I go to bat to get your loan?
16 A. Yes, you did.
17 Q. Did you get a loan?
18 A. Yes, I did.
19 Q. Was it of significant value?
20 A. Yes, it was.
21 Q. Was it one of the first minority loans of significant
22 value in our valley?
23 A. It was monumental. Up until then -- I think I
24 broke the water.
25 Q. Were those part of the conversations that we shared?

1 A. Yes, they were, because you were concerned that this
2 was a test case. I mean, a lot was riding on this.
3 Q. Is that why you took me to your plant and showed me
4 your contracts?
5 A. Yes, I did. In fact, we took pictures. We had the
6 trucks, the plant, you know. We were proud to show it. I
7 mean, we weren't a fly-by-night, fly-by-nights.
8 Q. Did I offer any advice?
9 A. Yeah. Get rid of the Buccis if I could.
10 Q. Did you take my advice?
11 A. I tried, but the bank wrote the loans wrong.
12 Q. By getting rid of the Buccis, what did you try and
13 do?
14 A. I offered the bank the collateral on my house and my
15 property that I had down at 551 Mahoning Avenue, plus my
16 existing revenue that I had in receivables from Big G, in
17 addition, over and above what the property cost to buy them
18 suckers out.
19 Q. What was the position of the bank?
20 A. The banks were idiots. They wanted to keep the
21 leases in place because it made my debt package look better
22 on paper.
23 Q. What happened when you first applied for the loan?
24 A. Well, we were turned down.
25 Q. After you contacted me, what happened?

1 A. After I contacted you, then things happened. There
2 were some things I had to do, but like I had to hire a
3 consultant, Arnie Claybone, paid him a couple thousand to
4 prepare our paperwork, do five years of advanced pro
5 formas, show projections on the plant, debt structure, how
6 much money was needed to service the debt, the whole nine
7 yards.
8 I mean, it was stuff I didn't realize I needed when I
9 first applied for the loan. They didn't give a leg to
10 stand on, I guess, but I went the whole nine yards.
11 Q. Was it your impression that you would not have got
12 the loan unless you called me?
13 A. Without a doubt.
14 Q. You testified that you offered all of your
15 collateral. Why did you offer all of your collateral that
16 you had? For what purpose?
17 A. It would have been worth it to get them Buccis out of
18 my hair.
19 Q. Did you at any point ask the Buccis to sell out?
20 A. All the time.
21 Q. What prevented you from buying the Buccis out?
22 A. When I went to the bank to secure the money to buy
23 them out, they did not properly do the loan. They left the
24 leases in place. I says, "You guys are idiots." I said,
25 "The property is worth more than the lease." I said,

1 "Sidley is buying concrete plants and companies all the
2 time. " I said, "We will have a buyer. " I said, "We will
3 own the plant as a serviceable concern, it will be worth
4 twice as much as this lease. " I said, "You are allowing
5 me to pay $3,000 a month on a lease. " I said, "If you
6 loan me the money to buy the lease off, you will own the
7 property."
8 Q. At the time, did you have an agreement where you
9 could have bought the Buccis out for the lease amount?
10 A. We had a verbal agreement. If I paid the lease off
11 in full, I would have owned the place.
12 Q. What would that amount have been?
13 A. Approximately 120, $125,000, depending on the amount
14 and the type of buyer.
15 Q. Would the banks approve of it.
16 A. They wanted the lease in place. They said it helps
17 your debt service, or whatever their stupid formula was.
18 Q. Did they ever ask for additional collateral you owned
19 with Big G?
20 A. Yeah. They asked for -- in order to make an
21 operating capital loan with Big G, they asked for a 50
22 percent -- well, they had a formula where they loaned me
23 50 percent on my total receivables. So I had $415,000 at
24 the time, they gave me 50 percent of that, which was
25 $200,000, and they would allow me 80 percent on the total

1 amount of that 50 percent.
2 It was some convoluted formula, but that $415,000, I
3 had over a million and-a-half to get that $415. So Tony
4 was talking I needed him. I didn't need him. That jerk
5 needed me. I mean, he was disbarred.
6 Q. Now, were you familiar with my -- do you have
7 personal knowledge of my relationships with the Buccis?
8 A. Only that Danny had a farm across the street from
9 you, and that you got along with about anybody.
10 Q. Do you know or do you have knowledge if I was friends
11 with Tony or Robert Bucci?
12 A. Tony and Robert Bucci doesn't have a friend on this
13 earth.
14 Q. I didn't ask you that.
15 A. Well, you couldn't have been their friend.
16 Q. Did there come a meeting when there were problems
17 that developed between you and the Buccis?
18 A. Yes, sir, there did.
19 Q. Can you describe what transpired?
20 A. We were in -- this was before the loan was made.
21 The paperwork was in the chute to secure the loan, but the
22 Buccis were trying to bounce us out under their land
23 contract agreements and put me in jail, and default, and
24 steal all the property and plant that we invested in, and
25 fix the place up.

1 Q. How much money had you invested in fixing up that
2 plant?
3 A. Joe must have put about sixty grand out of his
4 pocket, getting the plant and the trucks in shape, and I
5 had maybe 30 or 40,000, and with cleaning up the properties
6 and what I had done to restore the trucks and the overall
7 grounds of the property, the offices and equipment, and
8 stuff like that.
9 Q. When you are saying "Joe," who are you referring to?
10 A. Joe Sattarelle.
11 Q. Did anyone else offer you advice about doing business
12 with the Buccis?
13 MR. SMITH: Objection if it relates to other
14 people's statements with him.
15 THE COURT: Sustained.
16 BY MR. TRAFICANT:
17 Q. To the best of your knowledge, were you warned about
18 the Buccis by other people?
19 A. Yeah, everybody that knew them.
20 Q. To the best of your knowledge, were you warned by
21 Mr. Sattarelle?
22 MR. SMITH: Objection. And he is leading,
23 as well.
24 THE COURT: Sustained.
25 BY MR. TRAFICANT:

1 Q. Who was your closest partner and friendship?
2 A. Joe Sattarelle.
3 Q. Did you converse often with Joe Sattarelle?
4 A. Yes.
5 Q. What did you and Joe talk about most of the time?
6 A. Well, we had to watch each other's back concerning
7 the Buccis.
8 Q. Did you ever offer each other advice?
9 A. All the time.
10 MR. SMITH: Objection to any advice
11 Sattarelle gave him.
12 THE COURT: Right.
13 A. We were partners. We talked, yes, certainly.
14 THE COURT: It is okay, Congressman. You
15 know how to ask questions of the witnesses, so just take
16 your time.
17 Q. Was it your impression that Mr. Sattarelle wanted you
18 to buy the Buccis out?
19 A. "Man," Joe said, "whatever you got to do" --
20 MR. SMITH: Objection to what Joe said.
21 Q. What was your impression, Mr. Tyson?
22 A. Yeah. It was our intent to buy them
23 son-of-a-bitches out. Excuse my language.
24 Q. Do you have immunity?
25 A. No, sir.

1 Q. Were you subpoenaed as a Government witness?
2 A. Not originally. I was subpoenaed in the Grand Jury
3 testimony.
4 Q. Do you know if they called you as a witness in this
5 trial?
6 A. I don't think you did.
7 THE WITNESS: You didn't call me,
8 Mr. Morford, did you?
9 (Laughter.)
10 BY MR. TRAFICANT:
11 Q. Who subpoenaed you?
12 A. You did yesterday, for today.
13 Q. Would you be here if I hadn't subpoenaed you?
14 A. No, I wouldn't.
15 Q. Was Mr. Morford the man you talked to?
16 A. I talked to him on the Grand Jury.
17 Q. How were you treated at the Grand Jury?
18 MR. SMITH: Objection. Relevance.
19 THE COURT: Well, he can answer.
20 A. I got slapped around like I was some kind of a
21 criminal, which I didn't appreciate, because it was my
22 testimony that help send the Buccis to help get their butts
23 in the slammer.
24 Q. What else were you asked to do?
25 A. Well, they tried to subpoena me at the time that you

1 were getting elected, during the primaries.
2 Q. Did you make any comments to them relative to that?
3 A. I told them I didn't appreciate that because it made
4 it look in the papers like I was some kind -- trying to
5 come against you in some type of a testimony. I didn't
6 appreciate that. An attorney even wrote a letter, and I
7 didn't appreciate that.
8 Q. Was it your impression it was timeliness around an
9 election?
10 MR. SMITH: Objection. Leading.
11 THE COURT: He can answer, but you should
12 stop telling him what he is going to say.
13 Now it is coming out of your mouth, not his, and they
14 can't consider it. Give the man a chance to answer
15 questions.
16 BY MR. TRAFICANT:
17 Q. What was your impression relative to the subpoena and
18 my election?
19 A. I questioned the timeliness of it.
20 Q. Why?
21 A. Because it happened a week before the election.
22 Q. Was there extensive news media coverage of that
23 process?
24 A. My name was in six-inch high print on the Vindicator.
25 Q. Now, after you had made that first loan, what was the

1 reason for wanting to be in Warren, Ohio?
2 A. Well, that's where the plant was at, and that
3 expanded my market. I was a concrete manufacturer, and
4 there were only two in the whole State of Ohio who were
5 minorities. The other one up in Cleveland had run into
6 financial difficulty, so at the time I was probably the
7 only minority contractor as far as manufacturing concrete
8 is concerned in the State of Ohio. That might not be 100
9 percent accurate, but there is not a whole lot.
10 Q. It wasn't very easy for a minority businessman to get
11 by, was it?
12 A. No, because even if you did the job, then you had
13 some bureaucrat that wouldn't pay you. Even though your
14 job was done, and the job was done, they lost your pay
15 request, and they just had me sitting there.
16 Q. Did there come a time when you sought a second loan
17 from the bank?
18 A. Well, the second loan was all part of the first loan.
19 I mean, everything was -- they piecemealed the thing.
20 They never gave me the loan in a fashion where it was a
21 repayable setup. I mean, they did it like a bunch of
22 loan-sharks. The loan should have been structured long
23 term. I mean, I was paying back $400,000 debt on capital
24 and $400,000 debt on Big G on a four-year note. You go
25 down and buy a car somewhere -- the thing should have been

1 set up with the SBA in a mini loan like it was set up with
2 other businesses and set out in a seven or nine-year term.
3 They were so interested in making their interest, they
4 didn't care about me.
5 Q. Did you at that time report anything to me?
6 A. Other than we had successfully gotten the loan. I
7 think I wrote a letter to your office and I notified the
8 city council, even the press, that, you know, we had
9 secured the loan and that we appreciated your efforts in
10 helping us. I mean, we acknowledged your office in leading
11 the way for securing a loan of that magnitude.
12 Q. How much rent were you paying on Capital Ready Mix?
13 A. It started at $2,700 a month and had escalated per
14 year, another $250 per year, four years, with a four-year
15 option.
16 Q. Four-year option to do what?
17 A. To resume the lease and continue.
18 Q. Were there any clauses to buy them out?
19 A. No. My attorney didn't put it in there, which it
20 should have been in writing. We only had the Buccis'
21 verbal, and at the time when we made our partnership, a lot
22 of things we did in good faith and found out later we
23 couldn't entrust the suckers.
24 Q. At some point did you really fall out?
25 A. Oh, yeah. I mean, right before that meeting where

1 you sat down with us. I mean, they were trying to bounce
2 us out. I mean, they were trying to -- me and Joe had
3 turned that place into a show piece. All the trucks were
4 painted. The concrete plant was in full operation. The
5 lawns were manicured. The place was A-1, and they saw an
6 opportunity just to bite us off at the head, get us the
7 hell out of there, take over the place, and don't pay us
8 anything.
9 Q. Whom did you call?
10 A. I called you because it was in jeopardy after going
11 to bat and notifying you that we needed a loan and secured
12 a loan, we were in the process of losing the place right
13 before all the paperwork and everything could be taken care
14 of.
15 Q. After you called me what, if anything, happened?
16 A. Well, we sat down in a restaurant up in Canfield,
17 which wasn't too far from your house, and the Buccis were
18 there, I was there, and Joe was there. And you tried to
19 work it out like you do in arbitration with teachers and
20 unions, and you tried to explain to them two idiots there
21 was more involved than just their greed: You had your
22 Congressional office that couldn't be embarrassed, and you
23 had these two guys that put in all this money, and it was
24 not a fair deal.
25 You tried to explain to them, but them two are pigs.

1 I mean, they don't care nothing about nobody else.
2 Q. Did that meeting turn in -- how did that meeting
3 evolve? What did it turn into?
4 A. Well, we were sitting there trying to have a
5 conversation, and Bob Bucci just out of the blue says, "I
6 ought to reach over there and smack you."
7 Q. What, if anything, did I do?
8 A. Well, you sat back, and you looked at my reaction.
9 Q. And what was your reaction?
10 A. I just told Bob, I says, "You are free to reach over
11 here, but I ain't going to guarantee you're ever going to
12 make it back."
13 Q. After that statement, did the meeting -- was the
14 meeting relocated?
15 A. Oh, yeah. We had to get out of the restaurant.
16 Everybody in the restaurant was looking now.
17 Q. Who suggested that?
18 A. Joe was embarrassed, I mean, and you said, "Hey,
19 fellows, we've got to go outside."
20 Q. Did we go outside?
21 A. Yeah. But then they started yelling and raising
22 their voices.
23 Q. Wait a minute. Did we go outside?
24 A. Yeah. We went outside.
25 Q. Who went outside?

1 A. We made them two clowns walk in front of us.
2 Q. Whom did I exit with?
3 A. Well, you went with me and Joe.
4 Q. Now we got outside in the parking lot. What was
5 decided?
6 A. Well, they started getting loud and running their
7 mouths, and I mean, they were shouting, so we said, "We've
8 got to go somewhere where this ain't so public. " So we
9 hopped in our vehicles, and we headed down Route 11.
10 Q. Do you know where we exited on Route 11?
11 A. Yes. Yeah. There was an old restaurant that they
12 closed, and probably has since been demolished, as soon as
13 you get off 11 and Mahoning Avenue, right behind the
14 Goodyear Tire. There was an old restaurant up there, so we
15 -- I pulled my truck in there, and then Joe had his
16 Explorer, and them two were in their pickup, and we had all
17 the trucks in the lot.
18 We tried to get to the bottom of the thing.
19 Q. Whose truck was I in?
20 A. You were with me.
21 Q. Now, when we got there, did conversations ensue?
22 A. Oh, yeah, but you got these two hotshots, read my
23 lips, we don't need no deal. They are default. They are
24 out. I mean, they were real cocky, arrogant. I mean, you
25 could just strangle them, but you were calm. You told

1 them, "Hey, guys, you've got to be reasonable about this.
2 You just can't take a couple guys and treat them like
3 this."
4 Q. What was your impression as to which side I was on?
5 A. You were in our corner, because the Buccis says, "We
6 don't need no deal. They are out. The hell with them. "
7 You told them, "It ain't going to happen. You guys are not
8 going to do that to these two men."
9 Q. Did they eventually leave?
10 A. Yeah, they left. They pealed out of the parking lot.
11 They thought they had us. They thought I couldn't get the
12 money, and they thought that they were going to steal the
13 property.
14 Q. Is that when the loan was secured, after that?
15 A. Shortly thereafter, yes, sir.
16 Q. Had you not secured that loan, would you have been
17 able to move out there?
18 A. Well, I was already there. I would have lost the
19 investment that we had in the plant and property. We had
20 contracts that were there. We wouldn't have been able to
21 fulfill them, and, you know, we would have had all our
22 investment stolen from us outright.
23 Q. When you made these loans with the bank did you still
24 have assets that were clearly your own without debt?
25 A. Yeah. My house was owned free and clear at the

1 time.
2 Q. Okay.
3 A. The bank put a second mortgage on the building I
4 owned down at 551 Mahoning Avenue. It was 20,000 square
5 feet. They put a $245,000 second mortgage on it.
6 Q. Who had the first mortgage?
7 A. Farmers National Bank.
8 Q. Was that property valuable enough to have two
9 mortgages like that?
10 A. At the time it was because there was rumors of
11 riverboat gambling bills being circulated, and the City of
12 Youngstown just spent $3 million renovating the B&O
13 Restaurant, and the B&O Restaurant across the street was a
14 viable building. My building was industrial. It was also
15 certified under the light industrial specifications and
16 zoning, and I could put a concrete plant there if I needed
17 an additional plant to service contracts going forward,
18 plus the thing was an all-brick building. It could have
19 been converted by the city, who was also looking at buying
20 the property because they didn't know what they were doing
21 at the time. We bought Mr. Anthony's, the B&O and the
22 mayor was hot on that property at that time.
23 Q. So you still had a home free and clear?
24 A. Yes, sir.
25 Q. Now, at some point did you turn to the city -- at

1 some point did you take any other action?
2 A. Down the road we had approximately $900,000 in a debt
3 service that we had to pay back in four years like you
4 would go and buy a car. I mean, the thing was totally
5 ballooned out of shape. The banks were just using us, I
6 mean, as far as interest on the thing.
7 So we went to the City of Youngstown because we had
8 employees at the time that worked in the City of
9 Youngstown, and we were paying City of Youngstown income
10 taxes. They had a program which was a 108 fund for
11 businesses relocating within the city, and we applied for
12 that loan to refinance our existing debt we had with
13 Capital Ready Mix and Big G Construction, set it up in a
14 long-term structure, which we could pay and service our
15 debt, keep our employees, keep our contracts, and continue
16 our business without being strangled.
17 I was servicing probably $22,000 a month in debt, and
18 under that program, the bank would have written off
19 $600,000 of their debt. City of Youngstown would secure a
20 $675,000 loan set up over a nine-year deal with working
21 capital.
22 So we had a million-three in debt, got it all wrote
23 down to $674,000, all of which was approved, all of which
24 would have made me a viable company, in place in time to
25 participate on the $44 million CCA prison.

1 Then the City of Youngstown reneged on their promises
2 of loans which we relied on in our business.
3 Q. When you say they reneged, how did they renege?
4 A. They reneged because there had never been a black
5 business that participated in this loan program. This was
6 the 108 loan, which they had reserved for their own little
7 buddies. You had existing companies that didn't need
8 these type of loans that went out on Sulphur Springs Road,
9 got brand new offices, got their sites prepared for free.
10 They got their existing loans written off and written down
11 by the city all for the guarantee of having income, for the
12 income tax of locating the jobs there.
13 And every one of those loans that was approved, there
14 was 22 of those loans approved, and they had been doing it
15 for years, the only loan that ever had a problem was mine.
16 Q. Did you appeal to anybody for help?
17 A. We brought that to your attention, that somebody was
18 screwing us around on this 108 loan. You don't make a
19 deal, have people rely on this thing from a business
20 standpoint; we told all our suppliers that everything we
21 have is all being refinanced, we had a drop dead date of
22 when this was going to be financed, that date came and
23 went, so obviously that was screwing that deal up.
24 Q. Did you ever get notification of any change in the
25 status that --

1 A. Never got a notification. That thing just faded away
2 like an old ghost. They strung us out for a
3 year-and-a-half after we signed the papers, and the money
4 was supposed to go -- in fact, the Vindicator put a big
5 pie on the front page how this minority has got this money,
6 and here it is, and it is all going here, and we never
7 received a dime of that money. They put it in the paper
8 like we got paid. They put it out on the street for our
9 suppliers that we got the money and we weren't paying our
10 suppliers.
11 Q. At some point was the city notified through
12 Washington that they could have made that loan?
13 A. The city played so many games, Congressman, I don't
14 know what was done. I know that the city did an
15 investigation on themselves to prevent that loan from
16 happening.
17 Q. So the city had an investigation of themselves?
18 A. Certainly. That's the only way they could stop the
19 loan. The loan was gone. It was guaranteed. It was
20 signed off. It was approved by Congress. It was announced
21 in the paper that you were awarded this loan. This is a
22 publicity letter that could be used for the purposes of
23 this loan to secure.
24 Q. Was the city also being investigated for minority
25 loans?

1 A. They had some problems with their minority loans.
2 Q. Were they being investigated?
3 A. Yes, sir.
4 Q. Were you any of the loans that were part of that
5 investigation?
6 A. No, sir.
7 Q. Was there ever any black company that ever got a 108
8 loan in our valley?
9 A. No, sir. I would have been the first. I did get the
10 loan. I just never had it funded.
11 Q. You did get the loan --
12 A. I was approved by Congress.
13 Q. Did you get the loan after you talked to me?
14 A. After I brought it to your attention that we had a
15 problem, that with the loan, that you sent a letter that we
16 were approved but never were funded. But, no, there was
17 nothing that happened after that, because the city just
18 screwed that whole thing up.
19 Q. So the city never gave you the money?
20 A. Never gave us the money. They strung me out, the
21 bank, and caused us to go bankrupt.
22 Q. Had the city lived up to their agreement and made
23 that loan, would you still be in business?
24 A. Certainly I would have gone from a $22,000 a month
25 debt to $19,000 for the first year, and $7,000 a month

1 after that.

2 THE COURT: How much a month?

3 THE WITNESS: $7,000.

4 Q. Was there any other concrete supplier in Warren?

5 A. Majority companies, yes, sir, not no blacks.

6 Q. Did you have an advantage as a black businessman?

7 A. I did if I wanted to operate strictly as a minority

8 company, but I didn't operate like that. I operated from a

9 company standpoint that our material and our service is as

10 good as anyone else's. You know, we didn't just

11 participate as a minority company.

12 I mean, I did work all over this state and in

13 Pennsylvania. I mean, I had minority certifications from

14 the Ohio Department of Natural Resources. I had

15 two-and-a-half million dollars in state prequalifications

16 with ODOT before I ever signed with the Buccis.

17 I mean, there was a statement made that I needed him.

18 That pig was disbarred at the time, you know. I did work

19 for Dunlap and Johnson here down in Brecksville on a $10

20 million project on the BF Goodrich Research Center. In

21 fact, Jimmy Kreidler called me up because the contractors

22 in Cleveland were calling him and couldn't get a job. And

23 my excavation bid secured him on a ten-million-two job

24 because my bid was $40,000 less than the best bid in

25 Cleveland, and they got it by less than $2,000.

1 Q. Did you complete it?
2 A. Yes.
3 Q. And did you complete it on time?
4 A. Yes, I did. I got another $200,000 extra in jobs
5 because of my work was exemplary.
6 Q. What areas did your company work? Name the different
7 areas.
8 A. I put a $250,000 waterline right down the City of
9 Canfield's main street. In fact, I redesigned a job
10 through my engineer because they had a guy that I knew was
11 totally inept at it, was going to have us cut Route 224,
12 the main artery of Canfield, off at night. So I had my guy
13 redesign the thing with bores on all the intersections, so
14 we installed the line and never stopped traffic.
15 Q. Did you finish it on time?
16 A. On time.
17 Q. Is Canfield a white community?
18 A. All white.
19 Q. Were you the low bidder?
20 A. I was the low bidder, and it was not a minority job,
21 either.
22 Q. What other work did you have?
23 A. I put on State Route 8 for that county there, we call
24 it Kenmore County. I put a waterline in for them. I put a
25 180-foot bore under Route 8 that their engineers said

1 couldn't be done, and I said, "I've got a guy that can do
2 it."
3 I put waterlines in for the City of Youngstown, for
4 the City of Hubbard, Canfield. I did a million-dollar
5 sewer for the City of Warren. None of those are
6 set-asides.
7 Q. What do you mean by that?
8 A. Little jobs that the state sets aside for little mom
9 and pop companies that can't compete. We were a company.
10 I just happened to be a minority owner.
11 Q. Did you ever ask the bank take your collateral that
12 you had remaining in an effort to purchase the Buccis out?
13 A. Twice.
14 Q. What was the result of those requests?
15 A. They said no, we are leaving the leases in place.
16 Your debt structure is better that way.
17 Q. Was your business structure better that way?
18 A. Hell, no. Excuse me.
19 Q. Were you a legitimate minority businessman?
20 A. Yes, I was.
21 Q. Was you ever a front man for anybody?
22 A. Not on your life.
23 Q. Why did you enter such a bad deal with the Buccis?
24 A. The only reason I entered the deal with the Buccis,
25 for six months they chased me with their deal. I didn't

1 want anything to do with them. But Joe eventually told me,
2 "Listen, you own 51 percent of the company, I own 24
3 percent of the company. We will have our attorneys draw
4 the paperwork up. We will keep an eye on these two worms."
5 You know, "Even though they are bad, we can watch them. "
6 He says, "You've got to be able to make money at this." He
7 says, "They have ODOT work. They are a blacktop company.
8 You are a concrete company. " I said, "It just makes too
9 much sense."
10 But I thought he was talking about human beings.
11 These guys are nothing but hogs. I mean, if you got a
12 goose that will lay golden eggs, one of those hogs will eat
13 them golden eggs and lay chicken soup. I mean, they are
14 just pigs.
15 Q. Was it ever your impression that I was trying to help
16 them hurt you?
17 A. No way.
18 Q. Was it your impression that I was trying to save your
19 company?
20 A. Yeah. You did everything you could.
21 Q. And when was that? About what time?
22 A. Well, we had the 108 in place. By the time I
23 notified you, the city had stretched me out for so long
24 that it was just too late.
25 Q. You could not service your debt, could you?

1 A. Well, they had an agreement in place. It was to be
2 executed in May. The loans were supposed to take place and
3 the monies was to be transferred. A year-and-a-half later
4 nothing happened. In the meantime, they got it put out in
5 the press that we got the money. No other bank would deal
6 with us. Bank One's hands were tied, so they totally and
7 effectively strangled us out of business.
8 Q. Who strangled you out of business?
9 A. City of Youngstown.
10 Q. Isn't it a fact the City of Youngstown is more
11 concerned about the City of Youngstown than Warren?
12 A. I would say, yeah.
13 Q. Were you still going to maintain a presence in
14 Youngstown?
15 A. I was going to maintain a presence in both. The
16 other contractors that got to those politicians in
17 Youngstown stopped that loan. They didn't want a black
18 company that was already beating their brains in in the
19 construction business have a concrete plant in Warren and a
20 concrete plant in Youngstown.
21 Q. Did you already own property in Youngstown for a
22 concrete plant?
23 A. Yes, I did own two properties.
24 Q. Were any of those properties already suited or
25 partially suited for concrete activity?

1 A. Well, we had a side agreement with the City of
2 Youngstown not to use my plant, my property at 551 Mahoning
3 Avenue. They would give us additional property on Albert
4 Street to use for installing the concrete plant, which was
5 even closer to where the new prison was going to go in.
6 Q. Well, explain the proximity of your property on
7 Mahoning Avenue to the central City of Youngstown.
8 A. It was right down in district town. My address was
9 551. It was directly across the street from a $3 million
10 restaurant they just renovated and another $2 million they
11 put in Saadey's place.
12 Q. So describe the area where they wanted to give you
13 land.
14 A. It was out on the east side of Youngstown in an
15 industrial place, ten acres, which had topsoil and sand
16 fill, so we could use it for construction purposes. And
17 they was also close to being located to that advantage of
18 the 7-11 interceptor, which was work coming up and the
19 highway expressway.
20 Q. Do you know who funded the 7-11 interceptor?
21 A. I think your office pushed that for Youngstown.
22 Q. Are you and I close friends, Greg?
23 A. I would say we are friends.
24 Q. Do we see each other very often?
25 A. No. You've got too much going on for me right now.

1 Q. Was there ever a time I failed to respond to any of
2 your calls?
3 A. No. That's the one thing about -- that's why
4 everybody in Youngstown likes you, because you look a man
5 in the eye, shake their hand, and tell a man you are going
6 to do something, and you do it.
7 Q. Now, what approximate time was all these loans going
8 on?
9 A. Man, I am talking six, seven years ago, maybe more.
10 Q. Would you say '94, '95?
11 A. Somewhere around there. I think the first one was
12 '94. It might have been -- might have done some leg work
13 in '93.
14 Q. Did you do any work at the Traficant farm?
15 A. We did a little bit of cleanup for you. I think you
16 caught me at one of your fund-raisers and said, you know,
17 "One of these days I am going to get you out there and do a
18 little bit of work," which I blew it off, and I looked at
19 what you had, and I said, "Well, if I can use some used
20 stuff that you got it won't cost that much to do it."
21 And you showed me, there were some creeks that were
22 overrun. The place was in pretty bad shape when I looked
23 at it. I did work on farms in Canfield. I did work for
24 both of my insurance agents. They both own horse farms,
25 you know.

1 Q. Did they pay you for that work?
2 A. They paid me. Now, Steve, he was in a wheelchair.
3 He was my bonding and insurance agent. So what we did is I
4 had one driver get a truckload -- he paid for the asphalt
5 and told me, "Guys, listen, we will go out, put Steve a
6 path in," and he bought us a whole big thing of chickens
7 and beer. And we had some -- Gary, who lived across the
8 street, we had probably about 15 guys donate some work and
9 put an asphalt path in for him. And Jim sent to Fannie, he
10 sent down a new steer loader, and had kind of a party.
11 Jim Hunt, he had me put concrete in his floor, and I
12 gave him a price, but he was my insurance agent. I had to
13 treat him halfway fairly.
14 Q. Did I pay you for the work you did at the farm?
15 A. Yeah, you paid me.
16 Q. How did I pay you?
17 A. Well, you got kind of mad at me at first, because
18 when you came out you saw what we did, and you said, "Man,
19 I can't pay for all that. You done way more than I asked
20 you to do. I only wanted you to do about $500 worth of
21 work. "
22 That's what I told you that it would cost. And you
23 got agitated with me because I did more than what you asked
24 me to do.
25 Q. Why did you do more?

1 A. Well, I already had the material and I already had
2 the men there, and, you know, they cleaned up a couple old
3 jobs, which they cleaned up ahead of time when they had
4 them scheduled. I was going to lay the men off anyway.
5 What they did that day, anything over, you know, it
6 was already paid for. I already had them paid on another
7 construction job. They weren't even on from a house work
8 because guys don't like to be paid 10 or 15 cents less for
9 house work. If we did something like that, I used my
10 union men, they got paid union rate for the higher jobs we
11 worked on.
12 Q. How did you get paid?
13 A. Well, you asked me how much I owed you. I said,
14 "This is the $500 I told you, that I told you in the first
15 place," and you said, "Wait a minute."
16 MR. SMITH: Objection to anything the
17 Congressman said.
18 THE COURT: Right. We have to talk about
19 what you said. That's fine.
20 BY MR. TRAFICANT:
21 Q. Well, did you get paid?
22 A. Yes, I got paid.
23 Q. But you had done much more work than $500, didn't
24 you?
25 A. No. It just looked that way. I mean, my guys were

1 good.

2 Q. Did I offer you anything else in payment?

3 A. You bought a baby -- you said, "I've got to pay you

4 more."

5 MR. SMITH: Objection if he is lapsing into

6 something the Congressman said.

7 Q. What was your impression when you completed the work

8 relative to the amount of work you did over and above what

9 was expected?

10 A. To me it was worth what I told you in the first

11 place. I mean, the stuff was used material taken off of

12 other jobs. The men were already paid and charged on that

13 job anyway. And I would had to have taken the material

14 back to my shop, paid them to take it off, and would have

15 gotten kicked around and broken up. I couldn't have resold

16 it anyway.

17 Q. Well, what, if anything, did you see after our

18 conversation?

19 A. Well, you thanked me and the crew for the work that

20 we did, but you were upset because --

21 MR. SMITH: Objection to what the Congressman

22 said.

23 THE COURT: He didn't testify as to what the

24 Congressman said. He just said he was upset.

25 THE WITNESS: Shall I answer, Your Honor?

1 MR. TRAFICANT: Well, I was upset --

2 THE COURT: You can stop when you said he was

3 upset. You can't say what he did, and you didn't, so it

4 is okay. Objection is overruled.

5 Q. While I was upset, did I make you any further offer

6 of payment?

7 A. Yeah. You said you didn't have any more money --

8 THE COURT: You can't talk about what he said,

9 so I think you are going to have to move on, Congressman.

10 Q. What was the additional payments I attempted to make?

11 A. You tried to pay me with your horse.

12 Q. What kind of horse was it?

13 A. Black stallion.

14 Q. How would you describe it?

15 A. Beautiful animal.

16 Q. Did you want the horse?

17 A. Not really, because I didn't have anywhere to put him

18 at the time.

19 Q. Did you say no at the time?

20 A. I said it ain't necessary, you know. Pay me what I

21 told you, and that's it.

22 Q. Was there ever a time later when you communicated to

23 me about maybe taking the horse?

24 A. Well, we went round and round with that stupid horse

25 a little bit, and then you says, "Listen, I" --

1 THE COURT: No, not what he said; what you
2 said, did, saw.
3 A. You wanted some more work done, and I looked at the
4 additional work that you wanted done. And you said all
5 you have to pay me was --
6 MR. SMITH: Objection to what the Congressman
7 said.
8 THE COURT: Sustained.
9 A. The horse is all you have to pay me. I looked at the
10 work. I knew in my mind what I needed to do. I said,
11 "Yeah, I will take the stupid horse," and we did a little
12 bit of work.
13 Q. Did you make any plans to house the horse?
14 A. Well, I had ten acres up at Capital Ready Mix. I had
15 the place that, you know, those -- what do you call those
16 fences with the wood on them. It was all landscaped. In
17 the back beyond the lake that I had I had another five
18 acres, and I took my dozers up there, and I cleared a lot
19 of that area off.
20 Q. Did you make any inquires whether or not where you'd
21 keep the horse?
22 A. Well, when I grew up I kept horses before, when I
23 grew up.
24 Q. Did you ever take anybody out to see the horse?
25 A. Not really. My dad stopped in and saw him.

1 Q. What was your dad's impression of the horse?
2 A. He couldn't believe how pretty that horse was.
3 Q. Do you know the difference between a stallion and a
4 gelding?
5 A. Yeah. A gelding, you cut their nuts off.
6 Q. Did he have testicles?
7 A. He had them on.
8 Q. Was he a big horse?
9 A. Yes, sir. He was a stud.
10 Q. When you got your first loan, did you lease the car?
11 A. I traded it in, my old Cadillac. The guy gave me
12 1,500 or 2,500 cash, and I leased one. That's when these
13 leases became popular. I wanted to get a four-wheel drive
14 SUV at the time, but they didn't have anything there, so I
15 got a Caddy. I used it as part of business because in my
16 dealings I had to talk to contractors, big contractors that
17 do 50, $60 million worth of business, and I couldn't be
18 pulling up in a pickup with my door flapping off.
19 Q. What color was it?
20 A. Got a black car that matched my black trucks.
21 Q. Was it your impression that the lapse of time on the
22 loan caused you to go bankrupt?
23 A. I had signed agreements that had an expiration date.
24 Everything was set up to be executed within May or June,
25 and there was no provisions for a year-and-a-half later,

1 for the same loan that I signed that I executed in May or
2 June. It would be like you did -- I can't explain it. I
3 haven't seen anything like that since they signed treaties
4 with the Indians, property west of the Mississippi.
5 Q. Do you feel like you were treated that way?
6 A. I was set up.
7 Q. Did any other company, to your knowledge, ever have
8 that type of a bad historical situation with the city?
9 A. No, one.
10 Q. At some point were you contacted by me about that
11 horse?
12 A. You probably brought it up, but I probably didn't
13 want to talk to you about it.
14 Q. Did I ever send you a bill for rent?
15 A. No, you didn't.
16 Q. I now want to show you something, Greg, Government's
17 Exhibit 3-6. Can you tell me what that is?
18 A. It looks like the Bank One sheet that explained some
19 of our loans, one of the loans you had.
20 MR. TRAFICANT: I should show this to the
21 Judge first.
22 THE COURT: It is okay. I have it in the
23 exhibit book.
24 MR. TRAFICANT: Can I put this on the screen?
25 THE COURT: Yes.

1 MR. TRAFICANT: You'd think I learned by now.
2 MR. MORFORD: I will get it.
3 MR. TRAFICANT: You have to let it warm up
4 awhile, Matthew?
5 MR. KALL: Ten seconds should do it.
6 BY MR. TRAFICANT:
7 Q. What was the date on that letter?
8 A. May 12th -- looks like -- is that a 4 or 6? I can't
9 see it.
10 THE COURT: Here is a closer one, and you can
11 see it better.
12 THE WITNESS: Thank you.
13 MR. TRAFICANT: Thank you, Your Honor.
14 A. That's May 12th of 1994.
15 Q. And that's a letter to you?
16 A. Yeah, because it is on Bank One stationery. I think
17 it is theirs, the stamp. It is from the bank to me.
18 Q. Do you see where it says "purpose"?
19 A. Yeah.
20 Q. Under that it says, "Facility No. 1." Read the first
21 three starting with "type, amount, and purpose."
22 A. It says, "Commercial real estate mortgage loan;
23 amount, $245,000; refinance real estate housing, Big G,
24 located at 551 Mahoning Avenue, Youngstown Ohio, 9.75
25 percent fixed rate."

1 Q. Now, read where it says, "First mortgage on real
2 estate" following "collateral."
3 A. "Guarantors: Gregory C. Tyson, Capital Ready Mix
4 Supply Co., Incorporated."
5 Do you want me to keep reading?
6 Q. What does it say about the facility and the amount?
7 A. "Equipment term loan." Additional $60,000, and
8 refinance construction equipment and vehicles. And that
9 was under "assets."
10 Q. Fine. I now want to show you Government's Exhibit
11 3-8, parenthesis 8.
12 MR. TRAFICANT: Do you want to see?
13 MR. SMITH: I have it.
14 Q. 3-8(8). Can you see it? I am going to put it on the
15 screen, 3-8(8).
16 THE COURT: I will come and look over your
17 shoulder if I need to.
18 BY MR. TRAFICANT:
19 Q. Where is that bill from?
20 A. That's for materials.
21 Q. Who picked it up?
22 A. Carol Kent.
23 Q. Who is it sold to?
24 A. It went to your property.
25 Q. Was that part of the deal?

A. Yes, sir.

Q. Do you know where the Government got these materials?

A. Might have got them at my office, I think.

Q. Did they subpoena documents from your office?

A. I think they sent a letter that they wanted to check records. I told them whatever you want to look at.

Q. Government's Exhibit 7-7.

MR. TRAFICANT: Your Honor, do you want to take a break now at 3:00, or when do you want a break?

THE COURT: Well, we usually go a little longer than this.

MR. TRAFICANT: Okay.

Q. Government's Exhibit 3-7, Greg.

A. Okay. Go back?

Q. Yeah.

A. Okay.

Q. What is that?

A. Well, I had a little problem, we put your stuff in. The pump went out at the house.

Q. And what, if anything, did you do about it?

A. Well, I got a call that you didn't have any water and you couldn't water the horses.

Q. Did we try and hide that agreement?

A. No. I had that down in my office. I mean, I had it. It was a warranty. I bought it from one of my suppliers.

1 I vouched for it, for everything that was on there.
2 Q. Do you know how much that pump cost?
3 A. I am not sure. Somewhere between $139 and $179
4 sounds about what they are worth, could have been a little
5 more or less. It might be more now, but then that's about
6 what it cost.
7 Q. Did I pay you for that?
8 A. Yeah. You paid me after John put it in.
9 Q. I want you to now look at Government's Exhibit 3-4.
10 Can you find that? It is dated April 7th, 1994.
11 THE COURT: It will be toward the front.
12 Going back the other way. It is the fourth one in your
13 book.
14 Q. The Government exhibits are tricky.
15 A. I got it.
16 THE COURT: Actually, they are just going in
17 sequence, Congressman.
18 MR. TRAFICANT: A lot neater than mine.
19 BY MR. TRAFICANT:
20 Q. Is that the letter that you sent me?
21 A. I think it is two pages though, because I know I
22 would have copied everybody on the thing.
23 THE COURT: On the back -- just turn the
24 whole sheet over.
25 A. Okay. Yes, sir.

1 Q. You thanked everybody that helped you, didn't you?
2 A. Sure. I tried to give everybody credit.
3 Q. So a lot of people tried to help you, didn't they?
4 A. Well, once we were in, everybody that was involved,
5 you know, was part of this thing, whether it succeeded or
6 failed.
7 Q. Who gave you the most help on this job, Greg?
8 A. You spearheaded. Otherwise it wouldn't have got
9 done.
10 Q. I want you now to look at 3-2.
11 MR. TRAFICANT: Bernard, there is a
12 parenthesis or something on that, or -- 3-2, so it would
13 be going back towards the front, Greg.
14 A. Okay. I got you.
15 Q. Are you familiar with that letter?
16 A. Yeah. I got a copy of this.
17 Q. And who is that letter from, and who is it to?
18 A. It looks like you signed it. It went to Mike
19 Brennan, the bank president, Bank One.
20 Q. And what was it in relation to?
21 A. Concerning our company and assistance.
22 Q. I want you to read, starting with the second
23 paragraph, "Mr. Tyson has contacted."
24 A. "Mr. Tyson has contacted me and Henry, and has
25 advised both of us that the bank has sloughed him off. He

1 was turned over to someone by the name of Perry with a last
2 name that he cannot spell.
3 "Mr. Tyson is definitely an astute businessman. He
4 needs financing for his new cement company in Warren. He
5 already has a contract with the City of Warren.
6 "If you are going to deny any financing to him, we
7 would appreciate knowing why he is not qualified to obtain
8 the financing he needs.
9 "Bank One must understand that we cannot just finance
10 new businesses that come into the 17th Congressional
11 District. Greg Tyson has been in business, and he needs
12 some financial assistance. Why can't we help him?
13 "I am hoping that you will look into this matter and
14 advise both Henry and I as to why our referral to Bank One
15 has ended up in vain.
16 "Thank you kindly for your continued cooperation.
17 Congressman James A. Traficant. "
18 Q. Did you ever see that building?
19 A. Looks like your old farmhouse.
20 Q. Who is this a picture of, Exhibit 3-1?
21 A. That's me, you and Joe, Buddy. That's when them
22 trucks came. We had them painted up right to the max.
23 Q. Were those old trucks?
24 A. Yeah, because we couldn't afford one, I had seven
25 trucks for the cost of what one new mixer was. Joe put

1 them through his shop, and my guy painted them. We worked
2 on them, worked our butts off to get them looking like
3 that.
4 Q. Do you have knowledge of how the Buccis acquired that
5 property?
6 A. Just rumors.
7 Q. Did the Buccis try and use you as a front man?
8 A. They tried.
9 Q. Did you trust the Buccis?
10 A. No.
11 Q. Do you have any company starting up now?
12 A. Well, while I was in bankruptcy I had a smaller
13 company with -- when I got injured I haven't been doing
14 very much.
15 Q. Is it your plan to eventually try and restart, Greg?
16 A. I just want to get my health back right now.
17 MR. TRAFICANT: No further questions at this
18 time.
19 THE COURT: Okay. We will take our
20 afternoon break.
21 (Thereupon, a recess was taken.)
22 THE COURT: Thank you. Be seated. You are
23 still under oath.
24 CROSS-EXAMINATION OF GREGORY C. TYSON
25 BY MR. SMITH:

1 Q. Mr. Tyson, as you sit here today, you think very,
2 very highly of the Congressman. Is that right?
3 A. Yes, sir.
4 Q. In fact, as you described it on your direct
5 examination, is it true in the last ten years of your
6 professional life that Congressman Traficant, you believe,
7 is really the only person in the position of authority that
8 has really gone to bat for you in the last ten years or so
9 of your professional life?
10 A. No. I wouldn't say that.
11 Q. You think he is the one that has done the most for
12 you in the last ten years of your professional life?
13 A. I had people help me all through my career in our
14 business.
15 Q. But since the Bank One loan situation arose, do you
16 think that the Congressman has been the one that has done
17 the most to help you in your professional life?
18 A. Well, no. He just helped on one loan. In my
19 professional life, I did work for 25 years in construction.
20 Q. I ask in the last seven, eight, nine years, in the
21 time since the Bank One loan, during that period, was he
22 the one that has helped you the most?
23 A. The Congressman helped secure a loan that we could
24 not secure due to the prejudicial situation of the banks at
25 that time.

1 Q. He would certainly be the highest ranking government
2 official to help you in a meaningful way in the last
3 decade. Is that right?
4 A. I would say yes.
5 Q. And you feel personal loyalty to him as you sit here
6 today?
7 A. Well, anyone that has been -- that has assisted in
8 that manner, I certainly would have respect for anyone like
9 that.
10 Q. Now, when you testified before the Grand Jury, you
11 accused the Government of exercising political timing in
12 subpoenaing you to the Grand Jury. Is that right?
13 A. I didn't accuse anyone. I just questioned the timing
14 of it. And in fact, my attorney questioned the timing of
15 it. He brought it to my attention.
16 THE COURT: If you could speak a little
17 louder, Mr. Tyson.
18 THE WITNESS: Is this better, Your Honor?
19 THE COURT: Yes.
20 Thank you.
21 THE WITNESS: In fact, I think my attorney
22 issued a letter. You should have it in your file.
23 Q. And the question you had was whether or not the
24 timing of your subpoena was politically motivated. Is that
25 right?

1 A. Without question, the timing of that subpoena was
2 politically motivated.
3 Q. That was your opinion, correct?
4 A. In my opinion, yes.
5 Q. Now, in fact, your Grand Jury appearance actually
6 happened several weeks after the primary occurred. Is that
7 right?
8 A. My attorney scheduled that time after the primary,
9 yes --
10 Q. Okay.
11 A. -- because I --
12 Q. In fact, your attorney had requested the Government
13 to postpone your Grand Jury appearance, and the Government
14 agreed to postpone it. Is that right?
15 A. My attorney notified your office that I had a prior
16 engagement. We would have been there because it was
17 mandatory for us to attend, and you did postpone it.
18 Q. You have answered my question.
19 A. But at the time --
20 MR. TRAFICANT: Objection. Let him finish
21 his statement.
22 THE COURT: Goodness.
23 A. But at the time in the Vindicator my name was --
24 THE COURT: Mr. Tyson, hold on just a second.
25 We have so many people talking. We have a court reporter

1 who has to write it all down at the same time.

2 THE WITNESS: Whatever you want to do, Your

3 Honor.

4 THE COURT: Just so you understand. That's

5 why we can't talk on top of each other, because we are

6 trying to make an accurate record. I know it is not like

7 being able to just have conversations.

8 There was an objection posed by the Congressman, and

9 I need to respond to the Congressman.

10 MR. TRAFICANT: I object because he did not

11 conclude his statement, and Mr. Smith attempted to cut him

12 off from completing his statement. So for the record, I

13 make an objection that that not happen, and when he makes a

14 statement, he be allowed to completely finish his

15 statement.

16 THE COURT: That is a very good rule which we

17 try to follow all the time, and the objection is well

18 taken. We will go back and start again, read the question

19 again. I will have the court reporter read it, and then

20 you listen to the question, and it is the witness the jury

21 has to listen to. All this side stuff gets in their way of

22 hearing. So now he has to go off the record to read it to

23 us. He is going to ask the question, and you can answer

24 it.

25 (Record read.)

1 THE COURT: I guess you did answer the
2 question. You can ask the next question and go forward.
3 Everybody kind of relax. It is late in the
4 afternoon. We want the evidence to be heard by the jury.
5 You state your question, you listen to it and answer it.
6 Thank you.
7 BY MR. SMITH:
8 Q. You understand a Grand Jury subpoena to be a document
9 that is mandatory requiring the witness' appearance. Is
10 that right?
11 A. Yes, sir.
12 Q. And the Government agreed to waive your appearance on
13 the date that had been set and to postpone it based upon
14 your attorney's request. Is that right?
15 A. My attorney filed a request. You granted the
16 request.
17 Q. Okay. And you actually then appeared before the
18 Grand Jury several weeks after the primary had already
19 concluded. Is that right?
20 A. Correct.
21 Q. Now, you have never worked in the field of criminal
22 investigation yourself, have you?
23 A. No, sir.
24 Q. All right. And so as you sat in the Grand Jury that
25 day, you did not have any personal knowledge as to how long

1 the investigation had been going on before you appeared,
2 did you?
3 A. Only a guess.
4 Q. You didn't know what other witnesses had been called,
5 did you?
6 A. It wasn't my concern.
7 Q. You have no knowledge of the factors that go into the
8 decision-making process as to when a witness is called
9 before the Grand Jury or not, do you?
10 A. I just have evidence of my name being splashed on the
11 paper right before the primary, right before I was supposed
12 to go to the Grand Jury. So how does anybody know that I
13 am going to the Grand Jury, when it is supposed to be
14 private and confidential, before I go?
15 Q. But you don't have any knowledge of why the
16 Government in a criminal investigation would call a
17 particular witness before a Grand Jury at any particular
18 time, do you?
19 A. I don't know what you are talking about.
20 Q. You don't know why the Government would subpoena you
21 for March of 2000 as opposed to any other time, do you?
22 A. Sure, to affect an election.
23 Q. That's your opinion, correct?
24 A. Correct.
25 Q. But you don't have knowledge of what the Government

1 is thinking?
2 A. I have personal knowledge of my name being smeared in
3 the paper and insinuations being made at the time of the
4 election.
5 Q. And my question was, you do not have personal
6 knowledge of what the Government was thinking when it
7 issued that subpoena?
8 A. I certainly don't know what you're thinking.
9 Q. Now, the congressmen, they are on two-year election
10 cycles, correct?
11 A. Yes.
12 Q. And there was a November 2000 general election in
13 which the Congressman stood for reelection; is that right?
14 A. That would be correct.
15 Q. And then there was a March 2000 primary. Is that
16 right?
17 A. I think in May, aren't they?
18 Q. Well, it was in March of that year, wasn't it?
19 A. I don't remember.
20 MR. TRAFICANT: Objection. If the witness
21 doesn't know --
22 THE COURT: He answered it. He says he
23 doesn't know.
24 A. Whatever day it was, it was a week before the
25 election.

1 Q. Okay.
2 A. And you know what, that's supposed to be
3 confidential.
4 THE COURT: Wait, wait, wait.
5 THE WITNESS: Sorry, Your Honor.
6 THE COURT: You have to answer his questions.
7 Then you may have other questions put to you at some time,
8 but you have to answer his questions so it is orderly.
9 Q. Would you agree, your Grand Jury appearance was on
10 March 29th, 2000?
11 A. Is that the time I was there?
12 Q. If I showed you the cover page of your Grand Jury
13 transcript --
14 A. If you have the record --
15 Q. -- would that refresh your recollection?
16 A. If you have the time I was there, that time and day,
17 I was there that day whatever time I signed in.
18 Q. Showing you Government's Exhibit 1000, if you would
19 look at that document up in the upper right, and tell us if
20 that refreshes your recollection as to when you testified
21 before the Grand Jury.
22 A. If this is the date you have on record, then I agree
23 this is the day I was there.
24 Q. All right. And the date on there is March 29th,
25 2000. Is that right?

A. Yes, it is.

Q. And that was several weeks after the primary, correct?

A. Yes, it is.

Q. So the primary then was in early March of 2000, correct?

A. I don't know when the primary was. It was after the fact of this.

Q. Well, you testified in the Grand Jury after the primary. You agree with that, correct?

A. Yes.

Q. So when a congressman is on a two-year election cycle with a primary six months before, then isn't it reasonable that an investigation of any length might bump into the election cycle?

A. No.

Q. Sir, when you came before the Grand Jury, you were upset with the City of Youngstown, correct?

A. The City of Youngstown screwed me into the ground.

Q. And you felt that way when you came to the Grand Jury, correct?

A. That's not how I felt. The facts will bear me out. I had signed agreements that weren't executed. I relied on their information. I relied on their agreements. They shook my hand and they lied.

1 Q. You were not happy with the federal government the
2 day you had to appear before the Grand Jury, correct?
3 A. You didn't investigate their wrongdoing, no.
4 Q. And you were not inclined to answer questions before
5 the Grand Jury until you were immunized, correct?
6 A. I could have invoked my Fifth, but I didn't.
7 Q. Sir, isn't it a fact that you were immunized when you
8 testified before the federal Grand Jury?
9 A. I was offered immunity against the Buccis, and then I
10 was compelled to testify against Congressman Traficant
11 because I told you he was a friend of ours and didn't think
12 he had done anything wrong.
13 Q. Sir, isn't it true that in the Grand Jury you
14 lawfully invoked your Fifth Amendment privilege and you
15 were immunized?
16 A. That's against the Buccis, and I testified with
17 Morford, who was the second prosecutor, and I was compelled
18 to testify. Now, there is a difference, isn't there?
19 Q. Showing you pages 3, 4, and 5 of your Grand Jury
20 testimony, March 29th of 2000, would you please briefly
21 review these three pages, and tell us if you were immunized
22 in your Grand Jury testimony after you lawfully invoked
23 your Fifth Amendment privilege?
24 A. Well, my attorney isn't here to interpret this stuff
25 for me.

1 Q. Could you please read it?

2 THE COURT: Not out loud, just to yourself.

3 A. It says here, "I refuse to testify and provide you

4 other information." That means I was compelled to give the

5 testimony.

6 Q. Under immunity, correct?

7 A. Well, I guess immunity for my compulsion, but it was

8 not immunity where you get a deal.

9 Q. Sir --

10 THE WITNESS: Am I saying that wrong, Your

11 Honor? That's my understanding.

12 THE COURT: Well, you just talk from what you

13 know and what your understanding is. It is up to the

14 lawyers to ask you questions. Okay? Just do what you're

15 doing. That's fine.

16 THE WITNESS: Okay.

17 BY MR. SMITH:

18 Q. Isn't it a fact that the foreperson read you a court

19 order signed by Judge Nugent of the Northern District of

20 Ohio immunizing you in your Grand Jury testimony?

21 A. As I understand it, I was compelled to testify. Any

22 testimony that I gave under that compulsion order gave me

23 immunity because I was compelled to testify, you know.

24 Now, the other agreement I freely gave to the

25 prosecutors because they were investigating the Buccis, who

1 committed fraud against minority contractors, and they were
2 investigating them on that purpose. So I have no problems
3 with that.
4 This one, I was compelled to testify because you
5 asked me to testify against the Congressman, which didn't
6 want to be testifying against the Congressman.
7 Q. All right.
8 A. And I was given immunity for whatever statements you
9 made me say as part of the testimony to answer truthfully
10 to you.
11 Q. And that immunity under the terms of Judge Nugent's
12 order extended not only to the Grand Jury appearance, but
13 it extended to any other Court action arising out of the
14 Grand Jury proceedings, such as your testimony today,
15 right?
16 A. Well, if that's true, I'm glad to hear that.
17 Q. Didn't the order say, page 5?
18 A. I didn't read it that well, but if I am covered under
19 immunity, fine. I am happy to hear it.
20 Q. Page 5, lines 8 to 15, didn't the foreperson read
21 this portion: "Now, therefore it is ordered pursuant to 18
22 U.S.C., Section 6002, that the said Gregory Tyson give
23 testimony or provide other information which he refuses to
24 give or provide on the basis of his privilege against
25 self-incrimination about all matters he may be interrogated

1 before said Grand Jury and before any court action arising
2 out of the said Grand Jury proceedings. "
3 Isn't that a part of the order that was read to you
4 in the Grand Jury?
5 A. It may well have been, sir. I'm getting your
6 understanding of it. So I'm happy to hear I still got
7 immunity.
8 Q. Now, with respect to the loan with Bank One,
9 initially, it is correct that you applied to Bank One for
10 the loan, and you were turned down, right?
11 A. The City of Youngstown was trying to work with the
12 banks in Youngstown, and Dollar Bank had just went belly
13 up, and National City Bank was taking it up. I was told to
14 go through Bank One.
15 Even though I went through all the changes, I was
16 turned down.
17 Q. All right. And after you were turned down, you
18 requested the Congressman's assistance with Bank One since
19 you could get the financing you felt you needed, right?
20 A. Well, I was a little bit upset because Russia just
21 got a $29 billion dollar loan and defaulted, and I am
22 sitting there in Youngstown with union employees, paying
23 union wages, and a contract with Youngstown, and I called
24 his office to see what the hell he could do about that.
25 Q. All right. And you did receive help from the

1 Congressman in intervening with Bank One. Is that right?
2 A. Yes, we did.
3 Q. In fact, after the Congressman took action, you got a
4 meeting with Mr. Al Matasy, correct?
5 A. After me and Jim got involved, all the doors opened.
6 I started meeting all the big wigs up on the top floor who
7 you never see.
8 Q. All right. And you got the loan?
9 A. Yes, through a long drawn-out process, including the
10 scenario we talked about earlier.
11 Q. During your direct examination did you refer to Bank
12 One or people at Bank One as being idiots?
13 A. Marty Durkin in particular was fired, was one of
14 them.
15 Q. But you referred to people at Bank One as being
16 idiots with respect to your loan, right?
17 A. I said some of the loan officers were young idiots,
18 which they were kids. They had no common sense. They
19 never worked for a living. They are bean counters. They
20 didn't want property. They didn't want assets.
21 Q. And you said on direct examination that you felt that
22 the loan documentation had been improperly or incorrectly
23 structured. Is that right?
24 A. I was hammered into a deal, the best deal I could
25 get, but it was not the best deal that could have been

1 made. I was backed into a corner, and I had to make a
2 deal.
3 Q. And you said on direct examination, did you not, that
4 you felt that the bank really was interested only in
5 getting interest from you, and they really weren't
6 concerned about the health of your business. Did you
7 basically say that?
8 A. Well, aren't banks multi-billion dollar corporations?
9 They don't get paid like that, helping little people.
10 Q. And did you say on direct examination that Bank One
11 was interested only in receiving interest payments from you
12 and was not really concerned about your business?
13 A. That was my observation.
14 Q. But at the time that the loan was made, you didn't
15 criticize Bank One, you praised them. Is that right?
16 A. I had to. I had to get more money out of them.
17 Q. Well, showing you Exhibit 3-4, the letter that you
18 identified as being the letter you wrote on April 7th,
19 1994, do you have it on the counter before you? Could you
20 take a look at that, sir?
21 A. I have it.
22 Q. And in the last paragraph on page 1, would you read
23 what you said about the people at Bank One when you got the
24 loan? Bottom of page 1, last paragraph. Sir, page 1 of
25 the letter. Flip it over, please.

1 A. I got it. Hold on.
2 Q. Right. The last paragraph on the front page. Okay.
3 If you would please read.
4 A. "Through fate, we were introduced to a staff at Bank
5 One, in particularly a gentleman by the name of Mr. Al
6 Matasy. He set up a meeting with myself and fellow banking
7 officer Mr. Perry Chickonowski, and immediately began to
8 see results. After significant effort on behalf of
9 numerous associates of Bank One, these gentlemen
10 singlehandly rescued this start-up company from the trash
11 heap, and with no other government assistance, they solely
12 took on the responsibility of committing and financing
13 Capital Ready Mix, Incorporated, with the proper packages
14 and loan agreements that will make this start up company a
15 success."
16 Q. And you also in the first paragraph of that letter
17 referred to what happened in your loan situation as a
18 magnificent banking success story. Is that right?
19 A. Right.
20 Q. So at the time you credited Bank One loan officers
21 with single-handedly rescuing your startup company. Is
22 that right?
23 A. Yeah. It is called spend control.
24 Q. And Mr. Perry Chickonowski that you mention in the
25 last paragraph of that letter, he was one of those young

1 loan officers, right?
2 A. Yeah. Marty Durkin isn't mentioned.
3 Q. But Mr. Chickonowski was one of those young loan
4 officers who worked on your loan?
5 A. He was a young aide.
6 Q. And flipping this letter over, this praise that you
7 bestowed upon Bank One you distributed to Mayor Patrick
8 Ungaro?
9 A. The bank did something. It was not perfect, but they
10 did something, so I gave them praise.
11 Q. You praised them to the mayor?
12 A. I praised everybody.
13 Q. Did you send a letter to the mayor?
14 A. Yes.
15 Q. And you sent a copy to Youngstown City Council, as
16 well?
17 A. And I sent a letter to city council.
18 Q. And you sent a letter to Mr. Joe Burkey, correct?
19 A. That would be correct.
20 Q. And the initials M.V.E.D.C., what does that mean?
21 A. That's, I believe, Mahoning Valley Economic
22 Development Corporation.
23 Q. And Mr. William Carter, you sent a copy of the letter
24 to him, too, correct?
25 A. Correct.

1 Q. And what do the initials Y.A.D.C. mean?
2 A. Youngstown Area Development Corporation.
3 Q. Now, ultimately and unfortunately you did default on
4 the loan, correct?
5 A. Defaulted on two loans.
6 Q. All right. Now, prior to the time that this loan
7 situation occurred, you testified on direct examination
8 that there was a meeting that you had at a local restaurant
9 with the Congressman, yourself, Mr. Sattarelle, and one or
10 two of the Bucci brothers. Is that right?
11 A. The two Bucci brothers, Bob and Tony.
12 Q. So both of the Bucci brothers were there?
13 A. There are three of them. Dan is dead now.
14 Q. Was he there that day?
15 A. No.
16 Q. Tony and Bob Bucci were there, and Mr. Sattarelle and
17 the Congressman, right?
18 A. Yes.
19 Q. And it was at that time that you believe that the
20 Buccis were trying to run you right out of the company. Is
21 that right?
22 A. That would have been a fact.
23 Q. And indeed, you thought that the Buccis were trying
24 to destroy you as a businessman. Is that right?
25 A. They were doing their best effort.

1 Q. And that meeting in that restaurant got extremely
2 contentious. Is that right?
3 A. Yes, it did.
4 Q. In fact, there came a point where there was at least
5 some risk there could have been a physical altercation
6 there, correct?
7 A. No. Bob is all talk.
8 Q. All right. Didn't somebody say they might come
9 across the table at somebody else?
10 A. He thought he could bluff somebody.
11 Q. That's what he said, right?
12 A. That's what he said. He didn't do nothing.
13 Q. And during that meeting, the Congressman took a
14 neutral role during that restaurant meeting, didn't he?
15 A. He was trying to get the problem resolved.
16 Q. And he really didn't take anybody's side. He was
17 basically neutral. Isn't that right?
18 A. He tried to present a neutral setting, but I would
19 say he supported us.
20 Q. In the Grand Jury you said he didn't take anybody's
21 side?
22 A. I said he was neutral in the thing. You are asking
23 me about sides, I would say he supported me.
24 Q. Well, in fact, in the Grand Jury, didn't you say that
25 he acted more like a referee rather than a partisan in this

1 meeting?
2 A. He was trying to get the thing worked out. Yes, he
3 came in as a mediator to see what the problem was, because
4 I notified him that with all these bank deals in place, all
5 this city government, that the Buccis were trying to screw
6 the deal up.
7 Q. And so in that meeting in the restaurant, the
8 Congressman was not overtly taking sides with either party,
9 was he?
10 A. He was doing his job as a mediator to get the thing
11 resolved. He couldn't show outward favoritism to them
12 guys, he couldn't show it toward me.
13 Q. All right. Now, it is true that Big G and Capital
14 Ready Mix employees went out to the farm and performed work
15 out at the Congressman's farm in Greenford, correct?
16 A. Yes, sir.
17 Q. And there were basically two installments in that
18 work, correct? It happened in two different installments?
19 A. Not from my company it didn't.
20 Q. In other words, there was a first installment. There
21 was a first installment where some waterlines, sprinklers,
22 and pipe were put in. Is that right?
23 A. Absolutely, yes.
24 Q. And the pump, that was the responsibility of John
25 Krump of Capital Ready Mix to make sure that got taken care

1 of?
2 A. That pump had nothing to do with the first job.
3 Q. What pump had to do with the first job?
4 A. The pump came after we had completed the job, and
5 they called up my office, couldn't get ahold of me, and
6 they called the concrete plant because there wasn't any
7 water for horses. The wellhead had went out.
8 Q. And Mr. Krump was responsible for installing a pump
9 to fix that problem?
10 A. He wasn't responsible for it. I asked because John
11 lived out that way. I didn't want to send one of my
12 expensive guys to go out and see what the problem was, so I
13 asked him to stop to see if he could check it out on his
14 way home.
15 Q. And your testimony is that you were paid by the
16 Congressman for that pump, correct?
17 A. After the pump was put in, after John did the work,
18 Jim asked me how much I owed him for the thing, and I told
19 him just give me $400. Then he paid me, but it wasn't
20 right away. It was totally by surprise.
21 Q. And you never reported the $400 on the books and
22 records of Capital Ready Mix?
23 A. I got the $400 in an envelope and just put it --
24 Q. My question is, you did not report the $400 on the
25 books and records of Capital Ready Mix?

1 A. I don't know. It was probably put in petty cash.
2 When I had petty cash, we didn't keep receipts on it.
3 Q. Isn't it a fact in the Grand Jury you testified you
4 didn't report that $400 on the books and records of
5 Capital?
6 A. I wouldn't have reported it to Capital because that
7 envelope came to my house.
8 Q. Mr. Krump was a Capital Ready Mix worker?
9 A. He was a supervisor, mixed concrete for us.
10 Q. At Capital Ready Mix, right?
11 A. Right. But the pump -- John, he also had his own
12 truck, and he was a union man, and he lived out there.
13 Q. And the pump was purchased with Capital Ready Mix
14 money, correct?
15 A. No. I think I bought it from Big G. It is in the
16 book here.
17 Q. Big G is one of your companies, too. Is that right?
18 A. Yeah. I had two companies.
19 Q. So one of your companies bought that pump, right?
20 A. Right.
21 Q. And you never reported the payment on the books and
22 records of the companies that did the work. Is that right?
23 A. It was a chicken shit amount. I can't keep track of
24 little stuff like that.
25 Q. Well, you would agree that a company must keep

1 accurate books and records of all matters of income so that
2 you have, number one, accurate books and records, and
3 secondly, that you had accuracy for tax purposes.
4 You would agree with that, wouldn't you?
5 A. We kept records as best we could. Sometimes you got
6 a couple dollars in petty cash and incidental income. And
7 we always get an estimated thing at the end of the year,
8 and I always put down more in case we were covered.
9 Q. And you failed to report that income on company
10 books?
11 A. I didn't fail nothing. That was covered in the
12 company books and our statements. When our guys do the
13 books I always estimate an extra amount as far as petty
14 cash over and above our receipts.
15 Q. Sir, did you testify in the Grand Jury, page 57,
16 lines 19 through 25, "Well, let's talk about applying the
17 money properly. "
18 "Question: Well, let's talk about applying the money
19 properly. Did you record on the books and records of
20 Capital Ready Mix the receipt of the $400 cash from Jim
21 Traficant for the well repair?
22 "Answer: If anything, it was put in petty cash.
23 "Question: That's not my question. Did you record
24 it?
25 "Answer: I don't think I recorded it. "

1 Were those the questions you were asked and were
2 those the answers you gave in the Grand Jury?
3 A. Yeah, whatever.
4 Q. Now, sir, with respect to the waterlines and the
5 sprinklers in that first series of work you did --
6 A. I didn't put any sprinklers in, squeeze a trigger and
7 get out water.
8 Q. And there were water pipes, lines, that kind of
9 thing. Is that what happened?
10 A. What actually happened, I think we put the lines in,
11 and one of my guys failed to purge the system, and I think
12 we blew out his pump. That's why I had Krump go out
13 instead of the guys that installed it, so I could find out
14 what happened with the thing.
15 Q. And your testimony is you were paid $500 and a horse
16 for that work, right?
17 A. What work is that?
18 Q. The waterlines and the pipe, and that stuff?
19 A. Right. I took older material from jobs. I had
20 cleaned up the jobs. The men's paychecks were made out
21 already. If they were paid for eight hours, it took a
22 couple hours, they had their pay that day. I think we got
23 done around noontime. They did four hours and got eight
24 hours. It was kind of a bonus, reward.
25 Q. Isn't it true, you didn't report any payment for the

1 work on the books and records for the work on the pipes and
2 lines?
3 A. I bought tickets, and I had taken my personal checks
4 and was buying political tickets. So I didn't get any
5 exorbitant money that I thought I had to be worried about
6 recording.
7 Q. So you didn't report it on the books and records of
8 your company?
9 A. No. That little bit of petty cash wasn't recorded.
10 Q. And you didn't report the value of the horse on the
11 books and records of the company either?
12 A. I didn't want the Buccis to claim that they had 24
13 percent, so I guess I didn't report the horse.
14 Q. May I finish my question?
15 A. I finished answering it.
16 THE COURT: I think he has answered it.
17 BY MR. SMITH:
18 Q. Sir, by the way, what political tickets did you buy
19 with this money that you said the Congressman gave you?
20 A. I had bought tickets for the mayor of Youngstown, the
21 mayor of Warren. I bought Commissioner's tickets, whatever
22 political smut come along. If you didn't buy the ticket,
23 then they get mad at you.
24 Q. Now, with respect to the horse, you didn't want the
25 horse, correct?

1 A. Nobody likes to take a trade-in instead of cash.
2 Q. In fact, earlier in life you had been bitten by a
3 horse, and after that you really didn't care for horses.
4 Is that right?
5 A. I was bitten by a pony when I was younger, but ponies
6 and horses are different.
7 Q. But the point is, you never actually removed the
8 horse from Congressman Traficant's farm; it stayed there?
9 A. Yeah, because I had free room and board on that
10 sucker for a year until I determined what I wanted to do
11 with it.
12 Q. You never took actual physical possession of that
13 horse?
14 A. Didn't have to.
15 Q. Your answer is no?
16 A. The horse was mine.
17 Q. Sir, did you take actual physical possession of the
18 horse at any time?
19 A. The man shook my hand and said the horse was mine, so
20 the horse was mine. Now, did I go out there and take him
21 out of the barn? No.
22 Q. And, in fact, at the time of your Grand Jury
23 appearance you did not know if the horse was alive or dead.
24 Is that right?
25 A. When did you call me? Was it last year?

1 Q. March 29th of 2000, when you testified before the
2 Grand Jury, at that time you didn't know if that horse was
3 alive or dead. Wasn't that your statement?
4 A. Well, I was probably just out of being glad I was
5 alive myself. I didn't care if it was alive or dead.
6 Q. And you didn't know if it was alive or dead?
7 A. I hadn't been out to the farm.
8 Q. Now, there was another batch of work done later that
9 consisted of concrete work, distribution of some slag, and
10 some work on a barn. Is that right?
11 A. That was the work I did in trade for the horse.
12 Q. I thought you already said that the horse was part of
13 the payment on the waterlines.
14 A. You thought wrong.
15 Q. Isn't that what you said a few minutes ago?
16 A. No, I didn't.
17 Q. At any rate, that's the same horse you didn't take
18 possession of and didn't know if it was dead or alive?
19 A. The same if I did work for you and you have a 1962
20 car in your garage which is a collector item which you have
21 to keep in the garage: While it is in your garage and I
22 don't have to store it, I don't have to keep it.
23 Q. Okay. Let's talk about the concrete. About six
24 trucks of concrete were sent up to the farm, correct?
25 A. No. That was a different deal. That's when the

1 Buccis wanted some work done, and they didn't have credit
2 for the concrete.
3 Q. Whether the Buccis were responsible for the concrete
4 going out there or you were, about six trucks worth of
5 concrete went out to that farm, correct?
6 A. That's a separate deal. That's not the same job.
7 You are mixing it up.
8 Q. Whether it is different or the same --
9 A. It is not the same.
10 Q. And you didn't ask the Congressman to pay for those
11 six loads of concrete, did you?
12 A. The Buccis requested those six trucks. The Buccis
13 had the cost of that concrete deducted from their rent. It
14 was a separate job altogether. You are not even on the
15 same page.
16 Q. My simple question is, you didn't make any requests
17 of the Congressman to pay for that concrete, even if it was
18 a Bucci job, correct?
19 A. The concrete was paid for by the Buccis, so there was
20 no need for me to request to the Congressman.
21 Q. Okay. With respect to the slag, that slag was
22 delivered to the farm by a Big G worker whose name was
23 Carol Kent, correct?
24 A. Correct.
25 Q. And she was a truck driver, correct?

1 A. Correct.
2 Q. And you did not ask the Congressman to pay for that
3 slag either, did you?
4 A. That slag was part of the agreement. When I walked
5 around with Jim he asked me to do additional work. After
6 we installed the waterlines and the pipe he did that, and
7 that's why I had to come back and make a second trip, come
8 back, pour pads, and spread slag. I did that for what the
9 horse was worth.
10 Q. So you were not paid any money for that slag; you
11 would agree with that, correct?
12 A. I was paid by -- with the horse.
13 Q. No money, correct?
14 A. For that slag, no money.
15 Q. And finally, the barn wall repair. Three or four men
16 from your companies were sent out there to do that work,
17 correct?
18 A. Whatever it took to do the job. I -- you know.
19 Q. Do you dispute it was three or four men?
20 A. Whatever it took to do the job. If I had to send
21 two, three guys, or a machine, whatever it took. I agreed
22 to do a job, and I do the job correctly. Whatever it takes
23 for me to do that job, I do.
24 Q. And did you ask -- you did not ask Congressman
25 Traficant to pay for that work that was done on the barn

1 wall either with money, did you?
2 A. That work was part of the agreement for Sarge, the
3 horse.
4 Q. Charge of the horse?
5 A. Right.
6 Q. So no money for the barn wall?
7 THE COURT: Did you say "Sarge" or "charge?"
8 THE WITNESS: Sarge.
9 THE COURT: But the horse's name is Sarge?
10 THE WITNESS: Actually, technically, he was
11 The Son of Sarge, but I called him Sarge.
12 THE COURT: I got the word "charge" out of
13 that. I was wrong.
14 Q. So the horse's name was Sergeant, correct?
15 A. That's what I called the horse, but that's really --
16 Q. And on the barn wall work or repairs you didn't
17 receive any money?
18 A. Yeah. I got paid with the horse before I did the
19 work. That's what I agreed to do in part of agreeing to
20 take the horse. When he gave me the horse in the first
21 place, it was more than the value of the work that we did.
22 MR. SMITH: May I have a moment, Your Honor?
23 THE COURT: Did you finish? Did you finish
24 what you were saying?
25 THE WITNESS: Whatever he wanted to do, Your

1 Honor.

2 THE COURT: No, no. I was listening to you,

3 the jury was listening to you, and so we need to hear --

4 THE WITNESS: Whatever he goes into.

5 THE COURT: Just come out and finish up with

6 what you were saying.

7 THE WITNESS: I am done, Your Honor, I guess.

8 THE COURT: Okay.

9 (Laughter.)

10 Q. Isn't it true after this supposed deal with the horse

11 you only saw the horse about two more times after that?

12 A. My dad saw it a couple times.

13 Q. And that's it, right?

14 A. I wasn't concerned with it. I mean, I had cleared

15 out things in my Capital Ready Mix plant, and the Buccis

16 were making efforts to screw me out of that plant. I

17 didn't want to be putting a $10,000 corral and stable, and

18 bring the horse out there, and them son-of-a-bitches end up

19 with --

20 Q. And your dad only saw the horse once, right?

21 A. My dad was only out there one time. My dad is dead,

22 by the way.

23 MR. SMITH: Okay. No further questions.

24 MR. TRAFICANT: Your Honor, I just have one

25 question. I know it is almost 4:30, but I would like to do

1 this. Leave the machine on. I have a document 1007. It
2 came in discovery from you guys. You didn't put a number
3 on it. It is a statement, borrowing base, 11-18-94. I
4 want the gentleman to look at it.
5 MR. MORFORD: It is part of 3-9. It has a
6 number. Look at the very last page, Congressman. There is
7 an exhibit.
8 MR. TRAFICANT: Fine. But I want this
9 especially -- after we are done I want to know if this is
10 part of the record.
11 REDIRECT EXAMINATION OF GREGORY C. TYSON
12 BY MR. TRAFICANT:
13 Q. I would like for you to take a look at it. It is
14 part of a package of 3-9.
15 THE COURT: Okay.
16 Q. Are you familiar with that? I want to put it on the
17 screen real fast.
18 A. This is how they based my line of credit.
19 MR. TRAFICANT: I would like to put this on
20 the screen, Your Honor.
21 THE COURT: Fine.
22 MR. TRAFICANT: I would like to have a
23 special Defense Exhibit Number put on there as GT 1007.
24 THE COURT: We have been on Joint Exhibits.
25 We have been calling them Joint. Is this a request for a

1 Joint Exhibit? It has an exhibit number from the
2 Government.
3 MR. MORFORD: That exhibit was not offered,
4 and if he wants to mark that page with that, that's fine.
5 MR. TRAFICANT: They haven't offered
6 anything.
7 BY MR. TRAFICANT:
8 Q. Did they subpoena you, Greg?
9 A. For this testimony?
10 Q. Did they subpoena you to the Grand Jury?
11 A. Yes.
12 Q. Did you have an attorney to advise you with regard to
13 that immunity?
14 A. Yes.
15 Q. Did you know that immunity carried over to this
16 meeting?
17 A. No.
18 Q. This trial?
19 A. No.
20 MR. TRAFICANT: I would like to identify this
21 document, and I will slow it down for you.
22 Q. Would you identify for me what it is? It is hard to
23 read.
24 A. That was their formula. At the top, you will see it
25 says $415,000. That wasn't my contract base for the year.

1 That was the profit I was going to make on jobs for the
2 year. That was based on 30 percent profit on a million
3 six, million seven, and that's what burned my socks when
4 that -- excuse me -- son bitcher Bucci told me I didn't
5 have loan value because I had those contracts in my holding
6 when he sat there and said that.
7 Q. What does it say opposite that? Look at the $415,
8 and look what it says opposite.
9 A. It says acceptance of accounts receivable.
10 Q. Now, look down below, eligible inventory, how much?
11 A. $82,000.
12 Q. Look at subtotal above eligible inventory?
13 A. $150,000.
14 Q. You are looking at the bottom. I am talking about
15 the top, $415,000.
16 A. $415,970.44.
17 Q. Third line?
18 A. $207,985.22.
19 Q. Next line?
20 A. Eligible inventory, $50,000.
21 Q. Next line?
22 A. 50 percent.
23 Q. Tell what it was for.
24 A. This was our revolving line of credit.
25 Q. What was $25,000 -- what does it represent?

1 A. Fifty percent of our inventory on hand.
2 Q. And that's $232,985 stand for?
3 A. That was the total eligible amount of loan value that
4 they had a formula, or they broke it up.
5 Q. You had that valuable loan value?
6 A. I had more than that. I had $415,000. They could
7 have boosted that formula to more than 50 percent. They
8 were giving me half of what my receivables were. I had
9 $415,000.
10 Q. So that 50 percent underneath $415, they only gave
11 you credit for only half of what your receivables were
12 worth?
13 A. Right.
14 Q. In computing your assets to make you a loan?
15 A. Well, this was for our line of credit.
16 Q. Line of credit?
17 A. Line of credit.
18 Q. Did you feel you were treated fairly in that process?
19 A. No. We were screwed on that.
20 MR. TRAFICANT: No further questions.
21 MR. SMITH: No questions.
22 THE COURT: Thank you, sir. Sir. You are
23 excused, and you may step down.
24 THE WITNESS: Thank you, Your Honor. Nice to
25 meet you.

1 THE COURT: Be careful of our steps as you go
2 down. They are not great.
3 We are going to recess until Monday morning. We will
4 need to begin at 9:00 o'clock on Monday morning. You are
5 going to have a nice three-day period of time, and it is
6 important that, although you hear these words over and over
7 again, that I remind you again that if anybody tries to
8 contact you or put you under any pressure in this case, you
9 have a number to call. You call it.
10 There may well be things in the media of any kind,
11 and you need to avoid those completely. Don't let anyone
12 talk to you about the case. Don't talk to anyone about the
13 case. And watch when you are online or walking through a
14 room where there is a TV on or listening to the radio in
15 your car, just -- make sure when you are reading the
16 newspaper -- just make sure you keep all of that out so
17 you can do your job here.
18 And I thank you for your wonderful attention, and we
19 appreciate it very much. This is -- we are going into our
20 ninth week next week. And you very fine folks have these
21 responsibilities, so enjoy your time off and your families
22 and the rest of your lives.
23 Thank you.
24 (Proceedings out of the presence of the jury.
25 THE COURT: We could be subject to working a

1 full day down here. We do have several motions and
2 responses that have been filed. I think we would benefit
3 by just following the jury's steps and reconvening on
4 Monday morning, but I'd like you to reconvene at 8:30.
5 I anticipate that there will be some more orders
6 coming out on the various motions that are in this case.
7 And so you should pay attention to that.
8 Congressman, you can access all this online. We also
9 fax copies of everything to both offices. So if anything
10 is going to come out, I'm not going to say I will give you
11 advance warning. We will just work as we can work and get
12 through as many as we can. But, Congressman, we need to
13 know from you and the other side needs to know tonight who
14 you anticipate bringing in on Monday morning, and we also
15 would like an update on the welder situation.
16 MR. TRAFICANT: I will know more about that
17 this weekend. I got the number from the prosecutor, and I
18 will notify them as soon as I find out. A lot of it
19 depends on the material I get from Home Savings, and I may
20 be able to conclude my case this week.
21 THE COURT: I will let the jury go, and is
22 there anything further?
23 MR. SMITH: Yes.
24 THE COURT: Well, wait. I am not sure they
25 are ready, but it doesn't take them long to get their

1 coats. Everyone else, you can stand or be seated.
2 (Pause.)
3 MR. TRAFICANT: Your Honor, I would like to
4 offer some documents into evidence.
5 THE COURT: If you will give us the numbers
6 and show them to the other side.
7 MR. TRAFICANT: Okay. The first one is --
8 was a Government exhibit that had a 3.2 sticker on it. And
9 I want it to be labeled GT 1007-B.
10 THE COURT: 3-2 is in evidence already as a
11 joint exhibit.
12 MR. TRAFICANT: Okay. Fine.
13 THE COURT: Okay.
14 MR. TRAFICANT: A letter to Mr. Don Cheigas,
15 Bank One from Mr. Tyson, November 18th, 1994. I would like
16 to have it as a Defense Exhibit GT 100.
17 THE COURT: What's its Government number,
18 Congressman?
19 MR. TRAFICANT: It has no Government number
20 on it.
21 THE COURT: I think it may be part of a
22 series.
23 MR. SMITH: GT 1007?
24 MR. TRAFICANT: I got it in discovery,
25 gentlemen. I am using your material.

1 MR. MORFORD: But this was not shown to a
2 witness.
3 MR. TRAFICANT: I did show it to him.
4 MR. MORFORD: But he didn't testify about it.
5 MR. TRAFICANT: I don't have it in my notes.
6 THE COURT: Okay. So describe it for us, and
7 give --
8 MR. TRAFICANT: It was a letter to Mr. Donald
9 Cheigas relative to the refinancing of Big G Construction,
10 which I asked him about.
11 THE COURT: Who wrote the letter?
12 MR. TRAFICANT: It was written by Greg Tyson,
13 GT 100, and they are saying it is already in. Is that what
14 you are saying?
15 MR. MORFORD: No. I don't think that one is.
16 THE COURT: GT 100 apparently --
17 MR. SMITH: We don't care.
18 THE COURT: Apparently, it was not
19 identified, but they will agree to have it come in. So
20 without objection, GT 100 will come into evidence.
21 MR. MORFORD: Can you give it to us with the
22 number on it so we know what it is?
23 MR. TRAFICANT: Certainly. GT 100.
24 GT 102 --
25 THE COURT: Before you go on, the Court also

needs a copy of it. Since you doesn't have it right now --

MR. TRAFICANT: I do have a copy of it for you.

THE COURT: Okay. Thank you. Thanks.

MR. TRAFICANT: Next one will be GT 102, a letter to Perry Chickonowski from Gregory Tyson.

MR. SMITH: Again, Your Honor, we don't recall it being shown to the witness, but we will not object.

THE COURT: What they are referring to, Congressman, when you had him on the stand, because he wrote the letter, you could have shown it to him and identify it and wouldn't have problems getting it into evidence.

MR. TRAFICANT: I knew they would stipulate to it.

THE COURT: I wouldn't count on that.

MR. TRAFICANT: If they don't, they don't.

THE COURT: If they don't, it won't be admitted.

MR. TRAFICANT: Well, they have already.

Next one is the Government's Exhibit 3-6 --

THE COURT: Are you going to --

MR. MORFORD: I am just reading it, Your Honor.

1 MR. TRAFICANT: I thought Mr. Smith already
2 stipulated to it.
3 MR. TRAFICANT: That was GT 100.
4 MR. MORFORD: No. I believe it was GT 102 as
5 well.
6 THE COURT: Congressman, let him relax and
7 read the letter.
8 MR. MORFORD: That's fine. It is a business
9 record, so we will stipulate.
10 THE COURT: Fine.
11 MR. TRAFICANT: Next one -- it had a
12 Government Exhibit 3.6. I showed it and put it on the
13 screen, and it is known as GT 1007-D.
14 THE COURT: While they are looking at that, I
15 will admit the prior exhibit, which is GT 102, will be
16 admitted without objection.
17 MR. TRAFICANT: This was given to me in
18 discovery, and I showed it to the witness on the screen,
19 and he identified it. It was all with the packet by the
20 Government.
21 MR. MORFORD: This is the same as Exhibit
22 3-5. So there is a copy of this exhibit under 3-5 under
23 evidence. I think they are the same.
24 MR. TRAFICANT: How did you bring it into
25 evidence?

1 MR. MORFORD: Under Mr. Chickonowski.
2 MR. TRAFICANT: I would like to put this into
3 evidence as 1007-D under the Tyson case.
4 THE COURT: We don't want to give the jury
5 two sets.
6 MR. MORFORD: The other one has the
7 Congressman's handwriting, but it is the same document
8 otherwise.
9 THE COURT: Okay. Very well.
10 MR. MORFORD: And no objection.
11 THE COURT: And this will be admitted without
12 objection.
13 Just a minute. GT 1007-D.
14 MR. TRAFICANT: The Government did have
15 Government's Exhibit 3-1 admitted. It was a photograph.
16 If they had it admitted as a joint exhibit --
17 THE COURT: They did. It is a joint exhibit.
18 You asked it to be a joint exhibit.
19 MR. TRAFICANT: That's the photograph?
20 THE COURT: Yes.
21 MR. TRAFICANT: Fine. The next one is known
22 as GT 107-A. It is -- it was shown to the witness. It
23 was Government Exhibit 3.3, and it dealt with his term loan
24 and put on the screen.
25 THE COURT: It is admitted as a joint

1 exhibit. It has been already.
2 MR. TRAFICANT: Fine. Now I have several
3 photographs that were shown -- I have several other
4 exhibits that were shown to the -- and shown on the
5 screen, and did we admit 101, GT 101, defense exhibit that
6 was shown to him?
7 It was Big G Construction, a letter from -- it was
8 to Big G Construction from Bank One.
9 THE COURT: Show it to the Government,
10 please.
11 MR. MORFORD: That's the same as 3-6.
12 MR. TRAFICANT: Find me 3-6.
13 MR. MORFORD: It does appear to be different.
14 MR. TRAFICANT: GT 101 I move be admitted as
15 evidence. It is different than theirs.
16 MR. MORFORD: Do you have another copy of it?
17 MR. TRAFICANT: Yes, I do. I'm looking for
18 it. I do not at this time, and I would ask you to look at
19 this, and if it needs to be introduced later, I will do so.
20 MR. MORFORD: We have no objection to this,
21 except that we need a copy that we can mark for our own
22 records.
23 THE COURT: And we need a copy, Congressman.
24 What is it? Is there a way of describing what it is?
25 MR. MORFORD: A May 12th, 1994, Bank One

1 letter to Big G, with a bunch of loan information on it
2 that I believe is included in what was marked but not
3 introduced or admitted as Government's Exhibit 3-9. So if
4 you take the pages out of 3-9, the four pages, that would
5 constitute this document.
6 MR. KALL: I believe it starts on or about
7 the third page, Your Honor. There are a few different bank
8 records from May 12, 1994, so for clarity, the first page
9 lists facility one in an amount of $108,000 for the first
10 facility, $197,000 for the second facility.
11 THE COURT: So, Congressman, do you have a
12 copy of that for the Court, please?
13 MR. TRAFICANT: I don't have a copy of that
14 for the Court. You will -- I will have to make a copy of
15 it.
16 THE COURT: They don't have an objection to
17 its admission as I understand, but on Monday morning, you
18 can bring a copy.
19 MR. TRAFICANT: And what was the number on
20 that, Your Honor? Is that 101?
21 THE COURT: GT 101.
22 MR. TRAFICANT: So we need a copy for the
23 Court. I do have photographs I would like to have put in
24 the record.
25 THE COURT: Have you seen it -- shown it to

1 the other side?
2 MR. MORFORD: I haven't --
3 THE COURT: Congressman, maybe we can put
4 them out on the table, and the lawyers for the Government
5 can look at them.
6 MR. TRAFICANT: Well, they only would agree
7 to the additional -- the pictures of the addition, and I
8 will put them on the screen if you'd like, and maybe we can
9 expedite it.
10 THE COURT: Was -- if there are some agreed
11 to, tell me that, and we can go ahead and admit them as
12 your exhibits.
13 MR. TRAFICANT: This is HA-70. Let me go
14 through what I have.
15 THE COURT: Okay. You folks organize it.
16 MR. TRAFICANT: This is HA-70.
17 THE COURT: Do you agree to that?
18 MR. MORFORD: No objection to HA-70, Your
19 Honor.
20 THE COURT: It will be admitted.
21 MR. TRAFICANT: HA-90.
22 MR. MORFORD: Just one second. No objection
23 to HA-90.
24 THE COURT: It is admitted.
25 MR. TRAFICANT: HA-80.

1 MR. MORFORD: No objection to HA-80.
2 THE COURT: It is admitted.
3 MR. TRAFICANT: HA-50.
4 MR. MORFORD: No objection.
5 THE COURT: Admitted without objection.
6 MR. TRAFICANT: HA-60.
7 MR. MORFORD: I object to HA-60 because I
8 don't believe it is part of the work that Manevich did.
9 There is no testimony to show it was part of the work he
10 did.
11 MR. TRAFICANT: It was brought out and showed
12 on the screen they didn't finish the gutter and cut around
13 the gutter and put the pole around the gutter with the
14 opening up above for the animals to enter. It was clearly
15 shown to the witness and put on the screen and the same
16 siding that is seen on HA-1.
17 If you would like to tell me -- look at it, and tell
18 me the difference in the siding.
19 MR. MORFORD: The problem is you can't tell
20 who did the work, and there is no testimony in this case --
21 MR. TRAFICANT: The testimony was stated by
22 Mr. Marchese.
23 THE COURT: He took the pictures,but wasn't
24 there at the time that it happened. He testified he was
25 not there at the time as work was done. That's --

1 MR. TRAFICANT: But he testified it was the
2 same siding and the same job that continued under the
3 portico, and this is part of the portico in the
4 construction and showed the -- he explicitly described
5 this.
6 THE COURT: I will go back in the
7 transcripts. Give it to me, and I will go back to his
8 testimony and look at it over the weekend.
9 MR. TRAFICANT: I will leave this with you.
10 MR. MORFORD: And the basis of my objection,
11 having looked at the bigger picture, there are different
12 parts of that house that come together, and it is not clear
13 that they did some of the work that is displayed in that
14 picture.
15 MR. TRAFICANT: Then would you agree to HA-1
16 was their work? He testified to that.
17 MR. MORFORD: No, because I have no idea.
18 These were not shown to Mr. Manevich who did the work. You
19 can't tell from these pictures --
20 THE COURT: You can call Manevich back.
21 MR. TRAFICANT: I am not going to pay to
22 depose that guy who said he got $15. And the other guy
23 said he got $10.
24 THE COURT: But, Congressman, if you can't
25 identify something through the person that took the

1 picture, you can identify it through the person that is
2 there.
3 MR. TRAFICANT: But I would have to -- he
4 was the heart problem. This shows the drop in the floor
5 with the board.
6 MR. MORFORD: No objection.
7 MR. TRAFICANT: That's HA-38.
8 THE COURT: No objection to that. It will be
9 admitted.
10 MR. TRAFICANT: This is HA-400, the building
11 that Dominic and Angelo would not walk into.
12 MR. SMITH: That's another version of 4-3.
13 MR. MORFORD: Correct.
14 THE COURT: That will be admitted without
15 objection.
16 MR. TRAFICANT: HA-39, which shows the
17 construction type plywood used on the deck floor.
18 MR. MORFORD: No objection.
19 MR. SMITH: Those were identified as being
20 inside.
21 THE COURT: That will be admitted without
22 objection.
23 MR. TRAFICANT: HA-37, which shows the water
24 damage clearly within the deck on the floor.
25 MR. MORFORD: No objection.

1 THE COURT: That will be admitted without
2 objection.
3 MR. TRAFICANT: HA-35, which shows the
4 construction gapping of the portico.
5 MR. MORFORD: No objection.
6 THE COURT: That will be admitted without
7 objection.
8 MR. TRAFICANT: HA-200. Which shows the
9 rotted post.
10 MR. MORFORD: Objection, because he did not
11 put those posts in.
12 THE COURT: Sustained.
13 MR. TRAFICANT: G-300, which shows a
14 different version of the barn that Dominic and Angelo would
15 not enter.
16 MR. MORFORD: No objection.
17 THE COURT: That can be admitted.
18 MR. TRAFICANT: That's G-300.
19 The rest were photographs that the Government had
20 objected to, and I will not offer them.
21 THE COURT: G-300 -- would you pull it back,
22 please?
23 MR. TRAFICANT: G-300 they did not object to.
24 THE COURT: But it has never been identified
25 to anybody.

1 MR. TRAFICANT: It was identified by
2 Mr. Marchese that he and Angelo would not enter --
3 MR. MORFORD: Your Honor, we will stipulate
4 to it.
5 THE COURT: Okay. It can come in.
6 MR. TRAFICANT: And will we have an updated
7 list -- a master list perhaps Monday?
8 THE COURT: Sure. We can do that.
9 MR. TRAFICANT: Thank you very much.
10 THE COURT: You are welcome.
11 MR. MORFORD: Your Honor, may the Government
12 offer four exhibits?
13 THE COURT: Fine.
14 MR. SMITH: First of all. Government's
15 Exhibit 3-4, the letter from Mr. Tyson, which he
16 authenticated as having been sent to the Congressman with
17 various copies to people in Youngstown.
18 MR. TRAFICANT: I move it be made a joint
19 exhibit.
20 THE COURT: It will be made a joint exhibit
21 and admitted without objection.
22 MR. SMITH: Your Honor, next is Exhibit --
23 this is better than any now -- 5-2(1), which was
24 authenticated by Anthony Traficanti and I believe moved by
25 the Congressman as a joint exhibit.

1 MR. TRAFICANT: Let me see it.
2 MR. SMITH: Yes, sir.
3 MR. TRAFICANT: If I moved it as a joint
4 exhibit, then it shall be so. And you said I -- fine. It
5 is a joint exhibit.
6 THE COURT: It will be admitted. Go ahead.
7 MR. SMITH: Next 5-2(2), which was also, we
8 believe, offered as a joint exhibit authenticated by
9 Anthony Traficanti concerning the letter to Judge Spahr.
10 MR. TRAFICANT: That's fine.
11 THE COURT: It was marked as a joint exhibit
12 and now marked --
13 MR. TRAFICANT: Yes.
14 MR. SMITH: And 5-3(1), which Anthony
15 Traficanti authenticated, which the Congressman asked to be
16 a joint exhibit, and that's a letter from Congressman
17 Traficant to Judge Spahr.
18 MR. TRAFICANT: I will take his word for
19 that, and it is fine with me.
20 THE COURT: Okay. That can be admitted.
21 MR. SMITH: And, Your Honor, that concludes
22 our offer today.
23 MR. TRAFICANT: That concludes my offers as
24 of today.
25 THE COURT: Okay. So 5-3(1) is also

admitted. All right? We will see you gentlemen at 8:30 on Monday morning. Enjoy the three-day recess from the trial.

(Proceedings adjourned.)

VOIR DIRE DIRECT OF LYNN KOVACHIK.....5274
DIRECT EXAMINATION OF ALBERT M. GIBSON..... 5281
DIRECT EXAMINATION OF MELINDA DAVIES..... 5289
CROSS-EXAMINATION OF MELINDA DAVIES..... 5314
REDIRECT EXAMINATION OF MELINDA DAVIES..... 5317
DIRECT EXAMINATION OF MARK COLUCCI..... 5319
DIRECT EXAMINATION OF GREGORY C. TYSON..... 5342
CROSS-EXAMINATION OF GREGORY C. TYSON..... 5395
REDIRECT EXAMINATION OF GREGORY C. TYSON..... 5427

C E R T I F I C A T E

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

George J. Staiduhar, RPR, FCRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622

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

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

8 - - - - -

TRANSCRIPT OF PROCEEDINGS HAD BEFORE

9 THE HONORABLE LESLEY WELLS

10 JUDGE OF SAID COURT,

11 ON MONDAY, APRIL 1, 2002

12 **Jury Trial**

13 **Volume 29**

14

15 - - - - -

16

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

1 MORNING SESSION, MONDAY, APRIL 1, 2002, 9:13 A.M.
2 (Jury in at 9:13 a.m.)
3 THE COURT: Good morning. Welcome.
4 MR. TRAFICANT: Are you guys going to turn
5 that screen on for me?
6 THE COURT: Good morning. Raise your right
7 hand, please.
8 (The Witness is Sworn)
9 DIRECT EXAMINATION OF MELINDA MINCHER DAVIES
10 BY MR. TRAFICANT:
11 Q. Good morning, Mindy.
12 A. Good morning.
13 Q. Did I have occasion to serve you with a subpoena some
14 time ago?
15 A. Yes, sir, you did.
16 MR. TRAFICANT: Gentlemen, Defendant EX P-1,
17 it was given to you this morning. A copy was given to the
18 Court.
19 THE COURT: Very well.
20 Q. Would you identify this as being your submission?
21 A. Yes, sir, this is one of the documents that I turned
22 over pursuant to the subpoena.
23 Q. Thank you. I'm going to utilize the screen and ask
24 you to identify these.
25 Can you hear me?

A. Yes.
Q. This is all one packet that has been identified as Defense Exhibit EX P-1. But would you -- bless you. Can you see that?
A. Yes, I can.
Q. And what is that?
A. That's a check that is drawn on the Home Savings account of R. Allen Sinclair. It's his business account, and it is payable to Allen Sinclair.
Q. And what is the amount of that check?
A. $1,500 even.
Q. And what is the number of that check?
A. It's check number 3175. Excuse me -- 9175.
Q. And does that in fact depict that you negotiated that check at Home Savings & Loan?
A. Yes, sir.
Q. Can you identify this check?
A. This is check number 9181, drawn on the account of R. Allen Sinclair, payable to Allen Sinclair.
Q. And what is the amount?
A. It appears to be $2,000. The amount of the check is $2,500.
Q. Did you negotiate this check at your bank?
A. Yes, sir.
Q. What is that check number?

1 A. 9219.
2 Q. And who made that check?
3 A. The check is drawn on the account of R. Allen
4 Sinclair, payable to Allen Sinclair.
5 Q. And for what amount?
6 A. $1,000 even.
7 Q. Did you negotiate that?
8 A. Yes, sir.
9 Q. Does that also carry a signature with it, for deposit
10 only?
11 A. Yes. It's endorsed, and it carries the restrictive
12 endorsement for deposit only.
13 Q. So it is both stamped and signed; is that correct?
14 A. Correct.
15 Q. Can you identify the number of this check?
16 A. This is check number 9251.
17 Q. And who wrote that check?
18 A. It is also from the account of R. Allen Sinclair,
19 payable to Allen Sinclair.
20 Q. And what was the negotiated amount of that check?
21 A. $1,500.
22 Q. Was this negotiated at your bank?
23 A. Yes. It was endorsed and with a restrictive
24 endorsement for deposit only.
25 THE COURT: Congressman, I just checked back

1 because I didn't recall your putting the full name of the
2 witness on the record. And I know she's appeared before,
3 but so that your record is complete --
4 Q. Would you please identify yourself and spell your
5 last name for the record.
6 A. My name is Melinda Mincher Davies, D A V I E S.
7 Q. How many times have you testified in this trial?
8 A. This would be the fourth time that I've been on the
9 witness stand.
10 Q. How many times have you been subpoenaed by the
11 government?
12 A. I was subpoenaed by the government once. I appeared
13 as a witness. The testimony began late on a Thursday and
14 continued Friday morning.
15 Q. How many times did you testify on behalf of the
16 government? How many days?
17 A. Two days.
18 Q. Would you identify this check here number?
19 A. Check number 9258.
20 Q. And what account is it drawn on?
21 A. It's from R. Allen Sinclair, and it's payable to
22 Allen Sinclair.
23 Q. And what is the amount of this check?
24 A. $1,000 even.
25 Q. And how was this -- was this negotiated at your bank?

1 A. Yes. It was endorsed and with the restrictive
2 endorsement for deposit only and signed by R. Allen
3 Sinclair.
4 Q. Do you know if that's Mr. Sinclair's signature?
5 A. It does match the signature on the records of the
6 bank.
7 Q. Would you identify the check number?
8 A. Check number 9314.
9 Q. And what is the amount of that check?
10 A. $1,000 even.
11 Q. And who wrote that check?
12 A. R. Allen Sinclair.
13 Q. To?
14 A. Payable to Allen Sinclair.
15 Q. Was this negotiated at your bank?
16 A. Yes, it was deposited into an account, and it is
17 endorsed by R. Allen Sinclair.
18 Q. Is that his writing?
19 A. It appears to be his writing, yes, sir.
20 Q. And what number is this check?
21 A. Check number 9316.
22 Q. And who wrote that check?
23 A. It is from the R. Allen Sinclair, payable to R. Allen
24 Sinclair.
25 Q. What is the amount?

1 A. $4,000 even.
2 Q. Was this negotiated at your bank?
3 A. Yes, sir. It was deposited into an account, and
4 there is an endorsement for deposit only.
5 Q. Is that his signature?
6 A. Yes, it appears to be his signature.
7 Q. What is the number of this check?
8 A. 9303.
9 Q. And who wrote that check?
10 A. It's from R. Allen Sinclair, and it is payable to
11 Allen Sinclair.
12 Q. What do those numbers next to Allen Sinclair signify?
13 A. That would be our bank's reference that a teller
14 would put on there before they negotiated it to insure that
15 the customer did have an account with us.
16 Q. And what was the amount of this check?
17 A. $1,000 even.
18 Q. Was that negotiated at your bank?
19 A. Yes, sir, it was.
20 Q. And does it carry a signature?
21 A. It does. R. Allen Sinclair, and with a restrictive
22 endorsement, for deposit only.
23 MR. TRAFICANT: No further questions.
24 THE COURT: Thank you.
25 - - - - -

1 CROSS-EXAMINATION OF MELINDA MINCHER DAVIES
2 BY MR. MORFORD:
3 Q. I'd like to ask you a couple things that Congressman
4 Traficant did not ask you. You don't have the checks in
5 front of you, I take it?
6 A. No, sir, I don't.
7 Q. I'll put them up here then. Maybe that will make it
8 easier. Let's with the first check he showed you, which is
9 the check that you said, check number 9175. Is that
10 correct?
11 A. That's correct.
12 Q. And he didn't ask you the date on that check, but I'm
13 going to go ahead and do that. What is the date?
14 A. The date is 2/22, year 2000.
15 Q. Okay. Now, there's a number that is written on each
16 of these checks that you just testified to. Do you see
17 that number there, 020361036?
18 A. Yes, sir.
19 Q. And on I believe all the rest of the checks --
20 showing you now check number 09181, the date on that is
21 what? February 29th, 2000?
22 A. That is correct.
23 Q. In the amount of $2500?
24 A. Correct.
25 Q. Then there is a D before that same number,

1 D020361036. Do you see that?
2 A. Yes, I do.
3 Q. Isn't it true that that's the notation that shows
4 that each of these checks was deposited into that account?
5 A. That's correct.
6 Q. So none of these checks were cashed for cash,
7 correct?
8 A. That's correct.
9 Q. And what we have here then is Allen Sinclair writing
10 checks from his business account, his lawyer account, to
11 his personal account, correct?
12 A. That's correct.
13 Q. And depositing them into his personal account,
14 correct?
15 A. That's correct.
16 Q. And that's a very normal, standard thing for lawyers
17 to do, correct?
18 A. That's correct.
19 Q. In fact, that's generally how they draw their law
20 income, correct?
21 A. That's correct.
22 Q. And so there's nothing unusual about this at all?
23 A. Not in my opinion at this point.
24 Q. Okay. So the first check that you testified to in
25 the amount of $1500 was on February 22, correct?

1 A. Correct.
2 Q. And then the next check, check 9181, in the amount of
3 $2500 was on February 29th, 2000?
4 A. Correct.
5 Q. Check 09219, March 8, 2000, in the amount of $1,000?
6 A. Correct.
7 Q. March 15th, 2000, in the amount of 1500?
8 A. Correct.
9 Q. March 21st, 2000, in the amount of 1,000?
10 A. That's correct.
11 Q. April 3, 2000, in the amount of 1,000?
12 A. That's correct.
13 Q. April 11, 2000, in the amount of $1,000?
14 A. Correct.
15 Q. And April 13, 2000, in the amount of $4,000, correct?
16 A. That's correct.
17 Q. And so what we're seeing here is every week or so a
18 draw that Allen Sinclair is taking from his business law
19 account and depositing into his personal account?
20 A. That's correct.
21 Q. And nothing more?
22 A. Nothing more.
23 MR. MORFORD: Just one moment. Nothing
24 further.
25

1 REDIRECT EXAMINATION OF MELINDA DAVIES
2 BY MR. TRAFICANT:
3 Q. You just heard the cross by the prosecutor, and he
4 talked to you about these numbers of checks. These checks
5 total two months; is that correct?
6 A. Yes.
7 Q. And do you have a total figure for those two months?
8 A. I believe the amount was $13,500.
9 MR. TRAFICANT: No further questions.
10 MR. MORFORD: No questions, Your Honor.
11 THE COURT: Thank you. You're excused.
12 (Witness excused.)
13 THE COURT: Ladies and Gentlemen, I neglected
14 to appraise you of the fact that our -- at least one of our
15 court reporters is new to us.
16 We have a rotation system that occurs in the court,
17 and as you know, today is the 1st of April. Anyway, in
18 this case I want to introduce you to Bruce Matthews, whom I
19 don't think you've met yet, and he's working with Heidi
20 Geizer who was introduced to you, although you're seeing
21 her from the back. She's been here in and out relieving
22 our other two reporters, but these will be our reporters as
23 we go forward in this month.
24 Thank you.
25 Sir, if you will come around through this gate,

1 please. Then come back over this way, weave your way
2 through and come up onto the witness stand, please.
3 (The Witness is Sworn)
4 THE COURT: Have a seat. It's a big room.
5 There's a microphone there. You can take the microphone
6 actually out of the stand, you can pick up the whole thing,
7 or just talk.
8 THE WITNESS: That's fine like this.
9 THE COURT: Okay.
10 DIRECT EXAMINATION OF MICHAEL ANTONOFF
11 BY MR. TRAFICANT:
12 Q. Would you state your full name for the record and
13 spell your last name.
14 A. It's Michael Antonoff, A N T O N O F F.
15 Q. And what is your current residence?
16 A. 74016 Westview Drive, Boardman, Ohio, 44512.
17 Q. And what is your current occupation?
18 A. I am a licensed private investigator, state of Ohio.
19 Q. Are you certified in the state of Ohio for said
20 activities?
21 A. Yes. I'm licensed.
22 Q. Certified and licensed?
23 A. Yes.
24 Q. Did we have occasion to meet?
25 A. Yes.

1 Q. When did we meet?
2 A. Saturday, March 30th at 10:30 a.m.
3 Q. Where did we meet?
4 A. At your office in Canfield, Ohio. Raccoon Road and
5 Route 224.
6 Q. At whose request did we meet?
7 A. Yours.
8 Q. Did you perform any particular function for me?
9 A. Yes, I did.
10 Q. And what function do you serve?
11 A. I was serving legal documents, process serving.
12 Q. What legal documents do you serve for me?
13 A. Subpoenas.
14 Q. Did we have a conversation Saturday?
15 A. Yes, we did.
16 Q. As a result of that conversation, what, if anything,
17 was your impression?
18 A. That I was employed by you to serve subpoenas.
19 Q. Was there any particular event that concerned you?
20 A. Yes. In reference to the subpoenas?
21 Q. Yes.
22 A. Yes.
23 Q. Would you explain that?
24 A. It was Thursday, I believe it was the 21st of March.
25 I left my residence at Westview Drive to pick up my

1 daughter, Cindy Antonoff, at Stadium Drive School, which is
2 a block away from my house --
3 MR. MORFORD: Your Honor, I'm going to object
4 to this. It's been raised with the Court prior to this
5 today, and I'd like it to be taken up outside the presence
6 of the jury before we start getting into this.
7 THE COURT: As to anything that happened
8 prior to the 30th when he was employed, we will have
9 to -- there was a prior situation that was brought to the
10 attention of the Court, and we will have to deal with this
11 during break out of the hearing of the jury. We can do it,
12 I would expect, at this morning's break.
13 MR. TRAFICANT: I object.
14 THE COURT: I understand you object, but
15 nonetheless, that's the proper way to do it, and that's
16 what we will do.
17 MR. TRAFICANT: Fine. I still have some
18 other questions.
19 Q. When were you first employed by me?
20 A. It was February of this year, 2002.
21 Q. Are you afraid or concerned for your welfare?
22 MR. MORFORD: Objection.
23 THE COURT: Sustained.
24 Q. As a result of our conversation, was it your
25 impression that you were concerned for your welfare?

1 MR. MORFORD: Objection.
2 THE COURT: This is exactly what we need to
3 be talking about somewhere else since it's been raised with
4 the Court before, and we gave you an opportunity to handle
5 it outside the hearing of the jury.
6 Do not continue to inquire about those events. If
7 you have something completely unrelated to whatever those
8 events were, we'll deal with what's unrelated to them.
9 Congressman, you understand, we've done this many
10 times before.
11 Q. Were you ever impeded in serving a subpoena?
12 MR. MORFORD: Objection.
13 THE COURT: The objection is sustained.
14 You'll have to call this witness out of the hearing of the
15 jury. You can proceed with another witness.
16 You can step down.
17 Who is your next witness, Congressman?
18 MR. TRAFICANT: Michael Robertson.
19 THE COURT: Thank you.
20 (The Witness is Sworn)
21 DIRECT EXAMINATION OF MICHAEL ROBERTSON
22 BY MR. TRAFICANT:
23 Q. Please state your full name for the jury, and spell
24 your last name.
25 A. Michael L. Robertson, R O B E R T S O N.

1 Q. And where do you currently reside?
2 A. 2211 Hunting Valley Street, North Canton, Ohio,
3 44720.
4 Q. And what is your current occupation?
5 A. I'm a licensed private investigator.
6 Q. For how many years have you been a licensed private
7 investigator?
8 A. Going on 14.
9 Q. Are you certified as a licensed investigator?
10 A. Licensed by the state of Ohio.
11 Q. Do you have any previous history in investigation
12 work?
13 A. Yes, sir, I do.
14 Q. And would you explain to the jury what that is?
15 A. I served as a Special Agent with the U.S. Secret
16 Service Department of the Treasury for 17 years.
17 Q. How many years -- what years were those?
18 A. 1969 until 1987.
19 Q. As a Secret Service Agent, describe some of your
20 duties.
21 A. The Secret Service has two areas of responsibility.
22 The first, better known to the public, is the protection of
23 the president, vice president, other family members,
24 foreign heads of state, and heads the government,
25 presidential candidates, and others as authorized by the

1 president.

2 The second area of responsibility are criminal

3 investigations, which include counterfeit currency

4 violations, theft and forgery of government checks, and

5 other instruments, threats against the president, credit

6 card fraud, other types of fraud investigations, including

7 electronic funds transfers, and misuse of any access

8 device.

9 Q. Did you hold a supervisory position with the Secret

10 Service at any point?

11 A. Yes, sir, I did.

12 Q. And what was that?

13 A. I was the resident agent in charge of the office in

14 Canton, Ohio, which covered 11 counties under the Cleveland

15 field office. And I also served as the fraud squad leader

16 for the Cleveland field office for approximately three

17 years.

18 Q. Did you ever work with any of the prosecutors seated

19 here at the table? Could you look at the gentlemen?

20 A. Not these prosecutors, no, sir.

21 Q. How did we come to meet?

22 A. I have a attorney in Youngstown with whom I have

23 worked in the past, and the conversation -- I was talking

24 to him probably the middle of February.

25 Q. And what was the cause of that conversation?

1 A. It was -- I was talking to him about another case,
2 and just as a social comment, I made a comment about
3 the -- this particular case, and an interest I had in the
4 case.
5 Q. At some particular point did you develop an interest
6 in the matters of this case?
7 A. During the first conversation in the middle of
8 February, or thereabouts, it was more just a matter of
9 interest, and at that point the attorney told me that he
10 knew you, and that was pretty much the end of it.
11 The next conversation --
12 Q. Did that, in fact, change at some particular point
13 with something more direct?
14 A. Well, specifically then I talked to him again on
15 February 22nd about another matter, and I made a comment to
16 him about this case, and he stated that you were going to
17 be in your office tomorrow, and if I had an interest in
18 meeting you, that it could be arranged.
19 Q. Did we meet? Did we meet?
20 A. Yes, sir, we did.
21 Q. And where did we meet?
22 A. We met at your Canfield office on February 23rd.
23 Q. What was the nature of the concerns that you brought
24 forward?
25 A. Based on what I knew about the case, I was interested

1 in the pursuit of documentary-type evidence, direct
2 evidence, corroborative evidence in the case, that what I
3 had learned about the case, it was mainly based on
4 testimony.
5 Q. Did you make any requests of me?
6 A. Not on that day.
7 Q. Did we happen to reschedule and have another meeting?
8 A. Yes, sir, we did.
9 Q. Were there any requests made of me at the further
10 meeting?
11 A. Yes, that if you had an interest in me looking at the
12 case, that I would be glad to do so, and I felt that based
13 on what I had learned, that we were going to need more
14 information, more documents.
15 Q. And what, if anything, then did you suggest that I
16 do?
17 A. I suggested that additional documents be obtained,
18 mainly bank documents.
19 Q. And how was I to obtain those records?
20 A. Via subpoena.
21 Q. Do you know if that goal was attained?
22 A. The documents were obtained and provided to me.
23 Q. Did you receive any additional information?
24 A. Obviously court documents, various court documents in
25 addition to the bank documents.

1 Q. Were you asked to review a particular account?
2 A. Yes, sir, I was.
3 Q. And what account was that?
4 A. It was a bank account in the name of Allen Sinclair.
5 That was the initial one.
6 Q. In the records you received from the Court -- that is
7 Exhibit S-22. Would you look at that?
8 A. Yes, sir.
9 Q. What is that document?
10 A. This is a copy of a district office lease agreement
11 marked Defendant's Exhibit S-22 with the name of KAS
12 Enterprises, 11 Overhill Road -- excuse me, 11 Overhill
13 Road, Youngstown, Ohio, 44512, with a lessor being James A.
14 Traficant, Jr. The document is dated at the bottom 11
15 December 1998, and bears the signature of a Kimberly A.
16 Sinclair and the signature of James R. Traficant, Jr.
17 MR. MORFORD: Your Honor, for clarity of the
18 record, I believe that's Government Exhibit 1-23, and I
19 believe it says so up in the corner. It is going to make
20 the record confused if it's given a new number.
21 MR. TRAFICANT: Fine. 1-23 is fine with me.
22 THE COURT: Congressman, I do need to see
23 these before you give them to the witness.
24 MR. TRAFICANT: Fine.
25 THE COURT: Did you pick up the government

1 number? Thank you.
2 MR. TRAFICANT: What was that government
3 number?
4 MR. MORFORD: 1-23, Your Honor, and I believe
5 it's on there, Congressman, up in the left-hand corner.
6 Q. Is there a termination clause in there?
7 A. Item number 6 is a termination with 30 days notice.
8 MR. MORFORD: I'm sorry, I couldn't hear any
9 of that.
10 THE COURT: You have to speak up, sir.
11 A. I'm sorry.
12 Item number 6 contains a clause for termination with
13 30 days notice given.
14 Q. Is there an amount of rent shown?
15 A. There is a monthly rent of $656, no cents.
16 Q. Is there any aspect of the lease that pertains to
17 utilities?
18 A. Unless I'm overlooking it, I don't see it. I would
19 like to add also though that item number 3, that the lease
20 may be terminated by either party giving 30 days notice,
21 not item number 6.
22 Q. Item number 3. And is that the document that you are
23 referring to, sir?
24 A. Yes, sir.
25 Q. Now I will show you what is known as Defense Exhibit

1 HSL-1-DA. It is corporate resolutions. Would you
2 identify --
3 THE COURT: Congressman, I need to see the
4 lease one more time, too, if I may.
5 MR. TRAFICANT: Very glad to. May I show
6 this to the witness?
7 THE COURT: Let me just go back, because Mr.
8 Morford, you said this lease said up in the upper left-hand
9 corner its government number. In fact, the copy the
10 Congressman had did not say that. However, the copies in
11 the exhibit books do say it.
12 MR. MORFORD: He does have a copy of this.
13 THE COURT: So there is no question this is
14 Government's Exhibit 123.
15 MR. TRAFICANT: Yes, that's fine.
16 Q. Would you identify what that is, sir?
17 A. This is a copy of a corporate resolution designating
18 depositor and officers authorized to sign for corporation,
19 bearing Defense Exhibit HSL-10-A.
20 Q. I'm going to place this up on the screen. What
21 property is being leased here?
22 A. 11 Overhill Road, Youngstown, Ohio.
23 Q. And the amount is?
24 A. $656, no cents, per month.
25 Q. And there is a notice given for termination?

1 A. Yes, sir. Item number 3.
2 THE COURT: And item number 6, as he
3 testified.
4 MR. TRAFICANT: Thank you.
5 Q. This here is the document you just referred to?
6 A. Yes, sir.
7 Q. And who are the board of directors?
8 A. KAS Enterprises.
9 Q. And who has signed for KAS Enterprises?
10 A. Under the printed word -- I'm sorry. Above the
11 printed word "President," R. Allen Sinclair, and above the
12 printed word "Secretary," Kimberly A. Sinclair.
13 Q. Did you do any research on the KAS account?
14 A. Yes, sir, I did.
15 Q. What is the KAS account?
16 A. To do with the bank, sir?
17 Q. Yes. What is it as far as it is -- what type of an
18 account is it?
19 A. The account at Home Savings is a joint account set up
20 under the name KAS Enterprises, joint being both R. Allen
21 and Kim Sinclair.
22 Q. And looking at paragraph 2, if you would, what, if
23 anything, does the joint account mean?
24 A. A joint account, depending on how it's specified,
25 either as an "and/or," "both," or an "or" account, if it's

1 an "or" account, as this one is, then either party can
2 deposit and withdraw funds without the permission of the
3 other party, the other signee.
4 Q. Was it signed and dated?
5 A. It's dated 15 December.
6 Q. 1998?
7 A. Yes, sir.
8 Q. Do you know if that was the only KAS account that was
9 opened?
10 A. It was the same account, I believe, but there
11 are -- there was another corporate resolution executed, I
12 believe in the same account number.
13 Q. Did that raise your interest?
14 A. May we see the exhibit, sir?
15 Q. I'm going to show you a different set of exhibits.
16 Defense Exhibit S-903, Defense Exhibit S-904.
17 MR. MORFORD: These are things you gave us
18 today, sir?
19 MR. TRAFICANT: Yes.
20 THE COURT: Thank you.
21 Q. Would you please take a look at these two documents
22 before I put them on the board?
23 A. Yes, sir. Exhibit marked Defendant's Exhibit S-903
24 is a printout on an on-line service from the Ohio Secretary
25 of State containing documents regarding filings for KAS

1 Enterprises with the Ohio Secretary of State.
2 Q. And who is registered as a name for that trademark
3 registration?
4 A. The name appearing on the second page of the package,
5 the agent name is Kimberly A.
6 Q. And on the third page?
7 A. On the third page is a business filing information;
8 the business name is KAS; the filing type is trade
9 name/original; filing date, October 22, 1998.
10 Q. And the next page?
11 A. The fourth page is prior business name information,
12 and it reflects no ROW, R O W, return, meaning that
13 apparently there was no prior business name filed.
14 Q. The next page?
15 A. The next page is the trade name registration. That
16 was filed, and I don't happen to see the form number on
17 this. It's a state form. It has the state seal of Ohio in
18 the upper left corner. It is called trade name
19 registration. Item number one, the exact trade name being
20 registered is KAS Enterprises. Item number two is the
21 registrant is an individual. That's the block that's
22 marked.
23 The registrant designated in item two is Kimberly A.
24 Sinclair. That's in item 3. Then it gives the address,
25 and the form is dated at the bottom 10-1-1998, signed

1 bearing the signature of Kimberly A. Sinclair.
2 Q. And what is the next page?
3 A. The next page is a envelope that's evidently been
4 preserved by the recipient, being the state of Ohio, in
5 which the form was submitted, bearing return address logo
6 R. Allen Sinclair & Associates, Attorneys at Law, 11
7 Overhill Road, Youngstown, Ohio, 44512. Part of the
8 envelope is missing. It's postmarked 19 October 1998 from
9 Youngstown, addressed to the Secretary of State, 30 East
10 Broad Street, Columbus, Ohio.
11 Q. And the next page?
12 A. The last page is the certificate that is issued by
13 the state of Ohio being returned to the designee. In this
14 case, the state of Ohio has entered that the form was
15 returned to R. Allen Sinclair & Associates, 11 Overhill
16 Road, Youngstown, Ohio, 44512-0000. The form is a
17 certificate titled the State of Ohio certificate, Secretary
18 of State Bob Taft, bearing a number for the trademark.
19 And the applicant listed here is Kimberly A.
20 Sinclair.
21 Q. Are you familiar with this document?
22 A. Yes, sir.
23 Q. I'd like to put that on the screen for you.
24 MR. MORFORD: Which document is that?
25 MR. TRAFICANT: This would be 904.

1 Q. Would you describe what kind of account this is?
2 A. Yes, sir. This is again generated on an on-line
3 service from the Ohio Secretary of State, business service
4 queries. This is a business filing information for
5 Sinclair Vending Company, and the filing type is a trade
6 name/original filing.
7 Q. And what was the date of that?
8 A. It was filed May 20, 1998.
9 Q. On page 2, what is that?
10 A. This is the registration in the name of Sinclair
11 Vending Company. This would be the form submitted to the
12 state.
13 Q. And who, in fact, signed that on behalf of the
14 vending company?
15 A. On May 4, 1998, it was signed R. Allen Sinclair.
16 Q. Are you familiar with vending businesses, sir, in
17 your past activity as a criminal investigator with the
18 Secret Service?
19 A. Yes, sir.
20 Q. Do they take checks?
21 A. No, sir.
22 Q. Do you know if this was a cigarette machine, sir?
23 A. There was no filing found for a cigarette vendor's
24 license under the name of Sinclair Vending.
25 Q. And this document would also be a certificate. Would

1 you identify this?
2 A. Yes, sir. Certificate issued by Secretary of State
3 Bob Taft, bearing certificate number 1016781.
4 Q. And who is the applicant and what is the address on
5 the applicant?
6 A. R. Allen Sinclair, 3926 Helena Avenue, Youngstown,
7 Ohio, 44512.
8 Q. And what is this, sir?
9 A. This was part of the initial query which is on the
10 first page and brought up as a supplement, showing that the
11 vending trade name was cancelled.
12 Q. What was the date that it was cancelled?
13 A. It's dated 6-1-2001.
14 Q. And who signed it?
15 A. It's signed R. Allen Sinclair.
16 Q. And is this, in fact, that certificate?
17 A. That, sir, is a verification response from the state
18 of Ohio, Secretary of State, cancelling the trade name
19 registration.
20 Q. Did this vending business pique your interest?
21 A. I beg your pardon?
22 Q. Did this vending business attract your interest?
23 A. Once I had the bank documents, particularly the
24 deposit tickets or deposit records available, yes, sir, it
25 did.

1 MR. TRAFICANT: I think this is a joint
2 exhibit. You can give me the number? This is the first
3 corporate resolution. Do we have a joint number on it?
4 This was Defense Exhibit HSL-10-B.
5 THE COURT: Is this also a Government's
6 Exhibit?
7 MR. MORFORD: I don't think so, Your Honor.
8 MR. TRAFICANT: I don't think so.
9 THE COURT: Thank you.
10 Q. Would you just take a cursory look at the document,
11 and then I want to put it on the board.
12 A. Yes, sir. It's marked Defendant's Exhibit HSL-10-B.
13 It's another corporate resolution designating depositor and
14 officers authorized to sign for corporation.
15 Q. Does this in fact designate that as what enterprise?
16 A. KAS Enterprises, Incorporated.
17 Q. And who had signed that?
18 A. This is signed, as president, Raymond A. Sinclair.
19 Q. Do any other names appear on this document, on this
20 side of it?
21 A. I don't believe so, sir.
22 Q. What is the date?
23 A. This form is -- the second page is dated 30 November
24 1998, bearing the signature Raymond A. Sinclair.
25 Q. When you blow up the title now of this --

1 A. The title is secretary.
2 Q. Are there any other signatures on the document at
3 all?
4 A. No, sir.
5 Q. What kind of account is this account?
6 A. The KAS Enterprises account is a joint account.
7 Q. Now, going back to Exhibit 10-A, which was a
8 Government's Exhibit --
9 MR. MORFORD: No, I don't believe it was.
10 MR. TRAFICANT: I think it was 1-21. I
11 failed to write it down.
12 Q. Was that -- what is that?
13 A. This is the corporate resolutions form again provided
14 by Home Savings.
15 Q. What names does it now carry?
16 A. It carries President R. Allen Sinclair, signature,
17 and Secretary Kimberly A. Sinclair, secretary.
18 Q. And what is the date of that?
19 A. 15 December 1998.
20 Q. So this became the final document registered with the
21 state; is that correct, sir?
22 A. Registered with the bank.
23 Q. Registered with the bank.
24 A. Yes, sir.
25 Q. And it is a -- what kind of account is it?

1 A. It's a joint account, individual bank account, not a
2 corporation.
3 Q. At some point did you ask for any specific documents
4 of investigatory matters?
5 A. The bank accounts on -- any and all Home Savings
6 accounts involving R. Allen Sinclair or Kimberly Sinclair.
7 Q. Did you request any investigatory devices of the
8 government?
9 A. Directly, sir?
10 Q. Yes.
11 A. No.
12 Q. Does the Secret Service memorialize their witness
13 interviews?
14 A. Yes, sir.
15 Q. And how do they do so?
16 A. Depending on the case type, if there is no case open,
17 it would be in the form of an office memorandum. If it's
18 on an open case, it would be a memorandum of report.
19 Q. Do you know if the FBI maintains records of their
20 witness interviews?
21 A. Yes, sir, they do.
22 Q. And what are those forms?
23 A. Those forms are called a 302 form.
24 Q. As a result of that, did you make any requests
25 regarding 302s?

1 A. I asked if there were any court documents in addition
2 to the bank documents that might be of value for following
3 up on the case.
4 MR. MORFORD: I'm sorry, any what kind of
5 documents? I have trouble hearing.
6 THE COURT: He said any court documents.
7 THE WITNESS: Court documents.
8 MR. TRAFICANT: 302, 1-24. This is a 302,
9 1-24, Your Honor.
10 THE COURT: Thank you.
11 Q. I want you to look at this document. First of all,
12 identify what it is.
13 A. It's a form 302 titled at the top, Federal Bureau of
14 Investigation.
15 Q. Looking through this form, is this
16 investigation -- did you come across something that
17 attracted your interest?
18 A. When I reviewed the form, from a investigative
19 standpoint, I felt that there were three separate areas
20 that were being covered in the interview.
21 Q. And what were those?
22 A. The first was an interest in finding out from
23 Mr. Sinclair the reason for Mr. DiBlasio, who owned the
24 building, and the sale of the building, to Mr. Sinclair.
25 And then an interest on the part of the government to find

1 out about the name in which the building was secured when
2 Mr. Sinclair bought the building.
3 Q. What, if anything, did you conclude after looking at
4 the ownership section of the building when it related to
5 the queries into Mr. Sinclair?
6 A. I felt that the question was quite justified in the
7 FBI trying to find out who was owning what at what time. I
8 thought it was unusual that Mr. Sinclair refused or did not
9 answer the question.
10 Q. After the query relative to the building, what was
11 the next set of queries?
12 A. The next set of queries was something to do with
13 Mr. Sinclair's income as a attorney and conversation about
14 any kickbacks, at which time Mr. Sinclair stated that he
15 did not kick back any part of his salary, and he had no
16 interest in, quote, getting Traficant, end of quote.
17 Q. What was the date when this interview took place?
18 A. This took place on January 24, 2000, transcribed
19 January 26, 2000.
20 THE COURT: Congressman, that needs an
21 exhibit number. It has no exhibit number.
22 MR. TRAFICANT: Defense Exhibit S-27.
23 THE COURT: Thank you.
24 Q. Now, when you heard the term "get Traficant," what,
25 if anything, did you proceed to as far as investigating

1 this matter?
2 A. Well, we all have our own ways of making comments, of
3 phrasing responses, and he could have, you know, could have
4 phrased it in different ways. I took it as being a fairly
5 strong comment.
6 MR. MORFORD: Objection, Your Honor, as to
7 how this is relevant or what he took has anything to do
8 with this case.
9 THE COURT: The objection is sustained.
10 MR. TRAFICANT: Pardon?
11 THE COURT: The objection is sustained.
12 Q. Did you do a -- Government's Exhibit 7- -- is that a
13 1? 271?
14 MR. MORFORD: It is 1-27.1.
15 Q. Do you have a pencil with you, sir?
16 THE COURT: Thank you.
17 A. Yes, sir.
18 Q. I am going to put this on the board, on the screen
19 while you have a copy of it. Can you read whose exhibit it
20 is?
21 A. Government's Exhibit 1-27, either point or dash 1.
22 Q. I'd like for you to direct yourself to the years '98
23 through '99 on the document.
24 A. Yes, sir.
25 Q. Now, in moving across, can you see January 8, '98?

1 A. Yes, sir.
2 Q. And what is next to it?
3 A. The name of the bank, Bank One.
4 Q. Is that what we're referring to (indicating)?
5 A. Yes, sir.
6 Q. Moving across, what are we now looking at?
7 A. Account number.
8 Q. Moving across, what are we now looking at?
9 A. The amount of deposit, $800.
10 Q. The amount of deposit from whom?
11 A. At the top of the paper it states, "James A.
12 Traficant cash deposits to personal accounts."
13 Q. I would like for you to count the number of deposits
14 made from 800 down through 700.
15 A. Sir, are we talking about from January 8th to the
16 bottom?
17 Q. Yes, we are.
18 A. There are 12 deposits.
19 Q. There are how many items?
20 A. There are 12 items.
21 Q. I want you to divide that by the years in question,
22 those 12 deposits. First I'd like for you to total the
23 amount, starting with the 800.
24 A. The 12 deposits total $11,700.
25 Q. $11,700.

1 A. Yes, sir.
2 Q. I want you to divide those 12 deposits by the
3 document that's been presented to you.
4 A. Could you restate that, please?
5 Q. I wanted you to divide this $11,700 by the number of
6 months in which this document, these 11 -- these 12
7 deposits represent.
8 A. Okay.
9 Q. How many months do they represent, sir?
10 A. 24.
11 Q. What is the average deposit made in the Traficant
12 account in cash in the years 1998 and '9?
13 A. Not knowing how exactly you want it, sir, it's a
14 little over $480 a month, maybe 485.
15 Q. Approximately 485?
16 A. Yes, sir.
17 Q. Per month. Why did you ask to see that?
18 A. I'm sorry, sir?
19 Q. Why did you ask to see that document?
20 A. I didn't ask to see the specific document. I asked
21 for any Government Exhibits or other, you know, documents
22 that had been submitted to the Court that had to do with
23 numbers and other things that might help with the paper
24 trail.
25 MR. TRAFICANT: I think this is a Joint

1 Exhibit, 1-9.
2 Q. Would you take a look at this, and I'll put it on the
3 board.
4 A. Yes, sir. The top states, "Generation of cash from
5 U.S. Treasury salary checks by Allen Sinclair." It has a
6 Government's Exhibit sticker on it.
7 Q. And what does it show?
8 A. The column that you're centered on right now shows
9 cash received, in most cases at the time of deposit, and I
10 believe on two occasions a separate withdrawal slip for the
11 same amount of $2500 either on the same day or shortly
12 after the check was deposited. These -- in all instances
13 these were government treasury salary checks to
14 Mr. Sinclair.
15 Q. And how did you know that they were government salary
16 checks?
17 A. I saw the checks.
18 Q. How many accounts -- what account was that from,
19 would you know?
20 A. The checks, sir -- the deposit?
21 Q. Yes. Do you know where that was deposited?
22 A. Can we see that? This account would be a joint, for
23 lack of a better word, personal checking account for
24 R. Allen Sinclair and Kimberly Sinclair.
25 Q. Either/or?

1 A. Or.
2 Q. Without permission of either?
3 A. Yes, sir.
4 MR. TRAFICANT: This packet, I believe it was
5 given to you this morning as Defendant's Exhibit HSL-1-E --
6 MR. MORFORD: You gave us a bunch of stuff
7 this morning.
8 Q. Do you need some paper for notes?
9 A. No, sir.
10 Q. Included in this packet, would you just take a look
11 at the first check, and then I will put them on the screen.
12 A. The first check is a U.S. Treasury check dated,
13 computer dated 9-9-99, in the amount of $330.12 made out to
14 payee KAS Enterprises.
15 Q. Okay. Is that $330.12?
16 A. Yes, sir.
17 Q. To you, in your experience as a investigator, what
18 does that represent?
19 A. Well, in this case, there were -- there was one check
20 issued based on the lease agreement which is in the amount
21 of $656 a month. And --
22 Q. This went to KAS in the amount of 330 --
23 A. And 12 cents. Any other checks not in that amount
24 would be for utilities.
25 Q. And how was this deposited?

A. Pay to the order of Home Savings for deposit only, KAS Enterprises.

Q. This is all a part of HSL-1-E. I'll put the second check up now.

What is the date of this check?

A. The check is dated September 20, 1999.

Q. What was it drawn on?

A. The U.S. Treasury.

Q. What was the amount?

A. $656 and no cents.

Q. And it was --

A. It was pay to the order of Home Savings, for deposit only, KAS Enterprises.

Q. That had -- that $656, what did that represent?

A. That represented one month's rent payment to KAS.

Q. As verified by what?

A. As verified by the amount.

Q. What is the date of this check?

A. This check is dated 10-18-99.

Q. What is it drawn on?

A. U.S. Treasury Department.

Q. And what is the amount?

A. $303.48, made payable to KAS.

Q. And it carries the same depository?

A. Yes, sir, it does.

Q. What is the date of this check?

A. 10-20-99.

Q. And what was it drawn on?

A. The United States Treasury.

Q. In what amount?

A. $656 even.

Q. Is there a difference between these and the lesser amount checks?

A. I'm not -- I don't understand.

Q. You said these are even. Were any of the other lesser amount checks even?

A. So far, no.

Q. What is the date of this check?

A. November 15, '99.

Q. And what was it drawn on?

A. United States Treasury.

Q. What was the amount of the check?

A. $134.66, same stamp, for deposit stamp.

Q. In your experience as a investigator, what did you conclude that these lesser amounted checks were for?

A. That they would be for a proportional share of utilities for the office space rented by the government.

Q. Now, what is this check?

A. November 22, '99.

Q. And what was it drawn on?

A. United States Treasury.

Q. To?

A. To KAS Enterprises, in the amount of $656, bearing the KAS deposit stamp.

Q. What is the date of this check?

A. December 20, 1999.

Q. And what was it drawn on?

A. United States Treasury.

Q. What was the amount?

A. $656, no cents.

Q. And what does it signify?

A. It signifies a rent payment, bearing the same stamp, for deposit only.

Q. What's the date of this check?

A. January 21, 2000.

Q. What was it drawn on?

A. United States Treasury.

Q. How much?

A. $656 and no cents, again, bearing the same deposit stamp, KAS.

Q. What is the date of this check?

A. February 8, 2000.

Q. And what is the amount?

A. $103.72.

Q. And what was it drawn on?

A. The United States Treasury, payable to KAS.

Q. How was it negotiated? How was it negotiated?

A. It was deposited into the KAS account.

Q. What is the date of this check?

A. February 18, 2000.

Q. What was the amount?

A. $656 even.

Q. Drawn on?

A. United States Treasury, made payable to KAS Enterprises, bearing the KAS deposit stamp.

Q. What is the date of this check?

A. March 20, 2000.

Q. And what's the amount?

A. $656 and no cents.

Q. And how is it negotiated?

A. Deposit only for KAS Enterprises.

Q. What was the date of this check?

A. March 16, 2000.

Q. What was it drawn on?

A. United States Treasury.

Q. What amount?

A. $112.52.

Q. To?

A. KAS Enterprises, bearing the KAS deposit stamp.

Q. What is the date?

1 A. April 20, 2000.
2 Q. Drawn from?
3 A. Drawn from U.S. Treasury in the amount of $656 even,
4 payable to KAS Enterprises, and bearing the KAS stamp.
5 Q. The check?
6 A. The check is dated May 5, 2000.
7 Q. Drawn on?
8 A. In the amount of $164.48.
9 Q. And it was drawn on what?
10 A. Drawn on the United States Treasury, payable to KAS
11 Enterprises.
12 Q. What is the difference between the lesser numbered
13 dollared amounts and the $656 amount?
14 A. The lesser amounts would be for proportional share of
15 utilities at that location.
16 Q. Is there any difference between the amounts?
17 A. There are differences between the amounts of the
18 utilities.
19 Q. How many years have you paid utilities yourself, sir?
20 A. Personally?
21 Q. Yes.
22 A. Over 40.
23 Q. How many times have you paid a utility bill that was
24 zero-zero without no pennies on it?
25 A. I probably have, but I don't recall. I probably

1 have.
2 Q. This one here is very hard to see on the screen. I
3 think you might be able to identify it. You have it in the
4 packet. What does it appear to be?
5 A. A poor quality copy of a U.S. Treasury check.
6 Q. In the amount of?
7 A. In the amount of $656, no cents.
8 MR. MORFORD: Can we get a date on that?
9 MR. TRAFICANT: I got it from you. I think
10 that's --
11 MR. MORFORD: You got what from us?
12 MR. TRAFICANT: 132 ninety -- it must be 90.
13 I can't see the date.
14 Q. In looking at this now --
15 THE COURT: What was that poor quality U.S.
16 Treasury check, what exhibit number?
17 MR. TRAFICANT: It's all a part of Defense
18 Exhibit (pause) I'm trying to find it. I think I stated it
19 for the record. Perhaps we could go back in the record. I
20 do not have the copy here.
21 THE COURT: I'll go back. Is it part of
22 HSC-1-E? I'm sorry, HSL-1-E? Is it part of that,
23 Congressman?
24 MR. TRAFICANT: I think it's HSL-1-E, dash 1
25 E, Your Honor.

1 THE COURT: Let me just go back and see if
2 it's on the record.
3 Q. At some particular point did you ask for any other
4 court documents relative to this matter?
5 THE COURT: Wait just a minute. That last
6 paper, you never established what date was on that check.
7 MR. TRAFICANT: I can't even make it out.
8 THE COURT: You can't read it?
9 MR. TRAFICANT: I would strike it. I can't
10 read it.
11 THE COURT: All right. Thank you. Go ahead.
12 Q. After having reviewed this account and the 302, what,
13 if anything, did you request of the court documents?
14 A. I'm not sure of the exact sequence. If I didn't
15 already have it, I would have wanted the banking
16 information on the KAS account and copies of the checks.
17 I'm not really sure which came first.
18 Q. Did you ever seek the testimony of the witness?
19 A. Yes.
20 Q. In what form and what as a result of that occurred,
21 that request?
22 A. I was provided transcripts of grand jury testimony,
23 direct testimony and cross-examination testimony of Allen
24 Sinclair.
25 Q. Did you come to learn of any unusual expenditures

1 during that examination, both direct or cross?
2 A. Are we -- sir, are we talking about Mr. Sinclair
3 himself or about KAS?
4 Q. Now talking about purchases.
5 MR. MORFORD: Your Honor, I'm going to object
6 to this witness testifying about evidence that the jury
7 already heard. The evidence and testimony is what it is.
8 THE COURT: Well, there were three different
9 categories, as I understood his answer. There's grand jury
10 testimony, which I don't think they have had exposure to
11 for Allen Sinclair, and then there is the direct and
12 cross-examination.
13 MR. TRAFICANT: Yes.
14 THE COURT: Which was during this trial,
15 Congressman?
16 MR. TRAFICANT: Yes.
17 THE COURT: They have had an opportunity to
18 hear that testimony.
19 Q. As the investigator, did you identify certain
20 expenditures and purchases of Mr. Sinclair?
21 A. Yes.
22 Q. And what were they?
23 A. A van, a -- I believe it was a rental of another
24 vehicle. There may have been a note, loan, and after that
25 there was a purchase of a residence.

1 Q. What was the cost of the purchase of that residence?
2 A. It was close to, if not exactly, $275,000.
3 Q. Were there any other expenses relative to lawyer
4 activities?
5 A. I'm sorry, sir, relative to lawyer activities?
6 Q. Yes. Advertising?
7 A. There was an expense that he -- that was in the
8 transcript, something in the vicinity of $50,000 in legal
9 advertising.
10 THE COURT: Sir, was this in the court
11 transcript of these proceedings in this trial that you're
12 talking about?
13 THE WITNESS: Yes, ma'am.
14 THE COURT: I'd like you to limit yourself to
15 the grand jury testimony, if it has not been heard by this
16 witness.
17 MR. TRAFICANT: This is to be known as
18 Defense Exhibit -- I gave this to you.
19 THE COURT: I think we should take a morning
20 break and we'll work this out. How is that? It's time.
21 This is a 30-minute break, Ladies and Gentlemen.
22 THE CLERK: All rise for the jury.
23 (Jury out at 10:37 a.m.)
24 THE COURT: We have a half an hour. We have
25 issues that are of some concern right here regarding this

1 witness, and we have issues regarding the prior witness,
2 Michael Antonoff.
3 I suggest we take a ten-minute break, let the jurors
4 who go out during the break go out, and then we will come
5 back in.
6 So gentlemen, you have a ten-minute break, as you do,
7 sir. Very well. We'll reconvene without the jury in ten
8 minutes.
9 (Recess had.)
10 THE COURT: Let's begin with this issue of
11 Michael Antonoff. The Court ruled directly on a motion
12 that attached his affidavit to it. To the extent that
13 you're intending to now make inquiries regarding that
14 situation, I've already ruled on it, and I don't want you
15 to bring that up again. If you want to ask him about
16 something else that's not connected to that --
17 MR. TRAFICANT: I'm going to ask about an FBI
18 agent taking pictures of him and following him around while
19 he was serving subpoenas.
20 THE COURT: Do you read the docket in this
21 case?
22 MR. TRAFICANT: I read the docket.
23 THE COURT: Well, I ruled on it.
24 MR. TRAFICANT: I want it on the record.
25 THE COURT: It's on the record. Your motion

1 and affidavit is part of the record.
2 MR. TRAFICANT: And I object to you limiting
3 my opportunity to examine witnesses.
4 THE COURT: Well, you can't now call somebody
5 to the stand and have them do what I've already ruled we
6 won't accept in this case.
7 MR. MORFORD: Your Honor, I want to bring one
8 thing to the Court's attention, because I don't believe
9 that was unintentional at all. On Friday, the Court asked
10 Congressman Traficant who he intended to call today, and he
11 said he didn't even know, which wasn't true based on the
12 documents we were given this morning and based on the fact
13 he's been preparing this man Mr. Robertson for several
14 days.
15 Be that as it may, he said, "I will call the
16 government over the weekend and tell you who I am calling."
17 This morning he called and left a message with Mr. Kall
18 saying, "I am calling Melinda Davies and I am calling
19 Robertson." He never mentioned Michael Antonoff because he
20 knew he wasn't allowed to call Michael Antonoff and ask
21 those questions because the Court had already ruled.
22 And I object to him once again -- this isn't the
23 first time -- doing this stuff in front of the jury to try
24 to create the impression that he's being kept from putting
25 on his defense.

1 MR. TRAFICANT: I'd like to respond that. I
2 didn't call this morning. I called yesterday and left an
3 answering service for Mr. Kall.
4 I wasn't sure about Mr. Antonoff being able to make
5 it because he's trying to serve subponeas.
6 THE COURT: Well, you certainly should be
7 sure you couldn't ask him the questions you asked him since
8 we already ruled on that. It's part of the record in the
9 case, and you know it.
10 MR. TRAFICANT: Well, I want to proffer for
11 the record --
12 THE COURT: You have his affidavit already
13 filed in the records of this Court.
14 MR. TRAFICANT: I want to proffer it now.
15 THE COURT: All right. Go right ahead.
16 MR. TRAFICANT: That he was -- his wife, he
17 was separated from, notified there was a man across the
18 street taking pictures of him.
19 THE COURT: It's all in your affidavit.
20 MR. TRAFICANT: He ran the man down. He saw
21 the partial flash of a badge. He did recognize the color
22 of the car. He didn't get the license plate because he was
23 not behind the car, the car was in front of another, and
24 the FBI agent -- that he was sure it was told him to "Get
25 out of here, buddy, if you don't want any trouble."

1 Now look, they've been following my witnesses around.
2 You've been keeping my witnesses from testifying. You've
3 ruled every one out even though I had a consent tape on
4 Manganaro. I certainly have shown with Saadey a situation
5 where under extreme stress a statement was made, clearly an
6 exception to the hearsay rule. You've yet to rule on that.
7 You've thrown everything out in this case. Then you
8 say I have no witnesses. So just for the record --
9 THE COURT: Congressman --
10 MR. TRAFICANT: I'll accept your rulings, but
11 I want to say this.
12 THE COURT: Today you didn't accept them.
13 You waited until the jury was in the box and then tried to
14 put in front of that jury testimony which the Court has
15 ruled you could not put in front of that jury.
16 MR. TRAFICANT: You ruled on the strength
17 that he said he couldn't identify the color of that car and
18 that he didn't see a badge.
19 THE COURT: Congressman, I think the best
20 thing to do now is move to the witness you have here today
21 so we can discuss what it is that you're going forward with
22 him on. The question of Antonoff, you've now made your
23 objection for the record, you've preserved it, and the
24 question of this particular witness is concluded.
25 MR. TRAFICANT: I want to voir dire this

1 witness as a expert, period.
2 MR. MORFORD: First of all, object because
3 under Rule 16, he never provided us any notice that he was
4 going to put on a expert. The first time we even heard of
5 this man was this morning when he walked in and handed us a
6 bunch of charts and evidence that we've never seen before.
7 And he's been notified on several times that this is not
8 how you can proceed in a case.
9 We gave him advance notice of --
10 MR. TRAFICANT: The government notified --
11 THE COURT: Stop interrupting, Congressman.
12 Don't interrupt.
13 MR. TRAFICANT: He's misrepresenting.
14 THE COURT: Stop interrupting. Don't
15 interrupt.
16 MR. MORFORD: I'll point out --
17 THE COURT: Please be seated so that this
18 gentleman can talk, and then you'll be able to talk. Sit
19 down.
20 MR. TRAFICANT: Thank you. Just don't have
21 him misrepresent me.
22 MR. MORFORD: Your Honor, when we called the
23 IRS agent, we gave Congressman Traficant notice. We gave
24 him the charts well in advance.
25 MR. SMITH: Weeks.

1 MR. MORFORD: Weeks in advance.
2 Number two, the Congressman asked for a separation of
3 witnesses and asked this Court to rule that witnesses could
4 not hear or review the testimony of other witnesses.
5 Because of that order, we filed a motion with the Court
6 before our IRS witness testified, and we asked the Court
7 for permission to allow him to review transcripts and then
8 allow him to sit in on the testimony of one particular
9 witness.
10 Congressman Traficant went ahead without any prior
11 approval by the Court and just gave the witness this stuff
12 as though he had never made the request in the first place,
13 and I believe the reason was, is because he didn't want us
14 to know he was calling this man. Whether that was true or
15 not, the point is we never got any notice, we never got any
16 charts, we never got any summary report, we never got any
17 description of what the supposed expert would testify to.
18 What we got was we walked in this morning,
19 got handed a bunch of stuff, and suddenly he's on the
20 stand. And I object on the fact that we weren't given
21 proper notice. If he was going to call an expert, he had
22 to give us a preview of what the expert would testify so
23 that we could adequately prepare, which is what the rule
24 provides.
25 MR. TRAFICANT: Your Honor, I didn't get

1 these charts until this weekend. I gave them
2 Mr. Robertson's name two weeks ago that he would be called.
3 I gave the name. I didn't give the time. Now,
4 Mr. Robertson --
5 THE COURT: How did you give the name?
6 MR. TRAFICANT: I told them I'd be calling a
7 Michael Robertson, and I didn't get the documents. The
8 documents came late from, in fact, Home Savings & Loan. As
9 soon as I got the documents I needed -- I still didn't
10 receive all the documents -- we put together a partial
11 scenario that was presented to me just last night, and gave
12 it to them this morning. And that is the status of it.
13 MR. MORFORD: He --
14 MR. TRAFICANT: Let me --
15 THE COURT: You be seated now, please. Go
16 ahead, Mr. Traficant.
17 MR. TRAFICANT: It is a misrepresentation of
18 the facts to say I did not give them the name of Michael
19 Robertson and I'd be calling Michael Robertson. He is a
20 17-year veteran of the Secret Service.
21 THE COURT: We know --
22 MR. TRAFICANT: He has taught and instructed.
23 THE COURT: We know some of his credentials.
24 I'm going to let you put him on the stand if you want to so
25 you can elicit further credentials. If you want to elicit

1 further credentials from him, we'll do it without the
2 hearing of the jury. But there is a more important thing
3 we have to address, I believe, and that is that to have
4 this person review transcripts after you asked for a
5 separation of witnesses and then also to have him
6 apparently asked to testify on things that are the jury's
7 responsibility to determine in this case is the real area
8 of difficulty.
9 MR. TRAFICANT: Is he an expert --
10 THE COURT: So if you -- I don't know if he's
11 an expert.
12 MR. TRAFICANT: And does he give an opinion?
13 THE COURT: I don't know what his opinion is
14 going to be elicited on.
15 MR. TRAFICANT: Well then, let's voir dire
16 this man.
17 THE COURT: What sort of expert are you
18 proposing we see him as?
19 MR. TRAFICANT: He has handled fraud cases
20 and money cases for 17 years. He headed the division of
21 the Secret Service in the Canton region.
22 THE COURT: But what --
23 MR. TRAFICANT: He was in fact assigned by
24 Judge Aldrich in a particular court.
25 THE COURT: But as to --

1 MR. TRAFICANT: He's testified --
2 THE COURT: What is he going to testify to as
3 an expert in this case? What --
4 MR. TRAFICANT: Into the method of the
5 investigation that had taken place and what had not taken
6 place, and to what has been offered into evidence --
7 THE COURT: What investigation, Congressman?
8 MR. TRAFICANT: The government's
9 investigation, and lack of investigation. And what are
10 standard procedures to meeting a burden of proof.
11 THE COURT: Well, that's a legal question.
12 He can't answer that question.
13 MR. TRAFICANT: No, but he can speak to an
14 investigation and his background in dealing with money and
15 the handling of money, and investigating fraud, and
16 transfers of accounts, he could testify to those matters.
17 And he is an expert in those affairs.
18 THE COURT: Okay. Let's just delineate
19 exactly what you want his expertise to be elicited
20 regarding.
21 MR. TRAFICANT: What the government did.
22 THE COURT: Well, we can't have -- there is
23 no such thing as an expert on what the government did.
24 MR. TRAFICANT: Did not the fellow from
25 Philadelphia simply add up numbers? Did he do any

1 investigation? Have you brought before this Court anyone
2 to investigate or show the corroboration of any money
3 between Cafaro and any of these people?
4 THE COURT: Well, I didn't bring anyone
5 before the Court.
6 MR. TRAFICANT: But what I'm showing, and
7 attempting to show, is that there has been no investigation
8 and no corroborative evidence of any sort to take this
9 beyond the preponderance of the evidence presented in this
10 case.
11 THE COURT: Okay. Would you be seated now
12 and we'll let the government respond to this description of
13 what expertise you're relying on here?
14 MR. MORFORD: Yes, Your Honor.
15 The government's investigation is not on trial in
16 this case. What is on trial are ten specific offenses with
17 which Congressman Traficant is charged. It's up to the
18 jury to determine whether or not the evidence that the
19 government has placed into evidence sufficiently proves
20 each of those charges beyond a reasonable doubt, period.
21 And all this other stuff he's talking about is irrelevant,
22 it invades the province of the jury as the finder of fact,
23 and it gets into legal conclusions that
24 are -- all of which is totally inadmissible.
25 MR. TRAFICANT: I can't offer an expert to

1 state that when you find a witness that has no physical
2 evidence attached to their statement, that there should not
3 be an effort made to, in fact, corroborate that statement.
4 Is that the statement of the prosecution in this case?
5 THE COURT: Well, is that what you're asking
6 him?
7 MR. TRAFICANT: Yes, I am.
8 THE COURT: To testify to? Very well. Now I
9 know what you're asking him to testify to. All right? Now
10 I know, so you will not be allowed to go forward and
11 qualify him as an expert to do that. He clearly has areas
12 of expertise that you've already elicited from him, but as
13 an expert witness to decide that, no. So we'll continue
14 our recess and bring the jury back at the time that we're
15 going to bring them back.
16 You may have other things you want to ask this
17 gentleman.
18 MR. MORFORD: Your Honor, if he does, I would
19 ask that he advise the Court so that we don't get into more
20 inadmissible stuff.
21 MR. TRAFICANT: Why don't I just hand you the
22 case. I've had enough of this.
23 MR. MORFORD: Why doesn't he read Rule 16.
24 MR. TRAFICANT: I want an opportunity to voir
25 dire this witness as an expert and have him testify into

1 investigatory matters since this case does not meet the
2 standard of burden of proof beyond a reasonable doubt.
3 THE COURT: Well then, the jury will so find,
4 sir. It's their responsibility.
5 MR. TRAFICANT: But I should have the right
6 to present that to a jury. And I should have a right to
7 have an expert testify as to what he has uncovered in his
8 investigation.
9 THE COURT: Well, that you may be able to do.
10 MR. TRAFICANT: And that I will do.
11 MR. MORFORD: But if he's going to do that, I
12 believe he needs to tell the Court what those things are or
13 we're going to lapse into all this inadmissible stuff in
14 front of the jury again.
15 THE COURT: Well, I don't think we'll be
16 lapsing into it.
17 MR. TRAFICANT: Listen, I've given you
18 enough.
19 MR. MORFORD: Sir, please address the Court
20 and not me.
21 MR. TRAFICANT: I am.
22 THE COURT: Congressman. Congressman. Turn
23 around and address the Court. I'm the Judge here. He's
24 just your colleague.
25 Turn around.

1 MR. TRAFICANT: He's not my colleague. I'm
2 the son of a truck driver. I have no oath and I can go on
3 the street with my First Amendment right and say exactly
4 what you've just done.
5 THE COURT: Well, if you'd like to go --
6 MR. TRAFICANT: I think I'm going to.
7 THE COURT: -- go out and do it.
8 MR. TRAFICANT: I will. But you are denying
9 me the right to defend myself.
10 THE COURT: I think you've made your point
11 for the Court of Appeals, and now we will continue our
12 recess.
13 MR. TRAFICANT: The Court of Appeals? Am I
14 convicted already in the mind of the Judge?
15 THE COURT: No.
16 MR. TRAFICANT: Then why do you keep saying
17 that?
18 THE COURT: Because there's a rule.
19 MR. TRAFICANT: I don't plan to go to the
20 Court of appeals. I plan to win here.
21 THE COURT: There is a rule in this courtroom
22 which we've gone over with you time and time again, which
23 is, after you've made your objection and made it in such a
24 way that you could make an appeal if you wish to, you will
25 not continuously go back and reargue the point. And this

1 is a good example of your trying to do that.
2 MR. TRAFICANT: Your Honor, you just passed
3 out six motions denying everything. You have given them
4 everything in this case. All they have is a paper trail.
5 Cafaro never even checked to see if that money was spent on
6 a boat, for crying out loud. They didn't even bring the
7 investigators in. They brought a guy in who couldn't even
8 divide and cost the taxpayers hundreds of thousands of
9 dollars.
10 THE COURT: Congressman? We're going to
11 continue our break now. Take ten minutes. We'll be back.
12 MR. TRAFICANT: Give me 15. I've got to go
13 to the bathroom.
14 MR. TRAFICANT: I'll give you 10.
15 MR. TRAFICANT: I might be late.
16 THE COURT: Well, the jury will be in here
17 waiting. (Recess had.)
18 (Jury in at 11:19 a.m.)
19 THE COURT: Thank you, sir. You're still
20 under oath.
21 THE WITNESS: Yes, Your Honor.
22 BY MR. TRAFICANT:
23 Q. Mr. Robertson, how many accounts did Mrs. Sinclair
24 have total?
25 A. At Home Savings, there were five accounts.

1 Q. Did we receive any information from any other banks?
2 A. No, sir, no responses from any other banks.
3 Q. Did you prepare a document relative to deposits of
4 Mr. Sinclair?
5 A. Yes, sir, I did.
6 MR. MORFORD: Your Honor, I'm going to object
7 to portions of this document which are clearly argument
8 that can't be testified to by this witness, and I'd like to
9 ask you to take a look particularly at the things at the
10 bottom in the bold.
11 THE COURT: Did you make this yourself, sir?
12 THE WITNESS: Yes, Your Honor.
13 THE COURT: Is this your own? All right.
14 The objection is overruled.
15 Q. I'm going to put this up on the screen. Would you
16 identify its number for the jury?
17 A. Yes, sir. Defense Exhibit 8901.
18 MR. TRAFICANT: That would be S-901, Your
19 Honor.
20 THE COURT: Okay.
21 Q. As a Secret Service agent, did you investigate
22 matters of fraud?
23 A. Yes, sir.
24 Q. Did you investigate matters of paper trail of
25 dollars?

1 A. In my private practice, yes, sir.
2 Q. What is the exhibit number on this? S-901?
3 A. Yes, sir.
4 Q. What in fact does this document signify?
5 A. In reviewing the documents, the figure of $2500 based
6 on the withdrawal from the joint savings account of Allen
7 and Kim Sinclair had come up on another exhibit, and one of
8 many tasks of going through paper documents, such as
9 deposits and withdrawals, is to look for like and similar
10 numbers.
11 This happened to come up, and I plotted it
12 out as the exact dollar, $2500 deposits into Allen
13 Sinclair's IOLTA account, being his interest on lawyers
14 trust account, and it turned out that during this same time
15 period, as the other chart which showed his withdrawals of
16 $2500 based on his treasury check deposits, that during
17 this same time period there were nine deposits into his
18 IOLTA account, as they're called, on average four days
19 after the $2500 was taken out of the other account.
20 And other than that, the numbers were significant
21 from the standpoint that we were talking the same numbers.
22 There's been no value placed on this as far as determining
23 intent or anything else. It's showing an unusual pattern
24 that happened shortly after the money was withdrawn from
25 this other account.

1 Just as unusual, that after Mr. Sinclair left the
2 government employment and for the 22 months subsequent to
3 that, up through February of 2002, there were no deposits
4 into his IOLTA account totaling exactly $2500. This
5 needs -- this is the type of stuff that you do to pursue
6 further and do the legwork to find out where the trail
7 actually leads. It's very likely, in fact, the bank was
8 running quite short on time, not to get into the procedures
9 involved, but I was told that this requires quite a bit of
10 hand searching and they're difficult to research these
11 accounts, but in fact, two or three of these do appear to
12 be legitimate deposits.
13 But the key is, is that we're having the same
14 numbers appearing, and that's a point of departure for an
15 investigator to resolve it either in favor or against the
16 person or the subject of the investigation.
17 Q. Now look at 22 December 99. Next to it is $2500; is
18 that correct?
19 A. Yes, sir.
20 Q. After that, was there ever $2,500 put into his
21 account?
22 A. In the months immediately following, and I believe
23 through February of 2002, there were no exact amounts of
24 $2500 deposited into that account.
25 MR. MORFORD: Sir, between what dates?

1 THE WITNESS: Between --
2 MR. TRAFICANT: Would the court reporter
3 repeat it?
4 THE COURT: "In the months immediately
5 following, and I believe through February of 2002"?
6 THE WITNESS: Yes, Your Honor.
7 THE COURT: Thank you.
8 MR. MORFORD: Your Honor, can I ask he speak
9 into the microphone? I'm having a hard time here.
10 THE COURT: Okay. And the folks in the back
11 also need to hear you.
12 MR. MORFORD: You can actually pull that out.
13 Q. In your work as a Secret Service agent, was your
14 methodology that of seeking and looking at patterns of
15 behavior?
16 A. Yes. Similarities and dissimilarities, changes in
17 patterns, inconsistent changes in patterns.
18 Q. Of the five accounts, how many accounts had the
19 government shown the jury?
20 MR. MORFORD: Objection.
21 THE COURT: Sustained. The jury has been
22 sitting here. They know what's happened.
23 Q. Did you arrive at any conclusion after having
24 reviewed this evidence the government has presented?
25 MR. MORFORD: Objection.

1 THE COURT: Which are you talking about?
2 Just this right here (indicating)?
3 MR. TRAFICANT: That which he had talked
4 about and testified and presented documents about today.
5 THE COURT: Oh. We had a hearing outside the
6 presence of the jury. At the end of that hearing it was
7 concluded that this gentleman could not testify to that.
8 He didn't qualify to testify to that. So we won't be able
9 to go forward, as you well know.
10 Q. As a Secret Service agent, would you attempt to
11 corroborate the words of a witness with physical
12 corroborative evidence?
13 MR. MORFORD: Objection. This is argument,
14 Your Honor.
15 THE COURT: All right. It is argument,
16 Congressman.
17 Q. Were you able to identify any corroboration of
18 physical evidence associated with this witness?
19 THE COURT: Congressman, we've had a long
20 trial here. There will be evidence submitted to this jury,
21 and they'll be in position to make determinations that
22 they're required to make under the law.
23 Q. Were you ever asked to testify in federal courts?
24 A. Yes, sir.
25 Q. How many times have you testified in federal courts?

1 A. Including magistrates hearings, dozens of times.
2 Q. Were you ever requested by a Federal Judge to appear
3 in a court?
4 A. No, sir.
5 Q. In your role as a Secret Service agent, did you
6 testify on behalf of the government in most cases?
7 A. When I was with the government, all my testimony
8 would have been for the government.
9 Q. In examining this pattern, what did you determine?
10 A. Are we talking about this pattern on the screen at
11 this time?
12 Q. Yes.
13 MR. MORFORD: Objection again, Your Honor.
14 THE COURT: Sustained.
15 Q. As a Secret Service agent, are you familiar with
16 treasury laws?
17 A. I would be familiar with the treasury laws that I was
18 involved with -- in which I was involved with the
19 investigation of. There were many laws that surfaced on
20 rare occasion, and we'd have to go back and relook up the
21 laws and the elements of the crime.
22 Q. In your investigation, did you uncover any
23 disciplinary action against this witness?
24 MR. MORFORD: Objection. It would be
25 hearsay, Your Honor.

1 Q. Do you have knowledge of any disciplinary action
2 taken against this witness?
3 THE COURT: What witness are you talking
4 about?
5 MR. TRAFICANT: Mr. Sinclair.
6 THE COURT: Do you have any firsthand
7 knowledge?
8 THE WITNESS: No, Your Honor.
9 THE COURT: Thank you.
10 Q. Did you review the grand jury testimony?
11 A. Yes, sir, I did, on Mr. Sinclair.
12 Q. Was there mention of --
13 MR. MORFORD: Objection.
14 Q. -- disciplinary actions?
15 THE COURT: The objections are sustained.
16 Q. Was it your impression that any fraudulent act could
17 cause Mr. Sinclair to lose his license?
18 MR. MORFORD: Objection to his impressions.
19 THE COURT: His impressions won't help this
20 jury. And this jury did hear about disciplinary, various
21 disciplinary actions weeks ago in this trial.
22 Q. Mr. Robertson, were you ever denied the opportunity
23 to testify as you are being denied today?
24 MR. MORFORD: Objection.
25 THE COURT: Well, that's a statement, not

1 really a question.
2 MR. TRAFICANT: No further questions.
3 THE COURT: And it depends on what it is
4 you're asking him.
5 MR. TRAFICANT: No further questions.
6 THE COURT: To the extent he's being asked to
7 testify to things which are in the province of this jury to
8 decide, we've been over that during the break, and he
9 cannot supplant the jury in this case.
10 MR. MORFORD: Your Honor, at five minutes to
11 9:00 this morning, I was just handed charts and evidence
12 and this testimony. I would like to ask if we could take
13 an early lunch so I can actually look at this stuff and
14 prepare my cross-examination.
15 MR. TRAFICANT: I object.
16 THE COURT: Overruled. If you'll give them
17 proper notice, we wouldn't have to do that, but we will
18 have to go forward with the cross-examination and take an
19 early lunch. It will just mean you have until 1:30,
20 jurors, for your lunch today. So you'll have more time.
21 We'll bring this gentleman back for cross-examination.
22 Thank you. We're in recess.
23 (Jury out at 11:33 a.m.)
24 (Whereupon, at 11:33 a.m., the luncheon recess was
25 had, to reconvene at 1:30 p.m., the same day.)

1 MONDAY, APRIL 1, 2002, AFTERNOON SESSION, 1:37 P.M.
2 (Jury in at 1:37 p.m.)
3 THE COURT: Sir, you are still under oath.
4 THE WITNESS: Yes, Your Honor.
5 THE COURT: Mr. Morford.
6 CROSS-EXAMINATION OF MICHAEL L. ROBERTSON
7 BY MR. MORFORD:
8 Q. Good afternoon, sir.
9 A. Good afternoon.
10 Q. I'm going to ask you if you could take that
11 microphone out and hold it, because I've had a little bit
12 of trouble hearing you today.
13 You and I have never met before, correct?
14 A. I don't believe so. You do look familiar, but I
15 don't really recall for sure, sir.
16 Q. We certainly have never met and spoken about this
17 case, correct?
18 A. No, sir.
19 Q. Now, as I understand it, you spent 17 years working
20 with the Secret Service, is that correct?
21 A. Yes, sir.
22 Q. And what year did you actually leave?
23 A. It would have been, I believe it was 1988 -- late
24 '87, '88.
25 Q. And how old were you when you left?

1 A. 45, 46.
2 Q. Now, the way the retirement system works for law
3 enforcement officers, if you'd worked 17 years and were 45
4 or 46, you would have what, about four or five years left
5 before your full retirement would have vested?
6 A. No, sir.
7 Q. How long?
8 A. I'm not really sure exactly how long. With Secret
9 Service you work until age 55 unless you have ten or more
10 years of protection, and then you can qualify for a
11 straight 20.
12 Q. What was your particular situation? How much longer
13 would you have had to work to get your full benefits?
14 A. My new assignment was in the criminal records section
15 in Washington, D.C., which in an effort to provide
16 continuity in that unit. They, for the lack of a better
17 word, protect you from protection assignments. In other
18 words, you strictly work your investigative hours, and in
19 there you're not exposed to the protection hours which you
20 need to accumulate.
21 Q. You said your next assignment. They were going to
22 transfer you to that unit?
23 A. Yes, sir.
24 Q. And why was that?
25 A. I had finished a unique wiretap case here in the

1 Northern District of Ohio, and I had developed it from
2 scratch, and based on the experience of learning all this
3 material, I was asked if I wanted to transfer to the
4 criminal records section in order to do more work in the
5 areas of the wiretaps.
6 Q. Were there any problems that you encountered in that
7 wiretap case?
8 A. What sort of problems, sir?
9 Q. Any problems in terms of your own performance.
10 A. No, sir.
11 Q. Were there any -- were there any things done wrong in
12 that case that you recall?
13 A. The only thing that was done wrong, in my estimation,
14 was after we had the wiretap up and running for 30 days, I
15 went to your office, not you personally, but to the U.S.
16 Attorney's Office, and felt that we had pretty much done
17 everything we could do as far as the wiretap. It was
18 becoming quite repetitive, we were getting no new
19 information, and I attempted to get it shut down.
20 Q. Have you personally ever had any type of disciplinary
21 actions during the time you were with the federal
22 government?
23 A. No, sir.
24 Q. So why did you leave after 17 years? What was the
25 reason?

1 A. My middle boy was entering his senior year in high
2 school here in Ohio, and three years before that I had
3 uprooted the family to go to Miami when my oldest boy was
4 in his senior year in high school, and I thought long and
5 hard and I made a very difficult decision that I had to
6 place the family first, and I decided to remain here in
7 Ohio.
8 Q. And then when you left the service, did you set up
9 your own private investigation firm right away?
10 A. Within -- yes, sir, within two or three months.
11 Q. And did you set that up as the way that you could
12 support your family and make a living?
13 A. Yes, sir.
14 Q. So this is something you do for profit, correct?
15 A. Yes, sir.
16 Q. And it's a business that you do in order to make
17 profit, correct?
18 A. That's correct.
19 Q. And in the normal case, you would be paid to conduct
20 the investigation that you've conducted in this case,
21 correct?
22 A. Yes.
23 Q. And then you would also be paid for your testimony,
24 correct?
25 A. Yes.

1 Q. And what do you charge per hour currently?
2 A. I have two different fees. When I'm working on fraud
3 cases that involve questioned documents, my standard
4 published fee is $150 an hour. When I'm doing extensive,
5 long investigations involving a lot of legwork, the cost
6 would really have to be brought down. I charge $75 an
7 hour.
8 Q. Are you being paid in this case?
9 A. Yes, sir.
10 Q. And how much are you being paid per hour in this
11 case?
12 A. I am being paid a total of $1.
13 Q. And why would you take this case -- if you do this
14 for a living, why would you take your time and put your
15 time into this case for really no real compensation?
16 A. I've had an interest in the congressman, not knowing
17 him personally but having seen him on television, and I had
18 an interest in the case from the standpoint that how, in
19 fact, it was pursued, how the case was developed, you know,
20 where, you know, what all is involved other than having
21 people make one statement against somebody and is there
22 more to it than that.
23 Q. From what you're telling us, you're a fan of
24 Congressman Traficant, is that fair?
25 A. I'm sorry, sir?

1 Q. Would it be fair to say you are a fan of Congressman
2 Traficant?
3 A. I'm sorry?
4 Q. A fan? You're someone who is favorable towards
5 Congressman Traficant based upon what you've seen on TV and
6 read?
7 A. I belong to a different party than he does.
8 Q. That's not my question.
9 A. But yes, I've been intrigued and interested in many
10 of the things he's had to say.
11 Q. And as a result of that, you said you followed this
12 case in the media, correct?
13 A. Yes, sir.
14 Q. And that at some point you reached out and actually
15 offered to come and do some work for the Congressman for
16 free, is that correct?
17 A. Yes, sir.
18 Q. Have you ever had any discussions with Congressman
19 Traficant that maybe there could be some more work for you
20 down the road?
21 A. No, sir.
22 Q. You mentioned during an answer to one of Congressman
23 Traficant's questions that there was a lawyer who had
24 actually referred you to him. Is that correct?
25 A. That's correct.

1 Q. He didn't ask you the name of that lawyer. Would you
2 go ahead and tell us who that is?
3 A. Mark Colucci.
4 Q. Were you aware at the time you were talking with
5 Mr. Colucci that Mr. Colucci has been performing and
6 providing legal services to Congressman Traficant in this
7 case?
8 MR. TRAFICANT: Object.
9 THE COURT: You can answer.
10 A. Not at that immediate time, no, sir.
11 Q. You know that now as you sit here today, don't you,
12 sir?
13 A. Yes, sir.
14 Q. In fact, didn't Mr. Colucci help to prepare you for
15 your testimony here today?
16 A. No, sir.
17 Q. Did he do anything to assist you in any way or assist
18 Congressman Traficant in any way in the work you've done in
19 this case?
20 A. The communications mostly by e-mail that we've had
21 have been very much one way, coming from me to Mr. Colucci,
22 giving my input to be passed on, you know, with the
23 Congressman, and at no time was I prepared or rehearsed by
24 Mr. Colucci.
25 Q. Well, but the answer to my question then is you have

1 been communicating with Mr. Colucci as part of the
2 preparation of your testimony here today, correct?
3 A. My communications with Mr. Colucci has been
4 forwarding requests to him as far as obtaining more
5 information, like bank records.
6 Q. Have you sent any e-mails or communications to
7 Mr. Colucci regarding your findings or what you would
8 testify to or things that you testified to here today?
9 A. No, sir.
10 Q. Have you made any written statements whatsoever?
11 A. Regarding my testimony?
12 Q. Regarding any matter that you've testified to here
13 today.
14 A. There -- I'm sure there would have been perhaps an
15 e-mail that would have gone into preliminary findings as
16 far as paper trails.
17 Q. So you did send some, at least one e-mail, you're
18 saying, to Mr. Colucci giving him your preliminary
19 findings. Is that what you're testifying?
20 A. I can't say for sure. I believe that I probably
21 would have included that in one of my e-mails, yes, sir.
22 Q. Of the two people, Mr. Colucci and Congressman
23 Traficant, who did you communicate with the most regarding
24 your findings?
25 A. The Congressman.

1 Q. Why were communicating with Mr. Colucci at all?
2 A. Most of it had to do with him obtaining the
3 subpoenas. I would send the information that we need
4 certain documents for certain months or whatever it might
5 be. That was the thrust of my communication with
6 Mr. Colucci.
7 Q. Now, the Congressman showed you two documents today,
8 I think it's S-903 and S-904. Does that ring a bell? Do
9 you recall those documents?
10 A. Perhaps just a little description of it, sir, I
11 should.
12 Q. Well, I'll put them right up on the board here.
13 A. I recognize them now, sir.
14 Q. Where did you obtain these from?
15 A. From my computer.
16 Q. And when did you do that?
17 A. I believe it was obtained this last Friday or
18 Saturday evening.
19 Q. This past weekend?
20 A. Yes, sir.
21 Q. Now, you testified on direct examination about a
22 chart. It's been put into evidence, Government's Exhibit
23 1-27.1.
24 A. Yes, sir.
25 Q. Do you see that there?

1 A. Yes, sir.
2 Q. And I'd like to ask you a few questions about this.
3 First of all, you don't in any way contest the fact that
4 based upon the documents in this case, $26,600 cash was
5 deposited into Congressman Traficant's personal account at
6 Bank One, correct?
7 A. I take that document as accurate.
8 Q. Well, did you as part of your duties for Congressman
9 Traficant, did you go through and compare the evidence in
10 this case with that document to see if that was, in fact,
11 correct?
12 A. Since it had already been presented as evidence, I
13 did not go back and do it.
14 Q. Okay. Now, you testified on direct examination that
15 one of the things you do as a former Secret Service agent,
16 current private investigator, is you like to kind of hone
17 in on patterns, correct?
18 A. Yes, sir.
19 Q. And as you look at this document, isn't it true you
20 see a pattern of large cash deposits, generally $2,000 to
21 $3,000 to $1,000?
22 A. Yes, sir, at the beginning of the table.
23 Q. And as it gets down into 1999, there continues to be
24 cash deposits in the amount of $1,000, correct?
25 A. Yes, sir.

1 Q. And these would be considered large cash deposits for
2 someone that's not in some kind of a cash business,
3 correct?
4 A. If a person is not in a cash business, yes.
5 Q. Now, because these deposits were made in cash, as an
6 investigator, you can't go back and determine the actual
7 source, correct?
8 A. At this late time, no, sir.
9 Q. Well, how about a year ago?
10 A. The closer you are to when the transaction took
11 place, the more likely you could go back and track cash
12 sources.
13 Q. If you get a bank account and the bank account shows
14 $2,000 deposited on September 19, 1995, and $2,000
15 deposited on August 27, 1996, isn't it true it is hard to
16 conclusively trace the cash that went into that bank
17 account without any specific source, sir?
18 A. I'd say it depends on which side of the case you'd be
19 on. If, in fact, you're working with someone and they can
20 say that, you know, here were the sources and you can go
21 out and verify them independently, corroborate what, in
22 fact, was within the document, then it is possible.
23 Q. I'm not talking about corroboration. I'm talking
24 about when you see a cash deposit into a bank account and
25 all it shows is cash, there's no way to conclusively prove

1 that that same cash came from a particular place, correct?
2 A. That's correct.
3 Q. It's not like a check, where if you have a check
4 that's deposited in the amount of $2,000, you can get the
5 check and run back and show exactly where it came from,
6 correct?
7 A. That's correct.
8 Q. And as somebody who's done these kind of
9 investigations, you understand that's the problem when
10 people use cash, correct?
11 A. That's correct.
12 Q. And so as you sit here today and you look at that
13 chart with all that cash coming in, you can't tell where it
14 came from, can you?
15 A. That's correct.
16 Q. It could have come from any one of a number of
17 sources, correct?
18 A. That's correct.
19 Q. And it could have come from kickbacks for all you
20 know, correct?
21 A. For all I know.
22 Q. Now, as someone who has testified in other cases and
23 does so for a living, your job as a witness is to answer
24 the questions that are put to you, correct?
25 A. Yes, sir.

1 Q. You were asked a question by Congressman Traficant
2 during his direct examination, you were asked to take the
3 figure 11,700 and divide it by 24. Do you recall that?
4 A. Yes, sir.
5 Q. And what was the point of dividing it by 24, do you
6 know?
7 A. No, sir.
8 Q. You just did what you were told, correct?
9 A. I was asked to do the math, yes, sir.
10 Q. Let me ask you this: If Congressman Traficant had
11 asked you this question which he asked Mr. Hess, would you
12 divide 11,700 by 12 months, would you go ahead and do that
13 for me?
14 A. Yes. My first attempt comes up with $975.
15 Q. Is there anything wrong with what you just did?
16 A. Mathematically?
17 Q. I asked you a question. I asked you to divide 11,700
18 by 12, right?
19 A. That was a reasonable request, and that's what I did,
20 yes, sir.
21 Q. But that's not what Congressman Traficant asked you
22 to do. He asked you to do it by 24?
23 A. That's correct.
24 Q. I'd like to ask you some questions about your
25 testimony in response to Congressman Traficant's questions

1 about the January 24th 302. Do you recall he asked you a
2 series of questions about that?
3 A. Yes, sir.
4 Q. And I believe you said one of the things that you
5 highlighted and noticed on there was that there were
6 questions reflected on that 302 regarding the ownership of
7 the building at 11 Overhill Drive or Road, correct?
8 A. That, if I recall, that was at the beginning of the
9 302, yes, sir.
10 Q. And you said that that was a reasonable area of
11 inquiry, I think it was your testimony, correct?
12 A. Well, I'm basing my opinion on what the questions
13 were asked. I in looking at what was important to the
14 questioner --
15 Q. Meaning you were looking at what's important to
16 Congressman Traficant in his case, correct?
17 A. I'm looking at what was important to the person
18 asking the questions, eliciting the responses that were on
19 the 302.
20 Q. Isn't it true, sir, that from the 302 you can tell
21 that it was important to them to try to figure out who
22 owned the building during the entire time that Congressman
23 Traficant's office was renting the building, correct?
24 A. Yes, yes.
25 Q. Now, after you read that and decided that was

1 important, did you go out and start pulling records and
2 subpoenaing bank records for Henry DiBlasio?
3 A. No, sir.
4 Q. Well, sir, wouldn't it be important to do that if you
5 were going to determine what the relationship of the
6 building ownership was prior to the time that Allen
7 Sinclair purchased it?
8 A. There wasn't time.
9 Q. That's just not something you did, in other words.
10 A. That's correct.
11 Q. You testified on direct to some documentation that
12 showed that Allen Sinclair had signature authority over the
13 KAS account, correct?
14 A. Yes, sir.
15 Q. I'd like to show you now what is marked as
16 Government's Exhibits 1-53, 1-54, and 1-55. Do you see
17 those in front of you?
18 A. Yes, sir.
19 Q. Starting with the first exhibit, 1-53, that's a check
20 for Trumbull Land Company, correct?
21 A. From, yes, sir.
22 Q. And it says Trumbull Land Company, d/b/a, meaning
23 doing business as, Newport Professional Center; is that
24 correct?
25 A. Yes, sir.

1 Q. In your research for Congressman Traficant to prepare
2 for this case, are you aware that the building was
3 previously held in the name of Trumbull Land Company, d/b/a
4 Newport Professional Center?
5 A. The name Newport Professional Center rings a bell,
6 but I didn't focus on anything before '98.
7 Q. Well, who did Allen Sinclair or KAS buy the building
8 from, sir?
9 A. From Mr. DiBlasio, and I believe that was a d/b/a
10 involved. I just didn't get into that part of it. We
11 didn't have time.
12 Q. Let me ask you this: Who signed this check for
13 Trumbull Land Company?
14 A. The signature appears to be -- the last name appears
15 to be DiBlasio.
16 Q. How about Exhibit 154, which is another Trumbull Land
17 Company check?
18 A. Yes, sir.
19 Q. August 26, 1996?
20 A. Yes, sir.
21 Q. Who signed that one?
22 A. The same signature, Mr. -- or whoever it is,
23 DiBlasio.
24 Q. How about Exhibit 1-55, it was a check on Trumbull
25 Land Company account dated 10-5-98, payable to Nations

1 Bank. Do you see that?
2 A. Yes, sir.
3 Q. It's also Mr. DiBlasio's signature, correct?
4 A. I'm not sure what his signature looks like, but the
5 signature is DiBlasio.
6 Q. Well, sir, did you look to see if Mr. DiBlasio had
7 signature authority on the nominee company that owned 11
8 Overhill Road just as Allen Sinclair did with respect to
9 KAS?
10 A. No, sir.
11 Q. And why not?
12 A. There wasn't time.
13 Q. There wasn't time or Congressman Traficant didn't ask
14 you to look into the Henry DiBlasio aspect of this case?
15 A. No. There wasn't time. It was to concentrate mainly
16 on the activities of 1998, 1999 involving the checking
17 accounts as Mr. Sinclair was the witness in these
18 particular counts.
19 Q. Well, sir, I believe your testimony on direct
20 examination was that you were bothered by some of what you
21 understood was happening here and you wanted to get
22 involved and help, correct?
23 A. That's correct.
24 Q. Wasn't it true there was a lot of testimony about
25 Henry DiBlasio's finances?

1 A. There was testimony, yes, sir.
2 Q. And his ownership of the building?
3 A. Yes, sir.
4 Q. But you didn't think it was important to get involved
5 in those things, did you, sir?
6 A. Mr. DiBlasio was removed from the -- at the point
7 where I was interested in picking up the investigation,
8 being 19 -- end of 1998, 1999.
9 Q. And why were you just interested in looking at '98
10 and not the prior years, if you're so interested in getting
11 to the bottom of everything here?
12 A. I wasn't able to get to the bottom of everything. I
13 was interested in finding out Mr. Sinclair's veracity and
14 credibility as a witness to see if, in fact --
15 THE COURT: That is exactly a question which
16 only jurors address. The Judge doesn't address that, the
17 parties don't, and neither do the witnesses.
18 MR. TRAFICANT: I object to that.
19 THE COURT: You may well object, sir.
20 Q. Now, sir, you testified you got involved in this case
21 in mid February; is that correct?
22 A. February 23rd.
23 Q. February 23rd through the 28th was what, five days?
24 A. Yes, sir.
25 Q. Now we have how many weeks of March?

1 A. Five.
2 Q. So during the five or six weeks you've been involved
3 in this case, it's your testimony that you didn't bother to
4 look at any of the evidence or information about
5 Mr. DiBlasio, correct?
6 A. During the last five or six weeks, I haven't spent
7 full time working on this case.
8 Q. That's not my question. My question is during those
9 five or six weeks, you haven't bothered to look at any of
10 the evidence as it related to Henry DiBlasio, have you?
11 A. That's correct.
12 Q. And when you were looking at the building records of
13 Allen Sinclair, were you looking to see if he was really
14 the true beneficial owner of the business and that KAS was
15 merely his nominee? Is that what you were looking for,
16 sir?
17 A. No. There, as far as the building itself goes, there
18 wasn't any more effort spent on Mr. Sinclair's acquiring
19 the building. Once it was done, I didn't go back and see
20 exactly how that was done. Once it was in his name, then
21 that was the person that was of interest to me as far as
22 doing an investigation.
23 Q. So the building itself, once you took a look at what
24 you looked at, you set that aside. It really didn't affect
25 the outcome of what you testified to here today, correct?

1 A. That's correct.
2 Q. So we can set the building testimony aside
3 completely, right? Doesn't that sound --
4 A. Yes.
5 Q. From what you're telling us, it's really not
6 relevant, correct?
7 A. Not from what I was told.
8 Q. Okay. Let's go to the main thing then that you did
9 testify. You testified that you looked at some deposits
10 into Mr. Sinclair's IOLTA account in the amount of $2500,
11 correct?
12 A. That's correct.
13 Q. And you said you saw a pattern of these $2500
14 deposits, and you thought that that was -- what was the
15 word?
16 A. I don't recall, sir. Unusual or --
17 Q. Unusual, okay. And so it's your testimony
18 that -- well, do you know what an IOLTA account is?
19 A. Yes, sir.
20 Q. What is an IOLTA account?
21 A. An IOLTA account is an account used by attorneys
22 where they have to deposit money, such as settlement checks
23 and retainers. IOLTA stands for interest on lawyers trust
24 account.
25 Q. And it's your testimony that you thought it was

1 strange that a lawyer who does personal injury work would
2 make deposits into his IOLTA account in the amount of
3 $2500?
4 A. That's only half the picture. Yes, sir.
5 Q. What's so strange? Let's just start with that.
6 What's so strange about a lawyer who does accident cases
7 making deposits into his IOLTA account in the amount of
8 $2500?
9 A. That in itself isn't the unusual part. It's the fact
10 that that stopped then in the next spring, after my chart
11 that showed you that $2500 deposits for a 22-month period
12 ending in February of this year, there were no deposits for
13 $2500.
14 Q. Well, on that point let me ask you this, sir, because
15 you testified that one of the things you did as a law
16 enforcement officer and now as a private investigator is
17 you like to look for patterns, right?
18 A. That's correct, sir.
19 Q. Isn't it true that one of the patterns that you saw
20 in this case was that from the time Allen Sinclair received
21 his very first full congressional paycheck from Congressman
22 Traficant, every single month for the next 13 months he
23 withdrew $2500 cash?
24 A. That's correct.
25 Q. Would you say that's an unusual pattern, sir?

1 A. Yes.
2 Q. And would you say that that stopped almost
3 immediately after the FBI questioned Mr. Sinclair?
4 A. If the 302 reflects the initial date of the first
5 contact with Mr. Sinclair, which would have been January
6 24th, that would be correct.
7 Q. And so as someone who specializes in patterns, that's
8 a very important pattern, is it not, sir?
9 A. It certainly is. It certainly is.
10 Q. Do we have a pattern in which a lawyer goes to work
11 for Congressman Traficant and every single month that he
12 gets a full paycheck, he takes out $2500 cash, correct?
13 A. That's a large cash withdrawal from a deposit of
14 roughly $3500.
15 Q. Then immediately after the FBI asks him if he's
16 kicking back on January 24th, they stop, correct?
17 A. Within a reasonable time, yes, sir. I can't give you
18 the exact dates.
19 Q. There's no other check from which he withdraws $2500
20 cash after the FBI talks to him, is there, sir? You've
21 been through these records.
22 A. The only checks we looked at were the treasury
23 checks.
24 Q. And that's what I'm asking you about.
25 A. Yes.

1 Q. The first treasury check after the FBI asks him about
2 kickbacks, suddenly there's no $2500 cash withdrawn,
3 correct?
4 A. That's correct.
5 Q. Congressman Traficant asked you about physical
6 evidence. Those cash withdrawal records are physical
7 evidence, are they not?
8 A. Yes.
9 Q. And they prove that every single month from the time
10 he was hired until the time the FBI talked to him, physical
11 evidence, that Allen Sinclair was taking out $2500 cash,
12 correct?
13 A. That's correct.
14 Q. And all you're saying is that having seen that
15 pattern, you also wanted to look to see other patterns, if
16 they existed, right?
17 A. In addition to the $2500 patterns.
18 Q. That when you found that other $2500 pattern, that's
19 what you were looking for, other patterns, correct?
20 A. Well, sir, yes. We see two patterns of $2500, but in
21 your instance of the $2500 going into an account, you can't
22 say, you know, where the money is coming from, and the same
23 thing when you withdraw money of $2500, you can't say where
24 it's going. It's one person saying I gave it to somebody
25 else.

1 Q. Well, let's go with that then.
2 A. Okay.
3 Q. Let's take the first pattern, the pattern of Allen
4 Sinclair taking $2500 cash out of every paycheck.
5 A. Yes, sir.
6 Q. That's documented by bank records and testimony that
7 that is cash, correct?
8 A. That's correct.
9 Q. There's no mistake about that at all, right?
10 A. That's correct.
11 Q. Now, the other pattern that you've pointed out, which
12 you call a pattern, is that there were a number of $2500
13 deposits into an IOLTA account during that same period,
14 right?
15 A. Yes. Not saying what they are, but they were $2500
16 deposits.
17 Q. And you have no idea whether those are cash or
18 checks, correct?
19 A. We haven't had time to research them all, but the
20 ones -- two or three we did, they did happen to be checks.
21 Q. Well, you didn't testify to that on direct, did you,
22 sir?
23 A. Yes, sir. Yes, I did.
24 Q. Oh, you did?
25 A. Yes, sir.

1 Q. Let me ask you this, sir: If, in fact, Allen
2 Sinclair regularly received checks from insurance companies
3 for clients he was representing in the amount of $2500
4 during this period that you call that a pattern --
5 A. Right.
6 Q. -- that would answer the whole question, right?
7 A. Except for the fact that the pattern for whatever
8 reason then stops, and there are no more $2500 checks. So
9 it's quite a coincidence that during this time period you
10 have money coming out of one account and within, on an
11 average of four days, going back into another account.
12 Q. Well, let's go back then and talk about what you're
13 suggesting here.
14 A. I'm suggesting, sir, it needs further investigation.
15 Q. Why?
16 A. That --
17 Q. What's the relevance of the $2500 going into an IOLTA
18 account whatsoever?
19 A. It's as much relevance as the $2500 coming out of
20 Mr. Sinclair's account that we can speculate whether it
21 went here or there. We don't know.
22 Mr. Sinclair had a lot of debt. We don't know what
23 he's doing with the cash. And as far as I know, there was
24 no corroborative evidence to show that anybody tried to
25 find out what, in fact, he did with that cash, other than

1 taking his word for it.
2 Q. And you're suggesting that one possibility might be
3 that he took some of that cash and deposited it into his
4 IOLTA account, correct?
5 A. I'm suggesting we don't know what happened to that
6 money.
7 Q. Isn't it true, sir, you're suggesting that is a
8 possibility, that maybe some of that cash got deposited
9 into the IOLTA account?
10 A. Until there is further investigation into those
11 deposits, that has to be an assumption. It can be ruled
12 out, but it should be investigated.
13 Q. But my question to you is: That's the only
14 possibility that would help you in what you're testifying
15 to here today, correct?
16 MR. TRAFICANT: Objection to the speculation.
17 THE COURT: Overruled. You can answer.
18 A. Okay. If, in fact, there are cash deposits, then
19 that would be another alternative for where that money
20 could have gone.
21 Q. Okay?
22 A. There has been no claim that that is cash.
23 Q. Right. And if that's not cash, if those are checks,
24 then that rules that out entirely, correct?
25 A. That particular theory.

1 Q. Yes.
2 A. But it's still -- it's still -- I can't figure out
3 why in the world all you have is $2500 deposits. So in
4 other words, taking a check and saying, this check came
5 from so-and-so, that isn't enough. You have to go one step
6 further and make sure that that check actually came from
7 whoever it may have been.
8 Q. But sir, my question is this: If, in fact, these
9 were check deposits as opposed to cash deposits, then it
10 doesn't matter, does it?
11 A. Not that particular aspect of it, that's correct.
12 Q. In fact, if all of these deposits that you've
13 testified here to today were the deposits of checks from
14 settlement proceeds or client payments, or insurance
15 companies, then everything you've told the jury here today
16 is irrelevant as to the charges in this case; isn't that
17 true?
18 A. It's irrelevant as to what happened to go into those
19 accounts with the $2500, as far as the deposits go.
20 Q. So as to your chart and those deposits into the IOLTA
21 account, if, in fact, those are insurance checks and not
22 cash, then we can set that chart and that testimony aside
23 because it really doesn't relate to the charges in this
24 case anymore in any way, right?
25 A. I agree. If, in fact, it's taken one step further

1 and not just to take the information at face value, but to
2 verify that, in fact, they are checks, all it does is
3 eliminate the hypothesis. In other words, not everything
4 that you do as an investigator proves out one way or the
5 other. That's why you're doing an investigation. You're
6 trying to find out what's true and what's not. The truth
7 is very important.
8 Q. Okay. And the truth, sir, is that all you've given
9 the jury is a hypothesis that maybe some of these $2500
10 deposits are cash that Allen Sinclair took out of his
11 paycheck and for some unexplained reason ran over and
12 deposited into his IOLTA account, correct?
13 A. It is no more a hypothesis than the money was taken
14 out in the first place and given to the Congressman.
15 Q. That's not my question. My question is: That's the
16 hypothesis you presented to the jury, correct?
17 A. That is the hypothesis that was being investigated in
18 determining whether it is true or not.
19 Q. Now, let me ask you some questions. You said you
20 pulled two or three of the checks or two or three of these
21 deposit items and found checks, correct?
22 A. That's correct.
23 Q. Which ones?
24 A. This was done last Friday. I talked to the lady that
25 testified this morning, Mindy Davies, and I either picked

1 the three months or I told her to pick three months. Now,
2 if you want me to --
3 THE COURT: Which ones, is the question.
4 Q. I definitely want you to show me which one of these
5 $2500 figures are not cash that you've already concluded
6 conclusively from documents are checks.
7 A. The October 13th --
8 Q. Is what?
9 A. A check.
10 Q. Then it would be okay to go ahead and cross that one
11 off, correct?
12 A. Yes.
13 Q. But you didn't do that before you testified, right?
14 A. No. I was showing the pattern. I wasn't saying that
15 the pattern was complete.
16 Q. Well, that's not part of the pattern. You already
17 know that's a check, correct?
18 A. The pattern is the pattern. There's $2500.
19 Q. Let's look for a pattern that would show the
20 possibility, because isn't it true you're suggesting here
21 when you say number of days after cash was withdrawn from
22 the government check, that you're implying that because it
23 was only a couple days after that, perhaps the cash that
24 was withdrawn from the check was deposited into this
25 account?

1 A. I'm saying that this pattern was as unusual as the
2 other pattern and just has not been proven that the money
3 taken out of the account was put into a different account.
4 I'm still saying that no matter whether these come back as
5 checks or whatever, it's unusual that you have these
6 deposits, and I can't explain it because we haven't
7 investigated any further. Mindy only had a little bit of
8 time on Friday, and I said, "Let's pick out three and see."
9 Q. Well, sir --
10 A. And in fact --
11 Q. When you put up here days after cash withdrawal from
12 government check, what's the point of that entry?
13 A. The point of that entry is to show that it's a
14 pattern that's unusual shortly after the withdrawal of the
15 money from the other account.
16 Q. Because you're suggesting that perhaps this deposit
17 came from the cash that came out of Allen's check just a
18 couple days earlier, correct?
19 A. I'm saying the $2500, that has to be reconciled
20 regardless of where it came from.
21 Q. But you're trying to suggest by saying days after
22 cash withdrawn from government check, that that's where
23 this deposit came from, correct?
24 A. I'm trying to show that with this chart, that, in
25 fact, it doesn't prove any more or any less than the chart

1 that the government provided that stated that the
2 withdrawal of the money went to the Congressman.
3 Q. Well, you've just told the jury that as to October
4 13th, that's not true, because you now know that was a
5 check and it wasn't cash, correct?
6 A. That's true.
7 Q. Okay. What's the next one?
8 A. I don't have it in front of me.
9 Q. Well, why don't you look for it for a minute.
10 A. I'm not sure I have it with me, sir.
11 Q. You said there were two or three.
12 A. There were two or three. This was done on the phone
13 last Friday or -- yes, last Friday, and I believe it would
14 be August the 2nd.
15 Q. And you mean to say that after you found out that
16 several of these checks were -- deposits were checks, you
17 didn't bother to correct your chart, sir?
18 A. The chart is making no allegations that this money
19 was coming -- the chart is showing a pattern. It was
20 showing that, in fact, I come up with a pattern that shows
21 the $2500 is going back in regardless of the source. It's
22 an unusual pattern.
23 Then after January the next year, we don't see $2500
24 in any form, way, shape or manner going into the IOLTA.
25 It's only raising the specter of a question about looking

1 for patterns. It's not accusatory.
2 Q. Sir, do you have something with you today that you
3 could look at so you could tell us what other ones we could
4 cross off of this supposed pattern?
5 A. I'm checking, I'm checking. The dates are May 5 --
6 Q. I can cross that one off?
7 A. Yes, sir. (Pause) Sir, there appears to be 8-2.
8 Q. We can cross that one off, too? Is that correct?
9 A. The way the days correspond, that would be the
10 closest one, yes, sir.
11 Q. Now, sir, what was it that you actually received that
12 causes those to be knocked out of your pattern? You
13 received the actual checks, deposit items?
14 A. On -- yes, sir, on Saturday. Mindy did a hand search
15 just briefly. The way the system is set up at Home Savings
16 is that certain types of deposits and the like, they have
17 to go through the entire day's activities looking for check
18 amounts. So it can be quite time consuming, so I suggested
19 let's pick out three, and that's what we did.
20 Q. Okay. And on all three of them you picked out, it
21 just so happened they weren't cash; they were checks?
22 A. That's correct.
23 Q. And you didn't look at any others; you just had her
24 pick out three, right?
25 A. That's correct.

1 Q. Now, again as I understand your hypothesis, sir, your
2 hypothesis is that one of the things Allen Sinclair could
3 have done with this unusual pattern of taking $2500 cash
4 out of every paycheck is he could have deposited it into
5 his IOLTA account, because we see some unknown deposits,
6 right?
7 A. That's correct.
8 Q. And then you list how many days after his last
9 paycheck was cashed and he got $2500 cash before there's a
10 deposit, right?
11 A. That's correct.
12 Q. And then that would knock these three out, so we're
13 down to one, two, three four, five, six, right?
14 A. Yes, sir.
15 Q. Let me ask about number six and number four. Isn't
16 it true, sir, that Allen Sinclair received a paycheck on
17 11-30, 1999, which was deposited on that date and got $2500
18 cash that day, and didn't make his next deposit until
19 December 29th, 1999? Correct?
20 A. I don't see it on that chart, but I believe that
21 sounds --
22 Q. Well, let me tell you what, let me show you what's
23 marked Government's Exhibit 1-4.1. That is a check to
24 Allen Sinclair in the amount of $3,067.65, correct?
25 A. Yes, sir.

1 Q. And it indicates at the top that that was deposited
2 on 11-30-99, correct?
3 A. Yes, sir.
4 Q. And that only $567.65 was deposited, leaving Allen
5 Sinclair with $2500 cash, correct?
6 A. Yes, sir.
7 Q. The next one shows a deposit of the paycheck on
8 12-29-1999, correct?
9 A. Yes.
10 Q. And the difference between the deposit and the check
11 shows he got $2500 cash on that date, correct?
12 A. Yes.
13 Q. Now then, you have two checks, December 7th, do you
14 see that one there?
15 A. Yes.
16 Q. $2500. And you say that that deposit was made five
17 days after Allen Sinclair got $2500 cash, which would be,
18 again, this check on 11-30-99, correct?
19 A. Yes.
20 Q. But then down at the bottom you also list a deposit
21 on December 22, 1999, correct?
22 A. Yes.
23 Q. Coming out of the same check on 11-30-1999, correct?
24 A. I don't see the connection.
25 Q. Well, sir, there's one check where he got $2500,

1 correct?
2 A. Yes.
3 Q. And you said that he could have made this deposit on
4 December 7, five days after he got that $2500, correct?
5 A. Yes.
6 Q. And then on December 22nd, before he's received
7 another paycheck, you're saying he could have made another
8 deposit, and you put a question mark there because you
9 can't answer the question where the $2500 came from, right?
10 A. The December 22nd, the deposit went in, and there was
11 no connection back to a particular check, that's correct.
12 Q. So you can't suggest that some of the cash came out
13 of the check and went into that account because there's no
14 check, right?
15 A. We're not saying that specifically, that the cash had
16 to come out of a particular check.
17 Q. But that undoes your hypothesis, it shows how many
18 days after a check is cashed before it's deposited, right?
19 A. I left a question mark and I don't know if the person
20 would have other cash available from other sources or -- we
21 haven't accounted by any means, of course, for all money.
22 If, in fact, it is cash, all we're trying to do is prove
23 our hypothesis or disprove our hypothesis.
24 Q. But that would tend to go against your hypothesis
25 that he gets a check, converts it to $2500 cash, and then a

1 few days later deposits it into his IOLTA account, correct?
2 A. All we're saying, there was a 2500 deposit regardless
3 of the source.
4 Q. That's not what you're saying. You're saying days
5 after cash withdrawn from a government check. That's what
6 you're saying.
7 A. I'm saying a question mark after December 22. I
8 don't know.
9 Q. Down at the bottom you're saying these $2500 deposits
10 were made on average of four days after receiving the $2500
11 in cash, right?
12 A. That's correct.
13 Q. You're trying to suggest by saying that that he's
14 getting a check, taking out $2500 cash, and then he's
15 taking that cash and putting it in his IOLTA account,
16 right?
17 A. I'm trying to say we have a hypothesis, and once
18 we -- once we have all the data to either prove it or
19 disprove it --
20 Q. But the fact that you've got two deposits for one
21 check tends to disprove your hypothesis, does it not?
22 A. No, sir. It's $2500. If, in fact, on Friday, when I
23 made up this chart, if I thought that I wanted to make it
24 look like we're trying to get, you know, the goods on
25 Mr. Sinclair, I wouldn't have presented this chart.

1 The purpose of the chart is to show, looking for
2 patterns and eliminating or establishing the fact that they
3 exist. This is actually a very forthright chart, because
4 one third of it is not showing that it happens to be cash.
5 But the purpose was to show that charts cannot be
6 completely trusted. Having a chart that shows $2500 was
7 withdrawn, no way can you point it towards where that cash
8 went.
9 Q. So it's your testimony it was a very forthright chart
10 not to show on the chart that the May, August, and October
11 2500 deposits that you've listed there were actually checks
12 that you'd established weren't cash?
13 A. There was no intent to deceive anybody. The very
14 fact that the case -- that the chart was presented is
15 showing how the hypothesis works, not the results of it.
16 Q. Let me ask you this, sir: When you looked at that
17 IOLTA account, isn't it true that there were many other
18 deposits, frequently multiple deposits on those same days
19 that you didn't put on your chart?
20 A. Such as? I'm sorry, sir, as far as amounts?
21 Q. Such as -- here, we'll take a minute.
22 I've marked these on the -- during the lunch break, I
23 went ahead and marked these on all the monthly statements,
24 and I'd like you to compare what's marked Government's
25 Exhibit 1-50, which is a listing of all deposits on these

1 different dates, and compare them and make sure they're
2 accurate with the bank records. Could you do that please,
3 sir?
4 THE COURT: What Government's Exhibit is
5 this?
6 MR. MORFORD: 1-50, Your Honor.
7 MR. TRAFICANT: May I ask it be made a Joint
8 Exhibit?
9 MR. MORFORD: The chart is our chart. The
10 documents are Congressman Traficant's raw documents that he
11 gave us.
12 MR. TRAFICANT: I ask it be a Joint Exhibit.
13 THE COURT: Well, is everything numbered?
14 The exhibit I have is simply a chart. The raw documents
15 need to be identified for the record with a number.
16 MR. MORFORD: The raw documents are HSL-F,
17 and they were Congressman Traficant's exhibits.
18 THE COURT: Thank you.
19 A. Sir, may I ask or answer your question without going
20 through everything as far as this list goes? I can maybe
21 speed things along a little bit.
22 Not every deposit by any means was taken from the
23 IOLTA account records and put into the chart. That was not
24 the purpose. The purpose was to get the ones for $2500.
25 Q. Well, I'd like you to go ahead then and look at that

1 chart and make sure it's accurate, because then I want to
2 ask you some questions about that chart.
3 A. Okay.
4 Q. They're all flagged. It shouldn't take you long,
5 sir.
6 A. Yes, sir.
7 Q. And is that chart accurate?
8 A. Yes.
9 Q. Now then, sir, to go back to your chart, you showed
10 what you called an unusual pattern?
11 A. Uh-huh.
12 Q. With some $2500 checks being deposited, correct?
13 A. Yes, sir.
14 Q. And the truth of the matter is that there were a lot
15 of checks deposited into that account, correct?
16 A. Yes.
17 Q. In fact, on February 12, the same day as the $2500
18 deposit, there was a deposit for $1400, correct?
19 A. Yes.
20 Q. On 3-17, there wasn't just one, there were actually
21 two $2500 deposits; is that correct?
22 A. Yes.
23 Q. I'm sorry. Did you say yes?
24 A. Yes.
25 Q. Where are they on your forthright chart, sir? For

1 March 17, 1999, you only show one. How come?
2 A. I'm not sure. Evidently the other March 17th -- is
3 it March -- evidently the other March 17th wasn't put in
4 the spreadsheet.
5 Q. And there wouldn't have been a corresponding check
6 with a withdrawal of $2500 cash for both of those March 17,
7 1999 items, would there, sir?
8 A. Well, again, we're not making a direct correlation
9 back to the withdrawals. We're trying to show the pattern
10 of the $2500. I wish I had the 2500.
11 Q. Then I'm going to ask again, sir, why does it say
12 days after cash withdrawn from government check?
13 You are not trying to make the correlation?
14 A. I'm trying to make a pattern.
15 Q. And it doesn't fit the pattern to have two deposits
16 of $2500 on the same day when there's only one check, does
17 it, sir? That doesn't fit the pattern you're trying to
18 make, does it, sir?
19 A. If we were taking apples and apples, no. We're not.
20 We're taking $2500 deposits, period.
21 Q. Okay.
22 A. And accounting for them.
23 Q. Moving down, on May 5th, in addition to the $2500
24 deposit, you show there's also a $1500 deposit, correct?
25 A. That's what your paper shows, yes, sir.

1 Q. Well, sir, you just looked at the bank records and
2 said it's accurate based on the deposits?
3 A. Yes. I thought you said I had it on my chart.
4 Q. Okay. September 7th, there's a deposit for $2500,
5 there's a deposit for $518, and a deposit for $7,000,
6 correct?
7 A. That's correct.
8 Q. And on 10-13 -- actually on 10-13 there wasn't even a
9 $2500 deposit, was there, sir?
10 A. No, sir.
11 Q. There were three separate deposits that you added up
12 to come to $2500, correct?
13 A. That's correct.
14 Q. And you've now corrected yourself and said those were
15 actually checks, correct?
16 A. That's correct. That was presented to the bank to
17 research as three instruments.
18 Q. But again on your chart, you didn't list those out as
19 three separate deposits. You listed them as though it was
20 one $2500 deposit, correct?
21 A. I'm going by the day and the amount of the deposit
22 that happened to total $2500.
23 Q. But you make it look like there's one $2500 deposit
24 there when actually there were three separate deposits on
25 that day, correct?

1 A. Totaling $2500, yes, sir.
2 Q. On 12-7, in addition to the $2500 deposit, you show
3 there was a deposit for $9,000, $3500 and $5,000, correct?
4 A. Yes.
5 Q. And on December 22nd, 1999, in addition to the $2500,
6 there was a deposit in the amount of $11,500, correct?
7 A. That's correct.
8 Q. And on December 29, in addition to the $2500 deposit,
9 you showed there was a $10,900 deposit, a $4500 deposit, an
10 $8,000 deposit, a second $2500 deposit, and a $20,000
11 deposit, correct?
12 A. Yes.
13 Q. And once again, if we look at your forthright chart,
14 on December 29th, 1999, you only list one deposit in the
15 amount of $2500, correct?
16 A. That's correct.
17 Q. Why did you leave the other one off?
18 A. It must have been -- I thought one of them was 2550.
19 I'm not sure. I'd have to look at that again, sir. Let me
20 just take a quick look.
21 Q. It's there. Take a look.
22 A. Okay.
23 MR. TRAFICANT: What date are we talking
24 about?
25 MR. MORFORD: December 29th.

1 A. You're correct. There were two on the 29th. That
2 would actually bring us up to 11.
3 Q. And it would also bring us to a point where there's
4 two checks, two different checks for which you have to
5 account for two $2500 deposits, right?
6 A. That's correct.
7 Q. And you don't list either one of those on your chart.
8 A. That's correct.
9 Q. Now, you also said that you've already conceded that
10 there's nothing particularly unusual about a lawyer making
11 a $2500 deposit into his IOLTA account, correct?
12 A. That's correct.
13 Q. And as you look at the real pattern now of multiple
14 deposits into this IOLTA account, isn't it true that just
15 off of these deposits alone, one could draw the conclusion
16 that these are simply the deposits of client fees and
17 insurance checks, and things like that?
18 A. I had no predisposition anyway. It was a matter of
19 doing the search. In fact, because of the method of the
20 searching, if a $2500 check isn't recorded for a particular
21 date, it's still going to be found in the search by Home
22 Savings because they're looking for $2500 checks.
23 Q. Except you only asked them to look for three and no
24 more, correct?
25 A. On what date -- oh, yes, sir. They didn't have time

1 to do any more.
2 Q. But what you've asked them to do is look for three,
3 right?
4 A. That's all we had time for for me to be here today.
5 Q. And the three you looked for did turn out to be --
6 A. I'm sorry?
7 Q. I'm -- the three you did get were insurance checks,
8 correct?
9 A. They were checks, yes, sir.
10 Q. Okay. And as to these other figures, what is your
11 hypothesis on those?
12 A. They didn't connect at this point in time as far as
13 any pattern goes, so again, because of time they weren't
14 checked. You can divide any number of checks and the ones
15 for like $718 or $10,000.
16 Q. Let me ask you this, sir. I want to show you some
17 documents and ask you if you ever saw these documents or
18 how they affect your hypothesis.
19 A. Okay. Okay, sir.
20 Q. For the record, these are Government's Exhibit 1-51.
21 The first is a check payable to Christa Castellucci
22 and her attorney, R. Allen Sinclair?
23 A. Yes.
24 Q. In the amount of $2500?
25 A. Yes.

1 Q. On January 19th, 1999. Do you see that?
2 A. Yes.
3 Q. Is this a check that you looked at in putting
4 together your hypothesis?
5 A. This was a check that I believe we provided to the
6 government. I didn't go back and look at them. I got the
7 information from Mindy off the telephone.
8 Q. You provided it to the government when?
9 A. I'm assuming as far as the, you know, any kind of a
10 deposit goes.
11 Q. Why are you assuming that we were given a copy of
12 this check, sir?
13 A. I'm assuming that you are given a copy of the check
14 since it was part of the exhibit that you have all the
15 checks.
16 Q. Okay. Let me show you the next one. That's one.
17 Next is a check, loss date 10-21-98, $2,500, full and final
18 release of all claims, Alfonso Hackett and Allen Sinclair,
19 Esquire.
20 A. Yes.
21 Q. Dated April 30th, 1999. $2,500.
22 A. Yes, sir.
23 Q. Was this one of the checks that you looked at in
24 putting together your hypothesis of this pattern?
25 A. As I said, I didn't look at the checks. I talked to

1 Mindy, and she gave me the types of checks. I didn't know
2 whether they were insurance checks or whatever. I've
3 already stated we knew they were checks.
4 Q. Let me show you a third check. This one, settlement
5 fund, claimant demand deposit account, $2,500.
6 A. Yes.
7 Q. Pay to the order of Lou Ann Miller and R. Allen
8 Sinclair. Do you see that?
9 A. Yes, sir.
10 Q. Date, 7-7-1999.
11 A. Yes.
12 Q. Amount $2500.
13 A. Yes.
14 Q. Did you take that check into consideration when you
15 put together your hypothesis?
16 A. This is more dates than we were able to get. We were
17 told that they could only do three in a day. I'm just -- I
18 don't know how we weren't able to get them.
19 Q. Here is a check from Nationwide Insurance payable to
20 Kimberly Irving as parent and natural guardian for Jamar
21 Irving and their Attorney Allen Sinclair, dated 8-6-99 in
22 the amount of $2500.
23 A. Yes.
24 Q. Was this a check you looked at?
25 A. I didn't look at the check. I didn't look at any of

1 these checks.
2 Q. Next, check payable to Rose Davies, final settlement
3 of claim. Payable to Clarence and Viola Martin
4 individually and as husband and wife and R. Allen Sinclair,
5 their attorney, dated September 28, 1999, in the amount of
6 $800. Do you see that?
7 A. Yes.
8 Q. And then there's also a similar check in the amount
9 of $700?
10 A. Yes.
11 Q. And then there's also a check in the amount of
12 $1,000. Those are the ones you already testified to that
13 you did see, correct?
14 A. Yes.
15 Q. The three of them totaled $2500?
16 A. That's the October 13th?
17 Q. That's the one we crossed off your chart earlier,
18 right?
19 A. Yes.
20 Q. Okay. Next we have a check from The Prudential
21 Company, payable to Laurie Becket Peterson and R. Allen
22 Sinclair in the amount of $2500 on November 12th, 1999,
23 correct?
24 A. Yes.
25 Q. Next we have a check, Ohio Mutual Insurance Group.

1 The date is 7-6-99. Pay to the order of Danny Chance, and
2 R. Allen Sinclair, his attorney, $2500, full and final
3 settlement of bodily injury.
4 A. Yes.
5 Q. You didn't look at this check in putting together
6 your hypothesis, did you, sir?
7 A. I was not provided any of these, that's correct.
8 Q. Next there's a check from Allstate Insurance dated
9 November 17th, 1999, in the amount of $2,571, dated
10 3-12-99, correct?
11 A. I see it on another date. I wasn't sure which one.
12 11-17.
13 Q. 11-17-99. You're correct.
14 A. Yes.
15 Q. Next there's a check from Presque Isle Insurance,
16 payable to Andrew Chambers and R. Allen Sinclair, his
17 attorney, in the amount of $2500, and the date is
18 12-14-1999, correct?
19 A. Yes.
20 Q. Next we have a check payable to Michelle McAuley and
21 her attorney, R. Allen Sinclair, $2500, November
22 10th -- I'm sorry, that's the date of loss.
23 MR. SMITH: The check date is right below the
24 check number.
25 Q. There we go. 12-7-1999. Correct?

1 A. I can't see it very well. I'm sure it is.
2 Q. 12-7-99. Can you see that? Here?
3 A. I can see the 12 and the 99. I couldn't see the 7 or
4 17.
5 Q. Do you see that now?
6 A. I see it. I'm still not sure if it's 7 or 17.
7 Q. But it's December of '99?
8 A. Yes, sir. Yes, sir.
9 Q. Okay. And finally one last check to show
10 you -- what's the amount of that check?
11 A. $2500. Dated 4 -- it looks like 4-5-99.
12 Q. That's the date of the loss. It is dated December 9,
13 1999; is that correct?
14 A. Yes, sir.
15 Q. So now you've had a chance to look at one, two,
16 three, four, five, six, seven, eight, nine, ten, ten $2500
17 checks which are lawyer's settlement fee checks in the
18 amount of $2500 during 1999, correct?
19 A. That's correct.
20 Q. What does that do to your hypothesis that you
21 presented to this jury that possibly there's some weird
22 pattern going on here with Allen Sinclair making $2500
23 deposits to his IOLTA account?
24 A. Well, fortunately since you were able to get the
25 documents, it resolved a hypothesis that had not been

1 solved by us, because we didn't have the checks available.
2 Q. So basically, based on these documents, what you
3 testified to in your chart would pretty much be irrelevant,
4 correct, in view of these checks?
5 A. Yes, sir, as far as the -- I'm sorry -- the deposits
6 and the dates following the withdrawals.
7 Q. And one last thing. You said that the other thing
8 that had caught your eye was that it was very unusual to
9 you that as soon as Allen Sinclair stopped taking out
10 $2500, the checks stopped, correct, or the deposits
11 stopped, correct?
12 A. In the IOLTA for about a 20 or 22-month period ending
13 in February of 2002.
14 Q. Well, we've already -- you've already testified that
15 Allen Sinclair got his last check and took his last $2500
16 cash withdrawal on December 29th, 1999, correct?
17 A. Yes.
18 Q. And isn't it true, sir, that -- again, this is, Your
19 Honor, Defendant's Exhibit HSL-1-F, which is one of the
20 documents that you had when you prepared all of this, sir?
21 A. Yes.
22 Q. Isn't it true that on February 10th, 2000,
23 Mr. Sinclair did, in fact, make a deposit in the amount of
24 $2500?
25 A. That would have been -- is that on the IOLTA, sir?

1 Q. Yes.
2 A. Yes. That would have been at the very end there and
3 been sometime in March or April that no more $2500 deposits
4 were uncovered through to February of '02.
5 Q. Sir, this is a $2500 deposit two months after he'd
6 stop taking the $2500 out of his checks, correct?
7 A. I said at some point after he started taking the
8 $2500 out of his checks that the checks stopped. I never
9 gave an exact date on when that happened. I'm saying that
10 it ended in February of '02.
11 MR. MORFORD: May I have a moment, Your
12 Honor?
13 THE COURT: Yes.
14 (Pause.)
15 MR. MORFORD: I have nothing further.
16 THE COURT: Thank you. Congressman?
17 REDIRECT EXAMINATION OF MICHAEL L. ROBERTSON
18 BY MR. TRAFICANT:
19 Q. The prosecutor talked a lot about patterns. He
20 talked a lot about hypothesis. Now let's talk about the
21 hypotheses of this case. In your investigation, was there
22 any corroboration that any of these checks that were
23 written were actually investigated by the IRS or any other
24 body?
25 MR. MORFORD: Objection as to relevance.

1 THE COURT: Sustained.
2 Q. After February 10th of 2000, up until what point did
3 you find not one $2500 deposit?
4 A. It would have been either March or April of 2000. It
5 was ending February of this year.
6 Q. So almost two years now, no $2500. Now, as an agent
7 of the Secret Service, are you familiar with check kiting,
8 sir?
9 A. Yes.
10 Q. Wouldn't a prudent investigator assure that these
11 accounts were, in fact, documented by a corroborative
12 investigation?
13 MR. MORFORD: Objection.
14 THE COURT: Sustained.
15 Q. Well, how can you tell if, in fact, money is coming
16 from one account, going to another, in hypotheses if you do
17 not corroborate where the money ends up?
18 A. During the process of the hypotheses, many of them
19 will not pan out because it's very difficult when you're
20 monitoring multiple accounts.
21 Now, if it happened to be, for instance, in the
22 Sinclair Vending account, there wasn't too much activity.
23 In the other accounts, it was considerable activity. And
24 to go through and plot day by day all of the various
25 activities -- in other words, the hypothesis was based on a

1 presumption that perhaps somebody might actually redeposit
2 the exact amount of money.
3 When you start extrapolating the possibilities of
4 redepositing $2500, if that would have been the case, you
5 can go through multiples of many, many numbers, such as
6 combining $300 in cash with an X amount of legitimate
7 deposit. It's a mind-boggling process. So we started with
8 the simplest to look for that possibility.
9 The other possibilities are virtually endless even
10 with a database. It takes a lot of time and a lot of
11 searching to find that pattern of moving money around.
12 Q. But would you agree that all of a sudden you have a
13 pattern of $2500, and then bingo, almost two years no
14 $2500?
15 A. I say it's an unusual pattern that has yet to be
16 explained, why, in fact, they would -- why, in fact, they
17 would stop. Could it be a coincidence that for a ten-month
18 time period, that they were the $2500 --
19 THE COURT: Let's not get into hypotheticals.
20 THE WITNESS: Sorry, Your Honor.
21 MR. TRAFICANT: Excuse me. Your Honor, the
22 whole questioning by the prosecution was on hypotheses.
23 Now --
24 THE COURT: Congressman. Congressman.
25 Excuse me. But the jury has to disregard this last part.

1 Q. Under your hypotheses, would you not verify the
2 source of funds in an investigation?
3 MR. MORFORD: Objection.
4 THE COURT: He can answer that.
5 A. Yes.
6 Q. And what would be the purpose of attempting to verify
7 the source of funds?
8 A. To corroborate any information that regards the
9 distribution of those funds, to see if, in fact, the money
10 is either coming or going as it is supposed to.
11 Q. Doesn't, in fact, now a hypothesis deal with motive?
12 A. Not particularly, but it certainly can, intent and
13 motive and opportunity.
14 Q. Well, at some particular point we know that an
15 attorney takes an oath. Isn't it a fact --
16 MR. MORFORD: Objection to the leading
17 questions, Your Honor. He's now testifying.
18 THE COURT: Yes.
19 Q. Is an attorney who fails to report a crime committing
20 a felony?
21 MR. MORFORD: Objection.
22 THE COURT: Excuse me. But you have to
23 disregard this. This is not the witness to ask that
24 question to.
25 Q. As a former treasury agent, would it be a crime --

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Would it certainly be grounds for further investigation, Mr. Robertson?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Do you know if there were any IRS investigators involved in any of this money transaction?

A. Yes.

MR. MORFORD: Objection unless he has firsthand knowledge, Your Honor.

THE COURT: Do you? Do you have some firsthand knowledge of that?

THE WITNESS: Your Honor, I'm not sure what firsthand knowledge would include.

THE COURT: Well, ask him questions at the next break and find out whether or not there was --

Q. Are you familiar with the fact that there was a summary IRS agent who testified in this trial?

A. Yes.

Q. What does a summary agent do?

MR. MORFORD: I'd like to find out how he knows, Your Honor.

THE COURT: How do you know that?

THE WITNESS: From a news story.

1 THE COURT: Okay.
2 THE WITNESS: And from -- I know it was a
3 news story and probably also from a television report.
4 THE COURT: You see, the jury was able to
5 actually hear the testimony, and so we're going to just
6 leave it to the jury who heard the testimony and not bring
7 in media reports through this witness.
8 Q. Now, did you have knowledge after reviewing the
9 documents submitted to you in this case as requested that
10 there was supposedly money transferred between myself and
11 Mr. Sinclair?
12 A. In the indictment? Yes.
13 Q. No. In any documents that were presented to you for
14 your investigational purposes.
15 A. Yes, sir.
16 Q. And do you know if there was any action taken
17 relative to the investigation to memorialize any
18 admissions?
19 MR. MORFORD: Objection. This is all going
20 to out-of-court hearsay.
21 THE COURT: Are you talking about his
22 investigation?
23 MR. TRAFICANT: His investigation and the
24 hypothesis of his investigation.
25 THE COURT: Of his investigation?

1 MR. TRAFICANT: Yes.
2 A. Would you rephrase that or ask me again, sir?
3 Q. Under the hypothesis that we've been discussing,
4 finding only oral testimony backed up by checks and the
5 pattern of checks, would not the hypothesis lead one to
6 attempt to memorialize either an admission by the defendant
7 or some corroborative evidence?
8 MR. MORFORD: Objection.
9 THE COURT: I object to this. I don't
10 understand where we're going, Congressman. This is a
11 witness you have on the stand and he's been able to testify
12 to a good number of things.
13 Q. As a Secret Service agent, after having reviewed this
14 case, would you have presented it to a United States
15 Attorney?
16 MR. MORFORD: Objection.
17 THE COURT: Sustained.
18 Q. Now, the prosecutor was talking to you an awful lot
19 about DiBlasio, is that correct?
20 A. There were some questions, yes, sir.
21 Q. Was DiBlasio a focus of the '98-'99 investigation?
22 A. No, sir.
23 THE COURT: Is that something you know of
24 your own personal knowledge?
25 THE WITNESS: I know from review of documents

1 and --

2 THE COURT: Well, you see, we have evidence

3 that's been presented in the case, so we'll rely on that.

4 And the jury was here for that. You weren't involved in

5 that investigation, right?

6 THE WITNESS: No, ma'am. No, Your Honor.

7 THE COURT: Thank you.

8 Q. Mr. Robertson, did you conduct an investigation

9 relative to the activities of '98 and '99 concerning this

10 case?

11 A. Yes, sir.

12 Q. And in reviewing that, did you look at the 1-24 FBI

13 report 302 of Mr. Sinclair as being interviewed by the FBI?

14 A. Yes, sir.

15 Q. Did you have grand jury testimony of Mr. Sinclair?

16 A. Yes, sir.

17 Q. Were you aware that he had already been suspended for

18 one year --

19 MR. MORFORD: Objection.

20 THE COURT: We went through this this

21 morning.

22 Q. Are you familiar with the tactics of investigatory

23 procedures?

24 A. Yes, sir.

25 Q. Now, on the hypotheses as a treasury agent, on a

1 money trail, what would be the most important thing that
2 you would attempt to verify?
3 MR. MORFORD: Objection as to relevance, Your
4 Honor. He can testify as to what he's done, but as to what
5 somebody else should have done, it's not relevant.
6 THE COURT: That, and the fact that this
7 witness is not in the position or you haven't shown him to
8 be in a position to do any of those things, and the further
9 fact it's not really relevant to this case.
10 Q. Did you do a thorough investigation in the 1998 and
11 1999 activities regarding 11 Overhill Road?
12 A. I worked with what I had available, and it was
13 strictly based on paper. There was no outside
14 investigation conducted by me.
15 Q. Do you know if there was any other outside
16 investigation involving this case at all?
17 A. No, sir.
18 Q. Now, is that an unusual pattern?
19 MR. MORFORD: Objection.
20 THE COURT: Well, was the answer no, I don't
21 remember, or no, there was no other -- no outside
22 investigation? Which one did you mean?
23 THE WITNESS: On my part, there was no
24 outside investigation.
25 THE COURT: Okay. So you made no other

1 outside investigation. Okay. Thank you.
2 Q. Do you have any knowledge that there was any outside
3 investigation performed by the government regarding 11
4 Overhill Road and KAS Enterprises?
5 MR. MORFORD: Objection.
6 THE COURT: The objection is sustained.
7 Q. As a former treasury agent, what do the summarizers
8 do?
9 A. A summarizer?
10 Q. Yes.
11 A. Usually, for the lack of a better word, to analyze
12 data that's been compiled and to make it in a usable,
13 manageable format for consumption by whoever is interested
14 in reading it or hearing about it.
15 Q. Would it be your testimony that they add and
16 subtract?
17 MR. MORFORD: Objection.
18 THE COURT: Well, he just testified as to
19 what it was.
20 Q. Would it be, in fact, that this person would simply
21 add or subtract that which was given to him?
22 MR. MORFORD: Objection to what they do in
23 other cases, Your Honor. It has no relevance to this case.
24 THE COURT: All right.
25 Q. We're talking about summaries. Are you familiar with

1 summarist agents?

2 THE COURT: There are all kinds of things

3 that can be summarized, Congressman. Let's talk about his

4 expertise.

5 Q. To your expertise, did the treasury agents have a

6 summarist specialist?

7 MR. MORFORD: Objection.

8 MR. TRAFICANT: I object to their objection.

9 THE COURT: Just rephrase what you're looking

10 for. Remembering who you have on the stand here.

11 Q. As a treasury agent, what was the sole purpose of

12 someone who did a summary chart in any of your cases that

13 you had knowledge of?

14 MR. MORFORD: Objection to what relevance

15 that has to this case, Your Honor.

16 THE COURT: I don't think we had a treasury

17 agent, so to speak here. I don't know really what you're

18 asking him to describe. If you want to know what he did in

19 his cases, that's not going to help us in this case,

20 Congressman.

21 Q. Mr. Robertson, is this a money trial?

22 A. Yes, sir.

23 Q. Have you seen through any documents you received any

24 money investigation other than charts?

25 MR. MORFORD: Objection.

1 THE COURT: Sustained.
2 Q. As a result of having received documents subject to
3 subpoena, subject from the bank, and grand jury testimony,
4 have you been able to see or identify any outside
5 corroboration of witness testimony?
6 MR. MORFORD: Objection without laying a
7 foundation that he's watched all the witnesses and looked
8 at all the documents.
9 THE COURT: Right.
10 Q. Have you read the testimony of Allen Sinclair?
11 A. Yes.
12 Q. And you are familiar, there was a summary agent that
13 was brought in by the government?
14 A. Yes.
15 Q. Through all the documents that you received, was
16 there any other money investigator that offered evidence in
17 this case?
18 MR. MORFORD: Objection, Your Honor. This is
19 all argument that can be made to the jury, but not through
20 this witness.
21 THE COURT: Yes. You can talk to the jury
22 about that yourself in closing argument as long as you're
23 talking about the evidence in the case, but unless this
24 man -- well, it wouldn't even work if he'd been here every
25 day and heard all the testimony because he's not on the

1 jury and he hasn't seen the evidence.
2 Q. Now, you were asked by the prosecutor if you wanted
3 to give me a hand. Is that correct?
4 A. Something to that effect, yes, sir.
5 Q. What was it that caught your attention that wanted
6 you to look into this matter?
7 A. The fact that the evidence appeared to be testimony
8 and not corroborative physical evidence.
9 MR. MORFORD: Objection to his opinion on
10 that, Your Honor. Again, this goes to argument. We'll
11 have a chance to do that.
12 THE COURT: Right.
13 MR. TRAFICANT: I object to that.
14 THE COURT: Well, I know, but you were basing
15 that on what at the time that you made that decision? What
16 were you basing that decision on?
17 THE WITNESS: On information that I had heard
18 from other sources, such as Associated Press, the Internet.
19 THE COURT: Okay. So you've gone to outside
20 sources to decide that.
21 THE WITNESS: Yes.
22 THE COURT: All right. The objection is
23 sustained.
24 Q. After you had heard of such matters, did you inquire
25 and request specific documents to pursue your concerns?

1 MR. MORFORD: Objection. This is what he
2 went over on his direct exam. This is just replowing the
3 same fields.
4 THE COURT: Sustained.
5 Q. Why did you use the term "veracity"?
6 A. In relation to a witness or a source.
7 Q. What is a source?
8 A. A source is also known as an informant.
9 Q. What are they known as on the street?
10 MR. MORFORD: Objection.
11 THE COURT: Well, you can answer if you know
12 some of those words people use on the street.
13 A. There are numerous terms. Probably the most popular
14 would be a snitch.
15 Q. Do you know from 302s if Mr. Sinclair was a source in
16 this trial?
17 MR. MORFORD: Objection. Again, Your Honor,
18 this goes to hearsay, his opinion, relevance.
19 THE COURT: The objection is sustained.
20 Q. How much are you being paid for your assistance?
21 A. $1.
22 Q. Would not that in itself express your concern
23 relative to physical evidence?
24 THE COURT: That might be something you want
25 to discuss in closing argument, Congressman.

1 Q. Let me ask you this: In all of the investigation
2 that you did regarding your requests, did you find any
3 corroboration of physical evidence?
4 A. No.
5 Q. Do you find that an unusual pattern?
6 MR. MORFORD: Objection, because he said he
7 had a short time to work. This is irrelevant --
8 THE COURT: You'll be able to cross-examine
9 him. Go ahead.
10 MR. TRAFICANT: I object to these
11 objectionable objectors.
12 THE COURT: Thank you, Congressman. It's mid
13 afternoon. Let's move along. You have more questions of
14 him. Would you ask the questions?
15 MR. TRAFICANT: Would the court reporter
16 please repeat my question that has been objected to
17 repeatedly?
18 (Record read.)
19 A. I find it inadequate.
20 Q. What was inadequate?
21 A. Relying --
22 MR. MORFORD: Objection to his opinion, Your
23 Honor.
24 THE COURT: No.
25 Q. What was the --

1 THE COURT: This is not the proper evidence
2 to put in front of this jury. The jury has to decide the
3 quantity and quality of the evidence as adduced in this
4 case. So far we're off on some kind of a side trip with
5 this gentleman's opinion based on news reports and TV and
6 other things, in an earnest desire to assist.
7 Now, let's move on and get the information that he
8 has that is valuable to the jury because it is evidentiary.
9 Q. Mr. Robertson, were you asked a series of questions
10 about hypothetical situations in this case by the
11 prosecutor?
12 A. Yes.
13 Q. Did he not seek a hypothesis that was not objected to
14 by the defendant?
15 A. I don't recall any objections by the defendant.
16 Q. Now, in pursuing your hypothesis, do you not look at
17 motive --
18 MR. MORFORD: Your Honor, can I ask what
19 hypothesis he's talking about?
20 THE COURT: Yes. I don't understand which
21 hypothesis either of you are talking about.
22 Which hypothesis are you talking about, sir?
23 THE WITNESS: I'm using the term literally,
24 actually to form the basis for a theory or an approach.
25 THE COURT: In a scientific way?

1 THE WITNESS: Yes. For any investigation.
2 THE COURT: Okay.
3 THE WITNESS: For any case.
4 Q. Did you find a hypothesis that supported a scientific
5 base to develop a conclusion?
6 A. Sir, did I find one that was suitable or did I find
7 one that had been executed?
8 Q. Did you find one suitable?
9 A. For my use?
10 Q. Yes.
11 A. To the extent possible. There wasn't a lot of time
12 spent on it because we weren't going to have time to follow
13 through on an external extension of an investigation other
14 than the -- mainly the paper trail.
15 Q. But in the examination that you made, were you
16 satisfied with the execution of, in fact, the investigation
17 that was conducted?
18 MR. MORFORD: Objection.
19 THE COURT: Well, he can answer if he's
20 satisfied.
21 MR. MORFORD: His opinion of this
22 investigation?
23 THE COURT: Let's let him answer. Then we
24 can move along.
25 Q. Were you satisfied with the execution of the

1 investigation that was conducted?
2 A. Based on my --
3 THE COURT: By you, right? The investigation
4 he conducted. Is that what you're talking about?
5 MR. MORFORD: He's talking about ours.
6 THE COURT: Congressman, which investigation?
7 Q. Based on the investigation that you conducted, did
8 you find it a suitable investigation that was conducted in
9 this case?
10 THE COURT: Oh. No. We've already ruled he
11 can't testify about that because he doesn't have a basis on
12 which to testify.
13 Q. Was there a difference of opinion as to the amounts
14 of money owed between Mr. DiBlasio and Mr. Sinclair?
15 MR. MORFORD: Objection.
16 THE COURT: Sustained.
17 Q. Do you know if there were any audits performed in
18 this investigation?
19 MR. MORFORD: Objection.
20 THE COURT: Sustained.
21 Q. As a treasury agent, was Kimberly Ann Sinclair my
22 employee from your experience?
23 MR. MORFORD: Objection. What does that have
24 to do with him being a treasury agent?
25 THE COURT: Sustained.

1 Q. Was Allen Sinclair my employee?

2 MR. MORFORD: Objection unless --

3 THE COURT: Sustained.

4 Q. Must an individual report the commission of a crime?

5 MR. MORFORD: Objection.

6 THE COURT: Sustained. We've been over that

7 quite a few times.

8 Q. What graphic evidence in your examination did the

9 government produce?

10 MR. MORFORD: Objection.

11 THE COURT: Sustained.

12 Q. Did you look at all elements of the Sinclair account?

13 MR. MORFORD: Objection.

14 THE COURT: Sustained.

15 Q. Do you find that your questioning is being sustained

16 quite often?

17 THE COURT: It is not up to him,

18 Congressman --

19 Q. Let me ask you this: No matter where the money is

20 coming from -- the horse is running the mile, okay, in 120.

21 Then all of a sudden ten months later he runs the mile in 2

22 minutes. Is that an unusual pattern?

23 THE COURT: You know what? You've just seen

24 a part of closing argument long before we have all the

25 evidence on in the case. Congressman, let's move along.

1 Q. Did you look for any evidence when you examined the
2 1998-99 accounts of Sinclair?
3 A. What sort of evidence?
4 Q. Physical evidence.
5 A. I wasn't in a position to find physical evidence
6 other than paper trail, which doesn't really suffice to
7 corroborate what you're seeing on the paper.
8 Q. So you saw a paper trail; is that correct?
9 A. I saw possible paper trails.
10 Q. On five accounts?
11 A. Mainly on four, but yes. There was an anomaly or
12 unusual deposits on the vending account, but it was
13 minimal.
14 Q. So after a certain period of time it seemed that
15 clients just didn't seem to pay $2500 settlements. Is that
16 your testimony?
17 MR. MORFORD: Objection.
18 THE COURT: That's a statement. That's a
19 statement. That's not a question.
20 MR. TRAFICANT: I asked if that was his
21 testimony.
22 MR. MORFORD: It's also been asked and
23 answered. It's leading.
24 THE COURT: Congressman, move along.
25 Q. As a treasury agent, isn't it a fact that an attorney

1 is the toughest to investigate?

2 MR. MORFORD: Objection as to relevance to

3 this case.

4 THE COURT: Sustained.

5 Q. Now, after the last $2500 deposit, how many months

6 went by when there were no more $2500 deposits?

7 THE COURT: We've been over and over that.

8 Q. Under the theory of a hypothesis, would you not

9 delegate any and all deposits that would add up to $2500?

10 A. Depending on time and resources, you would probably

11 want to validate deposits over $2500, also.

12 Q. On the January 24th 302, isn't it a fact that

13 Mr. Sinclair failed to comment --

14 MR. MORFORD: Objection. This is asked and

15 answered in his direct.

16 THE COURT: We went through it in the first

17 round of direct.

18 Q. Was he quoted as having said --

19 THE COURT: Congressman, Congressman. Let's

20 move to something new here.

21 Q. What is the basis for forming a hypothesis in an

22 investigation?

23 MR. MORFORD: Objection. This has been asked

24 and answered.

25 THE COURT: Sustained.

1 Q. Don't you find the objections to be a pain in the
2 assets?
3 A. Do you want to rephrase that?
4 Q. As an investigator, was this a properly corroborated
5 investigation?
6 THE COURT: The objection is sustained.
7 Q. When was your last year, did you say, of working as a
8 treasury agent?
9 A. I believe it was the end of 1987 or early 1988.
10 Q. Did you instruct at any schools or seminars?
11 A. I was an instructor at the Secret Service Training
12 Academy for two years.
13 Q. And where was that located?
14 A. In Washington, D.C.
15 Q. Did they highlight any specific cases of fraud and
16 money handling?
17 A. It was a basic agent training course, and they would
18 cover all the requirements needed for both, you know,
19 conducting criminal investigations and the other
20 requirements for the agents to fulfill their roles as
21 agents, including, of course, investigation.
22 Q. Is that when they asked to recruit you into the
23 criminal division?
24 A. This is several years before that.
25 Q. Now, when you talk about the wiretaps, were you asked

1 to ever share your methodologies at these seminars relative
2 to wiretaps?
3 A. Both wiretaps and investigative techniques. The
4 Secret Service was getting into these new types of frauds
5 in the -- by this time in the early '80s, as was the FBI
6 getting involved in these types of crimes, so there had to
7 be some adjustment, some adaptation to techniques.
8 Q. Did treasury agents work with FBI agents?
9 A. Yes.
10 Q. Was it a common practice to attempt to memorialize
11 the admissions of a particular target?
12 THE COURT: Are we talking about 22 years
13 ago?
14 MR. TRAFICANT: We're talking about
15 investigations, Your Honor.
16 THE COURT: Okay. But you had him back
17 22-some years ago when he was training Secret Service
18 agents. Let's keep the time up front so we know what we're
19 talking about.
20 Q. Let's come up to the present. Do you now serve on
21 the other side of the aisle?
22 A. In the defense side?
23 Q. Yes.
24 A. On occasion.
25 Q. And you also serve on the government side?

1 A. Yes.
2 Q. So your skills are utilized by both sides of the
3 government?
4 A. I just finished an assignment overseeing -- I was
5 serving as the compliance officer appointed by the
6 bankruptcy court in St. Louis to oversee a telemarketing,
7 fraudulent telemarketing operation for about three years,
8 to make sure they complied with the government
9 requirements.
10 Q. And has the process of investigatory procedures,
11 including wiretaps, have they changed over the last 17
12 years or have they become more important?
13 A. Technology has changed everything, of course, and it
14 has to some extent made electronic eavesdropping, Title
15 IIIs, legitimate access to, you know, other people's
16 conversations, and videos, has been easier, and
17 investigative styles, of course, are tweaked as progress is
18 made in the technology fields.
19 Q. Would you agree then that the electronic surveillance
20 and technology is greater today than ever?
21 MR. MORFORD: Objection. Leading --
22 THE COURT: Sustained.
23 MR. MORFORD: Relevance.
24 THE COURT: Sustained.
25 Q. Is it your impression that today electronic

1 surveillance is so prevalent that it is utilized in nearly
2 all cases to corroborate evidence?
3 MR. MORFORD: Objection.
4 THE COURT: Sustained.
5 Q. Now, in your own investigation, and in any
6 investigation you conducted, when you questioned the
7 veracity of a witness --
8 MR. MORFORD: Objection. It has no relevance
9 to this case, Your Honor.
10 THE COURT: Sustained.
11 Q. Did you ever have any question of the veracity of a
12 witness in this case?
13 THE COURT: Congressman, the jury has the
14 responsibility of deciding that issue.
15 Q. Did you do any study of my income, cash income?
16 A. Only through the documentation provided by the
17 government, which I am sure was accurate and complete.
18 Q. So you're not familiar with the source of any of
19 where that cash came from either, are you?
20 MR. MORFORD: What cash?
21 THE COURT: What cash?
22 Q. That the government has, in fact, stated through
23 their Government Exhibits.
24 THE COURT: Are you talking about this one
25 exhibit?

A. If we are referring to Exhibit 1-27-1 --
Q. Yes.
A. Reflecting the cash deposits of James A. Traficant.
Q. They said it was $26,600. Is that the one?
A. Yes, sir.
Q. I'm trying to find it. Can I have your -- may I borrow yours, gentlemen?
MR. SMITH: It's up there.
Q. I'll put this on the screen for you. What is the first date you see?
A. 19 September 1995.
Q. Why did we start in '95?
A. I didn't make the chart. I don't know, sir.
Q. So you considered the year '95 to be a part of their exhibit?
THE COURT: It is on their exhibit, sir. This witness is not in a position to decide that.
MR. TRAFICANT: He can see.
THE COURT: It's a Government Exhibit.
MR. TRAFICANT: He's already been cross-examined, and I'm attempting to do the same.
Q. Is there a 1995 deposit listed?
A. Yes, sir.
Q. Would you have any knowledge if there were any other '95 deposits made?

1 A. I didn't do any independent verification on any of
2 these documents other than what I was provided.
3 Q. Now, does it not end in November of '99?
4 A. Yes, sir.
5 Q. How many years are we talking about here?
6 A. Four years and three months, thereabouts.
7 Q. 51 months?
8 A. Yes.
9 Q. Now, if it was a thousand dollars a month, how much
10 would it be?
11 A. $51,000.
12 Q. How much is it?
13 A. A little to the right, please. 26,600.
14 Q. Now, is that unusual?
15 A. I'm not sure what you mean.
16 Q. Doesn't that average out to less than $500 a month?
17 A. Taking the full time of 51 months, yes, sir, it does.
18 Q. Now, do you pay taxes, sir?
19 A. Yes, sir.
20 Q. And do they come up twice a year?
21 A. Yes, sir.
22 Q. And are property taxes something you must pay?
23 A. Yes, sir.
24 Q. So in a period of four years, there would be at least
25 eight cycles of property taxes, would there not?

1 THE COURT: For him?

2 MR. TRAFICANT: For anyone.

3 THE COURT: Well --

4 MR. MORFORD: Objection. For a lot of

5 reasons, including he's testifying again.

6 Q. Do you pay property taxes?

7 THE COURT: But Congressman, whether or not

8 he pays property taxes is not an issue in this case.

9 MR. TRAFICANT: I think it deals with

10 hypothesis, and I'd like to pursue this.

11 THE COURT: I'm sorry, but you won't be able

12 to pursue that. His tax matters are not germane to what

13 we're doing here.

14 What is written on the bottom here, Congressman?

15 Q. Let me ask you this: Does this $26,600 over 51

16 months differ very much from the 24 months of $485?

17 A. If we're talking about the time frame, not the

18 entries, but the time frame from the beginning of the first

19 entry in '95 through November of '99, you're talking about

20 fairly equal -- a fairly equal time frame, and very close

21 to the same dollar amount.

22 Q. Is $485 a month to a treasury agent an unusual

23 pattern of cash deposits?

24 MR. MORFORD: Objection.

25 THE COURT: Sustained.

Q. Did it strike your concern that someone would need five separate accounts?

MR. MORFORD: Objection.

THE COURT: Sustained.

Congressman, it is 3:30. We need to give the jury a break sometime this afternoon. Is this a good time?

MR. TRAFICANT: I second that. I still have more questions, and I'd be glad to take the break. Thank you.

THE COURT: Okay. 20 minutes.

THE CLERK: All rise for the jury.

(Jury out at 3:35 p.m.)

(Recess had.)

(Jury in at 3:55 p.m.)

THE COURT: You are still under oath.

THE WITNESS: Yes, Your Honor.

THE COURT: Thank you.

BY MR. TRAFICANT:

Q. Do you remember when the government, the prosecutor questioned you about this pro bono examination?

A. Yes, sir.

Q. What made you take this case on as a pro bono assignment?

A. When I realized there was no physical evidence being presented against you.

1 MR. MORFORD: Objection.
2 THE COURT: All right. Unfortunately, sir,
3 you haven't been here for -- we are in the eighth, ninth
4 week.
5 A JUROR: Tenth.
6 THE COURT: So this, again, is based on what
7 you read in the papers or television?
8 THE WITNESS: Yes, what I've heard.
9 THE COURT: Thank you.
10 Q. Are you familiar if this is a criminal trial?
11 A. Yes.
12 Q. Are you familiar with the burden of proof?
13 A. Yes, sir.
14 MR. MORFORD: Objection.
15 THE COURT: And the Court instructs on the
16 burden of proof, not the witness.
17 Q. Are you familiar with the differences between a
18 misdemeanor and a felony?
19 MR. MORFORD: Objection.
20 THE COURT: The objection is sustained.
21 Q. Did you get a chance to review the grand jury -- the
22 summary analysis that was given by the IRS agent in this
23 case?
24 A. No, sir.
25 Q. What have you seen from the government other than

1 paper documents that were subject to summary?
2 MR. MORFORD: Objection.
3 THE COURT: Sustained.
4 Q. Now, you say you dealt with credit card fraud, is
5 that right?
6 A. Did I investigate those?
7 Q. Yes.
8 A. Yes, sir.
9 Q. And you are familiar with the many different ways to
10 launder and manipulate money?
11 A. Several of them, yes, sir.
12 Q. Would it not be a prudent question to ask if this
13 case would require a thorough analysis of that type of
14 investigation?
15 MR. MORFORD: Objection.
16 THE COURT: This is not a credit card fraud
17 case.
18 Q. Does Sinclair Vending do a lot of business?
19 MR. MORFORD: Objection, unless he has
20 firsthand knowledge.
21 THE COURT: Maybe you do.
22 THE WITNESS: From review of bank records.
23 THE COURT: Okay. He has his review of bank
24 records. He can testify to that.
25 Q. Does Sinclair Vending do a lot of business?

A. Relatively speaking, no.

Q. Do you derive checks from vending businesses or do you derive cash?

A. The vast majority of income would be from the machines, which would be cash and coin.

MR. TRAFICANT: No further questions.

MR. MORFORD: Nothing, Your Honor.

THE COURT: Thank you, sir. You can step down.

THE WITNESS: Thank you, Your Honor.

THE COURT: Mind the stairs. They're not normal; they're curved.

MR. TRAFICANT: I only have one more witness. Robert Barlow I'm calling.

THE COURT: Okay. Who are you calling, sir?

MR. TRAFICANT: Robert Barlow. Ernestine?

MR. MORFORD: He already testified and he's already been tendered.

THE COURT: We have had Barlow.

MR. TRAFICANT: It's a different matter.

THE COURT: When did this matter come to your attention?

MR. TRAFICANT: No. I had him retrieve some public documents for me that I want to introduce into evidence, and I have the right to, in fact, call this

1 witness and recall any of my witnesses.
2 MR. MORFORD: Not true.
3 THE COURT: Well, if something new has
4 happened --
5 MR. TRAFICANT: It is new.
6 THE COURT: You might have a right, but if
7 he's just going to come in as a custodian of records, you
8 have to establish he has something to do with them.
9 MR. TRAFICANT: I am going to do that.
10 MR. MORFORD: Your Honor, if these are public
11 records, they can be certified. If they're certified,
12 we'll stipulate to them. There is no need for a witness to
13 testify about them.
14 MR. TRAFICANT: This is my last witness. I
15 want him to come in and testify on this document.
16 THE COURT: Well, he would need to have
17 some -- I mean, first of all, certification is an easy
18 process in order to get public documents before the Court.
19 Let the other side look at these documents.
20 MR. TRAFICANT: I'm letting him look at them.
21 THE COURT: Maybe they'll stipulate to them
22 if they were properly certified.
23 MR. TRAFICANT: I don't want them stipulated
24 to.
25 THE COURT: This witness is in no better

1 position to do this than anyone else. You've already
2 called him in the case, and his testimony has been
3 concluded.
4 Relax a minute and let him see what they are, and I'd
5 like to see what they are, the documents.
6 MR. TRAFICANT: I'll let you see my copy.
7 THE COURT: That would be fine.
8 MR. TRAFICANT: The official documents that I
9 want placed on the record. I asked this fellow to obtain
10 it through the proper sources.
11 THE COURT: Okay.
12 MR. MORFORD: Your Honor, rather than waste
13 the Court and the jury's time, we'll stipulate to the
14 authenticity of this document. It's certified.
15 THE COURT: It appears to be certified, sir.
16 MR. TRAFICANT: I had it certified and I want
17 it testified to. There's elements to it that I want
18 brought out that are different, in fact, than what has been
19 testified to here in this courtroom, and I call Bob Barlow.
20 Ernestine?
21 MR. MORFORD: Your Honor, can we discuss this
22 outside the jury's presence? Because the rule is unless
23 there's something new --
24 THE COURT: We're going to discuss it.
25 Congressman?

1 MR. TRAFICANT: Would you get Bob Barlow for
2 me?
3 THE COURT: I'll just release the jury for
4 the day, and we'll discuss it after they're gone so that we
5 have an opportunity to find out why it would be appropriate
6 for this particular gentleman to testify to records that
7 are certified.
8 In any event, the records can come in; is that
9 correct?
10 MR. MORFORD: Yes.
11 THE COURT: So there's no issue about the
12 records coming in.
13 Ladies and Gentlemen, we're going to release you for
14 the day and have you back at 9:00 tomorrow morning, and
15 remember all your admonitions. Don't listen to anything,
16 read anything, or otherwise have anybody talk to you or get
17 you involved in this case. Just enjoy the beautiful day
18 we're having. Have a nice trip.
19 THE CLERK: All rise for the jury.
20 THE COURT: We'll wait for the jury to leave.
21 (Jury out at 4:03 p.m.).
22 MR. TRAFICANT: Are you going to do this
23 outside the presence of the jury, have a witness take the
24 stand again for me?
25 THE COURT: Not necessarily. What we're

1 going to do -- let the jury go through.
2 THE CLERK: All rise for the jury
3 (Pause.)
4 THE COURT: I don't want to handle this kind
5 of objection in front of jury because it taints the process
6 potentially for them, and so since it is almost time for
7 them to go home anyway, I thought it would be best to let
8 them go. And now you can discuss what it is, the reason
9 why you wish to recall this witness who you had on the
10 stand.
11 MR. TRAFICANT: I had him pick up a mortgage
12 for $276,000 for Mr. Sinclair, and I thought it was
13 completely appropriate the jury should hear it, and I
14 object to the fact that you completely deny me the
15 opportunity to examine witnesses.
16 THE COURT: All we have to know is why you
17 need this particular witness --
18 MR. TRAFICANT: Because he picked up the
19 documents for me, and I want it admitted into evidence.
20 The mortgage is $276,000.
21 THE COURT: Well, the documents can certainly
22 go into evidence. There's no question about that. They're
23 certified public records.
24 MR. TRAFICANT: But the jury does not get a
25 chance to hear them and I think you are giving the

1 prosecutor an opportunity to let the jury hear his side,
2 but not necessarily hear my side, and I object for the
3 record.
4 But in any regard --
5 THE COURT: Well, wait, wait, Congressman.
6 There may be something about this particular transaction
7 that you can bring a witness who was involved in the
8 transaction in before the Court, and maybe this gentleman
9 is the right one. We just don't know that. And having
10 this argument in front of the jury is not proper.
11 MR. TRAFICANT: Well, the bottom line, let me
12 respond --
13 THE COURT: Who is involved in the
14 transaction? I don't know who it is.
15 MR. TRAFICANT: I simply had him go to the
16 Mahoning County Recorder's Office and have authenticated
17 the mortgage and supporting documentation of a mortgage of
18 $276,000 for Mr. Sinclair.
19 THE COURT: Well, then call Mr. Sinclair. He
20 can talk about it.
21 MR. TRAFICANT: I think I can authenticate
22 this through my witness. Why do I have to call Sinclair?
23 They can call Sinclair.
24 THE COURT: It doesn't need to be
25 authenticated. It is a public record. It is

1 authenticated.

2 MR. MORFORD: Your Honor, he already

3 questioned Mr. Sinclair about the fact that he bought a

4 house. He questioned him about the price; he questioned

5 him about the mortgage. He now wants to put the document

6 in. We said we have no objection. The document does come

7 in.

8 And this witness knows nothing about this document

9 other than the fact --

10 THE COURT: The problem is really matching

11 the witness to what it is you want him to testify to.

12 MR. TRAFICANT: Hear me. He testified he

13 bought a house for $275,000.

14 I have a document that says he has a mortgage for

15 $276,000. I don't know anybody that gets a hundred percent

16 mortgage.

17 THE COURT: Bring him in here if you want him

18 to testify to it.

19 MR. TRAFICANT: That's their witness. I've

20 got a man here just to bring in the document. And I wanted

21 the jury to hear the document.

22 THE COURT: The document is here. The

23 document is in evidence. You don't have to worry about the

24 document.

25 MR. MORFORD: And his testimony was in answer

1 to Congressman Traficant's questions, and he's already gone
2 over that. He had that opportunity. He can argue it in
3 closing.
4 MR. TRAFICANT: In any regards then, I assume
5 that the prosecutor will then not object and will stipulate
6 to the admission in evidence of Defense Exhibit B-O-B, in
7 its entirety, which on page 2 states, line D, February
8 11th, 2002, the note states, "The borrower owes lender
9 $276,000."
10 THE COURT: That's the mortgage.
11 MR. TRAFICANT: Yes.
12 MR. MORFORD: Yes, we will stipulate to that.
13 MR. TRAFICANT: Is that admitted into
14 evidence? I have more, Your Honor.
15 THE COURT: This is a good time to do
16 evidence. Okay. That will be admitted.
17 MR. TRAFICANT: Number one, the corporate
18 resolution that designated the first one, it was signed
19 simply by Raymond A. Sinclair, dated November 30, 1998, a
20 corporate resolution designating, known as Defense Exhibit
21 HSL-10-B --
22 THE COURT: Okay. You'll just show each one
23 of these to the other side. Then we'll be able to see what
24 it is that their concerns may be.
25 MR. MORFORD: I thought that was 1-D-B.

MR. TRAFICANT: Whatever you want to make it.

MR. MORFORD: I don't want to make it. It's your exhibit. I'm just asking you.

MR. TRAFICANT: We'll make it 10-B.

MR. MORFORD: But I don't think that's how it was referred to.

MR. TRAFICANT: Then we'll make it 1-D-B.

THE COURT: Okay.

MR. TRAFICANT: The second one is a corporate resolution.

THE COURT: We have it as 10-B. So let's try to get this straight.

MR. TRAFICANT: Let's go 10-B.

THE COURT: 10-B. Everybody agree?

MR. TRAFICANT: That has a ring to it.

THE COURT: 10-B.

MR. TRAFICANT: The next --

THE COURT: Sounds like home room.

MR. TRAFICANT: The second one is a corporate resolution designating officers authorized to sign for a corporation known as KAS Enterprises. This one was December 15. It carried the signatures of both R. Allen Sinclair and Kimberly Ann Sinclair. That would be HSL-10-A.

MR. MORFORD: No objection.

1 THE COURT: That will be admitted.
2 MR. TRAFICANT: The next one would be the
3 survey performed on the boat as testified by Mr. Al Lange,
4 and from the Virginia Marine Institute, known as Defense
5 Exhibit AL-101.
6 MR. MORFORD: I believe that's already in
7 evidence.
8 MR. TRAFICANT: If it is, give me the number.
9 MR. SMITH: We have it as being in.
10 MR. TRAFICANT: Then it is a Joint Exhibit?
11 MR. SMITH: No.
12 THE COURT: AL-101, it's a defense exhibit,
13 and it's in evidence already.
14 MR. TRAFICANT: Okay. They said they had it
15 in as well.
16 MR. MORFORD: No.
17 MR. SMITH: We had it that the Congressman
18 had previously had that document admitted into evidence.
19 THE COURT: Right. It's in.
20 MR. TRAFICANT: It's in as evidence.
21 THE COURT: Yes, it's in.
22 MR. TRAFICANT: Well, you know -- it's no
23 walk in the park around here.
24 THE COURT: That's all right.
25 MR. TRAFICANT: The next one, Defense Exhibit

1 MC-100, a letter from Mark Steven Colucci to the Sugar
2 family. It was testified to February 11th, 2000, relative
3 to fees.
4 MR. MORFORD: No objection.
5 MR. TRAFICANT: That's Defense Exhibit
6 MC-100. The next one is Defense Exhibit S-903, which deals
7 with KAS Enterprises and Ohio Secretary of State
8 information as testified to by Mr. Robertson on direct.
9 THE COURT: MC-100 will be admitted.
10 MR. TRAFICANT: Thank you. The next one was
11 Defense Exhibit S-903. It is brought in by Mr. Robertson
12 from the Ohio Secretary of State, business services queries
13 relative to KAS Enterprises and its activities, and its
14 package therein.
15 MR. MORFORD: No objection.
16 MR. TRAFICANT: The next exhibit will be
17 Defense Exhibit S-904, which would be the following year.
18 MR. MORFORD: No objection.
19 MR. TRAFICANT: Relative to the same matter
20 with the Ohio Secretary of State.
21 I now move into evidence Defense Exhibit S-27, the
22 Federal Bureau of Investigation 302 dated 1-24-2000.
23 MR. MORFORD: Objection. Hearsay.
24 MR. TRAFICANT: It's been testified by the
25 federal government, and all witnesses, and corroborated for

1 its veracity.
2 THE COURT: Not in terms of the admission of
3 that document into evidence. It's a hearsay document.
4 MR. TRAFICANT: It was read into evidence.
5 THE COURT: Well, not the entire document.
6 MR. TRAFICANT: I believe --
7 THE COURT: There is testimony regarding this
8 302 that's been elicited, and that's evidence in the case,
9 but in terms of the document itself, it's like any other
10 hearsay --
11 MR. TRAFICANT: Agent Bushner --
12 THE COURT: If you can show it is an
13 exception to the hearsay rule or it's not hearsay, you can
14 bring it in.
15 MR. TRAFICANT: It is not hearsay because
16 Agent Bushner testified to it, and Agent Bushner confirmed
17 it, and he wrote it. He was the author and admitted having
18 written it. And he was extensively examined and
19 cross-examined.
20 THE COURT: Okay. Well --
21 MR. TRAFICANT: How can it be hearsay if it
22 is the author of the document who has presented it and they
23 presented him in court to testify to it?
24 THE COURT: I will go back and review his
25 testimony, and I have no trouble doing that, and we'll look

at it. So you'll have to hear about that one in the morning. I can't do that right now.

MR. TRAFICANT: I would like to have the Defense Exhibit --

THE COURT: S-903 and S-904 will be admitted.

MR. TRAFICANT: -- Defense Exhibit HSF-G, which is Sinclair Vending, admitted into evidence.

THE COURT: Just hand it over to the --

MR. TRAFICANT: They have a copy of it.

THE COURT: -- government.

MR. SMITH: Make sure there's nothing else in it.

MR. MORFORD: I would object on relevance grounds, in that the only witness that I believe has testified about these documents is the last witness, who said he saw minimal activity and didn't do anything more with it.

MR. TRAFICANT: No. So did the banker and so did Mr. Sinclair.

This now is a document that reflects the activities of Sinclair Vending Company, and I move that HS -- Defense Exhibit HSF-G be admitted.

THE COURT: Okay. I'll look at it tonight against the testimony of the bankers -- all the bankers, sir? Bankers -- both bankers?

1 MR. TRAFICANT: The bank, also Mr. Robertson,
2 also Mr. Sinclair, admitted to Sinclair Vending.
3 MR. MORFORD: But not to these documents.
4 THE COURT: But it's the documents at issue
5 that haven't been identified, I don't believe.
6 MR. TRAFICANT: These were, in fact,
7 discussed with Mr. Robertson.
8 THE COURT: Okay. Well, there are always
9 steps that have to be taken, and I'll just go through this
10 and see whether the steps were taken in this case. But I
11 have to review the testimony.
12 MR. TRAFICANT: We have established there
13 were five separate accounts, and now Sinclair Vending was
14 one of those accounts. It's been established to have
15 minimal activity and the cash activity.
16 THE COURT: Right.
17 MR. TRAFICANT: It does speak to, in fact,
18 elements of the case, and to leave Sinclair Vending out
19 would deny the defendant an opportunity to establish upon
20 closing argument motive, and having the jury not even be
21 able to see these documents.
22 THE COURT: I'll just have to see who
23 identified the document. Step one, that's the first step.
24 THE COURT: Anything further, Congressman?
25 MR. TRAFICANT: I think we have the -- I'd

like to offer into evidence, if it hasn't been offered in, due to a spring fancy, Defendant's Exhibit HSL-1-E. It may have been established, it is a number of checks to KAS Enterprises, 11 Overhill. They are utility checks and rent checks that have not been brought in by the government, that have been testified to by -- one was stricken, the one that was illegible.

MR. MORFORD: Can I see it?

THE COURT: Just let them look at it. When he was on the stand, I think you went through these with him.

MR. TRAFICANT: Yes, I did. I went over the screen with him.

MR. MORFORD: Your Honor, I have no objection to the actual checks except the last one, which was stricken as illegible, but I do have an objection to the fax from Mindy Davis or Mindy Davies to Congressman Traficant, saying "Please refer to the second page of documents" and whatnot. That's just a communication between the bank and him that would not be evidence.

THE COURT: But you don't have trouble with the checks.

MR. MORFORD: Correct.

MR. TRAFICANT: I ask the Mindy Davies memo be included because it was part of the subpoena, and it was

1 specifically asked relative to the joint account as to the
2 ability of either/or without the permission of one another,
3 and she did make reference to it in her own writing and did
4 sign it.
5 MR. MORFORD: And I would object to this
6 statement on this fax as hearsay. The records come in; the
7 fax should not.
8 THE COURT: Well, first of all --
9 MR. TRAFICANT: Do you want to see it?
10 THE COURT: Let's just say that the records
11 are coming in. That takes care of that part. And I'll
12 look at the fax.
13 MR. TRAFICANT: Take a look at this. There's
14 a specific request along with the subpoena.
15 THE COURT: Okay.
16 MR. TRAFICANT: And it has a specific
17 response from a banker.
18 THE COURT: Okay. She was here several
19 times.
20 MR. TRAFICANT: Yes. And she acknowledged
21 that was hers.
22 MR. TRAFICANT: So I not only got the opinion
23 from other outside sources, I also got it from the bank
24 itself. And I wanted to include it in the record. It is a
25 reasonable request.

1 THE COURT: I'm trying to find what it is
2 she's referring to, because when she talks about a second
3 page of documents within KAS Enterprises --
4 MR. TRAFICANT: That's already been admitted
5 as a corporate resolution.
6 THE COURT: So it's not related to these --
7 MR. TRAFICANT: It is related to those checks
8 and the corporate resolution.
9 THE COURT: Okay. We'll take the whole
10 thing, Congressman. The whole thing can come in.
11 She did testify at one point to one of these. We can
12 go back.
13 It may confuse the jury a little because it's not
14 attached to the place where the corporate resolutions are.
15 MR. TRAFICANT: If the Court would prefer, I
16 would reidentify the fax and put it on the corporate
17 resolutions and carry that number that you brought in which
18 was --
19 THE COURT: We can't really do that. I think
20 that's already admitted, isn't it?
21 MR. MORFORD: Not only that, the fax header
22 shows it was attached to these checks.
23 THE COURT: Okay.
24 MR. MORFORD: This is a business record.
25 THE COURT: We'll just leave it right there.

1 MR. TRAFICANT: Fine.
2 THE COURT: It's admitted.
3 MR. TRAFICANT: This is admitted?
4 THE COURT: Yes, it is admitted, the whole
5 thing.
6 MR. TRAFICANT: Thank you. I also would like
7 admitted Defense Exhibit EXP-1, March 2000, April 2000,
8 accounts of R. Allen Sinclair into his 036 account.
9 Defense Exhibit EXP-1.
10 MR. MORFORD: I would not object as to
11 authenticity or hearsay. They're clearly business records,
12 but they're not relevant. These are all checks that were
13 written after Allen Sinclair had stopped kickbacks, and
14 there has been nothing.
15 MR. TRAFICANT: After alleged kickbacks.
16 MR. MORFORD: There's nothing to put any
17 relevant context to the documents.
18 MR. TRAFICANT: I think it speaks to the
19 testimony brought forward by Mr. Robertson.
20 MR. MORFORD: But he has to have a relevant
21 basis to put it into evidence.
22 MR. TRAFICANT: That is a relevant basis.
23 THE COURT: Just pass them right up here,
24 Congressman, and I'll take a look at them.
25 MR. TRAFICANT: I'll do just that.

1 Now, not to interrupt Your Honor, but on Defense
2 Exhibit HSL-1-E there was one illegible check, and it was
3 agreed to be stricken by both parties.
4 THE COURT: Right.
5 MR. TRAFICANT: And I have removed it.
6 THE COURT: Thank you. I have to go back and
7 look at Mr. Robertson's testimony. It will take a minute.
8 You can keep going if you want to. I'm just running the
9 screen.
10 MR. TRAFICANT: Pardon?
11 THE COURT: You can keep going if you want
12 to.
13 MR. TRAFICANT: I thought you were looking at
14 it.
15 THE COURT: Well, I'm just taking it back,
16 and I don't know how to do it real quickly. There's a way,
17 but I don't know what it is.
18 MR. TRAFICANT: I don't want you to do it
19 quickly if it's in my favor.
20 THE COURT: But if you have some more
21 exhibits, go ahead, because I can listen while I do this.
22 MR. TRAFICANT: Also Exhibit HSL, make it
23 10-C, it is a KAS Enterprises account dated 11-30-98, and
24 it is an account number form listing Allen Sinclair's
25 signature only, dated 11-30-98, an account agreement

1 combination, to further corroborate the corroborating
2 resolution.
3 MR. MORFORD: Has it ever been shown to us?
4 MR. TRAFICANT: Yes. It has been shown to
5 Mr. Robertson. And part of that testimony -- also, Defense
6 Exhibit --
7 THE COURT: We don't have that as shown to
8 any witness.
9 MR. MORFORD: I don't think it was.
10 MR. TRAFICANT: Your Honor, this is KAS, it's
11 already been introduced as evidence. This is the
12 supporting document that shows in its simple form how it
13 was handled and how it was signed. To exclude it would be
14 to deny that which you already brought in.
15 THE COURT: Well, but you never had anyone
16 identify it. It was never shown to a witness.
17 MR. TRAFICANT: It was shown to this witness,
18 and he identified all the KAS material. This was part of
19 the KAS material, and he testified to the signatures and
20 the differences of the signatures.
21 MR. MORFORD: I don't have a problem, Your
22 Honor, with respect, again, to authenticity. This appears
23 to be a bank record. My only question is relevance then,
24 what is it relevant to. Just because somebody testifies
25 about it doesn't make it relevant.

1 MR. TRAFICANT: It's additional documentation
2 of the fact that on 11-30-98 there was a KAS started by the
3 name -- under the name of R. Allen Sinclair, and then on
4 12-11-98 now it's R. Allen Sinclair and Kimberly Ann
5 Sinclair.
6 It speaks to the two previous that were admitted, and
7 also the lease that has been admitted under Joint Exhibit.
8 MR. MORFORD: On that grounds, we have no
9 objection.
10 THE COURT: Okay. If they don't object,
11 we'll let it in, but generally you have to have these
12 things identified.
13 MR. TRAFICANT: This is Defense Exhibit
14 HSL-1-D and HSL-1-HDC, D as in David.
15 MR. MORFORD: Your Honor, one of the problems
16 we're having is Congressman Traficant is giving us bulk
17 stuff and then he's marking pages, and later we don't know
18 what the pages are to mark them.
19 What I'd ask is he give us copies of these things
20 he's now putting in, because to try to find them in this
21 big bulk of stuff and then figure out if it's the same --
22 THE COURT: Right. If you give them a
23 number, then we'll try and find them.
24 MR. TRAFICANT: Yes, I will. Your Honor, let
25 me say this: I received a bunch of documents I've yet to

1 look through just thrown into boxes, and it would take me
2 three months to sort out. I've tried to be as practical as
3 I could with my submission of evidence, and I will continue
4 to do so.
5 THE COURT: Thank you.
6 MR. TRAFICANT: I also ask now that you move
7 for mistrial and place all three attorneys in jail, place
8 them in custody, and bind them to a chain link fence, and
9 have them flogged.
10 THE COURT: It is really getting late in the
11 afternoon, Congressman. I don't think I can find this
12 business in the record that you're asking for, but I'll
13 keep this along with the other things I have to look at
14 tonight, the ones of the checks after February 22nd. Okay?
15 I'm just not able to find --
16 MR. TRAFICANT: Your Honor, those were the
17 testimony relative to at some point a behavior change
18 occurred.
19 THE COURT: Right.
20 MR. TRAFICANT: And they were brought on the
21 screen and brought to the attention of the examiner who was
22 hypothetically able to answer the questions of the
23 prosecutor, but not able to author hypotheses to my
24 questions.
25 THE COURT: Do you have any more exhibits to

1 offer tonight?
2 MR. TRAFICANT: I'm looking. I am looking.
3 I find myself wanting.
4 THE COURT: Okay.
5 MR. SMITH: Your Honor, the government has
6 two while the Congressman looks.
7 THE COURT: Okay.
8 MR. SMITH: First of all, Exhibit 1-50, which
9 is a summary chart offered under Rule 1006, done by Witness
10 Robertson this afternoon, summarizing certain aspects of I
11 believe it was HSL-F, which is a pretty thick stack of
12 documents.
13 We offer --
14 MR. TRAFICANT: Make it a Joint Exhibit.
15 THE COURT: Okay.
16 MR. SMITH: And --
17 THE COURT: It will be admitted as a Joint
18 Exhibit.
19 MR. SMITH: And also Exhibit 1-51, Your
20 Honor, which was the series of checks shown to
21 Mr. Robertson having to do with his chart and, you know,
22 demonstrating that the $2500 deposits on his chart actually
23 were explained by deposits of checks. And with respect to
24 those checks, we've obtained at lunch time, because this
25 was surprise testimony on direct, we did get a certificate

of authenticity from the Sinclair law firm with respect to those checks, if the Court wishes to see it.

MR. TRAFICANT: Offer them as a Joint Exhibit.

THE COURT: Okay. They'll be admitted as a Joint Exhibit.

MR. SMITH: And 1-50 and 1-51, that's all we have to offer today, Your Honor.

THE COURT: Okay. What do you say, Congressman, do you have some more there?

MR. TRAFICANT: I'm finished.

THE COURT: Okay. I anticipate being able to rule today on your motion regarding defense witnesses Johnson, Terlecky, and Kovachik. I got a lot of work done on it, I didn't quite finish it. I will try to get that out this evening.

Anything else?

MR. TRAFICANT: Your Honor, I'd like to comment on the ruling of Russell Saadey, Jr., where his brother-in-law in a state of nervousness and, in fact, fractured behavior, as evidenced through the testimony, that should have been brought in on the hearsay exception, and that should be allowed, and I object to the fact that you have completely dismissed that evidence. That was made right after an interview with the FBI agent, he was

1 completely nervous and in an unnerved form, and did make
2 declarations against his interest. That, in fact, should
3 be admissible under the hearsay rule.
4 THE COURT: I ruled on that. Let me also say
5 that the other outstanding issue which I've also got to
6 simply write down has to do with two photographs that we
7 didn't admit, this is left over from last week, but I think
8 it tidies everything up then. We will have gotten
9 everything ruled on that was out there. But there were two
10 photographs, and so I'll try and get those rulings out.
11 But I think the ones that would involve you more
12 would be the ones regarding Johnson, Terlecky, and
13 Kovachik.
14 MR. TRAFICANT: And when will you rule on
15 those? When will you rule those out?
16 THE COURT: Well, Congressman, I'm going to
17 rule on those.
18 MR. TRAFICANT: Why don't you save us time
19 and rule them out, and let's get going. You know you're
20 going to rule them out.
21 THE COURT: No, no. I do have to take my
22 time and consider everything.
23 MR. TRAFICANT: I'm sure you do.
24 THE COURT: So I hope it will be this
25 evening. Today, sometime before midnight, it will happen.

1 Anything further? We'll see you all at 9:00.
2 MR. MORFORD: One thing, Your Honor. We
3 would like to know who the witnesses are tomorrow, because
4 it will save the downtime with the jury that we had today.
5 MR. TRAFICANT: I have no idea at this point.
6 THE COURT: Well, you may want to hold on to
7 Johnson and Terlecky. I don't know, when you get this
8 ruling you ought to go on the computer tonight and look.
9 MR. TRAFICANT: I'm not going to have Johnson
10 or Terlecky come back up here again until you rule.
11 THE COURT: Well, that's fine. I'll have to
12 rule. I'm going to rule today regarding them.
13 MR. SMITH: But that's not his call to
14 make --
15 MR. MORFORD: Your Honor, there is another
16 thing. In addition to Mr. Barlow, Mr. Marchese or
17 "Marchese" and Ms. Kovachik were both here in the
18 courthouse today telling people they were going to testify
19 again. Again, they've already testified, the Congressman
20 said he had completed his examination. Unless something
21 new and different has arisen they could not have known
22 about or asked them about at the time, under the rules,
23 he's not permitted to call them again.
24 MR. TRAFICANT: Miss Kovachik is not here as
25 a potential witness. Mr. Marchese is on an unrelated

matter that deals with photographs.

THE COURT: Okay. Well, Ms. Kovachik, she is still --

MR. TRAFICANT: Still is eligible.

THE COURT: Right. She's still eligible.

MR. TRAFICANT: I'm keeping her here in the event he let her in.

THE COURT: Now we need to know who your witnesses are going to be, because even if all three of these people who I'm doing orders on, and the photographs, came in, we still have a day tomorrow, so we need to know who you are going to call.

MR. TRAFICANT: At this point I am trying to reach several people, and I don't know if I will be able to reach them. I will try feverishly tonight to reach them, and if I do, I will have them here.

MR. MORFORD: Can we find out who he's trying to reach? At least then we can save the time in front of the jury tomorrow.

MR. TRAFICANT: I'm not wasting the time of the jury. They took seven weeks. I'm in my fifth or sixth day, Your Honor.

THE COURT: That's true.

MR. TRAFICANT: And I'm moving closer to close here.

1 THE COURT: Okay. The thing is though
2 that --
3 MR. TRAFICANT: They will know by tomorrow
4 morning.
5 THE COURT: Yeah, but if the jury comes down
6 here, we can't have them come down for an hour and then go
7 back home. Some of them come more than two hours each way
8 in order to come here.
9 So if you have any more witnesses, tomorrow would be
10 a day to get a bunch of them down here.
11 MR. TRAFICANT: I'm going to do my best. But
12 you keep denying them the opportunity to testify, then you
13 say I have no witnesses.
14 THE COURT: Well --
15 MR. TRAFICANT: I know, life is tough.
16 THE COURT: Trial lawyers have a hard time.
17 MR. TRAFICANT: I'll tell you, isn't it
18 something?
19 THE COURT: It is. We'll see you all
20 tomorrow at 9:00.
21 (Trial adjourned at 4:34 p.m.)
22 - - - - -
23
24
25

C E R T I F I C A T E

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

Heidi Blueskye Geizer 4-24-02

Heidi Blueskye Geizer, RMR, CRR Date

1 DIRECT EXAMINATION OF MELINDA MINCHER DAVIES
2 BY MR. TRAFICANT..... 5450:9
3 CROSS-EXAMINATION OF MELINDA MINCHER DAVIES
4 BY MR. MORFORD..... 5456:1
5 REDIRECT EXAMINATION OF MELINDA DAVIES
6 BY MR. TRAFICANT..... 5459:1
7 DIRECT EXAMINATION OF MICHAEL ANTONOFF
8 BY MR. TRAFICANT..... 5460:10
9 DIRECT EXAMINATION OF MICHAEL ROBERTSON
10 BY MR. TRAFICANT..... 5463:21
11 CROSS-EXAMINATION OF MICHAEL L. ROBERTSON
12 BY MR. MORFORD..... 5518:6
13 REDIRECT EXAMINATION OF MICHAEL L. ROBERTSON
14 BY MR. TRAFICANT..... 5568:17
15 AFTERNOON SESSION..... 5518:1
16
17
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22
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25

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

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

8 - - - - -
TRANSCRIPT OF PROCEEDINGS HAD BEFORE
9
THE HONORABLE LESLEY WELLS
10
JUDGE OF SAID COURT,
11
ON TUESDAY, APRIL 2, 2002
12
Jury Trial
13
Volume 30
14
15 - - - - -
16
APPEARANCES:
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23 U.S. District Court - Room 539
201 Superior Avenue
24 Cleveland, Ohio 44114-1201
(216) 861-3005
25 Proceedings recorded by mechanical stenography; transcript
produced by computer-aided transcription.

1 TUESDAY, APRIL 2, 2002, MORNING SESSION, 9:19 A.M.
2 MR. TRAFICANT: Your Honor, I have a proffer
3 I want to read into the record of this trial.
4 THE COURT: I'm sorry, what is it?
5 MR. TRAFICANT: I have a proffer that I want
6 to read into the record of this trial.
7 THE COURT: Okay. We'll do that at 4:30 like
8 I usually do. We have a jury here.
9 MR. TRAFICANT: Fine.
10 MR. MORFORD: Your Honor, I wanted to bring
11 something to the Court's attention before we bring the jury
12 out, and it's something that's of much concern to the
13 government. We learned for the first time this morning
14 that Congressman Traficant is intending to call James
15 Kerchum and Fred Hudach as witnesses this morning.
16 In the past, the Congressman has raised
17 allegations of general misconduct by the FBI that had
18 nothing to do with this case through Mr. Hudach and through
19 Mr. Kerchum. This Court, in its previous orders, has
20 ordered Congressman Traficant that this is a trial about
21 Congressman Traficant's misconduct as charged in this
22 indictment, and not a trial on overall allegations that the
23 Congressman has on FBI misconduct.
24 What disturbs us the most is yesterday on two
25 occasions the Congressman persisted, over the Court's

1 instructions that he not do so, to bring inflammatory
2 matters before this jury and to basically try to poison
3 this jury. He then went out on the steps of the courthouse
4 last night and said, "I wasn't just flailing around. I
5 know exactly what I was doing. What I was doing is getting
6 matters in front of this jury that this Court won't let me
7 do and I'm going to do it any way I can."
8 My concern is these two witnesses have nothing to do
9 with this case, and if they're not voir dired ahead of
10 time --
11 MR. TRAFICANT: Objection.
12 MR. MORFORD: -- or Congressman Traficant
13 doesn't tell the Court --
14 THE COURT: Let him finish.
15 MR. MORFORD: -- what it is they're going to
16 testify to, we are going to have a repeat of yesterday
17 where he asks them inadmissible evidence, the Court says
18 they can't testify after the jury has already heard some of
19 it, and the jury is left with the impression, number one,
20 that this stuff is out there; and number two, that he's not
21 being given a fair defense.
22 And so I would ask that the Congressman show
23 some relevant purpose for these witnesses before they're
24 brought in before this jury.
25 MR. TRAFICANT: First of all, I object to the

1 assumptions made by the Assistant U.S. Attorney as to what
2 is my mindset. And he should --
3 THE COURT: And you should be addressing me.
4 Thank you.
5 MR. TRAFICANT: And he should, in fact,
6 address the Court with his own mindset.
7 Mr. Kerchum and Mr. Hudach will specifically testify
8 only to the matters concerning Traficant and the
9 investigation of Jim Traficant, period. I have the right
10 to subpoena witnesses and, quite frankly, it seems that
11 every one of my witnesses is being voir dired so they have
12 to testify two or three times, and if it doesn't look good
13 for the prosecution, then they can't take the stand.
14 And I would like the Prosecutor Morford to stop this
15 defensive nature. He's a competent attorney. I don't know
16 what his fears are.
17 THE COURT: Do you want to talk about the
18 other witness?
19 MR. TRAFICANT: The other witness is Judge
20 Ann Aldrich. She said she'd be available at 10:00. It
21 will deal with testimony on two issues: This grand jury
22 testimony was leaked relative to my 1983 trial relative to
23 an FBI affidavit dealing with $10,000 in cash, and it was
24 splattered all over the pages.
25 Two things I want to discuss with Judge Ann Aldrich:

1 She was interviewed by the FBI regarding the matters of the
2 Buccis. I want that clarified and put on the record. And
3 I want to clarify the record of the 1983 trial that -- no,
4 hear me.
5 THE COURT: I'm listening.
6 MR. TRAFICANT: I am also a political figure,
7 and this was very damaging testimony. And unless the
8 government stipulates that they're not going to call
9 Mr. Pearch on some rebuttal, then I want the opportunity to
10 bring forward Judge Ann Aldrich to discuss the matters of
11 the $10,000 in the affidavit submitted by William Pearch.
12 And that's the status. I called Judge Ann Aldrich's
13 attorney last night at 3:40 a.m., at which he answered very
14 promptly, quite surprisingly, and she is available at
15 10:00.
16 THE COURT: And I believe he's here. He can
17 speak for himself.
18 MR. MORFORD: Your Honor, if I can respond,
19 number one, we have not called Mr. Pearch. Nothing about
20 that matter has come before this jury. The Court has
21 already addressed and ruled on that matter in a pretrial
22 motion. It has nothing to do with this case whatsoever.
23 Number two, he still hasn't answered the question of
24 what Mr. Kerchum would testify to.
25 And number three, he hasn't given the Court

1 any indication of what it is Mr. Hudach would testify to.
2 And as to his complaint that he's being asked to tell the
3 Court ahead of time what these witnesses are going to do,
4 that's because of the pattern of conduct he's shown and
5 what he's done in front of these witnesses and the
6 admonishments this Court has had to make.
7 He has created that system himself.
8 MR. TRAFICANT: Your Honor, I just told you
9 explicitly that they will discuss the investigation of Jim
10 Traficant and my case only and their involvement in the
11 Traficant case.
12 THE COURT: Kerchum as well?
13 MR. TRAFICANT: Kerchum as well.
14 THE COURT: Do you have any other witnesses
15 here today, sir?
16 MR. TRAFICANT: I will have several other
17 witnesses here today.
18 THE COURT: Tell us who they are.
19 MR. TRAFICANT: Well, I was told by the Court
20 to have Mr. Terlecky here and Mr. Johnson here, so I assume
21 that you have ruled that they may testify. They've been
22 here six times.
23 THE COURT: In a limited fashion, they may
24 testify. There was an order put on at 6:00 and faxed to
25 your office last night on that, and I think it's been

1 handed to you. Have those been handed? We'll give them to
2 you.
3 MR. TRAFICANT: You can give me a copy now
4 after I've called these people to come, to come all the way
5 up here.
6 THE COURT: It is good you called them. They
7 can testify for limited purposes in this case.
8 MR. TRAFICANT: Relative to the O'Nesti
9 matter.
10 THE COURT: Yes.
11 MR. TRAFICANT: Thank you.
12 THE COURT: We'll get to that. So you have
13 Johnson and you have Terlecky available.
14 MR. TRAFICANT: They'll be on their way up.
15 THE COURT: Okay. And who else?
16 MR. TRAFICANT: I will have Linda Kovachik
17 relative to photographs that have been already moved into
18 evidence and shown to a witness that I had enlarged for the
19 purposes of having them placed into evidence. And I will
20 have Attorney Percy Squire and Attorney Mark Colucci at
21 this particular point.
22 And if we discuss the motion that I submitted
23 this morning, we can get on with the rest of the trial and
24 I would become a witness if you'd allow me a half-hour
25 examination of Mr. Morford.

1 THE COURT: Have you given a copy of the
2 motion that you filed this morning that was handwritten?
3 MR. TRAFICANT: As soon as I came in here, I
4 handed a copy to both Edward, I believe, for the Court, and
5 to Mr. Bernard Smith, I believe. And I will allow
6 examination of me on both the 1983 allegations that
7 continue to occur --
8 THE COURT: We're going to address --
9 MR. TRAFICANT: -- in court and this trial,
10 if you allow me to examine Mr. Morford on his prosecutorial
11 behavior that has been cited in the motion.
12 THE COURT: Congressman, as we've done for
13 weeks here, when you file a motion, we give the other side
14 an opportunity, first of all, to have it, to read it, and
15 then to respond to it before I rule on it, and we'll do
16 that in this case. You don't have to respond right now.
17 MR. TRAFICANT: Let me say --
18 MR. MORFORD: We can, Your Honor.
19 MR. TRAFICANT: If he has nothing to hide, he
20 has his chance to get the big kahuna right here. Now, I
21 want to ask some questions of this prosecutor --
22 THE COURT: Congressman?
23 MR. TRAFICANT: -- whom I'm investigating.
24 THE COURT: Congressman, your investigation
25 is a separate matter from this trial.

1 MR. TRAFICANT: Yes, it is, and I'm willing
2 to put myself right on that stand.
3 THE COURT: Do I have all your witnesses now?
4 Is this the end of the list.
5 MR. TRAFICANT: I do not know.
6 THE COURT: Terlecky --
7 MR. TRAFICANT: They took seven weeks. I'm
8 in my second week.
9 THE COURT: We've been over this and over
10 this.
11 MR. TRAFICANT: I don't know.
12 THE COURT: Terlecky, Johnson, Kovachik --
13 MR. TRAFICANT: Listen. There are several
14 people not available.
15 THE COURT: Congressman, stop interrupting.
16 Don't interrupt.
17 MR. TRAFICANT: Did you ask me a question?
18 THE COURT: Stop it. Stop it.
19 MR. TRAFICANT: Did you ask me a question or
20 not? Could you let me finish my answer?
21 THE COURT: No, because I haven't finished
22 the question.
23 MR. TRAFICANT: You said do I have other
24 witnesses, and I said yes, several of them are out of town.
25 If you'd give me the opportunity to reply, which you give

1 them full license and which I object on the record --
2 THE COURT: I'm going to give you time right
3 now to say all the things that are on your mind, but not
4 until we've heard from at least another lawyer in this room
5 who's representing someone you subpoenaed today.
6 MR. TRAFICANT: That's fine. But another
7 thing I'd like to say as a pro se defendant, I am under no
8 legal authority to disclose any of my witnesses to anybody.
9 I'm doing it as a courtesy because they provided me with
10 some courtesy, but they at times tricked me by giving me a
11 sequence of witnesses that they did not offer in that
12 sequence.
13 Now, from now on you get nothing. Now, from
14 what I've given you, that's all I'll give to this Court.
15 But I'm prepared to take the stand. I want a half-hour
16 examination of Morford, and you can examine me on the '83
17 trial again, under oath, and this trial. And I want to
18 proffer it into the record.
19 THE COURT: Congressman, are you ready now to
20 listen while we have the attorney for one of your
21 subpoenaed witnessed say what he needs to say?
22 MR. TRAFICANT: I would ask you to ask the
23 prosecution to moderate their behavior so I might hear the
24 distinguished counsel.
25 THE COURT: Mr. Devan?

1 MR. DEVAN: Your Honor, for the record, if it
2 please the Court, I represent Judge Ann Aldrich, a sitting
3 Judge on senior status in the United States District Court
4 for the Northern District of Ohio. As of yesterday, Judge
5 Aldrich received in the afternoon, early afternoon, a
6 subpoena to appear as a witness in this matter, and I was
7 contacted late yesterday afternoon and appeared over here
8 in the courthouse on her behalf and inquired of Congressman
9 Traficant as to the nature of the evidence that he sought
10 from Judge Aldrich.
11 At that time he represented, and although I was
12 unable to nail down exactly what he was seeking with any
13 precision, it appeared as though what he was seeking in the
14 terms of testimony or records from Judge Aldrich regarded a
15 matter in the 1983 case of United States versus James
16 Traficant in which Mr. Traficant was acquitted.
17 In that case, there was an issue, as I understand it,
18 about $10,000 which James Traficant was in possession of,
19 and he notified the government in pretrial discovery and as
20 part of his requirement under -- as reciprocal discovery,
21 that he intended to introduce evidence about this $10,000.
22 The Court at one point ordered reciprocal discovery,
23 and it appears as though this $10,000 was ordered to be
24 photocopied by the government. Then apparently something
25 happened in terms of a question about the serial numbers in

1 that matter, and this photocopying became very relevant
2 because the actual dollars and the actual photocopying had
3 a discrepancy in serial numbers, as I understand it.
4 THE COURT: Would you be seated, please,
5 while someone else is speaking? Thank you.
6 MR. DEVAN: Understanding that I'm coming to
7 this matter late and trying to rehash a 20-year old history
8 and understanding this as best I can, it's my understanding
9 that in the trial, the $10,000 and the photostatic copy was
10 never introduced at trial, and that is my understanding
11 based upon a discussion with the courtroom deputy who is
12 now retired, William Johnson.
13 As part of that, yesterday, late yesterday, I
14 retrieved a list of the exhibits from the 1983 trial. And
15 in that list of exhibits, there is no reference to any
16 money actually being identified with an exhibit number
17 either on behalf of the government or on behalf of the
18 defendant in that case, James Traficant.
19 There is also a receipt for the return of all
20 exhibits following the acquittal of Congressman Traficant,
21 and that receipt is signed by the government Agent Lynch,
22 and what I understand to be James Traficant's signature, so
23 he received back all of his exhibits.
24 Now, the only thing remaining in terms of exhibits in
25 that case was, in fact, joint exhibits which were

1 introduced, and as I read this quickly here, I don't see
2 any copy under the list of joint exhibits which would
3 identify an exhibit as being a photostat of this money.
4 Now, aside from the relevancy of this in this case,
5 and I couldn't possibly address it at this point because
6 I'm coming in as a stranger to this case, in essence, in
7 terms of the evidence. Judge Aldrich has nothing to offer
8 in terms of this that cannot be obtained by way of subpoena
9 to the Clerk's Office. I received a copy of these exhibits
10 yesterday very easily by going upstairs to the fourth floor
11 and getting the list of exhibits, as well as the signed
12 receipts by the government and Congressman Traficant for
13 receipt of the exhibits at the end of the case.
14 So Judge Aldrich has nothing to offer in that regard.
15 In terms of this matter of the Buccis or a Mr. Bucci,
16 as I understand it, that came to my attention for the first
17 time this morning --
18 MR. TRAFICANT: I object to any discussion of
19 that matter since the Buccis are a part of this trial, and
20 that is the reason, part of the reason, for this subpoena.
21 And I want the witness to testify, not her attorney.
22 MR. DEVAN: In terms of the Buccis, Your
23 Honor, I do not know what the relevance is in this case to
24 Judge Aldrich being called as a witness and testifying.
25 There was, as I understand it, a 302 created in 2000,

1 September of 2000, in which Judge Aldrich was interviewed
2 by the FBI, and I have a copy of the 302.
3 Apparently Anthony Bucci was released --
4 MR. TRAFICANT: I object to this.
5 MR. DEVAN: -- based on the 302.
6 THE COURT: Your objection is noted and it's
7 on the record. Now let him continue.
8 MR. DEVAN: Anthony Bucci was released from
9 prison early, according to this 302. It came as a surprise
10 to Judge Aldrich that he was released early. However, she
11 had no hand in his release, and apparently, as far as we
12 can determine, he was released because of hardship matters,
13 a combination of emotional problems and claustrophobia, as
14 I understand it. He was released to a halfway house, if I
15 understand this correctly.
16 However, Judge Aldrich had no role in the release of
17 Mr. Bucci, and therefore, I do not know see why a sitting
18 Judge should be subpoenaed into this trial in which she has
19 nothing to offer that either cannot be obtained by way of
20 subpoena to the Clerk's Office, or anything in regards to
21 Mr. Bucci which after he was sentenced in her court, she
22 had no further contact with anyone regarding Mr. Bucci.
23 And so I ask that her subpoena be quashed. If the
24 Court wishes a written motion and brief on this matter, I'm
25 prepared to work on that today; however, getting involved

1 late yesterday I did not have an opportunity to prepare a
2 motion to quash.
3 And so that is our position at this time, Your Honor.
4 MR. TRAFICANT: I'd like to respond.
5 THE COURT: You're going to have a chance now
6 to respond to the motion to quash.
7 MR. TRAFICANT: He didn't say he had a motion
8 to quash. He said he was considering it.
9 THE COURT: No, sir. You may respond to his
10 motion.
11 MR. TRAFICANT: There was pretrial publicity.
12 THE COURT: Congressman, let's get this clear
13 now. He did make a motion to quash, an oral motion to
14 quash.
15 MR. TRAFICANT: I object to his motion to
16 quash on the following grounds.
17 THE COURT: Thank you.
18 MR. TRAFICANT: Citing the Constitution and
19 any law therein that would pertain to said request for
20 quash.
21 But let me say this: There was great pretrial
22 publicity by a person that was interviewed after the grand
23 jury of this case that brought up the subject of $10,000,
24 and stated there were false serial numbers, and that caused
25 me great political distress. Now, I was compelled to bring

1 that money to this courtroom. Before that trial, it was
2 photocopied as a discovery process.
3 THE COURT: Is this in 1983, sir?
4 MR. TRAFICANT: I want the photocopies of
5 that cash. And I also want on the record that if the
6 government had phony serial numbers before the trial, why
7 didn't the government call Mr. Pearch and Traficant and put
8 me in jail.
9 THE COURT: Sir, this is a different trial.
10 MR. TRAFICANT: Yes, but it speaks of the
11 trial insofar as grand jury testimony, in fact, poisoned
12 the voir dire, in my opinion, being utilized by the
13 prosecution. But now that's not the purpose of why we're
14 here.
15 Judge Aldrich did, in fact, accept and was
16 interviewed by the Federal Bureau of Investigation relative
17 to Jim Traficant and this trial, and I believe that that
18 investigation and showing the scope and length and depth of
19 that investigation to go to the Judge of the first trial
20 speaks to itself.
21 Second of all, it also speaks to the fact that why
22 are the 1983 trial transcripts not in the archives and
23 present here? No one brought up 1983 before the
24 prosecution after a grand jury witness brought up the 1983
25 trial. And it put an aspersion on 1983.

1 Now, I want that cleared up, because I know
2 Mr. Lynch did the photocopying. I want the photocopies
3 compelled to be given to me from the archives, and I want
4 to see the numbers that were illegal, and if they were
5 illegal, why wasn't Mr. Pearch and Mr. Traficant put in
6 jail.
7 Now, I want his motion quashed, I want Judge Ann
8 Aldrich here on the stand, and I believe that if you deny
9 me that opportunity -- they interviewed her on the Bucci
10 matter. The Bucci matter is part of the overt acts in this
11 RICO case, and it should be allowed.
12 THE COURT: You can respond.
13 MR. MORFORD: Your Honor, the fact that a
14 witness was interviewed as part of the investigation that
15 led to an indictment does not mean it's relevant.
16 Congressman Traficant has not in any way articulated
17 anything that Judge Aldrich would say that is relevant to
18 the evidence that's been put in this case to the charges
19 that are in this case, number one.
20 Number two, if you've listened to everything he said
21 this morning about Mr. Kerchum, about Judge Aldrich, about
22 Mr. Hudach, Mr. -- all these different people, it all goes
23 to vendetta. The Court has already ruled on these matters.
24 The Court has ruled that the investigation is not on trial
25 in this case. There are ten charges that are being tried,

1 and it's the evidence that goes to those ten charges, and
2 these other distractions the Court has already ruled are
3 not admissible.
4 The Court gave Congressman Traficant an opportunity
5 to establish some basis for arguing vendetta and some basis
6 for questioning me. He failed to show the Court any
7 relevant evidence that would justify it. These matters
8 have been ruled on. They're over, they're done with, and
9 we should not be going back and back and back on these
10 things again.
11 And finally, as to Mr. Colucci, the Court has already
12 ruled that Mr. Colucci was tendered and that he can't be
13 called back again, and yet here we are again today, after
14 the Court has already ruled, rehashing and asking to call
15 Mr. Colucci again.
16 The Court has already ruled on every one of these
17 matters, and if the Court would allow me, I can very
18 quickly say that we've read this motion that the
19 Congressman filed today, and it is nothing but a rehash of
20 his motion to call me which the Court denied several months
21 ago, and we ask that it be summarily denied.
22 MR. TRAFICANT: Can I speak? You said I
23 can't pursue a vendetta, but yet I had a man testify that
24 in 1985, he was visited by an agent relative to the
25 transfer and sale of a horse. He was visited in near 2000

1 on a transaction of a horse 15 years ago.
2 Now, this is contemporary business. Mr. Kerchum can
3 speak specifically to the investigation of Jim Traficant
4 and matters relative thereto, as can Mr. Hudach.
5 Now, he also cites Mr. Colucci without knowing the
6 purpose of Mr. Colucci's visit. Once again, he assumes.
7 And if you break that word down into small parts, I think
8 it would define him.
9 Your Honor, Mr. Colucci is simply called as a
10 character witness, having known the Congressman for a long
11 time.
12 Finally, let me say this: If Mr. Morford has nothing
13 to hide, he has an opportunity to go after the real big
14 crook that he's been calling all this time. He even told
15 the general counsel's office in Washington, the biggest
16 crook in D.C.
17 MR. MORFORD: Sir, would you address the
18 Court?
19 MR. TRAFICANT: I'm not an attorney.
20 THE COURT: Congressman?
21 MR. TRAFICANT: I'm not under oath.
22 THE COURT: Congressman, turn around.
23 MR. TRAFICANT: I'll stand where I want.
24 THE COURT: Oh, no. Turn around.
25 MR. TRAFICANT: Bring the jury downstairs. I

1 have a right to these witnesses. I have been denied the
2 right to these witnesses, and I want them called, period.
3 And I want Judge Ann Aldrich here.
4 THE COURT: As to Judge Ann Aldrich, the
5 motion to quash is granted. There is no need to take any
6 further steps. There is absolutely no relevance to this
7 case.
8 MR. TRAFICANT: I will publicize then the
9 matter.
10 THE COURT: As to Colucci, he's already been
11 called, testified, and his testimony was finished.
12 As to Terlecky and as to Johnson, if they're here,
13 they can testify for a limited purpose. You can read about
14 it in that order that you read about.
15 And there was something filed relating to that this
16 morning by the government, which you should also read
17 before you call either one of those folks here.
18 I don't know anything about Mr. Squire and whether
19 he's ready to testify.
20 Mr. Hudach and Mr. Kerchum, the things you say
21 they're going to testify to have no bearing on this case.
22 They are not relevant.
23 MR. TRAFICANT: They are.
24 THE COURT: And I've ruled in this case --
25 MR. TRAFICANT: They are relevant to this

1 case.
2 THE COURT: I've ruled in this case over and
3 over again what it is that you have to do if you wish to
4 make a demonstration that some of this might be relevant.
5 You've never made it.
6 So I don't know about Mr. William Pearch, I think you
7 mentioned that he was a potential witness or --
8 MR. TRAFICANT: No, wait. Let me see if I
9 understand this. Are you saying Kerchum and Hudach cannot
10 testify in this trial on the strength of what these people
11 told you here? I'm not talking about vendetta.
12 THE COURT: On the law --
13 MR. TRAFICANT: I'm talking about my
14 investigation.
15 THE COURT: On the law of this case, they
16 can't do it. I've ruled repeatedly about --
17 MR. TRAFICANT: It doesn't deal with
18 vendetta. It deals with the investigation of Jim
19 Traficant. What are we here about? Ronald McDonald?
20 THE COURT: Are you calling Pearch? I can't
21 understand whether you're calling Pearch.
22 MR. TRAFICANT: No, I'm not calling Pearch,
23 but they used Pearch in an election.
24 THE COURT: Do you want to call Terlecky and
25 Johnson?

1 MR. TRAFICANT: They're not here. I had to
2 call them. They're back home. They have traveled six
3 times. I have Kerchum and Hudach here. That's who I want
4 to proceed with.
5 THE COURT: We'll do those one at a time.
6 I'm going to release the lawyer for Judge Aldrich for the
7 motion to quash the subpoena.
8 MR. TRAFICANT: I object to that.
9 Thank you to counsel for taking my call at 3:40 a.m.
10 MR. DEVAN: You're welcome.
11 MR. TRAFICANT: Would you, Ernestine, call
12 Mr. Kerchum? Wait a minute. Are you ready to go forward,
13 Your Honor?
14 THE COURT: No, not yet. I want to go over
15 something with you.
16 Have you read that order yet?
17 MR. TRAFICANT: You just handed this to me.
18 THE COURT: Well, we faxed it to your office
19 last night at 6:00.
20 MR. TRAFICANT: I wasn't at my office.
21 THE COURT: I'm so sorry, Congressman. So
22 here it is. I'll take a recess for ten minutes. You can
23 read that, and you should also read the response that the
24 government filed regarding your wish to -- regarding their
25 concerns about those two witnesses. Okay? So read both

1 those things. We'll just let the jury wait here. We'll
2 take a ten-minute recess, and then we'll come back out and
3 then you can call -- do you have Terlecky or Johnson here?
4 MR. TRAFICANT: No, I do not. I have Kerchum
5 and Hudach here, and I want to call Kerchum first.
6 THE COURT: We're taking a ten-minute recess
7 so you can read the motions.
8 MR. MORFORD: Your Honor, before we do that,
9 just so the court knows, Kerchum is vendetta, and
10 Congressman Traficant should show the Court what it is he's
11 going to testify about.
12 THE COURT: Well, we will bring Kerchum in
13 here, put him under oath. You tell me what he is going to
14 testify about.
15 MR. TRAFICANT: I'm going to ask him when he
16 first started to investigate or be a part of the
17 investigation or have knowledge of the investigation of Jim
18 Traficant.
19 THE COURT: Right.
20 MR. TRAFICANT: Now, is that an adequate
21 question for a court of law in a RICO case?
22 THE COURT: Actually, that's something that
23 we've already treated in this court and ruled on, and if
24 you read the rulings of the Court or follow the docket --
25 MR. TRAFICANT: I read the rulings.

1 THE COURT: -- you'll know that. We're
2 speaking strictly about the -- if that's what he's going to
3 testify about, then there's no need to bring him out here.
4 If there's something else --
5 MR. TRAFICANT: Then I think you should at
6 least voir dire this man.
7 THE COURT: I don't mind doing the voir dire
8 if you've got him.
9 MR. TRAFICANT: You don't ever want the jury
10 to see anything on my behalf.
11 THE COURT: I don't mind doing it if you've
12 got him here. You can bring him out, put him on the stand,
13 swear him in.
14 But you know in advance there are certain areas we've
15 already ruled he can't testify to before the jury in this
16 case.
17 MR. TRAFICANT: Listen. You have ruled that
18 I can't put on a defense. That's for the record. Now, I
19 want Kerchum out here; I want him on the stand. It deals
20 with salient points of my defense, and if it is not
21 allowed, you will have absolutely placed me at risk being
22 unable to provide a defense.
23 THE COURT: Congressman --
24 MR. TRAFICANT: Who am I to call? Shall I
25 call Jeffrey?

1 THE COURT: You can call him out here and
2 we'll let him testify. We'll see what it is he has to say.
3 MR. TRAFICANT: You didn't qualify any of
4 their hearsay witnesses.
5 THE COURT: Well, actually I did.
6 MR. SMITH: Two of them.
7 MR. MORFORD: We didn't repeatedly violate --
8 MR. TRAFICANT: You have interrupted me. I
9 was speaking.
10 THE COURT: Congressman, take your ten-minute
11 break, but read those.
12 MR. TRAFICANT: I can't handle this in ten
13 minutes. I'm not an attorney. I'm a son of a truck
14 driver.
15 THE COURT: Okay. We'll be back in ten
16 minutes.
17 (Recess had.)
18 (The Witness is Sworn)
19 THE COURT: There is a microphone there, sir,
20 so you'll have to speak up.
21 THE WITNESS: Like that? How's that?
22 THE COURT: That's good. Everyone in the
23 back needs to hear you. All the way back. Congressman?
24 MR. TRAFICANT: Yes. I'll be there in a
25 second, Your Honor.

1 VOIR DIRE EXAMINATION OF JAMES ANTHONY KERCHUM
2 BY MR. TRAFICANT:
3 Q. How are you, James?
4 A. I'm a little bit tired this morning.
5 Q. Are you worried?
6 A. What would I be worried about?
7 Q. Testifying under oath without a jury.
8 A. No, it doesn't bother me at all. I'm here to tell
9 the truth.
10 Q. Are you a convicted felon?
11 A. Yes, I am.
12 Q. When were you convicted?
13 A. In 1999 or -- well, no. Rather, it would be in the
14 year 2000.
15 MR. MORFORD: Your Honor, for purposes of the
16 record, I don't believe he was identified.
17 THE COURT: You need to ask your witnesses
18 their full names.
19 Q. Can you give us your full name and spell your last
20 name for the nonjury?
21 A. Yes. My name is James Anthony Kerchum. That's K E R
22 C H U M.
23 Q. And where do you reside, Mr. Kerchum?
24 A. I reside at 1545 Kale, K A L E, Adams, that's another
25 word, A D A M S, Road, Southwest, Warren, Ohio, 44481.

1 Q. And how long have you lived at that address?
2 A. I've lived there now for approximately three years.
3 Q. And are you currently employed?
4 A. No, I am not.
5 Q. When was the last employment you had?
6 A. I was an FBI agent.
7 Q. And what status?
8 A. I was an undercover operative specifically.
9 Q. Located in what area?
10 A. I worked with what's called the Mahoning Valley
11 Corruption Task Force, which was based out of the Boardman
12 office of the FBI.
13 Q. Were you ever at the Boardman office of the FBI?
14 A. Yes, I was.
15 Q. Where is it located?
16 A. Sahara Trail. I don't remember the exact -- I think
17 it was 904 Sahara Trail, to be exact.
18 Q. Now, how did you become involved with the FBI?
19 A. I formed a citizen group to try to help stamp out
20 some of what we believed to be a lot of corruption in the
21 Mahoning Valley. I was put in contact with a Mr. Louis
22 Slay, who informed me that he was a supervisor with the
23 United States Department of Justice. He told me that an
24 FBI agent would be calling me. That FBI agent's name was
25 Special Agent Tony Speranza, who was the bureau chief at

1 the Boardman bureau.
2 Q. Now, when you met at Sahara Trail, what, if anything,
3 did you discuss?
4 A. Tony Speranza told me that I --
5 Q. Let's stop right there. Let's not say who told you
6 what. Just tell us what you were told.
7 A. Okay. I was told that the Attorney General had
8 appointed me, in essence gave me a field commission as an
9 FBI agent specifically to work with and help form the
10 Mahoning Valley Corruption Task Force, and that I was also
11 to work on that task force as a deep cover operative.
12 Q. Were you given a code name?
13 A. Yes, I was.
14 Q. And what was that name?
15 A. That code name was Cheese One.
16 Q. What was the approximate time and date of this first
17 meeting with the FBI?
18 A. Approximately January, 1998.
19 Q. And was that the time you were actively involved with
20 the Girard activities?
21 A. Yes.
22 Q. Had you formed a committee?
23 A. Yes, I had.
24 Q. And what did that committee consist of?
25 A. That committee consisted of citizens, basically, that

1 would go to council meetings and complain about corruption,
2 and they were investigating the corruption, I being the
3 leader of that group.
4 Q. Is that why you were contacted by the FBI?
5 A. Yes.
6 Q. What, if anything, did they ask you to do as the
7 leader of that group?
8 A. They told me not to tell anybody else in the group
9 that I was an FBI agent, but to continue investigating
10 covertly and provide reports.
11 Q. Why do you state that you were an FBI agent,
12 Mr. Kerchum?
13 A. Because they told me I was an FBI agent.
14 Q. Did you get paid?
15 A. Yes, I did.
16 Q. Who paid you?
17 A. I got payments from Special Agent Mike Cizmar.
18 Q. How many times?
19 A. Approximately three times.
20 Q. What was your arrangements for pay and compensation
21 with the FBI?
22 A. The arrangements for pay and compensation was that I
23 was to receive $250 per week plus an allowance of $250 a
24 week for expenses. However, that was delayed for quite
25 some time, and it was explained to me that it took a while

1 for the paperwork to get going before those payments
2 started coming in.
3 Q. Did the payments ever start coming in?
4 A. Yes, they did.
5 Q. In what form?
6 A. Cash.
7 Q. Where did you receive the first payment of cash?
8 A. I met with Special Agent Mike Cizmar in a remote
9 location, who handed me cash, and I signed a voucher
10 signing my code name, Cheese One.
11 Q. Did you get a copy of the voucher?
12 A. I did not.
13 Q. Did you ask for a copy?
14 A. Yes.
15 Q. And they refused?
16 A. Yes.
17 Q. When is the next time you were paid?
18 A. Approximately a month later.
19 Q. How many total payments did they make to you?
20 A. Only three.
21 Q. When was the third payment made?
22 A. Approximately two months after that.
23 Q. Were you asked to perform any types of specific
24 services while you were this Cheese One working with the
25 Feds?

1 A. Yes, I was. I was specifically sent out on special
2 assignments.
3 Q. Did they ask you to employ any technology?
4 A. Yes, they did. They placed a wiretap on my phone
5 that was -- they had told me it required a Federal Judge's
6 signature, and that I was to operate the wiretap, record
7 all incoming and all outgoing phone calls.
8 Q. Did you do that?
9 A. Yes, I did.
10 Q. Did they ever show you the judge that signed the
11 order?
12 A. No, they did not.
13 Q. Did you ask for it?
14 A. No, I did not.
15 Q. Now, at some point in your opening statement you said
16 you were arrested. What were you arrested for?
17 A. I was initially arrested by the Girard Police on
18 felony two, possession of bomb-making materials.
19 Q. And what, if anything, was the disposition of that
20 first arrest?
21 A. They had no evidence to provide to the grand jury, so
22 I received a no-bill.
23 Q. What was the next process of your legal consequences?
24 A. I was indicted by the ATF for a violation of IRS Code
25 5861(d).

1 Q. Do you know what 5861(d) is, sir?
2 A. Yes, because I called the IRS, and I spoke with an
3 attorney there. That is failure to pay an excise tax on a
4 firearm, two firearms, total of $30.
5 Q. What kind of firearms were they, sir?
6 A. They were antique firearms, heirloom depression-type
7 firearms, that is my understanding. They were homemade.
8 Q. Were you incarcerated?
9 A. Yes, I was.
10 Q. For how long?
11 A. I was incarcerated under the federal charge from the
12 end of July, '99 until October of 2000.
13 Q. So you did 17 months in jail?
14 A. No. It was house arrest. I had a collar on my
15 ankle.
16 Q. What was the amount of fines for your violation of
17 the 5861(b)?
18 A. Well, there were no fines because I tried to pay the
19 $30, but the attorney from the IRS explained to me that
20 that law did not apply to me, it applied to major gun
21 manufacturers, and that the IRS could not accept any money
22 without a form to accompany the money, and they had no
23 form, and he told me -- so there was no way I could pay
24 that. But I did -- I got six months house arrest and five
25 years probation.

1 Q. And you never did pay the $30?
2 A. There was no way I could. I never paid it; they
3 never asked for it.
4 Q. Did the FBI ever discuss Jim Traficant with you when
5 you were known as Cheese One?
6 A. Yes, they did.
7 Q. Approximately when was Jim Traficant's name brought
8 up?
9 A. Approximately June of 1998.
10 Q. And what, if anything, was asked for you to do?
11 A. They asked me to do a thorough covert investigation
12 of you, Congressman Jim Traficant.
13 Q. And was that to utilize all the citizens and groups
14 that you were using throughout the community?
15 A. Yes, that was.
16 Q. Did you do that?
17 A. Yes, I did.
18 Q. Did you report back to the officers who had, in fact,
19 engaged your services?
20 A. Yes, I did.
21 Q. Did you work primarily in that regard?
22 A. Yes, I did.
23 Q. At whose direction?
24 A. At the direction of Special Agent Tony Speranza and
25 Special Agent Mike Cizmar.

1 Q. Who did you report to?
2 A. Special Agent Mike Cizmar.
3 Q. Were you being paid at that time?
4 A. The payments, I was still being told the payments
5 were slow in coming because the paperwork had not been
6 done, but yes, it looked like they had gotten on track. I
7 had gotten three payments at that time, and he told me they
8 would be coming in on a regular basis.
9 Q. And these three payments totaled $750?
10 A. Oh, it was between 4- and $500, each payment.
11 Q. So you had expense money as well as --
12 A. Oh, yes, yes.
13 Q. So what was the total amount of compensation you
14 received from the Federal Bureau of Investigation?
15 A. No more than $1500.
16 Q. At some point did that money stop coming?
17 A. Yes, it did.
18 Q. When the money stopped coming, did you take any
19 action?
20 A. Yes, I did. I called Lewis Slay again, the man that
21 told me he was a supervisor in the United States Department
22 of Justice. He told me to continue working covertly and to
23 report on what the FBI agents were doing because they're
24 notorious for stealing money from sources that get paid
25 cash.

1 Q. What is a source?
2 A. A source is basically an agent, but I believe it's
3 called a contract agent.
4 Q. Were you a contact agent?
5 A. That's contract.
6 Q. Contract agent?
7 A. Yes, I was.
8 Q. Did you sign an agreement?
9 A. No, I did not.
10 Q. Were you offered an agreement?
11 A. Yes. It was a verbal agreement.
12 Q. Did you pursue any further investigation of the money
13 that you believe was owed to you?
14 A. Yes, I did.
15 Q. And what, if anything, happened?
16 A. I never got the money. I did contact the FBI's
17 Office of Professional Responsibility. They sent two
18 agents to my house from Washington, D.C. The agents told
19 me that they stopped in Youngstown --
20 Q. Let's hold up right there. Let's talk about what you
21 know, not what you heard.
22 A. Okay.
23 Q. Did you do an investigation into Jim Traficant while
24 you were part of that citizens group?
25 A. Yes, but it was not in regards to the citizens group.

1 It was in regards to what the FBI told me to do.
2 Q. Did you do what the FBI told you to do?
3 A. Yes, I did.
4 Q. What, if anything, did you discover?
5 A. I found no evidence of no wrongdoing whatsoever with
6 the Congressman, Mr. Traficant.
7 MR. TRAFICANT: No further questions at this
8 time.
9 MR. MORFORD: Your Honor, at this time I move
10 to exclude this testimony as completely irrelevant with the
11 Court's prior order. It has nothing to do with the
12 evidence that's in this case.
13 MR. TRAFICANT: I object.
14 THE COURT: The motion is granted. This is
15 not part of what we're involved in in this lawsuit, and so
16 you can step down, sir. Thank you.
17 (Witness excused.)
18 THE COURT: Your next witness?
19 MR. TRAFICANT: I don't have any witnesses.
20 You don't allow them to testify.
21 THE COURT: You said you had Fred Hudach.
22 MR. TRAFICANT: I call Mr. Hudach. I will
23 proffer for the record an affidavit of Mr. Kerchum before
24 the day is over, as well.
25 THE COURT: His testimony is part of the

1 record in the case, sir.
2 MR. TRAFICANT: Yes, but I also have an
3 affidavit, and I'd like to bring it in, as well.
4 THE COURT: You can file things in the
5 regular course of things.
6 MR. TRAFICANT: Thank you. Fred, come on up
7 through here and go to the left, up to the Judge.
8 (The Witness is Sworn)
9 THE COURT: The microphone is there, and it's
10 a big room with a high ceiling, so use it if you need to.
11 VOIR DIRE EXAMINATION OF FREDERICK V. HUDACH
12 BY MR. TRAFICANT:
13 Q. Good morning, Fred. Would you give your full name
14 and spell your last name for the nonjury?
15 A. My name is Frederick V. Hudach, H U D A C H.
16 Q. And what is your current employer?
17 A. Currently I'm a private investigator with a partner.
18 Q. Were you ever in my employ?
19 A. Yes.
20 Q. For how long?
21 A. Approximately one year and a couple days.
22 THE COURT: Did you show this to them?
23 MR. TRAFICANT: No, I didn't. I completely
24 disregarded them.
25 THE COURT: Take it now and show it to the

1 other side.

2 MR. TRAFICANT: Who handles things here?

3 MR. SMITH: He does.

4 Q. I would just like you to take a look at this. Are

5 you familiar with this affidavit?

6 MR. MORFORD: Is it marked for purposes of

7 the record, Your Honor?

8 MR. TRAFICANT: You can mark it -- do you

9 have a pencil, Fred?

10 THE COURT: It would be good if you'd mark

11 your exhibits, Congressman.

12 MR. TRAFICANT: For the purposes of the --

13 A. Yes. I recognize this, Congressman.

14 Q. Well, then --

15 A. It's my affidavit.

16 MR. MORFORD: Your Honor, we were given a

17 copy called K-4, if that helps.

18 THE COURT: Do you want to call it K-4?

19 MR. TRAFICANT: No.

20 THE COURT: Okay. What are you going to call

21 it, sir?

22 MR. TRAFICANT: I want to call it BS-2000.

23 THE COURT: Okay. Do we already have one of

24 those?

25 MR. TRAFICANT: 2001.

1 THE COURT: Thank you.
2 MR. TRAFICANT: I've also handed you another
3 document, Your Honor.
4 THE COURT: This is an affidavit of
5 Mr. Kerchum.
6 MR. TRAFICANT: Yes, Your Honor.
7 THE COURT: What are you going to mark this
8 as?
9 MR. TRAFICANT: I'm asking if he has
10 knowledge of that.
11 THE COURT: What are you going to call this
12 one. I just wrote BS-2001 on that.
13 MR. TRAFICANT: You put 2001 on that?
14 THE COURT: I did.
15 MR. TRAFICANT: I'm supposed to write on.
16 THE COURT: I know.
17 MR. TRAFICANT: I'll make this 2002. We'll
18 leave that 2001; we'll make this 2002.
19 THE COURT: Very well. So this is an
20 affidavit of James Kerchum.
21 MR. TRAFICANT: Yes.
22 THE COURT: You show that to the other side.
23 MR. TRAFICANT: They've had it for months.
24 MR. MORFORD: Well, there are several of
25 them. I don't know which one you're talking about.

1 MR. TRAFICANT: You admit there are several.
2 And where did you get them?
3 Q. I want you to look at this very carefully and ask you
4 if you have knowledge of that.
5 A. I have knowledge of it, Congressman, yes.
6 Q. Now, at some particular point was our office called
7 by a gentleman by the names of James Kerchum?
8 A. Repeat that facing me, Congressman.
9 Q. At some point were we contacted by a man by the name
10 of James Kerchum?
11 A. No. I contacted James Kerchum, and then I contacted
12 Anthony Traficanti at your office, which in turn I took
13 Anthony Traficanti and you to see James Kerchum. We seen
14 him on April 28th of the year 2000.
15 Q. Why do you remember that date?
16 A. I refreshed my memory yesterday.
17 Q. Do you maintain --
18 A. I thought it was about May 1st, then my notes
19 revealed it was April 28th, 2000.
20 Q. Do you maintain notes?
21 A. Yes.
22 Q. And --
23 A. Mental, writing, reference to my activity, copious
24 notes at times. Copious notes at times.
25 Q. What is your current residence? Your current

1 residence?
2 A. 6251 Chestnut Ridge Road, Hubbard, Ohio, 44425.
3 Q. What tasks did you perform on my staff?
4 A. I was a congressional lead staff investigator. I
5 reported to you; in turn, you reported to proper
6 authorities, committees and subcommittees, including Donald
7 Rumsfeld, Secretary of Defense, when it became a national
8 security issue.
9 Q. On the matter of Mr. Kerchum, was there a specific
10 evening where you were to meet with him?
11 A. Clarify the question, Congressman.
12 Q. Was there a specific evening when you were to meet
13 with Mr. Kerchum that was very unusual?
14 A. Yes, there was. Prior to the evening when -- or the
15 day that I talked to Anthony Traficanti, I never knew who
16 he was, but I went down to the Federal Building. In turn,
17 that evening I was called by Anthony to meet with you, and
18 we met at the Ramada Inn on Belmont Avenue. And what I was
19 revealing was that I was led to believe that Jim Kerchum
20 was asked to murder a police officer by an FBI agent.
21 Q. Did you report that to me?
22 A. Yes, because after the FBI, where do you go?
23 Q. Now, what, if anything -- what, if any, steps did
24 we -- did you suggest that we do?
25 A. I suggested to Anthony Traficanti, and I disclosed

1 everything I knew based on a lot of different
2 investigations that I have done with regard to public
3 corruption and judicial corruption, I says we have to,
4 number one, save the police officer's life; but if I told
5 the police officer that an FBI agent wants to have him
6 whacked, I start a war here, because this police officer
7 has a short fuse, is what I was led to believe.
8 Q. Did we come to meet with that police officer?
9 A. Yes, we did.
10 Q. Did we attempt to mitigate the problem?
11 A. Yes, we did.
12 Q. Did we inquire of any federal authorities that had
13 oversight of this matter?
14 A. Repeat the question, Congressman.
15 Q. Did we at some point ask for any federal oversight of
16 the FBI to look into the matter and investigate this?
17 A. Yes.
18 Q. And whom did we ask to help?
19 A. I believe it was Special Agent In Charge Van Harp.
20 Q. And did we contact any unit in Washington?
21 A. The information went to -- what I was led to believe,
22 I sent it to Paul Marcone under your direction, and he was
23 to put it on the subcommittee that Dan Burton is the head
24 of, and I believe it is the Reform Committee.
25 Q. Have you ever heard of the Committee of Professional

1 Responsibility?
2 A. Yes, I did, later on. That was after -- after I went
3 to you, Congressman, I learned about the Office of
4 Professional Responsibility out of Washington, D.C.
5 Q. What, if anything, did we do regarding that agency?
6 A. I don't recall specifically, but I know the
7 information was given to the Office of Professional
8 Responsibility in Washington, D.C., by either yourself or
9 James Kerchum, that I can recall. The exact document or
10 the specifics of it, I can't recall.
11 Q. To the best of your knowledge, did the Office of
12 Professional Responsibility come out to investigate the
13 matter?
14 A. Yes. I was there -- Jim Kerchum advised me that the
15 Office of Professional Responsibility agents for the FBI
16 were coming over to his house, and he wanted to talk to me
17 about what disposition would be after that meeting. So --
18 Q. Stop there. Did you go to Mr. Kerchum's house?
19 A. Yes, after that, but I wasn't going there for the
20 meeting that they were going to have.
21 What I did was, Jim Kerchum was hurting for money at
22 the time, and he wanted something for his children, along
23 with his sister, and it was three constitutional books,
24 Constitution of the United States books that were in your
25 office, and you have a lot of them, signed by you

1 personally. And that was going to be a gift to his
2 children.
3 So I had them with me. I went home after working out
4 of your office, I ate something, and I left for Newton
5 Township, where Jim Kerchum lives.
6 When I pulled up there there was a car at the end of
7 the driveway with two men in it.
8 Q. Who were the men? Did you recognize the men in the
9 car?
10 A. Not at first. I later introduced myself.
11 I walked to the house. They were at the end of the
12 driveway, blocking the driveway. I parked alongside the
13 road. I went in the house, the back of the house, it's an
14 older farmhouse, and knocked on the door, and Jim Kerchum
15 opened it right away. And his sister was there, and there
16 were two gentlemen that were sitting at the table, and I
17 wasn't -- I was planning on leaving, but I says, no, I'm
18 not going to make another trip. It takes a half hour to
19 get there.
20 I gave the sister the three congressional
21 constitutional books, and then I said, "Excuse me, I'm
22 leaving." Jim Kerchum wanted me to stay. He introduced me
23 to the two agents that were there, and he said they were
24 from the OPR.
25 Q. Did you meet the agents?

1 A. Yes, I did.
2 Q. Do you recall their names?
3 A. I believe it was Warner.
4 Q. Warner?
5 A. Warner, I believe.
6 Q. Was one of them.
7 A. And Thompson? I believe Warner and Thompson.
8 Q. Did they identify themselves?
9 A. Yes. They said they were with the Office of
10 Professional Responsibility. They were sitting at the
11 kitchen table. I apologized for interfering in their
12 meeting. I was ready to leave. Mr. Kerchum said, "Please
13 stay. Please stay. Give us ten minutes."
14 Q. What, if anything, did you do when he asked you to
15 please stay?
16 A. I stayed, and Jim Kerchum wanted me to tell the two
17 OPR agents how difficult it was to report a crime to the
18 FBI in the Youngstown office.
19 Q. Now, at some point did you leave Mr. Kerchum's home?
20 A. Yes.
21 Q. Did you leave before --
22 A. Well, during the course of time that I was in the
23 house, one of the gentlemen from the car that was parked by
24 the road in the driveway, blocking the driveway, walked up
25 to the house, and then left. But right after that, I was

1 informed by the agents that these local agents were there
2 to escort the guys from Washington, D.C. to Jim Kerchum's
3 house.
4 That got me a little upset. Why? I knew the OPR was
5 there to investigate the local office of the FBI. Why are
6 they being escorted by them? That troubled me. So I went
7 outside after I introduced myself to the two FBI agents.
8 One guy was I believe Mike, big man, three syllables. I
9 think his last name starts with a P. The other guy
10 was -- the other FBI agent who was driving the car was
11 Special Agent Harry Wilson.
12 Q. Do you --
13 A. Harry Smith -- Harry Wilson. Harry Smith.
14 Q. Harry Wilson?
15 A. Either one of those two, very simple name.
16 Q. Were they -- do you know if they were affiliated with
17 the Youngstown FBI office?
18 A. Yes, because Harry, who was driving the car, he first
19 said -- I introduced myself. I said, "I'm with Congressman
20 Traficant's office. If we have one thing in common," I
21 said, "we work for the same government."
22 Q. What, if anything, did they say to that?
23 A. Nothing. It was an embarrassing moment for them, I
24 believe, by their expression, by their demeanor.
25 Q. Because?

1 A. And I went around, and I asked -- I said, "What is
2 your name?" The big man, Mike, he got out of the car real
3 quick. He shook my hand. He almost swallowed it up. He
4 was big.
5 I went around to the guy who was driving it, and the
6 guy said, "I'm Harry." I said, "No last name, Harry?" And
7 I believe that's when he said, "Wilson, and I've been
8 around forever."
9 Q. Did you ask them what office they were located in?
10 A. No, I didn't.
11 Q. Did they show you their badges?
12 A. No. They left. Upon that moment, when I was walking
13 to my car, they left, and they were traveling south real
14 slow, but I could see their heads. One was turning around,
15 watching what I was doing, and I left.
16 Q. Now, when you walked past them to go in, did you say
17 hello to the people in the car?
18 A. No. I just waved.
19 Q. Did they wave at you?
20 A. I don't recall them waving, no.
21 Q. Did you know who they were?
22 A. You know, when somebody parks at the end of a
23 driveway, you have some suspicion that they're Fed.
24 Q. Did you at some point --
25 A. And I can't blame them. It's a risky business

1 they're in. I can't blame them for doing that. I don't
2 want to sound vindictive.
3 Q. The FBI does have a difficult job, don't they?
4 A. Yes, they do.
5 Q. And did you report that to me?
6 A. Yes, I did.
7 Q. And did we conduct at that point an investigation?
8 A. I wrote an affidavit on it, and I submitted it to
9 you. I contacted Jim Kerchum again, and I wanted to ask
10 one question that was troubling me: Was the OPR there for
11 damage control for the FBI or were they there for searching
12 out the truth to see if there was any wrongdoing,
13 especially when we're talking about an FBI agent asking a
14 person to kill a police officer, no matter what the reason
15 is.
16 Q. And what was your impression as to the results of
17 that question?
18 A. A combination of facts. I was led to believe after
19 talking with Kerchum that they had more questions about you
20 than they had about the situation at hand and the possible
21 wrongdoings of an FBI agent.
22 I was led to believe after putting all the factors
23 together that's what it's about, that they were there for
24 damage control, and not looking to correct the wrong.
25 Q. And they were asking questions about Jim Traficant?

1 A. I was only led to believe because of my conversation
2 with James Kerchum.
3 Q. Do you know what -- do you have anybody in your
4 family that's currently in jail, Mr. Hudach?
5 A. Yes, I do.
6 Q. And who is it?
7 A. It is my son, who is presently 26 years old.
8 Q. And where is he now?
9 A. He is in protective custody within the state of Ohio.
10 Q. Do you know what he was charged with?
11 A. He was charged with conspiracy, murder, five
12 different counts. They reduced it to three.
13 Q. And have you sought help from any and all
14 authorities?
15 A. I always report to the proper authority because not
16 to do so would be wrong. I did report that I was being
17 extorted by the bag man of the judge, to the proper
18 authority, the FBI; and that I'm not a bleeding heart
19 father, boys, I've got three other families that were
20 extorted by a bag man of the judge, bag men of the judge.
21 Q. Did the FBI look into that matter for you?
22 A. Sadly, no. I gave the information as to causation,
23 chronological order, and they were all the family members
24 that were extorted by the bag men of this judge. I gave it
25 to Anthony Speranza, ten minutes after 10:00 one morning.

1 He called my house. At about ten minutes to 12:00, the
2 same day, my sister took the message and said to call
3 Anthony Speranza at the FBI.
4 I called back about ten minutes to 1:00. He
5 said you put a lot of work into this, but we can't use this
6 information at this juncture. I was perplexed. I had
7 known previously by my investigation that Anthony Speranza
8 was a personal friend of the prosecutor, Dennis Watkins.
9 Q. He prosecuted your son?
10 A. Yes, in addition to the three others that are now out
11 of prison because of my help.
12 Favorable evidence to the defense was not given,
13 witnesses were intimidated, exculpatory evidence was hidden
14 in some manners.
15 Q. Were those three released while you were a member of
16 my staff?
17 A. Yes, they were.
18 Q. Did we ensue an investigation and attempt to try and
19 bring the sources of the federal government into the
20 picture?
21 A. Congressman, the information went through the local
22 FBI, the FBI in Cleveland, and is now sitting on Director
23 Robert Mueller's desk, and he's the director of the FBI in
24 Washington, D.C.
25 It's also sitting on the desk of the Organized Crime

1 Investigation Commission of the state of Ohio. The
2 director of that is Mr. William McHendrick.
3 Q. Has the obsession with your son's incarceration
4 brought you to become what you are today?
5 A. Repeat the question, Congressman.
6 Q. Is the obsession with the experience of your son and
7 what he endured, is that what has brought you to your
8 situation today?
9 A. Yes, of course. Yes. No one actually jumps in and
10 says, look, I'm going to investigate the FBI. I mean, get
11 a life. Who does that?
12 It's when you get involved because of causation, you
13 smell something wrong here, when you start reporting and
14 you see poker faces.
15 Q. Now --
16 A. And it keeps on going, Congressman. It just keeps on
17 going, and then you see more and more wrongdoing, more and
18 more suspicion. It drives you deeper and deeper until
19 you're investigating in places that I shouldn't even be
20 here talking to, and these boys are tougher than what you
21 think to find out. And my goal is to find out how many
22 judges who are on the payroll of La Costa Nostra.
23 Q. Was it your impression that the local FBI and the
24 representatives from Washington were more concerned about
25 me than they were the concerns of James Kerchum?

1 A. Factoring everything in as of today, I couldn't get
2 the FBI to concentrate on wrongdoing with regards to what
3 happened to me and three others families. So I don't
4 choose their work for them; somebody else does. So I can
5 only be led to believe they have their cards; well, now I
6 have mine. We'll put everybody on jump street. There's
7 not going to be misprision. I'll take people into a
8 Federal Court, but they're going to do their job completely
9 because I have --
10 Q. My question was: Was it your impression that the
11 agents from Youngstown and the visitors from Washington
12 were more concerned with questions about me, Jim Traficant,
13 than they were for the reason they were brought in, to
14 investigate Kerchum's allegations?
15 A. I'm led to believe, yes, that you were the most
16 important part. You were number one priority. I'm led to
17 believe that, yes. More than Kerchum. More than me.
18 Q. Did you find yourself having difficulty being on my
19 staff, starting to get investigation material from
20 witnesses?
21 A. You're a pretty popular guy across the United States.
22 I couldn't keep up with all the mail that was coming in.
23 It came in at the rate of a quarter an inch to a foot high
24 a day.
25 Q. How many --

1 A. I couldn't even read that much.
2 Q. How many affidavits did you take from around the
3 country?
4 A. From Florida, Louisiana, a lot locally within your
5 district, Canton. Totally, I believe I submitted somewhere
6 between 33 and 35 affidavits for the Congressional Record,
7 and some of the people were in fear for their life, and
8 they told me things that could get them harmed. So when
9 they told me the information, I had the affidavit from
10 them, but to protect their interests and their lives or
11 their families' lives, I wrote that affidavit that I had
12 this affidavit, and I don't think it would bother me doing
13 that. Risky. You're doggone right, it's risky.
14 I wouldn't advocate a 40-year old person with three
15 kids and a mortgage to do what I was doing. My children
16 are raised. I've got some things to do yet, but I wouldn't
17 advocate them doing what I was doing.
18 Q. Are you a private investigator now?
19 A. Yes. My partner is in Harrisburg, Pennsylvania.
20 That's where he presently resides.
21 Q. Are you familiar with any animosity directed towards
22 me by the local FBI?
23 A. They don't exactly like me, Congressman. I have
24 no -- it's not personal with me that I'm saying I hate you
25 or I hate you or I hate you. Everybody has a boss. When I

1 look at even Anthony Speranza or these fellas here,
2 everybody has a boss.
3 I represent the truth. I want to go for the truth.
4 And if you have animosity towards me because I seek the
5 truth and present the truth in open court, that's their
6 headache.
7 Q. Did you detect an animosity towards me? Was it your
8 impression there was an animosity towards me by the local
9 FBI?
10 A. Yes. I was -- in my conversations with different
11 people --
12 THE COURT: No. We can't -- this is all very
13 interesting, but leading him is one thing; another thing
14 now is having him try to talk about what other people said
15 to him.
16 Q. Did we investigate the matter of Debbie Campbell?
17 A. Yes, we did.
18 Q. Did we meet with her?
19 MR. MORFORD: Your Honor, I'm going to object
20 at this point. None of this has been relevant, but now
21 he's getting into something the Court has already rejected
22 completely in its prior orders.
23 THE COURT: Congressman, we've been over this
24 and over this. Do you have any other questions to ask this
25 witness that don't go against things we've already ordered

1 can't be brought up in this case?
2 Q. As a private investigator, do you believe that motive
3 is key to any defense?
4 MR. MORFORD: Objection as to his legal
5 conclusions. We've got a jury waiting, Your Honor.
6 THE COURT: I instruct the jury on what the
7 elements of offenses are, and it really isn't possible for
8 him to give information to the jury about what kind of
9 question --
10 MR. TRAFICANT: There's no jury here.
11 THE COURT: No, no, but it's a complete waste
12 of time for you to ask him questions --
13 MR. TRAFICANT: I don't think it's a waste of
14 time. This is a man, private investigator, with many years
15 of experience.
16 THE COURT: Congressman, move on to another
17 question, please.
18 Q. Do you believe that a defendant should be able to
19 establish the parameters that surround his case?
20 MR. MORFORD: Objection.
21 THE COURT: Sustained. The law speaks to all
22 of those issues, Congressman, as you know.
23 Q. Is this the first time you testified under oath
24 without a jury present?
25 MR. MORFORD: Objection. Relevance.

1 THE COURT: Sustained.
2 Q. Do you believe the local FBI and the Cleveland FBI
3 were owned by the mob?
4 A. Yes.
5 MR. TRAFICANT: No further questions.
6 THE COURT: Thank you.
7 MR. MORFORD: Your Honor, I ask that this
8 testimony be ruled inadmissible on the grounds of
9 relevance, speculation, hearsay, and the Court's prior
10 orders.
11 THE COURT: And we will so rule, Congressman.
12 MR. TRAFICANT: I expected that.
13 THE COURT: Well, then you wasted everybody's
14 time if you understood all of that.
15 MR. TRAFICANT: No. I want to put on the
16 record that this man is fighting for his son's life.
17 THE COURT: Well, there are a lot of
18 interesting things here.
19 MR. TRAFICANT: And he's been viewed by the
20 FBI --
21 THE COURT: But it's not part of this case,
22 and that's what's important. Thank you, sir.
23 THE WITNESS: Thank you.
24 (Witness excused.)
25 MR. TRAFICANT: Your Honor, I'd like to take

a break and find out what, if anything, I have back there at this point.

THE COURT: Do you have Linda Kovachik here?

MR. TRAFICANT: Yes, I do.

THE COURT: Can we go forward on the photographs?

MR. MORFORD: We don't know what the photographs are.

THE COURT: No, I know. Would you just show the government what it is that you're bringing her in again for?

MR. TRAFICANT: Why don't I bring her in and let her bring it in. We don't have the jury here. Are we going to do it without the jury?

THE COURT: I was going to bring the jury in.

MR. TRAFICANT: Then why don't you bring the jury in?

THE COURT: Because you already had this witness on the stand, and in order to call her back, you indicated that there's something new. Therefore.

MR. TRAFICANT: I had her make an enlargement of a photograph that was identified by Mr. Kidwell.

MR. MORFORD: We can stipulate to that if it's --

MR. TRAFICANT: No. I don't want it

1 stipulated to. I want to bring the witness in here.
2 THE COURT: Did she make the enlargement
3 herself?
4 MR. TRAFICANT: Yes.
5 THE COURT: Is she a photographer, sir?
6 MR. TRAFICANT: She went and had it done.
7 THE COURT: Well, then, you don't need her if
8 they'll stipulate to bringing it in.
9 MR. TRAFICANT: What you're doing is you're
10 not allowing me to present witnesses.
11 THE COURT: You had plenty of time when you
12 had her here.
13 MR. TRAFICANT: No. There's a reason why she
14 was asked to do that. And I did that last night for a
15 particular reason. And I want the opportunity to bring
16 that witness before a jury. What the hell is going on
17 here?
18 THE COURT: Well, you've had this witness
19 before this jury. You don't have the right to call people
20 back again and again unless something new has happened, and
21 going to a studio and having an enlargement made is not
22 something new -- good-bye, Congressman.
23 (Mr. Traficant left the courtroom; then reentered.)
24 THE COURT: Do you have the photographs here?
25 MR. TRAFICANT: I'm going to give them to my

1 witness.
2 MR. TRAFICANT: Let me get the door for you.
3 Are you going to bring in the jury or are we going to voir
4 dire her without one?
5 THE COURT: First, you're going to show the
6 photographs on the other side.
7 MR. TRAFICANT: This was one that was
8 identified, taken by Marchese, testified to by Kidwell.
9 MR. MORFORD: What else?
10 MR. TRAFICANT: That's it.
11 MR. MORFORD: We'll stipulate to the photos.
12 MR. TRAFICANT: I want her to testify
13 regarding this relative to the jury.
14 MR. MORFORD: We object on grounds of
15 relevance and the fact that she was called and tendered and
16 there's nothing new that this witness would add to the jury
17 that's in any way relevant.
18 MR. TRAFICANT: No. This identifies the
19 machine that the government can now, who has the burden of
20 proof, can deal with the welder that they charged me with.
21 THE COURT: Could I see the other picture?
22 MR. TRAFICANT: This is a smaller one. You
23 cannot identify the numbers which clearly indicate, and if
24 you don't let this witness in, you go find the damn welder.
25 THE COURT: Which numbers are you showing on

1 this? You mean the numbers on the side, the 250?
2 MR. TRAFICANT: Yes, that that can be
3 identified; also shows the condition of the machine, that
4 it can be so identified by the government, and they can do
5 what they want. They've charged me with particular
6 physical crimes, and I want to establish that, in fact --
7 THE COURT: Well, they have no difficulty
8 having that admitted, right?
9 MR. TRAFICANT: I have difficulty having it
10 admitted without a jury. I have difficulty when anything
11 is favorable to the defense being carried out without the
12 presence of the jury, but that which is favorable for the
13 prosecution has the full view of about 30 eyes.
14 THE COURT: Do you want the larger picture to
15 be marked so that it can be submitted to the jury or do you
16 not want it marked?
17 MR. TRAFICANT: Yes. I am going to mark it.
18 THE COURT: Okay. Well, give it a number.
19 We'll tell the court reporter.
20 MR. TRAFICANT: Does anybody have an
21 indelible pen? Would any of you government bureaucrats
22 have something that can write indelibly? Thank you.
23 The original was Defense Exhibit 0-0101, so this
24 shall be known as Defense Exhibit dash 0101 parentheses A.
25 THE COURT: The original was C-7.

1 MR. TRAFICANT: There were a bunch of them.
2 This one here shows the sides of it. It's 0101 parentheses
3 A.
4 Do you have of copy of it, sir?
5 MR. MORFORD: Not of this thing you just
6 marked.
7 MR. TRAFICANT: You do now.
8 MR. MORFORD: Thank you.
9 MR. TRAFICANT: If you want to excuse the
10 witness, it's up to you.
11 THE COURT: Yes, it is up to me, but I want
12 to see what it is you have.
13 You're giving me this?
14 MR. TRAFICANT: Do you want a copy of it?
15 THE COURT: I saw it.
16 MR. TRAFICANT: Do you want to put it into
17 evidence?
18 THE COURT: You're the one that puts things
19 into evidence when the time comes.
20 MR. TRAFICANT: Fine. I have no further
21 questions of this witness unless there's a jury here.
22 THE COURT: Okay. Well, you don't need this
23 witness apparently because you don't need it to put this
24 into evidence, and so we'll dismiss you although you were
25 never really brought here. You were never sworn. So the

1 witness was never sworn, but you understand now, and now we
2 still have time and we still have the jurors waiting.
3 So if you have Mr. Johnson or Mr. Terlecky or
4 Mr. Squire here, this would be a good time to bring them
5 in.
6 MR. TRAFICANT: Ernestine, would you please
7 get Mr. Squire? Are we going to voir dire this witness,
8 Your Honor?
9 THE COURT: I don't believe so. We'll have
10 to wait and see. He's never been called before.
11 MR. MORFORD: I would ask that Congressman
12 Traficant be reminded that he cannot get into with
13 Mr. Squire Mr. Squire's theories about government vendetta
14 and that type of thing.
15 THE COURT: Let's just wait and see what
16 Mr. Squire has to say.
17 MR. TRAFICANT: This man is objecting before
18 a witness appears.
19 MR. SMITH: With good grounds.
20 MR. SQUIRE: Good morning, Your Honor.
21 THE COURT: Why don't you have a seat and
22 we'll bring the jury in.
23 MR. SQUIRE: Thank you, Your Honor.
24 THE COURT: You're in a familiar place.
25 MR. SQUIRE: Yes, ma'am.

(Jury in at 11:10 a.m.)

(The Witness is Sworn)

THE COURT: I know your voice is big. Make sure everyone can hear you in the back. There's a mike if you need it.

THE WITNESS: All right, Judge.

DIRECT EXAMINATION OF PERCY SQUIRE

BY MR. TRAFICANT:

Q. Good morning, Percy.

A. Good morning, Congressman.

Q. Did you stay overnight or drive up from Columbus?

A. I drove up this morning.

Q. Would you give your full name and spell your last name for the jury?

A. My name is Percy Squire, S Q U I R E.

Q. And what is your occupation?

A. I am an attorney.

Q. And how long have you practiced law?

A. I was admitted to practice in 1981. I began to formally practice law following my discharge from the active military in 1982.

Q. Could you give us your educational background?

A. I graduated in 1968 from Youngstown East High School. I graduated in 1972 from the United States Military Academy at West Point. I completed law school from the Ohio State

1 University College of Law in 1981.
2 Q. And where do you currently reside?
3 A. I live with my family in Columbus, Ohio.
4 Q. Do you have other business pursuits?
5 A. Yes, sir, I do.
6 Q. Are you still active in the representation of
7 clients?
8 A. Yes, sir, I am.
9 Q. Are you familiar with a Greg Tyson?
10 A. Yes. Mr. Tyson on occasion has been a client of
11 mine.
12 Q. And in what regard did you represent Mr. Tyson?
13 A. I've handled three or four matters for Mr. Tyson.
14 The one that was the most involved concerned an action
15 filed against him in the 1995-1996 time frame in Trumbull
16 County Court of Common Pleas by a company in which the
17 principals were Anthony and Robert, and I believe a Daniel,
18 Bucci. They filed an eviction action against Mr. Tyson
19 concerning an alleged failure to pay rent at a concrete
20 plant located on North River Road in Trumbull County in
21 Warren.
22 Q. Did you represent him in that matter?
23 A. Yes, I did.
24 Q. And what was the resolution of that matter?
25 A. The case was a very convoluted situation because of

1 the way the deal was structured. Mr. Tyson had a company
2 in Youngstown called Big G Construction. He was approached
3 by the Buccis concerning expanding his business into the
4 area of manufacturing concrete, and so forth, in order to
5 qualify for different types of contracts. They set up a
6 corporation in which Mr. Tyson had a majority interest, and
7 there was another individual who was a minority shareholder
8 along with the Bucci brothers.
9 They put together financing so that Mr. Tyson could
10 purchase trucks. He had no previous experience in the
11 concrete business, although he had extensive experience and
12 had done quite well as a general contractor.
13 There came a point in time, however, where there was
14 acrimony between the parties because Mr. Tyson was behind
15 on rent payments.
16 Well, when I got into the deal and looked at it, it
17 was a very unusual deal, because Mr. Tyson was renting from
18 his partners, in effect, in a corporation, and the
19 corporation had been unsuccessful in landing any contracts.
20 The notion had been that by forming this company, the
21 company would be able to compete for minority set-aside
22 contracts. However, Mr. Tyson was saddled with all the
23 liability. He was paying very exorbitant rent to his
24 partners, and there was no equity put into the company by
25 his partners. In effect, Mr. Tyson's funds were drained.

1 And then when he became unable to pay the
2 rent, then his partners, in effect, foreclosed on him. His
3 financial difficulty really stemmed from a lack of
4 financing individually through his other company, Big G.
5 What we did at the time, because of the problems that
6 Mr. Tyson had encountered and because I advised Mr. Tyson
7 that I thought it was inappropriate for his partners in a
8 company to sue him under these circumstances, because they
9 all had a fiduciary duty to the corporation, and the Buccis
10 in effect were taking all the benefits from the deal and
11 they weren't putting anything in and were basically just
12 draining Mr. Tyson, we filed a third-party complaint in the
13 case and brought in the United States, because Mr. Tyson's
14 problems stemmed from the failure of the government to pay
15 him a loan, a 108 loan that he had qualified for, because
16 the federal government didn't want to release the money to
17 the city of Youngstown.
18 They didn't have a problem with Mr. Tyson,
19 but they wouldn't deliver the money to the city of
20 Youngstown because of problems they had in their loan
21 program.
22 So we were filing a detrimental reliance claim
23 against the government. We brought in the third-party
24 claim. The government then removed the case to U.S.
25 District Court, and ironically, as soon as the case hit the

1 U.S. District Court, the Buccis wanted to settle. And Mr.
2 Tyson ended up settling with them for payment of a
3 minuscule amount, much, much below what they claimed he had
4 owed them.
5 And my own opinion is that they didn't want
6 to litigate in Federal Court.
7 Q. Do you know whom, if anybody, helped Mr. Tyson on the
8 108 loan in Washington?
9 A. Yeah. The 108 loan -- and 108 refers to a particular
10 provision of the federal statutes, and I am at a loss now
11 to tell you the precise citation. But the 108 loan program
12 was designed to benefit companies such as Mr. Tyson's, and
13 you and your office were extremely instrumental in Mr.
14 Tyson obtaining this loan. It was of particular note that
15 he was able to qualify for the loan because he was the only
16 minority entrepreneur that I'm aware of in the Mahoning
17 Valley who was able to qualify for funding of this nature,
18 and he was employing people, like I said.
19 He's a native of the area. He was doing
20 quite well, I believe, until he got mixed up in this
21 concrete plant over there in Warren, and he was the victim
22 of circumstances, and the funding had been acquired through
23 the government. The government made a commitment to lend
24 him the money. Then the government had issues because of
25 problems with the administration of various federal

1 programs by the city of Youngstown.

2 So the government didn't want to release any money to

3 Youngstown, but Tyson had relied upon the commitment --

4 they had issued a commitment letter to him and entering

5 into these other deals and so forth, so he was in a classic

6 Catch-22. He had an approved loan that wouldn't be funded

7 because there was a problem with the intermediary source,

8 which was the city of Youngstown.

9 Q. So the city of Youngstown and their failure to

10 implement their programs properly became the subject of a

11 federal inquiry, is that correct?

12 A. Yes, sir, that is correct.

13 Q. And that impacted upon the timeliness that forced, in

14 fact, Mr. Tyson to not receive the moneys that was

15 guaranteed through the 108 program?

16 A. He had a commitment from the federal government in

17 writing stating that he had been awarded the money, but the

18 government doesn't disburse the money directly to the

19 borrower. It goes through an agency that the city set up,

20 and there had been problems. There were a number of

21 prosecutions, and so forth, connected with Youngstown's

22 administration of this program, and as a result, the

23 federal government would not release the funds.

24 So Greg Tyson was left in a classic Catch-22, and,

25 frankly, his company went bankrupt while he was awaiting

1 these funds.
2 Q. Do you know if Greg Tyson is my personal friend?
3 A. I don't have personal knowledge of your relationship
4 with Mr. Tyson. I do know, however, that he credits you
5 with having been instrumental in his ability to get an
6 approval from the Department of Housing and Urban
7 Development, which is the sponsor, as I understand it, of
8 the 108 loan program.
9 Q. Were the Buccis reliable?
10 A. I had no contact with the Buccis prior to the lawsuit
11 involving Capital Ready Mix. In the course of events,
12 dealing with that case, I became quite perplexed at what
13 appeared to me -- and this is what we alleged in our
14 counterclaim and third-party claim -- that they really had
15 attempted to exploit Mr. Tyson because they wanted to set
16 him up. They wanted him to basically be a front so that
17 they could qualify for minority set-aside contracts, which
18 I personally found very offensive.
19 We alleged that in our counterclaim. We
20 alleged they breached fiduciary duties to his company, and
21 as I indicated, removed the case to Federal Court. And in
22 the course of my dealings with them, I had the impression
23 that they were not trustworthy.
24 Q. Is Mr. Tyson the kind of man that would be pushed
25 around?

1 A. Mr. Tyson is quite a character, but he is a, I think,
2 a very good-hearted person. As I indicated, he was doing
3 quite well in his construction business. He was involved
4 in a number of jobs in the Mahoning Valley, the Trumbull
5 Correctional Institute, the private prison in Youngstown.
6 There were just a number of jobs in town that he handled
7 general construction tasks on.
8 And he had been doing quite well until he
9 became involved in this spin-off in order to, you know, set
10 up this construction business.
11 So he's a take-charge-type of person. He ran his own
12 company. He was not consciously, in my opinion,
13 establishing or agreeing to act as a front for anyone, but
14 it was clear to me once we got in and we examined the deal,
15 and looked at how it was set up and looked at the fine
16 print, that that is what the intention of his partners was,
17 was just to exploit him.
18 Q. Is that when Mr. Tyson fell out?
19 A. Well, he really -- I guess the last straw was when
20 they sued him. He had a five-year lease on real estate at
21 425 North River Road where the concrete batch plant was
22 located, and he had paid some 40 or -- 40 months or
23 something like that while he was awaiting for this other
24 funding from the government. They never qualified for any
25 jobs. They never got a concrete job that I'm aware of.

1 And once his money was exhausted, then they
2 turned around and sued him, which as I indicated, I thought
3 that was a breach of fiduciary duty to the corporation.
4 Q. Are you familiar with the Bank One loan?
5 A. Yes. What happened, as time went on and the 108
6 funding was delayed, there were efforts made to obtain what
7 amounted to a bridge loan for Mr. Tyson. And because he
8 had a commitment letter from the federal government, he
9 approached Bank One and attempted to obtain a bridge loan
10 against the eventual proceeds that he expected to come
11 through the 108 loan.
12 Initially, he was not successful, and again, you
13 became involved, and they structured a deal in such a way
14 that based upon the commitment from the federal government,
15 Bank One made a bridge loan, but the city of Youngstown
16 guaranteed the loan.
17 Q. Did the city of Youngstown fulfill its commitment of
18 its guarantee?
19 A. Once the litigation started between the principals in
20 Capital Ready Mix, that is, Mr. Tyson and the Buccis,
21 everyone was brought into the lawsuit. Bank One was at
22 risk because the delay in funding the 108 was creating
23 problems with them getting their loan repaid.
24 What eventually happened was, Bank One abandoned its
25 collateral to the Buccis for some ridiculously low amount,

1 candidly, and then the city refused to honor its guarantee.
2 The bank was fully secured, but for reasons of prudence or
3 relationships, or I don't know why, they did not enforce
4 the guarantee against the city, and so the bank just
5 absorbed the loan.
6 But the city was really liable to pay that loan off
7 and never did.
8 Q. Was it unusual for a black man to get a loan in the
9 city of Youngstown?
10 A. You know, my impression -- and I'm a native of
11 Youngstown and am involved in businesses in addition to the
12 law practice of my own, and I can tell you from personal
13 experience I have partners, and we established the first
14 urban-oriented formatted radio station in the Mahoning
15 Valley back in 1993, and all of our funding has come from
16 sources outside Mahoning County with the exception of some
17 very small personal loans.
18 But the majority of the capital, and it's
19 been necessary to raise considerable amounts of money, has
20 come from sources outside of the Mahoning Valley, banks and
21 so forth that have worked with us. And I'm sad to say that
22 we've received virtually no support in Youngstown, and I
23 think that experience is common to minority entrepreneurs
24 in the Mahoning Valley.
25 Q. As a native of Youngstown, were you involved in

1 Youngstown activities?
2 A. Yes, sir, I've been involved in Youngstown activities
3 quite extensively. I maintain a residence in Youngstown.
4 Q. Did I ever ask your assistance to participate in any
5 specific activities?
6 A. Over the years, I have worked with you on a number of
7 initiatives. I could sit here and list them one by one,
8 but I've worked with you on the establishment of a Federal
9 Courthouse in the city of Youngstown.
10 Q. Did it occur?
11 A. It did occur. The courthouse project was something
12 that had been bantered around in the city for many, many
13 years. No one was ever able to bring the funding in.
14 Sometime in the late '80s, you prevailed upon one of the
15 subcommittee chairmen in Congress at that time, a
16 Congressman Roybal from California --
17 MR. MORFORD: Your Honor, I'm going to object
18 unless he has firsthand knowledge of these things. I don't
19 know if he was actually involved in those conversations.
20 Q. Were you at the meeting?
21 THE WITNESS: I was there, Judge.
22 THE COURT: Okay.
23 A. I was at a meeting. I was at a meeting held at the
24 Colonial House on Market Street in Youngstown in 1986, as
25 the representative of the Chief Judge of the Northern

1 District of Ohio, who add made a commitment to take
2 Youngstown as his place of assignment if the congressman
3 was successful in obtaining an appropriation to construct
4 the Federal Courthouse.
5 So I went to the meeting. Congressman Roybal came
6 there from California. We toured the city, talked about
7 what could be done, and based upon what Congressman Roybal
8 described as Mr. Traficant's tenacity and persistence, they
9 committed to build that courthouse in Youngstown, and the
10 courthouse is now there at 125 Market Street.
11 But it was constructed there as a sole result
12 of the tenacity and persistence of Congressman Traficant.
13 Q. Who was the Federal Chief Judge at the time that
14 appointed you to assist in that process and be at that
15 meeting?
16 A. It was Thomas D. Lambros, from Ashtabula.
17 Q. What is the name of that Federal Building now located
18 at 125 Market Street?
19 A. As a result of the bill that you introduced, the
20 courthouse is now called the Lambros Courthouse, in
21 recognition of Judge Lambros's accomplishments as a jurist
22 and his involvement in having the courthouse project
23 funded.
24 Q. Are you --
25 A. I also was involved with you in 1986, myself and a

former member of your staff who is now a judge in Youngstown, Robert Douglas, filed a lawsuit challenging the configuration of state legislative lines in the city of Youngstown, and we held our initial strategy sessions and put together our plan for that action in your offices with your support and assistance, based upon your knowledge of events that led up to the lines that we were challenging.

And that lawsuit resulted in the establishment of what is now the 64th Ohio House District, and resulted in the election of the first African American in the Mahoning Valley as a state representative in modern times. There had been another, W. R. Stewart, back in 1904 or something like that, but in modern times -- and that was attributable in large measure to the Armour case.

Q. Other than Bob Douglas, now Honorable Bob Douglas, and myself and you, were there any other significant forces behind that movement?

A. Behind the Armour case?

Q. No. Behind this legislative remapping and making, creating an opportunity for a minority seat.

MR. MORFORD: Your Honor, I'm going to object just in terms of relevance to the issues in this case.

THE COURT: Thank you. Let's move on, Congressman.

Q. Did you at some particular point become involved in

1 the second Federal Building?
2 A. Not as directly --
3 MR. MORFORD: Again, Your Honor, none of this
4 is relating back to the charge in this case.
5 THE COURT: Thanks.
6 Q. Did you become involved in community activities of
7 which I sponsored relating to improvements of the
8 community?
9 MR. MORFORD: Again, same objection.
10 THE COURT: We have to deal with the charges
11 in this case. That's why we have witnesses on the stand.
12 MR. TRAFICANT: I'm moving towards that.
13 THE COURT: Okay.
14 Q. Do you recall a -- were you ever offered to be a part
15 of a group seeking to develop an economic development plan
16 for the city of -- in the valley?
17 A. You established a committee to develop a strategy for
18 the economic revitalization of the Mahoning Valley, and you
19 contacted me to serve as counsel for that committee. It
20 was in the late '90s.
21 Q. Do you recall any specific meeting relative to that
22 program?
23 A. Yes, I do.
24 Q. And what was that meeting and where was it?
25 A. We attended the kick-off session and press conference

1 for this committee, and there were a number of local
2 business, labor, and media, and community leaders. It was
3 a 12 to 15-person committee. And a meeting was held on a
4 Saturday morning on the campus of Youngstown University.
5 And you contacted me about being counsel for the committee.
6 I drove up to Youngstown that morning in
7 order to attend the session where you answered questions
8 for the press concerning the mission of the committee, and
9 so forth, and I drove up to attend the meeting as well as
10 discuss other matters with you that we were working on in
11 Youngstown.
12 Q. Do you know a man by the name of J.J. Cafaro?
13 A. Yes, sir, I do.
14 Q. And do you know what he does?
15 A. Well, I have an understanding, yes.
16 Q. Do you know if I left that meeting with J.J. Cafaro?
17 A. To my knowledge, you did not.
18 Q. And why do you say that?
19 A. When I arrived at the meeting because I was traveling
20 from out of town, there were a number of people already
21 there. As soon as I got to the meeting, you pulled me
22 over, we went into a side room, and we talked about what
23 you intended to accomplish at the press conference.
24 I had indicated to you that I understood what the
25 purpose of the committee was, but there were other matters

1 that were going on in town that while I was in town I
2 wanted to discuss with you, particular matters affecting
3 various projects that I was working on. And you indicated
4 to me that you didn't have time to talk about it then, but
5 that we could get together afterwards, before you took off.
6 So after the press conference was held, as you were
7 walking out of the door, I walked with you. We talked over
8 the other projects that I had an interest in, and then you
9 departed the building.
10 Q. Do you know if I departed and talked with anybody
11 else?
12 A. I did not see you depart and talk to anyone else, and
13 I was at the meeting the entire time.
14 Q. Do you know if I left in a Cadillac?
15 A. I did not see you leave in a Cadillac.
16 Q. And that was quite a lengthy meeting, wasn't it?
17 A. The meeting lasted, oh, I'd say 60 to 90 minutes or
18 so. It was -- there was a lot of discussion about what the
19 committee was going to do, how it would be accomplished,
20 and so forth. The room was packed with people. It was,
21 you know, there was a lot of interest in what was going on.
22 Q. Have we worked together on many projects in the city
23 of Youngstown?
24 A. We've worked on a number of projects.
25 Q. In closing my direct, what was the last most

1 significant one we were walking on?
2 A. The last project, it would be a toss-up in terms of
3 what occurred chronologically between the additional
4 courthouse that's going up that's going to be named in
5 honor of Judge Jones, and the baseball stadium where the
6 Mahoning Valley Scrappers now play.
7 At your request, I was engaged by the owner
8 of that baseball team to assist in trying to put together
9 the package to construct that station -- I mean that
10 stadium up in Niles.
11 Q. Is the courthouse being built?
12 A. Yes, it is.
13 Q. Is it going to carry a name?
14 MR. MORFORD: Objection, again as to
15 relevance to that, Your Honor.
16 THE COURT: He can answer. You can answer.
17 You said Jones.
18 THE WITNESS: Yes, Your Honor.
19 THE COURT: Nathaniel Jones.
20 A. Judge Jones is a native of Youngstown. He is a
21 native of Youngstown, Ohio. He is an African American,
22 former general counsel to the NAACP, and the congressman
23 has again introduced legislation to name the new Federal
24 Courthouse after him.
25 Q. Is there a semi-pro baseball team now?

1 A. Yes. The Youngstown Scrappers, sir, now in Mahoning
2 Valley.
3 MR. TRAFICANT: No further questions at this
4 time.
5 THE COURT: Thank you.
6 CROSS-EXAMINATION OF PERCY SQUIRE
7 BY MR. MORFORD:
8 Q. Good morning, sir.
9 A. Good morning.
10 Q. We've never met or talked, have we?
11 A. No, sir, we have not.
12 Q. This meeting that took place at YSU, approximately
13 how long ago was that?
14 A. Sir, that was roughly four years ago.
15 Q. And as I understand your testimony, there were a lot
16 of people there; is that correct?
17 A. Yes, there were.
18 Q. The press was there?
19 A. Yes.
20 Q. There were a lot of things going on in that place
21 that day; is that correct?
22 A. That is correct.
23 Q. And four years later you really don't remember
24 exactly who Congressman Traficant left with, do you?
25 A. When you say I don't remember who he left with, I'm

1 not testifying who he left with. My testimony is I did not
2 see him leave.
3 Q. You didn't see him leave at all?
4 A. No. I didn't see him leave at all until the meeting
5 was over. As soon as I came in, the Congressman pulled me
6 to the side. The committee was being seated at the table.
7 He pulled me into a coat closet and began to talk to me
8 about what he wanted to accomplish.
9 We then went into the press conference. I had things
10 I wanted to talk to him about, so I hung around the meeting
11 until he finished -- when he goes into a room, it is his
12 practice, and I've been to meetings with the Congressman a
13 number of times, early bird breakfasts for the Chamber of
14 Commerce and things like that, he is generally the last one
15 to leave, because he goes and he talks to the waiters, he
16 talks to the custodians, he talks to everybody in the room,
17 pats them on the back, puts his arm around them, you know,
18 gets feedback and interacts with them.
19 That was what I witnessed that day, and then as he
20 was leaving, I walked with him to discuss the projects I
21 wanted to talk to him about, and then he left the building.
22 Q. Right. My question is: As he left the building, you
23 don't know who he left with or you didn't actually see what
24 vehicle he got in, or anything, did you?
25 A. I was standing at the door when he left, and I

1 answered on direct that I did not see him leave in a
2 Cadillac.
3 Q. But you don't recall what he left in this four years
4 later, do you, sir?
5 A. I recall that it was not a Cadillac.
6 Q. But you don't recall -- you weren't -- that was not
7 something you were paying attention to at that time, was
8 it?
9 A. No.
10 Q. It wasn't something that was important to you four
11 years ago, was it?
12 A. No. The only thing that was important to me was
13 spending the time with him to discuss the things I wanted
14 to talk to him about.
15 Q. And also as a lawyer who practices business law,
16 there were a lot of important mover and shaker businessmen
17 and political heavyweights from the Mahoning Valley that
18 were there that day, correct?
19 A. Yes, sir.
20 Q. And isn't it true that during the time you were
21 there, you not only talked to Congressman Traficant, but
22 you worked the room and talked to other people there?
23 A. What I did was I sat myself at the table, and I
24 remained at the table until I saw him leaving, and then
25 when he got up, I walked with him so I could discuss the

1 things with him I wanted to talk about.
2 Q. But during that time, from the end of the meeting
3 until the time you actually went back to Youngstown, you're
4 not suggesting that you never talked to any of the people
5 in the room, are you?
6 A. Oh, no. I talked to people there.
7 Q. You went around and there were some big names of the
8 movers and shakers of Youngstown, right?
9 A. I didn't walk around the room. I stayed seated at
10 the table. And my point simply is, he was up moving around
11 the room. I stayed at the table until it was clear to me
12 he was about to exit, and then I got up and walked with him
13 down to the door.
14 Q. And my question to you is: You were not there
15 watching him and watching his every move the entire time,
16 were you?
17 A. No.
18 Q. That wasn't your job, to keep an eye on Congressman
19 Traficant to figure out who he talked to or who he walked
20 outside with, or anything else, right?
21 A. Well, I viewed my job that day as going to Youngstown
22 at his request and then talking to him while I was there,
23 because I drove there from Columbus, so I wanted to make
24 sure that I didn't let him get away. I wanted to make sure
25 that while I had his time and had his attention, that I was

1 able to discuss with him the things that I wanted to
2 discuss with him. So I was watching him in that
3 connection. I didn't want him to get away without having
4 an opportunity to talk to him.
5 Q. My question is: Four years later, though, you can't
6 say exactly who he left with or what vehicle he got into,
7 can you, sir?
8 A. I can say that I didn't see him leave and that I was
9 paying attention to his movements because I didn't want him
10 to get away without the opportunity to talk to him.
11 Q. No. But as he did leave, you didn't even see what
12 vehicle he got into, did you?
13 A. As I -- I saw what vehicle he got into.
14 Q. What was it?
15 A. It was not a Cadillac.
16 Q. What was it?
17 A. You know, my recollection is that he got into a
18 truck.
19 Q. Have you read any of the reports about this case and
20 the testimony in this case?
21 A. Yes.
22 Q. Did you read the testimony of Mr. Kidwell in the
23 papers?
24 A. Yes.
25 Q. So you read prior to today that Mr. Kidwell had

1 gotten into a truck and driven off?
2 A. Yes.
3 Q. That the Congressman -- he testified the Congressman
4 did so as well?
5 A. Yes.
6 Q. But on direct you didn't testify that you recalled
7 Congressman Traficant getting into that truck. How come?
8 A. He didn't ask me that.
9 Q. Did he ever ask you that before you testified here
10 today?
11 A. No.
12 Q. Did you talk to him about your testimony before you
13 testified here today?
14 A. Yes.
15 Q. And you didn't tell him, "Jim, I saw you get into
16 that truck, I can say that"?
17 A. No.
18 Q. Why?
19 A. He didn't ask me.
20 Q. Sir, you're a lawyer. You're trained in the law,
21 correct?
22 A. Yes.
23 Q. Wouldn't that be a very significant, substantial
24 point to make given what you read in the paper that
25 Mr. Kidwell had testified to?

1 A. Not in my mind.
2 Q. You've been a very strong supporter of the
3 Congressman over the years, correct?
4 A. Yes, I have.
5 Q. From what you've testified, you feel that he's
6 someone that has really been supportive of a lot of the
7 causes you believe in, correct?
8 A. He has been.
9 Q. And you're very loyal to the Congressman, correct?
10 A. I have reciprocated with I think the loyalty and the
11 fairness that he has shown to myself and other members of
12 the community whose interests I've had authority.
13 Q. When did you first discuss with Congressman Traficant
14 what you've testified to here today?
15 A. About 9:00 a.m. this morning, 9:15.
16 Q. When was the first time you told him that you could
17 testify about that meeting at YSU?
18 A. This morning.
19 Q. And that was after you'd read the report of
20 Mr. Kidwell?
21 A. Well, I read -- I have read every article that has
22 appeared in the Business Journal, The Plain Dealer, the
23 Tribune Chronicle. I've followed this case quite closely.
24 And when he asked me to testify as a character witness, it
25 was not clear to me that that would be the nature of

1 testimony that I could give in this case. And I said to
2 him that I believe I could testify to certain items that I
3 have firsthand knowledge of, and one of them was that I
4 attended that meeting at Youngstown University. The other
5 was that I represented Greg Tyson in the matters involving
6 the Buccis.
7 And so he asked me to come here as a character
8 witness, and it did not appear to me as a lawyer at this
9 stage of the proceeding that that would necessarily be the
10 appropriate type of testimony for me to give.
11 Q. When you -- did you read about J.J. Cafaro's
12 testimony that he had gotten in a car and gone around the
13 block with Congressman Traficant?
14 A. Yes, sir.
15 Q. And that was several weeks ago, correct?
16 A. Yes, sir.
17 Q. Probably five, six weeks ago. Why didn't you call
18 Congressman Traficant at that time and say, "Congressman, I
19 was there at that meeting, I can testify about that"?
20 A. Because I didn't feel compelled to do that.
21 Q. Well, you're somebody that is very supportive of the
22 Congressman, correct?
23 A. Correct.
24 Q. And you're somebody that's followed this case very
25 closely, correct?

1 A. That is correct.
2 Q. And isn't it true that you're hoping that the
3 Congressman will be acquitted in this case?
4 A. I'm hopeful that justice prevails, and that if there
5 is something that I can say truthfully to assist the jury
6 in making their determination, that that occurs. I view
7 this process as a quest for the truth. I think the
8 Congressman has been a fair-minded, loyal and just person
9 in his dealings with me and a lot of other people that I
10 know about. So I wish him no ill will.
11 However, I don't have firsthand knowledge of
12 everything that's been alleged, so I'm not going to try to
13 do the Judge's job or the jury's job. But I am going to
14 say what I know to be the case if I'm asked to do that.
15 Q. Let me ask you something else with regard to Mr.
16 Tyson. During -- when was it exactly that you first began
17 representing Mr. Tyson in these matters against the Buccis?
18 A. I relocated my residence to Youngstown in September
19 of 1995. I actually opened an office in Youngstown because
20 my law firm was setting up an office here in Cleveland, and
21 I was reassigned, so to speak, to Northeastern Ohio to
22 assist in the establishment of the Cleveland office.
23 While I was there, because I had relocated to
24 Youngstown, Mr. Tyson came to my office when he was sued by
25 the Buccis, and that was sometime during that '95 to '97

1 time period. My recollection, it was late 1995.
2 Q. So you began representing him in late 1995, and at
3 the time you got that referral from Congressman Traficant,
4 is that correct?
5 A. No.
6 Q. Did you ever get the referral of Mr. Tyson from
7 Congressman Traficant?
8 A. No. I've known Mr. Tyson for most of his life. We
9 grew up in Youngstown.
10 Q. So Congressman Traficant did not refer Mr. Tyson to
11 you?
12 A. No, he did not.
13 Q. Okay. When you began -- you're friendly with Mr.
14 Tyson, correct?
15 A. Oh, absolutely.
16 Q. And you're friendly with Congressman Traficant,
17 correct?
18 A. Yes, sir.
19 Q. And were you aware that Congressman Traficant was
20 very friendly with the Buccis?
21 A. No, I really wasn't. I didn't know his relationship
22 with them.
23 Q. Once you started representing Mr. Tyson in the matter
24 with the Buccis, isn't -- didn't Mr. Tyson tell you that
25 Congressman Traficant was tight with the Buccis?

1 A. No, he didn't tell me that.
2 Q. Did there ever come a time where you advised
3 Congressman Traficant about some of the things you were
4 learning about the Buccis and their treatment of Greg
5 Tyson?
6 A. I've never dealt with the Congressman on the
7 circumstances with the Buccis.
8 Q. Were you aware that at the same time you were suing
9 the Buccis or they were suing you and you were countersuing
10 them, that Congressman Traficant was going to bat for the
11 Buccis with the U.S. Department of Labor, the Ohio
12 Department of Transportation?
13 A. I am aware of the fact that Mr. Traficant had some
14 dealings with the Buccis from a phone call that I received
15 prior to undertaking the representation of Mr. Tyson. When
16 I -- prior to moving to Youngstown in 1995, I received a
17 phone call one morning from the Congressman. He indicated
18 that he was representing a company in Girard that had
19 problems with the Ohio Department of Taxation. I was not
20 familiar with this company.
21 The paving company had gone through all of the
22 administrative steps to obtain forgiveness of some state
23 tax liability. They were right at the final stage, and
24 things had not gone well for them.
25 He asked me if there was anyone in my law department,

1 in my law firm, in our tax department, who could be helpful
2 to this company. It turns out the company was one of the
3 many companies that the Buccis owned. I didn't know who
4 they were at that time.
5 I talked to the head of our tax department. We took
6 a look at it. We determined that it was too late in the
7 day, and we passed on the case, elected to not become
8 involved, because through all the stages the Buccis have
9 been represented by Baker & Hostetler. We got right to the
10 end of the line; they asked for our firm to get involved.
11 We decided to pass. So we just passed.
12 Well, then a year or two later, when I sued or
13 counterclaimed against the Buccis, one of the Buccis called
14 me and wanted to allege that I had a conflict of interest
15 because I had previously represented them at the behest of
16 Congressman Traficant. I told them that I disagreed with
17 that, I thought it was nonsense, and we continued to
18 prosecute it.
19 So it was only in that connection that I knew that
20 there was some relationship, but I didn't have any idea
21 about the extent of it.
22 And once I began to represent Mr. Tyson, I felt my
23 primary obligation was to him, not to the Congressman, not
24 to the Buccis or anybody else.
25 Q. Now, did you have anything to do with the referral of

1 Mr. Tyson to a lawyer by the name of Rinehart --
2 A. Yes, sir.
3 Q. -- when he was contacted?
4 A. Yes, I did.
5 Q. And isn't it true that you advised Mr. Rinehart that
6 in your opinion the entire investigation was political?
7 A. I am not -- I don't recall if I told him that. You
8 see, my recollection is when -- Mr. Tyson received
9 subpoenas on two different instances. He received --
10 Q. My question was quite simple. I hate to interrupt
11 you, but I just want to ask you: Isn't it true you told
12 Mr. Rinehart you believed this was a politically motivated
13 investigation?
14 A. Well, what I'm trying to get to, sir, is I'm not sure
15 which investigation you're referring to.
16 Q. The one on Congressman Traficant.
17 A. I was not aware that there was an investigation of
18 Congressman Traficant until Mr. Tyson got subpoenaed.
19 Q. And after Mr. Tyson got subpoenaed, isn't it true you
20 told his attorney that you believed that this was a
21 politically motivated investigation?
22 A. I told Mr. Rinehart that I thought that all of the
23 headlines that appeared in the Plain Dealer around the time
24 of the -- it must have been the 1998 or 1999 primary
25 election, were curious, and I thought that there was a

1 motivation other than pure law enforcement in the manner in
2 which the investigation was proceeding.
3 Q. Have you ever practiced criminal law yourself, sir?
4 A. Yes, sir, I have.
5 Q. And then you're aware that the grand jury witnesses
6 have a First Amendment right to go out and tell people what
7 they were asked before the grand jury, correct?
8 A. I've always been a little un -- because I practiced
9 for the Ohio Public Defender in state court, I've always
10 been a little bit unclear as to exactly what can be
11 divulged when a person talks to the grand jury and what
12 can't be.
13 Q. Have you ever read Rule 6(e)?
14 A. 16 of the Ohio or Federal Rules?
15 Q. 6(e).
16 A. I don't practice criminal law. That's the reason I
17 referred Mr. Tyson to Harry Rinehart. My familiarity with
18 Rule 16 would be general at best.
19 Q. Were you aware at the time you made that statement to
20 Mr. Rinehart that the first person to ever disclose that
21 Congressman Traficant was being investigated publicly was
22 Congressman Traficant in a press release?
23 A. I'm not saying I said that to Mr. Rinehart, so I
24 can't be aware of that.
25 Q. Were you -- when you had these suspicions, were you

1 aware of all the facts about the investigation?
2 A. No.
3 Q. Were you aware of the allegations that the government
4 was receiving?
5 A. I was not aware of the specifics of the investigation
6 until I read the indictment, which I took -- when it was
7 issued here, I obtained a copy of the indictment and looked
8 at it. And that's when I saw the names of the various
9 parties, it's alleged these things happened. But prior to
10 that, my only knowledge of the investigation was a product
11 of Tyson being subpoenaed.
12 Q. But immediately without knowing any of the facts of
13 the investigation, you jumped to the conclusion that this
14 must be for improper motives, correct?
15 A. Incorrect.
16 Q. You certainly had those suspicions, you said?
17 A. I had those suspicions, absolutely.
18 Q. And that's partly based on your loyalty and liking of
19 Congressman Traficant, correct?
20 A. No. It was based upon the press coverage and the
21 timing of the investigation in relation to the primary
22 election and the fact that these headlines appeared in
23 close proximity to the primary. And the reason I felt that
24 way is because I saw the same thing happen when Jessie
25 Jackson was a candidate for president, and Arnold Pinkney

1 was indicted.

2 The day of the primary there was a big headline in

3 the Plain Dealer about the Jackson campaign manager. And I

4 felt that this was calculated in part to affect the

5 electorate in how they exercised their vote on election

6 day.

7 Q. Despite the fact that Congressman Traficant had

8 issued a press release on January 30th two months before

9 the primary announcing that he was a target of a government

10 investigation, right?

11 A. Well, I don't understand the question.

12 Q. In other words, that was your suspicion despite the

13 fact that it was Congressman Traficant who brought this

14 investigation public on January 30th in a press release,

15 correct?

16 A. That is correct.

17 Q. Now, sir, you can't sit here today and say that

18 throughout that entire time of the meeting at YSU, from the

19 time the meeting ended until the time Congressman Traficant

20 left, that you can say conclusively there is no way

21 possible that Congressman Traficant could have ducked out

22 with J.J. Cafaro for two minutes, can you?

23 A. No, and I don't think that's been my testimony. My

24 testimony, sir, has been that I was there. I was there to

25 see him. I maintained what I believed to be an awareness

1 of his movements, and I did not see him leave with
2 Mr. Cafaro. That is my testimony.
3 Q. And four years after the fact on a point that was not
4 important at the time, it's your testimony that you can't
5 say conclusively that he could not have gone off and met
6 with?
7 MR. TRAFICANT: Objection, asked and
8 answered.
9 Q. J.J. Cafaro for a couple of minutes, correct?
10 A. My testimony --
11 Q. Yes or no.
12 THE COURT: Go ahead and answer.
13 Q. Just a yes or no on that one.
14 A. I'll answer the question, sir, with your permission.
15 My --
16 Q. I'm not asking the question -- if you could just
17 answer yes or no.
18 A. I think my understanding of the obligation of a
19 witness is to answer the question truthfully, not how he's
20 instructed by the prosecutor.
21 And my recollection is that I did not see him leave.
22 That's all I'm saying.
23 Q. And my question, again, is a very simple one. So
24 therefore, you can't say that he couldn't have gone off
25 with Mr. Cafaro for a couple minutes quickly, can you? Yes

1 or no.

2 A. I can't say that? I could say it. I don't know if

3 it would be true.

4 MR. MORFORD: Thank you.

5 THE COURT: Redirect?

6 MR. TRAFICANT: It's almost 12:00. Do you

7 want to continue or --

8 THE COURT: Well, I think we should break for

9 lunch. We'll see you at 1:30. Again, remember all your

10 admonitions.

11 Thank you very much.

12 THE CLERK: All rise for the jury.

13 (Jury out at 12:00 noon.)

14 (Whereupon, at 12:00 noon, the luncheon recess was

15 had, to reconvene at 1:30, the same day.)

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1 TUESDAY, APRIL 2, 2002, AFTERNOON SESSION, 1:39 P.M.
2 (Jury in at 1:39 p.m.)
3 THE COURT: You are still under oath.
4 THE WITNESS: Thank you, Your Honor.
5 REDIRECT EXAMINATION OF PERCY SQUIRE
6 BY MR. TRAFICANT:
7 Q. Good afternoon, Percy.
8 A. Good afternoon.
9 Q. The prosecutor asked you about four years ago, and if
10 that was too long of a period of time for you to be able to
11 recall certain events. Is that a fact?
12 A. Yes, I was asked that question.
13 Q. And did he ask you about leaving the building?
14 A. I don't recall the prosecutor asking me that.
15 Q. Did you testify to having left the building?
16 A. I testified that after I was able to get your
17 attention at the conclusion of the conference, that I
18 walked out with you, and then I departed.
19 Q. Where were you seated at the time the meeting was
20 being conducted?
21 A. The meeting was held in a room at Youngstown
22 University on the second floor in sort of a multipurpose
23 location, and there was a large head table set up. I was
24 in the last seat on the extreme right, and there were other
25 members of the committee who were seated to my left down to

1 the end of the table, where there was a rostrum set up from
2 which you were speaking from.
3 Q. Did you notice Mr. Cafaro at that meeting?
4 A. Yes, I did.
5 Q. And is he a distinguished type of persona figure?
6 A. Well, I mean he has traits I recognize. I know him
7 over the years, you know, from coming in contact with him
8 in the Youngstown area.
9 Q. Now, when you exited that building you exited -- your
10 testimony was you exited with me; is that correct?
11 A. That is correct.
12 Q. And how did we exit that building?
13 A. We walked down the front stairs.
14 Q. Were there still people muddling around back in the
15 multipurpose room when we left?
16 A. At the time we left the multipurpose room, there were
17 people still in that room. When we exited the building, of
18 course, I couldn't see what was going on in the
19 multipurpose room, so I don't know if there were people in
20 the multipurpose room at the time we exited the building.
21 But at the time we exited the multipurpose room, there were
22 people in that room.
23 Q. Yes. Now, when we exited the room, did we go to the
24 sidewalk?
25 A. My recollection, as I indicated, I sat at the table

1 because there were things, projects, issues involving the
2 area that I wanted to talk to you about, so I lingered so
3 that as you were able, I would have an opportunity to
4 discuss them with you. And you had suggested that I should
5 wait until the meeting was over, which we did, and I walked
6 with you as we exited the building.
7 So as we exited, I was talking to you. We
8 were conversing back and forth.
9 Q. And you had my ear; is that your statement?
10 A. Yes, sir, that is correct.
11 Q. Now, you said at some point you'd seen me enter a
12 vehicle.
13 A. That is correct.
14 Q. Was it a Cadillac?
15 A. No, it was not.
16 Q. Do you know if the vehicle was being driven by
17 Mr. Cafaro?
18 A. It was not.
19 Q. When did I call you to testify at this trial?
20 A. You called me last night.
21 Q. And what was the purpose of your testimony to be?
22 A. You asked me if I could appear as a character
23 witness.
24 Q. And what, if anything, did you say to me?
25 A. I told you that I questioned whether I could testify

1 because I really did not have a clear understanding of
2 whether it would be appropriate to talk about issues of
3 character at this juncture or not, but that there were
4 things that I knew, that I recalled, involving certain
5 issues that I knew were being litigated here, and I thought
6 I could talk about those.
7 Q. Did we have any conversation before this morning
8 relative to what those issues were about?
9 A. No.
10 Q. Who initiated the conversation this morning?
11 A. When you talked to me initially today about what you
12 wanted to examine me concerning, I suggested to you that
13 there were two areas that I was involved in personally. I
14 informed you that I had been representing Mr. Tyson at the
15 time of his conflict over the Capital Ready Mix case, and I
16 informed you that I was present at Youngstown University
17 when the meeting was held on the economic task force -- the
18 economic committee. And those were the two things I
19 brought up.
20 Q. As the attorney for Mr. Tyson, do you know which side
21 I had taken when it hit the fan?
22 A. When the litigation began and we began to have
23 disputes, you know, we filed our counterclaims, third-party
24 claims, and so forth, I did not talk to you about that
25 directly. What I can say is that you never contacted me

1 and said, "Hey, these are my friends, don't do what you're
2 doing," or anything like that.
3 And my relationship with you throughout that
4 litigation, and I certainly talked to you during the course
5 of that litigation, was unchanged. You never asked me to
6 pull back or not do anything that was harmful to them, and
7 frankly, I'm not sure -- I am sure we never discussed the
8 litigation.
9 So I can't say whose side you were on. All I can say
10 is you never asked me to do anything that was going to
11 undermine the position of my client.
12 Q. Have you ever worked on my farm?
13 A. Well, I just told you jokingly over lunch that ever
14 since we were denied 40 acres and a mule, we got out of the
15 farming business.
16 Q. Now, in the matter of character, what, if anything,
17 do you know about me?
18 A. I have known you --
19 MR. MORFORD: Objection, Your Honor.
20 THE COURT: I think we aren't in that stage
21 of the litigation. I think you were correct. We're not in
22 that stage of the litigation where that's proper.
23 Q. Have I ever misrepresented anything to you, Percy?
24 A. No, you have not.
25 Q. Have I ever failed to respond to any request you've

1 ever made?
2 A. You have been very accessible and very responsive to
3 me in connection with the issues that I have come to you
4 with over the years.
5 Q. Have you come to me specifically in the Mahoning
6 Valley with the serious issues that you felt were important
7 to you and to the community that you were most concerned
8 with?
9 MR. MORFORD: Your Honor, I object to the
10 leading. You can't tell who's testifying now.
11 THE COURT: Just ask him open questions, and
12 he can give his answers.
13 Q. Did you come to me with serious matters?
14 A. I have come to you on a number of occasions with
15 matters that I considered to be of great importance, and
16 generally to the city of Youngstown, and the African
17 American community in particular, but in general to the
18 city of Youngstown.
19 Q. And even though you live in Columbus, you still hold
20 that kinship as home as being Youngstown; is that correct?
21 A. Well, Youngstown is my home. I love my home. I mean
22 I love myself, so I would love my own hometown like I love
23 my family, most of whom are still there, and I have a
24 residence and a business in Youngstown.
25 Q. Who nominated you to West Point?

1 A. My nomination was made by Michael Kerwin, but it was
2 actually arranged by former State Senator Harry Michelle.
3 Q. Now, at some point you said on cross that you had
4 heard news accounts. Do you recall that?
5 A. Yes, sir.
6 Q. News accounts about this particular case.
7 A. Yes.
8 Q. And the prosecutor asked you if you knew who, in
9 fact, made the declaration of the Traficant investigation,
10 who announced the Traficant investigation. Do you recall
11 that question?
12 A. Yes, I do.
13 Q. Do you know at that time there was a subpoena served
14 on the Congress of the United States?
15 A. I did not know that at that time, not when I
16 initially became aware of the investigation. I was not
17 aware that a subpoena had been served.
18 Q. Would you know if the Traficant statement was made
19 before or after a subpoena was served on the Congress of
20 the United States?
21 A. As I sit here today, I cannot tell you what the exact
22 sequence of events was. I mean, I recall becoming acutely
23 aware of the investigation by reason of my representation
24 of Greg Tyson, and the reason I am saying that I can't
25 recall the specific time is because, unfortunately, during

1 that period there were investigations going on in the
2 Mahoning County directed at about 60 or 70 different public
3 officials.
4 There was a special prosecutor, there were
5 various federal grand juries, so on a daily basis in the
6 media you would learn about a whole array of people being
7 indicted, all sorts of accusations. The Youngstown
8 minority business loan program was being investigated.
9 There were all sorts of indictments.
10 So it was in that general time frame that I became
11 aware that there was, indeed, an investigation occurring
12 that was directed at you.
13 Q. Was it your testimony that the timing of the matter
14 seemed suspicious of my indictment -- my investigation?
15 A. What I said, Congressman, is that I thought it was
16 very peculiar that in the days leading up to the primary
17 election, there were huge headlines discussing various
18 aspects of this investigation, and then as soon as the
19 primary was over, they stopped. And I thought the timing
20 was very curious, and that was the comment I believe that I
21 made.
22 Q. Was it your impression that Greg Tyson and I were
23 good friends?
24 A. I was not aware of the precise nature of your
25 relationship with Mr. Tyson. I knew that you had

1 intervened on his behalf. I knew that you had a role in
2 helping him obtain the various loans, and so forth, with
3 the federal government and with Bank One. However, I was
4 not aware of the exact extent of your friendship with Mr.
5 Tyson.
6 Q. When was the last time you have spoken to Mr. Tyson?
7 A. I spoke to Mr. Tyson within the past year because he
8 has continued to want to pursue claims against the city of
9 Youngstown by reason of the impact he thinks their failure
10 to act had on his companies, and the fact that his company
11 went into bankruptcy, and so forth. I've talked to him
12 about that.
13 Q. Are you still representing him?
14 A. No, I'm not.
15 MR. TRAFICANT: No further questions.
16 THE COURT: Thank you.
17 MR. MORFORD: No questions.
18 THE COURT: Sir, thank you very much.
19 THE WITNESS: Thank you very much, Your
20 Honor.
21 (Witness excused.)
22 MR. TRAFICANT: Dennis Johnson.
23 THE COURT: Hello again. Would you raise
24 your right hand, sir?
25 (The Witness is Sworn)

1 DIRECT EXAMINATION OF DENNIS CARL JOHNSON
2 BY MR. TRAFICANT:
3 Q. Good afternoon, Denny?
4 A. Good afternoon, Congressman.
5 Q. There is water there, and you can get closer to the
6 mike if need be.
7 Would you give us your full name and spell your last
8 name for the jury?
9 A. Dennis Carl Johnson, J O H N S O N.
10 Q. Where do you reside?
11 A. In Salem. 1265 North Union Avenue, Salem, Ohio.
12 Q. In what county is that?
13 A. Columbiana County.
14 Q. Where are you currently employed?
15 A. Employed with Congressman Traficant's office.
16 Q. Is Congressman Traficant in the room?
17 A. Pardon, sir?
18 Q. Is Congressman Traficant in the room?
19 A. Yes, he is, sir.
20 Q. Where did you work before that?
21 A. I worked at General Motors in Lordstown, Ohio.
22 Q. How many years did you work at General Motors?
23 THE COURT: Congressman, this is a limited
24 examination. You've had this witness on direct before this
25 jury before, and it's very important that you not take time

1 to go over the things you have already gone over.
2 You know what you may question him about. This is a
3 recall of a witness for a specific purpose. You've already
4 had the direct examination. So if you would proceed to the
5 specific purpose.
6 MR. TRAFICANT: I appreciate that. He's been
7 here --
8 Q. How many times have you been here to Cleveland to
9 testify?
10 A. I think this is my eighth day. Eight times.
11 Q. Do you recall having a meeting with a Mr. Charles
12 O'Nesti shortly before he passed?
13 A. Yes, I do.
14 Q. And could you describe the events of that day and how
15 it occurred?
16 A. It was at the Open Hearth on Steel Street in
17 Youngstown, Ohio. It was late afternoon. And I was
18 sitting there with some friends, and I heard some people
19 talking, coming up to the bar, and I could basically hear a
20 voice. And I leaned back to take a look who was
21 approaching me, and even though the voice sounded familiar,
22 I couldn't recognize him until he got up closer. When he
23 got up closer, it was Chuck O'Nesti.
24 Q. Did you arrange to meet with Chuck O'Nesti there that
25 day?

1 A. No, I didn't.
2 Q. Was it a happenstance opportunity for that meeting?
3 A. He told me that he knew I was going to be there. I
4 do not know who told him I was going to be there.
5 Q. Who were you with when he approached you?
6 A. I was sitting with Billy Coleman, only one I really
7 recall, but it was Mr. Coleman who was sitting with me with
8 other people.
9 Q. Did you engage in a conversation with Mr. O'Nesti?
10 A. Mr. O'Nesti came up to me and said he wanted to talk
11 to me.
12 Q. Did you talk to him there at the bar?
13 A. No, I didn't. He asked to talk to me, and he kind of
14 started walking away. I followed him. We went in like the
15 back of the room and sat down at a table.
16 Q. Describe the type of facility that this is, this --
17 what did you say the name of it was?
18 A. Open Hearth.
19 Q. And what kind of facility is that?
20 A. Well, it's a bar, but they sell food, and we have a
21 lot of our Christmas parties there and a lot of people
22 attend there, a lot of political people go there.
23 Q. Did you go to the back of the room with Mr. O'Nesti?
24 A. Yes, I did.
25 Q. Did you sit down at the table?

1 A. Yes, we did.
2 Q. Who initiated the conversation?
3 A. Chuck O'Nesti.
4 Q. And basically what did Chuck O'Nesti -- what was his
5 concerns in meeting with you?
6 A. His concern was that he was trying to get in touch
7 with you to talk to you by phone, and he was afraid you
8 wasn't getting the message because you were not returning
9 his phone calls.
10 Q. What, if anything, did you tell him?
11 A. I told him I promised him that I would get in touch
12 with the Congressman and have him call you.
13 Q. Was that the end of the conversation?
14 A. No, it wasn't.
15 Q. What, if anything, then happened?
16 A. He looked at me, he was talking very low, I could
17 hardly hear him talk, but he was saying to me, he said,
18 "Denny, Jim did nothing wrong." He said, "They want me to
19 say things that are not true" --
20 MR. MORFORD: Objection.
21 THE COURT: You can continue.
22 A. "And they're going to send me to the Army."
23 Q. He said they're going to send him to the Army.
24 A. Right.
25 Q. At that point, what did you do?

1 A. I'm just saying when you looked at him, he was so
2 frail, he was so sick, his hair was coming out, and it
3 wasn't the same guy I knew. I thought he was very
4 confused. I asked him, "Come on, I'm going to get you
5 home." I got him up, led him back over to where I was
6 setting. He walked on down -- or towards the end of the
7 bar where a guy was sitting, and they left.
8 Q. Now, do you know what kind of a cancer problem Mr.
9 O'Nesti had?
10 A. I was told, because I did check or people would say,
11 that I guess he had colon cancer that was going through his
12 body, and eventually was in his brain.
13 Q. Did you ever experience any of that in your own
14 family?
15 A. Yes, I did.
16 Q. And how did you experience that?
17 A. Approximately nine months or somewhere there my wife
18 died of brain cancer, and I could see the same symptoms in
19 him, and that's why I thought he shouldn't be there talking
20 to me. And I didn't think he was making sense, and that's
21 why I thought he should go home.
22 Q. Did you cut him off when he mentioned the Army?
23 A. Yes, I did.
24 Q. Did you have any further conversation with him after
25 that?

A. No, I didn't.

Q. Did you notify me that he wanted to see me?

A. Yes, I did.

Q. Do you know for a fact if I had seen him?

A. Yes. You informed me no one --

MR. MORFORD: Objection to what Congressman Traficant told the witness unless he has firsthand knowledge.

THE COURT: Right.

Q. Do you have any firsthand knowledge that I had seen him?

A. Only your conversation, sir.

Q. How was his voice when you talked to him?

A. It was very weak, almost like a whisper, because I had to lean over and listen to him when he was talking to me.

Q. Did you expect to see Mr. O'Nesti that day?

A. No, I did not.

Q. Did you ever see him after that again?

A. Only at calling hours, sir, when he passed away.

MR. TRAFICANT: No further questions.

THE COURT: Thank you.

THE COURT: You have may inquire, Mr. Morford.

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1 CROSS-EXAMINATION OF DENNIS CARL JOHNSON
2 BY MR. MORFORD:
3 Q. Mr. Johnson, would it be fair to say you do not come
4 before this jury as a totally unbiased witness?
5 A. I would say that, sir.
6 Q. That you do not?
7 A. No. I'm saying I don't quite know what you mean, but
8 I'm very fond of the Congressman if that's what you're
9 saying.
10 Q. In fact, you're a very close personal friend of the
11 Congressman, correct?
12 A. I would hope so, yes, sir.
13 Q. And you've been a close political ally of Congressman
14 Traficant for many years, correct?
15 A. Yes, sir.
16 Q. You've supported him in many campaigns, correct?
17 A. Correct, sir.
18 Q. And you're currently an employee who works for the
19 Congressman -- works for Congressman Traficant and has done
20 so for the past three years, is that correct?
21 A. Correct, sir.
22 Q. And it was Congressman Traficant who hired you in
23 this current position that you hold, correct?
24 A. That's true, sir.
25 Q. And it's Congressman Traficant who determined what

1 salary you'd be hired at, correct?
2 A. That's true, sir.
3 Q. He determines the amount of salary you make today,
4 correct?
5 A. That is true, sir.
6 Q. How much do you make, sir?
7 A. I think it was $42,000 up until we got a 3 percent
8 raise, made it 45,000, I think, a year.
9 Q. So you make $45,000 a year?
10 A. Yes, sir.
11 Q. In which office do you work out of?
12 A. Out of the Canfield office, sir.
13 Q. Now, that's not where the majority of the staff work,
14 correct?
15 A. Correct, sir.
16 Q. That's sort of a special office?
17 A. Yes, sir.
18 Q. And it's you and Mr. Barlow that work out of that
19 office?
20 A. Yes, sir.
21 Q. And you work away from the rest of the congressional
22 staff, correct?
23 A. I go down there on occasions, the one down in
24 Youngstown, yes, sir, the office.
25 Q. But the office in Canfield, you're away from the rest

1 of the congressional staff, correct?
2 A. Yes, sir.
3 Q. And during the week when Congressman Traficant is in
4 Washington, there's nobody really to supervise you, is
5 there?
6 A. Just on daily conversations with him or with Charlie
7 in Washington, sir.
8 Q. But in terms of there at the office in Canfield --
9 A. No, sir.
10 Q. -- you're on your own, correct?
11 A. Yes, sir.
12 Q. Who is your direct supervisor?
13 A. Congressman, sir.
14 Q. And you answer to no one but the Congressman,
15 correct?
16 A. That's correct.
17 Q. And how many hours are you supposed to work to earn
18 your $45,000 salary?
19 A. I say 30 hours a week, sir.
20 Q. And as I understand it, Congressman Traficant has the
21 power to fire you at will without cause at any time,
22 correct?
23 A. That's correct, sir.
24 Q. Now, in addition to working for Congressman
25 Traficant, you've also served for a number of years as the

1 chairman of the Columbiana County Democratic Party; is that
2 correct?
3 A. That's correct, sir.
4 Q. How many years have you held that position?
5 A. Approximately ten years, sir.
6 Q. And do you still hold that position today?
7 A. I do, sir.
8 Q. And you also serve as a member of the Columbiana
9 County Board of Elections; is that correct?
10 A. That's correct, sir.
11 Q. Is that a paid position?
12 A. Yes, it is, sir.
13 Q. And how much do you make on that per year?
14 A. I am going to say approximately around 8,000, sir, a
15 year.
16 Q. Now, you were not a law enforcement officer; is that
17 correct, sir?
18 A. No, sir.
19 Q. Have you ever falsely held yourself out to be a law
20 enforcement officer, Mr. Johnson?
21 A. No, sir.
22 Q. Isn't it true that on December 9th, 2001, you drove
23 your car into a ditch, and when the police arrived, you got
24 out and flashed them a civil sheriff's commission badge and
25 claimed to be a law enforcement officer?

1 A. Sir, the officer asked me to see my driver's license.
2 I was getting my driver's license. He looked down and saw
3 the badge and said, "Can I see it?" I held it up and
4 showed it to him. I continued to get my license. "Can I
5 see that again?" And I held it up to him, and he asked me
6 what that was. I told him that's what it was, and he took
7 it.
8 Q. And it's your testimony you weren't trying to show
9 him this civil commission badge in order to make him
10 believe you were a law enforcement officer so he would cut
11 you some slack in that incident?
12 A. Sir, that's what he claimed, but no, sir.
13 Q. That's what the officer claimed you did, correct?
14 A. Yes, sir.
15 Q. But it's your testimony that the officer is lying?
16 A. No, sir. I'm testifying that I was trying to get my
17 license and he saw the badge and asked me what it was, and
18 I showed it to him. And his opinion was I was trying to
19 show to it him to get out.
20 Q. Well, sir, that's not the first time you've ever been
21 accused of holding yourself out as a law enforcement
22 officer falsely, is it?
23 A. No, sir.
24 Q. Isn't it true that you lost your job at one time
25 based on charges that you had held yourself falsely out as

a law enforcement officer?

A. No, sir.

Q. Isn't it true that there was an incident in which you held yourself falsely out as a law enforcement officer?

A. When we was with ODOT, yes, sir.

Q. Go ahead and tell the jury what that was about.

A. We had a work area a car went through, the work area too fast. I had an employee with me from ODOT. We stopped the car. They went and filed charges and the prosecutor heard it. I was found guilty. I appealed it, 17th District Court reverse appealed and went to the Supreme Court, and they upheld the 17th Court of Appeals.

I never lost my job and I still worked for ODOT, rehired back by ODOT seven years later.

Q. Didn't you after that Supreme Court case enter a guilty plea, sir?

A. No. The prosecutor said to me he didn't want to try it again, the Judge didn't want to try it. We went in, pleaded no contest, and they fined me $50, and it was over.

Q. For impersonating a law enforcement officer, correct?

A. Well, I guess you could say that. The prosecutor said I was throwing my weight around.

Q. Do you know a man by the name of David Sugar?

A. I have met Dave Sugar.

Q. And isn't it true you met Dave Sugar after

1 Congressman Traficant asked you to help Dave Sugar on a
2 matter that occurred back in your county, Columbiana
3 County?
4 A. I don't understand what you're saying. No, sir.
5 Q. Do you remember a time when you were asked by the
6 Congressman to intervene in Columbiana County on behalf of
7 Dave Sugar?
8 A. I could have. I don't recall, sir.
9 Q. Well, do you recall a time when you made calls to
10 Lisbon, Ohio, regarding a project that Dave Sugar had to
11 try to help him resolve a problem he was having there? Is
12 that ringing any bells?
13 A. The only time I can recall talking to Dave Sugar, he
14 asked for a contract or he had a contract in my county, and
15 no one asked me to do anything other than he had the
16 contract, and I think it was more trouble with unions than
17 it was anything else. But I didn't ask anyone to back off
18 or do anything wrong that I'm aware of.
19 Q. That wasn't my question: Isn't it true Congressman
20 Traficant asked you to make calls on Dave Sugar's behalf?
21 A. He could have, but I don't recall what it was,
22 Mr. Prosecutor.
23 Q. Well, sir, you've only worked there for three years.
24 You're telling this jury that you can't recall anything
25 about that situation that occurred just in the last three

1 years?
2 A. No, I can't. I do not recall that.
3 Q. But you do recall this conversation with Charles
4 O'Nesti, correct?
5 A. I do.
6 Q. And as I understand your testimony, you say that Mr.
7 O'Nesti told you to tell Congressman Traficant that
8 Congressman Traficant didn't do anything wrong?
9 A. His exact words was to me, he said, "Denny, Jim did
10 nothing wrong."
11 Q. But nobody was present to hear those things that
12 you've just testified to, were they?
13 A. No, sir, they wasn't.
14 Q. It was just you and Mr. O'Nesti, and he's now dead,
15 correct?
16 A. That's correct.
17 Q. So you have nothing to support your statements except
18 your word, correct?
19 A. That's correct, sir.
20 Q. Now, you didn't do anything to memorialize this
21 conversation, did you?
22 A. No, sir, I did not.
23 Q. You didn't take any notes or write a little memo or
24 something like that?
25 A. No, sir, I did not.

1 Q. Now, at the time you saw Mr. O'Nesti at the Open
2 Hearth, isn't it true that at that time, and throughout the
3 time you've known Mr. O'Nesti, that he thought the world of
4 Congressman Traficant?
5 A. Yes, he did.
6 Q. In fact, he almost worshipped Congressman Traficant,
7 correct?
8 A. Yes, sir.
9 Q. And at the time that he talked with you at the Open
10 Hearth, he knew that you were very close to Congressman
11 Traficant, correct?
12 A. Yes, sir.
13 Q. And isn't it true that at the time that he talked
14 with you at the Open Hearth, it was clear to you that he
15 was talking to you as an agent and employee of Congressman
16 Traficant to try to get word back to Congressman Traficant
17 so that he would call Mr. O'Nesti?
18 A. That is true.
19 Q. Now, the incident with the ditch, you were charged
20 with an offense there, correct?
21 A. The ditch?
22 Q. Yes.
23 A. I was charged, yes, sir.
24 Q. With DUI, correct?
25 A. Correct.

1 Q. And what, if any, action did Congressman Traficant
2 take against you when he learned that you had driven your
3 car into a ditch -- it was close to his office, correct?
4 A. Yes, sir, about two miles.
5 Q. In fact, it was during office hours, was it not?
6 A. 5:30. I think approximately around 5:30.
7 Q. But you drove your car into the ditch at 5:30, right?
8 A. Yes, sir.
9 Q. You had been drinking prior to that, correct?
10 A. We had a party, yes, sir.
11 Q. And so what retaliation did Congressman Traficant
12 take against you when he learned that you'd been drinking
13 on office hours and had driven your car into a ditch?
14 A. Well, Mr. Prosecutor, it was one of the hardest
15 calls, I had to call and tell him that.
16 Q. That's not my question.
17 A. He asked me if anyone got hurt. I said no one was
18 involved, and he said, "Fine, I'll talk to you about it
19 later when I come home."
20 Q. And what action has he taken against you --
21 A. As of now, none, sir.
22 MR. MORFORD: Nothing further.
23 THE COURT: Thank you.
24 - - - - -
25

1 REDIRECT EXAMINATION OF DENNIS CARL JOHNSON
2 BY MR. TRAFICANT:
3 Q. Have you ever really seen me fire anybody, Denny?
4 A. No, sir.
5 Q. Is Columbiana County in the new 17th District of
6 Ohio?
7 A. No, sir.
8 Q. Do you know where, if I am eligible, where I will be
9 a candidate for Congress?
10 A. You will be in the 17th District, sir.
11 Q. And what district will you be in?
12 A. The 6th District, sir.
13 Q. What is your status with General Motors today?
14 A. I am a production supervisor on a political leave of
15 absence.
16 Q. Now, on that issue with the badge --
17 A. Yes, sir.
18 Q. Was it over a traffic ODOT concern you had?
19 A. Yes, it was.
20 Q. Did you take action for any particular reason?
21 A. An individual was speeding through a work zone that
22 we were just breaking down.
23 Q. Was there any law enforcement officer there to help?
24 A. No, sir.
25 Q. Why did you do it?

1 A. Because, first of all, when the car went through, it
2 sprayed rocks on us, and it was just when you're in traffic
3 control like we are -- and I admitted this, Congressman, I
4 overreacted at the time, but at the time the people,
5 including myself, feared for my life, and I went to
6 approach that car and let them know what they did.
7 The badge they're referring to is not a
8 policeman's badge. It was an ODOT identification badge
9 which meant I worked for ODOT. It wasn't a police badge.
10 It was an ODOT badge that every supervisor had to carry if
11 you approached somebody at their home or go see them, you
12 showed it to them at that time.
13 Q. Was that matter litigated?
14 A. It went to court, yes, sir.
15 Q. The bottom line was what?
16 A. It went all the way to the State Supreme Court, and
17 they upheld the 17th District Court, that what I did was
18 not wrong. And they went back to retry it, and the
19 prosecutor at the time, Mr. Barnes, he did not want to take
20 it to court. He asked me if I would go in and just plead
21 not guilty and there would be a small fine, and I said yes,
22 because I was paying for that myself out of my pocket.
23 And when you go to the state Supreme Court, I
24 spent a lot of money because I was not going to cut a deal,
25 and I took it all the way and it come back and they fined

me $50, I believe, sir. It's been a long time ago. It was 30 years ago, I think.

Q. 30 years ago.

A. I was 29, I think, at the time, sir, 29 or 30.

Q. Now, you were asked some questions about Dave Sugar; is that right, sir?

A. Correct.

Q. Would it be unusual for me to call you about a constituent of mine?

A. No, it wouldn't be.

Q. Would it be unusual for me to call anybody about a constituent of mine?

A. No, sir.

Q. In your duties, do you call people about constituents of mine?

A. Yes, I do.

Q. Do you just work in one office or do you work throughout the region?

A. I work throughout the region.

Q. Now, the prosecutor talked to you about the ditch. Can you explain where that occurred?

A. On Leffingwell Road, sir, in Mahoning County.

Q. And were you driving the car?

A. Yes, I was.

Q. Did you accidentally run off the road?

1 A. I accidentally, when I pulled off the road,
2 Congressman, I pulled off too far. I called my wife at the
3 time to come and get me. It rained for three days. I did
4 not damage my car. There was not a scratch on my car.
5 I pulled off the road, called her, told her to come
6 and get me, and I was sitting in the car, listening to
7 music when they knocked on my door.
8 Q. Did you go off the road because you were under the
9 influence of alcohol?
10 A. I went off the road because I shouldn't be driving,
11 and I called my wife to come and get me. I felt I
12 shouldn't be driving. Did I feel I was drunk-drunk or
13 anything? No, sir, I did not, but I knew I should call her
14 to come and get me.
15 Q. Did you notify me of that?
16 A. Yes, I did.
17 Q. What, if anything, did you explain to me?
18 A. I explained to you the situation, exactly how I
19 explained it to you now.
20 Q. What, if anything, did I say?
21 A. You asked me if it was the first -- -- at first, if
22 anybody was involved or did I hurt anybody or was there a
23 wreck.
24 Q. When I returned to the district, did we discuss it?
25 A. Yes, we did.

1 Q. Did you further clarify that issue?
2 A. Yes, I did.
3 Q. Are you represented in that matter?
4 A. Yes, I am.
5 Q. Do you have counsel?
6 A. Yes, I do.
7 Q. What's his name?
8 A. John Schultz.
9 Q. What is the status of the process?
10 A. The process is now in litigation, that the machine
11 was not correct, and we have a Judge D'Apolito that is now
12 reviewing that case, not strictly on mine, but other cases.
13 He's reviewing the breathalyzer because they said it was
14 not calibered right. So I'm waiting for a decision from
15 that judge.
16 Q. Did you plead in that case?
17 A. Not guilty, sir.
18 Q. Are there times when you worked more than 30 hours a
19 week?
20 A. Yes, there is, sir.
21 Q. Are there times when you have worked more than 40
22 hours a week?
23 A. Yes, there is, sir.
24 Q. Are there times when you've worked more than 50 hours
25 a week?

1 A. Yes, there is, sir.
2 Q. Do you work at night representing the Congressman?
3 A. Yes, I do.
4 Q. Do you attend meetings representing the Congressman?
5 A. Yes, I do.
6 Q. Are you an influential person in our valley?
7 A. I hope so, sir.
8 Q. Was it ever your intent to act as a policeman?
9 A. No, sir.
10 Q. Now, 30 years ago, did you try and stop somebody from
11 getting hurt?
12 A. I stopped a vehicle, yes, sir.
13 Q. When Mr. O'Nesti mentioned the Army, what was your
14 impression?
15 MR. MORFORD: Objection.
16 THE COURT: Sustained.
17 Q. What did you do when Mr. O'Nesti mentioned the Army?
18 A. I told him I think he ought to go home.
19 Q. Was he attempting to continue to try and speak about
20 the Army?
21 MR. MORFORD: Objection.
22 THE COURT: The purpose of this special
23 provision that allows you to bring a witness back for a
24 limited purpose is that we deal with that purpose and not
25 other things, and that goes beyond it.

1 Q. Do you have immunity, Mr. Johnson?
2 A. No, I do not.
3 MR. TRAFICANT: No further questions.
4 MR. MORFORD: Nothing further.
5 THE COURT: Thank you. Thank you, sir. You
6 may step down.
7 (Witness excused.)
8 MR. TRAFICANT: Your Honor, I'd like to
9 request that we take a break. I am waiting on
10 Mr. Terlecky, and I don't believe he is here at this point.
11 May we take a break now?
12 THE COURT: Yes. Well, let me
13 instruct -- we're going to take a break. Let me give the
14 jury an instruction I need to give you when you hear
15 limited testimony.
16 The testimony you just heard regarding Mr. O'Nesti's
17 statement can only be considered by you when you assess the
18 credibility of Jacqueline Bobby and/or Grace Kavulic as to
19 their testimony regarding other statements from Mr.
20 O'Nesti.
21 The statement you just heard can only be used to
22 impeach the credibility of Ms. Bobby or Ms. Kavulic and is
23 not evidence of anything else.
24 We'll give you your break now so we have time to see
25 if we can get another witness in front of you today.

1 Thank you.
2 (Jury out at 2:26 p.m.)
3 (Recess had.)
4 (Jury in at 2:44 p.m.)
5 THE COURT: Sir, would you raise your right
6 hand?
7 (The Witness is Sworn)
8 THE COURT: You may have to speak up into
9 mike.
10 MR. TRAFICANT: There is some water there,
11 too.
12 DIRECT EXAMINATION OF HORACE R. CHESNEY
13 BY MR. TRAFICANT:
14 Q. Would you give your full name and spell your last
15 name for the jury?
16 A. Horace R. Chesney, C H E S N E Y.
17 Q. And where do you reside?
18 A. I reside in Lisbon, Ohio.
19 Q. And when were you subpoenaed to appear?
20 A. Approximately 10:00, give or take, depending on where
21 you figure it was actually handed to me.
22 Q. Did you have occasion to meet me?
23 A. Yes, I have.
24 Q. How did you come to meet me?
25 A. There were two different direct ways that I ended up

1 meeting you. One was as I was searching to resolve a
2 personal problem, and the other was a friend had approached
3 me and said that you were interested in having a tree stand
4 built for deer hunting.
5 Q. Did we meet?
6 A. Yes, we did.
7 Q. And what was the meeting supposed to be about?
8 A. It was an impromptu meeting. I would say it was
9 mostly about you getting a price on a good deal on a deer
10 stand, but I had some pertinent personal -- I had my own
11 agenda. You seemed more interested in the deer stand.
12 Q. Well, when we met, were we to meet about a deer stand
13 or about this other agenda that you talked about?
14 A. Well, we were meeting to take care of both items, I
15 believe, as I recall it.
16 Q. Did I ask you for a price?
17 A. Yes, you did.
18 Q. At the time, to the best of your knowledge, did I
19 know what your agenda was about?
20 A. You may have been roughly told, but it was pretty
21 spontaneous. I don't know whether for sure you knew or
22 not. I do believe that you were forewarned or
23 fore -- somebody had got a meeting for us. If I'm not
24 mistaken, Mr. Hudach.
25 Q. What was your agenda concerning?

1 A. As I say, my agenda was mostly about my problems.
2 The agenda was sort of over whether or not you wanted a
3 deer stand built. It was also about me to speak to you
4 about problems I was having getting to resolve an issue
5 that I thought that the Congressman could handle.
6 Q. Without stating what it was, whom did it concern?
7 A. It concerned me, and it gets into an issue of me
8 believing that there was corruption going on.
9 Q. As a result of that conversation, did I refer you to
10 anyone?
11 A. Yes, you did.
12 Q. Whom did I refer you to?
13 A. Do you want names or just --
14 Q. Who did I refer you to first? Give me the first
15 name.
16 A. Mr. Arena from the FBI, Cynthia Rice from the U.S.
17 District Attorney's Office, Mike Cizmar from the DEA, FBI,
18 I'm not sure which one he is with.
19 Q. Was there anybody on my staff that I directed you to
20 work with?
21 A. Yes. Fred Hudach.
22 Q. Did you continue to work with Mr. Hudach?
23 A. Quite a bit.
24 Q. Did you ever do any work for me at the farm?
25 A. No. I didn't end up doing any work on the farm.

Q. Did you end up building the deer stand?

A. No, I did not.

Q. Do you know if a deer stand was built?

A. Not for sure.

Q. Were you subpoenaed here today about the government or about a deer stand?

MR. MORFORD: Objection as to why he was subpoenaed.

THE COURT: Was there something on your subpoena that told you what you were subpoenaed here for?

THE WITNESS: Not specifically.

THE COURT: Thank you. Objection sustained.

Q. Did we basically just converse about the purpose for your being here?

A. Yes, we did.

Q. And after that conversation, what was your impression as to what -- as to why you were subpoenaed here?

MR. MORFORD: Objection. Speculation and relevance.

THE COURT: Right. You can ask him questions that would be useful in this case for the jury to have evidence of.

Q. Did I subpoena you relative to this deer stand?

A. Yes, I believe so.

Q. Did you inform me of the other matters as we sat in

1 the room here just shortly?
2 A. Yes, we did.
3 Q. Did I offer you any instructions relative to your
4 testimony in the matter of the Court?
5 MR. MORFORD: Objection.
6 THE COURT: You can answer if he gave you
7 instructions.
8 A. I wouldn't call them instructions per se. We were
9 disagreeing a little about my opinion and what you told me
10 couldn't be brought up, and why you didn't think it could
11 be brought up, and then the issue of the deer stand. So
12 there were some instructions, but I wouldn't say that you
13 instructed me what to say.
14 Q. Did I tell you not to bring up any specifics about
15 any certain issue?
16 MR. MORFORD: Objection as to relevance, Your
17 Honor.
18 THE COURT: Why don't we just go ahead and
19 ask him the questions that are relevant to this case. He's
20 a witness, he's on the stand, and he's here to testify for
21 the jury.
22 Q. Did I ask you not to make any specific comments about
23 your concerns about the government?
24 MR. MORFORD: Objection.
25 THE COURT: I don't know what -- well, I want

1 you to ask the witness questions, the answers to which can
2 be considered evidence in this case, and you're not doing
3 it. You're trying to engage in some sort of a discussion
4 with him about exactly what we've told you you can't do.
5 BY MR. TRAFICANT:
6 Q. As a result of our conversation, what, if anything,
7 did you not do in this courtroom?
8 MR. MORFORD: Objection.
9 THE COURT: Sustained.
10 Q. As a result of our conversation, was it your
11 impression that you should not discuss the government?
12 THE COURT: I'm going to -- we'll all stand
13 for the jury. I'm going to let the jury out so we can deal
14 with this one more time.
15 (Jury out at 2:53 p.m.)
16 MR. TRAFICANT: Your Honor, I'd like to explain
17 something.
18 THE COURT: Just wait.
19 MR. TRAFICANT: I'd like to explain that I
20 told him --
21 THE COURT: Be seated.
22 MR. TRAFICANT: -- with the concerns that he
23 brought that I did not want him to testify about them.
24 THE COURT: That's fine. Well, then stop
25 asking him questions about that.

1 MR. TRAFICANT: Well, I was trying to get him
2 to admit that I did not want him to bring those concerns
3 forward, because he wanted to bring concerns forward
4 relative to the government.
5 THE COURT: Do you understand in a lawsuit
6 that there are rules you have to follow? Everybody does.
7 The parties, the witnesses, even the spectators have some
8 rules. But here you're being called in a particular
9 lawsuit about some issues, and that's what he's trying to
10 tell you, that he's under an obligation to not elicit from
11 you testimony which the Court has already ruled can't be
12 elicited.
13 I guess we're here to talk to the deer stand issues.
14 THE WITNESS: May I ask a question?
15 THE COURT: You could ask a question some
16 other time, but right now you can't. You're subpoenaed as
17 a witness here. You can testify for him about things that
18 are relevant on the stand, and if you have questions you
19 can address them after this hearing, and hopefully you'll
20 be able to testify for him in front of the jury.
21 But you can't testify about whatever you want
22 to in front of the jury. You've got to be able to testify
23 as to what is relevant.
24 MR. TRAFICANT: Your Honor, when I subpoenaed
25 this witness, I don't remember anything about the federal

1 concerns. In fact, I thought he was a different witness.
2 And I told him that the concerns he had would not be able
3 to be brought up here.
4 THE COURT: And that's what you should do.
5 MR. TRAFICANT: That's what I was trying to
6 fashion into words so that he would not say them and you
7 would get on my back about it.
8 THE COURT: All right. He's trying.
9 MR. TRAFICANT: Is that a fact, Mr. Chesney?
10 THE COURT: Okay. So are you clear now about
11 what it is he's got you here for, things he can have
12 testimony put in front of the jury.
13 THE WITNESS: I understand that, Your Honor.
14 THE COURT: Okay. And if you have problems
15 with the way the court system runs, and everything else,
16 you certainly should be able to address those problems, but
17 not while you're on the stand and we have a jury who's been
18 here all day and they want to hear the testimony. Okay?
19 THE WITNESS: Yes. I do understand now.
20 THE COURT: Thank you.
21 MR. TRAFICANT: Your Honor, the testimony
22 about the deer stand is that he was asked -- he gave a
23 price. He was never asked to do it, he didn't do it, and
24 there's nothing more about the deer stand.
25 THE COURT: I don't know what else there

1 might be on the deer stand.

2 MR. TRAFICANT: His impression, though, when

3 he came up, he thought he was subpoenaed for another

4 reason.

5 THE COURT: Okay.

6 MR. TRAFICANT: And I was just trying to tell

7 him that the concern --

8 THE COURT: Is there more on the deer stand?

9 Is there more than what you've already elicited?

10 MR. TRAFICANT: No, not really.

11 THE COURT: Fine.

12 MR. TRAFICANT: When I met my man, it was

13 more about a deer stand. I don't remember -- now I do -- I

14 didn't remember, but I do now recall, and I'm not even sure

15 this is the fella -- there may be another fella with a

16 similar name, but I remember in the conversation we had --

17 THE COURT: Are there any other questions

18 about the deer stand?

19 MR. TRAFICANT: No. I really don't have any

20 other questions. I was just trying to say --

21 THE COURT: You're excused.

22 MR. TRAFICANT: He couldn't testify on the

23 matters he was concerned about.

24 THE COURT: Thank you very much. We'll just

25 excuse him and we'll -- where is Terlecky? Is he here?

1 MR. TRAFICANT: Terlecky is not here.
2 THE COURT: Okay. We'll excuse you, sir.
3 Thank you very much.
4 (Witness excused.)
5 MR. TRAFICANT: Could you give -- did you
6 give some time for Mr. Terlecky? He's the last witness I
7 have of the day.
8 THE COURT: What is your --
9 MR. TRAFICANT: I think without the jury here
10 maybe you could ask the gentleman what he's frustrated
11 about with his problems.
12 THE COURT: You can just step down, sir.
13 Thank you.
14 What is your information about where Mr. Terlecky is?
15 MR. TRAFICANT: We were trying to reach
16 Mr. Terlecky and have haven't been able to reach him.
17 THE COURT: Have you been able to reach him?
18 MR. TRAFICANT: No. I don't know if they
19 have reached him yet or not, if he's on his way. He might
20 be in that office now, but he wasn't there when I left ten
21 minutes ago.
22 THE COURT: Why don't you or send someone
23 down to check and find out if he's there or not.
24 MR. TRAFICANT: I would like to have him
25 here, and I would like to suggest a half-hour break at this

1 point.
2 THE COURT: Well, the jury was in recess all
3 morning, basically, because there were so many things we
4 had to address.
5 First, find out if Terlecky is here, if you will or
6 ask someone to do that for us.
7 MR. TRAFICANT: Yes. We've been trying to
8 run him down. He was in transit somewhere.
9 THE COURT: Okay. Do you have any other
10 witnesses here today?
11 MR. TRAFICANT: I have another witness who is
12 supposed to be here, but he's not here. Attorney Mark
13 Colucci was relative to a character situation.
14 THE COURT: We've already dealt with that.
15 Do you have any other ones, any other witnesses?
16 MR. TRAFICANT: That's all that was
17 subpoenaed for today.
18 THE COURT: Okay. And for tomorrow?
19 MR. TRAFICANT: Well, I'm still trying to
20 line up witnesses for tomorrow. I have certain ones that I
21 haven't been able to reach with subpoena, and I'm hoping we
22 would reach them tonight. And if we do, I'll have them
23 tomorrow.
24 THE COURT: And what is --
25 MR. TRAFICANT: If Mr. Morford would take up

1 my motion, then we'll just close it out tomorrow.
2 THE COURT: What is your plan if you don't
3 reach these witnesses you plan to call tonight for
4 tomorrow?
5 We brought the jury in this morning and they haven't
6 been able to do very much work here today.
7 MR. TRAFICANT: Well, there's several people
8 that weren't able to testify today either, Your Honor.
9 THE COURT: Right. But right now you don't
10 know anyone you're calling tomorrow?
11 MR. TRAFICANT: No. And you just notified me
12 five minutes after I got here with a notice that
13 Mr. Terlecky and Mr. Johnson were going to be admissible or
14 I would have had them here today. I didn't know about
15 that.
16 THE COURT: We heard from Johnson, but who
17 else in addition to Terlecky are you going to call
18 tomorrow?
19 MR. TRAFICANT: I'm looking for the fellow
20 from T. C. Ready Mix who is out of town. I'm trying to
21 find a custodian of records of T. C. Ready Mix to see if I
22 can get them here. And I thought a fellow did some work at
23 the farm, I thought this was that fella, unless the name is
24 unusually different. I thought it was a Tim Chesney, not a
25 Herb Chesney. And Mr. Terlecky now. And if Mr. Morford

1 takes my request, then we'd be closing out with me.
2 THE COURT: I guess what we'll do is get the
3 report from your staff person and see where we are, and --
4 MR. TRAFICANT: It's been very difficult --
5 THE COURT: Then you're going to have to deal
6 also with the fact we don't just have blank days before a
7 jury in a trial.
8 MR. TRAFICANT: Well, I have brought
9 witnesses here, and you voir dired these witnesses and
10 you've kept them from the jury, so it's not an attempt to
11 circumvent any rules here.
12 Now, this fella here, I even cautioned him because he
13 was here for a completely other reason.
14 THE COURT: Well, we know Terlecky is coming
15 on a limited purpose.
16 MR. TRAFICANT: Yes.
17 THE COURT: And that shouldn't take a long
18 time.
19 MR. TRAFICANT: No, it shouldn't take a long
20 time.
21 THE COURT: Who are your other witnesses
22 tomorrow?
23 MR. TRAFICANT: I'm trying to find someone
24 from T. C. Ready Mix that could at least be a custodian of
25 records relative to the concrete, et cetera, and I don't

1 know. I was going to have Mark Colucci as a character
2 witness. And I'm winding my case down.
3 THE COURT: You aren't going to have Mark
4 Colucci. So are you prepared --
5 MR. TRAFICANT: Why don't I have Mark Colucci
6 if I'm winding my case down? Why can't I have a character
7 witness?
8 THE COURT: You had Mark Colucci.
9 MR. TRAFICANT: You mean he can't come back
10 as a character witness?
11 THE COURT: Do you want to address that, Mr.
12 Smith?
13 MR. SMITH: Yes, Your Honor. The point of it
14 is he could have asked Mark Colucci about the character
15 issue when he was on the stand. There is nothing that has
16 changed ostensibly about the Congressman's character
17 between the time Mr. Colucci testified and now, so he
18 should have done that then.
19 MR. TRAFICANT: You didn't allow me to do
20 that with Mr. Squire, Percy Squire. That's why I
21 subpoenaed him. I didn't subpoena him about Tyson and
22 Cafaro. I subpoenaed him as a character witness. And he
23 worked for Judge Lambros and had all the meetings in that
24 room, by the way, relative to that one big case that he
25 worked on which I forget now.

1 But anyway, he was subpoenaed as a character
2 witness.
3 THE COURT: Right. You heard him in response
4 to your questions regarding him testifying as a character
5 witness.
6 MR. TRAFICANT: So you didn't allow him to go
7 into the character witness, you said it wasn't at that
8 stage.
9 MR. MORFORD: Your Honor, the problem here is
10 we ask every night for the Congressman to tell the Court
11 who he's going to call to avoid these kind of problems.
12 The Congressman knew what he wanted Mr. Kerchum to
13 testify to, and he knew what he wanted Mr. Hudach to
14 testify to, and he knew this Court had already had a ruling
15 months ago saying he couldn't do that.
16 So he knew they weren't going to be able to testify.
17 Your Honor told Congressman Traficant yesterday to
18 have Mr. Terlecky and Mr. Johnson here today, and his
19 comment was, "I'm not calling them until I see an order."
20 The Court issued an order last night, and he didn't call
21 him and he didn't call him until this morning, and this is
22 not the first time he's run out of witnesses.
23 MR. TRAFICANT: Your Honor.
24 MR. MORFORD: And now he's not telling you
25 who he's going to call tomorrow, and we're going to go

1 through this again.
2 MR. TRAFICANT: I didn't know you admitted
3 the testimony of Johnson and Terlecky until Jeff handed it
4 to me. Evidently, you faxed it to my office, and if it was
5 faxed at 6:00, there was nobody there, and I left the
6 courtroom before anybody got to the courtroom.
7 THE COURT: Let's see if you have some
8 assistance here on Mr. Terlecky's whereabouts.
9 MR. TRAFICANT: He's not available today. I
10 will have to have him here tomorrow.
11 THE COURT: You'd better have him here
12 tomorrow. Okay? We don't just go day by day.
13 MR. TRAFICANT: Let me say this:
14 Mr. Terlecky has been ill, and it says due to illness --
15 THE COURT: Congressman, this is your case.
16 You're supposed to be prepared. You're supposed to get
17 your witnesses and get your subpoenas out. Nobody else
18 does that for you here. You have to do that yourself.
19 MR. TRAFICANT: I think I've done pretty
20 well. They took seven weeks. I haven't taken two weeks.
21 THE COURT: You've done pretty well, but we
22 can't --
23 MR. TRAFICANT: I've only had two weeks of a
24 defense and you're on my back.
25 THE COURT: I'm on your back because you need

1 to present witnesses when jury is here.
2 MR. TRAFICANT: I am bringing witnesses. And
3 I want to make a comment about Kerchum and Hudach: They
4 were not going to testify about the things that they're
5 concerned about. They were going to testify about when
6 they met with me --
7 THE COURT: We've already been through that.
8 We've already been through that. So you have no more
9 witnesses today, I take it.
10 MR. TRAFICANT: I have no more witnesses
11 today. That is true.
12 THE COURT: All right. Then we'll recess the
13 jury early, and that will give us time to rule on the
14 pending motions that were filed --
15 MR. TRAFICANT: Let me ask this question.
16 THE COURT: Excuse me -- that were filed this
17 morning.
18 MR. TRAFICANT: Let me ask this question
19 then. I have presented a motion to the Court that would
20 allow the prosecution to put me on the stand --
21 THE COURT: I know you'd like to speak to the
22 entire room, but you should address me.
23 MR. TRAFICANT: I'm going address you.
24 THE COURT: Thank you.
25 MR. TRAFICANT: I've submitted a motion, and

1 that I will take the stand if Mr. Morford would agree to
2 just a half hour examination by me.
3 THE COURT: We have all of this in writing.
4 Don't waste everyone's time with it now. You filed it with
5 the Court this morning. We have it. We're waiting for
6 their response. We'll rule on it. Okay?
7 MR. TRAFICANT: When can I expect that
8 ruling?
9 THE COURT: I haven't had their response yet.
10 MR. TRAFICANT: If you fax it after 4:30, I
11 will not get that motion.
12 THE COURT: Well, you know what? I'm on the
13 bench until 4:30, and I have 220 cases pending in this
14 room.
15 MR. TRAFICANT: I know that. But what I'm
16 saying is --
17 THE COURT: Do you?
18 MR. TRAFICANT: I will not get it if you fax
19 it, if you fax it to my district.
20 THE COURT: Tell me where to send it. We
21 will fax it anywhere you want it sent. Give us a number.
22 We'll fax it to you.
23 Congressman, may I have a fax number?
24 MR. TRAFICANT: The only fax number I have is
25 the fax number I have given you. I will have to deal with

1 it as soon as I get in like today.
2 THE COURT: Or you have someone else go mind
3 your fax for you.
4 MR. MORFORD: Your Honor, I was going to
5 indicate to the Court we responded orally to the
6 Congressman's motion. Unless the Court wants us to do more
7 in writing, we've already responded orally that the motion
8 just rehashes things the Court has previously ruled on, and
9 there are ethical rules that bar attorneys in a matter from
10 testifying in that same matter anyway. And so the Court
11 has already ruled on all this.
12 The Congressman had a chance to brief it. We
13 briefed it. There were extensive briefs. The Court looked
14 at it all, and the Court ruled on this months ago. This is
15 not some new issue.
16 THE COURT: Well, the issue that's new is the
17 issue that he's presenting that he will have some sort of a
18 conditional --
19 MR. TRAFICANT: I'll take the stand.
20 THE COURT: He'll take the stand on certain
21 conditions. That's the new issue. You've never briefed
22 that before in this Court.
23 MR. TRAFICANT: I brought it up as a motion.
24 THE COURT: Yes, you did. That hasn't been
25 briefed.

1 MR. TRAFICANT: I will take the stand if I
2 can cross-examine --
3 MR. MORFORD: He can take the stand if he
4 wants to take the stand. That's his right. If he takes
5 the stand, he'll be subject to cross-examination, and
6 that's the way it works.
7 THE COURT: That's it.
8 MR. MORFORD: There is no horse trading here.
9 MR. TRAFICANT: If you have nothing to hide,
10 then why don't you take the chance and get the big kahuna?
11 THE COURT: Because we follow the law. This
12 is a courtroom. It is not some kind of a contest that you
13 design the rules for.
14 MR. TRAFICANT: I have the right to make that
15 motion.
16 THE COURT: If you don't want -- of course
17 you do.
18 MR. TRAFICANT: And I've made that motion.
19 THE COURT: Thank you very much.
20 MR. TRAFICANT: I want to read the proffer
21 for the record that I stated earlier unless --
22 THE COURT: First, we're going to let our
23 jury go home. First, we're going to let the jury go home.
24 We should put on the record the fact we're dismissing the
25 jury. I guess the marshals just took me at my word.

1 That's your good news, jurors.
2 (The jury was dismissed for the day at 3:08 p.m.)
3 THE COURT: Do you want to make your proffer?
4 MR. TRAFICANT: I want my motion read into
5 the record.
6 THE COURT: The one you filed this morning?
7 MR. TRAFICANT: Yes.
8 THE COURT: No. It's part of the record in
9 the case. It's not necessary and a colossal waste of time
10 to read it into the record.
11 MR. TRAFICANT: Well, I proffer for the
12 record that I'm willing to take the stand if I have just 15
13 minutes of examination of Mr. Morford's behavior in this
14 trial.
15 THE COURT: You see, it keeps going down, the
16 amount of time keeps going down.
17 MR. TRAFICANT: I don't need a lot of time.
18 THE COURT: No, the amount of time that
19 you're requiring somebody else to --
20 MR. TRAFICANT: No. Take all the time they
21 want with me. A month. Give me 15 minutes. If he's
22 clean, what does he have to worry about?
23 THE COURT: Thank you, sir. Those aren't
24 bargains that we have here.
25 Okay. We are adjourned until 9:00 tomorrow morning,

1 and I will get a ruling out on what was filed this morning
2 that I'm aware of in this case.
3 MR. TRAFICANT: I do have some issues yet.
4 THE COURT: Do you want to do your proffer?
5 MR. TRAFICANT: No. I want to move into
6 evidence the enlarged photograph, the Defense Exhibit
7 0101-A.
8 THE COURT: There's no objection, is there?
9 MR. MORFORD: No objection.
10 THE COURT: It will be admitted without
11 objection.
12 MR. TRAFICANT: And the other one which was
13 Defense Exhibit 0101, that was the smaller version that was
14 blown up to show the identification on the side of the
15 welder.
16 THE COURT: Thank you. That will be
17 admitted. C-7 is what it really is. So we're going to put
18 it in as C-7, Congressman.
19 MR. TRAFICANT: C-7?
20 THE COURT: Yes.
21 MR. TRAFICANT: Can I have your indelible ink
22 pen? You guys have so much technology.
23 THE COURT: Anything else?
24 MR. TRAFICANT: Yes. I want to ask for the
25 record if there are any outstanding tapes or physical

1 evidence in possession of the prosecution for my forensic
2 analysis right now.
3 MR. MORFORD: We've complied with our
4 discovery obligations and given him everything that he's
5 entitled to, Your Honor.
6 THE COURT: Thank you. Okay. We're
7 adjourned. See you at 9:00 tomorrow morning.
8 MR. TRAFICANT: What is this exhibit, Your
9 Honor?
10 MR. SMITH: C-7.
11 MR. TRAFICANT: Is it a joint exhibit?
12 MR. SMITH: No.
13 (Trial adjourned at 3:15 p.m.)
14 - - - - -
15
16 C E R T I F I C A T E
17
18 I certify that the foregoing is a correct transcript
19 from the record of proceedings in the above-entitled
20 matter.
21
22
23 Heidi Blueskye Geizer 4-24-02
Heidi Blueskye Geizer, RMR, CRR Date
24
25

1 VOIR DIRE EXAMINATION OF JAMES ANTHONY KERCHUM
2 BY MR. TRAFICANT..... 5654:1
3 VOIR DIRE EXAMINATION OF FREDERICK V. HUDACH
4 BY MR. TRAFICANT..... 5665:11
5 DIRECT EXAMINATION OF PERCY SQUIRE
6 BY MR. TRAFICANT..... 5691:7
7 CROSS-EXAMINATION OF PERCY SQUIRE
8 BY MR. MORFORD..... 5708:6
9 REDIRECT EXAMINATION OF PERCY SQUIRE
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11 DIRECT EXAMINATION OF DENNIS CARL JOHNSON
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14 BY MR. MORFORD..... 5741:1
15 REDIRECT EXAMINATION OF DENNIS CARL JOHNSON
16 BY MR. TRAFICANT..... 5751:1
17 DIRECT EXAMINATION OF HORACE R. CHESNEY
18 BY MR. TRAFICANT..... 5758:12
19 AFTERNOON SESSION..... 5726:1
20
21
22
23
24
25

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

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

8 - - - - -

TRANSCRIPT OF PROCEEDINGS HAD BEFORE

9 THE HONORABLE LESLEY WELLS

10 JUDGE OF SAID COURT,

11 ON WEDNESDAY, APRIL 3, 2002

12 **Jury Trial**

13 **Volume 31**

14

15 - - - - -

16

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

1 WEDNESDAY, APRIL 3, 2002, MORNING SESSION, 9:04 A.M.
2 THE COURT: Who is your witness, Congressman?
3 MR. TRAFICANT: Michael Terlecky.
4 THE COURT: I want to remind you, this is a
5 limited examination on recall of a witness for a specific
6 purpose.
7 THE COURT: Good morning. Would you raise
8 your right hand, please?
9 (The Witness is Sworn)
10 THE COURT: If you would remember to speak up
11 loudly.
12 THE WITNESS: Yes.
13 DIRECT EXAMINATION OF MICHAEL S. TERLECKY
14 BY MR. TRAFICANT:
15 Q. Would you give your full name and spell your last
16 name again for the jury?
17 A. Michael, middle initial S, as in Sam; Terlecky, T as
18 in Tom, E R L E C K Y.
19 Q. Are you known by a nickname?
20 A. Beef. The Beef.
21 Q. What is your residence?
22 A. Leffingwell Road in Canfield, Ohio, L E F F I N G W E
23 L L, Road.
24 Q. Do you have immunity for your testimony?
25 A. No, sir.

1 Q. Do you know what immunity means?
2 A. Yes, sir.
3 MR. MORFORD: Objection.
4 THE COURT: We have said several times that
5 is part of what the Court instructs the jury. Thank you,
6 counsel.
7 Q. How many times have you been to Cleveland in this
8 case?
9 A. Six or seven times.
10 Q. How many times have you testified --
11 A. Well, I've stayed up here though, except for today.
12 Q. How many times have you testified before the jury?
13 A. This will be my second time.
14 Q. Do you recall the last time you'd seen a Mr. Charles
15 O'Nesti?
16 A. Yes, I do.
17 Q. Where did you see Mr. O'Nesti?
18 A. He was a passenger in a pick-up truck parked in a
19 parking lot of the Speedway. I think it was the Speedway
20 Gas Station on Market Street in North Lima, Beaver
21 Township, B E A V E R, Ohio. That's North Lima, Ohio, the
22 address.
23 Q. Is that a suburb of the city of Youngstown?
24 A. Yeah. Yes.
25 Q. When did you first see him?

1 A. When I was walking out of the gas station towards my
2 vehicle, he called my name.
3 Q. And where was Mr. O'Nesti when he called your name?
4 A. He was parked next to my vehicle. He was a passenger
5 in a pick-up truck.
6 Q. Did you engage in any conversation at that point with
7 Mr. O'Nesti?
8 A. Yes, sir.
9 Q. Was it while he was seated in the pick-up truck?
10 A. He first called my name from the pick-up truck, and
11 then he exited the vehicle.
12 Q. When he exited the vehicle, what, if anything, did he
13 do?
14 A. He walked towards me, and as he was walking towards
15 me, he passed me up, and he went to a newspaper box to
16 probably maybe roughly 10, 15 feet maybe away.
17 Q. Where was the newspaper box located?
18 A. Directly in front of both our vehicles at the
19 Speedway, outside the Speedway Gas Station.
20 Q. What was the near proximity --
21 A. I'm sorry. I can't hear you.
22 Q. What was the near proximity of the newspaper box to
23 the building you had exited?
24 A. It was right up against the building, I believe.
25 Q. What did you observe Mr. O'Nesti do?

A. He made a statement. Then he went and bought a newspaper.

Q. Now, did you engage in a conversation with Mr. O'Nesti after he had purchased the newspaper?

A. Yes, sir, I did.

Q. And what, in essence, did Mr. O'Nesti say?

A. From the beginning?

Q. Did he make a statement before?

A. Yes, he did.

Q. He went to the newspaper --

A. He made a statement as he was approaching the newspaper box saying, "Who is the government intimidating now?"

Q. Then what did you observe him do?

A. Buy a newspaper.

Q. Now that he bought the newspaper, did you see him observe the newspaper?

A. He was looking at the front page as he walked back towards me.

Q. Was there anything of significance on the front page?

A. I believe there was a picture of you on it. It was either your name or your picture. I think it was your picture.

Q. At that point did Mr. O'Nesti make any conversation?

A. Yes, he did.

1 Q. What, if anything, did he say?
2 A. He said to me -- I'm trying to think. At the
3 beginning, he said to me that I would be hearing things,
4 and he just wanted me to know that it was not true --
5 Q. Let's stop there. When he said "I," was he referring
6 to himself or to you as Mr. Terlecky?
7 A. He -- say that again, sir?
8 Q. When he said "I would be hearing things," was he
9 referring to you?
10 A. He meant me, I would be hearing things. Mike
11 Terlecky, I would be hearing things about you, Jim
12 Traficant.
13 Q. And what else followed that?
14 A. He said that what I would be hearing was not true.
15 Q. What, if anything, did you say?
16 A. I tried to change the subject more or less. I told
17 him, "Well, let's worry about your health right now,"
18 because of his condition, and he kept referring to you.
19 Q. What was the condition of his voice?
20 A. Like a person with cancer, kind of scratchy, kind of
21 sickly.
22 Q. Was he hard to hear?
23 A. No.
24 Q. Did you get close to Mr. O'Nesti?
25 A. As close as -- yes, yes. Our vehicles were right

1 next to each other and we were standing between the
2 vehicles, and he got into his truck.
3 Q. Did he offer any other statements concerning Jim
4 Traficant?
5 A. He told me that I would be hearing that he was
6 supposed to be then giving you kickbacks, and I didn't
7 understand what he was talking about, and I kept trying to
8 change the subject. But he did say that he did lend you
9 money, and there started to be like tears in his eyes a
10 little bit, but he kind of chuckled when he said it because
11 he said you always paid the money back you borrowed from
12 him.
13 And when he chuckled, he said, "Almost on
14 time sometimes even."
15 Q. Did he mention anything else about kickbacks?
16 A. Just --
17 Q. Did he say he gave or did not give kickbacks?
18 THE COURT: Don't reply for him.
19 Excuse me. He's testifying. He's doing a fine job.
20 No testimony from you.
21 Q. What, if anything, did he say relative to the
22 kickbacks?
23 A. He said he did not never give you a kickback.
24 Q. Did you engage --
25 A. And I didn't understand what he was talking about

1 because I'd never heard of nothing about that. But
2 evidently he did. I kept trying to change the subject.
3 Q. Did he make any further conversation with you
4 relative to his condition?
5 A. There was some brief -- I can't remember exactly what
6 he said, but he was talking about his condition, but I
7 think he felt like a man that was going to live, to be
8 honest with you, and I just felt bad. He was crying. He
9 wasn't crying like crying-crying, but he had tears in his
10 eyes, and you would have to understand our relationship
11 from before.
12 He always tried to explain things to me for
13 whatever reason. I could tell you why, but he didn't go
14 into it.
15 Q. Did he mention any concerns relative to his
16 condition?
17 A. He was very angry at the government --
18 MR. MORFORD: Objection.
19 THE COURT: Okay. You can question these
20 witnesses that you bring back on recall for specific
21 purposes, in this case it's regarding the contents of
22 impeaching statements made to them.
23 THE WITNESS: There's a statement made, Your
24 Honor, but I don't know if you want me to use the exact
25 words he made.

1 THE COURT: Well, I'm not the one asking you
2 the questions.
3 Q. What, if anything --
4 THE COURT: Excuse me. I'm telling the
5 Congressman and reminding him that there are limits on this
6 examination.
7 Q. What, if anything, did he say --
8 A. Exactly?
9 Q. -- in that conversation?
10 A. Towards the end of the conversation he says, "Them
11 sons-of-bitches" --
12 MR. MORFORD: Objection.
13 THE COURT: You can testify. Testify. Say
14 it.
15 A. He said, "Them sons-of-bitches won't let me die at
16 home." And I kept telling him he's not going to die. And
17 he said, well, he felt he was, and then I don't really
18 think he felt he was, but he knew he was sick. He knew he
19 was real sick.
20 I didn't even at first recognize him. He had lost
21 that much weight. He knew what he was talking about
22 though. He knew me.
23 Q. As a police officer, did you ever identify public
24 documents?
25 A. Yes, sir.

1 MR. MORFORD: This has already been admitted,
2 Your Honor. It's a deed.
3 THE COURT: Can you tell us the number of the
4 exhibit, Congressman, so we know if it's already been
5 admitted?
6 MR. TRAFICANT: It's a public document
7 already been exhibited as Defense Exhibit dash B-O-B.
8 THE COURT: It's already been admitted in the
9 case, sir. It's here, it's part of the evidence in the
10 case for the jury.
11 MR. TRAFICANT: I wanted this witness who has
12 knowledge of deeds to, in fact, identify certain elements
13 of it.
14 THE COURT: Well, I'm sorry, but it's been
15 admitted. The deed is what it says on it, and there's no
16 reason to have I guess -- are you currently in law
17 enforcement?
18 THE WITNESS: I was. I'm currently retired
19 on disability right now.
20 THE COURT: Okay. He's not in a position to
21 give them any more information than the deed itself gives
22 them.
23 Q. Did you ever have a mortgage, Mr. Terlecky?
24 A. Yes, sir.
25 Q. Did you get a hundred percent mortgage on a property?

1 THE COURT: This is not part of the limited
2 purpose of this examination of this witness.
3 MR. TRAFICANT: No further questions.
4 THE COURT: Thank you, sir.
5 CROSS-EXAMINATION OF MICHAEL S. TERLECKY
6 BY MR. MORFORD:
7 Q. Sir, you just stated right at the end of your
8 examination, I believe in response to the Judge's question
9 of whether you were a law enforcement officer --
10 A. Would you speak up, please?
11 Q. Yes. In answer to the Judge's question of whether
12 you are currently a law enforcement officer, you said, "I'm
13 currently retired on disability," correct?
14 A. Yes, sir.
15 Q. And in fact, you're also a convicted felon, correct?
16 A. Yes, sir, I am.
17 Q. And as a convicted felon, you could not serve as a
18 police officer today, could you?
19 A. Yes, sir, I could.
20 Q. You could serve as a police officer even though
21 you've been convicted of RICO bribery for accepting bribes
22 from --
23 A. Yes, sir. There is a statement from the sheriff of
24 Mahoning County in my file that -- excuse me, that if my
25 health permitted it, he has a position as sworn deputy

1 where you don't have to carry a firearm, and I would be
2 reinstated to my pay and rank, but I would not be allowed
3 to carry a firearm.
4 Q. It's your testimony that in Mahoning County, they
5 would let a convicted felon who's been convicted of
6 receiving bribes from the Mafia when he was a sheriff's
7 deputy serve as a sheriff's deputy again?
8 A. I believe at that time the sheriff believed I was
9 innocent.
10 Q. Which sheriff was that, sir?
11 A. Sheriff Nemeth, Ed Nemeth.
12 Q. And that was the sheriff that you were convicted of
13 carrying bribes from the Mafia to, correct?
14 A. That's your statement, sir, not mine.
15 Q. Well, what were you charged with, sir?
16 A. Count 6 of my indictment.
17 Q. What was Count 6 of your indictment?
18 A. You'll have to read it to me. As far as I know, it
19 was accepting bribes to protect gambling which I was
20 unlawfully convicted, in my opinion.
21 Q. What was your position at that time?
22 A. I was lieutenant with the Mahoning County Sheriff's
23 Department.
24 Q. You were the lieutenant in charge of the vice squad
25 that was in charge of conducting --

1 A. We didn't have a vice squad, sir, per se. I was a
2 lieutenant. I worked burglaries, homicides. I didn't have
3 the luxury of having 19,000 people. I was working by
4 myself or maybe with a few other deputies, and sometimes I
5 had a full-time sergeant assigned to me. I didn't work a
6 lot with the Youngstown Police Department making gambling
7 raids.
8 Q. Sir, what does a vice squad usually do?
9 A. In our department? In my department that I worked?
10 Q. In any department. What kinds of crimes?
11 A. We didn't have a vice squad.
12 Q. What kind of crimes do they normally do?
13 A. I'm sorry, sir?
14 Q. What kind of crimes do they normally do?
15 A. Vice crimes?
16 Q. Yes.
17 A. Prostitution, gambling, sometimes narcotics was part
18 of it, a vice crime. I never considered narcotics a vice
19 crime, but some departments do.
20 Q. Let's talk about gambling.
21 A. Yes, sir.
22 Q. Was there a squad in the Mahoning County Sheriff
23 Department --
24 A. Say again, sir. Was there a what?
25 Q. Was there a squad in the Mahoning County Sheriff's

1 Department when you were a deputy that was in charge of
2 gambling enforcement?
3 A. Not really, sir. I did most of it though.
4 Q. Well, sir, let me ask you this: Do you recall
5 testifying in a case against former Mahoning County Sheriff
6 Phil Chance, when I asked you this question:
7 "Q. Well, sir, weren't you the head of the vice
8 squad of the Mahoning County Sheriff's Department during
9 those years?
10 "A. We didn't really have a vice squad. It was
11 my -- my title was lieutenant. I handled burglaries,
12 homicides, gambling, and narcotics."
13 Wasn't that your testimony?
14 A. That's what I just said.
15 Q. So you were handling gambling investigations,
16 correct?
17 A. Isn't that what I just said exactly, what you just
18 read.
19 Q. You were handling gambling investigations, correct?
20 A. I just said that to you.
21 Q. Were you the lieutenant in charge of gambling
22 investigations?
23 A. I guess. There was people ahead of me. I worked for
24 a captain, but I mean I don't know what you're trying to
25 get to. I said exactly what you just said. My testimony

1 didn't change from now to then.
2 Q. My question is: Did you handle gambling
3 responsibilities?
4 A. I said yes, sir.
5 MR. TRAFICANT: Objection. Asked and
6 answered. This is a limited examination, and you did not
7 allow me to go into his past background.
8 THE COURT: Well, there's a different purpose
9 in allowing him to go into the statements elicited on your
10 direct examination at the end of his testimony, and so he
11 can proceed.
12 Q. Now, sir --
13 A. Yes.
14 Q. -- isn't it true that during the time that you were a
15 lieutenant handling the enforcement of gambling laws for
16 the Mahoning County Sheriff's Department that illegal
17 gambling activities in the Mahoning County were often run
18 by organized crime?
19 A. A lot of it was, yes, sir.
20 Q. And then --
21 A. Can I add something to that?
22 Q. Sure. Go ahead.
23 A. I probably made more raids and more arrests, as a
24 matter of fact, I can't think of another lieutenant that
25 even did what I did. I worked day and night. I worked day

1 turn and night turn. Sometimes I didn't know when I was
2 working and when I was off.
3 Q. Did you ever arrest Lennie Strollo?
4 A. Say it again, sir?
5 Q. Did you ever arrest Lennie Strollo?
6 A. I had no reason to. No, sir.
7 Q. No reason to? He was one of the heads of organized
8 crime, was he not?
9 A. I know that now, yeah.
10 Q. Well, you knew that then, did you not?
11 A. No, sir.
12 Q. You didn't know --
13 A. I thought Joey Naples was the head of the Mafia in
14 Youngstown, Ohio. At that time I did not know Lennie
15 Strollo, per se, until I met him one time. I heard of his
16 brother Dante Strollo, and I knew that he had something to
17 do with gambling in Mahoning County, but --
18 Q. Sir. It's your testimony --
19 A. Say it again? I can't hear you. I'm having a hard
20 time hearing you.
21 Q. Did you have a hard time hearing Congressman
22 Traficant when he was asking questions?
23 A. Yes, I did. I told him to speak up, too. I have
24 a -- just go ahead.
25 Q. Okay, sir. Let me ask you this: You were a

1 sheriff's deputy from 1997 to 1998, correct?
2 A. No, sir.
3 Q. What years? Until 1988, I'm sorry. 11 years, right?
4 A. Approximately.
5 Q. And it's your testimony that as a sheriff's deputy in
6 Mahoning County for 11 years who was responsible for
7 enforcing the state gambling statutes, you didn't know that
8 Lennie Strollo was a Mafia person who was involved in
9 illegal gambling?
10 A. You didn't ask that. You asked if he was the head of
11 it, I thought.
12 Q. Why don't you answer that question. Did you know
13 Lennie Strollo --
14 A. His name surfaced many times, yes.
15 Q. But you never arrested him, did you?
16 A. No. That wasn't my job to arrest him. As a matter
17 of fact, he was an informant of mine, like he is yours.
18 Q. You said you pled guilty to Count 6 of an indictment,
19 correct?
20 A. I believe it was Count 6, yes, sir.
21 Q. And basically that was a RICO charge that charged you
22 with RICO bribery for accepting bribes to protect Lennie
23 Strollo's gambling rackets, correct?
24 A. Most of that I think is correct, yes.
25 Q. And then you came into this very courtroom and stood

1 in front of a different Federal Judge and told the Judge
2 that you were, in fact, guilty of that offense, did you
3 not?
4 A. Yes, sir. I was intimidated into doing that, yes, I
5 was.
6 Q. And you raised your right hand just like you did
7 today and swore to tell the truth, did you not?
8 A. The same as Lennie Strollo did when he --
9 Q. That's not my question.
10 A. He said he never gave me a cent, nothing, he told me,
11 under oath in this same courtroom just like you said. He
12 raised his hand, too.
13 Q. Sir, as a former law --
14 A. I pled guilty, yes, I did.
15 Q. And you pled guilty under oath, correct?
16 A. To be honest with you, I don't think I was under
17 oath. But if I was, so what?
18 Q. So what?
19 A. Yeah. So what?
20 Q. You told a judge you were guilty and today you're
21 saying you're not guilty and so what?
22 A. When you plead guilty, when do they swear you in? I
23 don't believe I ever took an oath when I pled guilty. But
24 are you saying that I did?
25 Q. Sir, you were a law enforcement officer. You mean to

1 say when people plead guilty, you don't know that they
2 raise their right hand and swear to tell the truth before
3 they enter their guilty plea?
4 A. I'm going to tell you, sir, I don't remember ever
5 raising my right hand. I don't remember ever swearing to
6 nothing. As a matter of fact, Judge Lambros told me when I
7 stood up, he said, "Just sit down." I didn't give
8 testimony. All I did was plead guilty.
9 Q. Let me get this right then: You're saying you pled
10 guilty, but you're really not guilty? Is that your
11 testimony?
12 A. This is true, yes.
13 Q. So you're saying that you did not take bribes from
14 Lennie Strollo?
15 A. This is true, yes. I did not take bribes.
16 Q. You're basically an innocent guy that got pressured
17 into falsely admitting your guilt?
18 A. Yes, this is true.
19 Q. And did you explain that to Congressman Traficant?
20 A. Yes, I think I did.
21 Q. You've told him that you were wrongfully convicted
22 and you really weren't guilty?
23 A. Probably. I've been telling that to everybody I
24 know.
25 Q. I'm not asking probably. You've had direct

1 conversations with Congressman Traficant about this. What
2 have you told him?
3 A. About what, sir?
4 Q. About whether or not you were guilty of the crime
5 that you pled to, RICO bribery.
6 A. I just said I was not. That's about the third time
7 I've said it. I don't know how else to say it to you.
8 Q. Now, you have filed a petition at one time asking the
9 President of the United States to pardon you; is that
10 correct?
11 A. Almost three years ago, yeah, under President
12 Clinton.
13 Q. And at the time that you did that, you talked to
14 Congressman Traficant, did you not?
15 A. Shortly after, yes, sir.
16 Q. And you asked him to write a letter to the President,
17 did you not?
18 A. I don't believe I did, sir.
19 Q. Well, he did write a letter to the President for you?
20 A. Yes, he did.
21 Q. And you've seen that letter, correct?
22 A. Yes, I believe I did. Yes, I did.
23 Q. Well, sir, what do you mean you believe you did?
24 This is a major event in your life, correct?
25 A. It was also a major event in my life when they -- as

1 soon as I left the courtroom the other day, I had it in the
2 mailbox the same date I was supposed to testify here, they
3 turned me down. The same date on my subpoena that I was
4 supposed to be in this courtroom, I got a letter from the
5 Justice Department when I got home from this Court, after
6 three years, and the president never signed it.
7 The Justice Department signed it. I didn't
8 apply to the Justice Department. I applied to the
9 President. They didn't even mention his name in it. I was
10 turned down. The 20th of last month that I was subpoenaed
11 in this Court, they made it a point to tell me in the
12 subpoena and I think the Congressman in the paper, very
13 unofficial looking, that the Justice Department turned me
14 down, like I didn't know it was coming.
15 I knew if I testified here, that it would be
16 turned down, but I'm telling the truth. If that means to
17 be turned down, then so be it.
18 Q. Are you done?
19 A. Are you done?
20 Q. No. Are you done? Is there anything else you want
21 to add?
22 A. I don't know. Is there anything else you want to
23 ask?
24 Q. I asked you a question. You just gave a five-minute
25 answer that had nothing to do with my question.

1 MR. TRAFICANT: Objection. Asked and
2 answered.
3 THE COURT: Let's go back and read the
4 question and then ask you to answer the question.
5 A. Ask the question.
6 THE COURT: Wait, wait. Go back and read the
7 question.
8 THE COURT REPORTER: "Well, sir, what do you
9 mean you believe you did? This is a major event in your
10 life, correct?"
11 Q. That's my question.
12 A. A major event in my life, sir, is one of my dogs gets
13 hit by a car, my mother passes away. Those are major
14 events.
15 Q. How about trying to get a conviction thrown out so
16 that it will be pardoned as though it never happened;
17 that's a major event, correct?
18 A. It's an event.
19 Q. It's an important event?
20 A. As of this moment, no. It was.
21 Q. Well, at the time it was, certainly, correct?
22 A. It was an event, yes, sir.
23 Q. When you talked to Congressman Traficant about
24 writing letters on your behalf, you told him the same thing
25 you just told this jury, that you were not guilty, correct?

1 A. Yes, I did.
2 Q. That you had been framed, correct?
3 A. I don't believe I ever used the word "framed," but --
4 Q. "Pressured" was your word?
5 A. "Intimidated" was my word, was my exact word.
6 Q. And so you told them that?
7 A. I told everybody I was in contact with.
8 Q. I'm not talking about everybody you contacted.
9 A. Yes, I told you that before, and I'm telling you now
10 I told him that.
11 Q. You told him you had not actually done those
12 offenses, correct?
13 A. This is correct.
14 Q. And you told him you were not taking responsibility
15 for these offenses because you're claiming that you never
16 did them, correct?
17 A. Correct. I will not take responsibility for
18 something I didn't do.
19 Q. Let me show you what's been marked Government's
20 Exhibit 81.
21 MR. TRAFICANT: Are you going to show me?
22 MR. MORFORD: Yes, I will.
23 A. What is your question, sir?
24 Q. Sir, this is a copy of the letter that Congressman
25 Traficant wrote to President Clinton on your behalf asking

him to pardon you for this offense, is that correct?

A. That's what it looks like, yes. I don't believe I ever seen this one before. I did see a letter, but I don't believe it was this one. But whatever -- what's the question?

Q. The question is: I'd like you to read the letter out loud, sir.

MR. TRAFICANT: Objection. He says he never saw this letter.

A. This is news to me, I mean this actual document here. I've seen letters. He wrote several letters. I got several letters.

Q. He never gave you a copy of the letter he wrote to President Clinton, sir?

A. Not this one.

THE COURT: Well, take a minute and look through it all. Don't rush him. Just let him take a minute.

A. I would never let this letter go through.

Q. Let me ask you a couple things.

A. Sure.

Q. To the extent the letter says, "Michael was found in violation" --

MR. TRAFICANT: Objection. He did not know or have knowledge of the letter. And I object to it being

1 placed into the record unless he can bring in the person to
2 verify this letter, similar to the standards placed upon
3 the defendant.
4 MR. MORFORD: Your Honor, I'll withdraw the
5 question. I'll ask another question.
6 THE COURT: Thank you.
7 Q. Did you ever tell Congressman Traficant that you had
8 only been found in violation of federal gambling laws as
9 opposed to RICO bribery? Did you ever tell him that?
10 A. Repeat the question. Slow down a little bit. I
11 don't follow you.
12 Q. Did you ever tell Congressman Traficant that you had
13 been merely convicted of federal gambling violations as
14 opposed to RICO bribery?
15 A. I have no knowledge of -- I don't understand --
16 Q. Did you ever tell that to Congressman Traficant?
17 A. I told him I was innocent.
18 Q. Did you ever tell him you had merely been convicted
19 of federal gambling violations as opposed to RICO bribery?
20 A. I don't think so.
21 Q. Did you ever tell Congressman Traficant that you
22 recognized and acknowledged your mistakes?
23 A. Definitely not. I mean, I made some bad judgments,
24 if that's what you mean. It may be ethical, but not
25 criminal by any means.

1 Q. So you never told him those things?
2 A. What things, sir?
3 Q. What I just asked you.
4 A. I don't understand what you're -- I told you
5 that -- ask the question again. You're yelling and -- I'm
6 on medication, sir. I'm taking antibiotics; I'm tired. I
7 got up at 3:00 in the morning. You have to slow down and
8 quit yelling at me.
9 Q. Sir, when I talk quietly, you tell me to talk loudly.
10 A. You can raise your voice without being intimidating.
11 Q. I'm just going until you find a modulation you like,
12 okay?
13 A. You do that, and I'll let you know.
14 Q. Did you ever tell Congressman Traficant with respect
15 to the charges to which you pled that you recognized and
16 acknowledged the mistakes that you had made?
17 A. Possibly, if it's a matter of bad judgment or
18 something like that. I don't remember.
19 Q. What's the bad judgment if you didn't do the crimes
20 in the first place, sir?
21 A. Well, there was a lot of bad judgment, sir. There
22 are a lot of things I could go back and do over again, but
23 they're not criminal. I accepted a thousand dollars off of
24 Lennie Strollo that was nothing to do with a bribe. I
25 would never do it again. It was money owed to me. But I

1 testified, no one had tapes of me, no one --
2 Q. No one had tapes of you?
3 A. Not of that.
4 Q. Oh.
5 A. And I brought that up voluntarily. I did take a
6 thousand dollars off of Lennie Strollo, and he was repaying
7 me a loan from an employee of his, and I would never do it
8 again. I think it's unethical, and I think I redeemed
9 myself by making all the gambling raids after that to show
10 that nobody did own me. And I made arrests and I called
11 the IRS and brought them with me, so nobody can say I was
12 trying to fix something; and the same places your FBI
13 agents raided. The only difference was I made arrests.
14 You guys just made snitches. I arrested people.
15 Q. Sir, when did you retire from the police force?
16 A. I retired after my accident on 3-21-88, was the last
17 day I worked.
18 Q. How close in time was that to your indictment?
19 A. Exactly one month. I was indicted 4-21-88.
20 Q. Now, were you aware that in July of 2000, Congressman
21 Traficant wrote a letter to President Clinton on your
22 behalf?
23 A. He wrote several letters, yes, sir.
24 Q. My question was: Were you aware that he wrote a
25 letter to --

1 A. What did I just say?
2 Q. -- to President Clinton in July of 2000?
3 A. Oh, July of 2000? I don't recall the date, no, sir.
4 It sounds right. I think I applied in June, so that would
5 probably be -- I would have to say probably, but I don't
6 remember exactly.
7 Q. Are you aware that he wrote another letter on your
8 behalf to President Bush just days after President Bush was
9 inaugurated?
10 A. I don't remember that, sir, but it's possible.
11 Q. You weren't aware of that?
12 A. I don't remember it, sir, but it's possible.
13 Q. Is it fair to say you're grateful to Congressman
14 Traficant for taking up your cause, sir?
15 A. He probably cost me my cause, but I'm grateful. He
16 did what he was supposed to do. I'm a constituent of his,
17 and he's my Congressman.
18 Q. And since the time he began taking up your cause,
19 you've been taking up his cause to some extent, correct?
20 A. What's his cause, sir?
21 Q. I'm just asking you, have you ever --
22 A. What's his cause, sir? I don't know what his cause
23 is. Tell me what his cause is, and I'll answer your
24 question.
25 Q. Were you here in court yesterday?

1 A. No, sir.
2 Q. Where were you, sir?
3 A. From the time I got up, or what time specifically?
4 Q. Let's take the hours 12:00 to 3:00, where were you at
5 that time?
6 A. Conneaut, Ohio.
7 Q. What were you doing?
8 A. I was on a radio talk show called the Louie Free
9 show. I'll have tapes of it tomorrow if you want them.
10 Q. Anything else you want to add? I didn't ask you a
11 question, sir.
12 A. Oh. I was just finishing my answer, sir.
13 Q. Now, this conversation that you say you had with Mr.
14 O'Nesti --
15 A. Yes, sir.
16 Q. -- who else was present and overheard Mr. O'Nesti
17 tell you these things?
18 A. I do not know the person who was in the driver's seat
19 of the pick-up truck. I have no idea who it was, and I do
20 not know if he overheard the conversation.
21 Q. You weren't sitting in the pick-up truck having this
22 conversation, were you?
23 A. I was standing between my vehicle and the pick-up
24 truck.
25 Q. So basically it's you and Mr. O'Nesti talking,

1 correct?
2 A. I would have to assume so.
3 Q. And you've said that at that time he had a very weak
4 voice, correct?
5 A. No, sir. I said it was kind of scratchy, kind of
6 sickly.
7 Q. As you sit here today, there's no one else that
8 overheard that conversation you're aware of other than
9 that, correct?
10 A. I never asked nobody if they overheard it, but I
11 would assume they probably didn't. He wasn't yelling in
12 the parking lot, the conversation.
13 Q. You have nothing to support your testimony that this
14 conversation occurred except your own word, correct?
15 A. I didn't know I would have to, sir. I didn't know it
16 was relevant, to be honest with you.
17 MR. MORFORD: May I have just a moment, Your
18 Honor?
19 THE WITNESS: Your Honor, can I move my foot
20 here a little? It is awkward and hurts me very badly.
21 THE COURT: There's a better chair maybe for
22 you.
23 THE WITNESS: I just want to move back. I
24 don't want you to think I'm --
25 MR. MORFORD: I have nothing further, Your

1 Honor.

2 THE COURT: If you want to, see the chair

3 behind you?

4 THE WITNESS: I'm fine as long as I can move

5 back a little bit.

6 THE COURT: Is it okay? All right.

7 REDIRECT EXAMINATION OF MICHAEL S. TERLECKY

8 BY MR. TRAFICANT:

9 Q. What exactly was the count that you were convicted

10 of?

11 A. You know, it sticks in my mind Count 6. I could be

12 wrong, but I remember my attorney telling me I'll be

13 pleading guilty to Count 6 of my indictment. It was a -- I

14 do remember, I do remember it was a B-2 sentence --

15 Q. Was there money involved in Count 6?

16 A. Possibly. I don't remember. I think it was $5,000,

17 that's what they were referring to. $5,400 when they

18 stopped me on a search warrant, and they took 5,000 off of

19 me.

20 Q. They took 5,400 off of you on a search warrant when?

21 A. Back in 1986, a couple years before I was indicted,

22 and then they gave me back $400 at the same time. They

23 kind -- they counted off 5,000 and they gave me back 400.

24 Q. Where did they stop you on the search warrant and who

25 stopped you?

A. A bunch of FBI agents. Hmm. Woodworth Road, North Lima. As a matter of fact, I was on my way back to deliver the 5,000 that I borrowed.

Q. Who did you borrow the 5,000 from?

A. Carl Rango.

Q. You borrowed it from Carl whom?

A. Carl Rango borrowed the money on a Corvette, and the check was cashed at Western Reserve Bank and he gave me the money the night before.

Q. Who cashed the check?

A. Carl Rango. It was in his name.

Q. Where did the government allege that the $5,000 came from?

A. I believe they said that Lennie Strollo paid me $5,000 to protect the gambling operations in Mahoning County. I believe that was basically what they said. You mean the FBI now or do you mean at the time?

Q. Yeah. The FBI, on your indictment.

A. On my indictment or when I got stopped on the warrant?

Q. At some point on this $5,000, what did the government allege, where did you get this money?

A. They said I got it from Lennie Strollo.

Q. Did Lennie Strollo ever admit to giving you $5,000?

A. He denied it under oath, sir. When he pled guilty,

he denied it under oath. It was published in the paper. It is in court record. He said he never gave Mike Terlecky no money.

Q. Was that before --

A. Nothing illegal.

Q. Was that before or after you took a plea in the court?

A. I took the plea after he said it because they didn't drop the charges. I didn't want to go to jail for as long as they told me I would.

Q. Who was your attorney?

A. Stewart Mandel, sir.

Q. Did he ever work for a government entity?

A. He was a United States prosecutor.

Q. Where?

A. Right here.

Q. Did anyone in the history of Mahoning County make any gambling arrests more than you?

A. No, sir. As a matter of fact, whenever there was a sports betting operation, the city of Youngstown wouldn't even make it. They would call me and they were working right with the FBI at the time. I actually thought I was, too.

Q. Where would you place your evidence?

A. Most of the time the Youngstown Police Department

1 SIU, because I never had a key to our evidence locker or
2 nothing. Sometimes I kept some stuff in my office if I
3 thought it wasn't going to court.
4 Q. Did any of your evidence come up missing?
5 A. Yes, sir.
6 Q. Who took it?
7 A. Special Agent Robert Kroner.
8 Q. What agency was he involved with?
9 A. FBI, sir.
10 Q. In what location?
11 A. Youngstown, Ohio.
12 Q. Did you confront Agent Kroner about it?
13 A. Yes, sir, I did.
14 Q. What, if anything, did you conclude after talking
15 with Agent Kroner?
16 A. He put my life in danger and he gave the tape back.
17 MR. MORFORD: Objection, Your Honor. This is
18 getting way far afield.
19 MR. TRAFICANT: No. They brought up this
20 matter. I want to continue the cross.
21 THE COURT: Well, they brought up some of
22 this matter.
23 MR. TRAFICANT: This is salient to the
24 matter.
25 THE COURT: Which matter is it salient to,

1 sir?

2 MR. TRAFICANT: The questioning of his

3 innocence, guilt, pardon, and pleading.

4 THE COURT: Well, it's a matter of record

5 whether or not he pled guilty. He's explaining the

6 circumstances, but it's a matter of record. You can get

7 the papers and produce that if you want to.

8 MR. TRAFICANT: Well, so could the government

9 have. They had the right to question him and I have the

10 right to examine him on the cross-examination. If you want

11 to take a side-bar, I will, but I want to continue with

12 this witness directly.

13 THE WITNESS: Your Honor, there are no tapes.

14 THE COURT: There are no papers in the court.

15 THE WITNESS: They disappeared, ma'am.

16 Q. What happened to the papers relative --

17 THE COURT: We're talking about a court case.

18 THE WITNESS: I'm sorry. I thought you meant

19 the evidence he took.

20 THE COURT: No, no. We're not -- this case

21 is not about whatever happened to you in your case, which

22 is something that you certainly should pursue somewhere,

23 but this is not the forum to pursue that. And there is

24 some examination that can be made of you, but we can't

25 spend the day with our jury, who has this case --

1 MR. TRAFICANT: Objection.
2 THE COURT: -- who has --
3 MR. TRAFICANT: You limited me.
4 THE COURT: Would you excuse me, sir? I'll
5 just finish speaking, if you don't mind.
6 MR. TRAFICANT: Go ahead.
7 THE COURT: Thank you. We have to deal with
8 the issues in this case which involve the charges in this
9 case against this defendant, and not what happened to you
10 in your case, which was apparently in the Northern District
11 of Ohio, also.
12 MR. TRAFICANT: Objection for the record, and
13 I would like to speak to the Court.
14 You told me to limit my questioning to his
15 conversations with O'Nesti.
16 THE COURT: That's right.
17 MR. TRAFICANT: They broke open his
18 conviction, they broke open his pleading, they broke open
19 the elements of all of that, and I have a right under now
20 my redirect to address the prosecution's cross of this
21 witness. Yes or no?
22 THE COURT: Since you're arguing your motion
23 in front of the jury, which is not the way we normally do
24 it, I'll permit Mr. Morford on this one occasion to respond
25 to the argument you're currently making so that the jury

1 can see how the laws of evidence actually apply and how the
2 Judge rules on things.
3 MR. TRAFICANT: I thought that the Judge told
4 the law to the jury.
5 THE COURT: Right, but you've just given one
6 side of the story here. We'll let him give his side and
7 then I'll make a ruling.
8 MR. TRAFICANT: He --
9 THE COURT: Congressman, the other side now
10 has a chance to talk.
11 MR. MORFORD: Congressman -- when the
12 Congressman originally called Mr. Terlecky, he brought out
13 the fact of the conviction. What he failed to bring out
14 was that Mr. Terlecky denies he was guilty and that
15 Congressman Traficant went to bat for him. Those are
16 matters that go to impeachment. Those are matters to go to
17 the witness's credibility.
18 THE WITNESS: You stopped --
19 MR. MORFORD: I was merely responding and
20 questioning and following up on things that Congressman
21 Traficant had brought up on direct.
22 I didn't object for a period of time, but now he's
23 getting into things that are far afield from whatever
24 impeachment was brought out, and that had nothing to do
25 with the issues that are before this jury. We're not

1 trying the case of Mr. Terlecky. We're trying the case of
2 Congressman Traficant.
3 MR. TRAFICANT: Now I'd like to respond.
4 They are trying Mr. Terlecky. When I proceeded --
5 THE COURT: Congressman, you don't need to
6 respond. It's not necessary. If you would just wait a
7 moment, I'll rule and we can go forward.
8 MR. TRAFICANT: You did not allow me to go
9 further on Mr. O'Nesti on direct when I first started.
10 THE COURT: Congressman --
11 MR. TRAFICANT: Two weeks ago.
12 THE COURT: Congressman, just wait a minute,
13 so I can give you a ruling here.
14 MR. TRAFICANT: I'm going to wait.
15 THE COURT: It's true that there are some
16 issues which can be raised when a person has testified to
17 any matter that deal with a person's credibility and
18 whether or not he can be impeached. Credibility is always
19 an issue before a jury.
20 It's part of the jury's responsibility here to make
21 decisions about witnesses' credibility. So it was possible
22 for you to do it in a limited way that's relevant to what
23 happened on the stand here today, in his testimony here
24 today, to try and counter, as you may have successfully
25 done, some of the issues that the government raised

1 regarding his credibility, but it has to stop at a certain
2 point, and now you've gone past the point.
3 This is not an examination into this
4 witness's situation regarding his own case. So now if you
5 move to the next question, if you have something else to
6 raise that was raised by the government in their
7 cross-examination, we'll address it.
8 MR. TRAFICANT: Objection. This deals with
9 the veracity of the witness and impeaching another witness,
10 and I am now being limited again to not even pursue the
11 prosecution's --
12 THE COURT: Do you have any further
13 questions?
14 MR. TRAFICANT: I have further questions.
15 THE COURT: All right. Well, go ahead.
16 Q. In Mahoning Valley, how many years have there been
17 the presence of the FBI and the IRS?
18 MR. MORFORD: Objection.
19 THE COURT: Sustained.
20 Q. Did you ever take the IRS out with you on your
21 gambling raids?
22 A. Yes, sir.
23 Q. Did anything I did regarding your matter have any
24 effect or bearing on your testimony today?
25 A. No, sir, none whatsoever.

1 THE COURT: Don't keep talking. Wait for a
2 question.
3 Q. You answered the government's question that you were
4 denied and you have come to be denied your pardon and you
5 gave a specific date. What date was that, sir?
6 A. The 20th of last month. I was served on the 14th,
7 told to appear here on the 20th, but I didn't get to take
8 the stand for -- I had to stay up here in Cleveland for
9 three or four days then, but the subpoena read the 20th.
10 Q. And when did you receive your letter from the Justice
11 Department that the pardon was denied?
12 A. When I got home from Cleveland, it was in my mail.
13 Q. On what date?
14 A. The day after Easter, I'm sorry.
15 Q. Was there a date on it?
16 A. The date, yes, it was. It was in the letter that it
17 was denied on the 20th, the same day my subpoena was -- I
18 was supposed to testify.
19 Q. Now, you were also asked about further pursuits, and
20 why you probably did not get it, and you made a statement
21 that someone was probably responsible for you not getting
22 your pardon.
23 A. There is no doubt you were.
24 Q. Is that your testimony?
25 A. Yes, sir, it is.

1 Q. That I did not help? Did I hurt you?
2 A. Yes, sir, you did.
3 Q. And why did you come to that conclusion?
4 MR. MORFORD: Objection. This is all
5 speculation on his part. He doesn't know why his pardon
6 was denied.
7 THE WITNESS: Yes, I do.
8 THE COURT: You may have an idea about why it
9 was, but that's not going to further the jury's work in
10 this case.
11 Q. Do you have an idea or do you have knowledge,
12 Mr. Terlecky?
13 A. I'm not sure what the difference is. I believe I
14 have knowledge of it, maybe. Maybe it's not knowledge. I
15 believe I have knowledge.
16 THE COURT: Well, was there an explanation --
17 THE WITNESS: Wait a minute.
18 THE COURT: -- of why you didn't get the
19 pardon? Did they send you something that explained why you
20 didn't get the pardon?
21 THE WITNESS: I don't have a copy, but if he
22 reads it to you or shows it to you, I'm sure even you will
23 see there's something definitely wrong here. The
24 President's name -- the Constitution says the President
25 grants you a pardon.

1 THE COURT: Right.

2 THE WITNESS: They don't refer to the

3 President even in the letter at all, just the Justice

4 Department, and the White House. I mean the White House is

5 not -- he never signed it. President Bush --

6 THE COURT: But the question is: Did they

7 give you a reason in it for denying it?

8 THE WITNESS: Yes. They told me presidential

9 pardons are very rare, and I kind of started laughing. I

10 watch CNN just like everybody else.

11 THE COURT: Those are your --

12 THE WITNESS: Then they said, "Don't take it

13 personal" -- they also said, Your Honor, "Don't take it

14 personal," because the bottom of the letter said I could be

15 a very good person, and I could be rehabilitated and all

16 this stuff, but that's just the way it is because they

17 don't grant pardons so freely.

18 THE COURT: Thank you.

19 Q. Do you have a copy of that letter?

20 A. I do not have it on me. I did give a member of your

21 staff a copy of the subpoena. I left it -- it was left on

22 your desk in your office in Canfield, but I don't have a

23 copy on me, no, sir, I don't.

24 Q. Could you make a copy of it available to this Court?

25 A. When I go back to Canfield, I have the original.

1 Q. Now --

2 THE COURT: I would suggest you make it

3 available to the Congressman.

4 THE WITNESS: I'm sorry, Your Honor. I

5 thought he had it, but I should have brought it.

6 THE COURT: Well, maybe he does, but don't

7 make it available to the Court. I can't do anything with

8 it unless it comes through the normal channels of evidence.

9 MR. TRAFICANT: Would he not be the recipient

10 of the letter?

11 THE WITNESS: Sir -- can I add something,

12 Your Honor?

13 THE COURT: No. Guys, let's move on with the

14 questions.

15 MR. TRAFICANT: I ask that that letter be

16 provided at a later date by Mr. Terlecky for the record.

17 MR. MORFORD: Objection.

18 THE COURT: Well, the objection is sustained.

19 You can go through the normal process. We've been doing it

20 for nine weeks, and you know what it is.

21 BY MR. TRAFICANT:

22 Q. Did Mr. Strollo give you $5,000?

23 A. No, sir.

24 Q. Is that what Count 6 of the RICO charge was about?

25 A. I think. I'll be completely honest with you, I never

1 read the indictment. I just listened to my attorney.
2 Q. Were you prepared to go to trial?
3 A. I was, but he wasn't.
4 Q. Were you encouraged by your attorney to cop a plea?
5 A. Yes, sir.
6 Q. Did you come to find out that your attorney was
7 affiliated with the mob boss, Lennie Strollo, in business?
8 MR. MORFORD: Objection. He's testifying.
9 MR. TRAFICANT: They brought up the Lennie
10 Strollo business.
11 THE COURT: Congressman.
12 MR. TRAFICANT: This is salient.
13 THE COURT: It is not -- I don't know if it's
14 salient. That's your choice of words. But it's not
15 relevant to what our jury has to work with here.
16 MR. TRAFICANT: It's relative to his
17 veracity, and that's what we're here for.
18 THE COURT: I'm sorry, Congressman, but that
19 doesn't fly here. Move.
20 Q. Are you under oath, Mr. Terlecky?
21 A. Yes, sir.
22 Q. Was your attorney affiliated with the mob boss?
23 A. Yes, sir.
24 Q. Was he in business with the mob boss?
25 A. Yes, sir.

1 Q. Did he encourage you to take a plea?
2 A. Yes, sir.
3 Q. Did you take that plea?
4 A. Yes, sir.
5 Q. Did you serve your time?
6 A. Yes, sir.
7 Q. Is it a fact that the prosecution spent 90 percent of
8 their time on your felony record?
9 MR. MORFORD: Objection. He's testifying,
10 Your Honor, and has been.
11 THE COURT: You can't --
12 Q. How much of the --
13 THE COURT: Congressman, move to another
14 question.
15 MR. TRAFICANT: Yes, I certainly shall.
16 THE COURT: Thank you.
17 Q. How much time of the cross-examination was spent on
18 your felony record?
19 MR. MORFORD: Objection. The jury heard it.
20 THE COURT: The jury has been here with me.
21 We've all heard the cross-examination.
22 A. It's there, sir. There's no doubt --
23 THE COURT: Wait. Don't testify without a
24 question.
25 Q. Was it your impression that the prosecution's

1 attempts were to demean you?
2 MR. MORFORD: Objection.
3 A. You mean --
4 THE COURT: The objection is sustained. The
5 jury is here to make decisions about witnesses and about
6 the way the case is conducted. So move on to something
7 else, if you have something else for Mr. Terlecky.
8 Q. Are you in fairly ill health at this point?
9 A. I'm sorry, sir?
10 Q. Are you in fairly ill health at this point?
11 A. Yes, sir.
12 Q. What are your troubles?
13 A. I don't want to go into them, but if you want me to,
14 I will.
15 Q. That's fine. Could you go back to work?
16 A. Physically, no, sir.
17 Q. Would you be able to perform the services of a law
18 enforcement officer if you were healthy?
19 A. No, sir.
20 Q. You would not be -- is it because of your disability
21 to carry a firearm?
22 A. Yes -- no, sir. My physical condition.
23 Q. If you were physically healthy, could you go back to
24 law enforcement work?
25 A. I could have. I can't carry a gun now, sir. I'm a

1 convicted felon yet.
2 THE COURT: There's no question right now,
3 sir.
4 THE WITNESS: All right.
5 THE COURT: Just sit back and relax. We'll
6 see if there are more questions here. Have --
7 MR. TRAFICANT: There was a question and he
8 took his time to answer it. He was allowed to do so under
9 cross, and I object for the record.
10 Q. Did you admit to me at some point you'd made mistakes
11 in your life?
12 A. Yes, sir. Nothing I'm ashamed of though. I would
13 make some changes though.
14 Q. Was that search warrant served on you after Agent
15 Kroner took the evidence from the Youngstown Police
16 Department?
17 MR. MORFORD: Objection.
18 THE COURT: Sustained. Disregard that
19 question, please.
20 Q. Are you familiar, sir, with the chain of evidence
21 requirements in a criminal case?
22 A. Yes, sir, I am.
23 MR. MORFORD: Objection.
24 THE COURT: That is a matter that the law in
25 federal courts is for the Judge to determine, and I will

1 instruct you on any of that if you need to know about it.
2 Thank you.
3 Q. Were you screwed by an ex-USA attorney?
4 MR. MORFORD: Objection.
5 THE COURT: Go ahead and answer.
6 A. I think I heard the question right. Could you repeat
7 that again?
8 Q. Were you screwed?
9 THE COURT: I don't think we need to --
10 Q. Were you screwed by a United States -- former United
11 States Assistant Attorney?
12 A. This is very hard for me to say, but I was, yes.
13 MR. TRAFICANT: No further questions.
14 THE COURT: Thank you.
15 RECROSS-EXAMINATION OF MICHAEL S. TERLECKY
16 BY MR. MORFORD:
17 Q. Sir, are you aware that Stewart Mandel himself was
18 convicted of conspiring with Lennie Strollo?
19 A. Yes, sir, I am.
20 Q. And he was prosecuted by me, correct?
21 A. I don't know that, but if you say so.
22 Q. Did you know he was prosecuted by my office?
23 A. The United States Attorney's Office?
24 Q. Yes.
25 A. I don't know you personally, no.

1 Q. Do you know if he was prosecuted by the United States
2 Attorney's Office for the Northern District of Ohio?
3 A. Yes.
4 Q. Despite the fact that he was a former assistant,
5 correct?
6 A. Say that again?
7 Q. Despite the fact that he was a former Assistant
8 United States Attorney, correct?
9 A. Ask the whole question at one time. I don't
10 understand.
11 Q. You understand that he was prosecuted by my office
12 despite the fact that he used to work for my office back in
13 the 1960s, correct?
14 A. If that's what you're saying is true, okay.
15 Q. And he worked for my office back in the 1960s,
16 correct?
17 A. It was my understanding he worked for the prosecutor
18 who prosecuted me. I don't know. I didn't meet you until
19 that Superbowl party when you wanted me to testify.
20 MR. MORFORD: No further questions.
21 A. And I didn't.
22 MR. TRAFICANT: I have some questions.
23 THE WITNESS: Mr. Morford? I have nothing
24 against you, sir. You never hurt me.
25 THE COURT: He's not even there. He's not

1 even --

2 MR. TRAFICANT: He's not on trial.

3 THE WITNESS: I feel like I'm on trial.

4 MR. TRAFICANT: I'd like now to redirect the

5 cross.

6 FURTHER REDIRECT EXAMINATION OF MICHAEL S. TERLECKY

7 BY MR. TRAFICANT:

8 Q. Do you know if Mr. Stewart Mandel was arrested for

9 being in business with mob boss Lennie Strollo?

10 A. Yes, sir.

11 Q. Was he convicted after Lennie Strollo?

12 A. Yes, sir.

13 Q. Do you have any knowledge that he was associated with

14 organized crime while he was a member of the United States

15 Attorney's team?

16 A. Could you repeat that, please?

17 Q. Do you have any knowledge that he was, in fact,

18 associated with the mob while he served as an Assistant

19 United States Attorney?

20 A. Do I have personal knowledge? No.

21 Q. Do you know where he came from before he was

22 appointed to the United States Attorney's Office?

23 A. Yes, sir, I do.

24 Q. What prosecuting office did he represent?

25 A. The city of Youngstown, I believe. He might have

1 been the prosecutor or the assistant. I'm not sure. I did
2 trust him because of a friend of mine he was good friends
3 with.
4 Q. So he was the prosecutor in the city of Youngstown
5 appointed to the U.S. Attorney's Office, and the prosecutor
6 asked you if, in fact, Youngstown was known as a gambling,
7 mob-dominated community. Is that correct?
8 A. That's where I grew up, sir.
9 Q. Was he the prosecutor there?
10 A. Yes, sir.
11 Q. Was he then appointed as the U.S. Attorney, Assistant
12 U.S. Attorney?
13 A. Yes, sir. I believe so. I don't know if it was
14 directly after that, but I think it was, based on
15 everything I've heard. I wasn't there.
16 Q. Do applicants get screened?
17 A. I don't know.
18 MR. MORFORD: Objection.
19 THE COURT: This witness can't talk about
20 those things.
21 Q. Do you know if Lennie Strollo's conviction carried
22 any forfeiture or loss of property?
23 MR. MORFORD: Objection.
24 A. No --
25 THE COURT: Sustained, sustained. It has

1 nothing to do with this case.
2 Q. Are you telling the truth about your conversation
3 with Mr. O'Nesti in the parking lot at the Speedway in
4 North Lima?
5 MR. MORFORD: Objection. This is well beyond
6 the scope, Your Honor.
7 THE COURT: He's under oath, sir.
8 MR. TRAFICANT: I object to these
9 unreasonable jack-in-the-box objectionable objections from
10 objectionable objectors.
11 THE COURT: Do you want to go to the next
12 question?
13 Q. Have you seen any physical evidence in this case
14 regarding Jim Traficant?
15 MR. MORFORD: Objection.
16 A. No, sir.
17 THE COURT: Sustained.
18 MR. TRAFICANT: No further questions.
19 THE COURT: Thank you.
20 MR. MORFORD: Nothing further.
21 THE COURT: You may step down.
22 THE WITNESS: Thank you. Your Honor, am I
23 subject to recall?
24 THE COURT: You can just step down.
25 THE WITNESS: Can I go into the room and

1 watch the trial?

2 THE COURT: I don't really know.

3 MR. TRAFICANT: I would ask that the witness

4 remain in the witness room.

5 THE COURT: I think you -- well, you

6 certainly are released as far as this Court is concerned.

7 THE WITNESS: Well, if I go in the room, I

8 can't be called back.

9 THE COURT: I'm sorry, but he has you under a

10 subpoena.

11 THE WITNESS: I have no subpoena.

12 THE COURT: Well, he called you, so you can

13 work this out with the Congressman whether he wants you to

14 stay, whether you want to stay, but I would suggest since

15 he asked for a separation of witnesses, you not put

16 yourself in a position --

17 THE WITNESS: I just don't want to have to

18 come back up here if I don't have to. I'll get a room

19 tonight. I'm not in no condition to be driving back and

20 forth. That's all I'm asking for.

21 THE COURT: You're released as far as I'm

22 concerned. I don't have any --

23 THE WITNESS: Well, you released me last

24 time, Your Honor, and he recalled me. If I would have

25 walked into the room last time, I couldn't have been here.

1 In all honesty, nobody told me I was subject to recall last
2 time. You said I had to --
3 THE COURT: You're excused.
4 THE WITNESS: Thank you.
5 THE COURT: I would suggest you not go into
6 the overflow room.
7 THE WITNESS: Suggest or order?
8 THE COURT: I'm not ordering you to do
9 anything, sir. You're released from this trial.
10 THE WITNESS: Thank you.
11 MR. TRAFICANT: You are still under my
12 subpoena. I'd ask you to remain in the witness room.
13 THE WITNESS: Okay.
14 (Witness excused.)
15 MR. TRAFICANT: I'd request now a break, if
16 you would, to inquire about my witness, and if my witness
17 has appeared, and then we do take the morning break at this
18 time.
19 THE COURT: Who is your next witness, sir?
20 MR. TRAFICANT: I'm calling Mr. Michael
21 Robertson on the return subpoena.
22 MR. MORFORD: He's already testified, Your
23 Honor.
24 THE COURT: He's testified in the case.
25 We've heard his testimony.

1 MR. TRAFICANT: He's testified on an ongoing
2 matter of documents subject to subpoena of Mr. Sinclair,
3 which more banking information has now come to me as
4 recently as this morning.
5 THE COURT: Okay. Well, we'll look at that.
6 We'll take a break.
7 Who are your other witnesses today, so we know what
8 we're dealing with here?
9 MR. TRAFICANT: We're looking for Mr. Tim
10 Christay at this particular point, and that will be all the
11 witnesses I will have.
12 THE COURT: Okay. We're going to give you a
13 break now. This is going to be 30 minutes.
14 (Jury out at 10:05 a.m.)
15 THE COURT: Mr. Morford.
16 MR. MORFORD: Your Honor, I just wanted to
17 note we've been here since 8:30 this morning. We have not
18 received any new documents. If there are new documents,
19 we'd like to have them to look them over during the break,
20 and if there are no new documents, then any matters could
21 have been asked of Mr. Robertson, and I would ask that if
22 there are new documents, we be given them now.
23 MR. TRAFICANT: Your Honor, I just had them
24 faxed to me before I came into court here this morning.
25 I'm preparing the documents and giving them to them after

1 the break, and they will have the documents relative
2 thereto.
3 Mr. Robertson has been contacted on his answering
4 machine, and I'm hoping he's here and I'll be prepared to
5 take this matter up after the half-hour break. But I would
6 ask for a side-bar after that half-hour break for
7 particular matters that deal with those issues. I have
8 received information from another bank of four other
9 accounts of Mr. Allen Sinclair, and there were 15 banks
10 that were subpoenaed.
11 As you know, only Home Savings & Loan
12 responded and still said they had a continuing search.
13 Now, I was notified by fax --
14 THE COURT: They also said that their search,
15 if completed, would take two and a half months,
16 Congressman.
17 MR. TRAFICANT: Yes, I know that, Your Honor,
18 but I am now in receipt at least the acknowledgment of four
19 accounts of Mr. Sinclair in another bank that came from
20 Indianapolis, Indiana, so evidently these legal departments
21 take a lengthy time.
22 I had stated, and it was the testimony of
23 Mr. Robertson, that there were numerous subpoenas sent to
24 many banks, and there would be probably a flow of that
25 material over a period of time if there were anything at

1 all.
2 I've been notified, to the best of my knowledge, that
3 most of these banks do take time. Home Savings & Loan did
4 have some documents, but did not have deposit documents
5 available for us.
6 So now I've received this, I believe that we have the
7 copies, and we can present it to them when I return on the
8 break. But I want to proffer --
9 THE COURT: Do you also have the witness
10 here?
11 MR. TRAFICANT: I'm hoping that the witness
12 is here. That's -- he was left a message on his answering
13 machine.
14 THE COURT: Well, you know, if the witness is
15 not here, there's no reason for everybody to be reviewing a
16 bunch of documents.
17 MR. TRAFICANT: Well, this is what I'm
18 attempting to do, but I would like to proffer for the
19 record --
20 THE COURT: No. Wait a minute. We're going
21 to let the government respond, as we always do, to what
22 you've just presented us with.
23 MR. MORFORD: The response is this, Your
24 Honor: Congressman Traficant has known since May of 2001
25 that the Allen Sinclair kickbacks were a central charge in

1 this case. He has had the ability to subpoena records
2 since that time. The fact that he waited until three or
3 four weeks ago to subpoena the records is his fault, not
4 the Court's, not the jury's, not the prosecution's.
5 My only point is this: That he has documents right
6 now in his possession that he should immediately give to us
7 under Rule 16 so we can begin looking at them and not wait
8 any further. There's no reason to wait until after the
9 break.
10 MR. TRAFICANT: We have not had time to
11 corroborate fully what I had received.
12 THE COURT: Well, you don't have to
13 corroborate anything.
14 MR. TRAFICANT: And I will do that on the
15 break.
16 THE COURT: You can give the documents to the
17 government.
18 MR. TRAFICANT: I will give them to them.
19 THE COURT: Congressman, you can give the
20 documents to the government because you've received them.
21 That's what reciprocal discovery requires that you do. So
22 do it now. We'll sit here and wait while you go and get
23 the box of documents, and you bring it down here, and we'll
24 give copies to the government.
25 Now, who is the person named Christay?

1 MR. TRAFICANT: Christay. He does some work
2 on -- did some work on the farm for pay.
3 (Pause.)
4 MR. TRAFICANT: I have been instructed
5 Mr. Robertson is on an investigation regarding a death
6 inquiry or whatever.
7 THE COURT: Are those the records?
8 MR. TRAFICANT: That's what I received.
9 THE COURT: Very well. Okay. We will recess
10 now and give them time to look at them, and we'll take
11 another -- I don't know where we are into our 30 minutes
12 but --
13 MR. TRAFICANT: I would request that we break
14 until -- what time is it?
15 MR. SMITH: It is 10:17, sir.
16 MR. TRAFICANT: I would request we break for
17 the morning.
18 THE COURT: Oh, no, we can't do that. We'll
19 be back here.
20 MR. TRAFICANT: You gave him an 25 extra
21 minutes yesterday for a two-hour opportunity. Now I'm
22 asking for the same reciprocity.
23 THE COURT: We also sent the jury home
24 because we ran out of witnesses yesterday.
25 What we're going to do is come back at quarter of

1 11:00, which gives you now almost 30 minutes.
2 (Recess had.)
3 (Jury in at 10:52 a.m.)
4 THE COURT: Ladies and Gentlemen, as I did
5 following one other witness who was called for a special
6 purpose, I want to give you a special instruction regarding
7 the testimony that you heard right before break. "The
8 testimony you just heard regarding Mr. O'Nesti's statement
9 can only be considered by you when you assess the
10 credibility of Jacqueline Bobby and/or Grace Kavulic as to
11 their testimony regarding other statements from Mr.
12 O'Nesti.
13 "The statement you just heard can only be used to
14 impeach the credibility of Ms. Bobby or Ms. Kavulic and is
15 not evidence of anything else."
16 That's because it was brought back, the witnesses
17 were brought back for a special purpose.
18 Okay? Congressman, your next witness?
19 MR. TRAFICANT: Linda Kovachik.
20 THE COURT: She's already appeared in this
21 courtroom on --
22 MR. TRAFICANT: This is a different matter.
23 THE COURT: Is it something that --
24 MR. TRAFICANT: Yes.
25 THE COURT: Tell me what the different matter

1 is.
2 MR. TRAFICANT: She received documents last
3 night and delivered them to me.
4 MR. MORFORD: I would object to relevance.
5 MR. TRAFICANT: Relative to bank statements
6 of Mr. Sinclair from another bank. And I want her to, in
7 fact, testify that she received the fax and delivered them
8 to me, and these are those documents that she delivered to
9 me of another bank having four accounts of Mr. Allen
10 Sinclair.
11 THE COURT: Do you want to be seated so Mr.
12 Morford can respond?
13 MR. TRAFICANT: Absolutely.
14 MR. MORFORD: First of all, Your Honor, the
15 cover letter to these documents indicates these were
16 received by the Congressman by a cover letter dated March
17 28th, 2002. There's a fax at the top that says, April 2nd
18 at 11:30. We never received these until about 15 minutes
19 ago.
20 But I can tell you that the vast majority of the
21 documents we received have nothing to do with Allen
22 Sinclair whatsoever. They have to do with a James C.
23 Sinclair, and his wife, Kimberly Sinclair. They have
24 different Social Security Numbers. They live in New
25 Jersey. They have different birth dates. And we've

1 confirmed that these documents have nothing to do with
2 Allen Sinclair whatsoever.
3 Second, this witness testifying as to when she got a
4 fax has no relevance to the jury unless the documents are
5 admitted in some proper manner and have some relevance to
6 this case. This kind of testimony is totally irrelevant.
7 MR. TRAFICANT: Your Honor, we admit that
8 these do contain some pages of a different Kimberly A.
9 Sinclair. We are in the process of investigating why they
10 sent us this matter. But they do show a Sinclair, Allen,
11 with four accounts, which is not in question.
12 We told the prosecution that this is all we got from
13 them, but there are four separate accounts, including an
14 auto lease, an IRA --
15 THE COURT: Where are these accounts held?
16 MR. TRAFICANT: These came from Bank One.
17 Now, we've only had a witness here from Home Savings &
18 Loan, and there are 15 subpoenas and we've had five from
19 Bank One --
20 THE COURT: Congressman, just a minute.
21 We're trying to establish if we have anybody's records here
22 who was involved in this case. You say there are some
23 there that involve Allen Sinclair.
24 MR. TRAFICANT: Four. We're not contending
25 that the remainder -- we don't know why it was sent, and

1 we're investigating if this $150,000 mobile home has
2 anything to do with his wife under a fraudulent act, quite
3 frankly.
4 THE COURT: That's something you could take
5 up somewhere else, not here.
6 MR. TRAFICANT: But the fact is, the fax was
7 received by an assistant who could testify that this
8 document came from Bank One, and I want --
9 THE COURT: That doesn't take us anywhere.
10 The fact that you got a document at this date doesn't take
11 us anywhere. She's not from the bank. She's not in a
12 position to testify.
13 MR. TRAFICANT: But she can introduce the
14 fact that she received this, and this document could be
15 then placed on the record.
16 THE COURT: Well, you can --
17 MR. MORFORD: I object to this, Your Honor,
18 because the Congressman is trying to suggest to this jury
19 that a vehicle application loan with a bank from somebody
20 in New Jersey that happens to have the last name Sinclair
21 is somehow fraudulent. That's just not true.
22 MR. TRAFICANT: We're not doing that.
23 MR. MORFORD: Second, the Congressman has had
24 since the time of the indictment in May, 2001 to subpoena
25 documents, and he's suggesting to this jury that there's

1 documents that he's not gotten. The bank has indicated
2 that for most of these accounts, there aren't even any
3 accounts or records, and so I object to any of this because
4 it's totally irrelevant.
5 MR. TRAFICANT: Your Honor, I explained to
6 the prosecutor --
7 THE COURT: This witness cannot be recalled
8 for this purpose, Congressman.
9 MR. TRAFICANT: Well, I want to respond
10 though at least.
11 THE COURT: Well, no. You've done enough
12 now.
13 MR. TRAFICANT: You let him have the last
14 word.
15 THE COURT: Well, excuse me, sir.
16 MR. TRAFICANT: I'm only questioning.
17 THE COURT: This is your witness you are
18 proposing. I am saying this witness is not in a position
19 to testify as to this matter.
20 Call your next witness, Congressman.
21 MR. TRAFICANT: I now call for a side-bar. I
22 have no other witness and call for a side-bar relative to
23 proffer and law.
24 THE COURT: You'll be able to do proffering
25 after the jury leaves for today. Call your next witness.

1 MR. TRAFICANT: I have no other witnesses.
2 THE COURT: Then, Congressman --
3 MR. TRAFICANT: Attorney Cascarilla will not
4 respond.
5 THE COURT: Congressman, do you rest?
6 MR. TRAFICANT: Attorney Rotatori will not
7 respond.
8 THE COURT: Congressman, do you rest?
9 MR. TRAFICANT: Every evening.
10 THE COURT: Thank you. I've warned you
11 repeatedly that like every other person, you have a
12 responsibility to have your witnesses here for a normal
13 trial day. Don't interrupt me.
14 MR. TRAFICANT: Your Honor --
15 THE COURT: From 9:00 until 4:30.
16 The last time I warned you about that was last night,
17 when you said you didn't know who you were going to call.
18 MR. TRAFICANT: They're ducking me.
19 THE COURT: Congressman, you are not the only
20 person who has a stake in this trial. These jurors and
21 alternate jurors, some of whom travel almost five hours a
22 day in order to be at this Court and serve as part of the
23 Court, have been consistently here on time. It's over nine
24 weeks now. They've been attentive. They've been ready to
25 do their work, and so is everyone else in this courthouse

1 who has a role in your trial.
2 These 17 Ladies and Gentlemen on this jury and the
3 alternates have put aside their families, their businesses,
4 and all their other activities in order to come here and
5 serve justice under law. That's what a trial is about.
6 It's not about anything different than that.
7 We're here to give you a fair trial and give
8 the government a fair trial, but these men and women, I
9 will not permit them to sit here idly for the balance of
10 the day.
11 Yesterday we sent them home early because you didn't
12 have witnesses. They will not be permitted to sit here
13 idly while you dillydally and delay.
14 You have a constitutional right not to testify. If
15 you want to testify in this case, then please proceed.
16 This is the time. We need witnesses on the stand.
17 MR. TRAFICANT: I want to respond. You have
18 eliminated 50 percent of my witnesses from testimony. You
19 have denied them the right to take the stand for particular
20 objections from the prosecution. They've taken seven of
21 the nine weeks. I've been here only two weeks, and I now
22 want to proffer for the record.
23 If you give me a 15-minute examination of Mr.
24 Morford on misconduct, I'll take the stand.
25 MR. MORFORD: Your Honor, I object to this.

THE COURT: If you would read the Court's rulings, you would find out yesterday afternoon we ruled on that motion.

MR. TRAFICANT: Well, I have matters to complete with the Court at this point that deal with proffers.

THE COURT: We'll do that after --

MR. TRAFICANT: I will not keep the jury any more minutes.

THE COURT: I'm sorry, but you're not in charge of the jury here.

MR. TRAFICANT: I don't plan to keep them here. But for him to state --

THE COURT: You can proffer later. But I can only conclude now that with the entire balance of the day stretching out in front of us, you have nothing further to present in this case unless you want to testify, which is your right to do. This would be the time to do it.

MR. TRAFICANT: Your Honor, people involved in this case that I have subpoenaed have ducked subpoenas. Those that I have brought in --

MR. MORFORD: Your Honor, I object to this.

MR. TRAFICANT: -- have not been allowed to testify.

MR. MORFORD: To say this in front of the

1 jury --
2 THE COURT: I have to conclude --
3 MR. TRAFICANT: You have eliminated half my
4 witnesses from testifying.
5 THE COURT: Congressman, Congressman,
6 Congressman.
7 MR. TRAFICANT: No, hear me. You said I've
8 dillydallied. I take objection to that for the record. I
9 brought witnesses here you did not allow to take the stand.
10 THE COURT: Some of them we didn't allow and
11 many of them we did.
12 MR. TRAFICANT: Not many; most of them you
13 did not.
14 THE COURT: How much time do you want for
15 your closing arguments?
16 MR. TRAFICANT: I don't think that's a matter
17 for the jury.
18 THE COURT: How much time do you want for
19 your closing arguments?
20 MR. TRAFICANT: Whatever you think is fair.
21 I say this: I would recommend two hours.
22 THE COURT: Are you going to testify?
23 MR. TRAFICANT: I will not take the stand at
24 this point unless Mr. Morford takes the stand on
25 prosecutorial misconduct.

1 I will take the stand if Morford takes the stand on
2 prosecutorial misconduct.
3 THE COURT: Congressman, one of the things
4 I've repeatedly asked you not to do is when the Court has
5 ruled, not to bring it up.
6 MR. TRAFICANT: Then don't ask me. Quite
7 frankly, I've only had the jury here two weeks. They had
8 them here seven weeks with a bunch of paper.
9 THE COURT: How much time do you want for
10 closing argument? You're not going to do it right now.
11 I have to know if you are going to take the stand.
12 Are you?
13 MR. TRAFICANT: I'm not sure yet.
14 THE COURT: We have a jury here.
15 MR. TRAFICANT: If Mr. Morford is going to
16 accept my stipulation.
17 THE COURT: I've already ruled on that,
18 Congressman. If you don't read the Court rulings, maybe
19 we'll read it out to you now. Just sit down and I'll read
20 you the ruling we issued on that yesterday.
21 MR. TRAFICANT: Hold on. I may have a
22 witness.
23 THE COURT: Do you have a witness?
24 MR. TRAFICANT: No. I have a question.
25 What -- Your Honor, do you have right at this point to stop

1 my trial? Under what law?
2 THE COURT: Maybe you should bring the person
3 forward who is presenting the question.
4 MR. TRAFICANT: No. She is an assistant who
5 takes notes for me. I think she's given me a good question
6 to ask. What right do you have to stop my trial and in
7 front of this jury ask me these questions?
8 THE COURT: I have the right to control the
9 proceedings in this case, and you've been warned
10 repeatedly.
11 MR. TRAFICANT: Do you have the right to stop
12 my trial?
13 THE COURT: I have the right to ask you
14 whether you are going to testify, and if you are not, to
15 close the case.
16 MR. TRAFICANT: You have asked me, in fact,
17 if I had any other witnesses.
18 THE COURT: I have.
19 MR. TRAFICANT: I told you I had subpoenaed
20 them. You have said I dillydallied, but you have not
21 allowed half of my witnesses to testify.
22 Linda Kovachik --
23 THE COURT: That is, first of all, not
24 correct; and, secondly, it isn't gaining us anything.
25 MR. TRAFICANT: Linda Kovachik --

1 THE COURT: How much time do you want for
2 your --
3 MR. TRAFICANT: Linda Kovachik is in the same
4 position as Terlecky and Johnson, yet you did not allow her
5 to testify.
6 THE COURT: You had her on the stand, sir.
7 MR. TRAFICANT: You did not allow her to
8 testify on the hearsay exception.
9 MR. MORFORD: Your Honor, I object to these
10 falsehoods being thrown out here in front of the jury.
11 MR. TRAFICANT: Then let's remove the jury
12 and discuss law. I have not recommended --
13 THE COURT: We will release the jury. That's
14 what we'll do. We'll release the jury for the balance of
15 the day. It's now, what time, 11:00 in the morning.
16 MR. TRAFICANT: That's fine.
17 THE COURT: Okay. We'll release the jury for
18 the balance of the day, and when you come in tomorrow,
19 bring two or three days of clothing with you and other
20 personal things that you need.
21 MR. TRAFICANT: Thank you.
22 (Jury out at 11:04 a.m.)
23 (Recess had.)
24 THE COURT: Congressman, you have a proffer?
25 MR. TRAFICANT: Yes. The proffer I have is a

letter received from James Kerchum, who was subpoenaed. I'm going to read it for the record:

"I, James A. Kerchum, April 2, '02, residing at 1545 Kale Adams Road, Southwest Warren, Ohio, 44481, do hereby swear to the following to be fact: One, I was subpoenaed to the Federal Courthouse in Cleveland, Ohio, on April 2, 2002, to testify in the case of U.S. versus James A. Traficant, Jr.

2: As required by law, I did, in fact, appear and testify in Judge Wells' courtroom in the Federal Building, in Cleveland, Ohio, on this same date.

"3: At approximately 3:00 p.m. on this same date, I was notified by my probation officer, Kellin Strong, that I was in violation of my probation for complying with said subpoena without first requesting permission from Federal Judge Peter C. Economus." That's E C O N O M U S. "I did, in fact, notify the probation office in Youngstown, Ohio, that I was subpoenaed and had appeared in Federal Court, and that I had made three prior attempts to notify my probation officer, Kellin Strong, that I was required to make an appearance in said case.

"4: Officer Strong advised me that if I had not complied with the said subpoena, that I would have been in violation of probation and/or other laws pursuant to such matters.

"5: Officer Kellin Strong also advised me, however, that because I did comply with said subpoena, that I was still in violation of probation.

"6: I assert at this time that Federal Probation Officer Strong and/or Federal Judge Peter C. Economus is guilty of witness tampering.

"7: On previous occasions, officer Kellin Strong said to me, 'Just stay away from Traficant and you'll be okay.'

"8: My sister, Carol Anne Kerchum, was a witness to the statement in paragraph 7 made by Officer Kellin Strong."

This is not -- and it did not have time to be notarized. I will have it notarized, but wanted it proffered for the record.

Second of all, I have another issue.

THE COURT: Let's deal with this one first. It seems to me the person to take this up with is Judge Economus, and this gentleman can, if he needs it, get some kind of a signed statement or something from my clerk that he actually was here appearing in a court matter. We'd be happy to provide that to him.

MR. TRAFICANT: Now, the second issue, in front of the jury I object to statements made in front of the jury relative to whether or not I would testify,

1 relative to whether or not I was to rest, and these matters
2 have always been held in side-bar without the jury's
3 presence.
4 And for the record now I proffer the
5 following: That the following witnesses were not allowed
6 to testify: Linda Kovachik, Jim Kerchum, Fred Hudach,
7 Russell Saadey, Harry Manganaro, Horace Chesney, Mike
8 Antonoff. Johnson and Terlecky were allowed to testify in
9 the ninth week, when defendant had only two weeks of a
10 trial, being blamed for dillydallying.
11 Finally, Bucci, through Rotatori, can't be contacted.
12 Cascarilla has become sort of scarce. Tim Chesney is in a
13 truck somewhere in Florida, and T. C. Ready Mix, their
14 custodian of records is on vacation.
15 Now, I want to proffer for the record that you voir
16 dired Johnson, Terlecky, Kovachik, Kerchum, Hudach, Saadey,
17 Antonoff, and Manganaro. And also for the record, that you
18 used the hearsay exception to allow the testimony of
19 Johnson and Terlecky, both having difficulties, Johnson
20 being with the DUI, Terlecky having a former prior record,
21 but not allowing Linda Kovachik, who basically under the
22 same set of circumstances had the same happenstance
23 conversation with O'Nesti.
24 In my opinion, for the record, you've allowed the
25 government to have some opportunity to have some witness

1 take the stand for the Congressman who they could impeach
2 easily, but let alone a woman whose credibility is
3 impeccable.
4 Now, having said that, these witnesses that you have
5 denied me the opportunity to examine would have taken at
6 least two to three hours each pursuant to the types of
7 information that was being solicited relative to my case.
8 You've ruled on it. You said in public now several
9 times, you poisoned this jury relative to whether or not I
10 would take the stand. That is something that is in the
11 sole province of myself.
12 Now, when I gave this to the government, I
13 told them that we're in the process of investigating them.
14 We don't know if this is the Allen Sinclair from Youngstown
15 or not, and I told them that when we gave it to them.
16 Now, if it's not, it's not. But we have 15
17 outstanding, and I want Mike Robertson brought in here.
18 It may be there just may be nothing else, but in my
19 opinion, you have been unfair in this trial, and you have
20 now poisoned the jury by bringing up closing arguments in
21 front of the jury, asking the amount of time that's going
22 to be spent for closing arguments, whether I was going to
23 rest. You have no right, no right.
24 You could put me in jail for not having a
25 witness here if you want, you can fine me if you want, but

1 you have no right to poison a jury pool that will make a
2 decision on the matter of such a significant criminal case.
3 Now, having said that, I will be offering witnesses
4 tomorrow morning and will continue my case.
5 Now, I want to stipulate further for the
6 record that I will testify on both trials if Mr. Morford
7 opens himself up for the prosecutorial misconduct that you
8 said I have flippantly given to this Court, when Mr. Detore
9 said he felt like blowing his brains out and is an indicted
10 co-conspirator.
11 Now, I want to know that. You didn't say that to the
12 jury. You just made it look like to the jury I'm afraid to
13 face the facts here. You've poisoned this jury for the
14 record.
15 Now, do we stipulate? Do we have an agreement that
16 I'll testify and you'll let me examine you, Mr. Morford?
17 Yes or no.
18 THE COURT: I already ruled on that,
19 Congressman. I already ruled on that.
20 MR. TRAFICANT: And why have you ruled on
21 that?
22 THE COURT: Because it was presented to me by
23 you in a motion, and I ruled on it yesterday.
24 MR. TRAFICANT: Why didn't you explain that
25 to the jury when you just made it look like I was unwilling

1 to take the stand? I put conditions on taking the stand.
2 This man, for the record, has violated the rights of
3 Henry Nemenz and Robin Best, David Sugar, Pete Bucheit,
4 Henry DiBlasio, and others named in my motion, Richard
5 Detore. You've allowed J.J. Cafaro, who admitted to be a
6 perjurer on the stand, paid for the testimony of Al Lange,
7 and allowed it to remain in.
8 If that was my witness, you'd have scolded me in
9 front of this jury and made me look like some jackass truck
10 driver's son.
11 Now, I will rest when I'm ready to rest, and this
12 trial will stop when I'm ready to stop.
13 Now, you may have 220 other cases, but you have a
14 right to perform the justice here, and you're now presiding
15 over this case, not those other 220.
16 Now, if you want to suspend this for a couple days,
17 go right ahead. But I'm going forward tomorrow morning
18 with my case.
19 I want to check Social Security Numbers. I want to
20 know if there's any bank fraud. And that very well might
21 not be Mr. Sinclair. I did not maintain it was.
22 And in fact, we are pursuing the investigation, which
23 evidently they have done very little of, Your Honor.
24 Now, having said that, I am very disappointed in the
25 Court, because I think and believe in my heart you made a

1 willful, knowledgeable statement to poison the jury pool
2 relative to my taking the stand or not, and that is
3 privileged, and that is not to be mentioned in front of a
4 jury, and you have never mentioned anything in front of a
5 jury. It's always been side-bar when it dealt with
6 attorney matters.
7 This today you did. You did that today. And I
8 believe you violated my rights when you did it.
9 In fact, I make a motion right now for mistrial.
10 THE COURT: Would you like to respond to any
11 of this?
12 MR. MORFORD: Yes, Your Honor.
13 First of all, the record speaks for itself. And the
14 fact that Congressman Traficant keeps choosing to rehash
15 these same facts over and over and over doesn't change
16 anything.
17 Could you sit down while I speak, please?
18 MR. TRAFICANT: I prefer to stand.
19 THE COURT: Well, you'll have to sit.
20 MR. TRAFICANT: Is that an order of the
21 Court?
22 THE COURT: Sit down. It's an order. Please
23 sit.
24 MR. TRAFICANT: Then I'll sit.
25 MR. MORFORD: The law is that the Court has a

1 right to manage a trial, to manage.
2 THE COURT: Let's wait while the Congressman
3 sits.
4 Thank you.
5 MR. MORFORD: To manage its case load, to
6 manage its docket.
7 The Court has given Congressman Traficant latitude
8 that no party would usually get in a case. The Court has
9 bent over backwards to accommodate him. The Court at the
10 time of arraignment went to great pains to try to explain
11 to Congressman Traficant some of the perils he was going to
12 face if he chose to go without an attorney.
13 In a rude way, he told the Court he didn't
14 want to hear it, he knew what he was doing.
15 Congressman Traficant, although he claims to be pro
16 se, the evidence in this case shows he's had representation
17 from Mr. Colucci. He's had a legal adviser --
18 MR. TRAFICANT: Objection.
19 MR. MORFORD: -- in court every day.
20 MR. TRAFICANT: Objection.
21 MR. MORFORD: He has known about these
22 charges --
23 THE COURT: Overruled.
24 MR. MORFORD: -- since May of 2001. He's had
25 subpoena power to subpoena documents since that time. He

1 could have, as the government did weeks and weeks before
2 trial, put people under subpoena, give them the date of the
3 trial, and tell them they would have to be available during
4 certain times in the trial.
5 The Court has patiently told him day after day he has
6 to have witnesses here. He cannot run out of witnesses.
7 He refused to tell the Court who his witnesses would be.
8 He never had enough witnesses here on any day. There
9 were times the government had 10 or 12 people, some of them
10 out of town, sitting in that room for four days getting
11 very upset because we told them we cannot leave a jury
12 sitting in the box --
13 MR. TRAFICANT: Objection.
14 MR. MORFORD: -- doing nothing.
15 THE COURT: Overruled.
16 MR. MORFORD: And we explained to those
17 witnesses that while this may be an inconvenience for you
18 for three or four days, it's a major inconvenience for
19 these people to put their lives on hold for eight to ten
20 weeks, and we have to take their inconvenience over yours.
21 And no matter how long this trial went, we never ran
22 out of witnesses. And in fact, there were times when we
23 had witnesses in that room because Congressman Traficant
24 did a four or five-hour cross-examination, which he has a
25 right to do. But the point is, day after day, no matter

1 how long Congressman Traficant has been on his case, day
2 after day he ran out of witnesses.
3 This Court gave him notice. He knew he had
4 to have witnesses today, and he came in with one witness.
5 That was his choice.
6 The Court has made it clear that it was not going to
7 allow him to continue to do this. He has no witnesses.
8 He's indicated to the Court that whatever witnesses he
9 would have would probably have no relevance to this matter
10 anyway. The Court is certainly within its rights. The
11 record speaks for itself.
12 There has been no violation of his Constitutional
13 rights.
14 And the Court should move on. We should have closing
15 arguments.
16 MR. TRAFICANT: Objection.
17 MR. MORFORD: And this case should be over.
18 MR. TRAFICANT: Now I'd like to also respond.
19 THE COURT: Okay.
20 MR. TRAFICANT: I do have a witness for
21 tomorrow, and I plan to bring that witness.
22 THE COURT: Who is that?
23 MR. TRAFICANT: And I want to --
24 THE COURT: Who is that witness?
25 MR. TRAFICANT: That will be Mr. Robertson.

1 THE COURT: The same one you brought today.
2 MR. TRAFICANT: Relative to an ongoing
3 subpoena. And if I can, the fella from -- Mr. Chesney and
4 the fella from Ready Mix, I'll have them here. And whether
5 or not I testify will be my decision.
6 Finally, I want to read into the record the motion to
7 testify with conditions since you made that a matter of
8 public record in front of the jury.
9 THE COURT: Actually, it is public record.
10 MR. TRAFICANT: I want to read it for the
11 record. I want to proffer it for the record orally.
12 THE COURT: You can do that right now. You
13 can read the whole thing out loud. But let me ask you a
14 question: Did you ever read the order that the Court
15 issued regarding that?
16 MR. TRAFICANT: Yes, I did, and that's why
17 I've offered this motion, and I want to proffer it for the
18 record.
19 THE COURT: Okay. Very well. You can read
20 the motion.
21 MR. TRAFICANT: "U.S. District" --
22 THE COURT: Although it is part of the record
23 of the case.
24 MR. TRAFICANT: "U.S. District Court,
25 Northern District of Ohio. USA, plaintiff, versus James A.

1 Traficant, Jr., pro se defendant," filed April 2, 8:39 a.m.
2 "Clerk, U.S. District Court, Northern
3 District of Ohio, Cleveland. Case number 4:01CR207.
4 Honorable Judge Lesley Wells.
5 "Pro se defendant motion to testify with conditions.
6 Pro se defendant will only testify subject to thorough and
7 complete examination on any and all matters, including
8 those allegations that are continuously referred to in the
9 1983 trial, under the following conditions:
10 "1: My testimony is contingent upon the
11 following: The Court allow me to examine AUSA Morford and
12 others, known or unknown to me, at this time regarding the
13 following:
14 "1. FBI Agent Anthony Speranza's crime of
15 rape.
16 "2. Richard Detore's extortion,
17 intimidation, in violation of his civil rights.
18 "3: Cafaro perjury in Chance trial and
19 threats to indict his daughter and audit the Cafaro
20 Company.
21 "4: Sinclair extortion and threats to indict his
22 wife in KAS building fraud activity.
23 "5: Subornation of perjury in the Russell Saadey,
24 Jr. case regarding testimony of Harvey and Amedia.
25 "6: Violation of Russell Saadey's civil rights

1 regarding actions of one Mr. Woolsey.
2 "7. Extortion, intimidation and threats to Henry
3 Nemenz and Robin Best, including violations of their civil
4 rights.
5 "8: Violation of the civil rights of Sandy and Ori
6 Ferrante, including the inducement of fear, perpetrating
7 the serious health problems that have resulted as a cause
8 of such behavior.
9 "9: Subornation of perjury of William Pearch.
10 "10: Violations of the civil rights of Sam
11 Traficanti and his son, Anthony, of my staff.
12 "11: Illegal raid of B & T Express Trucking Company
13 to destroy their business with willful disregard for same.
14 "12: Extortion and bribery of Jim Sabatine by
15 threatening to, quote-unquote, 'Put him in jail for ten
16 years and take your $15 million.'
17 "13: Extortion of Mr. Pete Bucheit with threats to
18 indict his son and daughter.
19 "14: False imprisonment and civil rights violations
20 of FBI, quote-unquote, 'Special Agent Informant, Informant
21 Agent Jim Kerchum,' known as Cheese One.
22 "15: Extortion and intimidation of Henry and Norma
23 DiBlasio causing major health problems.
24 "16: Extortion and subornation of perjury of
25 David Sugar by threatening to indict his wife and son.

1 "17: Violation of the civil rights of the Fred
2 Hudach family regarding the false imprisonment of their
3 son, Ben.
4 "18: Collusion and conspiracy with former USA
5 Attorney Stewart Mandel to convict Michael Terlecky to
6 protect mob boss Lennie Strollo.
7 "19: Violations of civil rights of Charles O'Nesti
8 by applying pressure, willfully and with intent, to extort
9 Mr. O'Nesti while literally on his death bed.
10 "20: Threats and intimidation of Attorney Mark
11 Colucci by threatening to, quote-unquote, 'Get your law
12 license.'
13 "21: Threats to Mike Antonoff and obstruct justice
14 by ordering FBI to, quote-unquote, 'Follow Antonoff and
15 find out who he will call at trial,' he being the defendant
16 pro se.
17 "22: Suborning the perjury of FBI Agent Speranza in
18 the Debbie Campbell case.
19 "23: Obstructing justice and violating the civil
20 rights of Debbie Campbell and another woman now under
21 investigation by me.
22 "24: Obstructing justice and attempting to extort
23 Greg Tyson.
24 "25: Obstructing justice and threats to Brian
25 Kidwell and family.

1 "26: Suborning the perjury of Richard Rovnak.
2 "27: Extorting George Buccella by threatening to
3 expose an FBI investigation of Buccella regarding the,
4 quote-unquote, 'Fixing of a DUI case with Judge Bailey'
5 involving a $2,500 payoff, and thus suborning perjury of
6 Mr. Buccella about violating his civil rights since statute
7 had expired.
8 "28: Intimidation of Dennis Palmer by FBI Agent
9 Pikunas.
10 "29: Perjury before the Court that government has no
11 tapes on Traficant.
12 "Pro se defendant will open up myself to both the
13 1983 trial and this 2002 trial subject to above conditions
14 and with the understanding that any and all tapes I have
15 made regarding this case be admitted into evidence,
16 including DiBlasio, Detore, Manganaro, Chance, Best,
17 Bucheit, Terlecky, and others not announced herein.
18 "Respectfully submitted. Certificate was made on
19 April 2, 2002, to the U.S. Attorneys, filed with the Clerk
20 of Courts for the Northern District of Ohio, Cleveland,
21 Ohio."
22 My case does not rest, and I will continue tomorrow.
23 THE COURT: You don't have to respond, but if
24 you want to, you may.
25 MR. MORFORD: No, Your Honor. The only thing

1 I want to respond to is his constantly telling the Court
2 what he's going to do and what he's not going to do.
3 That's the Court's province.
4 THE COURT: Right.
5 MR. MORFORD: He was supposed to have
6 witnesses here. Mr. Robertson's testimony would be
7 entirely irrelevant.
8 He's shown no new evidence and can show no new
9 evidence that would justify bringing him back.
10 MR. TRAFICANT: We are
11 investigating -- Mr. Robertson is investigating if these
12 are, in fact, the same Allen Sinclair and if there's any
13 bank fraud, and if they're not, they're not. We have the
14 right since we received them this morning.
15 Now --
16 THE COURT: Wait, wait, wait, wait. You just
17 made your proffer by reading the entire motion that you
18 filed yesterday morning, and I am now going to read the
19 entire order that I filed later in the day.
20 MR. TRAFICANT: Go right ahead.
21 THE COURT: After I sent the jury home
22 because we had no more witnesses. So this was filed a
23 little after 3:00 yesterday.
24 "Before the Court is Defendant Traficant's motion
25 filed today in this ninth week of trial to impose

1 approximately 30 conditions on any testimony he may give.
2 "The 'bargain' he seeks to strike would, among other
3 things, nullify many of this Court's prior orders which
4 were entered after full opportunity for both sides to
5 address the issues.
6 "Defendant Traficant has a constitutional right to
7 choose whether or not to testify on his own behalf.
8 However, like every other defendant in a criminal case, if
9 he chooses to testify, Defendant Traficant may not place
10 any conditions on his testimony. Defendant Traficant's
11 motion to condition any testimony he may give is denied."
12 Now, we have a matter of some exhibits. You wanted
13 to put some things into evidence?
14 MR. TRAFICANT: I want to put nothing into
15 evidence at this time except the Kerchum letter, and it is
16 not notarized.
17 THE COURT: Okay.
18 MR. TRAFICANT: But I will offer it.
19 THE COURT: I should rule on a couple of
20 things that were outstanding.
21 MR. MORFORD: Your Honor, before you do that,
22 I object to the Kerchum letter being put into evidence, as
23 in evidence, that would go to the jury.
24 THE COURT: Right. And I think he
25 acknowledges that.

1 MR. TRAFICANT: No, I don't acknowledge that.
2 THE COURT: Are you offering it? I
3 thought --
4 MR. TRAFICANT: I am going to offer it, and
5 if you want it notarized, I'll need time to have it
6 notarized, but I want to offer it and I have a defense
7 number on it.
8 THE COURT: Okay. Give us the defense
9 number.
10 MR. TRAFICANT: JJ dash Tamper parentheses 1.
11 THE COURT: Could you hand it up, sir?
12 MR. TRAFICANT: I'd be honored to.
13 THE COURT: Did you say JJ dash tampering?
14 MR. TRAFICANT: No. I said, JJ dash tamper,
15 T A M P E R, parentheses 1.
16 THE COURT: Have you seen this?
17 MR. MORFORD: He just read it, Your Honor.
18 THE COURT: Okay. I'll hand it down.
19 MR. TRAFICANT: Do you want a copy of it?
20 MR. MORFORD: Well, if you're offering it as
21 an exhibit, we would need a copy with the exhibit number on
22 it.
23 MR. TRAFICANT: I have one for you. Let me
24 give this to the Court.
25 MR. MORFORD: And Your Honor, we would object

1 to this on the grounds of hearsay and relevance.
2 THE COURT: Right.
3 MR. TRAFICANT: What's hearsay about it?
4 It's a probation officer's letter threatening to put a guy
5 in jail for answering a subpoena. Now, come on.
6 THE COURT: Congressman, you can suggest to
7 Mr. Kerchum, if you wish to, that he should take this up
8 with Judge Economus or do something somewhere else, but
9 it's not part of this case.
10 MR. TRAFICANT: You did not allow him to
11 testify in my case, and that is the issue of why I'm
12 putting it into the record. And I believe it has a right
13 to be placed on the record since it implies the
14 government's intervention in this case.
15 THE COURT: If you think that he needs
16 something from this Court, we'd be happy to supply
17 something that says he was here at the time he was here.
18 The transcripts will reflect it, and we can sign something.
19 MR. TRAFICANT: Would that be a
20 recommendation that he not go to jail because he showed up
21 at the Traficant trial?
22 THE COURT: No.
23 Okay. Let me go on with some other things. You had
24 two photographs, HA-60 and HA-1, and I had to go back and
25 review the transcripts on those in order to see -- they

1 were photographs identified by one of your witnesses,
2 Marchese, Marchese. He took these photographs the other
3 day. I mean they were recent photographs.
4 MR. TRAFICANT: What are their numbers?
5 THE COURT: HA-60 and HA-1.
6 MR. TRAFICANT: And what is the problem?
7 THE COURT: Well, you offered them for
8 admission, and I had to go back and review the transcript
9 to see whether or not they could go before the jury, and
10 I'm going to let them come in over objection by the
11 government.
12 In addition, there is a government's -- no,
13 Defendant's Exhibit EXP-1, which are a series of checks
14 from Home Savings that were paid to the order of Allen
15 Sinclair, but that begin on 2-2-2000, and the government
16 objected to these checks as not being relevant because of
17 the testimony we had on the stand and the way the testimony
18 developed.
19 MR. TRAFICANT: It showed the pattern that
20 they talked about.
21 THE COURT: Right. But I'm going to admit
22 these anyway. So these are coming in. Defendant's
23 Exhibit -- it says EXP-1 at the top. I want to make sure
24 this is noted correctly for the record.
25 MR. TRAFICANT: And that includes the lack of

1 22 months of deposits of $2500? I want to know if that's
2 the document you're talking about.
3 THE COURT: I'll hand it down so you can look
4 at it.
5 MR. TRAFICANT: Let me look at it. Because
6 if you're only leaving in the prosecution section --
7 THE COURT: No. This is yours, sir. This is
8 your exhibit.
9 MR. TRAFICANT: Let me see it.
10 THE COURT: It was your argument it should be
11 admitted. The prosecution objected. I'm admitting it over
12 their objection, so the jury can figure that out.
13 There is an exhibit called HSL-G. That exhibit was
14 never identified by any witnesses that we can find. We've
15 been through the testimony again looking for it, and so as
16 it was not identified, it can't be admitted.
17 MR. TRAFICANT: What is it?
18 THE COURT: I don't know. HSL-G. Does that
19 give you a clue as to what it was?
20 MR. TRAFICANT: Well, how do you know --
21 THE COURT: Well, because we can pull it out.
22 MR. TRAFICANT: If you deny it, what is it?
23 Show me what it is.
24 THE COURT: It's your exhibit.
25 MR. TRAFICANT: It's my exhibit? I didn't

1 bring my exhibits with me. These are under review by the
2 Court. I want to know which one it was.
3 THE COURT: Not these particular ones. We're
4 looking for it right now. It takes a minute.
5 MR. TRAFICANT: I have a minute.
6 THE COURT: HSL-G. So if you look at your
7 things when you go home --
8 MR. TRAFICANT: You say I never admitted it
9 into evidence?
10 THE COURT: You offered it. You offered
11 HSL-G.
12 MR. KALL: Your Honor? If I may, I believe
13 it was identified by Melinda Davies, page 5293 and 5294 of
14 the record.
15 MR. TRAFICANT: Let me -- the prosecution is
16 too willing to help. Let me see it.
17 THE COURT: What is the date on which she
18 testified?
19 MR. TRAFICANT: I don't know.
20 THE COURT: That's okay.
21 MR. TRAFICANT: I don't have the money to buy
22 these transcripts.
23 THE COURT: We'll look it up then.
24 BY MR. KALL: I believe it was March 28th,
25 Your Honor.

1 THE COURT: Okay. And then there was S-27,
2 which is a 302 regarding Sinclair. That will not be
3 admitted.
4 MR. TRAFICANT: I object.
5 THE COURT: I know.
6 MR. TRAFICANT: They didn't offer the witness
7 to refute it. Why would you not let the document in?
8 THE COURT: Congressman, it's not admitted.
9 MR. TRAFICANT: I object.
10 THE COURT: I know.
11 MR. TRAFICANT: This is hearsay and you're
12 letting -- you've let them play with the hearsay rules, and
13 now you deny me the opportunity to, in fact, include a
14 written statement by an FBI agent subject to law into
15 evidence regarding a salient point of this trial.
16 THE COURT: Well --
17 MR. TRAFICANT: And I ask the Court to
18 reconsider that.
19 THE COURT: The hearsay rules apply to this
20 particular statement, and it will not be admitted unless
21 you can show, as you have not, some sort of exception.
22 MR. TRAFICANT: Well, I'd like that to be
23 left open for an exception statement for tomorrow.
24 And two, I stipulate for the record that there is no
25 one that assisted me in this trial other than to take what

1 I consider to be violations of law and attach a number to
2 them.
3 And any further reference to Mr. Colucci as a shadow
4 attorney is false and any more threats against Mr. Colucci
5 or if he is, in fact, in any way bothered with his law
6 license, I am notifying the Court of that at this time.
7 Second of all, Ernestine Thomas, who has, in fact,
8 taken notes, is a graduate of Tennessee Law School, has not
9 passed the bar, and who was engaged by me strictly to take
10 notes since I can't even read my own handwriting.
11 And I appreciate the great job she's done. She can
12 identify herself to the Court.
13 MS. THOMAS: And I am not a legal adviser.
14 Mr. Morford referred to me as a legal adviser. I am not a
15 legal adviser.
16 THE COURT: Well, today you handed up during
17 the testimony a question to him.
18 MS. THOMAS: I actually handed him a note.
19 He created a question. That was not what was written on
20 the paper.
21 THE COURT: Very well. I'm glad you
22 clarified that because there's been some confusion.
23 MR. TRAFICANT: There's no confusion. I
24 represent myself, and in fact, in no way would hire an
25 attorney because of the power that's leveraged against

1 attorneys by the federal government, which has tainted the
2 American system of jurisprudence, and, in fact, has made
3 judges afraid of these people.
4 THE COURT: Okay. Let me go back now to
5 HSL-G, and it was, in fact, identified on page 5307 of the
6 transcript on the 28th, volume 28.
7 MR. TRAFICANT: What is it?
8 THE COURT: On March 28th. It's the --
9 MR. TRAFICANT: Sinclair Vending, and you're
10 going to admit that?
11 THE COURT: Yes. It's the vending account
12 statement.
13 MR. TRAFICANT: The slush fund? Thank you,
14 Your Honor. Your largess is greatly accepted.
15 Are there any other documents we've had in question?
16 And could I have a master list at the conclusion of today's
17 business?
18 THE COURT: Let me just find out from the
19 government if they have any exhibits to offer today.
20 MR. SMITH: Your Honor, we had a list, and
21 you have covered everything that we had that was
22 outstanding. The government has nothing further to offer.
23 THE COURT: Okay.
24 MR. TRAFICANT: Your Honor, I would ask that
25 S-27, the 302 of that matter, be suspended for my

1 opportunity to respond since they had and put on Agent
2 Bushner. They could have put on Agent Pikunas. And it
3 is -- and the agents that took the statement of the 302,
4 and I think Mr. Bushner took the 302, it was highly
5 discussed. They discussed the teamwork on this matter.
6 That team was headed by Bernard Smith, from what I
7 understand, who is under Emily Sweeney. I don't know who
8 is in charge here. But that 302 is relevant.
9 It speaks to motive, it speaks to a seven-day
10 reversal of opinion, and an attitudinal change where a
11 person stated, "I will play no parted in quote-unquote
12 getting Jim Traficant." All of a sudden we have a fearful
13 individual who is afraid to meet with Jim Traficant, and
14 the government can't use him for the purposes of
15 memorializing or capturing my voice on some tape.
16 So I would like the opportunity to research law. And
17 as it just so happens to work out, I took a book from the
18 library, and guess what? The section that dealt with
19 hearsay had been removed. So I have to find another
20 criminal evidence rule book today. And I will bring the
21 book in as evidence, and want to make it evidence in the
22 trial, in fact.
23 THE COURT: Well, you don't need to make the
24 rules evidence.
25 MR. TRAFICANT: Well, I find it highly

1 unusual I take a book from the library of the Federal
2 Courthouse and the section I'm looking for is not present
3 and the pages are removed. And I took the book out and
4 signed for it myself. No attorney did. And I want an
5 opportunity to review S-27 and to offer comments relative
6 to its admissibility since the government did offer Bushner
7 as a witness.
8 And if Bushner was reliable enough as a
9 witness to testify, he's reliable enough with his 302.
10 MR. MORFORD: Your Honor, this is just a
11 rehash of things that have already been raised --
12 THE COURT: I've already ruled on this. What
13 you said does not account for the fact that this has to be
14 excluded because it's hearsay. None of these relate to
15 whether it's a hearsay objection -- I mean whether it
16 is -- whether it is somehow an exception to the hearsay
17 rule or it is not.
18 MR. TRAFICANT: My argument --
19 THE COURT: It's not -- don't keep rehashing
20 these arguments over and over again. This one is settled.
21 MR. TRAFICANT: Your Honor, what you're
22 leaving in is pennies and what you're leaving out are
23 dollar bills. And you're giving me token matters into the
24 record that in no way have any significance in the outcome
25 of this trial.

1 THE COURT: Is there anything further from
2 either side here?
3 MR. MORFORD: Not by way of exhibits, no,
4 Your Honor.
5 THE COURT: What I have to do now,
6 Congressman, is to have you explain to me exactly how you
7 intend to proceed tomorrow morning in terms of witnesses.
8 MR. TRAFICANT: I'm going to attempt to get
9 the T. C. Ready Mix fellow here who did the concrete work
10 at the barn that was paid for by check.
11 I'm going to try and get Mr. Christay who did
12 work at the farm, who was paid by the Congressman by check.
13 I'm going to try again through Rotatori and
14 Cascarilla so I can bring in the letter, and I'd like to
15 proffer for the record the letter that Mr. Morford told
16 Mr. Cascarilla that Mr. O'Nesti was not a member of
17 organized crime.
18 It seems that he uses people in different trials.
19 THE COURT: I'm asking you who your witnesses
20 are, and you've talked about a couple that you are going to
21 try to get here. Who are you going to get here tomorrow?
22 We have to know. We have a jury --
23 MR. TRAFICANT: I hope to have them here
24 tomorrow. I have subpoenas out for them.
25 THE COURT: I have to have enough witnesses

1 to get us up until 4:30 tomorrow.
2 MR. TRAFICANT: I will have witnesses here
3 tomorrow to conduct business for your jury. I will work on
4 it.
5 THE COURT: Tell me who they are.
6 MR. TRAFICANT: I'm working on Mr. Chesney,
7 I'm working on the fellow from T. C. Ready Mix, and I'm
8 working on Mr. Rotatori, and I'm working on Mr. Cascarilla.
9 And I am now going to ask for the record if
10 there's been any intervention by the government why
11 Mr. Rotatori has not returned my call and made available to
12 me Mr. Bucci, because they were so easily able to get
13 Mr. Bucci on the stand. I want to know why I can't get
14 Tony Bucci here.
15 THE COURT: Why don't you talk to
16 Mr. Rotatori.
17 MR. TRAFICANT: We've tried. He hasn't
18 returned our calls.
19 THE COURT: Congressman, it is tough to be a
20 trial lawyer. You have to go out and --
21 MR. TRAFICANT: Your Honor, you should compel
22 the attendance of Tony Bucci under these circumstances.
23 Period.
24 THE COURT: Congressman, you've told me now a
25 couple of people who you say that you're going to try to

1 get here. Let's assume you can. Fine. Let's assume that
2 they don't show up, or only one, or maybe even just the
3 three of them show up. I need to know now if you're going
4 to choose not to testify. That's your right. But if
5 you're going to testify, we have to know.
6 MR. TRAFICANT: You have told me that, you
7 have stated that in front of the jury. And, again, for the
8 record, I object. When I rest --
9 THE COURT: You only have to --
10 MR. TRAFICANT: When I rest, it is my
11 decision.
12 THE COURT: You only have to tell -- within
13 limits.
14 MR. TRAFICANT: I will notify the Court at
15 that time. When I rest, you will know whether I have taken
16 the stand.
17 THE COURT: You have the right to testify or
18 not. We have already ruled that you do not have the
19 right --
20 MR. TRAFICANT: You do not have the power --
21 THE COURT: Stop talking across me.
22 You have the right to testify if you choose to. If
23 you choose to, you may not condition your testimony. We
24 had to rule on that yesterday.
25 MR. TRAFICANT: I'm aware of your ruling.

1 THE COURT: If you don't want to testify,
2 then you don't have to testify. You have a right not to
3 testify.
4 MR. TRAFICANT: I understand the law.
5 THE COURT: And the jury will be instructed.
6 MR. TRAFICANT: I understand the law.
7 THE COURT: Well, then stop.
8 MR. TRAFICANT: You've already instructed the
9 jury.
10 THE COURT: Then stop interrupting. Just
11 wait a minute so I can finish. Sit down and wait a minute
12 so I can finish.
13 MR. TRAFICANT: I'd prefer to stand and look
14 at you.
15 THE COURT: All right. You can stand and
16 look at me.
17 I have to know, because I have 17 people who serve on
18 this jury, along with a lot of other people who support
19 this trial going forward, what we're going to be doing
20 tomorrow in terms of witnesses.
21 MR. TRAFICANT: We're going to go forward
22 with the jury with witnesses. I am under no further
23 obligation.
24 THE COURT: There are going to be possibly
25 those three people. Is that right?

1 MR. TRAFICANT: Hopefully those three.
2 THE COURT: Then you be ready with your
3 witnesses at 9:00 tomorrow and we will be ready to go
4 forward with the trial.
5 MR. TRAFICANT: We'll go with the jury at
6 9:00.
7 THE COURT: Congressman, we'll go with the
8 jury at 9:00.
9 The other thing I need to know from you right now
10 is -- anticipate for me -- if we get at some point to
11 closing arguments, I want to know what it is you request
12 from the Court in terms of time for closing arguments.
13 This is because we have 17 people here --
14 MR. TRAFICANT: I know that.
15 THE COURT: -- who went home today in the
16 morning because you didn't have enough witnesses.
17 MR. TRAFICANT: And they were very glad to do
18 so.
19 THE COURT: I doubt it, sir.
20 MR. TRAFICANT: Let me say this: He just
21 said earlier that he predicted this to be an eight to
22 ten-week trial, and they took seven weeks. I've only taken
23 two weeks, and you deny --
24 THE COURT: But you have to fill the trial
25 day. Fill the trial day.

1 MR. TRAFICANT: You should not have discussed
2 that, and I object to your discussion.
3 THE COURT: You objected repeatedly.
4 MR. TRAFICANT: This argument with the jury
5 present.
6 Now, here is my suggestion: I recommend two hours of
7 close, the government be limited to an hour in rebuttal.
8 They could take an hour -- they could take -- and they must
9 take only one hour on rebuttal. If they use only 20
10 minutes in their opening, then they'll only have an hour in
11 rebuttal.
12 THE COURT: Just recommend the total you
13 need. I didn't ask you to tell me what they need. Tell me
14 what you want.
15 MR. TRAFICANT: I'm concerned about them
16 giving a five-minute opening and three-hour close, and I
17 want some establishment of order relative to how we will
18 close.
19 THE COURT: That's why I'm asking you.
20 MR. TRAFICANT: I think both sides should get
21 two hours. They could use an hour in the opening, an hour
22 to close with these brilliant minds. They could make their
23 case, and if the pro se defendant can make his in two
24 hours -- and I probably won't use the two hours -- then I
25 think it's an adequate amount of time.

1 THE COURT: All right. I'll give you an hour
2 and a half. I'll give them an hour and a half, and they
3 can split it any way they want to, like they can in every
4 other courtroom in America. It's their choice, what they
5 use where.
6 MR. TRAFICANT: I object to that.
7 THE COURT: Okay.
8 MR. TRAFICANT: They could make a statement
9 one minute and come back and take one hour and 29 minutes.
10 THE COURT: They can do whatever they want to
11 do.
12 MR. TRAFICANT: You're letting them anything
13 they want to do. That's another thing for the record I
14 object to.
15 THE COURT: That's the way it goes with the
16 prosecution.
17 MR. TRAFICANT: No.
18 THE COURT: Sit down so they can stand. They
19 want to talk to me.
20 MR. MORFORD: Your Honor, first of all, I'd
21 like to revisit the witness -- the potential witnesses he's
22 talked about for tomorrow.
23 First of all, he said he wants to call somebody from
24 T. C. Ready Mix to testify that they were paid for the
25 concrete.

1 That's not relevant. Whether he paid for things that
2 were done out at the farm is irrelevant to the charges in
3 this case. It's also not inconsistent with Dave Sugar,
4 who's already testified.
5 To number two, Mr. Chesney did farm work and
6 was paid by check. This Court has already ruled, I
7 believe, that proper conduct on some occasions that aren't
8 charged in the case are irrelevant to the misconduct that's
9 actually charged in the case. Neither one of those are
10 relevant.
11 As far as Mr. Cascarilla in the letter, we've gone
12 over this before. Mr. O'Nesti was never charged with being
13 a member of La Costa Nostra. He was charged with being a
14 liaison, someone who carried money from members to
15 politicians.
16 MR. TRAFICANT: You didn't put that in the
17 letter, sir.
18 MR. MORFORD: All the letter says is he's not
19 a member of any LCN family. It is totally irrelevant to
20 this proceeding.
21 So all three of those witnesses are completely and
22 totally irrelevant.
23 MR. TRAFICANT: Except Mr. Robertson.
24 MR. MORFORD: Well, no, Mr. Robertson is
25 irrelevant because the Congressman has not shown one thing

1 that's relevant that's changed since the time that he had
2 Mr. Robertson on the stand, and in fact, the cover letters
3 show that those cover letters were sent and mailed at least
4 three or four days prior to the time Mr. Robertson
5 testified, and the matter has nothing to do with this case
6 either.
7 MR. TRAFICANT: Mr. Robertson did not receive
8 that information until last evening looking into the matter
9 of Bank One.
10 I want the right to call him tomorrow and confirm
11 whether that was the same Allen Sinclair in question.
12 THE COURT: Here is what I want to point out
13 to you, Congressman. You've just been given a preview by
14 the government of some of the objections they may make if
15 you call these witnesses. You certainly ought to take
16 those into consideration. But I'm going to permit you to
17 go forward with those witnesses. If you're going to bring
18 them in in the morning, that's fine. You have them here
19 and have them all here at 9:00, so that if, in fact, it
20 turns out that their testimony can be used, we're not
21 delaying the jury.
22 The second thing is, that's why I'm asking you a
23 question today about your own choice about whether or not
24 you're going to be a witness or not, because we have to be
25 prepared to go forward with this case.

MR. TRAFICANT: I am not compelled to divulge that.

THE COURT: No, but you have to be ready to, Congressman.

MR. TRAFICANT: That is privileged, and that is my privilege, and when I'm ready to decide, you'll know.

THE COURT: Congressman --

MR. TRAFICANT: This trial could go another month.

THE COURT: No, this trial could not go another month.

MR. TRAFICANT: Yes, it could. If I take the stand, it could take a month.

THE COURT: Congressman, you can be a witness in this case if you choose, but you will have to be --

MR. TRAFICANT: I am not going to notify this Court today while I have witnesses still coming to this court whether or not I will take the stand. You have ruled on the conditions that I have stated.

THE COURT: If you --

MR. TRAFICANT: And I will now make a decision subject to your motion.

THE COURT: Thank you.

MR. TRAFICANT: To your ruling.

THE COURT: If you will not interrupt and

1 allow me to state the end of my statements, maybe it will
2 dis --
3 MR. TRAFICANT: I will not answer your
4 question relative to whether or not I'll take the stand,
5 and you have no right to poison a jury with that statement
6 you made.
7 And I have a motion on the floor for dismissal on
8 that count. So why don't you just rule again against it
9 and let's get my witnesses on tomorrow and move forward.
10 THE COURT: Because what I wanted to tell you
11 was that after these witnesses have testified or not,
12 depending on what it is they turn out to be here to testify
13 for, you then will have to be the next witness unless you
14 have other witnesses.
15 MR. TRAFICANT: If I don't have witnesses and
16 I take the stand, then I take the stand.
17 THE COURT: Fine. And if you don't --
18 MR. TRAFICANT: That will be my decision.
19 THE COURT: And if you don't take the
20 stand --
21 MR. TRAFICANT: And I do not need to inform
22 this Court as to how I plan my defense.
23 THE COURT: But you need to be aware that if
24 you do take the stand, it will be tomorrow, probably, and
25 if you don't take the stand, which is also fine, we will

1 probably be going into the section of this trial where we
2 do closing arguments. And they need to know that, too.
3 I also need to know it so I can make proper
4 arrangements with the jury. So that's why we were having
5 all this discussion. And --
6 MR. TRAFICANT: In front of the jury?
7 THE COURT: No. Right now.
8 MR. TRAFICANT: No. You had it in front of
9 the jury, Your Honor. You discussed closing arguments,
10 whether or not I was going to testify in front of a jury.
11 THE COURT: That's right. That's right.
12 MR. TRAFICANT: That is highly unusual.
13 THE COURT: Well, that's --
14 MR. TRAFICANT: As well as having my trial
15 documents, as well as quashing the subpoena for Judge Ann
16 Aldrich.
17 THE COURT: Okay. Are you ready now?
18 MR. TRAFICANT: Yes. You've denied every
19 witness I brought in here.
20 THE COURT: I understand you say that.
21 MR. TRAFICANT: Now, I will decide, and that
22 is my decision to make, not the Court's.
23 You decide on the law; I decide on my defense.
24 THE COURT: It's the law --
25 MR. TRAFICANT: Whatever their problem is,

1 they deal with it.
2 THE COURT: Okay.
3 MR. MORFORD: Your Honor, my objection is
4 this: Congressman Traficant has not demonstrated to the
5 Court one relevant thing these witnesses would testify to
6 tomorrow, but what he did do today, and as he's done
7 several times in front of this jury, is suggest to the jury
8 that you are not letting him put on a case, and to go
9 through this charade of having witnesses take the stand,
10 having him ask a couple questions, have the objection
11 sustained and have the witness leave because the witness
12 had nothing relevant to testify to, and to bring these poor
13 people back to sit around all day for this charade I think
14 is wrong.
15 Unless he can tell the Court some relevant
16 reason that he has additional witnesses, the fact that
17 after being admonished several times by the Court that he
18 needed to have witnesses here, the fact that he has no
19 witnesses and the fact that he cannot articulate to the
20 Court a single witness that's going to provide relevant
21 testimony tomorrow, the case ought to be closed, number
22 one.
23 And number two, I would ask if the Court is going to
24 go forward and let him bring in witnesses, that he only
25 bring in witnesses that he can show have admissible,

1 relevant testimony, number one; and that if he runs out of
2 witnesses tomorrow, that he does rest and it's over.
3 THE COURT: Okay.
4 MR. TRAFICANT: I want to respond to this
5 gutless prosecutor.
6 THE COURT: We don't need any more responding
7 now.
8 MR. TRAFICANT: Are we finished?
9 THE COURT: 9:00 in the morning, Congressman,
10 with your witnesses, please.
11 MR. TRAFICANT: Thank you.
12 THE COURT: Do you have anything further?
13 MR. MORFORD: Yes. As far as closings, do we
14 assume we're going to do those then on Friday or --
15 THE COURT: Well, I think you should be ready
16 to do them as early as tomorrow. I can't really tell
17 because I don't know what's going to happen with these
18 witnesses.
19 Here is the thing about the way it goes:
20 Congressman, if you will recall, from the beginning of this
21 case, after everybody has finished with hearing evidence in
22 the case, the next thing we do is give instructions to the
23 jury up to a point. The jury gets basically the
24 instructions except for those that they need when they
25 actually go back to deliberate.

1 After they've been given the basic instructions and
2 the law, then we entertain closing argument. I take it
3 both sides want to do it here. And we have, as I told them
4 and you before, and as you recognized, the Congressman
5 recognizes, you go first, he goes, and then you go.
6 Then I give the last short instructions to the jury,
7 which are the fundamental ones about how they choose a
8 foreman and verdict forms, and things like that. And then
9 the case is put in the jury's hand for a verdict.
10 So that's what we're looking at. And the only
11 question is: When does it begin. And I think it's
12 possible that it will begin tomorrow. I don't know. It
13 may begin the next morning. I don't know. It may begin at
14 some other time. But we have to be ready for it on both
15 sides. And that's why I asked the Congressman how much
16 time he wants.
17 One hour is common. This case is exceedingly long.
18 MR. TRAFICANT: One hour would be
19 satisfactory to me.
20 THE COURT: So I wouldn't mind going with an
21 hour and a half. But two hours was too long.
22 MR. TRAFICANT: Two hours would be too long?
23 THE COURT: So you would have to split your
24 one and a half hours however you decide you want to split
25 it. But we don't put conditions on how many minutes they

1 do in front or on the other side.
2 MR. TRAFICANT: In other words, you're saying
3 they could stand up and say, Your Honor, Members of the
4 Jury, we believe the defendant is guilty, and they rest.
5 And then I go and they come back for one hour and 30 -- and
6 29 minutes. Is that what you're suggesting?
7 THE COURT: You shouldn't be suggesting these
8 things to them. I'm not sure they ever thought of that.
9 MR. TRAFICANT: You're allowing that. Do you
10 think that's fair? Do you think that's fair?
11 THE COURT: Congressman, we never put
12 restrictions like that --
13 MR. TRAFICANT: Shouldn't you at least
14 restrict their close to one hour? Let them take a
15 half-hour opening.
16 THE COURT: They get the same amount of time
17 you get, but they get to split it. That's because they
18 have the burden of proof.
19 MR. TRAFICANT: Yes. Well, let me inquire
20 now about the Court. Once the trial is finished,
21 regardless of what my final position is, what is the next
22 step? The exact next step. I'm asking you to tell me.
23 THE COURT: You mean once the evidence is all
24 in or once we've instructed the jury and we get a verdict?
25 MR. TRAFICANT: No. Once I rest, what do we

1 do next?
2 THE COURT: That's what I just went over.
3 MR. TRAFICANT: I want you to go over it
4 again.
5 THE COURT: Normally what happens --
6 MR. TRAFICANT: Not normally. I want to know
7 what's going to happen.
8 THE COURT: In your case, the same thing that
9 happens in all criminal cases.
10 MR. TRAFICANT: Well, then tell me.
11 THE COURT: That's what I just did.
12 MR. TRAFICANT: No. You said "normally." It
13 implied that there could be something abnormal.
14 THE COURT: Occasionally somebody wants
15 rebuttal or something, but we don't have that in this case.
16 MR. TRAFICANT: Is there rebuttal?
17 MR. MORFORD: You haven't finished your case
18 yet, apparently.
19 THE COURT: They have to decide.
20 MR. TRAFICANT: But you didn't state that,
21 did you?
22 THE COURT: No, I didn't, because there's no
23 indication that we're going to have rebuttal. If we have
24 it, we have it.
25 MR. TRAFICANT: You didn't ask them that,

1 though, did you?
2 MR. MORFORD: Yes. Actually we were asked
3 earlier. We said there would not have been had the
4 Congressman rested. We don't know what he's doing
5 tomorrow, so we're going to keep the option.
6 MR. TRAFICANT: You mean you have an option?
7 But you wanted to deny me an option.
8 THE COURT: Anyway, do you want me to go over
9 it? I'll be happy to do it again.
10 MR. TRAFICANT: Yes. I want you to go over
11 it very carefully, and I don't want you to go over it as
12 normal. I want you to go over it as it will actually be.
13 THE COURT: Well, there are some things we
14 can't tell exactly.
15 MR. TRAFICANT: I want to know if the jury
16 instructions are finalized, and if they have been, given to
17 me.
18 THE COURT: We gave you an opportunity to
19 participate in the jury --
20 MR. TRAFICANT: I asked you to be fair. I
21 wanted to see the jury instructions you made. All I asked
22 you to do was be fair.
23 THE COURT: We said I think two weeks ago or
24 a week ago or something that those were available. If you
25 wanted a copy, you can have a copy, a draft copy of the

1 instructions.
2 I can't do the jury instructions, Congressman,
3 completely until I've heard all of the evidence in the
4 case, and I may or may not have done that.
5 So --
6 MR. TRAFICANT: Well, you haven't heard any
7 evidence in this case. You denied all my witnesses.
8 THE COURT: Okay. Well, anyway, the jury
9 instructions are available in draft form for you to look at
10 if you want to look at them. There's no problem with that.
11 MR. TRAFICANT: Why cannot I be given a copy
12 of it?
13 MR. SMITH: He was.
14 THE COURT: We offered you a copy. We
15 offered you a copy of the jury instructions.
16 MR. TRAFICANT: Where?
17 THE COURT: Here.
18 MR. TRAFICANT: Give it to me.
19 THE COURT: You just have to ask the clerk
20 for one.
21 MR. TRAFICANT: Give me one.
22 THE COURT: We'll have to go get one if you
23 want to.
24 MR. TRAFICANT: Give me one.
25 THE COURT: We will.

1 Anyway, the jury instructions, the first three
2 sections, A, B, and C as they're called in the jury
3 instructions, are read aloud to the jurors. They have
4 copies, they're sitting there. We read them out loud.
5 You have copies while we're reading them. That gets
6 finished. Then we go to closing arguments.
7 And they go first, and then you go, and then they
8 have the last word, so to speak.
9 MR. TRAFICANT: And they could take an
10 hour --
11 THE COURT: And then we send it to the -- we
12 hand the case to the jury, and they go deliberate, and then
13 at some point, I don't know when, we have a verdict, and
14 that's the way the case goes.
15 MR. TRAFICANT: And it is your now decision
16 that they could make a one-minute opening?
17 THE COURT: I'm not making that decision
18 because that isn't in front of me. I don't know what
19 they're going to do.
20 MR. TRAFICANT: But they're allowed to do
21 that; under your order they're allowed to do that. Is that
22 correct?
23 THE COURT: In any court.
24 MR. TRAFICANT: Well, then I move and I make
25 a motion that they be limited to a one-hour close.

1 THE COURT: Well, you want --
2 MR. TRAFICANT: I have a motion in limine
3 that they -- we both have an hour and a half, but their
4 close be limited to a half hour.
5 THE COURT: The motion is denied,
6 Congressman. That would be an extraordinary thing to do.
7 I'm not going to do that.
8 MR. TRAFICANT: It was granted in the first
9 trial. It was granted out of fairness.
10 THE COURT: Okay. Well, this is not 1983.
11 MR. TRAFICANT: It certainly isn't. There is
12 no justice today.
13 THE COURT: We'll see you at 9:00 in the
14 morning, sir.
15 Do you have a question? You look like you have a
16 question. No?
17 MR. MORFORD: I was just thinking. I'm
18 trying to think of time --
19 THE COURT: Is an hour and a half acceptable?
20 You never got a chance to respond to that.
21 MR. MORFORD: I would have asked for an hour
22 and 45, but if the Court wants to go with an hour, we'll go
23 with an hour.
24 MR. TRAFICANT: I think an hour is enough.
25 MR. MORFORD: The second thing, Your Honor,

1 I'm just thinking in terms of the timing, if we have any
2 witnesses tomorrow, we're then going to have to go through
3 and review each other's evidence and make sure there's no
4 extraneous notes, documents, things like that.
5 THE COURT: Right.
6 MR. MORFORD: I assume the Court is going to
7 go over the charge with us.
8 And then if we have the Court read the charge, which
9 will probably take an hour, and have three hours of
10 closing, in my mind I'm not seeing that happening all
11 tomorrow.
12 THE COURT: Well, it may well be it's the
13 next day. That's what I said. I don't really know until
14 we get into it. You should be ready tomorrow to do a
15 close, both of you, and if it doesn't happen tomorrow, then
16 you will have gotten ready.
17 I'm sorry I can't be more specific, but this case is
18 quite unpredictable.
19 MR. MORFORD: I was going to ask the Court if
20 you could just schedule the closings for Friday so we'll
21 know as opposed to being --
22 MR. TRAFICANT: What's the date today?
23 MR. MORFORD: It's Wednesday.
24 THE COURT: You mean of the week? It's
25 Wednesday. It's the 3rd.

1 MR. TRAFICANT: I would agree that if I take
2 the stand, this trial may last another two, three weeks.
3 If I do not take the stand, then I believe it is
4 reasonable to assume that Mr. Morford's one reasonable
5 suggestion would be acceptable to the defendant pro se, and
6 that closing arguments -- both sides be given an
7 opportunity for Friday if I do not take the stand.
8 But I do caution the Court that if you poison this
9 jury one more time relative to my taking or not taking the
10 stand, that you'll have to send a marshal for me, because I
11 am not coming back to your courtroom. You can put that on
12 the record.
13 THE COURT: It's on the record. Everything
14 you say is on the record.
15 Okay. Here is what I just wanted to suggest to both
16 of you. I understand that it is easier if you know if
17 you're going to do a closing argument or not. It's a very
18 important time for the preparation of lawyers and pro se
19 defendants.
20 On the other hand, I have a jury that has been sent
21 home early more than once, and I have to consider the fact
22 that these men and women are spending a great deal of their
23 lives and interrupted lots of activities in their lives
24 that affect many other people.
25 So if it turns out that the timing is better to let

1 that closing statement go forward tomorrow afternoon,
2 you'll certainly have the noon hour before that happens,
3 but I can't promise you. I think we'll know better
4 tomorrow when we know what the Congressman's decision is,
5 we'll know better. But I think you both need to be
6 prepared to go tomorrow as well as Friday, because it
7 doesn't look to me like even if we have testimony, from
8 what you've described, it doesn't look to me as if we've
9 got long testimony, unless you decide, as you're entitled
10 to, that you want to take the stand.
11 MR. TRAFICANT: Your Honor, did you rule on
12 their motion relative to Count 10, that if only two of the
13 counsel unanimously agree to --
14 THE COURT: Yes, I did.
15 MR. TRAFICANT: Did you rule in their favor?
16 THE COURT: It's -- the ruling is out. Let
17 me make sure you have a copy of it.
18 MR. TRAFICANT: Did you rule in their favor,
19 which makes it about 21 counts?
20 THE COURT: This is only a special verdict
21 form on Count 10.
22 Oh, I know. This is the one where you raised all the
23 objections that would have to do with double jeopardy, and
24 so forth.
25 MR. TRAFICANT: Yes.

1 THE COURT: Okay. Well, you raised that in
2 response to the request, but you didn't raise any of that
3 in the motion, so I dealt with the motion which came in
4 regarding the special verdict form for Count 10.
5 Do they have copies of this yet?
6 THE CLERK: Yes.
7 MR. TRAFICANT: And you're ruling with the
8 government? Are you ruling with the government? Yes or
9 no.
10 THE COURT: You can go read it.
11 MR. TRAFICANT: I am just asking you for the
12 record, did you rule with the government?
13 THE COURT: Well, in a sense I did and in a
14 sense I didn't.
15 In the sense I didn't was I didn't accept their
16 proposed form which they sent to me. But in terms of their
17 request --
18 MR. TRAFICANT: Well, what's the form have to
19 do with it?
20 THE COURT: There is a special verdict form.
21 MR. TRAFICANT: And what is the special
22 verdict form for Count 10? Could you tell me what you've
23 approved for the record?
24 THE COURT: I don't have to tell you for the
25 record. I've offered you the entire package of jury

1 instructions and will let you see all of the verdict
2 forms --
3 MR. TRAFICANT: But I am directly asking you.
4 THE COURT: Do you want to see the verdict
5 form right now?
6 MR. TRAFICANT: Yes.
7 THE COURT: Okay. Maybe we can get you the
8 draft verdict forms right now while we're all sitting here.
9 MR. TRAFICANT: I want to see how much more
10 opportunity you're going to give these three bureaucrats.
11 THE COURT: We don't have copies of the
12 verdict forms because there's only one verdict form, but
13 I'm willing to have my clerk take a minute. Go get the
14 one --
15 MR. TRAFICANT: You mean I wasn't given a
16 copy of the verdict form? There is only one?
17 THE COURT: Nobody is ever given a copy
18 except the jury of a verdict form, but we let you look at
19 the verdict form so you can file objections to it if you
20 wish to.
21 MR. TRAFICANT: Let me inquire: In essence
22 you're saying that only two of the overt acts have to be
23 unanimously agreed to. The only thing you don't like is
24 the little lines they put on the piece of paper. Is that
25 what you're telling me? Yes or no.

1 I may be the son of a truck driver, but I
2 wasn't born yesterday. I've got a train to run here. I'd
3 appreciate that form immediately.
4 THE COURT: Okay.
5 MR. TRAFICANT: So it is evident that I
6 didn't receive the form.
7 THE COURT: No, no, no. Nobody gets the
8 verdict forms except the verdict -- the jury.
9 MR. TRAFICANT: You said you ruled on it.
10 THE COURT: I ruled on a motion. Here is the
11 order. It was issued at 9:00.
12 MR. TRAFICANT: When?
13 THE COURT: Today.
14 MR. TRAFICANT: Just today.
15 THE COURT: Just today. We've had a lot of
16 motions, Congressman.
17 MR. TRAFICANT: And you didn't take into
18 consideration my response of the double jeopardy at all?
19 THE COURT: Yes, I did. It's all set forth
20 in here.
21 MR. TRAFICANT: And you ruled against it.
22 THE COURT: Why don't you sit down while he's
23 trying to find the jury verdict forms and read my copy of
24 my order. You can get these, you know.
25 MR. TRAFICANT: You are to give them to me.

1 THE COURT: We did. We sent it to you. You
2 were handed a copy, and here you are.
3 MR. TRAFICANT: I am not in receipt of it.
4 You just sent your man to the back room.
5 THE COURT: I'm going to come down and we're
6 going to stand at the front, and I'll hand you each a copy
7 of each of the verdict forms. They're drafts because we
8 haven't finished everything in the case yet.
9 MR. TRAFICANT: The government's request is
10 granted.
11 The only thing you've changed is the form.
12 THE COURT: Right.
13 MR. TRAFICANT: That's a form with lines on
14 it.
15 Now, let me see the form that you're using.
16 THE COURT: I have it right here.
17 MR. TRAFICANT: You have basically made this
18 a 21-count indictment.
19 THE COURT: Well, that's your position. Ed,
20 can you take these one at a time and show one at a time
21 whoever wants to look at it, what it looks like?
22 MR. TRAFICANT: Thank you, Edward.
23 THE COURT: This is your chance to --
24 MR. TRAFICANT: I would like to compare them
25 with what the government had submitted.

1 THE COURT: They didn't submit any verdict
2 forms except the special RICO one.
3 MR. TRAFICANT: This is the one we're dealing
4 with. That takes away all the property, puts me in jail
5 for 23 years, and you're talking about a day's trip of a
6 jury, and you never once talked about the rights of the pro
7 se defendant. And let that also be noted for the record.
8 THE COURT: Got that?
9 MR. TRAFICANT: I understand the jury has a
10 responsibility. As an American citizen, that is their
11 responsibility. And no time restraints shall deny justice.
12 That's a founding document. And all you've done is you've
13 changed their form. You've made this a 21-count
14 indictment.
15 I now object to such decision and find the Court to
16 be biased in its actions, in favor of the prosecution, and
17 further state for the record if they get their ass kicked
18 tomorrow, they're going to be the laughing stock of the
19 United States of America, and don't count it out before
20 this week is out or next week, that that doesn't happen.
21 Because you have a guy that understands the
22 Constitution and knows when it's been shredded like toilet
23 tissue, and it's been done in this case, and that's for the
24 record. Toilet tissue. Put Charmin down.
25 THE COURT: We're in adjournment until

tomorrow morning at 9:00. Please be prepared, Congressman.

(Trial adjourned at 12:36 p.m.)

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C E R T I F I C A T E

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

Heidi Blueskye Geizer 4-24-02

Heidi Blueskye Geizer, RPR, CRR Date

1 DIRECT EXAMINATION OF MICHAEL S. TERLECKY
2 BY MR. TRAFICANT..... 5783:13
3 CROSS-EXAMINATION OF MICHAEL S. TERLECKY
4 BY MR. MORFORD..... 5792:5
5 REDIRECT EXAMINATION OF MICHAEL S. TERLECKY
6 BY MR. TRAFICANT..... 5812:7
7 RECROSS-EXAMINATION OF MICHAEL S. TERLECKY
8 BY MR. MORFORD..... 5829:15
9 FURTHER REDIRECT EXAMINATION OF MICHAEL S. TERLECKY
10 BY MR. TRAFICANT..... 5831:6
11
12
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1 IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO
2 EASTERN DIVISION

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

8 - - - - -
TRANSCRIPT OF PROCEEDINGS HAD BEFORE
9
THE HONORABLE LESLEY WELLS
10
JUDGE OF SAID COURT,
11
ON THURSDAY, APRIL 4, 2002
12
Jury Trial
13
Volume 32
14
15 - - - - -
16
APPEARANCES:
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23 U.S. District Court - Room 539
201 Superior Avenue
24 Cleveland, Ohio 44114-1201
(216) 861-3005
25 Proceedings recorded by mechanical stenography; transcript
produced by computer-aided transcription.

1 THURSDAY, APRIL 4, 2002, MORNING SESSION, 9:01
2 (Jury in at 9:01 a.m.)
3 MR. TRAFICANT: Your Honor, I call David
4 Ludt.
5 THE WITNESS: Good morning, Your Honor.
6 (The Witness is Sworn)
7 DIRECT EXAMINATION OF DAVID LUDT
8 BY MR. TRAFICANT:
9 Q. Good morning, David.
10 A. Good morning, and good morning to the jurors and
11 Judge.
12 Q. Will you give your name and spell your last name for
13 the jury?
14 A. Last name spelling is L U D T.
15 Q. First name?
16 A. David.
17 Q. Where do you reside?
18 A. Poland, Ohio.
19 Q. And what county is that?
20 A. Mahoning County.
21 Q. What congressional district is that?
22 A. It was the 17th.
23 Q. What is it now?
24 A. The 6th.
25 Q. What is your occupation?

A. I'm a Mahoning County Commissioner.
Q. What are your duties as a Mahoning County Commissioner?
A. The three county commissioners control the budget of Mahoning County.
Q. In addition to that, what do you also do?
A. I'm a tow truck driver. I own Ludt's Towing Company.
Q. Before you were a commissioner, how long were you a tow truck driver?
A. 46 years.
Q. Do you still tow vehicles?
A. In rare emergency. This job takes most of my time.
Q. Do you know a man by the name of J.J. Cafaro?
A. Yes, I do.
Q. Did you have occasion to be at a meeting with Mr. Cafaro, an unusual meeting with Mr. Cafaro, relative to politics?
A. Yes, I did.
Q. Would you describe where that meeting was held?
A. The meeting was held that Mr. Anthony's on the River, which is located in Youngstown, Ohio.
Q. Could you describe what Mr. Anthony's is?
A. It's a restaurant.
Q. Where was the meeting held within the restaurant?
A. They have a meeting room entering off to the right.

1 Q. Was the meeting room door closed?
2 A. Eventually it was, yes.
3 Q. Who was all present at this meeting, to the best of
4 your knowledge?
5 THE COURT: Can we get a time when the
6 meeting was?
7 Q. Roughly when the meeting of this -- when was the date
8 of this meeting, to the best of your recollection?
9 A. It was around -- it was in the morning, Saturday
10 morning, around 2000.
11 Q. Was it winter?
12 A. It was right after the general election, yes.
13 Q. After what general election?
14 A. The November election of 2000.
15 Q. Was I on the ballot in that general election?
16 A. Yes, you were.
17 Q. Was I successful?
18 A. Yes, you were.
19 Q. What time span elapsed from the election, to the best
20 of your knowledge, to this convening of this meeting?
21 A. Probably within the next month, within a month
22 period. My recollection is not that great, but it's within
23 a month.
24 Q. Do you recall the purpose of the meeting?
25 A. It was a political meeting, basically.

1 Q. Do you recall the people who were -- any of the names
2 of the people who were at the meeting?
3 A. I knew a few. A lot of them I didn't know.
4 Q. Who did you know?
5 A. I knew Jim Graham. He was with the UAW, General
6 Motors.
7 Q. Jim Graham is whom?
8 A. He's with the union, with the UAW.
9 Q. And what position does he hold, to the best of your
10 knowledge?
11 A. He's the president.
12 Q. Okay. Who else was present?
13 A. Judge Bodah.
14 Q. And who is Judge Bodah?
15 A. He's a Federal Bankruptcy Court Judge.
16 Q. In what court?
17 A. The bankruptcy court. Federal Bankruptcy Court.
18 Q. And where is it located?
19 A. In the Federal Courthouse, across the street from
20 Mahoning County Courthouse.
21 Q. In what city?
22 A. The city of Youngstown.
23 Q. Who else was present at this meeting?
24 A. Judge Vukovich, Court of Appeals.
25 Q. What Court of Appeals?

1 A. Was that the Sixth District Court of Appeals, I
2 believe?
3 Q. Was it a state or federal court of appeals?
4 A. State.
5 Q. Okay. Who else was present at this meeting?
6 A. I believe Attorney Hanni was there.
7 Q. Who else was present?
8 A. J.J. Cafaro, J.J. Cafaro's daughter.
9 Q. Do you remember any other significant people at the
10 meeting?
11 A. I believe the rest of them were attorneys.
12 Q. Who basically conducted the meeting?
13 A. J.J. Cafaro.
14 Q. Did you have any conversation with Mr. Cafaro?
15 A. Well, he conducted the meeting. He asked each
16 individual there two questions.
17 Q. What was the first question?
18 A. The question was about --
19 MR. MORFORD: Objection, hearsay.
20 A. The question was at budget --
21 THE COURT: When there's an objection, you
22 have to wait a minute.
23 THE WITNESS: Sure.
24 MR. TRAFICANT: These are political
25 questions, Your Honor.

1 THE COURT: I understand.
2 MR. TRAFICANT: And I understand this, and I
3 object to having my witnesses interrupted on a regular
4 basis before they get a chance to testify.
5 THE COURT: Okay. Well, if someone is
6 testifying as to something that may be hearsay, a lawyer
7 has a responsibility to pose an objection.
8 MR. TRAFICANT: Yes. If you would listen to
9 the question, you would be able to determine if it is
10 hearsay.
11 THE COURT: Yes. I would be able probably to
12 do it if I had a chance.
13 MR. TRAFICANT: And they are objecting before
14 I conclude a question. That I find irregular and cite for
15 the record, and I'd like to continue with the witness.
16 THE COURT: Okay. Well, as soon as we hear
17 the objection, we will see whether or not the witness
18 should go forward and answer this particular question.
19 MR. MORFORD: Your Honor, first of all, I
20 object to that speech. These are the rules that apply in
21 every case.
22 THE COURT: Right.
23 MR. MORFORD: My objection was hearsay
24 because he is testifying to out-of-court statements, and
25 we've been through these rules many, many times. This is

1 nothing new. It's not new to this case; it's not new to
2 any case.
3 THE COURT: Congressman, the objection is
4 sustained. You can continue your inquiry.
5 BY MR. TRAFICANT:
6 Q. As a result of the conversation you had, what was
7 your impression as to the reason of that question?
8 A. My impression was that it was a motivational question
9 for preparation for political support.
10 Q. At this meeting, were there discussions of state
11 politics?
12 A. Yes.
13 Q. And what was your impression of the discussion
14 relative to state politics?
15 A. Well, I was asked if I knew David Leland.
16 MR. MORFORD: Objection. Again, we're
17 getting into hearsay, Your Honor.
18 THE COURT: We can't have you testify as to
19 what somebody else would who would be under oath and
20 subject to cross-examination could testify to. You have to
21 testify to --
22 MR. TRAFICANT: Were you asked --
23 THE COURT: Excuse me. You have to testify.
24 It's tough being a witness.
25 THE WITNESS: Sure.

1 THE COURT: You have to give us time to rule
2 when there's an objection before you continue, and then you
3 have to testify leaving out what somebody else may have
4 been saying. Okay.
5 THE WITNESS: Thank you.
6 THE COURT: That's the hearsay part.
7 BY MR. TRAFICANT:
8 Q. Were you asked any questions about state politics?
9 A. Yes.
10 Q. Did you respond in any way to any particular state
11 political mechanism?
12 A. The fact is, I do know David Leland. The fact is, I
13 ran for election. The fact is, David Leland opposed me,
14 and I don't think I'm his favorite person.
15 Q. Was David Leland at the meeting?
16 A. He was not. He's in Columbus, Ohio.
17 Q. Were federal issues discussed at the meeting?
18 A. The federal budget was discussed.
19 Q. Who led the discussion?
20 A. J.J. Cafaro.
21 Q. Was there anyone who addressed the group?
22 A. J.J. Cafaro chaired the meeting.
23 Q. Were there any speakers?
24 A. Each person spoke and addressed the question that was
25 asked.

1 Q. And those were political questions?
2 A. That's correct.
3 Q. Did any union leaders speak?
4 A. Jim Graham spoke. He's the union leader, president
5 of the union of UAW for the Lordstown --
6 Q. Is UAW the largest union in the Mahoning Valley?
7 A. Correct.
8 Q. And what does the UAW union cover?
9 A. Basically Lordstown, the auto workers, United Auto
10 Workers.
11 Q. Are they the largest employer in the valley?
12 A. Yes, they are.
13 Q. And what was the purpose of the meeting?
14 A. It was a political meeting, basically. I think it
15 was the announcement of J.J. Cafaro's daughter seeking the
16 17th District position.
17 Q. Seeking office?
18 A. Correct.
19 Q. Did she speak?
20 A. Yes, she did. Very good speaker.
21 Q. What, if anything, was your impression as to the next
22 election cycle?
23 A. Well, you'd just been elected, so I knew you were
24 elected for the next two years, so I felt they were
25 preparing for the next election, correct.

1 Q. What election?
2 A. That would be this election here.
3 Q. What election? What election was she seeking when
4 she talked?
5 A. That would be the election of two years after 2000.
6 Q. For what congressional seat?
7 A. The 17th District.
8 Q. Who was the incumbent in the 17th Congressional
9 District?
10 A. Jim Traficant, you.
11 Q. Were there any pledges of endorsement at this
12 meeting?
13 A. No, there was not, not openly on the floor.
14 Q. Were there remarks requesting consideration for
15 endorsements?
16 A. After the meeting, it was sort of like the side-bar,
17 you might say, and the discussion came up, you know, we're
18 looking for your support.
19 Q. Had you ever attended one of these meetings before?
20 A. No, I had not.
21 Q. Did you discuss anything other than those two
22 political issues and the campaign?
23 A. During the meeting or after the meeting?
24 Q. During the meeting.
25 A. Basically, no.

1 Q. How long did that meeting last?
2 A. Approximately an hour.
3 Q. Do you recall how long Jim Graham had spoken?
4 A. Probably three to five minutes.
5 Q. Do you recall how long Mr. Cafaro had spoken?
6 A. Intermittently. He conducted the meeting, so he
7 would have spoken many times throughout the hour.
8 Q. Do you recall how long Ms. Cafaro had spoken?
9 A. She probably spoke five to ten minutes.
10 Q. Was there any doubt in your mind as to the purpose of
11 what that meeting was about?
12 A. No doubt in my mind, no.
13 Q. What was the meeting about?
14 A. It was about politics; it was about promoting his
15 daughter to run for the 17th District.
16 Q. Now, after the 2000 election, was there any
17 understanding of the new congressional district lines?
18 A. Not to my knowledge.
19 Q. Do you know when the new delineation of congressional
20 lines was certified by the state?
21 A. Just recently. I'm not sure. I don't have the exact
22 date.
23 MR. TRAFICANT: No further questions at this
24 time.
25 THE COURT: Mr. Morford?

1 MR. MORFORD: Thank you, Your Honor.
2 CROSS-EXAMINATION OF DAVID LUDT
3 BY MR. MORFORD:
4 Q. I'm sorry, sir. What do you do again for a living?
5 A. Pardon me?
6 Q. What do you do for a living?
7 A. I'm a Mahoning County Commissioner, presently.
8 Q. And that is a political office, correct?
9 A. Yes, it is.
10 Q. You run for election?
11 A. Every four years.
12 Q. And how long have you been involved in politics in
13 the Mahoning Valley?
14 A. 23 years.
15 Q. And it's fair to say you have a fair amount of
16 expertise on politics in the Mahoning Valley?
17 A. I would say locally, state-wide and federal, yes.
18 Q. You're a pretty savvy guy?
19 A. Not really. I'm a tow truck driver.
20 Q. Well, in terms of politics though, having been
21 involved nationally, state-wide, and locally in the
22 Mahoning Valley for 20-some years, is it fair to say you're
23 fairly politically savvy?
24 A. More independent than anything else.
25 Q. No. I'm not asking about party affiliation. I'm

1 just talking about political savvy. Are you someone that
2 knows and understands politics? Would that be fair?
3 A. At a local level more so than a state or federal
4 level. I've never been involved in a state or federal
5 level, but I have knowledge of it.
6 Q. My question is about Mahoning Valley politics.
7 A. Yes.
8 Q. Now, you said this conversation occurred just after
9 Congressman Traficant had been reelected, correct?
10 A. Within a month, correct. Or in that area.
11 Q. So the next election was going to be in two years,
12 correct?
13 A. Yes.
14 Q. And that would be the election that will be coming up
15 this next fall, correct?
16 A. Yes.
17 Q. And as somebody that understands politics, you knew
18 at that time that every ten years, there's a census, and
19 after the census, there has to be redistricting, correct?
20 A. It never entered my mind at the time, sir.
21 Q. That's not my question. My question is whether it
22 entered your mind that day at that restaurant, you did
23 understand there would be redistricting, correct?
24 A. No. The subject was never brought up.
25 Q. Sir, hasn't that discussion been widely discussed in

1 the Mahoning Valley the last two years?
2 A. Probably, but I was not involved in that.
3 Q. You had no idea that even though you've been involved
4 in Mahoning County politics for two years, that they were
5 going to have to redraw the congressional lines?
6 A. Yes. I knew that was going to happen, but that was
7 never discussed at that meeting.
8 Q. That wasn't my question. My question was: Were you
9 aware that there was going to be redistricting and that the
10 congressional districts in the state of Ohio were going to
11 be redrawn?
12 A. Did I know that in the back of my mind? Yes.
13 Q. Thank you.
14 A. But was it brought up at the meeting? No.
15 Q. That wasn't my question. My question was did you
16 know that. Let me ask you some questions about that.
17 A. Okay.
18 Q. Isn't it true that Ohio was going to lose
19 congressional seats in that redistricting?
20 A. Yes.
21 Q. How many seats were they going to lose?
22 A. A couple, I guess.
23 Q. And if you were advising someone who was thinking
24 about running for Congress in the year 2002 --
25 MR. TRAFICANT: Objection as to speculation.

1 THE COURT: Okay. That's well taken.
2 Q. Sir, wouldn't it be a factor for someone that was
3 going to run for Congress to consider the fact that at
4 least --
5 MR. TRAFICANT: Objection as to speculation.
6 Q. -- two seats --
7 THE COURT: I couldn't really hear the end of
8 the question. Let me hear the end of the question, but
9 don't answer yet. Everybody slow down. Relax. It's early
10 in the day. Just ask the question.
11 MR. TRAFICANT: Can I have the question read
12 back, and then --
13 THE COURT: I only got part of it. Why don't
14 you just start --
15 MR. TRAFICANT: Well, it was just a question,
16 and I don't have it written down. I'm not sure. I don't
17 remember the beginning of the question.
18 THE COURT: Okay.
19 (Record read.)
20 MR. TRAFICANT: Objection as to speculation.
21 How would he know what someone else's facts are?
22 THE COURT: Okay, Congressman. You know, we
23 just can't get into snap judgments here. I have to listen
24 and pay attention.
25 MR. TRAFICANT: Well, you have an objection

1 placed.
2 THE COURT: That's right. And if you'd be
3 quiet for a moment --
4 MR. TRAFICANT: I'm trying.
5 THE COURT: So we have a clear record.
6 MR. MORFORD: Your Honor, my question is not
7 going to what the Cafaros were thinking --
8 MR. TRAFICANT: I object to his explanation
9 what his question is about.
10 THE COURT: Stop.
11 MR. TRAFICANT: He can rephrase it.
12 THE COURT: Stop interrupting, Congressman.
13 You know the process. Stand up when you have an objection.
14 MR. TRAFICANT: I object to him trying --
15 THE COURT: Don't talk. Stand, sir. Stand.
16 That's all you have to do. We're not going to go forward
17 until we've got this straightened out. We're just taking
18 our time.
19 You're standing up. He's the person who is trying to
20 explain, and it's his turn to explain. This is -- just
21 slow down. Everybody relax. We're trying to get evidence
22 before a jury.
23 MR. MORFORD: Let me rephrase the question,
24 Your Honor.
25 THE COURT: Okay.

1 BY MR. MORFORD:
2 Q. Isn't it true that at the time of that meeting, no
3 one knew whether there would even be a 17th Congressional
4 District --
5 MR. TRAFICANT: Objection.
6 Q. -- as it stood at that time?
7 MR. TRAFICANT: Speculation.
8 THE COURT: Stop talking on top of other
9 people. You are ruining a record in a case where the
10 record is very important. Okay?
11 Did you hear his question?
12 THE WITNESS: I'd like him to ask it again,
13 please.
14 THE COURT: I don't know if the reporter can
15 read it back because she can't write down two people
16 talking at once. One more time, sir.
17 Q. Isn't it true that at the time of that meeting in
18 November of 2000, no one knew for sure if there would even
19 be a 17th Congressional District as it existed at that
20 time?
21 MR. TRAFICANT: Objection as to the
22 speculation.
23 THE COURT: Overruled.
24 Now you can answer the question.
25 A. It was never discussed at that meeting, so I

1 thought -- I don't think the thought process was in motion
2 at that time.
3 Q. That's not my question, sir, what was discussed at
4 the meeting. My question was: Isn't it true at the time
5 of that meeting that no one knew whether the
6 congressional -- 17th Congressional District would continue
7 to exist as it existed at that time?
8 A. I can tell you I didn't know whether they were going
9 to change it, and I don't think anybody else really knew
10 until the governor and the Republican Party made the
11 boundaries. I believe that that's voted on through that
12 process. Correct?
13 Q. Well, sir, you knew the district would change in some
14 way, correct?
15 A. I never thought about it at that meeting.
16 Q. But in fact, it did change, correct?
17 A. Yes, it did.
18 Q. In fact, the district as it existed was eliminated
19 entirely, correct?
20 A. Yes. It was split up.
21 Q. And so, therefore, any discussion about Capri Cafaro
22 running for some congressional seat would have been greatly
23 affected by what congressional seat would result a few
24 months later when they finally drew the new lines, correct?
25 A. It was never discussed.

1 Q. But isn't that a fact, whether it was discussed or
2 not?
3 A. Eventually it became a fact. At that time it was not
4 a fact.
5 Q. Let me ask you this: As somebody with a fair amount
6 of political experience, can you think of a worse thing
7 that you could do to help your daughter who wants to run
8 for Congress and who you're promoting for Congress than to
9 plead guilty to conspiring with a sitting congressman to
10 violate the federal bribery statute by paying him
11 gratuities? Can you think of a worse political thing you
12 could do to your daughter, sir?
13 A. My daughter is not running for Congress.
14 Q. That's not my question. Can you think of a worse
15 thing you could do to a candidate you're promoting to
16 Congress if you're her father than to plead guilty to
17 conspiring to violate the bribery statute with a sitting
18 congressman, as a political person?
19 MR. TRAFICANT: Objection as to relevance
20 with this witness's knowledge.
21 THE COURT: The objection is overruled. You
22 can answer.
23 A. First, I'm in politics. I wouldn't run my daughter,
24 number one.
25 Q. That's not my question, sir. My question is asking

1 you --
2 A. Nor would I do anything to hurt my daughter or my
3 family.
4 Q. Sir, my question is this. You are someone with 23
5 years of expertise in the area of politics in the Mahoning
6 Valley, and my question is a simple one: Can you think of
7 a worse thing that J.J. Cafaro could have done to promote
8 his daughter as a viable candidate for Congress than to
9 have pled guilty to conspiracy to violate the federal
10 bribery statute by paying illegal gratuities to Congressman
11 Traficant? Can you?
12 A. That's his choice.
13 Q. That's not my question. As a political person, can
14 you think of a worst thing you could have done?
15 A. I wouldn't do it to begin with, no.
16 Q. Wouldn't you say that that would have substantially
17 destroyed her chances of running as a viable candidate, as
18 somebody that's involved in politics for 20 years, sir?
19 A. I can't answer that.
20 MR. MORFORD: Fine. Then I have no more
21 questions.
22 THE COURT: Thank you.
23 REDIRECT EXAMINATION OF DAVID LUDT
24 BY MR. TRAFICANT:
25 Q. David, how old are you?

1 A. 62.
2 Q. Has the Mahoning Valley ever been split up as a
3 congressional district?
4 A. Not in the 62 years that I can recollect.
5 Q. Who was in control of the Statehouse in 2000?
6 A. Governor Taft.
7 Q. And what party was he?
8 A. He was the Republican Party.
9 Q. Now, isn't it a fact that in the general election,
10 Walters had brought up Traficant's campaign supposed
11 allegations?
12 THE COURT: Don't answer until we hear what
13 the objection is.
14 MR. MORFORD: I object to the leading nature.
15 He's testifying.
16 And number two, this is beyond the scope of
17 cross-examination. And number three, it's irrelevant.
18 THE COURT: Congressman, you can't make
19 statements that can be used by the jury when you are
20 examining a witness. You have to let the witness testify.
21 You know that.
22 Q. Was the general election of 2000 a dirty campaign?
23 A. Yes, it was.
24 MR. MORFORD: Again, objection.
25 THE COURT: He can answer.

1 MR. TRAFICANT: I object to these continuous
2 objections before I even complete a question.
3 THE COURT: Well, and he objects --
4 MR. TRAFICANT: You scolded me, but you never
5 scold these prosecutors.
6 THE COURT: He objects to your continuing
7 statements. We're trying to get evidence before the jury
8 now.
9 MR. TRAFICANT: I am, too.
10 THE COURT: Just ask questions.
11 MR. TRAFICANT: And I'm tired of their
12 objections.
13 THE COURT: Well, they have a duty to object.
14 MR. TRAFICANT: Well, let me finish my
15 question.
16 BY MR. TRAFICANT:
17 Q. Do you recall the primary election of the year 2000?
18 A. Yes.
19 Q. Was that a dirty election?
20 A. Yes, it was.
21 Q. Were there allegations of Jim Traficant's so-called
22 problems?
23 A. Yes.
24 Q. Now, in what county is the Cafaro Company located?
25 A. Trumbull County.

1 Q. And in what district is Trumbull County now located
2 in?
3 A. It's located in the 17th District.
4 Q. Do you know if I am a candidate for Congress?
5 A. I believe you filed as an independent candidate. Is
6 that correct?
7 Q. In what district?
8 A. The 17th District.
9 Q. Was it your impression under any circumstances they
10 would split up the 17th District of Ohio?
11 A. They did eventually, it's a fact.
12 Q. But was it your impression that that would ever
13 occur?
14 A. Well, it usually does occur every ten years,
15 depending upon which party is in control.
16 Q. Has the 17th District, the Mahoning Valley, ever been
17 separated like it has been this time?
18 A. Not to my knowledge.
19 Q. Did anybody expect that?
20 A. Not that I know of. It was never mentioned.
21 Q. So the matter of the 17th District and its
22 reconfiguration was not a concern of the meeting. Is that
23 your testimony?
24 MR. MORFORD: Your Honor --
25 A. It was never mentioned.

1 MR. MORFORD: -- I'm again going to object
2 because it's his witness, and every time he asks a
3 question, it gets a yes or no answer because it's so
4 leading.
5 THE COURT: Congressman, don't lead the
6 witness.
7 Q. Was it your impression that the 17th Congressional
8 District boundaries were not a consideration --
9 THE COURT: Wait, wait, wait, wait. Don't
10 tell him what his answer is. Ask him a question, and let
11 him come up with the answer himself. And if you keep doing
12 this so frequently, then it's very hard for him not to be
13 taught by your question what his answer should be, and
14 that's very unfair to him as a witness and to the jury.
15 Q. Was the boundaries of the 17th District ever
16 discussed at that meeting?
17 A. As I said prior, that was never brought up at the
18 meeting.
19 Q. Was redistricting ever brought up at that meeting?
20 A. It was never brought up in the meeting that I was
21 attending.
22 Q. What party chairman's name was discussed?
23 MR. TRAFICANT: Objection. Hearsay.
24 A. David Le- --
25 THE COURT: It's all right, he can answer.

1 A. David Leland.
2 Q. And what party did he represent?
3 A. Democratic Party.
4 Q. Did the Democrat -- was there any representative of
5 the Ohio Democratic Party there?
6 A. If there was, I did not know, and I couldn't identify
7 them.
8 Q. What partisan ballot did you run on?
9 A. The Democratic ticket.
10 Q. Were you supported by the state party?
11 A. Not in the primary, but in the general election,
12 after I'd won the primary.
13 Q. Now, you mentioned that you were independent. What
14 did you mean by that?
15 A. I'm an independent thinker. I don't take
16 contributions from large corporations. I try and do most
17 of my work myself, make my own signs. I'm pretty
18 independent that way because I don't like to be obligated
19 to a lot of people. I like to serve the public, and I like
20 to make the decisions with my own mind.
21 Q. How many Mahoning County commissioners are there?
22 A. Three.
23 Q. And what are the political persuasions of those three
24 candidates?
25 MR. MORFORD: Objection as to relevance.

1 THE COURT: You can say that.
2 THE WITNESS: Pardon me?
3 THE COURT: You can answer that.
4 Q. What parties are they affiliated with?
5 A. All three commissioners are Democrats.
6 Q. Do you agree on all issues?
7 A. Definitely no.
8 Q. Who is the odd man out?
9 A. Myself.
10 Q. Have you ever sought assistance from my office?
11 A. Yes, I have, on many occasions. Recently was the
12 waterline that we're going to run to Lake Milton to
13 eliminate the contaminated water in that area; the three
14 bridges that are located in Mahoning County, which are the
15 Center Street Bridge, the 616 bridge, and the Jacobs Road
16 bridge.
17 Q. Were they all funded?
18 A. They're all completed except the waterline. We
19 expect to have that done in the year 2002.
20 Q. Who got you the funds?
21 A. Congressman Traficant's office.
22 Q. Who requested it from the commissioners?
23 A. I did.
24 Q. Do those other commissioners ever request me to do
25 anything?

A. You'd have to ask them. I believe so. We had done it collectively as a group and probably individually. I'm sure you're the only one who could answer that question.

Q. Did I ever fail to respond to any of your requests politically?

A. Never.

Q. Did you ever work on my farm?

A. Never.

Q. Do I hug you?

A. Yes, you do.

Q. Do you consider yourself my friend?

A. Absolutely.

Q. Do you have immunity for your testimony here today?

A. None whatsoever.

MR. TRAFICANT: No further questions.

THE COURT: Thank you, sir.

MR. MORFORD: I just have one question, Your Honor.

RECROSS EXAMINATION OF DAVID LUDT

BY MR. MORFORD:

Q. In truth and fact, Capri Cafaro never did run for Congress, did she, sir?

MR. TRAFICANT: I didn't hear the question, Your Honor.

Q. In truth and fact, Capri Cafaro never did run for

1 Congress, did she, sir?
2 A. Not to my knowledge, sir.
3 Q. She's not on the ballot this year, is she, sir?
4 A. No.
5 MR. MORFORD: Thank you.
6 FURTHER REDIRECT EXAMINATION OF DAVID LUDT
7 BY MR. TRAFICANT:
8 Q. At that meeting was it your impression that she would
9 seek the election for the 17th congressional seat?
10 A. My impression was the fact that we had that meeting,
11 it was a political meeting, and they were looking for
12 support for her to run. That's correct.
13 Q. Do you know if she got that support?
14 A. It's the only meeting I ever attended. I don't know.
15 She didn't get the support from me.
16 Q. What did you tell them?
17 A. I told them that I was supporting Jim Traficant for
18 the good that he's done for the valley.
19 MR. TRAFICANT: No further questions.
20 THE COURT: Thank you.
21 MR. MORFORD: Nothing further.
22 THE COURT: Sir, thank you. You can step
23 down.
24 THE WITNESS: Thank you.
25 (Witness excused.)

1 MR. TRAFICANT: Ernestine, would you please
2 call Mr. John Vogel?
3 THE COURT: I couldn't hear his last name.
4 MR. TRAFICANT: Vogel.
5 THE COURT: V O G E L?
6 MR. TRAFICANT: I think so, Your Honor. I'll
7 ask him to spell it for the record.
8 THE COURT: Okay.
9 (The Witness is Sworn)
10 THE COURT: Have a seat. You need to speak
11 up loudly and clearly. There's a microphone if you need
12 it. It comes out of its little holder if you want to hold
13 it up. Anyway, everyone here needs to hear you,
14 particularly the jury, but everyone else, too. Thank you.
15 DIRECT EXAMINATION OF JOHN VOGEL
16 BY MR. TRAFICANT:
17 Q. Good morning, John.
18 A. Good morning, Congressman.
19 Q. Would you please give your full name and spell your
20 last name for the jury?
21 A. John Vogel, that's V O G E L.
22 Q. Where do you reside, John?
23 A. 1763 Arbor Drive, Mineral Ridge, Ohio.
24 Q. How long have you known me?
25 A. Off and on over 25 years.

Q. Have I ever hugged you?
A. Yes.
Q. Have you ever worked at my farm?
A. No.
Q. Do you know where it is?
A. No.
Q. Do you know if, in fact, I own that farm?
A. No, I don't.
Q. What do you do for a living?
A. I run small political campaigns for local candidates in the Trumbull County area.
Q. There's water there if you need it, John.
A. Thank you.
Q. Can you hear me clearly?
A. Yes.
Q. Do you know a man named George Buccella?
A. Yes, I do.
Q. How well do you know Mr. George Buccella?
A. Fairly well. I've known George about 20 years.
Q. Do you know Mr. Buccella's work experience?
A. Over the last 20 years, yes.
Q. And what was his work experience over the last 20 years?
A. He's been a Weathersfield Township Trustee, congressional aide, he has worked for the Trumbull County

1 Health Department. He owned a recreational vehicle sales
2 lot, a pizza shop, and raced cars and managed a raceway.
3 Q. Do you know if he was a trustee while he was on my
4 staff?
5 A. Yes.
6 Q. If you know, do you know if he owned a pizza shop
7 while he was on my staff?
8 A. Yes.
9 Q. Do you know that he managed a racetrack while he was
10 on my staff?
11 A. Yes.
12 Q. Did you know that he owned that racetrack?
13 A. I did not know that he owned it.
14 Q. Do you know if he had the recreational vehicle
15 dealership when he was on my staff?
16 A. I'm trying to think of the dates, Congressman. I'm
17 not sure if the RV lot was still active. It may have just
18 been a used car lot by the time he was on the staff.
19 Q. Would you say he was a very busy man?
20 A. I would say his plate was full.
21 Q. Would you meet with him?
22 A. I'm sorry?
23 Q. Would you mean with him?
24 A. Oh, yes.
25 Q. How often would you meet with him?

A. As many as three times a week. Usually at least twice a week we would have lunch together.
Q. And where would you have these lunches?
A. Usually around the Eastwood Mall.
Q. Do you know where his work site was?
A. At the Eastwood Mall.
Q. What kind of clothing was he wearing?
A. Either casual business or a tie and jacket.
Q. Other than these lunches, did you ever meet with him anywhere else?
A. Yes. We would occasionally be at dinners together, or weddings, different social events.
Q. Did you ever meet with him at the pizza shop?
A. Yes.
Q. Do you have personal knowledge of any of his pizza shop business activities in the Mineral Ridge area?
A. Yes. In addition to being a friend, he was also a customer of mine at my office supply business.
Q. Do you have knowledge of any of his customers?
A. Yes.
Q. Who were some of his customers at the pizza business?
A. A lot of the local residents; then he had a major contract with the Weathersfield School System to supply pizza for lunches.
Q. Did you ever see Mr. Buccella personally make pizza?

1 A. Yes.
2 Q. Did you know if he ever delivered the pizza?
3 A. Yes.
4 Q. Did you know if he had special permission to do that?
5 MR. MORFORD: Objection.
6 THE COURT: Sustained.
7 Q. Do you have knowledge as to how long it would take
8 him to do these things?
9 A. Usually an entire morning on the day he was
10 delivering.
11 Q. And you met with him at other events, you say?
12 A. Yes, sir.
13 Q. What were those events?
14 A. We were involved in several political campaigns
15 together; for example, his reelection as a trustee after he
16 was defeated. He made a run for the Statehouse, and I
17 helped run his campaign for that.
18 I attended his daughter's wedding. I had been to his
19 house on several social occasions, and then he was at my
20 son's baptismal party. And I used to hold my kids'
21 birthday party and take my baseball teams over to his pizza
22 shop.
23 Q. Did you ever see him in clothing other than office
24 clothing?
25 A. Naturally, after hours, I mean after the normal

1 course of business.
2 Q. Do you have any personal knowledge of Mr. Buccella
3 having a problem in Mineral Ridge?
4 A. Yes.
5 Q. And what was that problem?
6 MR. MORFORD: Your Honor, I'm going to object
7 that this would be going into extrinsic matters, and under
8 Rule 608 and 609 and 613, that's not proper inquiry.
9 THE COURT: You can continue because I don't
10 know where this is going yet.
11 Q. Did you have personal knowledge that he had a problem
12 in Mineral Ridge?
13 A. Could you be a little more specific, please?
14 I -- there were several instances where George had problems
15 in his role as the trustee.
16 Q. Was there any public discussion of George Buccella's
17 Mineral Ridge problems?
18 A. Oh, yes.
19 Q. Was it public knowledge?
20 A. It was at a trustees' meeting.
21 Q. Were you at the trustees' meeting?
22 A. Yes, sir.
23 Q. What did the meeting concern?
24 MR. MORFORD: Your Honor, I'm going to object
25 unless this would go to his reputation for truthfulness,

1 which is a proper area of inquiry of impeachment.
2 Mr. Buccella is not on trial. Anything else would be
3 improper extrinsic evidence.
4 THE COURT: Well, we don't really know what
5 this is going to be, so I guess we'll have to wait until
6 the break and see where you're going with what you're
7 asking him here.
8 MR. TRAFICANT: I want to ask my question
9 again.
10 THE COURT: Okay.
11 Q. Were you at the meeting?
12 THE COURT: Okay. You can answer that.
13 A. Yes, sir.
14 Q. Was the matter an issue of public knowledge at an
15 open public meeting?
16 A. Yes.
17 Q. And what did it concern?
18 A. Allegations that George Buccella had taken -- I hate
19 to say bribe, but he had taken payment for intervening on a
20 DUI case.
21 MR. MORFORD: I object and move to strike.
22 This is extrinsic evidence. He can ask Mr. Buccella when
23 he's up there about it. He can't prove it by extrinsic
24 evidence. Those rules are clear, Your Honor.
25 THE COURT: Congressman, we'll take this up

at the next break. You can move on, and for now you're going to have to disregard this colloquy. He may be back in front of you or may not.

You can continue on something else.

Q. One last question on this that doesn't deal with Buccella. Was this an open public meeting conducted by the trustees of Weathersfield Township?

A. Yes.

Q. Do they record their minutes?

A. Of their business part of their meeting, yes, they do. General comments usually do not appear on their minutes.

Q. Have you ever owned more than one business at a time?

A. Yes.

Q. How many have you owned at one time?

A. I had two office supply stores running at one time.

Q. Two of your own stores operating?

A. Yes, sir.

Q. Was that very time consuming?

A. Yes.

Q. Did you ever meet in the early mornings with Mr. Buccella?

A. Yes.

Q. And where would you meet?

A. At his pizza shop most of the time; sometimes at my

1 store.
2 Q. Did you ever take any action relative to the public
3 meeting held in Weathersfield?
4 MR. MORFORD: Objection.
5 THE COURT: That's what we're going to take
6 up at the break, Congressman. Please don't make any
7 further references to that until we have an opportunity to
8 do what we need to do in order to see whether or not the
9 jury can have that information come before them through
10 this witness.
11 Q. Were you a friend of George Buccella?
12 A. Yes.
13 Q. Are you still a friend of George Buccella?
14 A. No.
15 Q. Are you a friend of mine?
16 A. I'm friendly towards you.
17 MR. TRAFICANT: No further questions at this
18 time.
19 THE COURT: Thank you.
20 MR. MORFORD: No questions, Your Honor.
21 THE COURT: You can step down, sir. Thank
22 you very much. Mind the steps, they're a little unusual.
23 THE WITNESS: Thank you.
24 (Witness excused.)
25 MR. TRAFICANT: Ernestine, would you bring in

1 Betty Manente.
2 THE COURT: I'm sorry, I couldn't hear you.
3 MR. TRAFICANT: Betty Manente.
4 THE COURT: Come right around this way,
5 behind the court reporter. You have to thread your way up
6 to the witness stand.
7 THE WITNESS: I get to sit up here with you?
8 THE COURT: Yes. Would you raise your right
9 hand, please?
10 (The Witness is Sworn)
11 THE COURT: Have a seat, please. You have a
12 soft voice. We have a microphone.
13 THE WITNESS: Okay.
14 THE COURT: Usually the best thing to do is
15 to take it out of the stand, just lift it out. Everybody
16 in the room needs to hear you. It's a big room with high
17 ceilings. If you want water -- why don't you pour yourself
18 some water if you want some water.
19 THE WITNESS: Okay.
20 THE COURT: Do that first.
21 DIRECT EXAMINATION OF BETTY MANENTE
22 BY MR. TRAFICANT:
23 Q. Good morning, Betty.
24 A. Good morning.
25 Q. Would you please give your full name and spell your

1 last name for the jury?
2 A. I'm Betty Manente. That's M A N E N T E.
3 Q. And where do you reside?
4 A. I live in Girard, Ohio, 962 Lincoln Avenue, Girard,
5 Ohio.
6 Q. Are you currently employed?
7 A. Yes, I am.
8 Q. What is your employment?
9 A. I work for Congressman Traficant.
10 Q. And do you have a title?
11 A. I'm the office manager for Trumbull County.
12 Q. For how many years have you served in that capacity?
13 A. 17.
14 Q. And what are some of your duties?
15 A. Basically my main job is case work, intervening with
16 constituent problems, dealing with veterans, IRS cases,
17 military cases, just various cases.
18 Q. Are you the boss of the office?
19 A. I guess I am.
20 Q. Do you have immunity?
21 A. No, I don't.
22 Q. Were you interviewed by the FBI?
23 A. Yes, I was.
24 Q. On how many occasions?
25 A. Just once.

1 Q. Did they call you first?
2 A. Before --
3 Q. Before they interviewed you?
4 A. No, sir.
5 Q. They did not call you?
6 A. The first interview, no.
7 Q. Did they just show up cold?
8 A. They -- yes.
9 Q. Where did they show up?
10 A. At the office.
11 Q. What time of the day was it?
12 A. I couldn't tell you right now, if it was morning,
13 afternoon. I really don't remember.
14 Q. Was the office open for business?
15 A. Yes.
16 Q. Were constituents allowed to be in there when it was
17 open for business?
18 A. Yes. We didn't stay in the office.
19 Q. What, if anything, did they do and ask you to do?
20 A. They just asked me some questions.
21 Q. Where did they ask you these questions?
22 A. Outside the office.
23 Q. Where did you go outside the office?
24 A. Right down the hall.
25 Q. Did you talk out in the hallway?

A. No. It was like a little cove, like a little area where they have seats.
Q. There were seats?
A. Right.
Q. How many FBI agents were there?
A. Two.
Q. Do you remember their names?
A. It was Mike Pikunas and I think Richard Denholm.
Q. Was that the only meeting you had with the FBI?
A. With the FBI, yes. There was like an interview or something after. Maybe a couple months ago or six weeks ago I was called to Boardman and there was an FBI agent present there. But he didn't really do any interviewing.
Q. Who was that agent? Do you remember his name?
A. No, sir, I don't.
Q. And it was the Boardman FBI office?
A. Yes.
Q. Was there anybody else there?
A. Yes.
Q. Who was there?
A. Matthew Kall.
Q. Is Mr. Kall here in the room?
A. Yes, he is.
Q. Would you point to him and identify him?
A. Right there.

1 MR. TRAFICANT: Let the record reflect she's
2 identified Mr. Kall.
3 THE COURT: She has.
4 Q. And who conducted that interview?
5 A. Mr. Kall.
6 Q. What time of the day was it?
7 A. I think it was in the morning.
8 Q. Was it a work morning, workday or weekend?
9 A. It was a workday.
10 Q. Did you notify me of the meeting?
11 A. No, I didn't.
12 Q. So you left work to meet with the FBI?
13 A. Yes.
14 Q. Was our office covered?
15 A. Yes.
16 Q. Who made arrangements for that?
17 A. Well, there was other staff there.
18 Q. And who, in fact, directed them to cover for you?
19 A. I guess me.
20 Q. Now, was there any other meetings with the
21 government?
22 A. No, sir.
23 Q. Do you know if there were any IRS agents present at
24 any of these meetings?
25 A. No.

1 Q. Did you appear before the grand jury?
2 A. Yes.
3 Q. Who subpoenaed you?
4 A. The prosecution, I believe.
5 Q. Who examined you before the grand jury?
6 A. Mr. Morford.
7 Q. Is Mr. Morford here in the room?
8 A. Yes.
9 Q. Point to him and identify him.
10 A. (Indicating).
11 MR. TRAFICANT: Let the record reflect Mr.
12 Morford has been identified.
13 THE COURT: Yes, he has.
14 Q. How long have you known George Buccella?
15 A. Since he was -- right before he was on staff, I think
16 it was probably 1984.
17 Q. Is that when you were employed?
18 A. 1985.
19 Q. Is that when Mr. Buccella was employed?
20 A. Yes.
21 Q. Was he assigned to your office at that time?
22 A. In 1985, he was only there for a couple months, and
23 then the office was divided, and I believe, as far as I can
24 recollect, he went to the Warren office at that time, and
25 then subsequently to the Youngstown office.

1 Q. Now, where was the Warren office located?
2 A. In City Hall in Warren, Ohio.
3 Q. Why was the other office closed?
4 A. The original office, there was a tornado in 1985, and
5 it destroyed a portion of the building, including our
6 offices at that time.
7 Q. And how long were we located in Warren City Hall,
8 approximately?
9 A. Well, he was there for some time, and then we moved a
10 couple times, and then -- when I say "we," the office I was
11 in, and then when he moved to the Youngstown office, our
12 office, Faye and I, another staffer, Faye and I moved to
13 the Warren City Hall for, I think it was like maybe three
14 years, four years.
15 Q. Where did you move from Warren City Hall to?
16 A. To the Eastwood Mall, to the upstairs suite.
17 Q. Is that where the FBI visited you?
18 A. No. Then we moved downstairs, and it was downstairs.
19 Q. Were you located near any other government offices?
20 A. I'm sorry?
21 Q. Were you located near any other government offices?
22 A. No. When we were upstairs, there was the Air Force
23 office down the hallway, but not where we are at right now.
24 Q. Was there ever any state offices located near you?
25 A. Yes. I'm sorry, there was the auditor's office next

1 to us.
2 Q. Did they at some point move?
3 A. Yes.
4 Q. Did George come in at a normal time?
5 A. Actually, no. George's hours in the beginning, he
6 started, I guess, coming in around 9:00 or quarter after,
7 and he just kind of carried that over.
8 Q. Did you know if he had a special hiring condition?
9 A. I was told in the beginning when he was in the
10 Youngstown office that he had a pizza shop and he was
11 wrapping up some business or something with that.
12 Q. And had permission to start work at a later hour?
13 A. That was my understanding, yes.
14 Q. Did you know that he was a township trustee at the
15 time?
16 A. Yes, I did.
17 Q. Did you know that he managed a racetrack at the time?
18 A. Not when he first started. Later on he did.
19 Q. Was his attendance ever an issue, ever raised?
20 A. Over the years, yes.
21 Q. At some point, was his reporting time raised?
22 A. Yes.
23 Q. Who questioned his reporting time?
24 A. There were a few times when we called and he wasn't
25 there, like around 9:00. I remember one time specifically,

1 he wasn't there, and you asked when he came in, and I said
2 that he still came in after quarter after 9:00 or 9:00, and
3 you were told and told me to have him there at 8:30, and I
4 did subsequently tell him that.
5 Q. Did you instruct him to report at 8:30?
6 A. Yes.
7 Q. Do you know where that call came from relative to his
8 reporting time?
9 A. I think at the time you were calling, you said you
10 were in Washington.
11 Q. Do you have immunity here today?
12 A. No. I don't feel I need it.
13 Q. Did you take up the issue with Mr. Buccella about his
14 starting times?
15 A. Yes, I did. I hollered at him quite a bit to be
16 there at 8:30, but (pause) --
17 Q. Did Mr. Buccella heed your directions?
18 A. For a time.
19 Q. How long a time?
20 A. I can't remember exactly, but for maybe a week or so
21 he would.
22 Q. Then what happened?
23 A. Then he would start coming back in at 9:00.
24 Q. Was he ever there later than 9:00?
25 A. There may have been. I can't recall. There may have

1 been occasions.
2 Q. Did you ever work on my farm?
3 A. Absolutely not. No, I didn't.
4 Q. Did I ever hug you?
5 A. I'm sure.
6 Q. Did you ever hold elective office?
7 A. Oh, dear. Unfortunately, I did. I was the first
8 woman elected in Girard. I had two years of it and said
9 that's it, I don't want any more of it.
10 Q. Is that Girard, Ohio?
11 A. Yes, sir.
12 Q. How many terms did you serve?
13 A. Just one.
14 Q. And what were you elected to?
15 A. City council.
16 Q. Are you married and have family?
17 A. Yes, I am.
18 Q. Is your husband involved in politics?
19 A. Not anymore, sir.
20 Q. Was he an elected official?
21 A. Yes, he was.
22 Q. What was his position?
23 A. He was a councilman, and when he retired from the
24 post office, he was a councilman for a couple years.
25 Q. And where was he a councilman?

1 A. Girard.
2 Q. Did George Buccella ever tell you he was going to
3 work at the farm?
4 A. That word was really never used, if ever referred to,
5 anything with the farm. It was always called, or he would
6 always say, "I'm going south," which we all assumed.
7 Q. What did you assume?
8 A. We assumed from just hearing talk that it was the
9 farm. Everybody kind of knew that.
10 Q. Did I ever call you and discuss going south with you?
11 A. No. I can honestly say you never did.
12 Q. Did you ever call me about going south?
13 A. No.
14 Q. Did you ever go to the farm and see if he was there?
15 A. No.
16 Q. Did you ever call me and ask me if he was at the
17 farm?
18 A. No, I didn't.
19 Q. How do you know he was at the farm?
20 A. Because he -- well, that was just kind of a general
21 consensus among everybody. I mean, I couldn't prove where
22 he went when he left the office, but he would talk about it
23 maybe the next day.
24 Q. Where am I usually located during the week, my office
25 location?

A. Washington.
Q. Do you know if I fly or drive?
A. I have no clue.
Q. Do you know when I'm home?
A. I don't have definite proof of when you're home because we don't communicate that much, but I think you're home Friday and Saturday and Sunday, and you leave sometime on Monday.
Q. Do you know if there are weekends when I stay in Washington on business?
A. I was never privy to that information, Congressman, but I'm sure you were.
Q. Why did you never call me about this going south?
A. First of all, it was never my -- I never had the authority to send anybody anywhere, so if he ever went anywhere, that directive came from someone higher up than me, so I just never questioned it. It wasn't for me to say where anyone went.

In fact, when I had to go somewhere, I took orders or whatever from the scheduling secretary. So it wasn't up to me to really question where anyone went.

Q. Did you supervise George?
A. In the office? Yes.
Q. Were you his boss?
A. I was his immediate boss.

1 Q. You never called once to confirm that he was with me
2 at the farm?
3 A. No, I didn't, Jim.
4 Q. Did you know if George Buccella had immunity in this
5 case?
6 MR. KALL: Objection.
7 THE COURT: Sustained.
8 Q. Now, if an employees is telling you he's going
9 somewhere, that you supervise, why didn't you call me?
10 A. I never did because, to be very honest, I was
11 always -- I always felt a little bit nervous with Chuck
12 O'Nesti, and if we had to say anything or complain to
13 anybody, I was always told that I had to go to him first.
14 Q. Who told you that?
15 A. I believe it was Charlie.
16 Q. Charlie told you that?
17 A. Yes.
18 Q. Did you ever call me and tell me that?
19 A. No, I didn't.
20 Q. Who hired you?
21 A. You did.
22 Q. Who supervised you?
23 A. Who my boss was? You were.
24 Q. Were you the regional director of Trumbull County?
25 A. Yes.

1 Q. Were you to be notified of Trumbull County
2 activities?
3 A. Yes.
4 Q. Did you represent me in Trumbull County?
5 A. Yes, I did.
6 Q. Did George Buccella represent me in Trumbull County?
7 A. Yes, he did.
8 Q. George Buccella, did he participate in after-hours
9 work?
10 A. I believe he did help you out with that, yes.
11 Q. Why did you have to have the impression you had to
12 check with Charlie when I hired you and I was your boss?
13 A. Well, I think it was just basically like the chain of
14 command.
15 Q. Did we have a set chain of command officially? Was
16 there an official chain of command?
17 A. You mean --
18 Q. A written official chain of command?
19 A. There was, I remember one time where there was like
20 in blocks the chain of command.
21 Q. Did you report these problems to Charlie of George
22 coming late?
23 A. No, I didn't.
24 Q. Did I ever call you and ask George to go south?
25 A. No, you did not.

1 Q. Did George maintain a case load?
2 A. Yes, he did.
3 Q. Did he maintain a case load similar to other staff
4 members?
5 A. Yes. Yes.
6 Q. What specific types of things did George do?
7 A. We all kind of just did various -- I didn't ever tell
8 them what they had to do, specific cases, because you could
9 go for two weeks without maybe an INS case coming, so we
10 just kind of had a case work flow, whoever kind of
11 had -- we kind of had a system where they were all evenly
12 distributed with regards to what type of case work they
13 were.
14 Q. Did you bring with you closed cases that were George
15 Buccella's responsibility?
16 A. I believe there are some here. I didn't bring them,
17 but another staffer brought them for you.
18 Q. And they were closed by George Buccella?
19 A. Yes.
20 Q. Did you ever express a concern about his use of our
21 office?
22 A. In which way, Congressman?
23 Q. For other than congressional activities?
24 A. Over the years if I found something wasn't
25 congressional, I certainly would tell the staff, absolutely

1 not.
2 Q. Do you have any knowledge that he conducted township
3 business?
4 A. In the office?
5 Q. Yes.
6 A. I have no knowledge, direct knowledge of conducting
7 township business. He may have gotten calls, but he
8 wouldn't do any business. He was always instructed to keep
9 that separate.
10 Q. Did you strictly enforce that?
11 A. As much as I was aware. If I was ever aware of it, I
12 would certainly tell him.
13 Q. Was I a micromanager, Betty?
14 A. Pardon me?
15 Q. Am I a micromanager?
16 A. Meaning what, Congressman?
17 Q. Do I look over your shoulder or --
18 A. No, you don't. Actually, I think that you are only
19 in our office in Trumbull County, I would be stretching it
20 a little if I said ten times in 17 years.
21 Q. Did I work out of a specific office?
22 A. You were at the administrative office mostly.
23 Q. When I wasn't in D.C.?
24 A. Uh-huh.
25 Q. When you had a major problem, who did you call?

A. If I had a major problem, I kind of went up the chain of command. I would talk to Jackie Bobby, and then she would go to whoever.

Q. Who ended up resolving the major problems?

A. Most generally, you would, if it was something major.

Q. Were strikes major problems?

A. I didn't deal with that, but yes.

Q. Was the RMI strike a very major problem?

A. Yes, it was.

Q. Whom did you call?

A. I think that George Buccella worked on that, and you pretty much handled that.

Q. Can you attest to George Buccella being one time at my farm?

A. Could I verify that ever? No, I could not. I do not recall ever having even a phone number for there.

Q. Did you ever gain knowledge of a problem George had?

MR. KALL: Your Honor, I'm going to object to this. It appears to be leading to a 608(b) issue that we raised with the previous witness, as well.

THE COURT: Well, if there is a problem, you can identify what it is. You have to decide if you know whether you can answer the question.

THE WITNESS: Are you talking to me, Your Honor?

1 THE COURT: Yes. I'm saying you can go ahead
2 and answer.
3 Q. Did you ever gain any knowledge of a criminal problem
4 George had?
5 MR. KALL: Objection.
6 THE COURT: Sustained. You can't answer
7 that.
8 Q. Would George be required to inform you if he had a
9 problem?
10 MR. KALL: Objection.
11 THE COURT: Sustained. We'll handle this at
12 the break.
13 Q. Do we have official time sheets?
14 A. There never was, as far as I was ever aware, any
15 particular policy as far as vacation or sick leave until
16 Paul Marcone said in a memo in, I believe it was April of
17 2000 --
18 Q. Is that after all the allegations hit about me?
19 A. I believe so.
20 Q. Did George attend functions as a township trustee
21 with your permission?
22 A. You mean did he go to represent himself as a trustee
23 during work hours?
24 Q. Did he ever make trips relative to trustee business
25 out of town?

1 A. Okay. He would take vacation and go to conventions.
2 I'm not sure where they were, except I know he used to go
3 to Washington maybe once a year.
4 Q. For how long?
5 A. To the best of my knowledge, the best I can recall,
6 maybe a week.
7 Q. Did he take vacation time for that?
8 A. Yes, he always had used vacation time, but --
9 Q. Go ahead.
10 A. Okay. Just to clarify that, there was always a
11 little confusion on my part, because he would take
12 vacation -- I would mark him down for vacation because he
13 would be out of the office for trustee, but then he would
14 tell me that he worked in the Washington office while he
15 was in Washington, so I was never real sure what was
16 vacation and what wasn't at that point for those particular
17 meetings.
18 Q. Did you ever call and check with me if he worked in
19 Washington?
20 A. No, I didn't.
21 Q. Did you like George?
22 A. Yes. George was a friendly fellow.
23 Q. Was he a busy fellow?
24 A. Yes.
25 Q. Would you say very busy?

A. You mean in the office or just in general?
Q. His lifestyle.
A. Yes. Yes, he was.
Q. Did he ever come to the office in jeans and work clothes, farm-type clothes?
A. Friday was sort of a dress-down day. He wasn't dressed like a farm person, but they were allowed to wear jeans on Friday if they wanted to.
Q. Would he do that?
A. Sometimes.
Q. Would you do that?
A. No. No, I didn't.
Q. Now, when you testified at the grand jury, did they focus on George's farm activities?
A. Yes.
Q. Did they ever ask you if he owned other businesses?
A. If George did?
Q. Yes.
A. I don't think so. I don't recall that.
MR. TRAFICANT: Your Honor, I'm not finished. It's past 10:30. I still have some questions of this witness, if you want to take a break.
THE COURT: Thank you, but we'll just go forward.
Q. Did they ask you if he owned a racetrack?

A. No, they didn't.

Q. Did they ever ask you if he borrowed equipment from me?

MR. KALL: Your Honor, I'm going to object. What was asked in the grand jury is irrelevant.

THE COURT: Don't answer.

Q. Did they ever ask about the pizza shop?

THE COURT: Excuse me, excuse me.

Going back to the question that was objected to, the objection is overruled, so she can answer. It was, "Did they ever ask you if he borrowed equipment from me?" You can answer that.

A. No, they didn't.

Q. Thank you. Did they ask you about the pizza shop?

A. No. No, I don't believe they did.

Q. Did they ever ask you about any contracts he had with the Weathersfield School Board?

A. No, sir.

Q. Did they ever ask you if he worked evenings?

A. I can't recall if they did, Congressman.

Q. Did they ever ask you if George Buccella ever drove me to Washington?

A. I don't think they asked me that.

Q. So all they asked you about was the farm and going south, is that correct?

1 A. Pretty much, his activity in the office and that.
2 Q. Did they ask you what his duties were?
3 A. I think they asked in general what the staff did.
4 Q. Did they ever in specific ask what George did?
5 A. I don't recall.
6 Q. Did I ever inquire as to his punctuality and work
7 habits?
8 A. On the days that you would call and he wasn't there,
9 you did ask --
10 MR. KALL: Objection. Hearsay.
11 THE COURT: Sustained. Don't answer.
12 Q. Do you have any knowledge of George B. using me as an
13 excuse to get out of work?
14 A. I have no knowledge of that.
15 Q. Did the government ever ask you that?
16 A. I don't believe so.
17 Q. Now, in this formal policy now, do you enforce it?
18 A. Yes.
19 Q. Was George still on staff when the formal policy was
20 announced?
21 A. I think it was right during the month when he left.
22 I'm not a hundred percent sure of that.
23 Q. Would you recall if he was there at any time before
24 he left when the formal policy was established?
25 A. I'm trying to think if he left in April or May. He

1 may have been there for a few days. There is a possibility
2 of that.
3 Q. Did he adhere to the policy?
4 A. Did George?
5 Q. Yes.
6 A. I think during that time it was the interim period
7 where George was getting ready to leave. It was in the
8 beginning. If he adhered to it, he would have had to fill
9 out these sheets, and I think there was just a few days
10 that he did at that point, yes.
11 Q. Did he honor the policies?
12 A. Yes.
13 Q. Was our last campaign for Congress a very dirty
14 campaign?
15 MR. KALL: Objection, leading.
16 Q. What was the status of our last campaign?
17 THE COURT: Okay. This is a great example of
18 the problem. Please don't lead anymore. You can answer
19 what you know about that campaign.
20 Q. Was it your impression --
21 THE COURT: Excuse me. Putting aside what is
22 described, answer independently what you know of the
23 character of that campaign.
24 Q. What was your impression of the last campaign --
25 THE COURT: Congressman, when you talk on top

of me, it's impossible even though we have probably the best court reporters in the Northern District of Ohio for them to write down two conversations at once.

MR. TRAFICANT: I apologize, Your Honor.

THE COURT: You just did it now. You just did it again.

MR. TRAFICANT: I apologize. I thought you had completed your comments. Thank you.

THE COURT: I thank you.

MR. TRAFICANT: I could not hear your soft spoken voice.

THE COURT: Thank you. Listen carefully. Okay.

BY MR. TRAFICANT:

Q. Can you hear me?

A. I can hear you.

I don't remember a whole lot about it, but I know it was a pretty busy campaign, and a pretty tough one.

Q. Dirty?

A. I -- I suppose there are things that I wasn't aware of that was.

Q. Do you know if we won?

A. Yes, sir.

Q. Did you help in that campaign?

A. I think everybody did.

1 Q. Did you do so on office hours?
2 A. Absolutely not.
3 Q. Did you ever represent me at political functions?
4 A. During the day?
5 Q. Yes.
6 A. No.
7 Q. Did you represent me during the day on congressional
8 functions?
9 A. Yes.
10 Q. Would you suggest needs to me relative to Trumbull
11 County?
12 A. I'm sorry?
13 Q. Would you suggest needs to me relative to Trumbull
14 County?
15 A. As far as what was going on in the county?
16 Q. Yes.
17 A. Yes. Yes.
18 Q. Did we usually meet those needs?
19 A. Yes.
20 Q. Do you field many complaints about our service?
21 A. Actually, no, not in the Trumbull County office.
22 MR. TRAFICANT: No further questions at this
23 time.
24 THE COURT: Thank you.
25 MR. KALL: I don't know if you want to take a

1 break or you want me to head into my cross-examination.
2 THE COURT: I think it would be a good idea
3 to take the morning break. We'll take a 30-minute break
4 this morning, and you'll need to be here and available at
5 the end of the break. Okay? Thank you very much.
6 (Jury out at 10:40 a.m.)
7 THE COURT: Did you get the fact I told the
8 lawyers to come back in 15 minutes? Always wait for these.
9 So the lawyers and Congressman Traficant will be back
10 in 15 minutes so we can handle the voir dire on the issues
11 that arose in this testimony. Okay? Congressman?
12 MR. TRAFICANT: I have taken a laxative, and
13 I will try and make it in 15 minutes.
14 THE COURT: We'll expect you in 15 minutes.
15 MR. TRAFICANT: I'll try my best.
16 (Recess had.)
17 THE COURT: We're having a hearing outside
18 the hearing of the jury. I'm saying this to the marshal in
19 the back.
20 You can all be seated.
21 There were objections posed to similar questions with
22 two witnesses, Vogel first and then this last witness who
23 was on the stand, and I said we have to handle this out of
24 the hearing of the jury with Ms. Manente as well.
25 The reason for this has to do with the rules of

1 evidence, and in both these cases the evidence sought to be
2 elicited can fall into several categories under the rules.
3 And so I'm going to first ask the Congressman if you can
4 represent to us what the question was about that you were
5 asking, and if you can, it may solve the problem and we
6 won't have to go any further and we can bring your
7 witnesses back, and then I'll let the government respond.
8 MR. TRAFICANT: The question of Mr. Vogel is
9 different than that of Mrs. Manente. Mr. Vogel requested a
10 public hearing of the Weathersfield Township Trustees
11 relative to the behavior and investigation of the FBI into
12 allegations that George Buccella had received a $25,000
13 payment to try and fix a DUI case in front of Judge Bailey
14 that I believe was prosecuted by these attorneys seated
15 here.
16 And he brought it to the attention -- and it
17 was a matter of public record and discussion, and at that
18 public meeting it was aired, those problems, and I can't
19 speak for the witness who is here, but I believe he posed
20 questions, as well, in that process.
21 Now, being that this was an open public meeting
22 relative to the fact that the FBI had investigated -- was
23 investigating Buccella, and that, in fact, the matter of
24 the $2500 payoff now speaks to the veracity and impeachment
25 of the testimony of Buccella.

1 THE COURT: Thank you. And do you want to
2 address the second question that you asked of Mrs. --
3 MR. TRAFICANT: I don't remember the second
4 question.
5 THE COURT: -- Manente.
6 MR. TRAFICANT: But at some point I believe
7 the individual himself made mention of it to his
8 supervisor.
9 THE COURT: Oh, okay. We're all talking
10 about Vogel now, right?
11 MR. TRAFICANT: No. You asked me about the
12 second instant. I thought that was Manente.
13 THE COURT: I can go back and find the
14 Manente question for you. Let's deal with the Vogel
15 question first.
16 MR. TRAFICANT: Okay. It was a public
17 meeting of a public record.
18 THE COURT: I understand what you're saying,
19 and I'm going to let the government now respond to your
20 statement so that they can reiterate their objection, and
21 also I can rule on the objection now that I know more fully
22 what it is that you were going to elicit.
23 MR. MORFORD: Thank you, Your Honor. And
24 it's my understanding from what the Congressman just said
25 that the Manente and the Vogel statements both deal with

1 the same conduct, this allegation of bribery.
2 Under Rule 608(b), the Federal Rules of Evidence
3 provide that specific instances of conduct of a witness for
4 the purpose of attacking or supporting a witness's
5 credibility other than a conviction of a crime as provided
6 in 609 may not be proved by outside evidence.
7 And so the rules prohibit this kind of testimony from
8 coming in and having a mini-trial on Mr. Buccella. It
9 would also be hearsay.
10 THE COURT: Just a second, Congressman.
11 Don't talk.
12 MR. TRAFICANT: I thought he was finished.
13 THE COURT: Just a minute, and I will let
14 you, but wait until he finishes.
15 MR. TRAFICANT: I thought he was finished.
16 THE COURT: Well, if you listen carefully,
17 you will know he started to say and "also" something.
18 MR. TRAFICANT: He seemed to be stammering
19 and stuttering and citing laws to gain your attention.
20 THE COURT: Yes. Well, that would get my
21 attention.
22 MR. MORFORD: The second thing, Your Honor,
23 is the testimony is all hearsay, as well.
24 THE COURT: Thank you.
25 MR. TRAFICANT: The testimony is not hearsay.

1 THE COURT: Let's go back to the other one.
2 Does this --
3 MR. TRAFICANT: No, I don't want to leave
4 this one.
5 THE COURT: Does this involve a conviction of
6 a crime? You just heard him state the rule.
7 MR. TRAFICANT: No. It involves the veracity
8 of the testimony of a witness, to impeach the witness's
9 testimony. Mr. Buccella was investigated by the FBI
10 relative to a payoff. He had immunity, and the only staff
11 member of mine to have immunity, and they used Mr. Buccella
12 to, in fact, suborn perjury. That man wasn't at my farm or
13 our farm 300 times.
14 THE COURT: Congressman, thank you very much.
15 The objection that they have made regarding this witness is
16 sustained.
17 MR. TRAFICANT: I knew you would sustain it.
18 And I'm going to say this for the record: You have given
19 them every opportunity to win, and you are making yourself
20 very uncredible in the legal world.
21 THE COURT: Thank you, Congressman.
22 Now we go to the second one with the witness that was
23 just on the stand, and I'll go back and read you the
24 question --
25 MR. TRAFICANT: Give me the question.

1 THE COURT: -- that they objected to. This
2 is Betty Manente.
3 MR. TRAFICANT: Would the Court then
4 stipulate that a public meeting and comments at a public
5 meeting are not eligible under the Federal Rules of
6 Criminal Evidence to be an exception to allow the
7 impeachment of a witness? That's a direct question to the
8 Court. I want an answer for the record.
9 THE COURT: The answer is no.
10 MR. TRAFICANT: Thank you. Now let's go to
11 the next one.
12 THE COURT: Okay. What the question was,
13 was, "Did you ever gain any knowledge of a criminal problem
14 George had?"
15 Mr. Kall objected. I sustained the objection. "You
16 can't answer that."
17 "Would George be required to inform you if he had a
18 problem? Objection. Sustained. We'll handle this at the
19 break."
20 That was the colloquy.
21 MR. TRAFICANT: Why are you wasting our time?
22 Why don't you just rule? My voice is going, and I need it
23 for my witnesses.
24 THE COURT: It's your choice, sir. If
25 there's anything you'd like to say --

1 MR. TRAFICANT: I say that you have allowed
2 them to bring in hearsay that is worthless and have denied
3 me now, including the interview of Judge Aldrich, 11
4 witnesses to testify relative to the veracity of the
5 testimony of all of their immunized felons.
6 THE COURT: Congressman, the clock is ticking
7 and running so --
8 MR. TRAFICANT: I'm not causing it to tick.
9 You're causing it to tick.
10 THE COURT: Let's hear from the government on
11 this situation.
12 MR. KALL: Your Honor, I still haven't heard
13 an admissible basis for the question, and until we hear
14 that, we would maintain our objection that it's improper,
15 an improper attempt to impeach the witness that's not
16 permitted under Rule 608(b) or Rule 609.
17 MR. TRAFICANT: I want to respond. I cite as
18 a pro se defendant the United States Constitution. No
19 attorney, no judge, is totally knowledgeable in all
20 aspects. Every rule of evidence is subject to the document
21 itself, and the amendments therein. And that falls within
22 the province of the Court. And I cite the U.S.
23 Constitution and the common sense of the Constitution that
24 directs us to the veracity of a witness's testimony and the
25 right to impeach the testimony of a government witness.

1 Now, Ms. Manente is the government witness. They
2 subpoenaed her. They chose not to call her.
3 They subpoena Nemenz; they chose not to call him
4 because they had a tape on Nemenz and his girlfriend
5 corroborating what they did.
6 THE COURT: Congressman, this is not your
7 final argument to the jury.
8 MR. TRAFICANT: No, it's not. But I have
9 nine tapes that you're not allowing to be brought in.
10 THE COURT: That's true.
11 MR. TRAFICANT: Where people took the Fifth
12 Amendment and give me no right to defend myself.
13 THE COURT: Congressman, it's now time for
14 them to respond if they want to.
15 MR. TRAFICANT: Why can't I continue? Why do
16 you cut me off?
17 THE COURT: Because what you're saying isn't
18 relevant to what we're doing.
19 MR. TRAFICANT: Yes, I am. I'm talking about
20 the Constitution.
21 THE COURT: Thank you.
22 MR. TRAFICANT: And I am citing any
23 applicable law. I am not the expert; neither are they.
24 You are. You are the decider and presider of facts, and
25 I'm citing the Constitution and asking you to peruse the

1 Constitution.
2 THE COURT: I actually am not the decider of
3 facts here, sir.
4 MR. TRAFICANT: You certainly are.
5 THE COURT: No, I'm not.
6 MR. TRAFICANT: You're certainly not Dr.
7 Ruth here.
8 THE COURT: Okay, Congressman. We're going
9 to bring the jury in now. Who is your next witness? Do
10 you have a witness?
11 The objection is --
12 MR. KALL: Your Honor, we would like an
13 opportunity to cross-examine Ms. Manente based on the
14 direct examination.
15 THE COURT: I'm sorry. You get an
16 opportunity. Bring in Ms. Manente for cross-examination.
17 MR. TRAFICANT: Let the government bring her
18 in. They called her.
19 THE COURT: Well, she's your witness.
20 MR. MORFORD: We did not call her.
21 THE COURT: You call the witness,
22 Congressman.
23 MR. TRAFICANT: Ernestine is calling her for
24 me.
25 THE COURT: Thank you.

1 MR. TRAFICANT: And I'd ask you to ask these
2 prosecutors to moderate their behavior. They're beginning
3 to upset me.
4 THE COURT: Congressman, we're going to bring
5 the jury in now.
6 MR. TRAFICANT: Thank you.
7 (Jury in at 11:14 a.m.)
8 THE COURT: You're still under oath. Okay?
9 Thank you. Mr. Kall?
10 CROSS-EXAMINATION OF BETTY MANENTE
11 BY MR. KALL:
12 Q. Mrs. Manente, can you hear me okay?
13 A. Yes.
14 Q. Okay. You've been employed by Congressman Traficant
15 longer than any other person on his staff; isn't that
16 correct?
17 A. I think I'm the oldest by now.
18 Q. You've been there basically since day one or month
19 one?
20 A. Yes. Month two actually.
21 THE COURT: Speak a little louder so everyone
22 can hear you.
23 Q. Can you repeat your last answer, please?
24 A. I started in February rather than January, so it was
25 month two.

1 Q. Of 1985?
2 A. Yes.
3 Q. And you are a supporter of Congressman Traficant's,
4 correct?
5 A. Yes.
6 Q. You've worked on his political campaigns?
7 A. Yes.
8 Q. Now, over the years, how much direct contact have you
9 had with the Congressman while you've worked for him?
10 A. Very, very little.
11 Q. You said maybe a handful of times over the course of
12 17 years?
13 A. That he actually was in the Trumbull County office.
14 Q. Now, you stated on direct that when you had problems
15 within your office, you went to Chuck O'Nesti or to Jackie
16 Bobby, correct?
17 A. Most generally to Jackie.
18 Q. And you also stated on direct that you didn't like to
19 go to Chuck O'Nesti, correct?
20 A. Correct.
21 Q. You were afraid of him?
22 A. Charlie was gruff and I just would rather not.
23 Q. Well, you stated you were afraid of Chuck O'Nesti,
24 correct?
25 A. I guess you could say a little bit apprehensive.

1 Q. Why?
2 A. Well, he was just gruff speaking, and I just -- I
3 don't know, I just -- he wasn't one of the people I wanted
4 to talk to, actually.
5 Q. Now, you mentioned that you would go to Jackie Bobby
6 mostly and occasionally to Chuck O'Nesti, correct?
7 A. Mostly Jackie Bobby; there were times Henry DiBlasio.
8 I think there were a couple times possibly for Henry.
9 Q. Now, Henry DiBlasio was supposed to be the chief of
10 staff, correct?
11 A. Yes.
12 Q. Or the administrative officer?
13 A. Yes.
14 Q. In the course of the 17 years that you worked in the
15 office, how many years was Mr. DiBlasio employed by the
16 Congressman?
17 A. He started when I did, and I don't recall what year
18 he actually terminated his employment.
19 Q. Would it be around late '98?
20 A. Probably.
21 Q. Over the course of those 13 years, did you ever
22 report in to Mr. DiBlasio as chief of staff?
23 A. Reporting which way?
24 Q. Did he supervise the work you did?
25 A. Actually supervising it, I wasn't aware of actual

1 supervising.
2 Q. You never reported to Mr. DiBlasio as the chief of
3 staff, did you?
4 A. There may have been on occasions for different
5 things. I don't recall. Not routinely though.
6 Q. Do you recall being asked in the grand jury, "Are you
7 aware of actual duties that Henry DiBlasio had?" And you
8 said, "No, sir. I never worked in the same office"?
9 A. That's correct.
10 Q. And you were also asked, "As the office manager in
11 the Niles office, did you ever have any dealings where
12 Henry DiBlasio did anything?" And then you asked back,
13 "For us?
14 "Yes."
15 And you answered, "Not that I can recall. Not that I
16 can recall."
17 A. Okay. I'm a little confused. I was then, too, a
18 little bit. Doing anything such as?
19 Q. Did you have any dealings that you can recall with
20 Henry DiBlasio?
21 A. That I can recall, not offhand.
22 Q. Okay. Congressman Traficant asked you some questions
23 about what you were and were not asked in the grand jury.
24 Do you recall those questions?
25 A. Some of them.

1 Q. Now, can you recall sitting here today, on April 4th
2 of 2002, everything that you were asked in the grand jury a
3 year and a half ago?
4 A. No, I can't.
5 Q. So you might have been asked some of those questions;
6 you just can't recall them sitting here today?
7 A. Correct.
8 Q. You were also asked some questions regarding George
9 Buccella working out at the Congressman's farm, correct?
10 A. Yes.
11 Q. Was it common knowledge at your office that George
12 Buccella was working out at Congressman Traficant's farm?
13 MR. TRAFICANT: Objection as to speculation.
14 THE COURT: She can answer.
15 A. That seemed to be -- everybody seemed to think that,
16 yes.
17 Q. It was common knowledge in the office?
18 A. Pretty much.
19 Q. And George Buccella said many times that he was out
20 there?
21 MR. TRAFICANT: Objection --
22 A. Yes.
23 MR. TRAFICANT: -- as to hearsay.
24 THE COURT: Well I don't know anything that
25 would permit that to come in for the direct. Go on to

1 something else.
2 MR. KALL: Your Honor, we'd offer it as a
3 prior consistent statement under 801(d)(1)(B).
4 THE COURT: To something she said before?
5 MR. TRAFICANT: I object under the laws of
6 the Constitution. It's hearsay.
7 THE COURT: Hold on.
8 MR. TRAFICANT: Your Honor, might I inquire
9 as to the law they cited?
10 MR. KALL: It's the Federal Rules of
11 Evidence, Rule 801(d)(1)(B).
12 MR. TRAFICANT: (d)(1)(B). Thank you.
13 THE COURT: The objection is sustained. Go
14 to something else.
15 Q. As the office manager, you supervised Mr. Buccella
16 for a period of time, correct?
17 A. In the office, yes.
18 Q. And there were many times where Mr. Buccella was not
19 in, correct?
20 A. That's correct.
21 Q. He would be gone for whole days?
22 A. Yes.
23 Q. Sometimes whole weeks he would be gone?
24 A. There may have been occasions, yes.
25 Q. What was your understanding of where Mr. Buccella was

1 during those times he was not in the office?
2 A. I never got any direct -- no one ever came to me to
3 actually tell me -- if someone would call for George
4 Buccella, they never ever went through me. They would call
5 and talk directly to him.
6 A lot of times when George would leave the
7 office he would just say, "I've been told I have to do
8 something for the boss." And so I really didn't -- I mean
9 if he was out of the office, it was because he had gotten a
10 call from somebody to tell him to do something for the
11 boss. So I really -- I was never told exactly where he
12 was.
13 Q. Well, you've already testified it was common
14 knowledge --
15 A. Right.
16 Q. -- that he was working down at the farm at times,
17 right?
18 A. Correct.
19 Q. And during those times that he was gone days and on
20 occasions weeks at a time, was it your understanding that
21 he was down at the farm?
22 A. On occasions, yes.
23 Q. Now, Congressman Traficant asked you on direct
24 examination about your understanding of whether George
25 Buccella was working on his farm. Do you recall those

1 questions?
2 A. Would you repeat them, please?
3 Q. Congressman Traficant asked you on direct examination
4 about what you understood about whether George Buccella was
5 down at the farm, correct?
6 A. Yes.
7 Q. And you testified earlier that your understanding was
8 that he was down there, but you never physically with your
9 own eyes --
10 A. Exactly.
11 Q. -- saw him?
12 A. Yes, that's correct.
13 Q. So what was the basis of your understanding that he
14 was out at the farm?
15 A. Well, for one thing, when George would come back to
16 the office, he oftentimes would complain about it or talk
17 about it, about --
18 Q. Complain about what?
19 A. About being at the farm.
20 Q. Congressman Traficant also asked you some questions
21 about whether you ever called Congressman Traficant about
22 George Buccella being at the farm. Do you recall those
23 questions?
24 A. Yes, I do.
25 Q. And you stated you never did contact the Congressman

1 about this, correct?
2 A. No; no, I didn't. I had --
3 Q. I'm sorry, go ahead.
4 A. I had very little contact with the Congressman in my
5 17 years.
6 Q. And you never contacted Chuck O'Nesti about this?
7 A. Never. No.
8 Q. And you never contacted Jackie Bobby about this?
9 A. Because they -- I assumed they all knew. And it
10 wasn't my place, because no one told me to send him
11 anywhere, so --
12 Q. You assumed who all knew?
13 A. Jackie and Chuck, or whoever.
14 Q. You assumed they knew what?
15 A. That George was gone. If he got the call from Chuck,
16 or whoever, and a lot of times I didn't know who called,
17 they would know where he was.
18 Q. You assumed they knew he was down at the farm?
19 A. Yes, because no one ever told me, no one ever came
20 and said to me that: I'm going to send him here or there.
21 They did not go through me that I can ever recall. I mean,
22 no one asked if I needed him in the office or whatever, so
23 I mean, it was just a matter of he would say he would get
24 his call and he had to do something for the Congressman.
25 So --

1 Q. Did George Buccella hide the fact that he was doing
2 farm work at the Congressman's farm?
3 A. No, he didn't.
4 Q. Did you ever talk with anyone to say: Is this all
5 right, is this okay?
6 A. I don't recall. I may have. I don't recall anything
7 in particular.
8 Q. But you never went to Chuck O'Nesti or Jackie Bobby
9 about that?
10 A. I can't recall any particular times. I think it was
11 just something that was -- it seemed like everybody knew.
12 Q. Were you afraid to go to them because they were close
13 to Jim Traficant?
14 A. I never would go to Chuck O'Nesti.
15 Q. The question is: Were you afraid to go to them
16 because they were close to Congressman Traficant?
17 A. I was never afraid to go to Jackie Bobby, no. And
18 there may have been discussions about George. I can't
19 recall anything in particular.
20 Q. Do you recall being asked in the grand jury, "Were
21 you afraid to go to them because they were close to Jim
22 Traficant?" And your answer was, "Probably"?
23 A. Chuck O'Nesti I was.
24 Q. Were you afraid to go to Congressman Traficant and
25 discuss this issue of George being at the farm?

1 A. I wasn't afraid, but I was told many times to go
2 through the chain of command, which would have been Chuck
3 first, and maybe I was afraid to go over his head.
4 Q. Do you recall being asked that question in the grand
5 jury, "Question: Were you afraid to go to Jim Traficant
6 and discuss it?
7 "Answer: I obviously -- obviously I was. I
8 mean, I wasn't afraid, but I didn't know that it was my
9 place to do that."
10 A. Correct.
11 Q. It wasn't your place to question where George
12 Buccella was?
13 A. It wasn't.
14 Q. But it was your knowledge that he was out working at
15 the farm?
16 A. True.
17 Q. And --
18 A. From what he said.
19 Q. And it was common knowledge in the office that he was
20 working out at the farm?
21 A. Yes.
22 Q. What were some of the things that George Buccella
23 complained about that led to your understanding that you
24 testified about on direct examination?
25 MR. TRAFICANT: Objection as to hearsay.

1 THE COURT: Going back to what you testified
2 on direct examination, you can answer that question as part
3 of cross-examination.
4 Q. What was your understanding of some of the things
5 George Buccella complained about that led to your
6 understanding that he was working out at the farm?
7 A. He would talk a lot. George would talk a lot in the
8 office to friends that would come in, to anybody, and he
9 would just say, you know, he worked his butt off or
10 something, pretty much just complained about having to go.
11 Q. He complained that he was having to work on machinery
12 when he was out there?
13 A. Yes.
14 Q. He complained --
15 A. There was a time --
16 Q. I'm sorry?
17 A. I think there was a time he did.
18 Q. And he was complaining about having to bale hay out
19 there?
20 A. He may have talked about that.
21 Q. And he was complaining about having to do other farm
22 chores when he was out there?
23 A. Yes.
24 MR. KALL: Nothing further, Your Honor.
25 THE COURT: Thank you.

1 REDIRECT EXAMINATION OF BETTY MANENTE
2 BY MR. TRAFICANT:
3 Q. Who is the district director of the congressional
4 office?
5 THE COURT: I'm sorry? None of us could hear
6 your answer.
7 Just wait a minute, Congressman. Who is the --
8 Q. Who was the district director?
9 A. Chuck O'Nesti.
10 Q. And whom would you report to?
11 A. Supposed to report to Chuck O'Nesti.
12 THE COURT: Could you speak up a little more?
13 Your voice is kind of falling off at the edge.
14 THE WITNESS: She told me not to hold it so
15 close.
16 THE COURT: That's better.
17 Q. You said you didn't like to go to Chuck?
18 A. That's right, Jim.
19 Q. But you did go to others, didn't you?
20 A. Jackie would discuss it and comment, her or Grace
21 would comment about it. They knew.
22 Q. Did you ever work in the same office with Henry
23 DiBlasio?
24 A. No, I didn't.
25 Q. Was Henry DiBlasio a public persona type of guy?

A. You mean did he get out and about a lot?
Q. Yes.
A. I was not aware of what he did, truthfully, being that I never worked with him.
Q. Was Chuck an outgoing guy?
A. Outgoing in which way? Talking to people?
Q. Out in the public eye?
A. Pretty much.
Q. Was Henry that sort of guy?
A. I don't think. To be out like Chuck was, maybe not.
Q. Now, this common knowledge thing that they're discussing, who, if anyone, ever checked where George Buccella really was?
A. I'm not aware of that. I don't know.
Q. So all George Buccella had to say was he got a call, and he had to see the Congressman?
A. That's --
Q. Is that about it?
A. Yes. When he first got the call, yes, he would say, "I have to do something for the Congressman."
Q. And you'd assume that George would be doing farm work? Is that what you said you assumed?
A. I wouldn't assume that until George would come back and how he talked about the time.
Q. And every time he got that call, he'd come back and

1 say he was at the farm?
2 A. Basically. He --
3 Q. Pardon?
4 A. I was going to say he referred to the farm as "down
5 south."
6 Q. Down south. But you assumed, your testimony was you
7 assumed he was down south?
8 A. When George left the office, Congressman, I had no
9 way of knowing where he was, because it would always be my
10 superiors who would make the call to him, so I didn't
11 question that.
12 Q. How would you know he wasn't at the racetrack?
13 A. I wouldn't know that.
14 Q. How would you know he wasn't at the pizza shop?
15 A. I wouldn't know that.
16 Q. How would you know if what George was telling you was
17 the truth?
18 A. I wouldn't know.
19 Q. So all George Buccella had to do was say, "I'm going
20 south," and he's just able to go south?
21 MR. KALL: Objection. This is leading.
22 THE COURT: You can answer.
23 A. He would talk about it when he got back.
24 Q. But if he talked about being at the farm when he got
25 back, how do you know he was telling you the truth that he

1 was at the farm?
2 A. Congressman, as you know, I never even had the phone
3 number for the farm, so I have no idea. I mean, I -- it
4 wasn't for me to check on him, so I don't know.
5 Q. Was there anybody other than me that called to
6 inquire about George Buccella's work habits?
7 A. I think over the years maybe Jackie, maybe Chuck on
8 occasion would call to ask if he was there.
9 Q. When I called, what were the purposes of my calls
10 about George Buccella?
11 A. I remember one specific time you called, it was maybe
12 around 9:00, and you did ask --
13 MR. KALL: Objection. This is hearsay, Your
14 Honor.
15 MR. TRAFICANT: It was talked about on cross.
16 Subject to discussion on direct.
17 THE COURT: She can't testify as to what the
18 purpose -- what your purpose was as to the calls for George
19 Buccella.
20 The question to her was, "When I called, what were
21 the purposes of my calls about George Buccella?" She would
22 have no way of knowing your purposes.
23 BY MR. TRAFICANT:
24 Q. Did I call you and inquire about George's work time
25 activities?

1 MR. KALL: Objection. Hearsay, leading.
2 THE COURT: Both. Sustained.
3 Q. Did you and I have conversations about George's work
4 habits?
5 MR. KALL: Objection. Hearsay.
6 THE COURT: The question itself isn't. You
7 can answer that.
8 A. On occasion you would ask me, yes. Yes, you did.
9 Q. And what was your impression of those conversations?
10 A. My impression -- (pause).
11 Q. Yes?
12 A. You mean like if you asked if he was there and he
13 wasn't, I remember one time you told me you wanted him
14 there at 8:30 in the morning. You were checking on him.
15 Q. Now, the government asked you how can you recall if
16 they didn't ask you about all these other businesses that
17 George owned. Was that not a question that the prosecutor
18 posed to you?
19 A. I'm sorry. I didn't catch that, Jim.
20 Q. The government talked about your grand jury
21 testimony, and they mentioned that: Do you recall if they
22 talked to you about all these other businesses that George
23 owned?
24 A. I don't believe they did. I don't remember. I think
25 it was just a discussion of the pizza shop and his time

1 coming in initially. I don't recall anything else.
2 Q. Was there a time when somebody got on George's back
3 about his appearing at work?
4 A. I think that he was reprimanded by our superiors, and
5 you were angry that he wasn't there.
6 Q. Did you ever get a call from me about any other of
7 your employees about their work habits?
8 A. No.
9 Q. Did I micromanage your office?
10 A. No. You pretty much left us -- you always said as
11 long as we were doing -- you didn't get complaints about
12 our office from the constituents, that you knew we were
13 doing our job.
14 Q. Did I tell you how to do your job?
15 A. No, you didn't. We had very little conversation,
16 Congressman, over the years.
17 Q. Was it business oriented, Betty?
18 A. Yes.
19 Q. Did George Buccella put in an average of 30 hours a
20 week?
21 A. It was always difficult to really pinpoint George's
22 times because I never knew when he said he had to do
23 something for you if he was representing you, or whatever.
24 I never really knew for sure. It was difficult keeping
25 track of George.

1 Q. Did you know of George doing congressional work on
2 the weekend?
3 A. Yes. I think everybody does.
4 Q. Do you know of George working at night for the
5 Congressman?
6 A. There were occasions that he would tell me that he
7 did, yes.
8 Q. Did George participate in helping settling strikes?
9 A. Yes.
10 Q. Did some of those strikes last five days?
11 A. I think the RMI strike.
12 Q. Did George Buccella ever drive me to D.C.?
13 A. Yes, he did talk about that.
14 Q. Did he attend trustee meetings throughout the state?
15 A. He was -- yes.
16 Q. After hours, is it your time?
17 A. Yes.
18 Q. Can I tell you what to do with your time, Betty?
19 A. No, you can't.
20 Q. Have I ever asked you to do anything or forced you to
21 do anything?
22 A. No.
23 Q. To your knowledge, have I ever forced anyone on my
24 staff to do anything?
25 A. Not to -- I couldn't say you force anyone.

1 Q. Was my staff afraid of me?
2 A. I don't think so.
3 Q. Was anyone on my staff ever afraid of me?
4 A. I don't believe so.
5 Q. Do you know if I ever fired anybody on my staff?
6 A. I don't -- I was never privy to anything. I don't
7 believe.
8 Q. In Trumbull County, did you recommend employees?
9 A. Yes.
10 Q. Did you recommend employees that I had no prior
11 knowledge of?
12 A. I think there was a young intern who became an
13 employee.
14 Q. Did I know this person at all?
15 A. No.
16 Q. Did I employ this person?
17 A. Yes.
18 Q. On whose recommendation?
19 A. On my recommendation.
20 Q. Who was the boss of Trumbull County?
21 A. I was.
22 Q. Who had the right to hire?
23 A. You did.
24 Q. Did I appoint some political flunky --
25 A. Meaning --

1 Q. -- in that spot? Or did I hire your recommendation?
2 A. You hired the young lady who interned.
3 Q. Could I have said, "Betty, I'll hire who I want"?
4 A. You didn't say that.
5 Q. But could I have?
6 A. Sure.
7 Q. Did I let anyone ever act as Congressman for me?
8 A. No, sir.
9 Q. Was it understood who the Congressman was?
10 A. Yes.
11 Q. Was it understood who the boss was?
12 A. Yes.
13 Q. And did I ever threaten anyone, to your knowledge?
14 A. Not to my knowledge.
15 Q. When a case met a dead end, what would you do?
16 A. Most generally, if I had trouble with something and I
17 wasn't sure how to handle it, I would talk to Jackie Bobby,
18 and then she ultimately would maybe discuss it with you or
19 whoever.
20 Q. Did you ever on occasions have certain issues of
21 trouble that you contacted me directly?
22 A. There were a few occasions.
23 Q. And were they major?
24 A. Pretty much, something we couldn't handle or
25 something that you would need to get involved in

1 personally.
2 Q. Were you able to resolve in most cases the matters
3 that came before Trumbull County, Betty?
4 A. The regular constituent work, yes. VA, IRS,
5 immigration, that stuff.
6 Q. Now, I have here a box. Are you familiar what's in
7 this box?
8 A. Those are George's closed cases.
9 Q. These are closed cases?
10 MR. KALL: Objection, Your Honor. We've
11 never seen this. It's not been provided to us in
12 discovery.
13 THE COURT: This will be something that you
14 need to provide to the other side before you get into --
15 Q. Are these confidential cases, Betty?
16 THE COURT: Congressman you're talking across
17 me. You're ruining the record in your own case.
18 These have to be shown to the other side, as you well
19 know, before you use them in any way, and so you can't use
20 those right now.
21 MR. TRAFICANT: Okay.
22 Q. I can ask this question, I think. Betty, are our
23 cases confidential?
24 A. Yes, they are.
25 Q. Without a subpoena, can I show them to the

1 government?
2 MR. KALL: Objection. This calls for a
3 legal conclusion.
4 THE COURT: It does.
5 Q. Is anyone allowed to see those cases, Betty?
6 A. I was always told that they're confidential. If
7 someone has a problem and they come to our office, we're
8 not to share it with anyone.
9 Q. Did you ever share any matter of any case with
10 anyone?
11 A. Not that I can recall.
12 Q. Were you ever subpoenaed for George Buccella's
13 records?
14 A. No. No, I wasn't.
15 Q. Did he maintain an active case load?
16 A. Yes.
17 Q. Did he service that case load?
18 A. Yes.
19 Q. What is the amount of hours that a congressional,
20 full-time congressional employee must put in?
21 A. I was never aware until April, 2000, when I got the
22 memo from Paul Marcone that it's a 30-hour minimum, but we
23 worked 8:30 to 4:30, and longer sometimes.
24 Q. How many hours is our offices open, Betty?
25 A. 8:30 to 4:30.

1 Q. And how many hours do our workers average a week?
2 A. That depends. I mean, if you have to go
3 represent -- if we have to represent you in the evenings or
4 something, then it would be longer, but we're there from
5 8:30 to 4:30.
6 Q. Was George always seeking pay raises?
7 A. I really don't know. He wouldn't go through me for
8 that.
9 Q. As his supervisor, why did you assume George's
10 behavior?
11 A. Why did I assume his behavior?
12 Q. Yes. Assume his statements of behavior.
13 A. I think because right from day one, it was sort of a
14 general consensus. Maybe because he talked about -- maybe
15 because I was never actually involved in what he did, I
16 really didn't have the authority to tell George when to go,
17 when to come back, or where to go.
18 I took instructions on that myself, as far as
19 where I went in representing you, so I wasn't really -- I
20 was a supervisor, but I wasn't overall supervisor as far as
21 did I have the authority to actually tell George if he
22 received a call from one of my superiors what to do or what
23 not to do, and I never crossed that barrier of command.
24 Q. Now, did they call George or did they call you for
25 George?

A. They never -- they never went through me, Jim. They never went through me. If they called, they would ask whoever answered the phone, which generally it was some other staff, and they would go directly to George.

I can never recall anyone ever saying to me to send George to the farm or send him south, or any of that. I cannot recall.

Q. Had they said that to you, would you have gone along with it?

MR. KALL: Objection. Speculation.

THE COURT: Sustained.

Q. So you don't know if George was at the farm or at the racetrack, do you?

A. Physically, I don't know where George was when he left the office.

Q. So you don't know if George was at the farm or at the pizza shop, do you?

A. I don't remember when he closed that pizza shop. I don't know if he still had it when he was working under my supervision in Trumbull County. I don't remember what year that was. But I didn't know when he left the office -- the nature of congressional offices are a lot of times you have to attend meetings and go to different places, so -- and I was not the one who gave those directives, so I'm not sure.

Q. So you don't know if George met with the Congressman

1 about a strike, would you?
2 A. Not if I wasn't told, no. Sometimes we would just
3 most generally say, "I have to go meet the boss," or, "I
4 have to go do something for the boss."
5 Q. So sometimes it was do something for the boss and
6 sometimes it was go south? Is that your testimony?
7 A. Yes.
8 Q. After our conversations about Buccella, did you
9 establish a time sheet for Buccella's attendance at work?
10 A. No. Those directives would have come from, again,
11 the chain of command. That wasn't for me to do that. I
12 mean, if he was called by someone else to go somewhere, you
13 know -- I mean, I told him to be in the office at 8:30,
14 yes, I said, many, many times.
15 Q. At whose direction?
16 A. His contention was when he was coming in late in the
17 morning that he was doing congressional work by meeting
18 with constituents.
19 Q. At whose direction did you, in fact, confront George
20 Buccella about his working habits?
21 A. I think mostly I talked to Jackie, Jackie Bobby. A
22 lot of times he would catch heck from them about different
23 things. So it wasn't where everybody would come to me and
24 say, "You're the supervisor, you take care of this."
25 Q. Did you ever have a direct order from me about his

1 work attendance?
2 A. Yes. I remember when you called and you were really
3 mad because he wasn't there, and you said, "I want him
4 there at 8:30." And I did tell him that. And that lasted
5 for a couple of weeks.
6 Q. George was the biggest abuser, wasn't he?
7 A. Well, with the time coming in like that, I didn't set
8 those times for him, so I don't know what -- how that
9 happened.
10 Q. So George basically didn't listen to anybody, did he?
11 A. I can't speak for anybody else, but as far as the
12 time element, coming in at 8:30, he did not adhere to that
13 time.
14 Q. And when that happened, who called you?
15 A. You mean when that happened --
16 Q. When he disregarded everybody, who called you about
17 his time?
18 A. Well, you called me that one time I remember.
19 Q. Who was in charge of the congressional district? Who
20 was the boss in that district?
21 A. I was the office manager.
22 Q. And who was your boss?
23 A. You were.
24 Q. And when Buccella's time matter became an issue, and
25 it was disregarded, who finally stepped in?

A. You did. I believe you told me about it. It lasted for a couple weeks.

Q. Did you report back to me that he started to abuse it again?

A. No, because he would get -- if he had to go somewhere, it wasn't from me, the directives. You mean as far as him coming in at that time? Repeatedly I told him to be in on time.

Q. After my call?

A. Uh-huh.

Q. Why were you afraid of Chuck O'Nesti?

A. Okay, I'll answer that. There was a time that I had sent a letter to you asking if you would consider me for a raise, and somehow Charlie must have got ahold of it, and he didn't tell me he did, but he sort of reiterated everything I said in the letter for a period of about a month or so. And I didn't say anything to you about that, but I just figured I didn't want to deal with him anymore on any issues.

Q. Did you have -- was your concern about going over his head?

A. Yes. Yes. We were told that we couldn't go over his head.

Q. Who told you that?

A. Well, it was Charlie, for one thing, said that, "If

1 you have anything to say, you come to me. You don't bother
2 the Congressman."
3 Q. Did you ever get your raise?
4 A. I don't recall at that time. I don't think at that
5 time I did. But maybe. I can't recall.
6 Q. Did you ever bring it to my attention for a raise at
7 some point?
8 A. Yes.
9 Q. Did you get the raise?
10 A. Yes, I did. You're always fair with that.
11 Q. And did you go through Mr. O'Nesti that time?
12 A. For the raise? I think I seen you out one time, and
13 I mentioned it to you.
14 Q. Personally?
15 A. Yes. Not another letter.
16 Q. Were you afraid to send another letter?
17 A. Yes, yes.
18 Q. So if Chuck O'Nesti called Mr. Buccella, how would
19 you know he was doing work for me or for Mr. O'Nesti?
20 A. I would have no idea of that, Jim.
21 MR. TRAFICANT: No more questions.
22 THE COURT: Thank you.
23 MR. KALL: Nothing further, Your Honor.
24 THE COURT: Thank you. You can step down.
25 Be careful.

1 (Witness excused.)
2 THE COURT: We're going to take our lunch recess now.
3 We'll see the jury back at 1:30, and remember all your
4 admonitions. We're also going to wait here while the jury
5 gets organized so they can be taken out before we leave.
6 Thank you
7 (Jury out at 11:56 a.m.)
8 THE COURT: If all of you will be just be
9 seated, they'll be bringing them through in just a minute,
10 and then we'll all go out.
11 THE CLERK: This Honorable Court is in recess
12 until 1:30.
13 MR. TRAFICANT: I do have a proffer for the
14 record at some point, and I do have some business and
15 motions for the Court.
16 THE COURT: Fine.
17 MR. TRAFICANT: And I have other witnesses.
18 THE COURT: Good. Who is your next witness?
19 MR. TRAFICANT: I don't know yet. I don't
20 know who's back there. They're on a subpoena list, and
21 I'll know when I get there.
22 THE COURT: Okay. These documents that you
23 haven't shown yet to the other side --
24 MR. TRAFICANT: These are confidential. If
25 they want to look at them, I will not allow them to be

1 taken without a subpoena. If they want to subpoena them,
2 they can take them. And if they do, I want it placed on
3 the record. These are closed cases of George Buccella, and
4 they are only subject to subpoena. I will not release
5 them.
6 And they must be reviewed by general counsel
7 of the House of Representatives. If they want to come look
8 at them without looking at names, they're eligible to come
9 see the volume and number of them.
10 THE COURT: Thank you. Now I'm clear about
11 how you intend to handle this, and we'll let them respond.
12 MR. MORFORD: Your Honor, based on what he
13 just said and based on the fact that he's been told on
14 numerous occasions that he had to give us discovery of any
15 matters he wanted to use as evidence, I ask that those
16 files be excluded because he did not provide them to us in
17 discovery, and he has not provided copies to us.
18 MR. TRAFICANT: I will stipulate that I am
19 not offering them to be admitted in evidence. They're
20 confidential matters. They were just brought here to make
21 a point.
22 THE COURT: Okay. Well, if you're going to
23 make a point, you're doing something in the case that
24 affects the case, so if you will just remove them now while
25 you go to lunch and put them somewhere else, we'll decide

later if we need to -- whether having them sit there makes any sense or not.

MR. TRAFICANT: The government can subpoena them.

MR. MORFORD: We have no reason to, Your Honor.

THE COURT: Thank you. We're in recess.

(Whereupon, at 11:59 a.m., the luncheon recess was had, to reconvene at 1:30 p.m., the same day.)

1 THURSDAY, APRIL 4, 2002, AFTERNOON SESSION, 1:31 P.M.
2 THE COURT: Congressman, who is your next
3 witness?
4 MR. TRAFICANT: Mary Ann Carna.
5 THE COURT: Mary Ann --
6 MR. TRAFICANT: M A R Y, C A R N A, relative
7 to the Sugar case.
8 THE COURT: Very well. You can bring in the
9 jury.
10 THE CLERK: All rise for the jury.
11 (Jury in at 1:32 p.m.)
12 THE COURT: Just sort of go around the court
13 reporter, come up the steps. Thank you. Would you raise
14 your right hand?
15 (The Witness is Sworn)
16 THE COURT: Have a seat, please. It's a big
17 courtroom, so you'll need to speak out so everyone can hear
18 you in the back. There is water here. And you might want
19 to pour some water if you think you might want some.
20 DIRECT EXAMINATION OF MARY ANN CARNA
21 BY MR. TRAFICANT:
22 Q. Good afternoon, Mary Ann.
23 A. Good afternoon.
24 Q. Would you please give your full name and spell your
25 last name for the jury?

1 A. Mary Ann Carna, C A R N A.
2 Q. And where do you reside?
3 A. 101 Leslie Drive, Edenberg, PA, 16116.
4 Q. 16116?
5 A. Correct.
6 Q. And what is your occupation?
7 A. I work for a cement company, T. C. Redi-Mix, of
8 Youngstown.
9 Q. And how long have you worked for T. C. Redi-Mix?
10 A. Ten-plus years.
11 Q. What was your employment before you worked with T. C.
12 Redi-Mix?
13 A. I was an X-ray technician at North Side Hospital.
14 Q. And how long were you with the North Side Hospital?
15 A. I went to school there two years and worked for about
16 a year after.
17 Q. Is that when you went to work at T. C. Redi-Mix?
18 A. Actually, not right away. I had the children, and
19 then I went to work.
20 Q. How many children do you have?
21 A. I have two daughters.
22 Q. Now, who is the owner of T. C. Redi-Mix?
23 A. T. C. Redi-Mix of Youngstown is owned by Sherry
24 Andrews.
25 Q. Were you interviewed by the FBI?

1 A. About a year and a half ago they came down to the
2 office, asked questions, and I had to produce deposit slips
3 showing them that payments were made on your account.
4 Q. Do you know if they had a subpoena?
5 A. No, I don't. I can't remember that. I was upstairs,
6 and they walked up the steps.
7 Q. How many FBI agents were there?
8 A. There were two.
9 Q. Do you remember their names?
10 A. No, I do not.
11 Q. What deposit slips were they concerned about?
12 A. The deposit slips on cement that was taken on Island
13 Drive on Route 170.
14 Q. And what residence do you know that to be?
15 A. I don't. I don't know who lives there.
16 Q. Was there an account number and an individual's name
17 that they inquired about?
18 A. Yes. James Traficant.
19 Q. I'm going to show you a number of documents, but
20 first show them to the -- do you have them?
21 MR. MORFORD: Yes, we do.
22 MR. KALL: Yes.
23 MR. TRAFICANT: And show them to the Judge.
24 THE COURT: Thank you.
25 MR. TRAFICANT: There are a total of nine,

and there is two of each, Your Honor.

THE COURT: Okay. Let's put their numbers on.

MR. TRAFICANT: There's numbers. They are all numbered. There are two of TC-1, two of TC-2, et cetera, et cetera.

THE COURT: The reporter is writing this down for you, so why don't you just go through --

MR. TRAFICANT: TC-1 through TC-9 at this point.

THE COURT: Thank you.

BY MR. TRAFICANT:

Q. When did you deliver these to me, Mary Ann?

A. Let me see the date.

Q. When did you hand them to me physically --

A. Oh, just now.

Q. Just now?

A. Yes.

Q. Did you just get to town?

A. Yes, I did. I came in as soon as I could.

Q. Are these the documents you handed me?

A. Yes, they are.

MR. TRAFICANT: Your Honor, can I pursue these?

THE COURT: Yes.

1 Q. Now, this is known as TC-1. Can you describe what
2 this is?
3 A. Oh, yes. That's our yard order from the office.
4 When we ship out an order, we print a yard order, and it
5 goes with the truck upon delivery.
6 Q. And where was it sent to?
7 A. The bill was sent to 11 Overhill Road, Youngstown,
8 Ohio, James Traficant.
9 Q. And what was it in relation to?
10 A. Materials used for whatever they wanted to use it
11 for, the cement or whatever. And the fiber mesh is a
12 reinforcement for the concrete.
13 Q. So how many yards of concrete were ordered at that
14 point?
15 A. 13 yards of six sack, with 13 bags of fiber for
16 reinforcement.
17 Q. And what was the date of it?
18 A. I didn't bring my glasses -- 3-28 of 2000.
19 Q. Do you know what company ordered this material?
20 A. I believe it was Sugar Contracting that ordered it.
21 The reason why I know that is because I needed to ask who I
22 bill. They told me I am to bill James Traficant. I asked
23 for the mailing address. I do all the bookwork.
24 Q. Did you get paid?
25 A. Oh, yes, definitely, in full.

Q. And how were you paid?

A. By check.

Q. By check, from whom?

A. The name on the check was Traficant.

Q. This is now TC-2. Do you see TC-2 on the right up there?

A. Yes.

Q. And what is the date of the invoice?

A. 3-27. That's the yard order -- oh, that's the invoice. That's the billing, yes.

Q. And where was the invoice sent?

A. It was billed to Jim Traficant, 11 Overhill Road, Youngstown, Ohio.

Q. And how many yards were ordered?

A. There were 12 yards of six sack, 12 bags of fiber, which is the reinforcement, and expansion joint to put, you know, for the cuts of the concrete.

Q. And was that the amount?

A. Oh, yes, definitely.

Q. And how was this account paid?

A. By check through Mr. Traficant. Payments were made on a monthly basis.

Q. They were monthly payments?

A. Yes.

Q. Payment basis?

1 A. There was one month, I believe there were two checks
2 in one-month's time.
3 Q. Would you identify the exhibit number?
4 A. That's TC-3.
5 Q. And what is it?
6 A. That's the invoice.
7 Q. And where was it -- who was it billed to?
8 A. To James Traficant, 11 Overhill Road, Youngstown,
9 Ohio.
10 Q. And what was ordered?
11 A. That was the 13 yards of six sack with the
12 reinforcement fiber.
13 Q. And is that the amount?
14 A. Yes, that's the amount you were billed for.
15 Q. And did you accumulate an amount of costs for
16 concrete?
17 A. There were two invoices totaling $1800 and some
18 dollars.
19 Q. And how was this paid?
20 A. That was paid by check on monthly payments.
21 Q. By whom?
22 A. Traficant.
23 Q. Would you identify this document number at the top
24 right-hand corner?
25 A. That's TC-4, yard order.

1 Q. And who was it billed to?
2 A. James Traficant, 11 Overhill Road, Youngstown, Ohio.
3 Q. And what was the date on it?
4 A. That's the 27th of March, 2000.
5 Q. And what was ordered?
6 A. Six sack, 12 yards of it, with 12 bags of
7 reinforcement, plus expansion joint.
8 Q. And what was the amount?
9 A. Well, that's the yard order that will be turned into
10 the invoice. You have it over there.
11 Q. And what is the --
12 A. That's TC-5. That's the customer history of James
13 Traficant. That is when he ordered it and payments posted
14 to his account every time that he paid.
15 Q. How many invoices were sent?
16 A. Two invoices were sent.
17 Q. How many payments were made?
18 A. Nine payments were made, if I counted right.
19 Q. What was the amount of those payments? Are they
20 listed?
21 A. Yes, they are. They're listed on the deposit slips
22 because I have to credit certain times there, but on the
23 deposit you'll see there were some $200 payments applied,
24 some $300 payments applied. When he mailed it, it was
25 applied.

1 Q. When who mailed it?
2 A. Mr. Traficant.
3 Q. Do you know who Mr. Traficant is?
4 A. I'm looking at him. This is the first time I met
5 you, sir.
6 Q. And what was the total invoices?
7 A. $1844.40.
8 Q. And how was it paid?
9 A. By checks monthly by Mr. Traficant.
10 Q. And would you identify this by an exhibit number?
11 A. TC-6.
12 Q. And what does this signify?
13 A. That's our T. C. Redi-Mix deposit slip of people that
14 mail in payments or pay. It goes on a deposit slip, and we
15 take it to the bank. As you can see, there's a lot of
16 customers on that deposit slip.
17 Q. And what does this signify?
18 A. I see Traficant for $300.
19 Q. And how was that paid?
20 A. That was paid by check.
21 Q. And it was deposited on that date?
22 A. Yes, it was. As a matter of fact, that's my
23 handwriting.
24 Q. Is this the first time you've testified at a trial
25 like this?

A. Yes, sir.

Q. Are you nervous?

A. Not at all.

Q. Do you have immunity?

A. No.

Q. Would you identify this by an exhibit number?

A. TC-7.

Q. And what is this?

A. That's our T. C. Redi-Mix deposit slip on June 5th of 2000, a payment was made and deposited on our deposit slip.

Q. And how much of a deposit --

A. $200 I can see.

Q. There was a payment of $200?

A. Yes. I believe that's the month there were two of them, in June.

Q. I had a good month?

A. You must have.

Q. And can you identify this by exhibit number?

A. TC-8.

Q. And what does it account for?

A. That's our Redi-Mix deposit record on 6-26 -- a check -- well, all checks were deposited that came in.

Q. Into what bank?

A. Sky Bank.

Q. What does that signify?

1 A. $300 by check, paid by Traficant.
2 Q. Would you identify the exhibit number?
3 A. TC-9.
4 Q. And what does that signify?
5 A. July 11th of 2000, our deposit slip to Sky Bank.
6 Q. And what does it signify?
7 A. James Traficant, $200 payment on his account.
8 Q. Now, do you have any other items with you that you
9 were not able to photocopy?
10 A. Yes, I do. I have deposit slips. They're yellow in
11 color. They're my originals, and the copy machine wouldn't
12 accept copying them.
13 Q. Can I have them now?
14 A. Yes, you may.
15 MR. TRAFICANT: Can I show them to Your Honor
16 and then identify them since they would not be copied?
17 THE COURT: Show it to them first. Thanks.
18 MR. TRAFICANT: I mark this entire exhibit as
19 TC-10 even though therapy separate. Is that okay?
20 MR. MORFORD: That's fine.
21 MR. TRAFICANT: Your Honor, I'd like for you
22 to see them since they couldn't be copied. I would have
23 had them individually copied, and they're all under TC-10
24 and I would identify them all as TC-10. I didn't have time
25 to do so.

1 THE COURT: Thank you.

2 MR. TRAFICANT: Thank you, Your Honor.

3 Q. Mary Ann, had you been able to photocopy this, would

4 you have done so?

5 A. Oh, definitely.

6 Q. So these are all TC-10, and I may make the first one

7 TC-10, and may we designate them.

8 Would you state what that is?

9 A. That says TC-10, December 15th, I believe, of 2000.

10 It's kinds of light. T. C. Redi-Mix deposit slip.

11 Q. And is there a payment on there?

12 A. Yes, there is. James Traficant, $200.

13 Q. The next one I will identify as TC-11, although they

14 were in a packet. How was that paid, TC-10?

15 A. Oh, by check. It's on my deposit slip.

16 Q. From whom?

17 A. From James Traficant.

18 Q. Would you identify this number?

19 A. TC-11.

20 Q. And what is it?

21 A. It's our deposit slip, January of '01. I think

22 that's January 11th. It's kind of light.

23 Q. And is there a payment listed?

24 A. Yes. I see for $200.

25 Q. And how was that payment made?

A. By check by James Traficant.
Q. Next would be known as TC-12. And would you identify this by number?
A. TC-12, February 15th, 2001.
Q. And what is it at the top?
A. That's our deposit record from T. C. Redi-Mix to Sky Bank.
Q. And was there a payment made there?
A. Yes, there was, for $200.
Q. Would you look at it again?
A. I'm sorry, $244.40.
Q. And how was that paid?
A. By check.
Q. This would be TC-13. Would you identify this?
A. TC-13, T. C. Redi-Mix deposit slip.
Q. And what is the date?
A. 11-10 of 2000.
Q. And how much was paid?
A. I can't see. $200.
Q. And how was this paid?
A. By check. Every check we received came through the mail.
Q. Were all of these checks relative to the same order placed by Sugar Construction?
A. Yes. If you add up the payments on the deposits, you

1 will see that it equals the amount of the invoices that you
2 were billed for.
3 Q. Were you paid in full?
4 A. In full to the penny.
5 Q. Was there any outstanding balance?
6 A. None whatsoever.
7 Q. Was it understood that the account would be paid over
8 a period of time?
9 A. We just mail out the statement and we received a
10 check monthly.
11 Q. Was there any invoices that failed to be paid?
12 A. None.
13 Q. Did you have to call for any late payments?
14 A. No, absolutely not. What you were billed for you
15 paid for. What you took, you paid for.
16 Q. Now, when the FBI came in, did you show them this
17 information?
18 A. I gave them the customer history report, and when
19 they came in, at the time you were still in process of
20 making payments with a balance. They took the deposit
21 slips that I had that you made payments. I offered copies.
22 They took my originals.
23 Q. They took your originals?
24 A. Yes.
25 Q. Did you ever get your originals back?

A. No, not yet, huh-uh.

Q. Did you ever ask for your originals?

A. I wouldn't even know who to call to ask for them. Thank God I made copies of them.

Q. Why do you say thank God you made copies?

A. Because there's other customers also on those deposit slips, and if there was any problems, I would have to look back to see if anybody else paid, too.

Q. You were not served with a subpoena?

A. I was not.

Q. Why did you give them the originals?

A. I was upstairs, and when they came in, they came upstairs, and they asked, and I said, "Sure, he's making payments." He took, you know, concrete, and I can give you the information."

Q. And they would not accept the copies? Did you offer copies?

A. I told them I'd like to keep, you know, my originals. I mean that's how I operate, but they said, no, that they wanted the originals, so I went ahead and made copies for my own purpose.

Q. Would you like to ask for your originals to be returned right now?

A. It doesn't matter. I have the copies now.

Q. Is there anything else you can tell me about the FBI

1 visit to you?
2 A. That was it.
3 Q. Did they ask you to contact them if you received any
4 further payments?
5 A. No.
6 MR. TRAFICANT: No further questions at this
7 time.
8 THE COURT: Thank you. You may inquire.
9 MR. MORFORD: Thank you, Your Honor.
10 May I see those?
11 MR. TRAFICANT: Yes.
12 CROSS-EXAMINATION OF MARY ANN CARNA
13 BY MR. MORFORD:
14 Q. Good afternoon.
15 A. Good afternoon.
16 Q. We've never met before, have we?
17 A. I don't -- I don't remember your face.
18 Q. Now, as I understand your testimony, you said that
19 the FBI had asked you for the original receipts.
20 A. I offered them copies from my copy machine, and they
21 took those.
22 Q. Okay. And you said -- did that create a problem for
23 you, not having the originals, did you say, or is it okay
24 because you have copies?
25 A. It's okay because I have copies, but the way I do my

1 books and everything, I keep everything so. I don't like
2 giving my, you know, deposit slips out to anybody.
3 Q. Congressman Traficant asked you if you gave him some
4 documents this morning, correct?
5 A. Yes, I did.
6 Q. Did he tell you that many of those same documents, in
7 fact, all the documents you'd given to the FBI, had been
8 given to him over 12 months ago by us?
9 A. Oh, I wouldn't have any recollection of that. No, I
10 didn't know.
11 Q. So when he gave you Exhibits -- or when you gave him
12 Exhibits TC-1, 2, 3, 4, 5, at least any of the documents
13 that you've given the FBI, he didn't tell you he's had
14 those for 12 months, did he?
15 A. No, he did not.
16 Q. Now, you didn't actually receive your last payment
17 from Congressman Traficant, it looks like, until February
18 15th of 2001; is that correct?
19 A. If that's what that says. I don't know when he made
20 his last payment. However, as long as he pays, that's all
21 that matters.
22 Q. Right. I'm just trying for the record here --
23 A. That says 2-15 of '01.
24 Q. And the actual work, you testified -- not the work,
25 but the delivery of the concrete was March 28th of 2000?

1 A. That is correct. We have a lot of customers that do
2 make payments on a monthly basis. That's fine with us.
3 Q. Right. Now, this was about $1800 in concrete and
4 materials, correct?
5 A. Yes.
6 Q. And during the 11 months that it took Congressman
7 Traficant to pay it, did he ever offer you a horse in lieu
8 of money?
9 A. Are you kidding? No.
10 Q. Did he ever offer you an old bed or a humidor?
11 A. Nothing.
12 Q. In place of money?
13 A. Nothing. It was strictly a customer relationship.
14 Q. He didn't try to give you any old stuff instead of
15 cash?
16 A. Nothing. Payments came through the mail, monthly
17 statements were mailed, and that was that.
18 Q. Now, as I understand your testimony, your company,
19 T. C. Redi-Mix, did not supply the labor used to pour and
20 finish the concrete job. You just --
21 A. We just delivered.
22 Q. -- delivered the concrete?
23 A. Correct. That's all our company does. We don't
24 finish it.
25 Q. And some other company or crew or workers, whatever,

1 were there to take care of it?
2 A. Called in the order, correct.
3 Q. And so if Dave Sugar testified that he supplied the
4 labor but that it was up to Congressman Traficant to
5 arrange and supply the concrete, your testimony would be
6 entirely consistent with that, correct?
7 A. I billed James Traficant for the materials.
8 Q. So there's nothing inconsistent with what you've told
9 the jury today with --
10 A. No. I billed it.
11 Q. -- that statement?
12 A. Mr. Traficant for the materials.
13 MR. MORFORD: Thank you.
14 REDIRECT EXAMINATION OF MARY ANN CARNA
15 BY MR. TRAFICANT:
16 Q. Mary Ann, have you ever worked at my farm?
17 A. I don't even know where you live. No, I did not.
18 Q. Now, you were asked a number of questions. Would you
19 have any knowledge that I ever looked at anything they gave
20 me?
21 A. No. How -- no.
22 Q. Did I make steady payments on a regular basis from
23 the original invoice to the conclusion of the contract?
24 A. Yes, you did.
25 Q. And did I make it by check?

A. Yes, I did.

Q. Did I ever hug you?

A. This is the first time I've ever met you.

Q. What, if anything, did we do? Did we touch?

A. We shook hands.

Q. Oh. I should have hugged you.

I strike that for the record.

Now, there was some allusion by the prosecutor of some payments made in cash. Were there any payments made in cash?

A. Those checks came through the mail. I open all the mail up and I do the deposit slips.

Q. Now, you just delivered concrete. You don't finish it, do you?

A. Absolutely not. We just supply the sand, the stone, the cement, and the water, and it's mixed in our truck.

Q. And the contractors go ahead and --

A. Absolutely.

Q. Now, do you determine the amount of concrete that's needed?

A. If they ask and give us measurements, we help them out. If they just call and say I need such-and-such yards, we send such-and-such yards.

Q. Well, who instructed you to bill Jim Traficant?

A. The contractor, because I didn't know who to bill. I

1 was confused, and I always ask for a billing address.
2 Q. And you billed?
3 A. James Traficant. That's what I was told to do.
4 Q. And who told you to do that?
5 A. The contractor, when he ordered it.
6 Q. Is there anything unusual about that?
7 A. No. It happens all the time.
8 Q. Were you ever asked to appear before the grand jury?
9 A. No.
10 Q. Were any other accounts ever asked for by the FBI
11 when they visited you that day?
12 A. No.
13 Q. Now, you've worked there ten years?
14 A. Ten-plus years.
15 Q. How many times has the FBI visited T. C. Redi-Mix?
16 A. I recall them one time being there.
17 Q. And what time was that?
18 A. I don't know if it was late morning or early
19 afternoon.
20 Q. On what case?
21 A. On James Traficant.
22 MR. TRAFICANT: No further questions.
23 THE COURT: Thank you.
24 MR. MORFORD: Nothing further, Your Honor.
25 THE COURT: Thank you. You can step down.

1 THE WITNESS: Thank you very much.
2 MR. TRAFICANT: Thank you, Mary Ann.
3 THE WITNESS: Thank you.
4 (Witness excused.)
5 MR. TRAFICANT: I now call Fred Hudach.
6 These are unrelated matters to which he testified earlier.
7 THE COURT: So you're doing a recall of a
8 witness?
9 MR. TRAFICANT: On other matters that he was
10 subpoenaed to testify on. He was voir dired on one issue
11 only. This has nothing to do with any hearsay. These are
12 on issues of the trial concerning Cafaro and my case.
13 MR. MORFORD: Your Honor, you had asked that
14 all matters be taken up outside the jury's presence with
15 respect to that witness. These matters weren't raised. I
16 ask they be raised outside the presence of the jury.
17 THE COURT: We'll do it at the next break.
18 MR. TRAFICANT: I have no other witness.
19 THE COURT: For today?
20 MR. TRAFICANT: Mr. Hudach is my last witness
21 to testify right now --
22 THE COURT: Very good. We'll give you a
23 brief recess for a brief period of time while we figure out
24 whether or not Mr. Hudach can testify for a second time.
25 THE CLERK: All rise for the jury.

1 (Jury out at 2:03 p.m.)
2 THE COURT: Jeff, you don't need to do that. This is
3 not a long break.
4 I believe there was only a voir dire of Hudach.
5 MR. TRAFICANT: He did not testify.
6 THE COURT: And he never testified because
7 his testimony was excluded during that voir dire.
8 MR. TRAFICANT: It dealt specifically with
9 the Kerchum matter only, but he was subpoenaed to testify
10 on two matters: one relating to a Cafaro matter, and one
11 relating to my trial, as an investigator. It has nothing
12 to do with hearsay or any of the matters that have been
13 brought by the prosecution.
14 THE COURT: Okay. I'll let Mr. Morford
15 respond. We may need some more information.
16 MR. MORFORD: Before we go there, I just
17 would like, if we can get it on the record, Congressman
18 Traficant said there is not another witness in his room
19 today?
20 MR. TRAFICANT: I have another --
21 THE COURT: First of all, let's see whether
22 we have a witness right now. I'll deal with the --
23 MR. TRAFICANT: I have a character witness
24 there, as well.
25 THE COURT: Okay. Hold on for just a minute.

1 Let's do one thing at a time.
2 MR. MORFORD: I was just wanting to clarify
3 that. I'm sorry, Your Honor.
4 MR. TRAFICANT: I didn't realize that these
5 witnesses would go so fast and the government would be so
6 astounded and take such a short time on cross.
7 MR. TRAFICANT: Congressman, your comments
8 are not appropriate even though the jury is not here, so
9 please be seated so I can listen to what this gentleman has
10 to say in response to the situation you're presenting.
11 MR. TRAFICANT: Certainly. I wouldn't want
12 to prevent him from doing so.
13 MR. MORFORD: Your Honor, because of the
14 nature of Mr. Hudach's background and information,
15 allegations he's made in the past as a paid investigator
16 for Congressman Traficant, the Court said it was going to
17 conduct a voir dire as to Mr. Hudach's testimony.
18 Congressman Traficant just said he knew about these other
19 matters and did not go into them. He could have testified
20 the other day about those things.
21 As to the second part that Congressman Traficant just
22 indicated Mr. Hudach would testify to, about an
23 investigation he was conducting for Congressman Traficant
24 regarding this case, those are matters that directly
25 related to the voir dire of him the other day and should

1 have been brought out at that time.
2 As to matters regarding Mr. Cafaro, we have no idea
3 if that includes hearsay matters, we have no idea if that
4 includes 608(b) matters, but given the way some of these
5 things have gone on, I would ask that the voir dire -- if
6 Mr. Hudach is going to be allowed to take the stand again
7 after Congressman Traficant knew about these matters and
8 didn't raise them the first time, that if the Court is
9 going to entertain letting him possibly call him yet again,
10 that that be done in a voir dire to make sure that these
11 are not inadmissible areas of evidence that would be put in
12 front of this jury, particularly because of what the Court
13 heard from Mr. Hudach the other day, which inevitably will
14 probably come out at some point during his examination if
15 it's not done by voir dire.
16 MR. TRAFICANT: It will not come out, and let
17 me say this --
18 THE COURT: But what you're both -- -- what
19 you're both discussing is a mystery to me --
20 MR. TRAFICANT: Let me respond. There are
21 assumptions being made by the prosecutor I take offense and
22 object to.
23 THE COURT: Let me ask you, apparently there
24 are two items here. One is about Cafaro and the other one
25 is about an investigation related to this case.

1 MR. TRAFICANT: To my trial, my personal
2 trial here that I face.
3 THE COURT: Okay. Talk to me first about the
4 Cafaro situation.
5 MR. TRAFICANT: It deals with an analysis and
6 summary of the boat survey relative to testimony that's
7 been granted, and I think we should voir dire him. He is a
8 private investigator, was engaged by me, as was
9 Mr. Robertson, to look at two elements.
10 The only reason we stopped that day is you
11 cut it off on the Kerchum incident, and he spoke only
12 relative to Kerchum.
13 THE COURT: But tell me a little more about
14 the Cafaro part, about the boat.
15 MR. TRAFICANT: The boat and the survey and
16 the analysis of that, and, in fact, speaking to the issues
17 of the boat and the survey and the annualization of that
18 survey.
19 THE COURT: Okay.
20 MR. TRAFICANT: As a part of my defense.
21 THE COURT: Okay. Now, how is this
22 investigation related to this case issue? Because we did
23 cover some of that in the voir dire.
24 MR. TRAFICANT: No. We have admitted
25 evidence in it, but I have not had a chance to totally get

1 at that since I only had a chance at government witnesses,
2 and they have testified, relative to the boat survey. And
3 I've asked --
4 THE COURT: Move off the boat survey for a
5 minute.
6 MR. TRAFICANT: The other one deals with
7 physical fingerprint evidence. I asked him to do a summary
8 report since he has done such in forensic cases for the
9 years, and had done some reporting relative to it.
10 THE COURT: Tell me a little bit more about
11 this. So this investigator has done a physical --
12 MR. TRAFICANT: He has reviewed the
13 documents --
14 THE COURT: But what do you mean by physical
15 fingerprint evidence? I don't understand --
16 MR. TRAFICANT: No. He's not a fingerprint
17 expert. He is going to discuss the analysis of
18 recommendations relative to physical evidence regarding
19 fingerprints.
20 THE COURT: Congressman, that would be
21 totally irrelevant.
22 MR. TRAFICANT: That would not.
23 THE COURT: We don't have any issue of
24 fingerprints in this case.
25 MR. TRAFICANT: The government stipulated

1 they had no fingerprint evidence, and I want it put on the
2 board, I want the record and want the FBI analysis
3 statement included in this record, and I want Mr. Hudach to
4 testify to it.
5 THE COURT: There is no fingerprint evidence
6 in this case, Congressman.
7 MR. TRAFICANT: Well, this is the point: I
8 want the FBI report made a part of the record. Now, I'll
9 let him talk about the boat --
10 THE COURT: What FBI report?
11 MR. TRAFICANT: There was an FBI report given
12 to me on discovery of fingerprint analysis. You chose not
13 to use it. I can produce it.
14 Do you want me to produce it?
15 THE COURT: Yes. Pull it out right now.
16 MR. TRAFICANT: I'll have to go find it.
17 MR. MORFORD: The report says there were no
18 prints that matched Congressman Traficant on any of --
19 MR. TRAFICANT: So you admit there was a
20 report.
21 MR. MORFORD: No. We had -- it wasn't a
22 report. It was a report to say that as to these documents,
23 Congressman Traficant's fingerprints aren't on any of them,
24 which we had took testimony and Agent Bushner testified
25 about that.

1 MR. TRAFICANT: Here is the report. It is
2 labeled JT-1007, parentheses A A.
3 THE COURT: And does it say your fingerprints
4 were analyzed?
5 MR. TRAFICANT: It says my fingerprints were
6 not only analyzed, it is an extensive document that was
7 turned over to me on discovery, and I have a defense right
8 to introduce it. Why did they give it to me?
9 THE COURT: Okay. For the record, this is
10 JT-1007.
11 MR. TRAFICANT: Parentheses double capital A.
12 THE COURT: Parentheses double capital A.
13 And this is quite a long series of pages. Let me see if I
14 can tell what it is.
15 MR. TRAFICANT: I surely didn't get it. Now,
16 I believe my defense will be maligned, harmed --
17 THE COURT: Hold on. Let's look at what we
18 have.
19 MR. TRAFICANT: It was given to me in
20 discovery. It's eligible for me to be used. If they
21 didn't plan to use it, they shouldn't have introduced it
22 and given it to me.
23 THE COURT: Congressman, stop commenting.
24 Just a minute. It appears to be about 17 pages long, and
25 it has stars throughout and some notes on some of these

1 documents. I don't know what the stars have to do with --
2 MR. TRAFICANT: That could be a work product.
3 He has a salient product, and I'm only interested in the
4 analysis of it.
5 THE COURT: Okay. You recognize what this
6 document is. Can you respond to this document?
7 MR. MORFORD: Yes, Your Honor.
8 THE COURT: Which is the one he wants to use
9 with this witness.
10 MR. MORFORD: This document is the
11 out-of-court statement of an FBI lab agent in Washington
12 who was given -- please, sir, would you go stand over
13 there?
14 THE COURT: Congressman --
15 MR. TRAFICANT: I don't want to miss his
16 words.
17 THE COURT: Congressman, come on. Just go
18 over and have a seat like everybody does in a courtroom.
19 Just sit down. You're not talking right now.
20 MR. MORFORD: As I was saying, Your Honor,
21 this report was done because there were certain items that
22 were submitted to the FBI lab to check for fingerprints,
23 and if you will recall, Agent Bushner testified about that.
24 There was the money and the envelopes and the three notes
25 that were obtained from Allen Sinclair, and there was

1 the --
2 THE COURT: Yes, but no fingerprints of this
3 defendant came up on any of that.
4 MR. MORFORD: Exactly. And then there was
5 also a document, the handwritten list from the Buccis that
6 was sent, and in order to send it they had to send the
7 entire file. And the lab -- I got the entire file
8 fingerprinted, every document in the file, and the report
9 that came back was there were no fingerprints of anyone on
10 any of the money. There were no fingerprints of anyone on
11 any of the burned envelopes. There were no fingerprints of
12 anyone on the letters, but there was no fingerprints of
13 Congressman Traficant whatsoever.
14 That report was given to Congressman Traficant so
15 that he would know that fact in case he wanted to argue, as
16 he's chosen to do in this case, that his fingerprint is not
17 on anything. So we gave it to him so he would know that,
18 and we gave it to him far in advance of trial.
19 THE COURT: Right.
20 MR. MORFORD: Apparently he misunderstood
21 what the report said because immediately upon receiving the
22 report, he filed a motion asking the Court to exclude
23 fingerprint evidence in this case, as you will recall.
24 THE COURT: Right.
25 MR. MORFORD: And we then --

1 MR. TRAFICANT: Which was withdrawn.
2 THE COURT: Yes. It was withdrawn, I think.
3 MR. MORFORD: And we went ahead despite the
4 fact he seemed to think there was fingerprint evidence, and
5 we had Agent Bushner candidly testify that his fingerprints
6 were not on any of the documents. And so this is, number
7 one, not relevant; number two, it's hearsay, and therefore,
8 it's not admissible.
9 MR. TRAFICANT: Now, let me respond. Number
10 one, this is a total misrepresentation. I never looked at
11 their evidence because I know they have no evidence. I
12 have never even opened the box. I found this because this
13 was the subject that they had cash with fingerprints.
14 I immediately acted, figuring the government has
15 tremendous technology --
16 THE COURT: There has not been any evidence
17 that cash --
18 MR. TRAFICANT: Yes, there has.
19 THE COURT: Congressman, there has not been.
20 MR. TRAFICANT: Please let me speak.
21 THE COURT: In this case there is not such
22 evidence.
23 MR. TRAFICANT: Bushner spoke and said there
24 were no fingerprints.
25 THE COURT: Right.

1 MR. TRAFICANT: Now, you're trying to tell me
2 the government didn't send those documents off to try and
3 corroborate some physical evidence against this
4 congressman, that they only sent it off as a happenstance
5 to see if maybe there could be some fun by some laboratory
6 worker?
7 I have a right to bring it in. They gave it
8 to me on discovery. They sought to seek my fingerprints.
9 It is salient to my defense, and you will be denying me the
10 right to defend myself by not entering this into the trial.
11 THE COURT: Let's talk about Mr. Hudach now
12 and what in the world he would have --
13 MR. TRAFICANT: Why don't we voir dire him.
14 THE COURT: What in the world would he have
15 to do with this FBI --
16 MR. TRAFICANT: I asked him.
17 THE COURT: -- hearsay fingerprint?
18 MR. TRAFICANT: What do you mean
19 "fingerprint"?
20 THE COURT: Report.
21 MR. TRAFICANT: Is this a hearsay report or forensic
22 report? Do you want to see it again?
23 THE COURT: It's both.
24 MR. TRAFICANT: I want you to look at it
25 again.

THE COURT: I don't need to look at it again.

MR. TRAFICANT: I didn't request it.

THE COURT: No, but you didn't produce this --

MR. TRAFICANT: This is exculpatory for the defendant, and I want to use it.

THE COURT: That's why you got a copy of it.

MR. TRAFICANT: And I want to use it, and I have a right to use it.

THE COURT: You can't use it through this witness.

MR. TRAFICANT: This witness is a private investigator that has analyzed forensic documents over the years and was asked to do that. And you could voir dire him, but for you to deny me the right to bring this into this trial, and to save this from the jury, would taint the process of leaving their paper trail only without corroborative evidence.

They didn't send this because they wanted to know if Ronald McDonald had lunch at Burger King. Come on now. I may be the son of a truck driver, but you know very well that this is exculpatory. It is eligible to be brought into this courtroom, and I want it brought in.

Now, in fact, I do not plan to belabor this. I only asked him to evaluate the summary report. And you allowed

1 a summary report by a guy who did nothing but add figures,
2 and I'm asking that a summary report of this document be
3 placed on the record in front of this jury, which is my
4 right.
5 And I am sick and tired of having my people
6 under oath two and three times subject to cross-examination
7 without immunity, subject to perjury, without even a jury
8 hearing them. And that's been 11 times.
9 THE COURT: Congressman, are you through?
10 MR. TRAFICANT: No, I'm not.
11 I want Mr. Hudach to testify about this report that I
12 subpoenaed him to do so. His background clearly is in
13 private investigative work. He is capable of doing so.
14 And I am only asking that one part of this document be
15 reviewed. It is labeled and would be admitted in total,
16 but it will take us not long, because it is only a summary
17 report, and I want it on the record by a person who has
18 done such in other matters.
19 THE COURT: Thank you.
20 MR. MORFORD: First of all, Your Honor, this
21 matter is already before the jury because Congressman
22 Traficant did cross-examine Mr. Bushner about the very
23 matters he just argued to the Court. So there hasn't been
24 anything hidden from this jury.
25 Second of all, this witness just isn't competent to

1 do what he's asking this witness to do.
2 And number three, as far as this witness
3 having to come back, the witness had to come back because
4 Congressman Traficant didn't bring this up when he should
5 have when he had him on voir dire earlier in the week.
6 THE COURT: Thank you.
7 MR. TRAFICANT: Your Honor, I would like to
8 on the -- I want you to rule first, but I would like to say
9 this: I believe this Court has gone too far in limiting
10 this defense. Now, a sixth grader could read this summary.
11 I've asked a private investigator that has handled a number
12 of forensic documents in capital cases to simply place upon
13 the record his investigation of the report and the summary
14 of the report.
15 The other element is the boat. But for any
16 reason, if you do not allow this, you will have hurt me and
17 my defense significantly, because what you have here is,
18 you have a bunch of paper that they tried to desperately
19 corroborate and could not corroborate.
20 Now, let's take a second. Mr. Bushner said they
21 didn't tape me. The boiler room noise was too loud --
22 THE COURT: Congressman, this may be
23 something you want to argue in closing argument.
24 MR. TRAFICANT: No. This is something I want
25 on evidence.

1 THE COURT: Well, this is something --
2 MR. TRAFICANT: I want the jury to see this.
3 THE COURT: Yes, I understand what you have
4 in your hand that you want the jury to see, but the remarks
5 you're making are not necessary for me to rule.
6 MR. TRAFICANT: Okay, fine. But let me say
7 this: I believe I am in my right, having received
8 exculpatory documents from the government, that I was
9 absolutely shocked to find they had no fingerprints,
10 because I've never looked at their evidence because I know
11 they have none.
12 But having said that, I then took it upon myself to
13 analyze the fingerprint process. This odd lot is only one
14 page of a lengthy document --
15 THE COURT: Which page is it you're holding
16 in your hand?
17 MR. TRAFICANT: This is the final page that
18 gives the summary conclusive remarks. Now, I can get you
19 the whole document. They listed every single thing, and I
20 ask for a five-minute break to produce said document right
21 now before you rule on this.
22 THE COURT: What document are you talking
23 about?
24 MR. TRAFICANT: All I have is the last page.
25 I want to show you that they gave every single item they

1 wanted analyzed in this report. All I'm attempting to
2 bring in --
3 THE COURT: Which page is that?
4 MR. TRAFICANT: That is the last page. It's
5 the conclusion of their summary.
6 THE COURT: Look at this page, would you?
7 MR. TRAFICANT: I want to produce the full,
8 entire document.
9 THE COURT: I thought you had the full.
10 Entire document.
11 MR. TRAFICANT: No, that is the boat. I was
12 only dealing with this one page. I will go get it and
13 bring it to this Court, and I ask leave for five minutes to
14 do such.
15 THE COURT: Apparently, the document that I
16 was handed that I identified as having many pages, the
17 record should reflect, is not the same thing that the
18 Congressman is walking around with.
19 MR. TRAFICANT: No.
20 THE COURT: I'll tell you what we'll do --
21 MR. TRAFICANT: The survey was admitted into
22 evidence, Your Honor.
23 THE COURT: Well, I understand. That's the
24 survey.
25 MR. TRAFICANT: But it deals with testimony

1 of Lange and Cafaro.
2 THE COURT: No. I understand the survey is a
3 separate thing, but I think what we'd better do is take a
4 break and get the exhibits that you're trying to use for
5 this witness organized.
6 MR. TRAFICANT: Thank you.
7 THE COURT: I don't know if you need five
8 minutes. How far away is this document?
9 MR. TRAFICANT: I don't need five minutes.
10 I'll go get the document.
11 THE COURT: That would be a good idea.
12 MR. TRAFICANT: I would appreciate it if
13 there be no conversation when I am henceforth removed from
14 said presence.
15 (The defendant left the courtroom and subsequently
16 returned.)
17 THE COURT: Anybody who wants to can stand up
18 and stretch. This will take just a few minutes.
19 MR. TRAFICANT: Your Honor, can I release
20 these originals or must they be kept, TC-10, to the company
21 or must they be returned after the trial?
22 THE COURT: Congressman, the whole issue of
23 exhibits depends on what's admitted into evidence, and
24 those haven't even been offered yet, and we'll discuss that
25 later.

1 Let's deal now with this issue of your witnesses.
2 MR. TRAFICANT: Your Honor, I have to look
3 through -- I do not believe that I brought that entire
4 document. I'm looking for it.
5 THE COURT: Let me ask you about this entire
6 document.
7 MR. TRAFICANT: Well, let me say this though.
8 THE COURT: Wait. Wait a minute. Is it the
9 FBI report? Is that the entire document you're looking
10 for?
11 MR. TRAFICANT: This result of examination
12 though lists everything that was in the report, and I'd
13 like to read it for the record.
14 THE COURT: Well, don't read it yet. That's
15 the first page of something.
16 MR. TRAFICANT: No. This is the last page.
17 THE COURT: The last page, I'm sorry. You
18 said that.
19 MR. TRAFICANT: But it shows everything they
20 examined.
21 THE COURT: Okay. But it's from the FBI
22 report from the lab about fingerprints? Is that --
23 MR. TRAFICANT: Yes.
24 THE COURT: -- the same thing?
25 MR. TRAFICANT: Yes.

1 THE COURT: Congressman, it's hearsay. It's
2 hearsay.
3 MR. TRAFICANT: Your Honor --
4 THE COURT: You can't use it.
5 MR. TRAFICANT: If my fingerprint was on
6 this, this wouldn't be hearsay. This would be evidence.
7 THE COURT: Your fingerprint isn't on
8 anything.
9 MR. TRAFICANT: Well, that's why I want to
10 put it on the record. Are you denying me that right?
11 THE COURT: There is no issue that there was
12 testimony on --
13 MR. TRAFICANT: I now ask it be proffered
14 into the record and I read it in the record.
15 THE COURT: You can do that later on after
16 4:30.
17 MR. TRAFICANT: I ask we do it now.
18 THE COURT: Well, you can't do it now.
19 MR. TRAFICANT: Let me go on to the boat survey.
20 THE COURT: It's already in evidence. You may not
21 call this witness. The boat survey, it is AL-101. It is
22 in evidence in the case.
23 MR. TRAFICANT: You are denying me the right
24 to impeach the testimony of J.J. Cafaro, who paid Al
25 Lange's attorney, and this boat survey speaks for itself?

1 THE COURT: Yes, and it's in evidence,
2 Congressman.
3 MR. TRAFICANT: And it's in evidence, but it
4 has never been explained from the defense side. Only the
5 Cafaro and Lange testimony --
6 THE COURT: You can --
7 MR. TRAFICANT: -- has been allowed in.
8 THE COURT: You can discuss it in closing
9 argument, Congressman.
10 MR. TRAFICANT: No, I don't want to discuss
11 it in closing argument. I want the right to bring it in
12 like they did during the trial. Why do you give them that
13 chance to do it without giving me the chance? Especially
14 when it's Cafaro who paid for Lange's testimony?
15 I've never seen anything like this in my life.
16 THE COURT: Congressman --
17 MR. TRAFICANT: Don't call me names.
18 THE COURT: Neither of those reasons are
19 reasons why you can call this particular witness.
20 MR. TRAFICANT: Well, then I want to proffer
21 it right now.
22 THE COURT: No. You can proffer it after the
23 jury has finished their work for the day.
24 MR. TRAFICANT: You are denying me a fair
25 trial.

1 THE COURT: You say that all the time, but
2 nonetheless we keep going forward step by step,
3 Congressman, and that's what we're going to do now.
4 Call your next witness.
5 MR. TRAFICANT: All I have is a character
6 witness on hand.
7 THE COURT: Who is that?
8 MR. TRAFICANT: It's Reverend Bob --
9 THE COURT: What's his last name? Can you
10 spell it?
11 MR. TRAFICANT: I think it's S A F F O L D,
12 but I'm not ready to call -- I don't know when character
13 witnesses are necessary, because I have other character
14 witnesses, as well. I'm under the impression I'm allowed
15 to offer to this Court evidence that's exculpatory to a
16 jury, and you are now denying me that right.
17 THE COURT: I haven't denied you anything. I
18 asked you how to spell his name. Could you tell me how to
19 spell his name? If you don't know, we can ask him.
20 MR. TRAFICANT: I can't exactly spell his
21 name, no.
22 THE COURT: Bring in the witness.
23 MR. MORFORD: Your Honor, before we do that,
24 can we -- I would like to ask the Court if it can review
25 the character evidence rule before we get the witness here

1 and start getting into all kinds of --
2 MR. TRAFICANT: Shall we now go to voir
3 diring character witnesses?
4 THE COURT: No.
5 MR. TRAFICANT: Let me ask a question.
6 THE COURT: First of all, I'd like to have
7 the witness come in, take the stand, and we'll see what the
8 witness can testify to.
9 MR. TRAFICANT: Why don't you let Mr. Hudach
10 in and voir dire him on these issues?
11 THE COURT: Because it is clear the things
12 you want to inquire of of that particular witness can't be
13 inquired of. If you want to go over character evidence,
14 you can state your -- what you think will be your
15 objections now if you want to say them before he --
16 MR. TRAFICANT: Hear me.
17 THE COURT: -- before he talks.
18 MR. TRAFICANT: I'm not done with my case.
19 THE COURT: I haven't said you were, but
20 you --
21 MR. TRAFICANT: But you just eliminated half
22 of my afternoon here. I'm presenting witnesses, and you're
23 denying their testimony. Quite frankly, I'm tired of it.
24 You could at least let me proffer for the record the
25 matters you just struck on.

1 THE COURT: You can do that after the jury
2 has left for the day.
3 MR. TRAFICANT: Well, I only have one
4 character witness, and I'd like to bring that character
5 witness on when I close.
6 THE COURT: Let me see if I can find a short
7 way to talk about this that might help you.
8 This is just generally on character witnesses,
9 because I'm not sure exactly what you're going to do. But
10 generally, character evidence is irrelevant, and that's why
11 it's not admitted. And it's offered about somebody's
12 propensity to act in conformity or in the same way as
13 whatever the person's character trait is you are trying to
14 elicit.
15 Now, there are certain times when it becomes an
16 issue, and as far as I can tell in this case, we aren't
17 quite there, but I'll leave that to the government to
18 discuss. We may never get there --
19 MR. TRAFICANT: You're going to leave it to
20 the government to discuss my case?
21 THE COURT: No. They can respond to whether
22 or not that's the part of the rule they're concerned with.
23 But if your character were an essential element of
24 some kind of a claim or defense here, then that might be
25 one of the things we'd have to get into.

1 MR. TRAFICANT: Why don't you voir dire
2 character witnesses now?
3 THE COURT: Well, actually I don't think it
4 is necessary.
5 MR. TRAFICANT: I move for mistrial, that you
6 violated my First Amendment rights, my Sixth Amendment
7 rights, when the Sixth Circuit had not yet approved the
8 jury selection pool --
9 THE COURT: We've already --
10 MR. TRAFICANT: -- before I was indicted,
11 number one.
12 THE COURT: Congressman, it's been --
13 MR. TRAFICANT: My Sixth Amendment right
14 when you said --
15 THE COURT: That issue, like many other
16 issues --
17 MR. TRAFICANT: I have a motion on the floor.
18 THE COURT: Excuse me. You raise issues over
19 and over again that have already been --
20 MR. TRAFICANT: These are new issues.
21 THE COURT: The ones you're talking about now
22 are not.
23 MR. TRAFICANT: I'm going to raise new
24 issues.
25 THE COURT: Well, you're going to have to get

1 your witness in here if you want to put a witness on.
2 MR. TRAFICANT: I don't want a character
3 witness in here now.
4 THE COURT: Fine.
5 MR. TRAFICANT: I'm not done with my case.
6 THE COURT: Fine. Then call your next
7 witness.
8 MR. TRAFICANT: I have no more witnesses
9 today.
10 THE COURT: Congressman, you've been told
11 this over and over.
12 MR. TRAFICANT: I've had witnesses here, and
13 you've denied them the opportunity to testify. They're
14 afraid of these witnesses and taking no time with them. I
15 provided six witnesses here today. Now, look, I have made
16 a good-faith effort with many people ducking me, being
17 pressured by the government, quite frankly.
18 THE COURT: We have two hours of jury time
19 ahead of us.
20 MR. TRAFICANT: Send them home. I'm not
21 done.
22 THE COURT: I'm not sending this jury home
23 again.
24 MR. TRAFICANT: I'm not closing. I'm not
25 ready to close.

1 THE COURT: If you have witnesses, call your
2 witnesses.
3 MR. TRAFICANT: I call Fred Hudach.
4 THE COURT: Fred Hudach can't testify in this
5 case. Call your next witness.
6 MR. TRAFICANT: I call Frederick Hudach.
7 THE COURT: Do you have any other witnesses
8 you're going to call?
9 MR. TRAFICANT: I call private investigator,
10 forensic specialist Frederick Hudach.
11 THE COURT: Frederick Hudach cannot testify
12 on the matters which you apparently want him to testify in
13 this case.
14 MR. TRAFICANT: Since we have some time then,
15 I would like to read in the summary report now.
16 THE COURT: We have --
17 MR. TRAFICANT: And I should be at least
18 allowed that.
19 THE COURT: You will have a chance to read
20 that into the record, but right now -- who are the other
21 witnesses you have here today?
22 MR. TRAFICANT: All I have in there is a
23 character witness, and I do not want my character witnesses
24 on until I am ready to close.
25 THE COURT: Well, you may be close to that.

1 MR. TRAFICANT: That's my decision, not
2 yours.
3 THE COURT: It may be your decision, but on
4 the other hand, we have to have witnesses to go before this
5 jury and you know it.
6 MR. TRAFICANT: I've had witnesses and you've
7 denied them.
8 THE COURT: If you have a witness here and if
9 you want that witness to testify in this trial, bring that
10 witness in and we'll see whether or not the witness can
11 testify. If you're only bringing him on to testify as to
12 character, there may be a problem with it.
13 Is that why you're standing?
14 MR. TRAFICANT: You mean you would voir dire
15 this character witness?
16 THE COURT: No. I don't need to voir dire
17 him.
18 MR. SMITH: Your Honor, we don't object to a
19 character witness as long as it's done in conformity with
20 Rule 405(a), that he can solicit a reputation or opinion
21 about a specific trait of relevant character, and that he
22 not go into specific instances of conduct.
23 Other than that, we have no objection to a character
24 witness being called.
25 But he jumped up and started yelling.

1 MR. TRAFICANT: I have other character
2 witnesses I want here.
3 MR. SMITH: And if he's not going to call a
4 witness though, Your Honor, then I do have a motion to
5 make.
6 MR. TRAFICANT: You're going to entertain a
7 motion from them and you won't allow me?
8 THE COURT: No. We're waiting to find out
9 whether now that you've heard that they don't object to
10 your calling a character witness as long as you're calling
11 a character witness about some specific trait, do you want
12 to call your witness? This is your chance to call them.
13 MR. TRAFICANT: I have other character
14 witnesses, and they're not here, Your Honor.
15 THE COURT: Yeah. Well, this one is here.
16 MR. TRAFICANT: I don't want to --
17 THE COURT: He may be right outside the door.
18 MR. TRAFICANT: I don't want to be
19 entertaining any other motions today. I'll close when I'm
20 ready to close, and I'm sure as hell not going to close on
21 a motion from a U.S. Attorney's Office.
22 THE COURT: Well, how about if instead of
23 worrying about that, you look -- we've got the door ready
24 to open on your character witness, and apparently the
25 government is not going to have any problems if you go in

1 conformity with the rules.
2 MR. TRAFICANT: Bring the jury in. I'm not
3 bringing any more witnesses out without a jury. That's it.
4 THE COURT: We can bring him in and we'll
5 bring the jury in at the same time.
6 MR. MORFORD: I do ask that he be ordered not
7 to call Fred Hudach in front of the jury.
8 THE COURT: Well, he's not going to call Fred
9 Hudach. It's abundantly clear.
10 MR. TRAFICANT: I would urge you to ask the
11 prosecution to get over their paranoia.
12 THE COURT: You can bring the witness in and
13 you can bring the jury in.
14 (Jury in at 2:33 p.m.)
15 THE COURT: If you will come around this way,
16 please. Around behind this way and all the way up the
17 steps. Thank you, sir.
18 Would you raise your right hand, please?
19 (The Witness is Sworn)
20 DIRECT EXAMINATION OF ROBERT EARL SAFFOLD
21 BY MR. TRAFICANT:
22 Q. Good afternoon, Reverend Bob.
23 A. Good afternoon, Congressman.
24 Q. Would you please give your full name and spell your
25 last name for the jury?

1 A. My name is Robert Earl Saffold, S A F F O L D. I
2 prefer to be called Brother Bob, not just because I'm a
3 preacher, but I try to be a real brother to all men and
4 women.
5 Q. And why were you subpoenaed to testify here?
6 A. Because I called your office and talked to someone
7 there, I believe it was Mr. Marchese, who is a former
8 fellow firefighter of mine some 25 or 30 years ago in
9 Warren, Ohio, and I know he's a member of your staff. I
10 hadn't talked to Dominic in probably ten years.
11 And I've been reading the paper and following
12 some of the activities within this Court, and I felt moved
13 to give you a call so I could come and testify on your
14 behalf as a character witness in terms of my knowledge of
15 you as a person and the political activities you've been
16 involved in for the last, I guess, 18 to 20 years that I'm
17 aware of.
18 Q. Well, let's start out a little bit about you and give
19 us some of your background. You now currently have a
20 ministry?
21 A. Yes, I do.
22 Q. And what is that ministry?
23 A. It is Nazareth missions. It is an alcohol/drug abuse
24 ministry and a prison ministry.
25 At one time I was the project manager and resident

1 manager of an alcohol and drug abuse treatment center,
2 24-hour residential treatment center here in Trumbull
3 County -- I'm sorry, here in Cuyahoga County, here in
4 Cleveland.
5 Also at the prison ministry, I've been involved since
6 1977, and I've visited various prisons from Attica to Fort
7 Leavenworth over the last 20, 25 years.
8 Q. Well, you're not here thinking of me going to jail so
9 you can counsel me, are you?
10 A. I would hope not. I would hope I can continue to
11 counsel you outside of jail like we had prayer this
12 morning. You don't have to go to jail to do that.
13 Q. Do you have any other background dealing with youth
14 and other activities?
15 A. Well, as you know, I'm a former amateur boxing
16 trainer. As a matter of fact, I trained two young men who
17 won national amateur championships, and both of them went
18 to the world championships, including Ernie Shavers, who
19 fought for the heavy weight championship twice in Trumbull
20 County, and his cousin, Randy Stevens, from Trumbull
21 County. They both fought world championship fights.
22 That was during my amateur boxing career as a
23 trainer.
24 Q. You were also a trainer then?
25 A. That's what I did.

1 Since then I've been inactive in boxing over the
2 years. As a matter of fact, I'm the only African American
3 to ever sit on the National Boxing Hall of Fame Board of
4 Directors up in New York.
5 I serve as a consultant to the Ohio Athletic
6 Commission, which is the boxing commission for the state of
7 Ohio.
8 Q. You weren't involved as a trainer with the famous
9 Ali-Shavers fight, were you?
10 A. No, I wasn't involved at that time, but if I would
11 have been Shavers' trainer, he would have knocked Ali out.
12 As some of you might recall, Ali said he had him out on his
13 feet, but Ernie was not as aggressive as he should have
14 been when I taught him.
15 Q. He was a ropa-doper?
16 A. No -- well, he was apprehensive about the ropa-dopes.
17 I didn't know you know about boxing. I thought you was a
18 football player.
19 Q. We're here to talk a little bit about me. What are
20 some of the traits that you are to state about me that you
21 know about me?
22 A. Congressman, the first time I heard about you, I
23 think it was the mid '70s, and at that time you was running
24 a drug treatment program. And some of my former proteges,
25 amateur boxers, had been involved in your program, and you

1 were in Mahoning County and I was in Trumbull County.
2 And they used to come back talking about this
3 guy, J.T., who related to the brothers, quote, unquote.
4 And that was my first hearing about you.
5 And the first time I really met you was in 1984, when
6 you was running for Congress against Lyle Williams.
7 Q. And who were you supporting in that race?
8 A. At the time I was supporting Lyle Williams.
9 Q. Were you being paid?
10 A. I was a paid consultant for Lyle Williams, even
11 though I was a good Democrat and Lyle was a Republican, but
12 I had known Lyle when he was a barber, before he became a
13 County Commissioner over in Trumbull County politics, but I
14 supported Lyle because I really knew him and I didn't know
15 you. I knew about you. And what I had known about you was
16 good, but I knew Lyle personally.
17 And as a matter of fact, you spoke -- I spoke for
18 Lyle at a black church in Warren, Ohio, because Lyle
19 couldn't make the appearance, and you held your own against
20 me in my own town. And after the election you and I
21 talked. I mean after that meeting, you and I talked, and I
22 became very respectful of you, the way you handled
23 yourself.
24 And that's one of the reasons I'm here today. You've
25 been always a champion of all people, irrespective of race,

1 ethnicity, color or what have you. And I've admired that
2 trait in you. And coming from a basically labor background
3 before I got in business, as you know, I was active with
4 the UAW union out of Lordstown when they first opened up
5 out there, and I know how the various union officials, and
6 so forth, always endorse you, because you were the champion
7 of the people.
8 And I admire you. I've been reading with
9 some mixed emotion some of the newspaper articles that have
10 been printed the last few days, and where you have been
11 depicted as something other than what you are.
12 I know you to be an intelligent, assertive, very
13 aggressive person who's been a champion, and a lot of folks
14 looking at you in this situation and still has the great
15 admiration for you.
16 I have not seen anything or read anything that would
17 prove you guilty of some of the things you've been charged
18 with because I haven't seen any evidence, I haven't seen
19 anything shown or demonstrated.
20 So I think I speak for a lot of folks, and I haven't
21 lived in the Youngstown/Warren area for 20 years. I have
22 been in Cleveland. I can be at my mother's home from
23 Shaker Heights and be there in an hour. I'm down there
24 every week.
25 Q. Did I call you as a character witness?

1 A. No, you didn't.
2 Q. You offered yourself?
3 A. Yes, I did. I am president of the Ohio Minority
4 Contractors Association. That is a minority business
5 advocacy group located in Columbus, Ohio.
6 I manage everything out of my home, between my
7 computer and fax and telephone, if you ever see my phone
8 bills out of Shaker Heights. But I'm usually in Columbus
9 on Thursdays, where I do my Columbus business. I'm a
10 registered lobbyist, has been since 1975, representing
11 minority female businesses from around the state of Ohio.
12 Ohio has the best minority business law in the United
13 States of America. Sandra Day O'Connor in a minority
14 opinion in 1969 said if all the governments, be they local,
15 state or federal governments, if they model their programs
16 after the state of Ohio, they will withstand any kind of
17 constitutional challenge.
18 As you know, there has been challenge, but
19 the Supreme Court in Ohio in their own wisdom, they don't
20 overturn the Federal Court's, District Court's decision,
21 but the District Court ruled against minority business in
22 the construction end, but in Ohio, we are unique because we
23 have a construction and a goods and services program.
24 So the state, the District Court, Federal
25 Court in Columbus, ruled against our construction portion,

1 but they did not deal with the goods and services, so as a
2 result we still have the goods and services program in the
3 state of Ohio where 15 cents of every dollar has to be
4 directed to minority business.
5 I know you, I read in the paper this past week, where
6 Congressman Traficant has the best record of any
7 congressional district in Ohio in terms of providing
8 opportunity for small businesses. Not minority businesses,
9 but small businesses. And my own Congress person,
10 Stephanie Tubbs Jones, her own record pales in relation to
11 yours. And this is around the state. I think you're to be
12 commended for that.
13 You've always been a champion of all people,
14 and not just people of Italian extraction, so to speak.
15 But you've been a champion for black people and white
16 people and women and children, and I know your advocacy,
17 and I appreciate that.
18 Q. Are you familiar with any of the actions I've taken
19 as sheriff?
20 A. I can recall back, I guess it must have been early to
21 mid-'80s when you was a sheriff in Mahoning County --
22 MR. MORFORD: Your Honor --
23 A. Where there was a lot of people had been evicted out
24 of their homes.
25 MR. MORFORD: Your Honor?

1 THE COURT: We can't -- one of the things we
2 can't get into, because this is about character evidence,
3 this testimony is about character evidence, and this case
4 doesn't have anything to do with when this gentleman was a
5 sheriff. So we can't get into that.
6 MR. TRAFICANT: Does my actions --
7 THE WITNESS: Judge, when he was put in jail
8 by the --
9 THE COURT: We can't get into that. I'm
10 telling you we can't get into it here. It wouldn't follow
11 the rules that we all observe while we're here to get into
12 something like that. It's what we call irrelevant. But it
13 also makes it difficult for the men and women who have to
14 listen to things that -- to the evidence in this case and
15 make their decision based on the evidence if we have to
16 constantly go back and say that we can't handle certain
17 things or can't put it in front of them.
18 Now, when he was sheriff won't be relevant here.
19 MR. TRAFICANT: Your Honor --
20 MR. MORFORD: Your Honor --
21 THE COURT: Excuse me.
22 MR. MORFORD: If I could just state my
23 objection, and that is we do not object to his opinion
24 evidence as to character traits that are relevant to the
25 case, but we would have an ongoing objection to any

1 specific instances of conduct because the rules don't allow
2 it.
3 THE COURT: The rules don't permit it, so we
4 can't talk about specific examples about -- what you've
5 been talking about up to now is fine.
6 BY MR. TRAFICANT:
7 Q. Were you impressed with my character traits in the
8 early '80s?
9 A. Absolutely. In the '90s, too. In 1992, after living
10 in Syracuse, New York for six years, I came back, moved to
11 Syracuse from Cleveland, got married, got divorced and came
12 back home.
13 On my way back through to Cleveland I stopped off in
14 Trumbull County for approximately a year trying to
15 determine which way I was going to go. You can always go
16 home, but you don't run away, and I don't run out of
17 Trumbull County, so I came back to Warren.
18 While I was there, it was during the election period
19 around this time, and the Republicans had put in the paper
20 they wanted any Republican or independent candidates to
21 come out to see about maybe getting an endorsement for
22 running for office.
23 I had run for Trumbull County Commissioner in 1970,
24 and I ran as a Democrat. I ran third out of five
25 candidates with two to be nominated.

1 I missed getting the Democrat nomination on my side
2 by 113 votes. At the time Trumbull was -- Warren was the
3 county seat. And Warren's population was about 17 percent
4 minority, and the county was only about 5 percent. So I
5 didn't run as an African American candidate. I ran as a
6 person who was capable of performing because I had been the
7 human relations director in Trumbull County, which was kind
8 of the go-between for the black folks and white folks in
9 Trumbull County.
10 Trumbull County was the first county in
11 America to have a human relations commission, and to the
12 credit of Bob Hagan, who you remember -- some of you
13 Cleveland folks might remember Robert Hagan, Sr. -- and
14 Gary Thompson was another person, another person by the
15 name of Bill Klee, in their wisdom they decided we needed
16 someone to act as maybe a liaison between the black
17 community and the white community because we just had a
18 major riot with kids, the kids at Warren -- the children,
19 the kids called it an insurrection, but the establishment,
20 the media called it a riot at Warren Harding Junior High
21 School in 1968.
22 I didn't have my car. The fire department drove out
23 that day, but I drove my fire truck up to the high school
24 and most of the kids knew me, and they allowed me to bring
25 the things to a head.

1 So after seven years at the fire department, the city
2 fathers said we need somebody to keep these kids in check.
3 So they asked me if I would resign from the fire
4 department, where I was the first and only black
5 firefighter, to become the first department head in
6 Trumbull County government --
7 MR. MORFORD: Your Honor, could I object,
8 please?
9 A. -- on the human relations commission.
10 THE COURT: This is helpful evidence about
11 you, sir, but we need to have evidence about this man.
12 THE WITNESS: I'm bringing it back to --
13 THE COURT: I figured you were bringing in
14 the background.
15 MR. MORFORD: Your Honor, I would just ask we
16 keep it to opinion as a character witness.
17 THE WITNESS: Right. I would hope -- I'm not
18 running for anything, and I would hope when I'm talking
19 about what I said, establishing my character in terms of my
20 background so that you know I'm serious what I'm talking
21 about, and talking about me, I hope I can relate to
22 Congressman Traficant in terms of my relationship to him
23 and how I know him.
24 As he mentioned, one of the questions was in terms of
25 my supporting, at the time I was a Democrat, Congressman

1 Lyle Williams for that office against you, and he was the
2 incumbent. But you beat him that year. But in your
3 victory you were very modest, and I think, I believe you
4 are still a friend of former Congressman Lyle Williams, who
5 is a personal friend of mine now.
6 As a matter of fact, he had told me one of
7 the reasons that he was not going to run for Congress this
8 year in that area, his home area, was because out of
9 respect for you. And he's still a good Republican. I
10 don't know what you are. But whatever you are, you're good
11 people, and I can appreciate that.
12 Mr. Traficant, I can recall back in 1984, I believe
13 it was, when Jessie Jackson was running for president --
14 MR. MORFORD: Your Honor, I'm going to object
15 to the specific instances. He can only testify to his
16 opinion of his character.
17 THE COURT: We can't talk about specific
18 instances.
19 The rule does not permit it on direct examination,
20 and we'll have to interrupt you.
21 THE WITNESS: Okay. I appreciate that.
22 BY MR. TRAFICANT:
23 Q. Let's talk about the time you came to me with a
24 request relative to an issue of concern you had.
25 A. Okay.

1 THE COURT: That would be a specific
2 instance, just exactly what we can't get into here.
3 Q. Well, it dealt with --
4 A. Could I say this? In terms of --
5 THE COURT: No, no, you can't say anything
6 right now. Just a minute until I listen to what the
7 Congressman is saying.
8 Q. Did you ever seek my help?
9 MR. MORFORD: Your Honor, I'm going to
10 object.
11 THE COURT: That's a specific instance. We
12 can't talk about that.
13 MR. MORFORD: I would like to object to any
14 questions that don't go directly to this man's opinion of a
15 relevant character trait of Congressman Traficant, period.
16 THE COURT: Okay.
17 Q. Reverend, Brother Bob, if you could in your own
18 words, after hearing the Judge and the prosecutor, could
19 you put in your words what your character analysis of me
20 is?
21 A. I believe you are honest, I believe you're fair, I
22 believe you're objective. You're certainly subjective by
23 the positions and stances you've taken. I've followed most
24 of your political career since you've been involved, and
25 you took some very, very unpopular stances against a lot of

1 issues, but for the most part, I believed in. If I was
2 going to decide to run for office tomorrow, I'm not sure if
3 I'd run as a Republican, probably not a Democrat, but I'm
4 not sure if I'd run for Republican or Independent.
5 And I understand that you have said you're
6 going to run as an Independent because you are an
7 independent person. And I don't believe you could be
8 bought, I don't believe you could be threatened, I don't
9 believe you could be intimidated. I know you'd be a fair
10 and just person, and I know about the millions and millions
11 and probably billions of dollars you've brought to the
12 Mahoning Valley, and I can't --
13 MR. MORFORD: Objection. Again, we're
14 getting back into specifics.
15 THE COURT: We're getting into specific
16 instances. It's a long list there.
17 A. But I know the good that you've done to a lot of
18 folks individually in the community as a whole. And I
19 can't think, I can't recall ever reading or hearing of one
20 incident where you've hurt anybody. I have not heard that.
21 And just like I said, even though I live in Cleveland, I'm
22 in Warren, Trumbull County at least once a week. I go down
23 and visit and spend the night with my 87 year old mother
24 and I spend the night, and I get the Youngstown Vinicator
25 and the Warren Tribune.

1 MR. MORFORD: Objection to specific acts,
2 Your Honor.
3 THE WITNESS: I don't know of any.
4 THE COURT: That's good.
5 A. And, again, I'm an admirer of yours.
6 Q. Don't stop now. Keep going.
7 A. Right on. I can say that. I can. I'm 60 years old
8 and I can say that. I used to be a boxer. You're a
9 football player, but you're a fighter. I think that's been
10 demonstrated in this courtroom.
11 I will have to say this: I have to say I've kind of
12 watched from afar some of the decorum here, and I have to
13 be respectful and appreciative of the Judge --
14 MR. MORFORD: Your Honor, I would object to
15 this.
16 A. -- and the way she has handled herself and the
17 information I get from the community, how she has kind of
18 gone overboard to allow you to do some things.
19 THE COURT: Well --
20 A. And I think she is to be commended for that.
21 THE COURT: Thank you very much, but this is
22 about his character.
23 Q. You could be wrong about her, too, couldn't you?
24 A. Well, I could be. I'm not perfect. I'm just
25 appreciative. My name ain't Jesus. It is B-O-B, Brother

1 Bob. So I could have my --
2 Q. Do we share common interests?
3 A. Yes. If I could say what it is, I think it is our
4 concern about people, all people, be they tall or short,
5 fat or thin, dark or light. And I really believe that, you
6 know, from what I know about you, and I've known some of
7 your staff that has worked for you in the past, they share
8 that same feeling. And to me, you know, I think you've
9 been maligned unreasonably.
10 I've got some political background myself. I
11 know you're a servant, you're a true servant of the people.
12 Like the prosecutors and the Judge and the jury here now,
13 they're servants. They are to be commended for what
14 they've gone through these last few weeks.
15 I don't envy you. I think I've done everything but
16 served on a jury, but I really don't envy these seven,
17 eight, nine weeks they've been here.
18 But I think you credited yourself. I don't like your
19 approach, some of the language you use, you know. I had to
20 chastise you back in the room. I don't appreciate it. But
21 you made your points, and I understand it. And if there's
22 anything I can do to help you in your ability to help some
23 other folks, I would do that.
24 And there's nothing in my background that
25 would lend itself to say I don't mean what I say. And I

1 think again this trial --

2 THE COURT: Don't talk about this trial.

3 THE WITNESS: This trial -- okay.

4 THE COURT: Don't talk about this trial.

5 These jurors have a lot of responsibility here.

6 THE WITNESS: They sure do, and I don't envy

7 them.

8 THE COURT: Let's leave it at that. Thank

9 you.

10 Q. Do you like the trait that I'm a fashion leader?

11 A. Well, you're not a Beau Brummell. You're certainly

12 not that. But I don't think the clothes make the man. You

13 don't see me here with a collar. That doesn't make the

14 person, the fashion. It's about what you do. It's not

15 what you say; it's about what you do.

16 Q. But our lives have intertwined through narcotics

17 treatment --

18 MR. MORFORD: Your Honor, I object. We're

19 getting back into specific acts. This is a limited

20 character witnesses, and he has stated his opinion.

21 THE COURT: Thank you.

22 A. I know, and I read somewhere that you was a farmer.

23 THE COURT: There's no question in front of

24 you yet.

25 THE WITNESS: Okay. That's all right.

1 THE COURT: Okay.

2 Q. Do you believe that I would, with intent, murder

3 someone?

4 MR. MORFORD: Objection.

5 THE COURT: This is really the kind of

6 question you shouldn't try to answer here in the courtroom,

7 and it's certainly not relevant in this case.

8 Q. Are you concerned about me? Are you concerned about

9 me, Brother Bob?

10 A. I'm very concerned about you, Congressman. There's

11 not many of us left who really, really truly feel for

12 people. It's almost a lost trait. And I'm 66 years young.

13 THE COURT: That's a very good age, sir.

14 (Laughter.)

15 THE WITNESS: It is. It really is.

16 MR. TRAFICANT: Is that a stipulation by the

17 Court?

18 THE COURT: I'll stipulate to that. Yes.

19 THE WITNESS: Very good.

20 MR. TRAFICANT: I must stipulate that we

21 measured you to be about 39, Your Honor.

22 THE COURT: Anyway, this has been a nice,

23 long testimony.

24 THE WITNESS: Yes.

25 BY MR. TRAFICANT:

1 Q. Anything specifically about my character in addition
2 to what you've said, Brother Bob, that could help me defeat
3 these bureaucrats?
4 A. Well, I just want to see you get justice. I want
5 to -- I don't want to see you defeating anybody. If the
6 jury, in their wisdom, and the Judge find you not guilty,
7 it won't be a defeat for Mr. Morford and his group or the
8 Court, or the state, or the government. It will be a
9 victory for the people, because I truly believe you
10 represent people.
11 And you don't see a lot of that, folks
12 standing up and really, really representing the
13 down-trodden and the dispossessed, the minorities, and the
14 poor. But you've demonstrated, in the 18 to 20 years I've
15 known you, you've demonstrated that type of appeal, not
16 only through your words but through your actions.
17 You've taken some unpopular positions, and
18 all of them I have not agreed with, but no one has to worry
19 about Jim Traficant, what side he's on or where he's at,
20 even in the political arena.
21 We come from a primarily, a so-called
22 Democrat community down in Mahoning Valley.
23 MR. MORFORD: Your Honor, I'm going to
24 object. We're so far away from what the rules allow.
25 MR. TRAFICANT: I object to this

1 jack-in-the-box jumping objector here.
2 THE COURT: We can't get into specific
3 things, and you've given us a lot of testimony.
4 THE WITNESS: I'm giving you a range, I
5 believe. I don't believe I said anything specific in terms
6 of what he actually did. I'm talking about what's
7 representative of the ideas that Mr. Traficant has
8 promulgated, to my knowledge.
9 THE COURT: Right. But as you know, you're
10 getting awful close in stepping over some lines about what
11 this jury has to do, and it's their responsibility and
12 they're up to it. So we're talking about the traits,
13 that's fine, but not anything else.
14 Q. Did you predict that Ernest Shavers would some day be
15 a world champion?
16 A. I didn't predict it, but Archie Moore did, who was a
17 former world champion himself, who is a business associate
18 of mine.
19 Q. Whom did you predict would be a world champion as a
20 sparring partner of Mohammed Ali or Ernie Shavers?
21 A. Probably Larry Holmes, who was the sparring partner,
22 who became a world champion, but he was a sparring partner
23 to Ali and Ernie Shavers.
24 Q. You've known people all over the world, haven't you,
25 Brother Bob?

1 A. Well, I'm probably -- I think I mentioned earlier,
2 I'm the only African American to ever sit on the
3 International Boxing Hall of Fame Board of Directors up in
4 New York.
5 THE COURT: Okay, Congressman. We can't go
6 back over the same ground.
7 MR. TRAFICANT: I was trying to. I was
8 trying to get everything good I could.
9 THE COURT: I know.
10 A. But if you want to say about the world, the Kofi
11 Anon, he's head of the United Nations of the land, I met
12 him about 11 years ago when he was the fourth man on the
13 ladder in New York. One of his countrymen or a cousin of
14 his was a former business associate of mine. He is a
15 publisher in a newspaper in Syracuse, New York, and I had a
16 chance to visit the United Nations, and that was some
17 experience. If you haven't done that, that's an
18 experience.
19 THE COURT: Okay. Well, we can't spend any
20 more time talking about that right now.
21 Q. You can only restrict yourself to my character.
22 A. To my knowledge, to my knowledge, you're an honest,
23 upstanding American. And I can't think of any person that
24 I know personally that has demonstrated the characteristics
25 and traits that Jim Traficant has as being a truly, truly

1 an American hero. And I've known people from various
2 stratas of life, from business to industry to labor to
3 religion, but you are truly an American hero.
4 And I don't look up to anybody. I don't even
5 like people to call me reverend, because my dad told me
6 don't revere no man. When you revere a man, you bow to
7 them.
8 I prefer minister because I try to minister to the
9 needs of people. But you are a minister in your own right
10 in government, and you have truly ministered to people to
11 the extent I'm aware of.
12 Q. Have I paid you to come here?
13 A. You couldn't pay me to say what I'm saying. No one
14 else could either.
15 Q. But you accepted that money from Lyle Williams?
16 A. Yes, I did, because that was my business. But I'm
17 not here doing business. This is a public service for us,
18 for the Court, for this land. I knows this case is going
19 to be looked upon from around the country. People will be
20 looking at you.
21 MR. MORFORD: Objection.
22 THE COURT: Whoa, whoa, whoa. This is just
23 this case.
24 A. And I'm concerned that a message is going to go out
25 around this country.

1 THE COURT: I need you not to be talking
2 about that right now, because it's not anything really that
3 anybody could have an idea about.
4 THE WITNESS: I appreciate that, Judge.
5 THE COURT: We're still working on this case.
6 THE WITNESS: I understand.
7 THE COURT: Thank you.
8 THE WITNESS: And I appreciate that. I
9 really do.
10 THE COURT: Thank you.
11 Q. Brother Bob, you know I've been charged with very
12 serious crimes.
13 A. So I've read.
14 Q. And you still believe in me?
15 A. I still believe in you. And I believe with you,
16 until I've been shown something.
17 MR. MORFORD: Your Honor, I object to
18 anything further on this.
19 THE COURT: Okay. Congressman?
20 MR. TRAFICANT: Brother Bob, thank you for
21 offering yourself to me, which I did not expect, and I
22 thank you for coming down here and taking your time out of
23 your life.
24 THE WITNESS: I thank the Court for allowing
25 me.

1 MR. TRAFICANT: I now conclude my
2 examination.
3 THE COURT: Thank you.
4 MR. MORFORD: No questions, Your Honor.
5 THE COURT: You can step down, sir. Be
6 careful going down the steps because they're strangely
7 built.
8 THE WITNESS: Thank you.
9 THE COURT: Okay.
10 MR. TRAFICANT: Take care, Brother Bob.
11 THE WITNESS: Thank you.
12 (Witness excused.)
13 MR. TRAFICANT: Your Honor, I have called for
14 another witness, and it's possible that witness could be
15 there. I'd like to check.
16 THE COURT: Okay. I think we also could take
17 an afternoon break right about now. So you can check on
18 that. We'll take a 30-minute break and we'll be back.
19 THE CLERK: All rise for the jury.
20 (Jury out at 3:06 p.m.)
21 (Recess had.)
22 (Jury in at 3:59 p.m.)
23 MR. TRAFICANT: Your Honor, I call Edward
24 Nishnic to the stand.
25 THE COURT: Thank you.

1 MR. TRAFICANT: Right through here, Ed.
2 THE WITNESS: Good afternoon, Your Honor.
3 THE COURT: Good afternoon.
4 (The Witness is Sworn)
5 THE COURT: Have a seat. Speak up, because
6 it's a big room with a high ceiling, so everyone can hear
7 you.
8 THE WITNESS: Thank you.
9 DIRECT EXAMINATION OF EDWARD W. NISHNIC
10 BY MR. TRAFICANT:
11 Q. Good afternoon, Ed.
12 A. Good afternoon, Congressman.
13 Q. Will you give your full name and spell your last name
14 for the jury?
15 A. My full name is Edward, middle initial W, last name
16 N I S H N I C.
17 Q. And where do you reside?
18 THE WITNESS: May I have some water?
19 THE COURT: Yes. Just go ahead and pour it.
20 Q. Take your time?
21 A. I live in North Royalton, Ohio.
22 Q. And what is your employment?
23 A. I am a technical recruiter in engineering.
24 Q. And what is your educational background?
25 A. I graduated from James Ford Rhodes High School, and

1 I've attended courses at Cuyahoga Community College, and
2 that's pretty much the extent of it. Kind of like a Rhodes
3 scholar, Rhodes High School.
4 Q. And how long have you lived in the Cleveland area?
5 A. 45 years.
6 Q. And how old are you?
7 A. 46.
8 Q. Where were you born?
9 A. I was born in Cleveland, Ohio, at Lutheran Hospital.
10 Q. Well, if you're 46 years old and you've only lived
11 here 45 years and you were born in Cleveland, what
12 happened? Did you miss a year somewhere?
13 A. I lived in Massachusetts for about one year.
14 Q. What is the purpose of your being here today?
15 A. To basically testify as a character witness of my
16 experience with you and to your character as I know it to
17 be from a personal point of view.
18 Q. Did I call you or did you call me?
19 A. I came to visit you today because I was downtown,
20 just to tell you good luck, and said if there's anything
21 that I could possibly do, that I would be happy to do so.
22 Q. Is that how you're here?
23 A. Yes. I was called, and the lady who called me said
24 that they'd like me to come in, and they have a subpoena,
25 and I said I would be down here within a half of an hour.

1 Q. How did you come to meet me?
2 A. Well, I believe I first met you back in 1992 or '93.
3 My father-in-law was extradited to the state of Israel by
4 the United States, and he was sentenced to death by hanging
5 for being Ivan the Terrible.
6 And at the time that he was under a death
7 sentence, we tried to get help from anyone that we could
8 that would look into this case and try to help us get to
9 the truth and establish the truth.
10 I went to Washington, D.C. and lobbied extensively,
11 going door to door to door, to ^ all -- the Rayburn
12 Building, Cannon Building, just about every single senator
13 and congressman that I could go to, and really couldn't get
14 anyone to speak with me about the case, including your own
15 office at my first visit.
16 I came back at the end of the day and asked one of
17 your staff people if you would just please allow me five
18 minutes of your time, and I'd like to show you some
19 information that I had, and to see if you could help us at
20 least get to the truth of this case, as I believed fully
21 that my father-in-law was not Ivan the Terrible.
22 And I had information with me that we got from the
23 garbage dumpsters of the Justice Department, and it kind of
24 led the way to me -- you helping me out, when you started
25 looking at those documents.

1 Q. What, if anything, were you told?
2 A. Well --
3 MR. MORFORD: Your Honor, I'm going to object
4 to anything further other than how they met, the
5 relationship got started, and then specific questions, what
6 do you believe my character trait is as to truthfulness or
7 something that would be relevant to the issues in this
8 case.
9 THE COURT: Right. This is a kind of inquiry
10 which is permitted not as to any kind of specific instances
11 of conduct, but rather to reputation and opinion. And
12 you've talked about sort of the basis for how you have
13 that, and now it would be appropriate for you to talk about
14 reputation and opinion character evidence from there, but
15 not get into specific instances of conduct.
16 The rules don't permit it, and it would be
17 improper. The jury would then consider things they
18 shouldn't consider.
19 MR. MORFORD: Your Honor, I would also ask
20 that Congressman Traficant ask about specific character
21 traits, so if they're not relevant, we can object as
22 opposed to just an open-ended question.
23 THE COURT: All right.
24 Q. Did we meet?
25 A. Yes, we did meet.

1 Q. Why did you come to me last?
2 A. Because no other senator or congressman on Capitol
3 Hill would speak with me.
4 Q. And why was that?
5 MR. MORFORD: Objection.
6 THE COURT: Sustained.
7 Q. Did you present a controversy?
8 MR. MORFORD: Objection.
9 THE COURT: Sustained.
10 Q. What character traits did you recognize in me after
11 we had met?
12 MR. MORFORD: Your Honor, I object as opposed
13 to him asking for his opinion or his knowledge of
14 reputation as to specific relevant character traits.
15 Q. Have you established an opinion relative and in
16 understanding of my character traits?
17 THE COURT: You can answer.
18 A. I believe I have, sir.
19 Q. And what are those character traits?
20 A. Well, I believe that you were most interested in
21 upholding the rights of the Constitution. It seemed to me
22 throughout a long period of time that you felt that if the
23 rights of one American were violated, the rights of all
24 Americans were violated.
25 You seemed courageous, that you were willing to take

1 on the issue at hand. You seemed most helpful to us, and I
2 think somebody who is genuinely concerned about all
3 Americans and the Constitution.
4 Q. What was so significant about the Constitution that
5 impressed you?
6 MR. MORFORD: Your Honor, I object because it
7 doesn't relate, it's not relevant to this case. It's not
8 even a trait.
9 THE COURT: At the core of this case is the
10 superseding indictment with ten counts in it in this case,
11 so you can elicit from him evidence of character traits you
12 believe are somehow relevant to the evidence that's been
13 developed in this case and to those issues, but not just
14 going back to specific things that happened in this case.
15 He's had an opportunity to lay the foundation
16 for why he knows things, and that's sufficient on that.
17 Q. Did I seek favors?
18 A. No, sir. To the contrary. I found you to be a
19 selfless person, most generous in your time, and I can
20 remember that you even offered that if I had no place to
21 stay, that I could stay on your boat, even though the
22 toilet didn't work. You said that you could use the toilet
23 in the restaurant above where your boat was. You offered
24 that to me just out of the kindness of your heart.
25 Q. Did you stay on the boat?

A. Well, I actually wanted to have a place with a bathroom, so I didn't take advantage of that invitation, sir.

Q. Are bathrooms important to you, Ed?

A. Yes, sir, Congressman, it is.

Q. As our relationship improved, what other character traits became important to you as they related to me?

MR. MORFORD: Again, Your Honor, I would object and ask him to ask his opinion or reputation on specific traits relevant to this case.

THE COURT: Okay.

Q. What character traits do you recognize in Mr. Morford?

A. I'm sorry, I don't know who you're speaking of, Congressman.

THE COURT: Congressman, just put the question out about the specific character trait that you believe is relevant to this case.

Q. Do you believe the U.S. Prosecutors would have used the boat without a bathroom?

THE COURT: Congressman, go on to the next question.

Q. Did you establish any other character traits or recognize any other character traits over the years?

MR. MORFORD: Again, Your Honor, objection,

1 unless he's asking about ones relevant to this case. I
2 would ask he just specify the relevant ones to this case.
3 THE COURT: It would go a lot more smoothly
4 if you'd just select them, specify them, and ask this
5 witness.
6 Q. Did I ask you for money to help in your case?
7 A. Absolutely not, sir.
8 Q. Did I offer money to help in your case?
9 A. Absolutely not, sir.
10 Q. Did I put conditions on help?
11 A. Well, I believe when we first spoke, you told me that
12 you were going to look into the case, and that I should
13 make no mistake, that if you felt that Mr. Demjanjuk was
14 guilty, that you would be the first person to pull the
15 switch on him. And under those conditions, you said that
16 you would look into the case. You also had mentioned on
17 conditions --
18 MR. MORFORD: Your Honor, I'm going to object
19 to this on two grounds. Number one, it's hearsay. Number
20 two, it's not relevant to the charges in this case.
21 THE COURT: Let's just let the Congressman
22 ask the question, and you answer the question. You have a
23 right to object, but this is getting pretty tedious.
24 Congressman, ask the question about a particular
25 character trait, you were doing it there for a little bit,

1 and ask him to answer the question.
2 Q. Is your knowledge of my character traits related to
3 the experience we had regarding your family?
4 THE COURT: You can answer.
5 A. I'm sorry, I didn't quite understand the question.
6 Q. Is your -- was your development of your opinions of
7 my character traits related to the matters involving your
8 family?
9 A. Well, my own personal relationship with you which
10 related to matters relating to my family, yes.
11 Q. And that's what caused you to develop and establish
12 what you considered to be my character traits; is that
13 correct?
14 A. Yes, sir.
15 Q. Well, what did you recognize?
16 A. I recognized that you were a person that was willing
17 to listen when no others would. I recognized that you
18 were -- I don't want to say the word gruff, but from a
19 personal point of view, when we first met it was almost
20 like you were a prosecutor. You know, you grilled me
21 pretty well about the subject I was involved in.
22 I also recognized that to you, individual rights were
23 the most important thing in spite of how unpopular a cause
24 or a case might be.
25 Q. Don't stop. Anything else you recognize?

1 MR. MORFORD: Again, Your Honor, I'm just
2 going to ask him to ask relevant character traits. That's
3 what the rules require.
4 Q. Are there any other relevant character traits that
5 you recognize?
6 A. I just -- I believe if I hadn't already said it, I
7 found you to be a courageous person, a person that is very
8 compassionate, a person that cares about the little guy,
9 and a person that would go out on a limb in spite of the
10 sensitivity of certain issues.
11 I found you to be a tireless individual, a person who
12 once believes --when they believe in the justice of their
13 cause will pursue it relentlessly and without hesitation.
14 I don't know if I can go any further on that.
15 THE COURT: That's fine.
16 Q. No, go ahead.
17 (Laughter.)
18 Q. Don't slow down. You're doing great. Anything else?
19 THE COURT: It's a long list. You're the one
20 who decides when you've covered it.
21 A. I found you to be very -- a straight shooter. And I
22 don't mean in the terms of a gun, but I mean in the terms
23 of you tell it like it is. You ask it like it is. There's
24 a lot of no nonsense. Humorous, not quick to judge, more
25 interested in investigating before you make a decision, but

1 willing enough to listen, compassionate.

2 And I think the strongest point that I've

3 learned from you was how important the Constitution and the

4 rights of individuals to be protected by the Constitution

5 are.

6 Q. Are you and I great friends, Ed?

7 A. Well, we -- throughout the period of time that we

8 were involved in the case, which was probably back in 1993,

9 I felt a very good rapport or relationship with you. I

10 trusted you, which is what -- I didn't really trust any of

11 my other elected officials. Even though you weren't my own

12 congressman, I trusted you.

13 Since the day that you escorted my father-in-law home

14 from Israel -- the last thing I saw as you were taking off

15 on an airplane with him from JFK Airport, and since then

16 until today, I've had no conversations with you whatsoever,

17 not that I wouldn't have wanted to have conversations with

18 you. It's just that we've been so occupied in our own

19 matter that I've just been unable to keep up with you.

20 But I consider you to be a very, very good person,

21 and in my heart, a good friend.

22 Q. Do you find me easily to be intimidated?

23 A. No, sir. That's one of the things that stands out.

24 I may have stated it already three times, that I found you

25 to be fearless in spite of whatever odds. I've never seen

1 you back down from anything, and I've seen you become
2 pretty aggressive when it came to things that you were
3 doing in this case, my case, that I'm not allowed to speak
4 about right now.
5 Am I not allowed to speak about that, Your Honor?
6 THE COURT: That's right.
7 THE WITNESS: Thank you.
8 Q. Did you find me to be effective?
9 A. Absolutely. 100 percent. I think it was your
10 tenacity and your persistence that truly brought success,
11 in my opinion, the most important pieces that we were
12 looking for at that time, of evidence. And in the same
13 respect, never asked for a thank you. We just -- that was
14 it. Off they rode into the sunset, and as many times as I
15 would have liked to, I'm sure you knew we were very
16 thankful.
17 Q. Did the Israeli Supreme Court teach us a lesson in
18 good justice?
19 MR. MORFORD: Objection.
20 THE COURT: Sustained.
21 Q. Have you learned through our experience and as a
22 result have developed the character association with me in
23 that regard?
24 A. I'm sorry, Congressman. I didn't understand the
25 question.

1 Q. As a side shot of our relationship, have you
2 personally learned certain things as a result of my
3 characteristics?
4 A. I believe I have --
5 MR. MORFORD: Objection, Your Honor.
6 THE COURT: We need to be talking about his
7 character, although these are conversations that you can
8 have with him, but it's the issue of his character that we
9 need to deal with here.
10 Q. Did my character have an impact on your life?
11 MR. MORFORD: Objection, unless it's his
12 opinion of his character, which he's already testified to.
13 THE COURT: Yep. If there's something in
14 addition you haven't said about your opinion of his
15 character, then this will be a question you could answer
16 that with.
17 A. Absolutely. His character has had an impact on my
18 life personally. Yes. And a great one, at that. He gave
19 me -- his character directly gave me the belief that our
20 system of justice here in the United States, in my opinion,
21 is the greatest system of justice on earth, and that
22 regardless of what the odds are, that the courts are
23 capable of catching wrongs and righting them, regardless.
24 And we have the full faith in the justice system.
25 Until I met Congressman Traficant, we thought

1 it was just -- we just didn't really understand why
2 everything could be going, you know, so horribly all the
3 time, but the information used was viewed by our courts,
4 and they righted the wrong that took place, and he always
5 also gave us faith in the Israeli system of justice and the
6 Israeli Supreme Court. He said they're one of the fairest
7 courts in the world.
8 My opinion is clearly that, you know, we live in a
9 society, you know, we are protected by the Constitution.
10 It might take a long, hard fight to get those rights out,
11 but our system of justice is the greatest on earth, and
12 very capable of righting wrongs that may have taken place.
13 Q. Did my character affect your appreciation of our Bill
14 of Rights?
15 MR. MORFORD: Objection. Again, he's not
16 testifying any more about his opinion as to character.
17 THE COURT: Right.
18 Q. Were there any other character traits that I have
19 that affected you in a particular way?
20 A. Well, I thought you were kind of funny and humorous,
21 and when you were -- when we were in the depths of despair,
22 you managed to get a laugh out of us here and there. But I
23 mean, primarily, Congressman, we felt that you were one out
24 of 500 senators and congressmen that would have at least
25 have had the Court and Jury to look into something that no

one else wanted to look into.

Q. Are you a citizen of the United States?

A. Yes, sir, I am.

Q. What's your brother-in-law's name?

A. My brother-in-law's name is John Demjanjuk, Jr.

Q. Was you ever convicted of any crime?

A. No, sir.

Q. Was your brother-in-law ever convicted of any crime?

A. Not that I know of, sir.

Q. Do you believe the Constitution and the Bill of Rights should stand by everybody's side?

MR. MORFORD: Objection.

THE COURT: I guess he does. You've made that pretty clear.

Q. What was the most important elements of my character that you felt impacted your life?

MR. MORFORD: Objection, Your Honor. He's already testified as to his opinion, and that doesn't go to anything that we haven't already heard.

THE COURT: Congressman, maybe there's another relevant question here that you could ask him, but he can't testify just over and over again.

Q. Do you believe I could be bought?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Do you believe I can be intimidated?

MR. MORFORD: Objection.

THE COURT: He's already testified.

Q. Do you think I'd be afraid of a bunch of bureaucrats?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Have you ever worked at my farm?

A. I only learned you had a farm from the Cleveland Plain Dealer. I did not know you had a farm.

Q. Do you have personal knowledge that it's my farm?

A. I think what I read in the Cleveland Plain Dealer said you owned a farm.

MR. MORFORD: Objection.

THE COURT: If you didn't even know he had a farm, then -- he's asking you --

Q. So you didn't work at my farm?

A. No, sir.

Q. Did I ever hug you?

A. I believe you have. I mean, in a strong handshake with the arm around you, that kind of thing, yes. Yes. Not like the other kind of hug.

(Laughter.)

Q. Am I a touchy-feely type of guy?

A. I guess it depends on the moment.

(Laughter.)

1 Q. You wouldn't be talking about the boat and the
2 bathroom, would you?
3 A. No, sir, not at all. I mean, I find you to be a very
4 serious person 90 percent of the time, and then I find you
5 to be a very gregarious person the other times, that you
6 have feelings. You're not a robot. You are a person with
7 a heart, with a soul, with a mind, and most importantly,
8 look out for the interests of others as opposed to your own
9 political interests.
10 Q. Keep going.
11 THE COURT: That's not an order.
12 Q. Did your father come home, father-in-law come home?
13 A. Yes, sir, he did.
14 Q. Did I bring him home?
15 A. Yes, sir.
16 Q. Did he sit next to me all the way?
17 A. I believe so, sir, he did. I believe we all came in
18 with bulletproof vests on, and our lives were threatened
19 continually while we were there.
20 Q. Did the Israelis help us?
21 MR. MORFORD: Objection. Again, Your Honor,
22 this isn't the Demjanjuk case.
23 THE COURT: You can answer.
24 A. The question was?
25 Q. Did the Israelis help us?

1 A. Yes. The Israeli government, I think, you know,
2 provided as much security as they would, but I mean, it
3 depends on which Israelis you're speaking of though. If
4 you're talking about the Israeli Supreme Court, absolutely.
5 If you're talking about the Israeli prosecution, not so
6 much. If you're talking about the Israeli airport
7 security, they were helpful.
8 I mean, you were the first person to
9 be -- you led the pack. And I think that you spoke to
10 them, and you spoke to the pilots on the El-Al jet that we
11 took home, and, you know, I think they took every
12 precaution that they could.
13 THE COURT: That's fine. Some of that speaks
14 to his character, some of that is way outside the rule, but
15 let's move on to another question, if you have any further
16 questions.
17 Q. Am I of the character that if you had a serious
18 problem, you'd call me?
19 A. Congressman, I'm sorry, I didn't hear the question.
20 Q. Am I of the character if you had a serious problem,
21 you would call me?
22 A. 100 percent I would.
23 MR. TRAFICANT: No further questions.
24 THE COURT: Thank you.
25 MR. MORFORD: No questions, Your Honor.

1 THE COURT: Thank you. Thank you, sir.
2 THE WITNESS: Thank you, Your Honor.
3 THE COURT: You're welcome. The steps are
4 curved. Be careful when you walk down.
5 THE WITNESS: Thank you very much.
6 (Witness excused.)
7 THE COURT: Ladies and Gentlemen, it's 4:30.
8 We're going to release you for the day. We're going to
9 begin again tomorrow morning at 9:00. Remember all your
10 admonitions. Don't let anyone approach you, talk to you,
11 read anything, watch anything, or listen to anything
12 regarding this case, and don't investigate yourselves.
13 Thank you very much.
14 THE CLERK: All rise for the jury.
15 (Jury out at 4:32 a.m.)
16 THE COURT: You can be seated.
17 So that the jury can exit, what we'll do is take
18 about a ten-minute recess. Then I want the lawyers and the
19 Congressman back in just so we can take care of anything we
20 need to take care of today.
21 And the rest of you can leave or stay as you wish,
22 but we're going to take a ten-minute recess now so the jury
23 can leave.
24 (Recess had.)
25 THE COURT: We have some new master lists of

1 exhibits for you that we can hand down. I want to know if
2 there are any exhibits anyone is going to enter today.
3 MR. TRAFICANT: I have some.
4 THE COURT: Okay. Let's handle that.
5 MR. TRAFICANT: Number one, I want to offer
6 the resignation letter of R. Allen Sinclair listed as S-24.
7 That was submitted to me in writing and was shared with
8 the --
9 MR. MORFORD: It's already in evidence.
10 MR. TRAFICANT: If it's in evidence --
11 THE COURT: It's already been admitted,
12 Congressman.
13 MR. TRAFICANT: It is admitted?
14 THE COURT: Yes.
15 MR. TRAFICANT: Okay. Number two, the
16 October 31, 1990 contract that was witnessed by Richard
17 Rovnak and attested to his signature on the stand.
18 MR. SMITH: Your Honor, we objected to that
19 before and still do.
20 The only thing that's ever been authenticated on that
21 document is Mr. Rovnak's signature as a witness. He said
22 that was his signature and nothing more.
23 Just a second, Your Honor.
24 MR. TRAFICANT: He identified it. He said,
25 "Is this the guy that didn't do the work? He said, "Is

1 this the guy that didn't do the work?"
2 THE COURT: He was in the middle of speaking
3 and asked for a moment. Thank you.
4 MR. TRAFICANT: I'm sorry. Go ahead.
5 MR. SMITH: We believe the Court has earlier
6 ruled this one out on the ground, it's never been properly
7 authenticated.
8 MR. TRAFICANT: The number is ROV-20.
9 THE COURT: Hold on, we'll check.
10 MR. TRAFICANT: The point -- I'm saying he
11 said it wasn't identified. It was identified and further
12 stated this is the guy who didn't do the work, supposedly.
13 THE COURT: Just wait. If I've already ruled
14 on that, I'll tell you what the ruling was. Just hold on.
15 MR. TRAFICANT: While you're looking, Your
16 Honor, was S-24 admitted under a different number?
17 THE COURT: We'll check that, too, but
18 actually I'm not doing the looking, my clerk is looking,
19 and so he'll have to look for that one, too.
20 MR. TRAFICANT: Thank you.
21 THE CLERK: S-24 was admitted as S-24.
22 THE COURT: S-24 was admitted as S-24.
23 MR. TRAFICANT: Thank you, Your Honor.
24 THE COURT: You're welcome.
25 MR. TRAFICANT: ROV-20.

1 THE COURT: It hasn't been admitted, so now
2 we'll pull up the transcript of the 21st and see what the
3 colloquy was, and then we'll know.
4 Do you have any others?
5 MR. TRAFICANT: Yes. I would like to at this
6 point bring in TC-1 through TC-, I believe the last one was
7 13. TC-1 through 13 inclusive, and those were documents of
8 the payments for the concrete at T. C. Redi-Mix.
9 MR. SMITH: We have no objection to the
10 admission of any of those. However, the Congressman needs
11 to give us copies of TC-10 through 13.
12 THE COURT: Okay.
13 MR. TRAFICANT: I will be glad to do that.
14 THE COURT: Will you bring them in in the
15 morning?
16 MR. TRAFICANT: Can I trust you with them to
17 take them and copy them or do you want me to bring you the
18 copies?
19 MR. MORFORD: Bring us the copies.
20 MR. TRAFICANT: They have been tough for me
21 to copy or I would have had copies for them, Your Honor. I
22 don't know if I can. They have the technology to maybe be
23 able to copy them.
24 MR. MORFORD: Kinko's.
25 THE COURT: If you just get TC-10 to 13,

1 copies to them tomorrow morning, that will be fine.
2 MR. TRAFICANT: I'll do my best.
3 I also ask that JT-1007 --
4 THE COURT: But wait a minute, because I just
5 want to admit these.
6 TC-1 through 13 will be admitted.
7 MR. TRAFICANT: TC-1 through 13 is admitted?
8 THE COURT: Right. Without objection.
9 MR. TRAFICANT: Next is JT-1007, parentheses
10 double capital A.
11 MR. SMITH: We will have to look at it.
12 MR. TRAFICANT: It was given to me on
13 discovery by the government. I want to proffer it into the
14 record, as well.
15 MR. SMITH: Your Honor, that's that page out
16 of the FBI lab report which we objected to before. You
17 already have the basis for our objection. We renew the
18 objection.
19 MR. TRAFICANT: This speaks to evidence, and
20 I reject their argument based on --
21 THE COURT: Wait a minute. Wait, wait, wait.
22 Hold on a minute. We're still looking up another exhibit.
23 He's still looking it up, and we need to do it one at a
24 time.
25 MR. SMITH: I believe you will find it on

page 1062 to 1065 in volume 6.

MR. TRAFICANT: Do you have a copy of that that I could see to assure that's the words that I remember?

MR. SMITH: She's got it.

THE COURT: This is the really boring part of any trial, so all of you just sit back and relax or stand up and stretch. Whatever you want to do. But it's all important in the long run.

MR. TRAFICANT: While the Court reads, my memory states his humorous response was, "Is this the one that the guy never worked or performed?" If that's in the record, it shows his identification of the document.

THE COURT: What I'm trying to look at right now is ROV-20, so if you would just let me look instead of trying to listen to you and look at the same time, it would be really helpful.

You could sit down.

MR. TRAFICANT: That might help you though. I'm trying to help the Court.

THE COURT: I found the part that's in here. I just have to be --

MR. TRAFICANT: I believe it is --

THE COURT: I have to see what we did for it.

MR. TRAFICANT: I just said he made a

1 comment, "Is this the fella that was supposed to do all
2 that work that didn't do it?" And in an attempt to help
3 the prosecution, it should be admissible since he
4 identified it as such. And those words should be in there,
5 unless my failing memory characterized by loss of --
6 THE COURT: If you want to keep talking to
7 me, I'll keep listening to you. If you'd like me to try
8 and look at this and resolve it, I'll do that, but I don't
9 do both at once.
10 MR. TRAFICANT: I won't talk anymore.
11 THE COURT: Thank you, just for a few moments
12 so I can get through this.
13 MR. TRAFICANT: I promise.
14 (Pause.)
15 THE COURT: Well, I don't see anything
16 surrounding the areas of inquiry here where this was even
17 offered, so tell me the pages again if you've got some page
18 for that.
19 MR. TRAFICANT: I want to see the transcript
20 if they have one.
21 THE COURT: Well, I have the transcript and
22 I'll be glad to show it to everyone as soon as I can find
23 out what we're talking about.
24 Tell me again.
25 MR. SMITH: Your Honor on pages, our

1 understanding is on pages 1062 to 1065, the only thing that
2 happened was that Rovnak recognized his signature on the
3 document. He did not authenticate the document as a
4 business record of either himself or any entity under Rule
5 803(6) of the Federal Rules of Evidence. There has not
6 been a proper foundation laid for the document as such, and
7 therefore, it does not come in for the truth of the matter
8 asserted.
9 That's our objection.
10 MR. TRAFICANT: Now, my objection is did
11 Mr. Rovnak state as a favor for the prosecution, "Oh, you
12 mean this is the deal with the guy who never showed to
13 work?"
14 THE COURT: Well, I don't know whether he
15 stated that or not. I just thought what I was looking for
16 here was a prior objection and my ruling on it, but
17 apparently that's something else, and they are correct
18 that --
19 MR. TRAFICANT: He did identify the document,
20 and he further identified it by saying, "Oh, you mean this
21 is the guy who failed to work," in attempt to help the
22 prosecutors.
23 THE COURT: I'll hand you --
24 MR. TRAFICANT: Which now should make it
25 admissible, if he said that, and that, in fact, connotes

1 identification, and can't be refuted, if it's in there. If
2 it's not, I want to read the transcript.
3 THE COURT: Well, you don't have to read the
4 transcript, but I have to read the transcript.
5 There is nothing in this part of the Rovnak cross
6 that shows any identification of this document. I will
7 review it tonight and let you know tomorrow morning, but
8 I'm not going to sit here and read the entire Rovnak
9 examination now.
10 MR. TRAFICANT: Okay. Then I want to proffer
11 for the record that Mr. Rovnak made an identification by
12 making a statement, "Is this the fella that didn't show for
13 work?"
14 THE COURT: Okay.
15 MR. TRAFICANT: The next one is --
16 THE COURT: You need to leave me a copy of
17 the document that you're concerned about so that I can
18 examine it tonight.
19 MR. TRAFICANT: I will present this to
20 Jeffrey.
21 THE COURT: Thank you.
22 MR. TRAFICANT: Is it Jeffrey?
23 The next is JT-1007-AA. It was given to me on
24 discovery by the government, and it is a government pursuit
25 which lists all the items they had, in fact, asked for

1 identification, which include -- and I want to read it for
2 the record --
3 THE COURT: Excuse me. Just a minute. This
4 is an FBI document that was first presented somehow during
5 the testimony of the agent earlier on in the government's
6 case? Is that right?
7 MR. TRAFICANT: Yes, it was.
8 MR. MORFORD: It's never been presented.
9 MR. TRAFICANT: No, it wasn't presented --
10 THE COURT: So this is something which you
11 were given as part of discovery in the case?
12 MR. TRAFICANT: I questioned him about
13 fingerprints. Now, he responded there were no
14 fingerprints.
15 THE COURT: Where does this come from? I
16 need to know.
17 MR. MORFORD: Discovery.
18 MR. TRAFICANT: It came through the
19 government through discovery.
20 MR. SMITH: Right.
21 MR. MORFORD: Discovery.
22 THE COURT: Okay.
23 MR. TRAFICANT: Yes. In that regard I want
24 to read it into the record, the results of examination of
25 October 10, 2000. "FBI Laboratory report, results of

1 examination. Specimens Q-1 through Q-415 and Q-436 through
2 Q-503, envelopes, envelope fragments, plastic bags, U.S.
3 currency, money bands, business cards, driver's license,
4 letters, invoices, and other miscellaneous documents, were
5 examined, and 108 latent fingerprints and 16 latent palm
6 prints of value were developed on two attached sheets of
7 paper in accompanying note Q-1, Q-1.1 and Q-2; plastic bag
8 Q-15; cash envelope, Q-298; sheet of paper, Q-371; business
9 card, Q-375.1; two sheets of paper, Q-377 and Q-387; copy
10 of letter, Q-389.2; sheet of paper, Q-398; invoice, Q-408;
11 copy of invoice, Q-410; seven forms, Q-439, Q-444, Q-445.2,
12 Q-445.3, Q-449.4, Q-450.2, and Q-450.4.
13 "Copy of license, Q-451; two-page letter, Q-54; copy
14 of letter, Q-55; sheet of paper, Q-457; facsimile cover
15 sheet and letter, Q-458.1 and Q-458.2; three sheets of
16 paper, Q-459.3, Q-460, and Q-462; two letters, Q-465 and
17 Q-467; five invoices, Q-468.2, Q-468.4, Q-468.5, Q-469,
18 Q-470.3; two letters, Q-472.1 and Q-472.2; five documents,
19 Q-493, Q-494, Q-496, Q-497.2, and Q-498; and two sheets of
20 paper, Q-500 and Q-501.
21 "69 latent fingerprints are not fingerprints of James
22 A. Traficant, Jr., FBI number 133497-AA-1. Henry DiBlasio
23 or Charles" --
24 THE COURT: Henry A. DiBlasio.
25 MR. TRAFICANT: "Henry A. DiBlasio or Charles

1 O'Nesti. The remaining 39 latent fingerprints were
2 compared insofar as possible with the available
3 fingerprints of these individuals, but no identifications
4 were effected. No palm prints are available here for these
5 individuals. Major case prints are needed for conclusive
6 comparisons."
7 Your Honor, this deals with literally close to a
8 thousand documents that the government sought to pursue for
9 the purpose of attaining physical credible evidence to deny
10 the admissibility of this, and yet to deny me the
11 opportunity to have the summation of it with this jury, I
12 believe tainted my case. But to keep this out would
13 further, further injure the defense since the government
14 clearly attempted to take every possible step to establish
15 some sort of physical credible evidence to support their
16 nonevidentiary case.
17 MR. SMITH: Your Honor, our response will
18 remain the same as it was before. Number one, the document
19 is hearsay. Number two, the only relevant evidence in the
20 case is that which has been admitted. And as to that
21 evidence which has been admitted in this case, there has
22 already been testimony elicited from, I believe, both the
23 government and the Congressman, that Congressman
24 Traficant's fingerprints are on none of it.
25 Therefore, this report under the relevance

1 rule does not make any fact which is pertinent or relevant
2 to the inquiry more or less likely than it would be without
3 the document.
4 So on both grounds, and on redundancy as well,
5 because we've already had the evidence that there were no
6 fingerprints of Congressman Traficant in this case, the
7 document should be excluded.
8 The Court -- we would ask the Court if it needs to
9 review Mr. Bushner's direct and cross-examination where the
10 lack of fingerprint evidence was fully developed, as to the
11 evidence that was admitted in this case as opposed to
12 extraneous other documents that may have been examined but
13 never admitted.
14 MR. TRAFICANT: In response to the
15 government, Mr. Bushner fully on direct admitted there was
16 no evidence. Under cross, he was further extensively
17 tested.
18 THE COURT: Right.
19 MR. TRAFICANT: But now you are requiring the
20 jury, after eight or nine weeks of trial, to remember the
21 testimony that involved hundreds of people here, or close
22 to a hundred people, these two statements.
23 These corroborate the fact that the government gave
24 me through discovery what is now exculpatory material, and
25 under the hearsay exceptions, this does not apply. This is

1 not hearsay. This is a forensic scientific test conducted
2 pursuant to a request of a U.S. Attorney's Office, and if,
3 in fact, it had a fingerprint, it would be in front of this
4 jury.
5 Now, if you do not let this in, I believe that you
6 will have violated my Constitutional rights, period.
7 THE COURT: I understand. I know you have
8 very strong beliefs about all of these things.
9 This is an FBI lab, Federal Bureau of
10 Investigation report of an examination. The report was
11 originally furnished for official use only. The content of
12 it was testified to extensively in earlier testimony, but
13 as a matter of fact, I don't see what harm would come at
14 all from letting you admit this evidence as part of your
15 case if you want to admit it as part of your case.
16 It is a little redundant, it's a stretch
17 maybe on the hearsay rules, but it seems to me this is a
18 government document, and while there may have been some one
19 step you could have taken somewhere in order to get it
20 introduced a while back, nonetheless it is simply the
21 summary page that was referred to in the Bushner testimony.
22 MR. TRAFICANT: But it includes --
23 THE COURT: The summary page here can be
24 admitted.
25 MR. TRAFICANT: Thank you, Your Honor. Now I

1 have another issue with the Court.
2 THE COURT: Okay.
3 MR. TRAFICANT: In fact, I want to read into
4 the record for proffer relative to the Mineral Ridge matter
5 that was not allowed to be brought into this matter
6 concerning George Buccella.
7 THE COURT: What is it that you have there
8 that you're going to read?
9 MR. TRAFICANT: It is a document that has
10 been presented to me in confidence.
11 THE COURT: Okay. Well, first show it to the
12 other side. Then if you're going to use it in any way or
13 even read from it, you're going to have to assign it some
14 kind of number. But they get a chance to look at this and
15 consider it.
16 MR. TRAFICANT: This is where Mr. Vogel --
17 THE COURT: Don't talk for a minute while
18 they look at it. I'll see if I can resolve this other
19 issue in volume 6.
20 MR. TRAFICANT: I'm not asking it to be
21 admitted, just read and proffered into the record.
22 THE COURT: I understand.
23 MR. TRAFICANT: Your Honor, I do not mean to
24 interrupt, but I have notes relating to Mr. Rovnak's
25 testimony.

1 THE COURT: Okay. Well, we have the actually
2 testimony.
3 MR. TRAFICANT: I would like to --
4 THE COURT: I'm having my clerk read it.
5 MR. TRAFICANT: For the record, I'd like to
6 place the notes that I have on the record.
7 THE COURT: Just hold on a minute. We can't
8 do two things at once.
9 MR. TRAFICANT: The notes say --
10 THE COURT: Don't read the notes into the
11 record. We have a transcript, Congressman. It's the
12 official transcript of the case.
13 MR. TRAFICANT: It is February 21 --
14 THE COURT: Okay. Let's go back to this
15 ROV-20. It was identified, it shows up in the transcript
16 on 1064, lines 18 and 19, if someone wants to look at it.
17 MR. TRAFICANT: Lines what?
18 THE COURT: 18 and 19.
19 MR. TRAFICANT: "Is this that guy who never
20 showed up to paint your boat?"
21 THE COURT: Right. Then it says, "No. I'm
22 asking you what is the document?" And he says, "That's
23 what I'm asking."
24 "Oh, it looks like a contract to paint the boat."
25 That's a sufficient identification for this.

1 MR. TRAFICANT: Thank you, Your Honor.
2 THE COURT: You're welcome.
3 MR. TRAFICANT: It will be admitted.
4 THE COURT: Yep.
5 MR. TRAFICANT: Thank you. That concludes my
6 business for the day.
7 THE COURT: Okay. Well, we have a few more
8 things.
9 Do you have anything else on the exhibit situation?
10 MR. SMITH: The government does not.
11 THE COURT: Okay. I haven't -- we're going
12 to give you the master list that we have developed today.
13 I just want to be sure, Congressman, that you understand
14 that at some point in this case all of the exhibits that
15 you wish to enter that have been actually admitted in the
16 case need to be here and organized, the same with the
17 government, and both sides have to spend some time working
18 with one another to make sure that the exhibits that go to
19 this jury actually include only the exhibits that have been
20 admitted. And that's why we make master lists to assist
21 you in that.
22 But I'm a little concerned because so
23 frequently you don't have with you things that you need
24 here that you know and identify and either keep yourself or
25 put in the custody of somebody who can manage it for you,

1 each individual item of evidence, because it's the -- the
2 time is going to come, and you have to have them here if
3 you want them to go back to the jury.
4 MR. TRAFICANT: I have them here now.
5 THE COURT: Good. And have them organized in
6 such a way that the other side can look at them. In fact,
7 you have to do that sort of reciprocally. We'll cut some
8 time out of the proceedings before we actually give the
9 case to the jury where you'll have to work together to go
10 over all of the documents that have been in evidence, and
11 that's what the master list is supposed to help you with.
12 MR. TRAFICANT: Your Honor, I've given the
13 prosecution all of the TC documents save for four, and I
14 have an extra copy for the Court if the Court would request
15 it now.
16 THE COURT: Yes.
17 MR. TRAFICANT: On these four, I will attempt
18 to have them for tomorrow.
19 THE COURT: Good.
20 MR. TRAFICANT: And I would like to know if
21 there is a deadline set on this reciprocity of -- that's TC
22 (handing), TC-9, TC-8 -- if there's a deadline set on this
23 reciprocity of the exchange of evidence -- TC-7, TC-6,
24 TC-5, TC-4, TC-3, TC-2, and TC-1. Do you have them, Jeff?
25 THE CLERK: Yes. Thank you.

1 MR. TRAFICANT: I will try and have for you
2 tomorrow copies of these others, as well.
3 THE COURT: As to your question that you
4 posed, all along for a long time there's been reciprocal
5 discovery in this case. And you have to give them, you
6 have to give the other side things. I think you understand
7 that.
8 MR. TRAFICANT: I did that. But I'm saying,
9 is there a deadline when we get together to mutually
10 identify all that's been admitted?
11 THE COURT: The exhibits in the case? Yes.
12 We need to schedule. If you know what they are now, you
13 can do it today. If you've got them all right here, it
14 would be a great time to do it.
15 MR. TRAFICANT: I don't have all of them
16 here. I have a number of them here.
17 I would like for a time to be set up for that. I am
18 nearing closing my case. I have perhaps five witnesses,
19 and I would expect to close early next week, and I will
20 make a decision early next week. I should have us a full
21 day tomorrow.
22 THE COURT: Okay. You'll have your witnesses
23 here?
24 MR. TRAFICANT: I will have my witnesses.
25 THE COURT: Who are your witnesses,

1 Congressman?
2 MR. TRAFICANT: We have them under subpoena,
3 and I'll know tomorrow. And if I don't, then I'll make the
4 decision tomorrow as to how to proceed.
5 But I expect to have them here.
6 THE COURT: Okay. So it's the same as it's
7 been all along. You understand if you have nobody here at
8 any point to testify, then we're going to put the same
9 question to you that I put to you before, are there any
10 further witnesses in the case.
11 MR. TRAFICANT: I understand that, Your
12 Honor.
13 THE COURT: You'll need to let us know so we
14 know what to do.
15 MR. TRAFICANT: And I have in good faith done
16 that, and didn't expect to have two witnesses that were
17 here today.
18 THE COURT: Five tomorrow?
19 MR. TRAFICANT: Yes. I'm hoping to have at
20 least five tomorrow, yes.
21 THE COURT: Okay. And they'll be here at
22 9:00?
23 MR. TRAFICANT: Well, I hope they would be.
24 THE COURT: Well, have you told them they
25 have to be here at 9:00?

MR. TRAFICANT: There are subpoenas out for them.

THE COURT: Okay.

MR. MORFORD: Your Honor, the problem is you just asked him a specific question, and he didn't answer it. The problem with that is some of these may be witnesses that were called before; some of these may be witnesses that aren't admissible.

THE COURT: Are any of them witnesses that were called before?

MR. TRAFICANT: No, they're not witnesses that were called before.

THE COURT: Okay.

MR. TRAFICANT: And they deal with the case.

THE COURT: All right. We'll start at 9:00 in the morning with your witnesses.

Now, as to the next question, we'll ask you then tomorrow over the noon hour to begin the process of looking at one another's exhibits that you're going to admit so that those are all put together. So I need you tomorrow morning, Congressman, when you come here to bring with you the physical copies of whatever your evidence is that you don't have here today, or bring it all so it's all here.

MR. TRAFICANT: I shall do so.

1 THE COURT: Okay.
2 MR. MORFORD: Is tomorrow a half day or full
3 day?
4 THE COURT: Tomorrow is a half day. Okay?
5 MR. TRAFICANT: I shall do so.
6 THE COURT: All right.
7 MR. TRAFICANT: I would like to inquire of
8 the Court if --
9 THE COURT: I think I should get off the
10 bench.
11 MR. TRAFICANT: -- if any of the charts that
12 I had made on the board are eligible for admission.
13 THE COURT: No. But you have a lot of items,
14 and we don't want a problem at the end when everybody is
15 ready to go to work and you don't have the things to send
16 back with the jurors, so --
17 MR. TRAFICANT: Don't worry about that.
18 THE COURT: All right. But you understand if
19 you have no witnesses here tomorrow morning or none of your
20 witnesses are available to testify at any time before we
21 get to the noon hour, then we get into this issue that you
22 feel very concerned about, which is although we all know
23 that you have a constitutional right not to testify, if
24 you're going to testify, you will then have to do that
25 sometime within the period of time where we have the jury

here ready to hear evidence.

MR. TRAFICANT: Your Honor --

THE COURT: You understand that?

MR. TRAFICANT: Your Honor, I understand that.

THE COURT: Okay.

MR. TRAFICANT: Now here, I want to read and proffer into the record a matter dealing with Mr. George Buccella.

MR. MORFORD: Your Honor, I object to this being read into the record. He can put the document into the record. It's late. The document speaks for itself. If he wants to proffer the document, he need not read it into the record.

THE COURT: No. But you do have to give it a number. You can give it a designation, and then we will allow you to proffer it into the record.

MR. TRAFICANT: Let's call it MBS-2000. Now, you say it appears in the record. Does the jury get a chance to look at the record?

THE COURT: No. The jury considers evidence. If you're proffering it for the record, then you're making it something which might be considered by the Court of Appeals, might be considered later, but it doesn't by proffering it for the record go to the jury. It has to be

1 admitted into evidence if it's going to go to the jury.
2 MR. TRAFICANT: Well, this was the issue that
3 John Vogel would have addressed, and I think I'm going to
4 put that on here.
5 THE COURT: Have you seen it?
6 MR. MORFORD: Yes.
7 THE COURT: Okay. Is there anything you'd
8 like to put on the record?
9 MR. MORFORD: No, Your Honor.
10 THE COURT: Thank you very much.
11 MR. TRAFICANT: Mrs. R. A. Buccella.
12 Jeffrey? Give this to you? Court reporter.
13 MR. TRAFICANT: That concludes my business.
14 THE COURT: Okay. I have one other piece of
15 business.
16 If there's a period of time in the mornings before we
17 actually all come out where we allow you folks to come in
18 and get yourselves organized, and so forth, and it's a time
19 when we have any trial, there's sometimes colloquy among
20 people. It's been brought to my attention that it's really
21 gone overboard in terms of some of the conduct that's going
22 on in the courtroom that goes beyond simple bantering.
23 This courtroom is a room we ought to all respect.
24 And so I'm just asking that you carry on inside of this
25 courtroom even when I'm not sitting right here on the bench

1 in a way that respects the justice system and the fact that
2 we're in a trial together.
3 So if you can conduct yourselves well, then we can
4 continue to allow you to come into the courtroom ahead of
5 the jury in enough time to do something, but there were
6 comments made this morning that really disturbed people who
7 are accustomed to just coming into courtrooms and viewing
8 them, and I don't want that conduct to occur again in this
9 courtroom.
10 MR. TRAFICANT: Are you directing them at me?
11 THE COURT: I'm directing it to comments that
12 were made this morning after the courtroom was opened up by
13 you.
14 MR. TRAFICANT: Okay.
15 THE COURT: So I want you to just control
16 yourself in this courtroom. It's a place that deserves
17 your respect. And how you conduct yourselves outside is a
18 different matter. But I don't feel like I have to come in
19 here every day and sit here at 8:00 in the morning in order
20 to be a governess to everybody here.
21 I think it's not too much to expect that
22 people will show one another just sort of common decency.
23 This is a place where we can have a lot of issues hashed
24 out under the system of law, and I just want people to be,
25 whatever their styles are, basically respectful of one

1 another.
2 We owe it not just to ourselves but to all the people
3 whose courtroom this is. There have been cases tried in
4 this courtroom since 1910. It's a place you should
5 respect.
6 MR. TRAFICANT: Your Honor, I respect you and
7 your courtroom, but I'd like to say this: I don't
8 appreciate FBI agents sitting in the first row staring at
9 me, and I will not tolerate that. And I would advise you
10 to ask the prosecutors to keep their FBI agents, unless
11 they want to put them on the stand, from trying and
12 attempting to make contact, eye contact with me, that
13 might, in fact, affect my train of thought.
14 I'm just a son of a truck driver, and I sometimes
15 wander off into fantasies of who knows, Playboy or
16 anything, and there have been instances where there have
17 been FBI agents who have stared at me with continuous
18 stares.
19 THE COURT: Well, Congressman --
20 MR. TRAFICANT: And I won't have that.
21 THE COURT: You do a lot of inquiry about
22 being touchy-feely. Don't be so touchy about that.
23 The main thing that happens in this courtroom happens
24 between you and the other lawyers, the Judge, the jury, and
25 the people whose court system this is. And you can handle

some stares.

MR. TRAFICANT: Your Honor?

THE COURT: We're adjourned.

(Trial adjourned at 5:23 p.m.)

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C E R T I F I C A T E

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

Heidi Blueskye Geizer 4-24-02

Heidi Blueskye Geizer, RMR, CRR Date

1 DIRECT EXAMINATION OF DAVID LUDT
2 BY MR. TRAFICANT..... 5912:7
3 CROSS-EXAMINATION OF DAVID LUDT
4 BY MR. MORFORD..... 5923:2
5 REDIRECT EXAMINATION OF DAVID LUDT
6 BY MR. TRAFICANT..... 5931:23
7 RECROSS EXAMINATION OF DAVID LUDT
8 BY MR. MORFORD..... 5938:19
9 FURTHER REDIRECT EXAMINATION OF DAVID LUDT
10 BY MR. TRAFICANT..... 5939:6
11 DIRECT EXAMINATION OF JOHN VOGEL
12 BY MR. TRAFICANT..... 5940:15
13 DIRECT EXAMINATION OF BETTY MANENTE
14 BY MR. TRAFICANT..... 5949:21
15 CROSS-EXAMINATION OF BETTY MANENTE
16 BY MR. KALL..... 5983:10
17 REDIRECT EXAMINATION OF BETTY MANENTE
18 BY MR. TRAFICANT..... 5995:1
19 DIRECT EXAMINATION OF MARY ANN CARNA
20 BY MR. TRAFICANT..... 6015:20
21 CROSS-EXAMINATION OF MARY ANN CARNA
22 BY MR. MORFORD..... 6030:12
23 REDIRECT EXAMINATION OF MARY ANN CARNA
24 BY MR. TRAFICANT..... 6033:14
25

DIRECT EXAMINATION OF ROBERT EARL SAFFOLD

BY MR. TRAFICANT..... 6065:20

DIRECT EXAMINATION OF EDWARD W. NISHNIC

BY MR. TRAFICANT..... 6090:9

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

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

8 - - - - -

TRANSCRIPT OF PROCEEDINGS HAD BEFORE

9 THE HONORABLE LESLEY WELLS

10 JUDGE OF SAID COURT,

11 ON FRIDAY, APRIL 5, 2002

12 **Jury Trial**

13 **Volume 33**

14

15 - - - - -

16

APPEARANCES:

17 For the Government: CRAIG S. MORFORD,
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21

For the Defendant: Pro Se

22

Official Court Reporter: Heidi Blueskye Geizer, RDR, CRR
23 U.S. District Court - Room 539
201 Superior Avenue
24 Cleveland, Ohio 44114-1201
(216) 861-3005

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

1 FRIDAY, APRIL 5, 2002, MORNING SESSION, 9:08 A.M.(No Jury).
2 THE COURT: Congressman, do you have
3 witnesses?
4 MR. TRAFICANT: Pardon?
5 THE COURT: Do you have witnesses this
6 morning?
7 MR. TRAFICANT: The defense rests.
8 THE COURT: Thank you. Are there any
9 motions?
10 MR. TRAFICANT: Yes. I'm looking for them,
11 and I'd like leave for same. I just got in here a little
12 late. I have, first of all, a motion for dismissal on
13 Sixth Amendment rights on several issues.
14 THE COURT: Okay. Before you present that,
15 let me just say that the evidentiary part of this case is
16 completed. We still will have to organize some exhibits,
17 and things like that, but now we're moving into a new phase
18 of the case.
19 And so have you served that motion on the
20 government, the one you have in your hand?
21 MR. TRAFICANT: No. These are oral motions
22 subject to Davis versus Alaska --
23 THE COURT: Hold on. I'll let you make some
24 motions, and we'll make them now. But we just need to know
25 exactly what else is going to go on now that we're moving

1 into another phase of the case.
2 MR. TRAFICANT: I did share with the
3 government, as you requested, the copies of the remaining
4 TC documents.
5 THE COURT: Okay.
6 MR. TRAFICANT: 10 through 13.
7 THE COURT: You got them?
8 MR. MORFORD: Yes, Your Honor.
9 MR. SMITH: We got them.
10 MR. TRAFICANT: And I believe that if there
11 is anything else that the government requested that I may
12 or may not have presented to them, I'll be glad to do so.
13 If they would make that request, if there's anything I have
14 not done, I'm not familiar with. But I would like to make
15 several oral motions.
16 THE COURT: Okay. Can you just outline for
17 me which category of motions you're going to use?
18 MR. TRAFICANT: These would be motions for
19 dismissals on the grounds of several amendment rights
20 violations.
21 THE COURT: Okay.
22 MR. TRAFICANT: Number one: My Sixth
23 Amendment right violation by not being allowed to pursue a
24 vendetta theory even though the government went back 15
25 years to investigate the transaction of the sale of a horse

1 to a Mr. George Hooker in Uhrichsville, Ohio. Fifteen
2 years ago the horse was transacted, testified to.
3 Second of all, under my Fifth Amendment rights, I
4 believe you have violated my rights by discussing whether
5 or not I would take the stand in front of the jury and
6 opening up and asking questions relative to closing
7 arguments, time needed for closing arguments, and whether
8 or not I would testify. The inability to testify in one's
9 defense is absolute and protected under the Fifth Amendment
10 and the Sixth Amendment, the right to defend themself and
11 the right to any particular privilege therein granted.
12 Furthermore, under the Sixth Amendment, during the
13 Robertson testimony, you made a statement in front of the
14 jury that these matters can be taken up under appeal, which
15 clearly indicated that perhaps the Judge had a predisposed
16 position, without assuming that there would be a conviction
17 in this case or that you in your mind believed if you had
18 those concerns, to take them up.
19 Also under the Sixth Amendment, to provide myself
20 with a fair trial, you denied me the opportunity to impeach
21 witnesses with one Russell Saadey, Jr., whose
22 brother-in-law, Jim Sabatine, said in a moment of distress,
23 immediately after a second meeting with the FBI, that he
24 did not bribe the Congressman, he accumulated a total
25 amount of money over a period of years, and said he gave it

1 to them cash to stay out of jail and save his $15 million.
2 You denied me the opportunity to introduce a tape of
3 Henry DiBlasio, who had taken the Fifth Amendment, who was
4 their witness.
5 You denied me the opportunity to bring Linda
6 Kovachik on, even though you allowed Terlecky and Johnson,
7 and the significance being that Johnson and Terlecky both
8 had difficulties. Johnson had a recent problem with the
9 government in the litigated matter of a questionable DUI,
10 and Terlecky being a felon.
11 Kovachik, in the similar circumstance, happenstance
12 meeting with O'Nesti, nonscheduled, nonapproached, but
13 approached by Mr. O'Nesti, had a clean record, and yet you
14 denied her to take the stand on my behalf.
15 Furthermore, the actions that have been taken in
16 regards to excluding my peers. I was indicted on May the
17 4th. The Sixth Circuit Court of Appeals did not ratify the
18 plan of the Northern District of Ohio's jury selection
19 process until after that. So then they come with the
20 superseding indictment.
21 You hold the superseding indictment to be the grounds
22 for which you rule that you can exclude my district. Then
23 you further include not just the Eastern District, of which
24 I'm located, you now include the entire Northern District
25 to the Indiana border. Clearly this is not a trial of

1 peers who know Jim Traficant, but what they've heard about
2 Jim Traficant.
3 So I believe in this regard, that you have allowed my
4 First, Fifth, Sixth Amendment rights to be violated.
5 And finally, you have placed as many as 11 witnesses
6 subject to double jeopardy by forcing them to testify under
7 oath outside of the presence of the jury to determine what
8 their testimony was.
9 And finally, unusually, you take from the
10 archives in Chicago the 1983 trial transcript, the FBI
11 interviews Judge Ann Aldrich as to my style as evidenced by
12 her statement, "crazy but crazy like a fox." And you have
13 demonstrated throughout this trial, whenever it looked as
14 though I moved towards an impeachment of one of your
15 witnesses, not knowing where I was going, you would
16 intervene and intercept and call for a side-bar before I
17 even concluded a question and an objection was raised.
18 Having said that, I move under David versus Alaska
19 that you failed to allow me to defend myself by presenting
20 the vendetta theory as being the only American in history
21 to defeat the Justice Department and having a bull's-eye on
22 my back for 20 years and a vice around my chest.
23 You've limited my defense, you've limited my
24 witnesses, and then in front of the jury you admonished me
25 for dillydallying in a nine-week trial that they took seven

1 weeks. Seven weeks. And you quashed the subpoena on Judge
2 Ann Aldrich.
3 Now, having said that, the second oral motion under
4 Davis versus Alaska is I want the photocopies of the
5 $10,000 that Jim Traficant was compelled to produce by
6 Judge Ann Aldrich in the first case, I want -- that was
7 never given to me. It was taken by Larry Lynch, for the
8 record, and I asked the Court to compel the delivery of
9 same to me.
10 Now, having said that, if my behavior at times has
11 been unusual, for that I would apologize.
12 THE COURT: Thank you.
13 MR. TRAFICANT: But I will not, I will not
14 overlook the fact there was adequate provocation to produce
15 said behavior. And I believe you've carried on a one-sided
16 trial. You've been an extension of the prosecution, and
17 you have not conducted a fair and just trial.
18 And I did not have to cite any law. I did
19 not have to even utter a word in my defense. You were to
20 know the law, not even an attorney. And for you to take
21 the position that the government's citations of law were
22 correct and mine were not was inappropriate since the final
23 determinant and decider of facts and laws rests with the
24 Court. And whether I cite a law or did not cite a law is
25 irrelevant. I did make oral argument speaking to the

1 points that would speak towards such laws.
2 And I did cite the Constitution on every case, which
3 I think is the ultimate determinant in resolving these
4 matters.
5 Having said that, the defense sits down, quietly, I
6 might add.
7 THE COURT: Thank you, sir. You can respond.
8 MR. MORFORD: Your Honor, all of the matters
9 that were just covered have been covered, many of them have
10 been briefed, they've all been argued, and they've all been
11 ruled upon with the lone exception of his claim that
12 somehow the Court violated his Fifth Amendment right by
13 asking him if he was going to take the stand.
14 First of all, the Court has a right and duty to
15 manage a trial, and the Court has a duty to keep the trial
16 moving for the sake of those 17 people that have put their
17 lives on hold for eight or nine weeks.
18 That comment came after Congressman Traficant had run
19 out of witnesses five times in eight days, and on the ninth
20 day, after several admonishments from this Court that he
21 could not continue to have the jury sitting here with no
22 witnesses, he showed up on the ninth day with no witnesses
23 at 11:00.
24 Now, he says that the government had its case for
25 seven weeks. The government put on 55 witnesses and never

1 ran out of witnesses once. There were days we had 14 or 15
2 witnesses, some of them out of town, who stayed here for
3 five days, but we never ran out of witnesses once. The
4 record speaks for itself.
5 The point is this: The Court said nothing wrong.
6 The Court has instructed the jury, the Court will instruct
7 the jury, as to the fact that the defendant does not have
8 to take the stand, and that they can't draw any inferences
9 from the fact he did not take the stand.
10 So for all the things that he just raised, they've
11 already been denied. They've already been discussed, and
12 we don't need to go into them further.
13 There have been no errors in this case. There's a
14 record that can be argued later, and so we would ask that
15 the oral motions be denied.
16 MR. TRAFICANT: Now, I'd like to respond.
17 Number one, another misrepresentation that must be
18 corrected. When you discussed the Fifth Amendment right,
19 you did not do it at a side-bar. You had never discussed
20 any lawyer issue ever in front of a jury save for two.
21 When you mentioned the Fifth Amendment right, taking the
22 stand, you did so in front of the jury's presence.
23 THE COURT: Congressman, long ago in this
24 trial --
25 MR. TRAFICANT: Second of all --

1 THE COURT: -- we discussed the fact
2 that -- long ago we discuss the fact --
3 MR. TRAFICANT: Second of all --
4 THE COURT: Don't interrupt me.
5 MR. TRAFICANT: I wasn't finished.
6 THE COURT: Well, just a moment.
7 Long ago we discussed the fact in the instructions
8 that are routinely given in every case, and we'll give it
9 in this case, that every defendant has the right not to
10 testify. It's the way we opened with this trial with those
11 instructions.
12 MR. TRAFICANT: I know you did.
13 THE COURT: And if he chooses to testify,
14 then he's exercising his right to testify. If he chooses
15 not to testify, it cannot be used against him in any way.
16 We don't wait until final instructions to talk to the
17 jury about it, and we didn't do it in this case.
18 MR. TRAFICANT: Let me respond. You did so
19 though in front of the jury, knowing I had no witnesses.
20 You could have dismissed the jury and asked me, "Are you
21 going to take the stand." You chose, once again in front
22 of the jury, to make an issue of whether or not I would
23 testify.
24 And I'd be glad, and I will stipulate today, I'll
25 take the stand today if you give me 15 minutes of cross on

1 Mr. Morford.
2 THE COURT: We've been over that.
3 MR. TRAFICANT: Second of all, when you made
4 the statement in front of the jury during the Robertson
5 testimony that, "Congressman, you can take this up on
6 appeal" --
7 THE COURT: I understand what you said
8 before --
9 MR. TRAFICANT: You have poisoned that jury
10 pool.
11 THE COURT: You don't have to read your
12 motion to me twice. I understood what your motion was.
13 MR. TRAFICANT: The motion is part of the
14 record.
15 THE COURT: Okay.
16 MR. TRAFICANT: I also want to state for the
17 record the following: That Michael Antonoff, my subpoena
18 server, had been followed by FBI agents --
19 THE COURT: This has been the subject of
20 prior motions and rulings. We won't go over it now.
21 MR. TRAFICANT: Fine. But I want it placed
22 on the record now for dismissal.
23 THE COURT: It is in the record.
24 MR. TRAFICANT: Again. And I want an answer
25 whether or not the FBI at the order of the U.S. Attorney

1 was instructed to follow my process server so that it had
2 prior knowledge of who my witnesses would be so they could
3 get background material and impeach them.
4 MR. MORFORD: Absolutely never happened.
5 THE COURT: Congressman --
6 MR. TRAFICANT: Fine.
7 THE COURT: -- the evidentiary part of this
8 case is closed.
9 You had a motion here which somehow involves
10 something with Judge Ann Aldrich and the 1983 trial. I
11 think that was a separate motion.
12 MR. TRAFICANT: Yes.
13 THE COURT: Well, could you say it for me
14 again so I understand?
15 MR. TRAFICANT: I want produced the
16 photocopies of the money that was delivered as compelled --
17 THE COURT: Well, this Court has no
18 jurisdiction over any of that, and it is not an issue in
19 this case. If you want a remedy on something that you
20 think happened back there in that case, then you'll have to
21 find it in another courtroom, but not here. That motion is
22 denied.
23 MR. TRAFICANT: And I do want the tape of the
24 so-called murder involvement of Jim Traficant.
25 MR. MORFORD: Your Honor, that was filed

1 under seal. Congressman Traficant can file a motion to
2 unseal it. That is with Judge Oliver, and if he wants to
3 do that, we have no objection.
4 THE COURT: I have no knowledge of what
5 you're talking about, and I also don't have any
6 jurisdiction over that case.
7 We have some limitations on what we can do, and
8 that's one of them. But as to your other motion, the
9 motion which reflects -- I think it's the only other motion
10 that you've made.
11 MR. TRAFICANT: No, there's one other motion.
12 THE COURT: Okay. Well, the first motion you
13 made that reflects your concern about your constitutional
14 rights, that motion is denied.
15 Now, if you have yet another motion, say it to me so
16 I can sort these out and rule on each one.
17 MR. TRAFICANT: Pursuant to the testimony
18 gained herein, that the testimony of Cafaro and Lange
19 should be admitted -- omitted from the record.
20 THE COURT: Admitted or omitted?
21 MR. TRAFICANT: Omitted.
22 THE COURT: That motion is denied.
23 Congressman, do you have any further motions before we go
24 to the next phase of the case?
25 MR. TRAFICANT: I have to go to the bathroom.

1 THE COURT: Are you gentlemen ready with your
2 exhibits? Do you have any further --
3 MR. SMITH: Your Honor, this morning at 8:10,
4 thinking there might be evidence today, we filed a motion
5 in limine regarding character evidence. Obviously, since
6 the Congressman has rested, we withdraw that motion.
7 THE COURT: All right, fine. It will be
8 withdrawn.
9 MR. TRAFICANT: You are withdrawing what
10 motion?
11 THE COURT: A motion they filed this morning.
12 MR. TRAFICANT: What was the motion?
13 MR. MORFORD: It's on your table. It's no
14 longer relevant.
15 MR. TRAFICANT: Well, let me look at it.
16 MR. MORFORD: You have rested, so it doesn't
17 matter.
18 THE COURT: Congressman, I need to talk to
19 you a little bit about how we're going to proceed this
20 morning, because as it turns out, with no witnesses we'll
21 go to the next phase of these proceedings, and I will give
22 you a break. But before I bring the jury in to instruct
23 them on the law and go forward, I need to have you clear
24 about the process as we're going forward. Okay?
25 MR. TRAFICANT: Your Honor, I've been clear

1 from day one.
2 THE COURT: Okay.
3 MR. TRAFICANT: Whatever you're going to do,
4 you're going to do, so do it.
5 But like --
6 THE COURT: Would you like a break?
7 MR. TRAFICANT: Yes. I have to go to the
8 bathroom. But before I do --
9 THE COURT: No. We'll take a five-minute
10 break right now. Make it ten. It's more realistic.
11 (Recess had.)
12 (Jury in at 9:43 a.m.)
13 THE COURT: Good morning, Ladies and
14 Gentlemen.
15 JURORS: Good morning.
16 THE COURT: The defendant has rested his
17 case, and the evidentiary phase of this trial has
18 concluded, and so now we move into new phases of the trial.
19 And you have on your laps some books which contain jury
20 instructions.
21 I'm not going to go to the first page of those yet.
22 I want to give you just a few introductory remarks,
23 taking you back to the time when we originally discussed
24 the procedure that's set in the law and the rules for what
25 happens in a trial, so that this all is in context for you.

1 So I'm going to read you just a short
2 preliminary instruction, and then we'll turn to your books.
3 And you can either follow along or you can simply sit back
4 and listen.
5 Those books will be in your hands when you need them
6 throughout the rest of the proceedings.
7 As you know, the procedure for trial is set by law.
8 First we impanel a jury and alternate jurors, and we did
9 that a long time ago, and following that was when I first
10 talked to you about what happens next in a trial.
11 Next, the United States and the defendant can make
12 opening statements, which they did in this case, to you.
13 And as you know, those opening statements are not evidence,
14 and you can't consider them as evidence, but they can be
15 useful guides to what will then be coming as each side
16 thinks when the evidence comes on in the case.
17 Now the evidence has been brought forward, and both
18 you and I are aware of what the evidence in the case is.
19 After these opening statements, the attorneys for the
20 United States and the defendant, if he wishes to, because
21 he's under no obligation to do so, acting as his own
22 attorney, can present evidence and did present evidence to
23 you.
24 Now that all the evidence has been presented
25 to you, it's my duty to instruct you on the law based on

1 the evidence before you.
2 We'll do that today, and because Fridays are a day
3 that run until noon for you, we'll try to do the parts of
4 that that will be useful to you before noon or as close as
5 we can get to that. The lawyers and the defendant will
6 then stay, but you'll be released until Monday morning.
7 At 9:00 Monday morning we will reconvene so
8 that the parties can give to you their closing arguments,
9 if they wish to do closing arguments, and I expect they
10 will.
11 Following that, the Court gives you some final
12 instructions in the law which are the pragmatic ones, the
13 practical ones that tell you how you will go about your
14 procedures when you are given the case and it's in your
15 hands for a verdict, choosing your foreperson, and so
16 forth.
17 So those are practical, and those can wait, and those
18 come after closing argument.
19 I can mention now, and will remind you as we have
20 talked about previously, that the first and last closing
21 argument is something under the law which goes to the
22 attorneys for the United States, because in a criminal
23 case, they have the responsibility of the burden of proving
24 the charges in the case, and the defendant then, in the
25 middle, gives a closing argument if he chooses, and we put

1 the lawyers in this case under a time restriction which is
2 a reasonable one for a case of this length.
3 And so that will, although the government can
4 split their time, it will be an hour and a half limit on
5 the period of time in which they're going to argue the
6 case.
7 These procedures allow you to hear closing argument,
8 and closing argument, like opening argument, is to assist
9 the jury in this case in analyzing -- meaning in the case
10 of closing argument which isn't a preview of evidence but
11 is after you have the evidence before you -- it is to
12 assist you in analyzing and evaluating and applying the
13 evidence that was admitted in this case.
14 And there are certain parameters to closing
15 arguments. Although reasonable inferences can be argued
16 from evidence, material misstatements of evidence are not
17 proper, and also, always anything that happened in evidence
18 is in your province, to rely on your own memories.
19 Personal attacks are not permitted in closing arguments.
20 Closing arguments, like all -- like opening
21 statements, are not evidence, but they can be very helpful
22 to you. And although they cannot exceed the evidence in
23 the record and have to relate to the evidence that was
24 adduced in front of you here at trial, they then take us to
25 a point in the case where we give you your final

1 deliberating instructions, hand you all the evidence that's
2 been admitted in the case, and then you will have these
3 books to use with you, along with your own notebooks as you
4 go back and start your deliberations.
5 So that's how it goes as we move up toward that. And
6 the case will then be in your hands for verdicts.
7 Now, if you open those notebooks, I'll sort of lay
8 out for you what's there. And the way of doing these is
9 that, doing instructions, is that I will be reading you
10 every word in there, even when it is the table of contents.
11 We'll just go slowly. This will acquaint you with the law,
12 which is in there based on what actually was adduced as
13 evidence in this case. So it is a little bit dry. We hope
14 it's very useful to you.
15 Sit back and be comfortable, and we'll start reading
16 along. You can follow as you wish.
17 You see on the front page of this, the caption for
18 this case, in the United States District Court for the
19 Northern District of Ohio, Eastern Division. This is the
20 way all filings in court look, and it's a form that's very
21 useful. It shows the United States of America as
22 plaintiff. It shows James A. Traficant, Jr. as defendant.
23 It gives the case number, it gives the Judge's name, and it
24 identifies the document as jury instructions.
25 Now, for your convenience, and the convenience may

1 become apparent only when you actually begin to use these
2 in your deliberations, there is a table of contents. And
3 the table of contents reflects page numbers for certain
4 sections.
5 Before closing argument on Monday, we will
6 have covered with you everything that goes through sections
7 A, B, and C here. So you see on the table, first you have
8 an introduction, a preliminary statement, something called
9 general law. Then we talk first about the presumption of
10 innocence, the burden of proof, reasonable doubt. We
11 define evidence under the law, consideration of evidence.
12 There's more on evidence called inferences.
13 Direct and circumstantial evidence will be
14 explained. The order of exhibits and witnesses, the
15 credibility of witnesses, discrepancies in testimony,
16 number of witnesses, pro se representation, the defendant's
17 decision not to testify, testimony of witnesses involved in
18 the same crimes that are charged, expert testimony,
19 testimony of law enforcement officers, immunity, testimony
20 of a witness under grant of immunity or who has received a
21 government promise to recommend a reduced sentence,
22 videotape depositions, impeachment by prior inconsistent
23 statement not under oath, impeachment of a witness by prior
24 conviction, joint exhibits, punishment, parties'
25 objections, speech or debate clause, something called on or

1 about, which when we get to it you'll understand,
2 interviewing witnesses, introduction of part C.
3 Now, part C, which we'll go over today, is the part
4 that deals with the specific elements of the charges in
5 this case. Parts A and B tend to cover general law that
6 applies in every case no matter what the charges are. But
7 when you get into C, you're talking about the specific
8 charges.
9 So there is a summary of the counts. There is a
10 section on the single defendant charged with multiple
11 crimes, a section on related counts, and then we have a
12 section on Counts 1, 2, 3, and 4, which are conspiracy to
13 violate the federal bribery and gratuity statute. And
14 you'll see there the citations to the statute.
15 Basic elements of the offenses, the conspiracy
16 element, and it then breaks out the various elements of the
17 conspiracy charge: Agreement, defendant's connection to
18 the conspiracy, overt acts.
19 Then there's a section called unindicted, unnamed, or
20 separately tried coconspirators, the crimes that the
21 defendant is accused of conspiring to commit. Then there's
22 a Count 5 instruction, illegal gratuity; Count 6,
23 obstruction of justice; Count 7, conspiracy to defraud the
24 United States; Counts 8 and 9, filing false tax returns.
25 And you see set forth in this table of

1 contents the statute designated for each of those.
2 Then elements, definitions, a section on funds or
3 property from unlawful sources. Proof of signing as proof
4 of knowledge of contents of return.
5 Then there's one, each tax year is separate. There
6 is Count 10, which is the Racketeering Influenced and
7 Corrupt Organizations Act, or RICO, as the shorthand name
8 is. The statute is cited, and then RICO elements, and it
9 goes through each of the elements: Enterprise, interstate
10 or foreign commerce, employed by or associated with, to
11 conduct or participate, pattern of racketeering activity,
12 racketeering activity, racketeering act of mail fraud,
13 racketeering acts conclusion.
14 Now, that's the end of where we'll go today. That's
15 pretty dry stuff, and the table of contents is only meant
16 to allow you, if you in your deliberations need to, access
17 part of these long instructions, because it's been a case
18 of several weeks duration. It allows you to get back to
19 them easily. So although it's for your convenience, we
20 always read these off so you kind of have an overview of
21 where this is going to go.
22 Now I'm actually going to read them to you. And if
23 you go over to page A-1, I'll be reading that part.
24 Ladies and Gentlemen of the Jury: It's time
25 for me to instruct you about the law you must follow in

1 deciding this case.
2 I will start by explaining your duties and
3 the general rules that apply in every criminal case.
4 Next I will explain some rules you must use
5 in evaluating particular testimony and evidence.
6 Then I will explain the elements or parts of
7 the crimes the defendant is accused of committing.
8 And last, and that will be Monday, I'll
9 explain the rules you must follow during your deliberations
10 in the jury room and the possible verdicts you may return.
11 Please listen very carefully to everything I
12 say.
13 Before I give you the law in the case, I want to tell
14 you something about the charge to the jury. As you know,
15 the jury is the trier of facts, and the Judge makes all
16 determinations of law.
17 The charge is divided into three parts:
18 General law, Sections A and B. The first part of the
19 charge deals with the general law that applies in almost
20 every criminal case. It defines what evidence is, the
21 burden of proof, credibility of witnesses, the function of
22 the Judge and Jury, and similar matters.
23 Next I discuss the law that applies to this
24 case and various elements of that law. I will also define
25 for you terms which require definition. Some terms are

1 generally understood and do not require definition or
2 explanation.
3 After I tell you about the applicable law in the
4 case, and on Monday this will be, after closing arguments,
5 I'll give you your instructions for deliberation. This
6 will include the verdict forms, the election of the
7 foreperson, and how you will conduct yourselves during your
8 deliberations.
9 Then the case will be turned over to you for
10 deliberation and verdict.
11 You have two main duties as jurors. The first one is
12 to decide what the facts are from the evidence that you saw
13 and heard here in court. Deciding what the facts are, and
14 if the facts are in conflict, deciding where the truth
15 lies, is your job, not mine. And nothing that I have said
16 or done during this trial was meant to influence your
17 decision about the facts in any way.
18 Your second duty is to take the law that I give you,
19 apply it to the facts, and decide if the government has
20 proved the defendant guilty beyond a reasonable doubt. It
21 is my job to instruct you about the law, and you're bound
22 by the oath that you took at the beginning of the trial to
23 follow the instructions that I give you even if you
24 personally disagree with them.
25 This includes the instructions that I gave you before

1 and during the trial, and these instructions. You are not
2 permitted to change the law, nor to apply what you think
3 the law should be. Regardless of your personal
4 interpretation of the law, you would violate your sworn
5 duty to arrive at a verdict if you did so without applying
6 the law to the facts as the law is given in these
7 instructions by the Judge.
8 These instructions are for your guidance in arriving
9 at a verdict in this case. They are not intended to
10 reflect any opinion on my part. Do not search for any
11 hidden implications, but rather apply the instructions
12 wisely and impartially.
13 You are not to single out any one instruction as
14 stating the law. Rather, you must give -- you must
15 consider the instructions in their entirety. I may give
16 you more law than you need because I do not know what you
17 will decide the facts to be. That's solely for you jurors
18 to determine. Therefore, I must give you all the law that
19 you could conceivably need regardless of what you determine
20 the facts to be.
21 You've been selected to serve as jurors in this case
22 to consider and decide the issues of fact presented by the
23 indictment and the evidence. Each of you has taken an oath
24 or affirmation to perform this duty impartially, without
25 bias or prejudice to any of the parties to this action.

1 The law, the parties, the Judge, counsel, and the public,
2 rely on you to honor your oath or affirmation to carefully
3 and impartially consider all the evidence presented in this
4 case. Accept and apply the law as instructed by me and
5 return a just verdict.
6 Remember, the law does not permit jurors to be
7 governed by sympathy, prejudice, or public opinion.
8 This section is called presumption of innocence,
9 burden of proof, and reasonable doubt. As you know, the
10 defendant has pled not guilty to the crimes charged in the
11 indictment. The indictment is not any evidence at all of
12 guilt. It is simply the formal way the government tells
13 the defendant what crime he or she is accused of
14 committing. It does not even raise any suspicion of guilt.
15 Remember that a defendant is never to be convicted on mere
16 suspicion or conjecture.
17 Instead, the defendant starts the trial with
18 a clean slate, with no evidence at all against him, and the
19 law presumes that he is innocent. This presumption of
20 innocence continues throughout the trial unless and until
21 the government presents evidence here in court that
22 overcomes the presumption and convinces you beyond a
23 reasonable doubt that the defendant is guilty. The
24 presumption of innocence alone is sufficient to acquit the
25 defendant unless the jurors are satisfied beyond a

1 reasonable doubt of the defendant's guilt after careful and
2 impartial consideration of all the evidence in the case.
3 This means the defendant has no obligation to present
4 any evidence at all or to prove to you in any way that he
5 is innocent. It is up to the government to prove the
6 defendant guilty, and this burden stays on the government
7 from start to finish. You must find the defendant not
8 guilty unless the government convinces you beyond a
9 reasonable doubt that the defendant is guilty.
10 The government must prove every element of
11 the crimes charged beyond a reasonable doubt. Proof beyond
12 a reasonable doubt does not mean proof beyond all possible
13 doubt. Possible doubts, or doubts based purely on
14 speculation, are not reasonable doubts. A reasonable doubt
15 is a doubt based on reason and common sense. It may arise
16 from the evidence, the lack of evidence, or the nature of
17 the evidence.
18 Proof beyond a reasonable doubt means proof which is
19 so convincing that you would not hesitate to rely and act
20 on it in making the most important decisions in your own
21 lives. If you are convinced that the government has proved
22 the defendant guilty beyond a reasonable doubt, say so by
23 returning a guilty verdict. If you are not convinced the
24 government has proved the defendant guilty beyond a
25 reasonable doubt, say so by returning a not guilty verdict.

1 If the jury, after careful and impartial
2 consideration of all of the evidence in a case -- the case
3 has a reasonable doubt that the defendant is guilty of a
4 particular charge, it must acquit on that charge. If the
5 jury views the evidence in the case as reasonably
6 permitting either of two conclusions, one of innocence, the
7 other of guilt, the jury should, of course, adopt the
8 conclusion of innocence.
9 Now we will begin defining evidence. You must make
10 your decision based only on the evidence you saw and heard
11 here in court. Do not let rumors, suspicions, or anything
12 else you may have seen or heard outside of court influence
13 your decision in any way.
14 The evidence in this case includes only what
15 the witnesses said while they were testifying under oath or
16 affirmation, and the exhibits I allowed into evidence.
17 Nothing else is evidence. The parties'
18 statements and arguments are not evidence. Their questions
19 and objections are not evidence. My legal rulings are not
20 evidence. My comments and questions are not evidence.
21 During the trial, I did not let you hear the answers
22 to some of the questions the parties asked. I also ruled
23 you could not see some of the exhibits the parties wanted
24 you to see. I also did not let you see parts of certain
25 documents. Sometimes I ordered you to disregard things you

1 saw or heard, or I struck things from the record. You must
2 completely ignore all of these things. Do not even think
3 about them. Don't speculate about what a witness might
4 have said or an exhibit might have shown. These are not
5 evidence, and you're bound by your oath or affirmation not
6 to let them influence your decision in any way.
7 Make your decision based only on the evidence
8 as I have defined it here, and nothing else.
9 You should use your common sense in weighing the
10 evidence. Consider it in light of your everyday experience
11 with people and events, and give it whatever weight you
12 believe it deserves. If your experience tells you certain
13 evidence reasonably leads to a conclusion, you're free to
14 reach that conclusion.
15 There are two types of evidence from which a jury may
16 properly find the truth as to facts in the case: direct
17 evidence and circumstantial evidence.
18 Direct evidence is simply evidence like the
19 testimony of an eyewitness which, if you believe it,
20 directly proves a fact. If a witness testified she or he
21 saw it raining outside, and you believe him or her, that
22 would be direct evidence it was raining.
23 Circumstantial evidence is simply a chain of
24 circumstances that indirectly proves a fact. If someone
25 walked into the courthouse wearing a raincoat, covered with

1 drops of water, and carrying a wet umbrella, that would be
2 circumstantial evidence from which you might conclude it
3 was raining, following our common experience as women and
4 men.
5 It's your job to decide how much weight to
6 give direct and circumstantial evidence. The law makes no
7 distinction between the weight you should give to either
8 direct or circumstantial evidence, or to testimonial or
9 tangible evidence. Consider all of the evidence, both
10 direct and circumstantial, and give it whatever weight you
11 believe it deserves.
12 A number of exhibits and testimony relating to them
13 have been introduced. The numbering or lettering of the
14 exhibits you'll have in the jury room may not be
15 consecutive. Some exhibits may ultimately not have been
16 introduced by the party producing them, or I may not have
17 accepted certain exhibits because of a legal or procedural
18 ruling. Do not speculate or attempt to draw any inference
19 because you do not have a particular exhibit.
20 In addition, witnesses were called by both sides
21 without regard to any particular order. Do not speculate
22 or attempt to draw any inference from the order in which
23 witnesses were called.
24 Before we ever heard a witness in the case, I read
25 you this particular instruction, but we read it again as

1 part of this. Credibility of witnesses, discrepancies in
2 testimony.
3 Another part of your job as jurors is to
4 decide how credible or believable each witness was. This
5 is your job, not mine. It's up to you to decide if a
6 witness's testimony was believable, and how much weight you
7 think it deserves. You are free to believe everything that
8 a witness said or only part of it, or none of it at all,
9 but you should act reasonably and carefully in making these
10 decisions.
11 Let me suggest some things for you to
12 consider in evaluating each witness's testimony.
13 Ask yourself if the witness was able to clearly see
14 or hear the events. Sometimes even an honest witness may
15 not have been able to see or hear what was happening and
16 may make a mistake.
17 Ask yourself how good the witness's memory seemed to
18 be. Did the witness seem able to accurately remember what
19 happened?
20 Ask yourself if there was anything else that
21 may have interfered with the witness's ability to perceive
22 or remember the events.
23 Ask yourself how the witness acted while
24 testifying. Did the witness appear honest? Or did the
25 witness appear to be lying?

1 Ask yourself if the witness had any relationship to
2 the government or to the defendant, or anything to gain or
3 lose from the case, that might influence the witness's
4 testimony.
5 Ask yourself if the witness had any bias or prejudice
6 or reason for testifying that might cause the witness to
7 lie or to slant the testimony in favor of one side or the
8 other.
9 Ask yourself if the witness testified inconsistently
10 while on the witness stand, or if the witness said or did
11 something, or failed to say or do something at any other
12 time that is inconsistent with what the witness said while
13 testifying. If you believe that the witness was
14 inconsistent, ask yourself if this makes the witness's
15 testimony less believable. Sometimes it may, and sometimes
16 it may not. Consider whether the inconsistency was about
17 something important or about some unimportant detail. Ask
18 yourself if it seemed like an innocent mistake or if it
19 seemed deliberate.
20 And ask yourself how believable the witness's
21 testimony was in light of all the other evidence. Was the
22 witness's testimony supported or contradicted by other
23 evidence that you found believable? If you believe that a
24 witness's testimony was contradicted by other evidence,
25 remember that people sometimes forget things, and that even

1 two honest people who witness the same event may not
2 describe it exactly the same way.
3 These are only some of the things that you
4 may consider in deciding how believable each witness was.
5 You may also consider other things that you think shed some
6 light on the witness's believability. Use your common
7 sense and your everyday experience in dealing with other
8 people, and then decide what testimony you believe and how
9 much weight you think it deserves.
10 One more point about witnesses: Sometimes jurors
11 wonder if the number of witnesses who testify makes any
12 difference.
13 Do not make any decisions based only on the
14 number of witnesses who testified. What's more important
15 is how believable the witnesses were, and how much weight
16 you think their testimony deserves. Concentrate on that,
17 not the numbers.
18 Pro se representation: Although Defendant Traficant
19 has the right to be represented by counsel, he has
20 exercised his constitutional right to do without counsel,
21 and represent himself in this trial. This decision is his
22 to make and should not be considered as a factor in your
23 deliberations either for or against him.
24 The remarks of a person representing himself
25 or herself are to be regarded no differently than those of

1 the attorneys in a case. Like those of the attorneys, the
2 statements, questions, comments, objections, and arguments,
3 including final argument of Defendant Traficant, are not
4 made under oath, are not subject to cross-examination, and
5 are not evidence.
6 Remember, evidence includes only what the witnesses
7 said while they were testifying under oath or affirmation
8 and the exhibits I allowed in evidence.
9 Defendant's decision not to testify: A defendant has
10 an absolute right not to testify. You may not consider the
11 fact that Defendant Traficant did not testify. Do not even
12 discuss it in your deliberations.
13 Remember, it's up to the government to prove
14 a defendant guilty beyond a reasonable doubt. It is not up
15 to the defendant to prove that he is innocent.
16 You've heard the testimony of several witnesses who
17 testified that they were involved in the same crime or
18 crimes that the defendant is charged with committing. You
19 should consider such testimony with more caution than the
20 testimony of other witnesses.
21 Do not convict the defendant based on the
22 testimony of such a witness standing alone unless you
23 believe the testimony beyond a reasonable doubt.
24 The fact that a witness has pleaded guilty to
25 a crime is not evidence that the defendant is guilty, and

1 you cannot consider this against the defendant in any way.
2 You've heard the testimony of Bruce Hess, an expert
3 witness. An expert witness has special knowledge or
4 experience that allows the witness to give an opinion.
5 You do not have to accept the expert's
6 opinion. In deciding how much weight to give it, you
7 should consider the witness's qualifications and how he
8 reached his conclusions.
9 Remember that you alone decide how much of a
10 witness's testimony to believe and how much weight it
11 deserves.
12 Law enforcement officers have testified in this case.
13 In determining the weight or credence to be given to their
14 testimony, apply the same rules you apply in determining
15 the weight and credibility of the other witnesses. Merely
16 because they are law enforcement officers does not warrant
17 the jury in giving their testimony more or less weight,
18 credence -- or credence than that of other witnesses.
19 Immunity: You've heard the testimony of several
20 witnesses who were given immunity. Under the terms of the
21 immunity statute, whenever a witness refuses to testify on
22 the basis of his or her Fifth Amendment privilege against
23 self-incrimination, the government may ask the Judge to
24 order the person to testify with the promise that the
25 witness's compelled testimony may not be used against the

1 witness in any way in any future proceedings. However, if
2 that person testifies falsely, he or she may be prosecuted
3 for perjury or for making false statements.
4 You have heard the testimony of several witnesses who
5 the government has promised not to prosecute or to
6 recommend a reduced sentence for in exchange for their
7 testimony against the defendant. The government has the
8 right to make such a promise, but you should consider such
9 testimony with more caution than the testimony of other
10 witnesses. Consider whether the government's promise may
11 have influenced the testimony. Do not convict the
12 defendant based on the testimony of such a witness standing
13 alone unless you believe his or her testimony beyond a
14 reasonable doubt.
15 You've seen videotaped depositions of Thomas Williams
16 and David Manevich. You should treat their deposition
17 testimony as if it were testimony of a witness here in the
18 courtroom.
19 You've heard the testimony of several witnesses who
20 made unsworn statements before they testified at this
21 trial. You've also heard that these statements may be
22 different from their testimony here in court.
23 These earlier statements were brought to your
24 attention only to help you decide how believable their
25 testimony was. You cannot use these earlier unsworn

1 statements as proof of anything else. You can only use it
2 as one way of evaluating their testimony here in court.
3 You've heard the testimony of several witnesses, each
4 of whom before this trial began were convicted of a crime
5 or crimes.
6 These earlier convictions were brought to
7 your attention only as one way of helping you decide how
8 believable each witness's testimony was. Do not use it for
9 any other purpose. It is not evidence of anything else.
10 Many of the exhibits that have been presented to you
11 and that are in evidence in this case are joint exhibits.
12 Unlike exhibits designated as government and defense
13 exhibits, joint exhibits are offered as evidence by both
14 parties.
15 Punishment: If you decide that the government has
16 proved a defendant guilty, then it will be my job to decide
17 what the appropriate punishment should be.
18 Deciding what the punishment should be is my
19 job, not yours. It would violate your oaths and
20 affirmations as jurors to even consider the possible
21 punishment in deciding your verdict.
22 Your job is to look at the evidence and
23 decide if the government has proved the defendant guilty
24 beyond a reasonable doubt.
25 The parties objected to some of the things that were

said or done during the trial. Do not hold that against either side. Parties have a duty to object whenever they think something is not permitted by the rules of evidence. Those rules are designed to make sure both sides receive a fair trial.

Do not interpret my rulings on their objections as any indication of how I think the case should be decided. My rulings are based on the rules of evidence. Remember that your decision must be based only on the evidence you saw and heard here in court.

Speech or debate clause: You've heard objections and some testimony regarding the speech or debate clause in this case. As a United States Congressman, Defendant Traficant has a constitutional privilege not to be questioned regarding any legislative acts he may have taken in Congress. However, he has the right, but not the obligation, to introduce any legislative acts he may have taken into evidence in his defense.

At times, you heard objections and discussion regarding whether or not a particular matter is protected by the speech or debate clause. The issue of whether something constitutes a legislative act protected by the speech or debate clause privilege is a legal issue for the Court, not the jury, to decide. You should consider all evidence that has been admitted in this case and disregard

1 any discussion you may have heard about the speech or
2 debate clause.
3 Next I want to say a word about the dates mentioned
4 in the indictment.
5 The indictment charges that certain crimes
6 occurred on or about, in quotes, certain or specific dates.
7 The government does not have to prove that the crimes
8 happened on those exact dates, but the government must
9 prove that the crimes happened reasonably close to those
10 dates.
11 Interviewing witnesses: It is proper for an attorney
12 or pro se defendant to interview any witness in preparation
13 for trial.
14 Now I'm going into the last part I'm going to read.
15 You're very patient and attentive, and I appreciate it.
16 This is the part of the instructions that explain your
17 duties and the general rules that apply.
18 That concludes the part of the instructions
19 that explain your duties and the general rules that apply
20 in any criminal case. So now I'm going to explain the
21 elements of the crimes the defendant is accused of
22 committing.
23 Before I do that, I must emphasize the
24 defendant is only on trial for the particular crimes
25 charged in the indictment, and your job is limited to

1 deciding whether the government has proved the crimes
2 charged.
3 Also keep in mind that whether anyone else should be
4 prosecuted and convicted for these crimes is not a proper
5 matter for you to consider. The possible guilt of others
6 is no defense to a criminal charge. Your job is to decide
7 if the government has proved this defendant guilty. Do not
8 let the possible guilt of others influence your decision in
9 any way.
10 Summary of counts: Count 1 of the indictment charges
11 that Defendant Traficant, Anthony Bucci, and others
12 conspired to violate Sections 201(b)(1)(A) and 201(b)(2)(A)
13 of the federal bribery statute.
14 Count 2 of the indictment charges that Defendant
15 Traficant, Arthur David Sugar, and others conspired to
16 violate Section 201(c) of the federal bribery statute,
17 otherwise known as the, quote, illegal gratuity, end quote,
18 provision.
19 Count 3 of the indictment charges that Defendant
20 Traficant, J.J. Cafaro, Richard Detore, and others
21 conspired to commit an illegal gratuity.
22 Count 4 of the indictment charges that Defendant
23 Traficant, Allen Sinclair, Henry DiBlasio, and others
24 conspired to commit an illegal gratuity.
25 Count 5 of the indictment charges that Defendant

1 Traficant received an illegal gratuity by receiving $2500 a
2 month from the salary of Allen Sinclair.
3 Count 6 of the indictment charges that Defendant
4 Traficant obstructed justice by endeavoring to persuade
5 Allen Sinclair to destroy evidence and to provide false
6 testimony and information to a federal grand jury.
7 Count 7 of the indictment charges that Defendant
8 Traficant, Henry DiBlasio, Allen Sinclair, Charles O'Nesti,
9 and others conspired to defraud the United States out of
10 money or property.
11 Count 8 of the indictment charges that Defendant
12 Traficant filed a false tax return for tax year 1998.
13 Count 9 of the indictment charges that Defendant
14 Traficant filed a false tax return for tax year 1999.
15 Count 10 of the indictment charges that Defendant
16 Traficant violated the Racketeer Influenced and Corrupt
17 Organizations Act, RICO, by conducting the affairs of the
18 office of Congressman James A. Traficant through a pattern
19 of racketeering activity consisting of acts of bribery,
20 illegal gratuity, and mail fraud.
21 The defendant has been charged with ten crimes. The
22 number of charges is no evidence of guilt, and this should
23 not influence your decision in any way. It is your duty to
24 separately consider the evidence that relates to each
25 charge and to return a separate verdict for each one. For

1 each charge, you must decide whether the government has
2 presented proof beyond a reasonable doubt that the
3 defendant is guilty of that particular charge.
4 Related counts: Counts 8 and 9 involve allegedly
5 unreported taxable income. Your decisions regarding Counts
6 3, 4, 5, and 10 may affect your decisions on Counts 8 and
7 9, insofar as they may affect your determination of the
8 existence or nonexistence of unreported taxable income.
9 Count 10 involves multiple alleged racketeering acts.
10 Your decisions regarding Counts 1, 2, 3, 4, and 5 may
11 affect your decisions on Count 10, insofar as they may
12 affect your determination of the commission or
13 noncommission of certain racketeering acts.
14 Otherwise, your decision on one charge, whether it is
15 guilty or not guilty, should not influence your decision on
16 any of the other charges.
17 Counts 1, 2, 3, and 4, conspiracy to violate the
18 federal bribery and gratuity statute. Basic elements of
19 the offenses: Count 1 of the indictment charges conspiracy
20 to commit the crime of bribery of a public official, in
21 violation of federal law. Counts 2, 3, and 4 of the
22 indictment charge conspiracy to commit a different crime,
23 the crime of illegal gratuity, in violation of federal law.
24 All four counts involve conspiracy charges.
25 It is a crime for two or more persons to

1 conspire or agree to commit a criminal act even if they
2 never actually achieve their goal.
3 A conspiracy is a kind of criminal
4 partnership. For you to find Defendant Traficant guilty of
5 a conspiracy charge, the government must prove each and
6 every one of the following elements beyond a reasonable
7 doubt:
8 First, that two or more persons conspired or
9 agreed to commit a federal crime.
10 Second, that the defendant knowingly and voluntarily
11 joined the conspiracy.
12 Third, that a member of the conspiracy did one of the
13 overt acts described in the indictment for the purpose of
14 advancing or helping the conspiracy.
15 In order to find the defendant guilty of a conspiracy
16 charge, you must be convinced that the government has
17 proved all of these elements beyond a reasonable doubt.
18 Conspiracy element one, agreement: With regard to
19 the first element of conspiracy, the government must prove
20 that two or more persons conspired or agreed to cooperate
21 with each other to commit a crime.
22 Conspiracy does not require proof of any
23 formal agreement, written or spoken, nor does it require
24 proof that everyone involved agreed on all the details.
25 The proof that people simply met together from time to time

1 and talked about common interests or engaged in similar
2 conduct is not enough to establish a criminal agreement.
3 These are things that you may consider in deciding whether
4 the government has proved an agreement, but without more,
5 they are not enough.
6 What the government must prove is that there
7 was a mutual understanding, either spoken or unspoken,
8 between two or more people to cooperate with each other to
9 commit a crime. This is essential.
10 An agreement can be proved indirectly by facts and
11 circumstances which will lead to a conclusion that an
12 agreement existed, but it is up to the government to
13 convince you that such facts and circumstances existed in
14 this particular case.
15 Conspiracy element two, defendant's connection to the
16 conspiracy: If you are convinced that there was a criminal
17 agreement, then you must consider the second element and
18 decide whether the government has proven that the defendant
19 knowingly and voluntarily joined that agreement. For you
20 to convict the defendant, the government must prove that he
21 knew the conspiracy's main purpose and that he voluntarily
22 joined the conspiracy intending to help advance or achieve
23 its goals.
24 The government does not need to prove that
25 the defendant knew everything about the conspiracy or

1 everyone else involved, or that he was a member of it from
2 the very beginning. Nor does the government need to prove
3 that the defendant played a major role in the conspiracy,
4 or that his connection to it was substantial. A slight
5 role or connection may be enough.
6 But proof that the defendant simply knew
7 about a conspiracy, or was present at times, or associated
8 with members of the group is not enough, even if he
9 approved of what was happening or did not object to it.
10 Similarly, just because the defendant may have done
11 something that happened to help the conspiracy does not
12 necessarily make him a conspirator. These are all things
13 that you may consider in deciding whether the government
14 has proven that the defendant joined a conspiracy, but
15 without more, they are not enough.
16 What the government must prove is that the defendant
17 knew the conspiracy's main purpose and that he voluntarily
18 joined it intending to help advance or achieve its goals.
19 This is essential.
20 The defendant's knowledge can be proved indirectly by
21 facts and circumstances which lead to a conclusion that he
22 knew the conspiracy's main purpose, but it is up to the
23 government to convince you beyond a reasonable doubt that
24 such facts and circumstances existed in this particular
25 case.

1 Conspiracy element three, overt acts: The third
2 element that the government must prove is that a member of
3 the conspiracy did one of the overt acts described in the
4 indictment for the purpose of advancing or helping the
5 conspiracy.
6 The indictment lists various overt acts for
7 Counts 1 through 4. The government does not have to prove
8 that all these overt acts were committed or that any of
9 these overt acts were themselves illegal.
10 But the government must prove that for each
11 of Counts 1 through 4, at least one of these overt acts was
12 committed by a member of the conspiracy, and that it was
13 committed for the purpose of advancing or helping the
14 conspiracy. This is essential.
15 Some of the people who may have been involved in
16 these events are not on trial here. This doesn't matter.
17 There's no requirement that all members of the conspiracy
18 be charged and prosecuted or tried together in one
19 proceeding.
20 An indictment can charge a defendant with a
21 conspiracy involving people whose names are not known as
22 long as the government can prove that the defendant
23 conspired with one or more of them. Whether they're named
24 or not does not matter.
25 The crimes that the defendant is accused of

1 conspiring to commit: In Count 1, the conspiracy charge
2 relates to the crime of bribery of a public official. In
3 Counts 2, 3, and 4, the conspiracy charges relate to the
4 crime of illegal gratuity.
5 First of all, it's important for you to
6 recognize that Counts 1 through 4 do not directly charge
7 the defendant with bribery or illegal gratuity. Instead,
8 Counts 1 through 4 each charge a conspiracy to commit
9 either the crime of bribery or the crime of illegal
10 gratuity. There is a difference. The crimes of bribery
11 and illegal gratuity will be defined for you for Counts 1
12 through 4 so that you can determine not if the defendant
13 committed either of these crimes in those counts, but if he
14 conspired to commit these crimes.
15 With that understood, I'll explain the distinctions
16 between the crimes of bribery and the crime of illegal
17 gratuity, and I'll define these crimes.
18 Do you want to stand up and stretch a minute before I
19 define these crimes? Are you okay?
20 Count 1 involves the crime of bribery which occurs
21 when something of value is corruptly given, offered, or
22 promised to a public official or corruptly demanded,
23 sought, received, accepted, or agreed to be received or
24 accepted by a public official with intent to influence any
25 official act or in return for being influenced in the

1 performance of any official act.
2 Counts 2, 3, and 4 each involve the crime of illegal
3 gratuity, which occurs when something of value, other than
4 as provided by law for the proper discharge of his official
5 duty, is given, offered, or promised to a public official
6 or demanded, sought, received, accepted, or agreed to be
7 received or accepted by a public official, for or because
8 of any official act performed or to be performed by the
9 public official.
10 The difference between bribery and illegal gratuity
11 is intent. Bribery requires intent to influence an
12 official act or to be influenced in an official act, while
13 illegal gratuity only requires -- requires only that the
14 gratuity be given or accepted for or because of an official
15 act.
16 In other words, for bribery, there must be a specific
17 intent to give or receive something of value in exchange
18 for an official act. An illegal gratuity, on the other
19 hand, may be merely a reward for some future act that the
20 public official will take and may have already determined
21 to take, or for a past act that he has already taken.
22 The government does not need to show that any
23 official act was actually performed by the defendant for
24 either bribery or illegal gratuity. The government also
25 does not need to show that the public official actually

1 received something of value. It is sufficient if the
2 public official sought or agreed to receive or accept the
3 thing of value.
4 Remember that Counts 1 through 4 do not charge
5 bribery or illegal gratuity. They charge a conspiracy to
6 commit either bribery or illegal gratuity. There is a
7 difference. I defined the crimes of bribery and illegal
8 gratuity for you for Counts 1 through 4 only so that you
9 could determine if there were conspiracies to commit these
10 crimes.
11 Count 5, illegal gratuity: Count 5 of the indictment
12 charges Defendant Traficant with the crime of illegal
13 gratuity. The United States Code describes the crime of
14 illegal gratuity. Section 201(c)(1)(B) of Title 18
15 provides in part that: "Whoever otherwise than as provided
16 by law for the proper discharge of official duty, being a
17 public official, directly or indirectly demands, seeks,
18 receives, accepts, or agrees to receive or accept anything
19 of value personally for or because of any official act
20 performed or to be performed by such official" -- that's
21 the end of the quote in the statute -- is guilty of illegal
22 gratuity.
23 Therefore, the crime of illegal gratuity has three
24 elements:
25 One, Defendant Traficant demanded, sought, or

1 received something of value other than as provided by law
2 for the proper discharge of his official duty as described
3 in Count 5 of the indictment.
4 Two, Defendant Traficant was at that time a public
5 official of the United States.
6 Three, Defendant Traficant demanded, sought, or
7 received something of value for or because of any official
8 act performed or to be performed.
9 In order to find the defendant guilty of the illegal
10 gratuity charge, you must be convinced that the government
11 has proven all these elements beyond a reasonable doubt.
12 The government does not need to show that any
13 official act was actually performed by the defendant.
14 The following definitions apply to the charge of
15 illegal gratuity:
16 The term, quote, public official, end quote,
17 includes a member of Congress.
18 The term, quote, official act, end quote,
19 means any decision or action on any question, matter,
20 cause, suit, proceeding, or controversy which may at any
21 time be pending, or which may by law be brought before any
22 public official, in such official's official capacity, or
23 in such official's place of trust or profit. The term
24 "official act" -- that's in quotes -- includes the
25 decisions or actions generally expected of a public

1 official. These decisions or actions do not need to be
2 specifically described in any law, rule, or job description
3 to be considered to be an official act.
4 The phrase, quote, anything of value, end
5 quote, means any item, whether tangible or intangible, that
6 the person giving or offering or the person demanding or
7 receiving considers to be worth something. The phrase ,
8 quote, anything of value, end quote, includes a sum of
9 money, favorable treatment, a job, or special
10 consideration.
11 Count 6 of the indictment charges that from on or
12 about January 21st, 2000, and continuing until on or about
13 February 29th, 2000, in the Northern District of Ohio,
14 Defendant Traficant corruptly endeavored to influence,
15 obstruct, or impede the due administration of justice in a
16 pending federal judicial proceeding, namely, a federal
17 grand jury, by endeavoring to persuade his administrative
18 counsel to destroy evidence and to provide false testimony
19 and information to a federal grand jury that was impaneled
20 in the Northern District of Ohio and which Defendant
21 Traficant knew had issued federal grand jury subpoenas.
22 Section 1503 of Title 18 of the United States Code
23 provides in part, that: "Whoever corruptly endeavors to
24 influence, obstruct, or impede the due administration of
25 justice," shall be guilty of obstruction of justice.

1 In order to meet its burden of proof for the crime of
2 corruptly endeavoring to influence, obstruct, or impede the
3 due administration of justice as charged in Count 6 of the
4 indictment, the government must prove the following
5 essential elements beyond a reasonable doubt:
6 First, the federal grand jury was in session
7 at the time alleged in the indictment.
8 Second, Defendant Traficant knew that the federal
9 grand jury was in session.
10 Third, Defendant Traficant endeavored to persuade his
11 administrative counsel to destroy evidence and to provide
12 false testimony and information to the federal grand jury.
13 Fourth, in doing so, he corruptly endeavored to
14 influence, obstruct, or impede the due administration of
15 justice.
16 In order to find the defendant guilty of the crime of
17 obstruction of justice, you must be convinced that the
18 government has proven all of these elements beyond a
19 reasonable doubt.
20 The following definitions apply to Count 6:
21 To act, quote, corruptly, end quote, means to
22 act voluntarily and deliberately and for the primary -- for
23 the purpose of -- let me start this again.
24 To act, quote corruptly, end quote, means to
25 act voluntarily and deliberately and for the purpose of

1 improperly influencing, or obstructing, or interfering with
2 the administration of justice.
3 The term "endeavors" means to knowingly and
4 deliberately act or to knowingly and deliberately make any
5 effort which has a reasonable tendency to bring about the
6 desired result. It is not necessary for the government to
7 prove that the, quote, endeavor was successful or, in fact,
8 achieved the desired result.
9 Count 7, conspiracy to defraud the United States:
10 Count 7 of the indictment accuses Defendant Traficant of a
11 conspiracy to defraud the United States by dishonest means.
12 It is a crime for two or more persons to conspire or agree
13 to defraud the United States even if they never actually
14 achieve their goal.
15 As I instructed you earlier, a conspiracy is
16 a kind of criminal partnership. For you to find the
17 defendant guilty of this conspiracy charge, the government
18 must prove each and every one of the following elements
19 beyond a reasonable doubt:
20 First, that two or more persons conspired or
21 agreed to defraud the United States, or one of its agencies
22 or departments, by dishonest means. The word "defraud" is
23 not limited to its ordinary meaning of cheating the
24 government out of money or property. "Defraud," and that's
25 in quotes, also means impairing, obstructing, or defeating

1 the lawful function of any government agency or department
2 by dishonest means.
3 Second, the government must prove that the defendant
4 knowingly and voluntarily joined the conspiracy.
5 And third, the government must prove that a member of
6 the conspiracy did one of the overt acts described in Count
7 7 of the indictment for the purpose of advancing or helping
8 the conspiracy.
9 In order to find the defendant guilty of the
10 conspiracy charge, you must be convinced that the
11 government has proved all of these elements beyond a
12 reasonable doubt.
13 The general instructions regarding the
14 conspiracy elements and unindicted, unnamed, or separately
15 tried coconspirators given to you for Counts 1 through 4
16 apply to Count 7, as well.
17 Counts 8 and 9, filing false tax returns: Counts 8
18 and 9 of the indictment charge Defendant Traficant with
19 filing false tax returns.
20 Section 7206(1) of Title 26 of the United
21 States Code provides that: "Any person who willfully makes
22 and subscribes any return, statement, or other document,
23 which contains, or is verified by, a written declaration
24 that it is made under the penalties of perjury, and which
25 he does not believe to be true and correct as to every

1 material matter," shall be guilty of filing false tax
2 returns.
3 In order to meet its burden of proof for the crime of
4 willfully filing a false tax return, the government must
5 prove the following five essential elements beyond a
6 reasonable doubt:
7 First, Defendant Traficant made and signed a tax
8 return for the year 1998, for Count 8, and year 1999, for
9 Count 9, that contained false information as to a material
10 matter.
11 Second, Defendant Traficant knew this information was
12 false.
13 Third, the false statement was material.
14 Fourth, the return contained a written declaration
15 that it was being signed subject to the penalties of
16 perjury.
17 Fifth, in filing the false tax return, Defendant
18 Traficant acted willfully.
19 In order to find the defendant guilty of the crime of
20 willfully filing a false tax return, you must be convinced
21 that the government has proven all of these elements beyond
22 a reasonable doubt.
23 The government is not required to prove that any
24 additional tax was due to the government or that the
25 government was deprived of any tax revenues by reason of

1 the filing of any false return.
2 A statement is "material" if it has a natural
3 tendency to influence or is capable of influencing the
4 Internal Revenue Service in investigating or monitoring the
5 reporting of income by a taxpayer.
6 The term "willfully" means to voluntarily and
7 intentionally violate a known legal duty. Proof of any
8 additional bad motive is not required. Negligent conduct
9 is not sufficient to constitute willfulness.
10 Funds or property from unlawful sources: In
11 determining the issue of the taxable income of the
12 defendant, no distinction is made between income derived
13 from lawful or unlawful sources. Funds or property
14 received from unlawful or illegal sources, therefore, are
15 treated in the same manner as funds or property from lawful
16 or legal sources.
17 Section 6064 of Title 26 of the United States Code
18 provides in part that: "The fact that an individual's name
19 is signed to a return shall be prima facie evidence for all
20 purposes that the return was actually signed by him."
21 In other words, you may infer and find that a tax
22 return was, in fact, signed by the person whose name
23 appears to be signed to it. You're not required, however,
24 to accept any such inference or to make such a finding.
25 If you find beyond a reasonable doubt from the

1 evidence in the case that Defendant Traficant signed the
2 tax return in question, then you may also draw the
3 inference and may also find, but are not required to find,
4 that Defendant Traficant knew the contents of the return
5 that he signed.
6 Each tax year is separate: Any willful failure to
7 comply with the requirements of the Internal Revenue Code
8 for one year is a separate matter from any such failure to
9 comply for a different year. The tax obligations of the
10 defendant in any one year must be determined separately
11 from the tax obligations in any other year.
12 Now, you may not need to stand up and stretch, but I
13 need to stand up in stretch. Anyone else who needs to
14 stand up and stretch, please do.
15 (Pause.)
16 THE COURT: Count 10, this is the RICO count. Count
17 10 of the indictment charges that from in or about January,
18 1985, until October 26, 2001, in the Northern District of
19 Ohio, defendant James A. Traficant, Jr. violated federal
20 law by associating with an interstate enterprise and then
21 knowingly and deliberately participating in the affairs of
22 that enterprise through a pattern of racketeering activity.
23 Section 1962(c) of Title 18 of the United States Code
24 provides in part that: "It shall be unlawful for any
25 person employed by or associated with any enterprise

1 engaged in, or the activities of which affect, interstate
2 or foreign commerce, to conduct or participate, directly or
3 indirectly, in the conduct of such enterprise's affairs
4 through a pattern of racketeering activity."
5 RICO elements: In order to meet its burden of proof
6 for the crime of participating in the affairs of an
7 interstate enterprise through a pattern of racketeering
8 activity, as charged in Count 10 of the indictment, the
9 government must prove the following five essential elements
10 beyond a reasonable doubt:
11 First, an enterprise, as described in the
12 indictment, existed on or about the time alleged in the
13 indictment.
14 Second, the enterprise affected interstate or foreign
15 commerce.
16 Third, defendant James A. Traficant, Jr. was employed
17 by or associated with the enterprise.
18 Fourth, Defendant Traficant participated, either
19 directly or indirectly, in the affairs of the enterprise.
20 Fifth, Defendant Traficant participated in the
21 affairs of the enterprise through a pattern of racketeering
22 activity as described in the indictment through the knowing
23 commission of at least two racketeering acts within ten
24 years of each other.
25 In order to find the defendant guilty of the RICO

1 charge, you must be convinced that the government has
2 proven all these elements beyond a reasonable doubt.
3 RICO element one, enterprise: As used in Count 10,
4 the term "enterprise" includes any individual, partnership,
5 corporation, association, or other legal entity, and any
6 union or group of individuals associated in fact although
7 not a legal entity. Thus, the term "enterprise" may
8 include a group of people associated in fact, even though
9 this association is not recognized as a legal entity. A
10 group or association of people can be an enterprise if
11 these individuals have joined together for the purpose of
12 engaging in a common course of conduct. Such an
13 association of persons may be established by evidence
14 showing an ongoing organization, formal or informal, and by
15 evidence that the people making up the association function
16 as a continuing unit. Such an association of individuals
17 may retain its status as an "enterprise" even though the
18 membership of the association changes by adding or losing
19 individuals during the course of its existence.
20 RICO element two, interstate or foreign commerce:
21 "Interstate or foreign commerce" means trade, business, or
22 travel between the states or between the United States and
23 another country. The phrase "engaged in, or the activities
24 of which affect, interstate or foreign commerce," means to
25 be involved in or to affect in some, even minimal, way

1 trade, business, or travel between the states or between
2 the United States and another country.
3 The government need not prove that Defendant
4 Traficant himself engaged in interstate or foreign commerce
5 or that his acts affected interstate or foreign commerce.
6 However, the government must prove that the activities of
7 the enterprise had some minimal effect on interstate or
8 foreign commerce. It is not necessary for the government
9 to show that the defendant knew that the enterprise would
10 affect interstate or foreign commerce or show that the
11 defendant intended to affect interstate or foreign
12 commerce.
13 RICO element three: "Employed by or associated with"
14 the enterprise means that the defendant was connected to
15 the enterprise in some meaningful way and that the
16 defendant knew of the existence of the enterprise and of
17 the general nature of its activities. The defendant need
18 not have been employed by or associated with the enterprise
19 for the entire period of its existence. However, the
20 government must prove beyond a reasonable doubt that at
21 some time during the period indicated in Count 10 of the
22 indictment the defendant was employed by or associated with
23 the enterprise.
24 RICO element four: The term "to conduct or
25 participate directly or indirectly in the conduct of" the

1 affairs of the enterprise means the performance of acts,
2 functions, and duties which are necessary or helpful in the
3 operation of the enterprise. A person may be found to
4 conduct or participate in the conduct of an enterprise even
5 though that person is merely a servant or employee as long
6 as the government also proves that the person participates
7 somehow in the operation or management of the enterprise.
8 There is a typo on the fourth line from the bottom,
9 and we'll clear it up for you.
10 RICO element five, pattern of racketeering activity:
11 In order to establish a "pattern of racketeering activity"
12 as alleged in Count 10 of the indictment, the government
13 must prove beyond a reasonable doubt that:
14 One, at least two acts of racketeering, as
15 detailed in Count 10 of the indictment, were committed
16 within ten years of each other.
17 Two, the racketeering acts had the same or
18 similar purposes, results, participants, victims, or
19 methods of commission, or are otherwise interrelated by
20 distinguishing characteristics and are not isolated events.
21 Three, the racketeering acts themselves
22 constitute continued activity or a threat of continued
23 activity. Continued activity may be established when the
24 evidence shows that a series of related acts took place
25 over a substantial period of time. Threat of continued

1 activity may be established when the evidence shows that
2 the racketeering acts are part of a long-term association
3 that exists for criminal purposes or when the racketeering
4 acts are shown to be a regular way of conducting a
5 defendant's ongoing legitimate business or enterprise.
6 The government must prove beyond a reasonable doubt
7 that the defendant committed at least two acts of
8 racketeering. You must unanimously agree on which
9 racketeering acts, if any, you believe the defendant
10 committed. It is not enough that some Members of the Jury
11 find that the defendant committed two of the racketeering
12 acts charged while other Members of the Jury find that the
13 defendant committed different racketeering acts. You must
14 be unanimous as to which acts, if any, you believe the
15 defendant committed.
16 RICO element five, racketeering activity: The term
17 "racketeering activity" or "racketeering acts" means
18 specific illegal actions.
19 Count 10 of the indictment alleges eleven
20 acts of racketeering. The alleged acts are summarized as
21 follows:
22 Act number one: Bribery relating to Bucci.
23 Act number two: Illegal gratuity relating to
24 Bucheit.
25 Act number three: Illegal gratuity relating to

1 Tyson.
2 Act number four: Illegal gratuity relating to
3 Cafaro.
4 Act number five: Illegal gratuity relating to Sugar,
5 1999.
6 Act number six: Illegal gratuity relating to Sugar,
7 2000.
8 Act number 7: Illegal gratuity relating to Sinclair.
9 Act number eight: Illegal gratuity relating to
10 Sabatine.
11 Act number nine: Mail fraud relating to Buccella.
12 Act number ten: Mail fraud relating to Traficanti.
13 Act number eleven: Mail fraud relating to Rovnak.
14 I have already instructed you on the elements of
15 bribery and illegal gratuity in the instructions for Counts
16 1 through 5. You should apply those instructions to
17 racketeering acts one through eight.
18 Racketeering act of mail fraud: The racketeering act
19 of mail fraud has several essential elements. In order to
20 find that Defendant Traficant committed this racketeering
21 act, the government must prove the following essential
22 elements beyond a reasonable doubt:
23 First, Defendant Traficant knowingly devised
24 or knowingly participated in a scheme to defraud, as
25 detailed in Count 10 of the indictment.

1 Second, the scheme to defraud was material, that is,
2 it would reasonably influence the United States to part
3 with money or property. The phrase "scheme to defraud"
4 means any deliberate plan of action or course of conduct by
5 which someone intends to deceive or to cheat another or by
6 which someone intends to deprive another of something of
7 value. It is not necessary for the government to prove
8 that the defendant was actually successful in defrauding
9 anyone. It is not necessary for the government to prove
10 that anyone lost money or property as a result of the
11 scheme to defraud. An unsuccessful scheme to defraud is as
12 illegal as a scheme that is ultimately successful.
13 Third, Defendant Traficant did so with the intent to
14 defraud. To act with an "intent to defraud" means to act
15 knowingly and with the intention or the purpose to deceive
16 or to cheat. An intent to defraud is accompanied
17 ordinarily by a desire or purpose to bring about some gain
18 or benefit to oneself or some other person or by a desire
19 or purpose to cause some loss to some person.
20 Fourth, in advancing or furthering or carrying out
21 this scheme to defraud, Defendant Traficant used the mails
22 or caused the mails to be used. The government is not
23 required to prove that the defendant actually mailed
24 anything or that the defendant even intended that the mails
25 would be used to further or to advance or to carry out the

1 scheme to defraud. The government must prove, however,
2 that the mails were used in some manner to further or to
3 advance or to carry out the scheme to defraud. The
4 government must also prove that the use of the mails would
5 follow the ordinary course of business or events or that
6 the use of the mails by someone was reasonably foreseeable.
7 It is not necessary for the government to prove that the
8 item itself mailed was false or fraudulent or contained any
9 false or fraudulent statement, representation, or promise,
10 or contained any request for money or thing of value.
11 The indictment alleges that Defendant Traficant
12 committed more than one act of racketeering. In order to
13 find defendant guilty of the crime charged in Count 10 of
14 the indictment, the government must prove beyond a
15 reasonable doubt that the defendant committed at least two
16 acts of racketeering. You must unanimously agree on which
17 racketeering acts, if any, you believe the defendant
18 committed. It is not enough that some Members of the Jury
19 find that the defendant committed two of the racketeering
20 acts charged while other Members of the Jury find that the
21 defendant committed different racketeering acts. You must
22 be unanimous as to which acts, if any, you believe the
23 defendant committed.
24 I know that the other section, D, is there, but
25 you're going to be leaving those books with your notebooks

here when we release you until Monday, and so you don't need to worry about those now.

Also, there are a couple of typos as I read along that I caught, so we'll be replacing those pages.

Now, this section of the case, this phase of the case, is sort of well underway, and it seems to me pretty clear that the best thing to do is to go on with the closing arguments at a time where we know we'll have enough time for the parties to actually put them on, and it's too late now to do that and let you go home, as we must, at 12:00 and let you have a weekend in here.

As you're gone now, and you've heard the evidence in this case, it is still very important that you pay attention to all of those original, we call them by various names, but they're the sort of fundamental rules that your oath is connected to, that your duties as part of this Court are connected to, and I know you know them. We've gone over them so many times.

But you'll now be away from this work for two and a half days. You can set it aside and not be concerned about it. Your instructions, along with your notebooks, will be held safely and here for you when you come in.

You can continue to take notes in this case, so when closing arguments come on, even though it's not evidence, it's okay for you to use your notebooks.

1 You will take your notebooks, the jury instructions,
2 and all the evidence that's been admitted in the case back
3 with you when you actually go in to deliberate.
4 MR. TRAFICANT: Your Honor?
5 THE COURT: Congressman?
6 MR. TRAFICANT: I have a motion.
7 THE COURT: Well, we'll make it as soon as
8 the jury --
9 MR. TRAFICANT: I have a motion that we
10 proceed with closing arguments today.
11 THE COURT: We're not going to do that. The
12 jury is too close to the time when they could well have
13 expected they would be able to go back to their regular
14 business. So we've given each side here 90 minutes for
15 closing argument, and that adds up to a good period of
16 time.
17 It will be good for you to be refreshed and
18 ready to listen carefully. I've given you the major
19 instructions in law, and it's a lot to cover, because we've
20 been together here for a long time. And so it's a good
21 time for you to break and recess.
22 Besides, the lawyers and the pro se defendant and I
23 have work still to do to get things ready for the next
24 phase of the case.
25 So remembering that although there may be items out

1 there that relate somehow to this case, you're the ones who
2 have been here from day one, and you protect yourselves
3 against any outside influence. You've been very, very
4 conscientious and very attentive, and so turn yourself away
5 from all of this and enjoy your family and friends, and
6 we'll see you in the box at 9:00 on Monday morning.
7 (Jury out at 11:16 a.m.)
8 THE COURT: So that the jury can leave in an orderly
9 way, we are going to recess now for about ten minutes.
10 Then the lawyers will be back in here. We have set aside
11 some time here for us to make sure that all the items that
12 were admitted into evidence will be here, and so forth.
13 We're going to be doing that kind of work.
14 Of course, you're free to be here. This is all an open
15 process, but it's up to you. And we'll see the lawyers
16 back in ten minutes then.
17 MR. SMITH: Yes, Your Honor.
18 THE CLERK: This Honorable Court is now in
19 recess.
20 (Recess had.)
21 THE COURT: Congressman, do you have your
22 evidence here?
23 MR. TRAFICANT: I hope so.
24 THE COURT: Good. Why don't you just
25 organize it between yourselves. I'm going to sit up here

1 and do other work.
2 MR. TRAFICANT: Why don't we sort of like sit
3 down like gentlemen and come to some mutual understandings
4 since you are fine men, you are not on trial, and see if we
5 can do this in an orderly fashion without your continuous
6 instructions.
7 THE COURT: That's fine. You won't have any
8 instructions from me unless you need me.
9 The reporters are here and they'll just go off the
10 record now, but sit here in case something comes up, and I
11 will do other work.
12 Thank you. Everyone can be seated.
13 (Discussion off the record.)
14 THE COURT: We are going to go on the record
15 briefly, because as the review of evidence was done
16 cooperatively by the parties, a couple of issues arose.
17 We'll put those on the record now, and then I believe there
18 is still more work, but it won't be necessary to keep the
19 court reporters present for that.
20 I'm going to have my clerk, Jeff Baran, recite what
21 he's been -- what apparently has been agreed. I've been
22 sitting here, but he can put it on the record more
23 efficiently than I will. And then if there's any problem
24 with it, the parties are here and they can respond.
25 THE CLERK: My understanding is that the

1 following exhibits have been stipulated to, their admission
2 has been stipulated to. G-66 through G-74, that's G-66,
3 G-67, G-68, G-69, G-70, G-71, G-72, G-73, and G-74.
4 And there was one other exhibit that's been
5 stipulated to, that's HSL-1-D.
6 THE COURT: All right. Then with the
7 agreement of the parties, we will reopen the evidence for
8 the sole purpose of admitting these into the evidentiary
9 phase of the case.
10 THE CLERK: In addition, there was one
11 exhibit that was admitted as a Government Exhibit, that's
12 1-23, and my understanding is that Congressman Traficant
13 would like to make that a joint exhibit and the government
14 has no objection to that.
15 THE COURT: Fine. That will also be
16 admitted.
17 Now we'll continue with this labor, but I don't
18 anticipate that there are going to be any more changes. So
19 we'll release the court reporters.
20 Thank you.
21 (Trial adjourned at 12:45 p.m.)
22
23
24
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2 C E R T I F I C A T E

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4

5

6 I certify that the foregoing is a correct transcript

7 from the record of proceedings in the above-entitled

8 matter.

9

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11

12

13 Heidi Blueskye Geizer 4-24-02

14 Heidi Blueskye Geizer, RMR, CRR Date

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

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

8 - - - - -
TRANSCRIPT OF PROCEEDINGS HAD BEFORE
9
THE HONORABLE LESLEY WELLS
10
JUDGE OF SAID COURT,
11
ON MONDAY, APRIL 8, 2002
12
Jury Trial
13
Volume 34
14
15 - - - - -
16
APPEARANCES:
17 For the Government: CRAIG S. MORFORD,
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23 U.S. District Court - Room 539
201 Superior Avenue
24 Cleveland, Ohio 44114-1201
(216) 861-3005
25 Proceedings recorded by mechanical stenography; transcript
produced by computer-aided transcription.

1 MONDAY, APRIL 8, 2002, MORNING SESSION, 8:54 A.M.
2 THE COURT: Gentlemen, I'd like a side-bar
3 with you, please. Somebody has some kind of telephone or
4 something in the courtroom. Would you please turn it off.
5 (Proceedings at side-bar on the record:)
6 THE COURT: I was just given information that
7 juror number 3, Scott Grodi, had a death in his immediate
8 family. His aunt died. He's very -- he feels very
9 conflicted, but he really needs to be with his family
10 according to him. Fortunately, we have alternates.
11 So I've just gotten the information. If you
12 want an opportunity, I can bring him out and we can voir
13 dire him.
14 MR. TRAFICANT: Yeah, I want him brought out.
15 THE COURT: All right. And we've got five
16 alternates.
17 So it would be in the event that he is
18 excused from this case, then we would move the first
19 alternate into that slot.
20 MR. TRAFICANT: When did you first learn
21 this?
22 THE COURT: About four minutes ago. If you'd
23 like, we can bring him out and do a voir dire. That we
24 would do in public. Sometimes people just agree, and so --
25 MR. MORFORD: I mean, I don't see how --

1 THE COURT: But you have an opportunity to --
2 MR. TRAFICANT: I don't know how dismissing a
3 juror after all this time -- and I'm not familiar, and I
4 had nothing to do with these 105 selections in the first
5 place. I find this highly unusual the day of the closing
6 arguments for this to happen.
7 THE COURT: Okay.
8 MR. TRAFICANT: And I object to this person
9 being dismissed.
10 THE COURT: Well, he hasn't been dismissed.
11 I'm just telling you the information, and if you want me to
12 bring him out, I'll bring him out.
13 MR. TRAFICANT: I don't want to be the one
14 that's going to get the guy mad to keep him on the jury.
15 He's sworn here to be on the jury. Does he have a death in
16 the family?
17 THE COURT: Let me ask -- I got the
18 information from the deputy marshal.
19 MR. TRAFICANT: I object to --
20 THE COURT: Let him explain. Just a minute,
21 Congressman. Come back and listen to what he's telling us
22 because he may be able to answer some of your questions or
23 we'll bring Mr. Grodi out.
24 DEPUTY U.S. MARSHAL: Apparently his aunt,
25 whom he's closed to passed away. He was late this morning

1 because he was with the family. His family is sort of
2 upset that he can't be with them. He's torn because he
3 wants to be here, he's been here this long. At the same
4 time, he feels it's more important that he's with his
5 family.
6 MR. TRAFICANT: When is the funeral?
7 DEPUTY U.S. MARSHAL: The funeral is tonight.
8 MR. TRAFICANT: He can hear the closing
9 arguments and go to the funeral, and he could deliberate
10 tomorrow and go visit with his family after they continue
11 the deliberations. He can make the funeral.
12 What is such a big problem here?
13 I don't like the fact that now we're starting to play
14 around with jurors the day of the closing arguments, quite
15 frankly.
16 THE COURT: Well, honestly, we just got
17 information that somebody died.
18 MR. MORFORD: Your Honor --
19 THE COURT: Nobody is playing around.
20 MR. MORFORD: Your Honor, our position is
21 that this is a matter of personal tragedy that this person
22 had no control over whatsoever.
23 We do have alternates, and if he's in a
24 position that he doesn't feel he can sit at a time of
25 personal tragedy, we would not object. That's just our

position.

MR. TRAFICANT: Who would be that next witness -- who would be the next juror?

THE COURT: Regina Perna is alternate 1. She was sitting right here (indicating), and if you would like to talk -- if you would like me to bring him out, he's here. We haven't released him or talked to him at all. He doesn't know anything about what we're doing here. He just brought it to the attention of the marshal, who brought it to my attention.

MR. TRAFICANT: I don't want to get a juror mad. I could see the smooth ploy of the prosecutor here.

MR. MORFORD: It's called compassion.

MR. TRAFICANT: This man knows compassion real well in this case.

MR. MORFORD: I noticed.

MR. TRAFICANT: The funeral is tonight. He could be released to the funeral.

DEPUTY U.S. MARSHAL: The wake is tonight; the funeral would be tomorrow. But his issue was, it is more important for him to be with his family at this time. It's not so much making the funeral.

MR. TRAFICANT: Why could the jury not convene then until on Wednesday? Let the juror go forward. Let him hear the closing arguments. He sat through it all.

1 And let them go forward on Wednesday.
2 THE COURT: Why don't we bring him out here
3 and let him speak for himself so that he has an opportunity
4 to say what else is happening. We're getting all of this.
5 You know, it's hard to make plans around him if we don't
6 listen to him.
7 What is your proposal? Your proposal is that we wait
8 until after the funeral?
9 MR. TRAFICANT: Wait until after the funeral
10 to send the jury. He sat through a full nine and a half
11 weeks. He understands this case.
12 THE COURT: Well, so did the alternates.
13 MR. TRAFICANT: Alternates do, but alternates
14 aren't always sure they're going to be called. This man
15 has certainly grasped this case.
16 THE COURT: Okay. Well, then let's bring him
17 out here and let him explain what his expectations are and
18 what his concerns are.
19 MR. TRAFICANT: What would be wrong with
20 holding the jury until Wednesday and let them deliberate on
21 Wednesday? Let them digest the closing arguments today or
22 whatever paperwork they have to do, they could do. I don't
23 think it's an unusual request by the defense.
24 You have ruled with the prosecution on
25 everything else.

1 THE COURT: Congressman, putting aside all
2 the other issues that are extraneous, let's find out. I
3 can send my clerk back to talk to him back there or we can
4 bring him out here. Which one do you want?
5 MR. TRAFICANT: Look, I don't want to bring
6 him out and put him on the stand and have the press have me
7 grilling a witness -- a juror that's going to get back in
8 the press to the remaining jury. Now, come on here. I
9 think it's within your scope and power and --
10 THE COURT: Well, then I'm going to need some
11 more information from him. I'll just talk to him.
12 MR. TRAFICANT: Why don't you talk to him in
13 chambers?
14 THE COURT: Okay. And then I'll come and
15 report back to you. Okay? But I think we should resolve
16 this before we go forward with closing.
17 (Proceedings had in open court:)
18 THE COURT: We're going to take a recess.
19 I'm going to talk with a juror either up here or -- that
20 will be fine.
21 (Juror Grodi and Judge Wells at side-bar on the
22 record.)
23 THE COURT: I'm sorry to hear --
24 A JUROR: That's okay.
25 THE COURT: We just need a little bit more

1 information on your family's plans and your situation.
2 A JUROR: Okay.
3 THE COURT: For example, I understand that
4 there's a wake and then --
5 A JUROR: Tonight at 6:30. It's in Port
6 Clinton, Ohio.
7 THE COURT: And then tomorrow there's a --
8 A JUROR: Funeral.
9 THE COURT: Services?
10 A JUROR: That's in Port Clinton, also. I'm
11 not exactly sure of the times of the funeral.
12 THE COURT: If we were to go through closing
13 argument today and then just not reconvene until Wednesday,
14 would that resolve this for you?
15 A JUROR: Yeah.
16 THE COURT: Okay.
17 A JUROR: If it's not too much trouble,
18 because I mean --
19 THE COURT: No. I think it's a reasonable
20 accommodation. The jury gets another day off.
21 A JUROR: Because I told everybody I wasn't
22 going to do anything, so everybody was kind of mad at me.
23 Because I know this is a big deal and everything.
24 THE COURT: If we did that and came back here
25 on Wednesday morning and I gave you the final instructions

1 and you took the case to the jury, would that take care of
2 it for you and your family?
3 A JUROR: Yeah. I just don't want to cause a
4 problem.
5 THE COURT: Well, that's all right. I think
6 the other jurors would understand.
7 A JUROR: Right. I mean, it's not so much
8 for me. It's more for my family. It's for my dad.
9 They're pretty close. My dad's brother passed away a few
10 years ago, so it's kind of hard on him. So it's more or
11 less for him.
12 But yeah, if you can do that.
13 THE COURT: Let me talk to the lawyers and
14 see if that will work out.
15 A JUROR: Okay.
16 THE COURT: All right. Thanks.
17 (The juror returned to the jury room.)
18 (Proceedings at side-bar on the record:)
19 THE COURT: He says -- he has quite a
20 distance to go, but this will work for him and that if he
21 could be with his family all day tomorrow, that that would
22 take care of all the issues and it would certainly make him
23 happy because he'd like to be able to continue. That would
24 mean we would postpone -- we'd go with closing arguments
25 now, and I wouldn't give the jury their final instructions

1 until Wednesday morning.
2 MR. TRAFICANT: I support that.
3 MR. MORFORD: Is the jury going to be
4 sequestered?
5 THE COURT: They will be when they
6 deliberate.
7 MR. MORFORD: But they won't be for the next
8 day and a half?
9 THE COURT: No. Well, they could be for the
10 next day and a half, but he won't be sequestered.
11 MR. TRAFICANT: Is this becoming the
12 prosecutor's call?
13 THE COURT: No. Just listen. This is how we
14 conduct trials.
15 MR. TRAFICANT: I'm ready to go forward with
16 closing arguments.
17 THE COURT: I understand. If you want to sit
18 down, you're welcome to do it.
19 MR. MORFORD: The only response, Your Honor,
20 would be this would be highly unusual to have the jury,
21 after closing arguments, take a day or a day and a half off
22 when we have alternate jurors who are perfectly suited to
23 sit.
24 And I mean there are concerns that the
25 government has in having the jury just out there for a day

1 and a half before we come back and have them start
2 deliberating, and just the idea that anything that could
3 happen during that time, it could end up in a mistrial and
4 having us have to go through this for another ten weeks at
5 some point, that is something that just (pause) --
6 THE COURT: So if the jury were sequestered
7 but he were permitted leave to go to the family wake and
8 the funeral, that would be a valid solution?
9 MR. MORFORD: Yeah. I'd hate to do that to
10 him when he's got the family situation he has, but that's
11 my only concern, is that what, if anything, could happen in
12 a day and a half. You just never know.
13 THE COURT: If we sequester the rest of the
14 jury --
15 MR. SMITH: That's better than the
16 alternatives available.
17 MR. TRAFICANT: I will accept a gag order.
18 THE COURT: Sir?
19 MR. TRAFICANT: If that's what you're worried
20 about.
21 THE COURT: No, I'm not worried about that.
22 You've never been under one. I'm not putting one on you,
23 but thank you anyway.
24 Okay. All right. Then that's the way we
25 will proceed. We'll go forward with closing argument now.

We'll resume the deliberations --

MR. TRAFICANT: Wednesday morning.

THE COURT: Yeah. But what happens Wednesday morning is I have to give them their final instructions before they go to deliberation.

MR. TRAFICANT: And we'll appear at 9:00.

THE COURT: All we're going to have today is closing argument.

MR. TRAFICANT: That's fine.

THE COURT: Okay?

MR. TRAFICANT: That's fine. I would like to know at some point what the last phase of these closing arguments consist of, and I want joint exhibits explained more thoroughly to this jury.

THE COURT: Well, the jury has already had their instructions on joint exhibits and they have a book, and the instructions are in it, so there's no problem with that part of it.

I don't understand the first part of your question.

MR. TRAFICANT: Don't you have a fourth part that you are yet to share with the --

THE COURT: Right. We give them that right before they go to deliberate. And once they're given that, they're back deliberating.

1 MR. TRAFICANT: Do we get that at the same
2 time or do you give us that in advance?
3 THE COURT: You've had it all along.
4 MR. TRAFICANT: I have?
5 THE COURT: Yes.
6 THE CLERK: It's in the binder.
7 MR. TRAFICANT: I think I just submitted a
8 motion for you to be fair and honest.
9 THE COURT: Thank you.
10 MR. MORFORD: And you were.
11 THE COURT: Thank you. Anyway, now we're
12 going to go with closing arguments. Is everybody ready?
13 MR. MORFORD: Yes.
14 MR. TRAFICANT: Do you have any idea how long
15 your opening is going to be, counselor?
16 MR. MORFORD: It's about two minutes.
17 MR. TRAFICANT: I don't blame you.
18 (Proceedings had in open court:)
19 MR. TRAFICANT: Excuse me, Your Honor. Could
20 we have some notice --
21 THE COURT: Let's put the --
22 MR. TRAFICANT: Could we have some notice of
23 where we are in our 90 minutes? Could we get a 30 minute
24 notice?
25 THE COURT: I think we can arrange that. Can

1 we arrange that?
2 MR. TRAFICANT: How would we do that?
3 THE COURT: He'll put his arm up.
4 MR. TRAFICANT: I don't -- if I don't see his
5 arm, can he stand up?
6 THE COURT: No. He has a lot of other
7 responsibilities.
8 MR. TRAFICANT: Okay.
9 THE COURT: Are you ready, gentlemen?
10 MR. MORFORD: Yes, Your Honor.
11 (Jury in at 9:09 a.m.)
12 THE COURT: Good morning.
13 JURORS: Good morning.
14 MR. TRAFICANT: Good morning.
15 THE COURT: Ladies and Gentlemen of the Jury,
16 as you know, under the law, the United States in a criminal
17 case is permitted to make the first and the last closing
18 argument. After the first United States' closing argument,
19 the defendant may make his closing argument, and then the
20 United States may close. So it is in every criminal case,
21 and so it will be in this case.
22 Each side has a total of 90 minutes, which they may
23 use for closing argument. The government is permitted to
24 apportion its time as it chooses. Neither side is
25 required, of course, to use the entire time allotted. 90

1 minutes is a limit. It's not a requirement.
2 The purpose of closing arguments is to assist you,
3 the jury, in analyzing, evaluating, and applying the
4 evidence which has been admitted in this case. Although
5 reasonable inferences can be argued to you from evidence,
6 material misstatements of the evidence or personal attacks
7 on the other side have no place in closing arguments.
8 And now sit back and the lawyers and the pro
9 se defendant will take us through their view considering
10 the evidence that you've all heard admitted in this case.
11 For the government.
12 MR. MORFORD: Thank you, Your Honor. Good
13 morning one last time on this last day of the trial.
14 We've been together for eight weeks, and if
15 you will recall way back eight weeks ago, I told you that
16 the evidence in this case was going to establish that
17 Congressman Traficant used his official actions for
18 personal profit, first by paying certain employees high
19 salaries, and then having those employees make kickbacks to
20 him; second, by having congressional staff members do work
21 at his farm and on his boat; and third, by seeking and
22 obtaining thousands of dollars worth of free construction
23 work, farm supplies, farm chores, boat repairs, and cash
24 from businessmen who were seeking constituent services,
25 which are official acts from his office.

1 And that is exactly what the evidence has
2 established in this case. Now, in the case of overwhelming
3 evidence that's been presented by the government in this
4 case, Congressman Traficant has asserted that he is a
5 courageous, compassionate, outspoken Congressman who worked
6 hard to create jobs for his constituents. But if you think
7 about the issue in this case under the charges that we
8 filed in this case, they are not whether Congressman
9 Traficant was good or effective. Those things are not
10 relevant to this case, for Congressman Traficant is not
11 charged with being an ineffective congressman.
12 What he's charged with is, he's accused with
13 doing things that were corrupt, whether he was effective or
14 not.
15 He's charged with using his official actions
16 to obtain personal gain. And the law, as Judge Wells told
17 you on Friday, is very clear. A federal official cannot
18 accept things of value in return for his official actions
19 as a federal official, period. There's no question about
20 that. The law is clear.
21 He can't use his position to feather his own
22 nest. He can't use his public office as a trough to feed
23 his selfish appetites.
24 His duty is to serve the public interest, not
25 his personal desires. His office is a public trust. It's

1 not a gravy train. And his staff members are public
2 servants; they're not his personal servants. And that's
3 why if Congressman Traficant wanted to put an addition on
4 his farmhouse, if he wanted to have people come out and
5 have a crew of people come out and help him bale his hay,
6 if he wanted to have his boat repaired or to have performed
7 many of the other things you heard about in this case, he
8 needed to do what every other American has to do. He
9 needed to go out and hire workers and he needed to pay them
10 for the full value of their work, just like everyone else
11 has to do.
12 You see, a Congressman can't ask for tips.
13 He's not a waiter who can stand around with his hand out
14 because he performed good service for someone. We don't
15 allow our public officials to do that.
16 He's not allowed to use his official duties
17 to obtain things of personal value, no matter who he is, no
18 matter how powerful his office is, no matter how effective
19 he is, regardless of his party affiliation, regardless of
20 his voting record, no matter how much bacon he brought home
21 to his home district, no matter how great an athlete he
22 was, and regardless of his sense of humor or his personal
23 charisma, or anything else.
24 The law is still the law, and no man is above
25 the law, including the men who make the law.

1 During the course of this trial, Congressman
2 Traficant questioned a number of our witnesses about their
3 plea agreements. And as I told you in my opening
4 statement, there were five of our 55 witnesses who did have
5 plea agreements. But I want you to imagine something for a
6 minute. Imagine if you found out that in carrying out my
7 official duty of negotiating plea agreements with
8 defendants who have been charged, imagine that in the
9 course of doing, that I had had those plea agreement
10 witnesses come out to my house during the very time I was
11 negotiating with their attorneys, and saying that I would
12 make a recommendation to the Court that they would receive
13 less time than they would had they gone to trial, they're
14 going to get something of value to them, and at the same
15 time I'm carrying out my official duties.
16 Imagine if I'd gone to one of those plea agreement
17 witnesses and had him come out to my house and paid
18 carpenters and electricians to do $30,000 worth of home
19 remodelling work on my house. Would you have a problem
20 with that?
21 And imagine at the same time, you found out
22 at the very same time I was negotiating a plea agreement
23 with Tony Bucci, I had the Buccis come out to my house and
24 do $10,000 worth of landscaping work. And when they
25 presented me with a $10,000 bill, I told them I didn't want

1 to pay it, and at the very same time I was negotiating
2 their plea agreement they agreed to let the debt go,
3 $10,000 in my pocket.
4 And imagine if at the same time I was
5 negotiating the plea agreement with Dave Sugar, if I had
6 Dave Sugar come out to my house at the very time I was
7 negotiating and sending a crew out and a backhoe to dig
8 around my foundation and replace my drain tiles because my
9 basement was leaking, and I didn't want to have to pay
10 somebody $10,000 to do the work.
11 In the face of this pattern of misconduct,
12 would it matter whether I was courageous or tenacious,
13 likeable or funny, hard working or successful, in my other
14 duties. The point is simple. These other things may be
15 interesting, but they're not relevant to the charges in
16 this case.
17 So let's take a look at what is relevant to
18 this case, the evidence that actually relates to the ten
19 offenses that have been charged in this case.
20 Now, as Judge Wells told you on Friday, there
21 are ten counts that are charged in this indictment, and she
22 reviewed those counts with you, and I'm not going to go
23 into them in detail because you're going to have two
24 things. You're going to have Judge Wells's instructions
25 which lay out these charges, and you're going to have the

1 indictment.

2 And the indictment explains in detail all of

3 the facts that are alleged to support these charges. But I

4 just want to go through this briefly. Counts 1 through 4,

5 and Count 7, charge conspiracy offenses. Count 1 charges

6 that Congressman Traficant entered into an agreement with

7 the Buccis, and with the help of Chuck O'Nesti, to engage

8 in a pattern of conduct that would violate the bribery

9 provision of the federal bribery statute.

10 Counts 2, 3, and 4 charge that Congressman

11 Traficant entered into an agreement, in Count 2 with Sugar,

12 Count 3 with Cafaro, in Count 4 with Sinclair, and there

13 were other people involved, as well, and that the agreement

14 was they would engage in a course of conduct that would

15 violate the gratuity provision of the federal bribery

16 statute.

17 Count 7 charges that Congressman Traficant

18 entered into an agreement with a number of his employees

19 that he would defraud the United States by having certain

20 employees kick back salaries, do farm work, or do boat

21 work.

22 Count 5 actually charges the crime of

23 gratuity as relates to the Sinclair kickbacks.

24 And Counts 8 and 9 charge false tax returns

25 for 1998 and 1999 for the things of value that Congressman

1 Traficant received in those two years.
2 And finally, Count 10 charges RICO, and I do
3 want to talk about the RICO count just a little bit.
4 When you boil down the RICO count, it
5 actually boils down to something very simple, very
6 straightforward. What it says is that Congressman
7 Traficant used his position and his office, the office of
8 Congressman Traficant, which is the enterprise that's
9 charged in this case, and he used that office to commit a
10 pattern of bribery, illegal gratuity and fraud offenses,
11 period. That's it. And as Judge Wells instructed you, the
12 government has to prove five things to establish the RICO.
13 First, the evidence has to establish the
14 existence of a legitimate enterprise. And the evidence in
15 this case, as you will recall testimony of witness after
16 witness, established this enterprise requirement by showing
17 that Congressman Traficant and his congressional staff
18 members, both in the Youngstown area and back in
19 Washington, associated together to carry out the duties of
20 Congressman Traficant in something we call the office of
21 Congressman Traficant. That's the enterprise.
22 Second, the evidence shows that this
23 enterprise had an impact on foreign or interstate commerce,
24 and you will recall that one of the things, one of the
25 functions of the office was to provide constituent

1 services, which they did, to businesses that engaged in
2 interstate commerce, and in the case of Bucheit, foreign
3 commerce.
4 Third and fourth, the evidence has to show
5 that Congressman Traficant was associated with the
6 enterprise. Obviously, he was. And that he participated
7 in the affairs of the enterprise. Obviously, he did.
8 Those are not even in dispute.
9 And finally, fifth, the evidence has to show
10 that Congressman Traficant used his position and the office
11 of Congressman Traficant to commit a pattern of offenses --
12 we call them racketeering acts, but that's just a legal
13 word -- a pattern of offenses that included bribery,
14 illegal gratuity, and mail fraud. And although we allege
15 seven, you only have to find he participated in two.
16 But Ladies and Gentlemen, if you think about
17 the evidence in this case, you will realize there was a
18 pattern of misconduct that was repeated over and over and
19 over again, and it's important as we go through this
20 evidence that you remember that pattern. It's important as
21 you get back to the jury room and you start looking at the
22 evidence and talking about the testimony that you always
23 keep in mind the pattern in this case, because the pattern
24 is so very important, a pattern in which Congressman
25 Traficant would perform official acts for someone.

He then would ask that same someone shortly thereafter to come out and do something for him, to either give him a kickback for the official act of hiring them and giving them a high salary, or to come out to the farm and do work after he's gone to bat for their business.

Oftentimes he would ask for something small at first, and then once he got them out there, he would add on, add on, just like Sandy Ferrante told you he would do to people.

He would then ask them to do more and more, but in the end, he failed to pay them the full value of what he received from them. Why? Because of what he had done for them in his official position doing official acts that were beneficial to them. That's the pattern, and it was repeated over and over and over again.

Now, as we review the evidence of this pattern, watch for two other very important things: Watch for the substantial amount of physical evidence that corroborates that pattern. There are six books filled with physical evidence, bills and invoices, checks, bank records, deeds, burned envelopes, cash, memos, letters, handwritten notes and lists, congressional records. The list goes on and on. Physical documents that you can hold in your hand that you can read, that you can look at, that you can determine the exact date that he did something or

1 the exact date that he received something.
2 Also notice the large number of independent
3 witnesses, people that did not have plea agreements, people
4 that did not have immunity, people that came in to
5 corroborate exactly what the plea agreement witnesses were
6 telling you was what they had experienced.
7 Indeed, you cannot -- you can even go so far
8 as to set aside the testimony of the plea agreement
9 witnesses. Set aside Tony Bucci's testimony or Cafaro's
10 testimony or Sugar's or Sabatine's, and just look at the
11 documents and look at the independent evidence, and see
12 what that tells you before you even consider their
13 testimony.
14 Second, focus on the large number of things
15 that are not in dispute in this case. First, that
16 Congressman Traficant did, in fact, perform the official
17 acts that were charged. Ask yourself as you listen to
18 Congressman Traficant and as you think about the evidence,
19 was it even disputed? He did these things. That's not in
20 dispute.
21 Second, that the recipients of those acts
22 gave Congressman Traficant something of value. It's not
23 disputed that the Buccis were out at the farm working or
24 the -- or that Cafaro did the work on the boat or that
25 Sugar was out at the farm working, or Tyson. All these

1 different people, they were there. It happened.
2 Third, that Congressman Traficant failed to
3 pay the full value of the things he received. That's not
4 even in dispute. Sometimes a witness who was a crony of
5 Congressman Traficant would try to explain why that was,
6 like Greg Tyson saying we came out and did a lot more work
7 than he expected. When he's telling you that, what's he
8 telling you? He's saying, yes, right after Congressman
9 Traficant went to bat and got me the loan, yes, I did come
10 out here and did work, and, yes, we did do a lot more work
11 than he paid us for, and then he tries to explain it away.
12 But the key is, those three things aren't in
13 dispute, and they're not in dispute in every one of these
14 situations. That's where you start in this case, before
15 you even consider the testimony of the plea agreement
16 witnesses.
17 And then when you finally consider the
18 testimony of the plea agreement witnesses, ask yourself
19 this question: Does the testimony make sense in light of
20 the independent corroboration of physical documents, the
21 independent testimony of other witnesses, the facts that
22 are not in dispute, the repetitive pattern that's repeated
23 over and over and over and over again?
24 And use your own common sense, because that's
25 why you're here. That's what this is all about. You're

1 brought in because you have common sense. You don't have
2 legal training. And that's your job, to put your common
3 sense together with the facts in this case and draw
4 conclusions.
5 So let's start where the evidence started
6 during the trial, with the Allen Sinclair kickbacks. As
7 you will recall the testimony in this case, the essential
8 deal between Congressman Traficant and Allen Sinclair was
9 this: Congressman Traficant came down on Sinclair, and he
10 said, "I'll put you on my staff. I'll let you continue to
11 practice your private law practice on a full-time basis
12 with no supervision. I'll pay you $60,000 a year. I'll
13 continue to have the government rent space and pay you rent
14 in the building you're buying from Henry DiBlasio, and then
15 you'll give me $2500 cash each month."
16 Congressman Traficant, doing official acts,
17 hiring Allen Sinclair, setting his salary at $60,000,
18 letting him continue to practice law on a full-time basis,
19 giving him minimal supervision, minimal duties, and then
20 renting office space from that building, all official
21 contacts by the guy that's in charge of the office. And
22 then Allen Sinclair giving kickbacks of $2500 a month,
23 something of value to Congressman Traficant.
24 Allen Sinclair said that he talked to Henry
25 DiBlasio about how to make the kickbacks because that's

1 what Congressman Traficant told him to do. And when he did
2 so, Henry DiBlasio admitted to him that, yes, he, too, had
3 had to make kickbacks to Congressman Traficant. And he
4 explained how Allen Sinclair should make those kickbacks.
5 Allen Sinclair's kickbacks are corroborated
6 by both independent testimony and substantial physical
7 evidence.
8 First, you saw the deposit slips, the
9 treasury checks, the bank statements, the summary of Agent
10 Semesky summarizing those documents. And sure enough, just
11 like Allen Sinclair said, lo and behold every single month,
12 from the month he received his first full congressional
13 paycheck until the month that the FBI finally interviewed
14 him, he kicked back -- he took out $2500 in cash from every
15 single paycheck, 13 months, totaling $32,500.
16 Second, the office salary structure
17 established by the congressional records shows that
18 although Allen Sinclair was hired without any meaningful
19 experience or qualifications, he was paid more than anybody
20 else in the entire office with the exception of the
21 Washington chief of staff, Paul Marcone.
22 Think about that. The legislative director,
23 Dan Blair, had been working for the office for years. He's
24 got one of the most important jobs. He's the director of
25 legislation of a congressional office in Washington where

1 you have a very high cost of living compared to Youngstown,
2 and yet he's making $6,000 less than Allen Sinclair, who
3 has no experience. He's a personal injury lawyer. He has
4 no background in economic development, and he's making more
5 than Dan Blair. He's the second highest paid employee in
6 the whole office.
7 You heard the testimony of Paul Marcone,
8 Congressman Traficant's loyal chief of staff, who
9 vigorously opposed the hiring of Allen Sinclair at such a
10 high salary because, as he told you, it made no sense. It
11 seemed like a waste of taxpayer money, and it was causing
12 friction with other employees like Dan Blair, who couldn't
13 understand why that was happening.
14 And think about it, Ladies and Gentlemen.
15 Who was Paul Marcone? Paul Marcone was the Congressman's
16 long-time chief of staff, his friend, his confidante. He
17 stood on the stand and said, "This is the hardest thing
18 I've ever had to do in my life." He didn't want to be
19 here. He loved that man. He didn't have immunity. He
20 didn't have a plea agreement.
21 Now, you heard the testimony of Paul Marcone
22 that Congressman Traficant allowed Allen Sinclair to
23 maintain a full-time law practice at the same time he was
24 supposed to be a full-time congressional employee. And
25 finally, there are congressional records that establish

1 that just as he promised, Congressman Traficant did
2 continue to use taxpayer funds to lease space in the
3 building Allen Sinclair had just purchased from Henry
4 DiBlasio, despite the fact that Congressman Traficant had
5 another office just five miles away, despite rules that
6 prohibit a Congressman from renting space from an employee,
7 despite the serious concerns that were raised by Paul
8 Marcone that this was highly irregular and this should not
9 happen.
10 There's also substantial evidence to
11 corroborate what Allen Sinclair told you that Henry
12 DiBlasio told him, that Henry DiBlasio was also kicking
13 back. First, you had the testimony of Jackie Bobby, who
14 testified that Henry DiBlasio had once confided to her that
15 he was having to kick back salary to Congressman Traficant.
16 And when did that occur? Henry DiBlasio didn't tell that
17 to a law enforcement officer during the investigation in
18 order to get a deal. He told it to Jackie Bobby years ago,
19 in the late 1980s, at a time when he was complaining, one
20 employee to another.
21 Congressional pay records establish from 1996
22 to 1998, just like Allen Sinclair was in 1999, Henry
23 DiBlasio was the second highest paid employee in the
24 office. With the exception of Paul Marcone, he was the
25 highest.

1 And remember what Paul Marcone testified?
2 They had an underpaid legislative staff in Washington,
3 D.C., and it was causing morale problems in Washington,
4 D.C. West Richards told you the same thing. And at the
5 same time that they had an underpaid Washington, D.C. staff
6 compared to the other offices, Paul Marcone told you they
7 were the sixth highest salaried office out of 435
8 congressional offices.
9 And when I asked Paul Marcone why that was,
10 he said because Allen -- or because Chuck O'Nesti and Henry
11 DiBlasio were paid so much money. That put their whole
12 salary structure at the high end of Washington, and the
13 Washington staff at the low end.
14 Third, Congressman Traficant allowed Henry
15 DiBlasio to maintain his law practice on a full-time basis
16 at the same time that Henry DiBlasio was supposed to be the
17 administrative assistant in charge of all the offices, that
18 job that everyone from Paul Marcone all the way down to
19 Anthony Traficanti, the Congressman's own friend and
20 current employee, told you he did not perform.
21 Fourth, numerous employees, including Jackie
22 Bobby, Grace Kavulic, West Richards, Paul Marcone, and
23 Congressman Traficant's own, witness Anthony Traficanti,
24 testified that staff members regularly complained about the
25 fact that Henry DiBlasio was getting such a high salary and

1 doing such little work.
2 Bank records show that Henry DiBlasio cashed
3 every one of his paychecks as far back as we could get
4 paychecks, all the way back to 1996, he cashed every
5 paycheck for cash except one, and on that one paycheck, two
6 days later he withdrew a thousand dollars worth of cash.
7 And you know what's interesting? If you
8 remember Jackie Bobby's testimony, she said that on one
9 occasion, Chuck O'Nesti, in addition to complaining that he
10 had to kick back, told her the amount he had to kick back.
11 And do you remember the amount? It was a thousand dollars.
12 So at a time you had Chuck O'Nesti kicking
13 back a thousand, Henry DiBlasio kicking back some amount,
14 he takes out a thousand the one time, and later you have
15 Allen Sinclair kicking back $2500.
16 Six, the documents show that Congressman
17 Traficant rented space in Henry DiBlasio's law office,
18 again, despite the rule that prohibits that practice.
19 So ask yourself this: Why would Congressman
20 Traficant and Henry DiBlasio go to all the trouble of going
21 out to get a nominee like Richard Jeran to pretend he owns
22 the building, and when he doesn't want to do it anymore,
23 get another nominee, Nick Chuirazzi, to pretend he owns the
24 building? Why did they insist on maintaining this presence
25 in Henry DiBlasio's law building long after they're

1 supposed to have moved the entire office in the Federal
2 Courthouse that Congressman Traficant himself had pushed so
3 hard to build?
4 Why would they have the secretary, the office
5 manager, all the caseworkers, in one office in Youngstown,
6 and five miles away have Congressman Traficant and Henry
7 DiBlasio hanging out in a separate building?
8 Why did they insist on keeping a small
9 presence in Henry DiBlasio's law office in the face of Paul
10 Marcone's strong objections? And you not only heard Paul
11 Marcone testify about it, you saw the memo he wrote at the
12 time in which he raises strong objections that keeping a
13 second office in Henry DiBlasio's law building would strain
14 the budget, raise serious ethical concerns, and waste
15 taxpayer dollars.
16 In the face of all that, why would they do
17 it? Why? Because Henry DiBlasio and Allen Sinclair after
18 him couldn't run their full-time law practices if they had
19 to go to the courthouse in Youngstown and work on
20 congressional matters from 8:30 to 4:30 every day like all
21 the other employees had to.
22 And remember Paul Marcone's testimony about
23 what would happen when he became concerned about these
24 things and he went and raised them with Congressman
25 Traficant as the chief of staff of the Washington office.

1 He raised the issue of renting the space at Overhill Road
2 with Henry DiBlasio. He raised the issue of renting space
3 at Overhill Road with Allen Sinclair. He raised the issue
4 of hiring Allen Sinclair at $60,000. He raised the issue
5 when he received complaints from Jackie Bobby, Grace
6 Kavulic and Chuck O'Nesti that Henry DiBlasio was making a
7 lot of money and not doing any work.
8 And every time he raised those issues with
9 the Congressman, what did he tell you the Congressman's
10 response was? The Congressman became angry and told him,
11 "Don't worry about the congressional district office. You
12 take care of the Washington office; I'll take care of the
13 district office. It's none of your business. Stay out of
14 it."
15 And finally, remember what happened when the
16 FBI interviewed Allen Sinclair in January of 2000.
17 Congressman Traficant told Allen Sinclair not to talk to
18 the FBI. After Allen Sinclair did talk to the FBI,
19 Congressman Traficant started taking him around to
20 different places. They got in a car, but he was afraid to
21 talk because he was afraid the car might be bugged. He had
22 him get another car, and even after he got another car, he
23 was still afraid to talk. He'd put his finger to his lips.
24 He'd talk in code.
25 They finally ended up in Allen Sinclair's

1 basement. And what happened when they got to the basement?
2 He started giving Allen Sinclair cash, envelopes full of
3 cash. Why? So that Allen Sinclair could explain when the
4 FBI started asking him detailed questions what happened to
5 the $2500 he took out every month, because there were bank
6 records that were going to establish that every month he
7 took $2500 cash out of his paycheck, and the FBI was going
8 to say, "What did you do with the cash?"
9 And Allen Sinclair wasn't going to be able to
10 explain how he spent the cash because he'd given it to the
11 Congressman. The idea was if he could give them a bundle
12 of cash, he could say I'm still sitting on 24,500 of it and
13 I spent the other 8,000. 8,000 is a lot easier to explain
14 than 32,500.
15 What happened in the basement? Congressman
16 Traficant started opening up envelopes, envelopes that had
17 the handwriting of Henry DiBlasio saying J.T. personal on
18 them and taking out cash and having Allen Sinclair count
19 the cash.
20 Then he told Allen Sinclair to take and burn
21 the envelopes, and he hovered over him while Allen Sinclair
22 burned the envelopes with a butane torch.
23 The Congressman gave him $16,000 in the
24 basement and then started worrying that that still wasn't
25 enough because Allen wouldn't be able to explain away

1 $16,000, so that night, he gave him another $2500 and
2 another stack of these envelopes to burn.
3 And Allen Sinclair told you it was one of the
4 most difficult times in his entire life. He was feeling
5 pressure like he never felt before. His father had just
6 had a stroke and was about to die. He was being drawn into
7 a conspiracy to obstruct justice, and as he sat in his
8 basement in the corner and started to burn these envelopes,
9 he broke down and started to shake and started to cry. And
10 he said, "I can't do this," and he put the envelopes out.
11 And he gathered them up and he took the cash, and he took
12 the envelopes, and he brought them to the FBI. This is
13 physical evidence. You held it in your hands; you looked
14 at it.
15 Employees, including Henry DiBlasio's own
16 personal secretary, looked at this envelope and said that's
17 definitely Henry DiBlasio's handwriting. And you can look
18 at other evidence in this case and compare it and draw your
19 own conclusion that that is definitely Henry DiBlasio's
20 handwriting.
21 A few days later, Congressman Traficant,
22 still worried that the 18,500 wasn't enough cash, gave
23 Allen Sinclair an additional $6,000 cash, bringing the
24 total to $24,500.
25 He also left Allen Sinclair notes, notes that

1 you read and saw, notes that he had to leave because he had
2 to go to Washington and hadn't had a chance to talk to
3 Allen Sinclair. And he wanted to put words in Allen
4 Sinclair's mouth so if Allen Sinclair went to the grand
5 jury, he could tell a tale that would help Congressman
6 Traficant. The same thing he tried to do with Paul Marcone
7 when he pulled him out to the hall and brought him down by
8 the elevator and started trying to put, as Paul Marcone
9 told you, words in Paul Marcone's mouth.
10 You can look at those letters, and what's
11 interesting as you look at those notes, you'll notice that
12 his story between the notes doesn't even -- isn't even
13 consistent.
14 In addition to the evidence of the Sinclair
15 and DiBlasio kickbacks, you heard additional testimony
16 about the kickbacks of Chuck O'Nesti to congressional
17 employees who were there from day one. Jackie Bobby and
18 Grace Kavulic told you over the years Chuck O'Nesti would
19 complain to them that he was having to kick back.
20 Jackie Bobby further testified, as I told
21 you, that on one occasion Chuck O'Nesti said the amount was
22 $1,000. And it's significant to think about how and when
23 and why Chuck O'Nesti made these complaints. Again, Chuck
24 O'Nesti was not telling this to a law enforcement officer
25 after the investigation had started. These complaints were

1 made in the early 1980s and mid 1990s at a time when there
2 was no investigation, at a time not when he was telling
3 something to get a deal, but when he was complaining to
4 employees that he was getting a raw deal from the
5 Congressman.
6 He was doing so at a time when he wouldn't be
7 expected to make such statements unless, in fact, he was
8 having to kick back and was upset about it.
9 And remember that they testified his
10 complaints were twofold: Number one, that he had to kick
11 back salary; and number two, that he had to pay tax on the
12 salary he was kicking back and not allowed to keep, and it
13 bothered him.
14 Now, Count 7 also charges the O'Nesti and
15 DiBlasio kickbacks as part of this overall conspiracy to
16 defraud. But it doesn't just charge those two counts. It
17 also charges that the agreement was not only to obtain
18 kickbacks from DiBlasio and O'Nesti, but also Allen
19 Sinclair. But more important, it also charges that part of
20 the agreement to defraud the government was that
21 Congressman Traficant would get free work from Buccella,
22 Rovnak, Traficanti and other employees that worked on his
23 boat during official government time while they were being
24 paid official government salaries that were being funded by
25 the taxpayers.

1 If you think about the evidence of that,
2 remember the testimony of West Richards, another loyal
3 employee of Congressman Traficant who believed in
4 Congressman Traficant and had a hard time testifying
5 against him in this case. The former chief of staff, what
6 did he tell you? He testified that Congressman Traficant
7 told him to take a group of Washington staffers and spend
8 an entire day with a group of staffers sanding and scraping
9 and painting the Congressman Traficant's boat on official
10 government time.
11 Rich Rovnak testified that he worked at the
12 farm as a handyman during office hours, and then he said
13 that sometimes he worked at the farm with George Buccella.
14 He testified that he baled hay, did handyman work and did
15 other farm chores, which is what George Buccella testified
16 to.
17 George Buccella was there between 100 and 300
18 times. He further testified that he had worked with Rich
19 Rovnak and Anthony Traficanti. Betty Manente, Congressman
20 Traficant's own witness and current employee, testified
21 that George Buccella would receive a call, tell her he was
22 going down south, leave, and the next day come back and
23 complain about how hard he had been working at the farm, a
24 farm at which Rich Rovnak and Anthony Traficanti told you
25 they had seen him work.

1 Anthony Traficanti, this favorable witness
2 for Congressman Traficant, reluctantly conceded he had to
3 go out and bale hay on the farm during official hours on
4 Thursdays and Fridays, that he felt obligated to do so, and
5 that during the times he was out there, George Buccella was
6 also out there. That was his witness.
7 Jackie Bobby and Grace Kavulic both testified
8 that Anthony Traficanti and George Buccella were out of the
9 office for long periods of time because they were working
10 at the farm, which is what Betty Manente told you was
11 common knowledge around the office.
12 And finally, West Richards testified that at
13 one point George Buccella came to him as the chief of staff
14 and said, "I'm spending too much time at the farm." And so
15 he went to Congressman Traficant, West Richards did, and
16 again, Congressman Traficant, like he did with Paul
17 Marcone, got upset and said, "That's a district office
18 issue. Keep your nose out of it."
19 Now, in addition to being part of the
20 conspiracy to defraud, the work that was done by Rovnak,
21 Traficanti, and George Buccella at the farm is also charged
22 in a pattern of racketeering as mail fraud, because if you
23 will recall, remember each of their testimony, they said
24 they performed work during official hours when they were
25 receiving official government paid salaries and that the

1 paychecks were sent by the mail, which brings us to the
2 Bucci bribe conspiracy, count number 1 in the indictment.
3 The evidence proves that Congressman
4 Traficant, Chuck O'Nesti, Tony Bucci, and Robert Bucci all
5 agreed that they -- that the office of Congressman
6 Traficant would help the Buccis, and in return for things
7 that the Buccis were going to give Congressman Traficant of
8 personal value. And completely apart from the testimony of
9 Tony Bucci -- let's set that aside -- the evidence shows
10 that the office of the Congressman did help the Buccis
11 throughout the period 1992 to '96. And the evidence also
12 shows that the Buccis went out and did work for the
13 Congressman throughout that same period.
14 Take a look at certain exhibits, Exhibit 2-6,
15 which documents that the Buccis did over $10,000 of work at
16 the farm in 1998. Congressman Traficant refused to pay for
17 that work, and it got so bad that Tony Bucci instructed his
18 lawyer to sue the Congressman in November of 1998 for
19 $12,900, which was the original value of the work plus the
20 interest, because he wasn't paying them.
21 Now, based on the evidence that you've heard
22 in this case about Tony Bucci, ask yourself this: Is Tony
23 Bucci the type of person that would leave $12,900
24 uncollected without a fight? Is he the kind of person that
25 would back down without a fight? Do you really think that

1 Tony Bucci would have walked away from this dispute without
2 getting something in return?
3 And you know exactly what he did get in
4 return. He got a Congressman, a Congressman who would go
5 to bat for him over and over and over again, in even the
6 most unreasonable situations. Indeed, documents show that
7 Congressman Traficant attended a meeting in 1992 with Dave
8 Dreger where he complained about Tom Williams and the way
9 he was treating his friends, the Buccis.
10 They show how Congressman Traficant contacted
11 the Federal Bureau of Prisons in 1992 to get Tony Bucci
12 moved. They show that Congressman Traficant contacted Will
13 Baccus at the Department of Transportation, United States
14 Department of Transportation, and threatened to conduct a
15 congressional investigation if the U.S. Department of
16 Transportation tried to disbar the Buccis.
17 They showed that he sent a letter to Bank One
18 in 1994 to help the Buccis' business partner Greg Tyson get
19 a loan; that in 1995, he contacted ODOT inspector Tom
20 Williams and threatened to have Tom Williams fired.
21 As late as March, 1996, Congressman Traficant
22 was still making staff members contact the Department of
23 Labor on behalf of the Buccis, all the way into 1996,
24 despite the vehement objections of those staff members that
25 the Buccis were really bad guys and they shouldn't be doing

1 this.

2 And in May of 1996, he personally called Tom

3 Buckley at the DOL on behalf of the Buccis, all of which

4 begs this question: Why did Congressman Traficant continue

5 to go to bat for Tony Bucci? Knowing that he was a

6 convicted felon as early as 1992, continued to go to bat

7 for him in 1995 and 1996, two years after Greg Tyson had

8 told him what a dirt bag this guy was and all the terrible

9 things he had done to Greg Tyson.

10 Knowing all that, why does he continue to go

11 to bat for him? After Tom Williams told him what Bucci was

12 doing to his own constituents on Memorial Day weekend,

13 trying to use Mosquito Lake Park in 1995, and after his own

14 staffers, Paul Marcone and Jim Welfley told him they

15 shouldn't be doing anything for Bucci? There's only one

16 plausible reason why, through all of that, Congressman

17 Traficant kept going to bat for this guy. It's because

18 they were agreeing to do free work, and they did free work

19 for the Congressman.

20 You saw the to-do list in Congressman

21 Traficant's own handwriting he gave to Tony Bucci, and you

22 heard staff member after staff member look at this and say

23 that's definitely Congressman Traficant's writing.

24 You heard witness after witness identify this

25 list, and you heard Bucci's former employees come in and

1 tell you the many things they did during the early 1990s,
2 all the way through 1996.
3 You don't have to take Tony Bucci's word for
4 these things. They were documented.
5 You have testimony of people who have no
6 stake in this trial whatsoever, people like Buccis' former
7 employees, Joe Alteiro, Bruce Pierce, Merill Whippo, Tim
8 Walsh, James Ragazzine, Don Burkey, civil servants like
9 Will Baccus, Tom Williams, Dave Dreger. These are the
10 people that Congressman Traficant demeaned and swore at and
11 threatened with congressional investigations, all because
12 they had the nerve to try to enforce the law against Tony
13 Bucci at a time when Tony Bucci was doing personal favors
14 for Congressman Traficant.
15 And as you consider their testimony, ask
16 yourselves, are all of these witnesses lying? Could the
17 documents be lying? And then think about the pattern
18 that's repeated over and over again.
19 For instance, Greg Tyson, think about the
20 testimony of Greg Tyson's friend and witness -- Congressman
21 Traficant's friend and witness, Greg Tyson. Tyson admitted
22 that he went into business with the Buccis. That's not in
23 dispute. He admitted that the Buccis tried to steal his
24 company. That's not in dispute.
25 And once again, focusing on the evidence

1 apart from Tony Bucci, what does the evidence show? Did
2 Congressman Traficant perform official acts for Greg Tyson?
3 Clearly, he did. You've got the exhibit in evidence, the
4 letter that he wrote to get him the loan.
5 You also heard the banker, and you heard Greg
6 Tyson himself admit that Congressman Traficant went to bat
7 for him and provided official acts of constituent service.
8 Number two, did Congressman Traficant ask for
9 and receive anything of value from Tyson after Tyson --
10 after he helped Tyson? Apart from the testimony of what
11 Tony Bucci told you, Joe Sattarelle testified that Tony
12 Bucci took Greg Tyson and Joe Sattarelle out to the farm
13 just after the loan where Congressman Traficant talked
14 about wanting a concrete floor poured in his barn and water
15 lines installed for his horses. And Greg Tyson himself
16 said that after Congressman Traficant helped him obtain the
17 loan, Congressman Traficant said, his words, "One of these
18 days I've got to get you out to my farm."
19 That's his own witness, his own friend that
20 said that. And there's no dispute that Greg Tyson did send
21 company employees out to the farm to do a substantial
22 amount of work. Those employees testified. John Crump
23 said he dispatched concrete trucks to the farm and
24 installed a pump. Glenn Rose installed catch basins,
25 waterlines, frost free hydrants, and dredged a creek, did

1 drain work, installed waterlines and poured concrete.
2 Even Greg Tyson admitted he sent truckloads
3 of slag and three to four guys to work on a barn wall. And
4 don't forget what Walter Diehl told you, because he's real
5 important. He said he was -- he was the bookkeeper. Do
6 you remember him? What did he tell you? He said that
7 Tyson sent workers to Congressman Traficant's farm over a
8 period of several months on and off.
9 He said that he was sent out to the farm by
10 Greg Tyson to deliver supplies and that they would charge
11 those supplies to other jobs because this was a freebee for
12 Congressman Traficant.
13 He also said that the company never received
14 any pay for the work that they did. Why would Walter Diehl
15 lie? He had no immunity. He had no plea agreement.
16 And remember, despite Greg Tyson's attempts
17 to minimize the amount and value of the work he had done
18 for his good friend, Congressman Traficant, he could not
19 deny that, in fact, his company had provided substantially
20 more work than they had been paid for even under what he
21 described to you.
22 In fact, under cross-examination, he conceded
23 the pay he received was, at best, a small amount of cash
24 that he self-described as chicken you-know-what, and a
25 horse; a horse that he conceded he never asked for, he

1 didn't want, he never took possession of, supposedly agreed
2 to on a handshake deal with no documentation, and a horse
3 he only saw twice in his whole life and doesn't even know
4 if it's dead or alive.
5 But this pattern doesn't stop with Sinclair.
6 Henry DiBlasio, Chuck O'Nesti, Bucci and Tyson. It was
7 repeated again with Pete Bucheit. And what does the
8 Bucheit evidence show? First, the evidence establishes
9 that Congressman Traficant performed two years worth of
10 work of official acts for Pete Bucheit. You know that
11 because there's document after document that Congressman
12 Traficant wrote to the United States Departments of State,
13 Commerce, the Saudi Embassy, even to King Faud himself,
14 trying to help Bucheit get this settlement.
15 Second, the evidence establishes that just
16 four months after he obtained that settlement for Pete
17 Bucheit, Congressman Traficant had Pete Bucheit go out and
18 send Dave Manevich and a crew to do what was supposed to be
19 a simple two-day deck repair job. And once he got Dave
20 Manevich out at the farm, what did he do? He kept adding
21 jobs and adding jobs and adding jobs while Pete Bucheit is
22 paying this man $15 an hour, and ultimately has him put a
23 two-story addition on his house.
24 How do you know this happened? Because you
25 heard the testimony of Dave Manevich, Bob Gatti, Pete

1 Bucheit's daughter, and Congressman Traficant's own
2 friendly witness, Sandra Ferrante.
3 Indeed, the Congressman himself established
4 through his cross-examination of Pete Bucheit when Sandra
5 Ferrante would ask him to do additional work, they'd blow
6 her off, and Congressman Traficant himself would have to
7 come out and tell him to do the work, and only then did
8 they do it.
9 You also have the checks that Pete Bucheit's
10 company wrote to Dave Manevich, checks that total $26,000
11 that Pete Bucheit took out of his pocket and paid to Dave
12 Manevich for the work that Congressman Traficant kept
13 asking to have done.
14 Don't forget the testimony of Tom Passewitz,
15 the electrician, and the business records from his company,
16 that showed, just like Manevich, he was brought out to move
17 an electric switch, and Congressman Traficant kept giving
18 him more and more and more duties until he'd run up hours
19 and hours of work. Bucheit ended up having to pay
20 approximately $4,000 to this electrician. He's now out of
21 pocket $30,000.
22 And Pete Bucheit's daughter told you, as the
23 bookkeeper of the company, they never got paid, in cash at
24 least. What ended up happening is within a year, they were
25 in another bind, and Congressman Traficant started helping

1 them in another international situation, contacting Vice
2 President Gore, Secretary Albright, the head of OPEC, and
3 others on behalf of Bucheit.
4 And when Kim Bliton went to Congressman
5 Traficant and said, "Hey, Pete Bucheit has been lying to
6 the government on some of these things," what was his
7 response? "Just keep helping Pete Bucheit," the same
8 response he gave to Jim Welfley and Paul Marcone when they
9 raised similar concerns about Tony Bucci.
10 Why? Because Pete Bucheit had something the
11 Congressman something of value. Pete paid 30,000 out of
12 his pocket to laborers, which was a gratuity.
13 How do you know it was a gratuity and not an
14 unpaid debt that Congressman Traficant intended to pay?
15 Because congressmen are required to file financial
16 disclosure forms every year, and as part of those forms
17 they are required to list their liabilities, the debts they
18 owe people. In years 1994, 1995, 1996, look at those
19 forms, and he lists no debt, no liability to Pete Bucheit.
20 Why? Because he never intended to pay Pete Bucheit. Why?
21 Because this was a gratuity.
22 But the pattern doesn't stop again with
23 Sinclair or DiBlasio or O'Nesti or Bucci or Tyson or
24 Bucheit. There's James Sabatine. And setting aside the
25 people of James Sabatine, just think what the independent

1 evidence shows. First, that Congressman Traficant
2 performed constituent services, official acts, for him by
3 going and meeting with the railroad officials and trying to
4 get him a favorable deal. You know that because Rudy Dowe,
5 the railroad official, testified to it and you saw his
6 expense report that memorializes it.
7 Second, true to his pattern, Congressman
8 Traficant asked Sabatine to do work out at the farm. How
9 do you know that? Because Angelo Delucia came in, the
10 funny guy that was supposed to tear down the building, and
11 he told you that James Sabatine brought him out to the farm
12 to look into doing some work.
13 Think about this: Why would Congressman
14 Traficant need to have James Sabatine bring out a
15 carpenter? Why is James Sabatine even in the middle of
16 this? Congressman Traficant knows all kinds of people in
17 Youngstown. He's a folk hero. You mean he can't get on a
18 phone and call a carpenter to hire? Why is James Sabatine
19 in the middle of this? The same reason Pete Bucheit was in
20 the middle of the house addition, because he just did
21 something for him and now he wants something in return.
22 And remember what Judge Wells told you on
23 Friday. It's a crime not only to accept a gratuity; it's a
24 crime to even seek a gratuity.
25 Now, what did James Sabatine do in the face

1 of Congressman Traficant's request for help at the farm?
2 He decided to cut his losses. He didn't want to get
3 entangled at the farm in the way that Bucci, in the way
4 that Bucheit had done. And he figured it would be cheaper
5 in the long run and less hassle if he just reached into his
6 pocket and took out $2400, handed it to the Congressman and
7 said, "Thanks, but no thanks. Thank you for helping me,
8 but I don't want to do farm work."
9 But he was a little bit uncomfortable, and so
10 he said to him as he handed it to him, "Here, take this as
11 a little campaign contribution." But he told you it was
12 never intended as a campaign contribution, and you know
13 it's not a campaign contribution because Congressman
14 Traficant's campaign reports are in evidence, and there's
15 no listing of a $2400 campaign contribution from James
16 Sabatine.
17 But again, this pattern doesn't stop with
18 James Sabatine. It's repeated with Dave Sugar. Dave Sugar
19 testified that he sought Congressman Traficant's help in
20 1999 when his son had a DUI case. Congressman Traficant
21 said he would help, and that very same day they had to
22 leave the restaurant and go out to the farm so Congressman
23 Traficant could show Sugar things he wanted done at the
24 farm.
25 And the physical evidence and the testimony

1 of Paul Marcone, Congressman Traficant's own witness, own
2 witnesses, Anthony Traficanti and Mark Colucci, clearly
3 established that Congressman Traficant performed official
4 acts for Dave Sugar. It's also not disputed that at the
5 same time, Dave Sugar did work for Congressman Traficant.
6 And what did Dave Sugar tell you about the
7 work? He told you they ended up doing about 10- to $12,000
8 worth of work, and it was a favor for a favor. He told you
9 that after the work was done, that for a period of six
10 months, there was no payment, there were no bills, no
11 invoices, not even a discussion of cost. Why? Because it
12 was a favor for a favor.
13 And then suddenly one day in December of
14 1999, just after Congressman Traficant has learned from
15 Paul Marcone the government has subpoenaed his records and
16 he's under investigation, he suddenly, for the first time,
17 shows up waving a check for $1142. Not the value of the
18 work that was done, but December 23, he's got this check.
19 And what does he tell him? He says, quote,
20 "The bastards are watching me real close, and I need to
21 give you this." His words, not mine. He claimed he was
22 giving Sugar every penny he could for now and would pay him
23 the rest later. Why? Because he knew he was under
24 investigation; he knew he had a problem.
25 He also told Dave Sugar the FBI would

1 probably come out to see him, he needed to cash the check,
2 and when he did, he needed to show the check as a partial
3 payment to help convince them this was a job for pay.
4 Just like he told Paul Marcone, he was going
5 on the offensive. Then in the spring of 2000, Dave Sugar
6 needed Congressman Traficant to help him get the
7 million-dollar Higbee project, and he went to him and asked
8 him for work, and again Congressman Traficant wanted
9 something, this time some little jobs, and he said he was
10 nervous about it and he was concerned. But he agreed to it
11 because Congressman Traficant was pressing him, and he
12 really needed his help on the Higbee job.
13 He told him, "I'll transport your machines,
14 it was a small job, and, "I'll pour and finish the cement
15 floor, but I won't buy the cement. You're going to have to
16 do that yourself," which Congressman Traficant did.
17 Dave Sugar was concerned about how this stuff
18 would look, so he went on his computer and he created a
19 false invoice for the 1999 work. There had never been an
20 invoice because it had never been a billed job. He also
21 created an invoice for the 2000 work.
22 And then, finally, when the FBI did show up,
23 what happened? Dave Sugar panicked. He decided he'd
24 better show that these invoices had been sent, and he
25 started creating more false invoices with dates to show

1 when they were mailed. He instructed his secretary to lie
2 to the FBI, and he himself lied to a federal grand jury.
3 He said that Congressman Traficant offered him an old piano
4 that he didn't want, but turned out to have some value, but
5 not nearly the 10- to $12,000 value of the work he had
6 done.
7 Why did Dave Sugar create these false
8 documents and tell his secretary to lie to the FBI?
9 Because he knew he and Congressman Traficant were in
10 trouble. He was conscious of his guilt and trying to cover
11 up, but he had a big problem: Computer memories. And
12 because of that memory, Dave Sugar got caught.
13 Now, ask yourself this: If Dave Sugar's
14 dealings with Congressman Traficant were on the up and up,
15 why did he create false backdated invoices in the first
16 place and why did he drag his secretary into this mess?
17 The answer is simple: This was never a legitimate deal.
18 It was an illegal gratuity, and Sugar was trying to cover
19 it up.
20 But the pattern didn't stop there. It just
21 keeps going and going and going, like the Energizer Bunny.
22 He just doesn't stop.
23 USAG comes to him, and USAG needs official
24 acts done. And it's well-documented that Congressman
25 Traficant did major numerous official acts on behalf of

1 USAG. And there's no question about the value of these
2 official acts to USAG, because Chip Roselli told you how
3 the Cafaro Company was preparing to cut off funding in the
4 summer of 1998, unless the USAG made major progress in
5 getting FAA certification.
6 What did Congressman Traficant do? He
7 started issuing press releases at the very time they were
8 going to run out of funding, saying that J.J. Cafaro --
9 saying things J.J. Cafaro could then take to the officials,
10 his brother, and the other officials at the Cafaro Company
11 to get more funds.
12 Congressman Traficant, in the midst of doing
13 these official acts that were of such value for Cafaro and
14 his attempts to continue to fund the company, once again,
15 wanted something. He wanted USAG to help them out of a
16 bind with his rotting boat. This was not the first time
17 that Congressman Traficant had tried to use his official
18 actions to help him with his boat.
19 You know the testimony of West Richards about
20 how he had to take employees to work on the boat. Remember
21 what Tony Bucci testified to? That Congressman Traficant
22 at one point had asked him to buy the boat. And remember
23 the testimony of Bob Gatti, how he and Herb Bucheit, Pete
24 Bucheit's son, got called out to the boat and Congressman
25 Traficant showed him problems with the boat, to see if they

1 could find somebody to repair it.
2 Paul Marcone testified the boat was musty and
3 run down and smelled, and Congressman Traficant told him
4 that the boat needed repairs and that he needed to unload
5 it. He needed to get it off of his hands.
6 And with this backdrop, then consider the
7 testimony of Al Lange. During Al Lange's very first
8 interview with USAG, they start talking about his boat that
9 he needs to have moved, and suddenly, Detore and Cafaro
10 start talking about a friend who has a boat, a wooden boat
11 that they need to fiberglass. A few months later, after he
12 starts in the winter of 1998, he's taken out by Rick Detore
13 to Congressman Traficant's boat to look at it and figure
14 out what they can to help with this rotting boat.
15 By July of 1998 Cafaro had agreed to buy the
16 boat and obtained the $26,000 check, physical evidence that
17 establishes that, during the very time that Congressman
18 Traficant was doing the official acts.
19 As you look at the evidence in this case,
20 compare the date of that check with the official acts that
21 are documented that Congressman Traficant was doing and
22 look at those dates. It's incredible.
23 Congressman Traficant decided that it would
24 look bad to the press if he sold this rotting boat to J.J.
25 Cafaro for $26,948 at the same time he was going to bat for

1 J.J. Cafaro's company. And they decided the boat had to be
2 done another way, so they formed a scheme to have Al Lange
3 pretend he was going to buy the boat. Why? Because both
4 Al Lange and J.J. Cafaro told you: Congressman Traficant
5 was doing important favors for them, and they were going to
6 do a favor in return for him.
7 Paul Marcone testified that in 1998,
8 Congressman Traficant had him call the Ethics Committee to
9 see if it was okay to buy Al Lange's boat, but he didn't
10 tell him that J.J. Cafaro had presented the $26,000 check.
11 He didn't tell Paul Marcone that until two years later when
12 the media began calling about the boat, and asking whether
13 or not J.J. Cafaro had ever been involved in the boat deal.
14 Marcone further testified that Congressman
15 Traficant finally did admit to the fact that he knew J.J.
16 Cafaro had presented the $26,000 check.
17 Al Lange described the scheme that they
18 cooked up whereby he would be the mule and Cafaro would
19 provide the funds. Al Lange already had a boat. He didn't
20 need another boat, and he certainly didn't need a wooden
21 boat, and he didn't need a wooden boat that was running
22 away. He knows boats and knew what a money pit that would
23 be.
24 And you saw the documentation which
25 establishes that J.J. Cafaro did, in fact, fund these

1 transactions. And you can see the cryptic way they refer
2 to this in the beginning when they start this boat deal.
3 Look what they call it? "I just wanted to send you a
4 reminder to bring the $3500 cash with you today when you
5 come. This money will be used for the operation that you
6 and Rick talked about."
7 Who talks like that? The CIA talks like
8 that. People that are trying to cover something up talk
9 like that.
10 Why doesn't he just say for the repairs on
11 Congressman Traficant's boat?
12 Now, with respect to the $13,000 cash
13 payment, look at the evidence that supports that $13,000
14 payment apart from J.J. Cafaro. Patty Direnzo testified
15 that the very day before J.J. Cafaro attended that meeting
16 with Congressman Traficant, J.J. Cafaro came to her and
17 said, "I need $13,000 cash." And she went to the bank and
18 she got the cash, and you can see those checks. You can
19 see the date on those checks.
20 The very next day, they met at YSU, and it's
21 undisputed that J.J. Cafaro and Congressman Traficant were
22 together at that meeting at YSU. And remember what Allen
23 Sinclair told you happened in the basement the day they
24 were opening the envelopes and counting the money.
25 Congressman Traficant told him at that time that he'd

1 gotten some money from J.J. Cafaro.
2 How would Allen Sinclair know that? Allen
3 Sinclair testified to that before the grand jury in
4 February of 2000. J.J. Cafaro didn't even begin
5 cooperating until September of 2000, seven months later.
6 How in the world did Allen Sinclair know seven months
7 before J.J. Cafaro began cooperating and ever admitted to
8 the $13,000 payment that Congressman Traficant had received
9 cash from J.J. Cafaro?
10 Then there was the testimony about the welder
11 and generator. Congressman Traficant asked Al Lange and
12 Rick Detore if they could get him an aluminum welder to use
13 because, why? He wanted to have a horse trailer built.
14 Al Lange heard Congressman Traficant and Rick
15 Detore have similar discussions about a generator. He said
16 they went out and bought them, and he and Rick Detore put
17 them on the truck. Think about this: Congressman
18 Traficant's own witness, Brian Kidwell, admitted that
19 Congressman Traficant had them on his truck in Youngstown.
20 How did they get on the truck? And why would USAG buy this
21 equipment, have it drop-shipped to Virginia so they could
22 go and stick it on the Congressman's truck and have him
23 schlepp it up to Youngstown? Does that make sense? They
24 could have drop-shipped to it Youngstown.
25 You have the receipts in evidence. It's not

1 disputed that this equipment was bought. It's not disputed
2 that it ended up on the Congressman's truck.
3 You also recall that Brian Kidwell on
4 cross-examination admitted something very important: That
5 Congressman Traficant had talked to him about building him
6 an aluminum horse trailer just like Al Lange told you. The
7 topic had come up in that very first meeting.
8 Finally, there's the Corvette rental. There
9 are key questions you need to ask about that Corvette
10 rental: Why is Rick Detore, the COO of USAG, even involved
11 in this transaction? Why is USAG making calls for
12 Congressman Traficant to set up a rental car and why are
13 they putting it on Rick Detore's personal credit card?
14 Congressman Traficant has a whole staff of people that can
15 call and rent him a car if he wants to rent one, and they
16 can run the charge card down and put it on.
17 With all the evidence you heard about
18 Congressman Traficant's spending habits, ask yourself this
19 question: Is he the kind of person that would willingly
20 spend $5,000 of his own money to rent a Corvette for a
21 month? Does that sound like him?
22 Does he sound like the kind of person that
23 would waste $300 just to list himself as a second driver
24 when he could have listed himself as the driver himself?
25 And think about the date when Congressman Traficant finally

1 got around to transferring the credit card from Rick
2 Detore's credit card to his own. December 17, 1999.
3 What else was going on around that time?
4 Congressman Traficant had just found out he was under
5 investigation. He switches the credit card on the Corvette
6 December 17th. Five days later, December 22nd, he shows up
7 with a $7,000 check for J.J. Cafaro for cars, one of which
8 he's had for ten years. He suddenly wants to pay for it.
9 J.J. Cafaro wasn't even expecting the payment at that time.
10 The very next day, December 23, he gives
11 Sugar the check for $1142, telling him, "The bastards are
12 after me."
13 Within a month, he's in the basement having
14 Allen Sinclair burning envelopes. When the story hits the
15 paper about the value of the cars being worth more than
16 $7,000, he suddenly sends J.J. Cafaro $3,000 more because
17 he says, "You know, I think you need a little more money on
18 this transaction."
19 Does that sound like Congressman Traficant?
20 A short time thereafter, he takes Paul Marcone out into the
21 hallway because he's afraid his office is bugged, and
22 starts putting words in his mouth. He also tells Paul
23 Marcone, "I have to go on the offense because it's the only
24 play I have." Why did he have to go on the offense?
25 Because he's guilty.

And there are six binders of physical evidence that document his guilt, 55 government witnesses, together with the testimony of many of his own witnesses that confirmed his guilt. And there's no legitimate way to counter that evidence.

In closing, Ladies and Gentlemen, remember what Congressman Traficant's dear friend and his own witness Sandy Ferrante told you about Congressman Traficant. These are her words, not mine. Quote: "He's a huckster and likes to trade. If he can get a job trading for something, he loved it," end quote.

And then think of the pattern that's repeated over and over and over again in this case, because that's what this case is about. Congressman Traficant traded his official acts for things of value, and in doing so, he's guilty of all ten counts as charged in this indictment.

Thank you.

THE COURT: Ladies and Gentlemen, we'll take a 15-minute recess. I need the lawyers and the court reporters and juror number three to stay, please.

(Jury out at 10:12 a.m.)

(Discussion at side-bar with Juror Grodi.)

THE COURT: When is this wake?

A JUROR: Tonight.

THE COURT: What time?

A JUROR: 6:30.

THE COURT: I'm going to need you to have somebody transport him to that.

Congressman?

THE COURT: The way I'm going to resolve this issue of this gentleman is the wake is at 6:30, and you know where it is, right? You know the actual location of it?

A JUROR: I can find out.

THE COURT: You can find that out?

A JUROR: Yes.

THE COURT: What we'll do is permit him to go there. We'll send you with the marshals because you're all going to be sequestered. We'll begin tomorrow morning -- you're not going to get to the funeral. You can get to the wake.

Now, if this doesn't work for you, we can send you to one thing, but to take the jury out for a day and a half is too long.

So if this doesn't work for you, then what we can do is put in an alternate. But I can do it today because this will end this morning, and I can defer having the jury instructions until tomorrow morning. But to do it for a day and a half is just too much for everybody.

MR. TRAFICANT: Have you changed your

1 decision already?
2 THE COURT: No.
3 MR. TRAFICANT: That you had just made.
4 THE COURT: I found out some more
5 information.
6 MR. TRAFICANT: I believe the juror had sat
7 through the whole thing, and I'm hoping we can accommodate
8 him to hear the evidence, to hear my evidence.
9 THE COURT: Congressman, all of these people
10 have been here through the whole thing. We're trying to
11 accommodate him.
12 The accommodation is that we can send you to
13 the wake tonight, and we'll transport you and there will be
14 somebody with you. But we can't send you to the funeral
15 tomorrow.
16 So you need to think over this break about
17 that situation, and then I'll talk to you after the next
18 break?
19 A JUROR: Yeah, because they were mad about
20 it being another day.
21 THE COURT: Well, it's hard on everybody.
22 A JUROR: I know.
23 MR. TRAFICANT: We don't need them to carry
24 out another day.
25 THE COURT: No.

1 MR. TRAFICANT: I don't want to be changing
2 the jury around after it's been set after ten weeks of
3 trial.
4 THE COURT: Okay. It's just getting us until
5 tomorrow morning. We can accommodate that because they are
6 not deliberating yet.
7 Once they are deliberating, it's a whole
8 different story. But nobody is deliberating yet. We have
9 five alternates.
10 So I'm telling you what we can do to
11 accommodate this.
12 A JUROR: If it's a big deal and it's a
13 problem, I won't do anything.
14 THE COURT: No. We can send you tonight if
15 you want to go, and you decide that yourself.
16 MR. TRAFICANT: Do you want to stay on the
17 jury?
18 A JUROR: Yeah. I mean I won't --
19 THE COURT: That's what we're --
20 A JUROR: I told my family and everybody I
21 wasn't going to do anything, but I mean they're all mad at
22 me and everything like that. I know this is a big deal,
23 and I've been doing it for ten weeks.
24 THE COURT: What I'm saying is we can
25 accommodate you, and we can send you tonight and then start

with the instructions tomorrow.

MR. TRAFICANT: Let me see if I understand this, Your Honor.

THE COURT: That's --

MR. TRAFICANT: Your Honor --

THE COURT: That's -- excuse me. That's not going to really make much difference to them. It's a matter of an afternoon. Okay? And that's what I'm willing to do.

If we can't do that, if you need to go to the funeral tomorrow, I really can't take them out for a full day.

A JUROR: Right. Well, I understand that.

THE COURT: Okay.

MR. TRAFICANT: Is it my understanding that the marshal will take him this evening and he's will to serve on the jury tomorrow? Is that what I'm hearing?

THE COURT: Well, he has to answer that. Give him a little time to think about it.

You can have the break and so forth to think about it.

A JUROR: Okay. All right. Just think about that then and come back and tell you? Just go think about that?

THE COURT: Well, I mean that's how we can

accommodate you. At the end of the closing argument, what we were going to do was charge the jury in their final charge and send everyone off to deliberate.

The accommodation we can make to you is to delay that part of it, not the closing arguments, just that part of it, until tomorrow morning. You would have to go in the company of the marshals to the wake. And that's it. You don't have to discuss it with the other jurors. You have to decide as a person what you want to do.

A JUROR: So that's the decision then, right?

THE COURT: We'll do that or if you -- I mean if you want us to accommodate you, that's the accommodation. You can go to the wake tonight.

A JUROR: Okay. So that's the option then, right? Either that or nothing at all.

THE COURT: Right.

A JUROR: Okay.

THE COURT: Either that or we put an alternate in. But the jury hasn't started to deliberate, so we have a little flexibility. And we're trying to use the flexibility because this just came out of the blue and hit you. So I want you to have a little time to think about it. Think about it over this break. We'll do closing arguments, and then I'll talk to you at the next break.

A JUROR: All right. Sorry about this.

THE COURT: No, no. You can't help it.

A JUROR: I didn't plan on any of it happening.

MR. TRAFICANT: Well, if you're able to go to the wake, would it be that much of a problem for you to miss the funeral?

A JUROR: I don't know. I'll think about it. You know?

MR. TRAFICANT: Good. Thank you.

A JUROR: Thank you.

(End of discussion at side-bar.)

THE COURT: Everybody in the back can take a break now. What happened is something that happens in life, and we're dealing with it. Okay?

(Recess had.)

(Jury in at 10:33 a.m.)

MR. TRAFICANT: Good morning, Ladies and Gentlemen.

JURORS: Good morning.

MR. TRAFICANT: I want to thank the prosecutor for his endorsement of my tremendous achievements as Congressman, but I now want to talk business.

As a former sheriff, I want to direct you to

1 Defense Exhibit 1007-AA. The government and the prosecutor
2 has given you a very big dissertation on hearsay. He said,
3 she said, I said, he did, I did, about the same time.
4 Now, if you're in the mountains and you go to bed at
5 night and there's no snow on the ground, and you wake up in
6 the morning and there's snow on the ground, you have some
7 physical evidence there's snow. But now, if there's no
8 snow on the ground and you go to bed, it's at a ski lift,
9 and you get up and the snow is on the side of the mountain
10 where the ski lift is, you're not sure if it snowed or if
11 they made the snow on that ski lift.
12 The government furiously and desperately
13 tried to corroborate the words and hearsay of their
14 witnesses. This was responded to on October 10th, 2000,
15 from the Federal Bureau of Investigation. They submitted
16 912 documents, and the bottom line was, Joe Bushner said,
17 "Not one fingerprint of Jim Traficant was found on a
18 document."
19 Now, here is the types of documents they're
20 talking about. This isn't Andy of Mayberry here. We're
21 not talking about a civil case. We're not talking about a
22 DUI, we're talking about a RICO, beyond a reasonable doubt.
23 Now, I'm sure you could identify what this is. This is
24 toilet tissue. It is very porous. Very airy. Almost
25 impossible to lift a print off of. Was that sent? No.

1 This is an envelope. Is that denser than
2 that toilet paper? Why were so many envelopes burned, but
3 yet not burned completely? Why at some point didn't they
4 stop burning and just save the envelopes?
5 Third of all, they said there was a
6 tremendous amount of cash. This is a currency bill from
7 some candidate running for Congress that's a million dollar
8 bill. I won't give you his name, but the Traficant
9 fingerprint is most unique, because as a child I was a good
10 marble player and had a stone thrown right on top of my
11 right finger and have a scar directly down the middle, and
12 I'm right-handed.
13 Now, there's not a print on the toilet
14 tissue, naturally you couldn't get one, and none on the
15 envelope, and none on the currency.
16 But then there's a manila folder. I don't
17 know what size it is. But is this a different density?
18 912 documents submitted to the FBI laboratory, the best in
19 the world. Still yet, not a print.
20 Now, Ladies and Gentlemen, you shop. You
21 could put water in these. There wasn't a print of Jim
22 Traficant on any of the 912 documents. They desperately
23 were searching to corroborate their evidence.
24 Now look. This isn't a Barney Fife case.
25 This is a criminal case. I want to talk some business with

1 you.
2 Let's start right now, and you will have this
3 as Defense Exhibit 1007-AA. Let's talk about Sinclair.
4 Sinclair told the FBI on January 24th of the year 2000,
5 when he was asked about the building and why it wasn't in
6 his name, he refused to comment. They then asked him about
7 the kickbacks, and he said, quote, "I will play no part in,
8 quote-unquote, getting Jim Traficant."
9 Now, when we do find out -- you'll find in your
10 evidence bag when you get back, there were two documents
11 submitted for KAS Enterprises, 11 Overhill Road. The first
12 one I believe was in November. And look carefully at it.
13 KAS Enterprises was established in the state of Ohio by one
14 person and one person alone, Mr. Sinclair.
15 The next month it had two signatures and was
16 reopened. Raymond Allen Sinclair listed as president, no
17 less, Kimberly Allen Sinclair as secretary.
18 Mr. Sinclair in his own words was already
19 suspended for a year and on probation for having made ads
20 that were misrepresentative.
21 Now, you're not dealing with Andy of Mayberry
22 here, folks. You're dealing with the FBI. Mr. Sinclair's
23 life was on the line, his wife was on the line, and these
24 people don't play softball.
25 Now, they could tell it to the Rotary, but

1 they can't tell it to a sheriff.
2 Now let's talk about Mr. Sinclair and let's
3 talk about facts that do not exist. You heard what
4 was -- was DiBlasio before you? The only thing you heard
5 about DiBlasio came from Mr. Morford. Was Manente a
6 government witness? Yes. They didn't call her. Was Pete
7 Bucheit a government witness? Yes. They didn't call him.
8 Was Sandy Ferrante a government witness? Yes. They didn't
9 call her. Was Anthony Traficanti a government witness?
10 Yes. They didn't call him.
11 Now, let's now look at some facts. First,
12 let me say this: After I'm done, I can't come back to you
13 again. They will rebut. If they attempt to bring up
14 anything that was not yet, heretofore, before discussed,
15 they will do so, because I will not have the chance to
16 cross-examine them, and I doubt if the Judge will allow it,
17 but I'd look very carefully at it.
18 Ladies and Gentlemen, the FBI of the United States of
19 America -- do you see this pen? It could have been picked
20 up on Mr. Sinclair's desk and picked up our voice from 40
21 feet away. You mean to tell me the FBI don't have that
22 technology?
23 Two witnesses testified that Jim Traficant
24 had coffee while he had his tea every morning, he had an
25 L-shaped desk, and could only get around from the far side,

1 and Jim Traficant sat behind the door.
2 This, Ladies and Gentlemen, will give you an
3 idea of what I'm talking about. If you could identify
4 this, I won't even say what it is. It's a calculator. It
5 could be sitting in any part of any room on a desk. It
6 will pick up conversation a hundred feet away. A hundred
7 feet away.
8 Here is what we don't know about this case.
9 When they found they had no physical evidence, you would
10 have to be in Disneyworld to believe that they did not
11 attempt to tape the target. Not that I'm all that
12 important, but I wasn't the secretary of the bank. I was
13 the United States Congressman. You mean to tell me they
14 didn't tape me? You mean to tell me they didn't video me?
15 Now let's talk about the $6,000 or $7,000,
16 whatever is supposed to have been in some manila envelope.
17 A good FBI agent would have very simply said, "Bring me the
18 envelope," steamed that envelope open, put four marked
19 bills in it, sealed it back up and said, "Take it back to
20 Traficant and say you want no more of this."
21 Now, you tell him, "I don't care what car we
22 go in, where we go, New Castle, Pennsylvania, Cleveland,
23 Ohio, I don't want nothing to do with this. I'm afraid.
24 I'm not going to hurt you at the grand jury, but when you
25 come out of that restaurant, you have that envelope on

1 Traficant."
2 No videos? No bugs on my telephone? No
3 wiretaps? No requests for helicopters, when Mr. Denholm in
4 his own 302 requested overnight travel, airplane, cars,
5 videos, mikes, tapes that I found out in their discovery.
6 Now, let's further talk about Mr. Sinclair.
7 Misprision is a crime. He was already under suspension.
8 He was a young man. He'd endanger his future, and believe
9 it was a loan? Now, did you ever see anybody go into
10 business with a loan?
11 Now, Mr. Morford has told you everything that
12 everybody said, but Mr. Morford hasn't proven to you one
13 thing that anybody did. Now, if Mr. Sinclair could sit
14 across his desk and tape Manevich, why didn't they tape me?
15 So who do they bring to the stand? They
16 bring two federal agents. One is an IRS agent from
17 Philadelphia that only added up the numbers they gave him
18 locally. He had nothing to do with the investigation. Did
19 you meet one IRS investigator in this case? Is this a
20 money case, or is this about Charmin tissue?
21 You met one FBI agent. Who was he?
22 First-year agent. And what did he say on the stand? We
23 have no prints. And the Judge let you go ahead and see all
24 of that cash. I made it a joint exhibit. Not one of those
25 bills have my prints on it. That is a defense exhibit when

1 you see joint, just like it is a government exhibit.
2 Now let's talk about some of these issues
3 that he raised. This isn't preponderance of the evidence.
4 This isn't circumstantial evidence. Why somebody's car was
5 used as a deposit, this is beyond a reasonable doubt. Now,
6 I want you to imagine that you and your spouse are
7 approaching an intersection with your two grandchildren or
8 children in the back seat, and you ask your spouse, "How
9 does it look up there?" And your spouse says, "It's okay."
10 But for some reason you have those two kids in the back,
11 and you know, it might upset your spouse, but even at the
12 expense of maybe upsetting your spouse, you take that quick
13 look, and your spouse gets mad. "I told you no one was
14 coming." But in the back of your mind, "I think maybe she
15 didn't see a cyclist. Maybe there is a bicycle. I've got
16 two kids in this car."
17 Trust of the spouse? She trusted her spouse
18 more than anyone else in the world, but had a doubt, and
19 wanted to see for himself, wanted to corroborate whether or
20 not there was danger ahead.
21 So now let's talk about his witnesses that he
22 talked about. He talked about all this Bucheit work that
23 was done by Bucheit. First of all, Manevich said 15 an
24 hour, Gatti said 10 an hour. Two people that come in and
25 build houses said it was a butcher job.

1 Sandy Ferrante said, "My father and Pete
2 Bucheit were looking at the deck. And they'd have
3 breakfast with my father and asked my father to build the
4 deck. She testified, "I was angry because I didn't want
5 that addition. And my father went to my mother's grave
6 every morning," and she went with him. "And my father was
7 going to move in that farmhouse until he met a woman and
8 rented her apartment."
9 Now, who was the last Bucheit witness?
10 Forget what he said and look at the record, and ask the
11 Judge for the record. It was Leisel Bucheit, the daughter,
12 who was the bookkeeper. She said she sent an invoice and a
13 bill to the Traficant farm. And she was asked how was it
14 paid. She says, "I don't know. You'll have to ask my dad
15 because I left the employment."
16 Did they call Mr. Bucheit? Do I have the
17 burden to prove it was paid or not paid? Was Mr. Pete
18 Bucheit called to the stand?
19 They feverishly tried to corroborate physical
20 evidence, and they couldn't do it. Now let's listen to
21 Mr. Bushner. He's on the stand. Cross-examination. "When
22 you realized you had no physical corroborative evidence,
23 what, in fact, did your team do?" And he was tricked,
24 wasn't he? I tricked him into admitting he had a team. He
25 even admitted who the team leader was. It was Mr. Bernard

1 Smith sitting right here.
2 I said, "What did Mr. Smith say?" "Smith
3 said Traficant is cool, you'd better be careful."
4 Then he caught on. "Who else was there?
5 "I don't remember.
6 "What else was said?
7 "Well, maybe the boiler room noise, but it
8 was loud.
9 "Traficant is touchy-feely. You'd better be careful.
10 "Sinclair is deathly afraid of him."
11 You had every one of my staff in here saying
12 that nobody feared me. You had Sandy Ferrante not only say
13 she saw me repay Mr. O'Nesti, she one time gave him a
14 thousand dollars of her own money at my request because I
15 couldn't get there in time.
16 Where is O'Nesti? Where is his affidavit?
17 The government visited him 11 days before he died on his
18 death bed.
19 Did I bring that money into my district?
20 Damn right. I did those jobs for my people, yes, I did.
21 Cafaro? Let's just tell it like it is. He said, "I lied
22 under oath but it wasn't perjury." And then he admitted
23 that he paid for the testimony of Al Lange.
24 Now, I want you to tell me what local IRS
25 investigator or FBI investigator came in here and told you

1 that we went to Al Lange and we went to every place they
2 supposedly bought these supplies for repairs for this boat,
3 because Mr. Cafaro testified he never went to look at the
4 boat. How do you know that Mr. Lange and Mr. deGroot
5 weren't putting the money in their pocket? We know one
6 thing, they sunk the boat.
7 Now, what's in evidence, and be very careful
8 with it and look at it carefully, is the Virginia Military
9 Institute. Who is it made out to? Survey performed on
10 behalf of Captain Al Lange, which signifies he was
11 certified to drive a boat of 37 feet.
12 And what does it say on page 3? The boat
13 value, as is, as is, is between 30 and $35,000. I could
14 have accepted Mr. Cafaro's check of $26,000 and would not
15 have broken the law.
16 He didn't need that boat. Lange wanted the
17 boat. And they're lying through their teeth. And when he
18 said he paid $26,000 to fix the boat and had only 60
19 percent of it completed, I want you to think for a minute.
20 Look at the next line. This vessel will have fair market
21 value between 38 and $42,000 with repairs and corrections.
22 So we go from 35,000 to 42,000.
23 What did the surveyor who had the prod
24 evaluate the cost of restoration to be? He was paid $3600
25 and was certified as a marine surveyor. All they had to do

1 was say, "We need money for the boat." Mr. Cafaro sent him
2 money for the boat. Where did they show you that money
3 went into that boat? How do you know where it went?
4 That's not my burden.
5 They ruined my boat. Now, when you pickle
6 engines, you pickle engines because engines will be damaged
7 and ruined, and they cost tens of thousands of dollars for
8 marine boats of that horsepower.
9 Now, Mr. Nishnic said, yeah, the toilet
10 didn't work, but as is, you take a look at the marine
11 survey, you look at the repairs and conditions, you look on
12 page 3 and see what it's worth.
13 Now let's look at the lease. You had the man
14 in here, he testified. It was picked up my Mr. Richard
15 Detore. Did he try and lie? That car was for me. And I
16 was supposed to go to Louisiana, but the way it worked out,
17 I went a month later, and it cost me 5,000. And what they
18 don't know is, it ended up costing me 7,000.
19 But you can't take a rental car without a
20 credit card. And was Mr. Detore my friend? Yes.
21 Now let's get into some of their witnesses.
22 Bucheit, Leisel Bucheit said, "If you want to find out if
23 the account was paid, check with my father." Did you hear
24 testimony from his father? Do you think I'm going to make
25 their case? You don't know if that, in fact, was paid in

1 full, do you? You have no idea.
2 Sandy Ferrante, she testified over the years
3 at least several times a year Chuck O'Nesti came to the
4 farm and would be repaid, and she testified they handed him
5 $1,000, if you recall, because her husband, when they sold
6 their farm, put her 13 horses in with another barn. They
7 were two weeks late, and when they come to get their
8 horses, the guy sold them at a sheriff's sale.
9 Now, who brought cash into this case? What
10 did Sandy Ferrante also say? She was picked up in Canton
11 and played a tape, led to believe she was being murdered.
12 They spent a thousand dollars to put her two little dogs in
13 kennels. Four times back and forth from Kentucky,
14 testified before the grand jury, treated like a queen.
15 When she told them the truth, she was treated like a dog.
16 And Mr. Morford said, "Isn't it a fact when you walked out,
17 Sandy, I came out and apologized?" She said, "That's a
18 lie. Mr. Charles Perkins come up to me, put his arm around
19 me and consoled me, and I was crying. He belittled me,
20 demeaned me. Mrs. Ferrante also knew about that addition,
21 and she asked my father for that addition," and she
22 testified to that. Now, did they run back a check and show
23 you a deed at that time?
24 Now let's talk about the Buccis. If you
25 believe the Buccis, put me in jail, just ship me off. Greg

1 Tyson come right to the point. When it hit the fan, I was
2 outside with him standing next to him and told him, don't
3 you touch his property.
4 If Tony Bucci or anyone in my district called
5 my office and asked me, their family, to have them moved
6 closer to home, I don't give a damn if their name was Al
7 Capone, I would have done it. I will admit to that,
8 because I represent their families.
9 Let's talk about Bucci. Who testifies
10 against him? His sister-in-law. Sandy says they almost
11 knocked the barn down. Harry Manganarro said if he didn't
12 show up and put the two braces on with me, the barn would
13 have been completely destroyed. How much would a barn cost
14 to completely replace? A hundred thousand dollars?
15 Susan Bucci not only said that, she came to
16 me because she felt her brother-in-laws were taking -- her
17 husband when he was sick, and they were taking her money,
18 and I told her get a lawyer. That's her testimony. And
19 she didn't. And they took every penny she had.
20 And she said when her husband died, he said,
21 "Give Jim the wagons. He brush-hogged 40 acres a year for
22 five years, bailed the third cutting of alfalfa, five years
23 of his own time, his own equipment, his own fuel, his own
24 money." She brought me out food, she brought me out drink.
25 She testified they owed me money. And they were worried

about I was going to sue them over that barn.

Now, what was the last thing Tony Bucci said after his third plea agreement? I said, "Did you and your attorney engage in conversations with the U.S. Attorney about your brother Robert, who is a fugitive from justice who has fled the United States of America?" And Tony said he has heard from him from Cuba. And they said if he comes in and pleads guilty, they'll look into possible consideration.

Who do the key factors all have in common? What do they have in common? Now let's look at Sabatine. Sabatine couldn't identify the building. Mr. Morford said he was out there twice with Mr. Alteiro. Mr. Alteiro wouldn't walk in the building. Do you remember how funny it was? But what did he fail to say Mr. Alteiro apologized for? For not calling me and giving me the price I asked him to give me. He didn't say that, did he?

But Mr. Sabatine could not only not identify the building, he said he couldn't identify the floor. And now you have Sandy Ferrante that was there through that period of time and John Innella that said, "No matter what you do, you clean the floor, because if you get flies and certain types of insects in that barn, you'll get those horses sick." And they were concrete with rubber mats. This is an asphalt man.

1 And he said, "I had to watch because of all
2 the manure." What is manure? Does manure draw flies?
3 Does manure draw ticks? He couldn't tell what the floor
4 was, couldn't identify what the building was. So what we
5 have Mr. Sabatine saying is he gave me cash.
6 Why did George Buccella on my staff need
7 immunity? And he admitted under immunity that many
8 times -- he said only several -- he'd tell the people that
9 he was going to see the Congressman or going south, but he
10 didn't go south.
11 And what did Betty Manente testify to? After
12 the pizza shop closed, who called and wanted to know why
13 the hell he wasn't at work like everybody else? It was Jim
14 Traficant.
15 Was he an expert driver? Yeah. Did he drive
16 that rake? Yeah. They put in 30 hours. Well, let me tell
17 you something: If you're an American and you on your own
18 time want to help somebody out, and you're not being
19 compelled, and no one said they were compelled -- in fact,
20 Anthony Traficanti said it was his health spa until his
21 allergies got him, and who do you ask if you don't ask a
22 friend? Were they my friends? Yes.
23 THE COURT: 30 minutes, counselor.
24 MR. TRAFICANT: That's all I have left?
25 THE COURT: Nope. That's where you've gotten

1 to now.
2 MR. TRAFICANT: You mean I have an hour?
3 Hooray.
4 THE COURT: Well, you asked --
5 MR. TRAFICANT: Here is when we found out.
6 Don't take any more of my time. And you didn't interrupt
7 Mr. Morford.
8 THE COURT: He didn't ask us to be his time
9 keeper.
10 MR. TRAFICANT: I know. He was just telling
11 everybody what he heard everybody say.
12 Ladies and Gentlemen, George Buccella owned a
13 pizza shop while he worked for me, had a recreational sales
14 dealership, managed a racetrack, and he bought the
15 racetrack, and was a township trustee. And all he had to
16 say was he was going south, and he was able to get out of
17 work.
18 I asked Betty Manente if she ever called me
19 or ever went out to see if he was out there, and she said
20 no. Who did? Now, where is a Congressman -- do you have a
21 congresswoman or man that represents you? Where are they
22 during the week? Some of them don't even come home on the
23 weekend.
24 She said the only person -- and Betty Manente
25 was a government witness, subpoenaed to the grand jury by

1 the government, the only person to check his punctuality
2 was the Congressman himself.
3 And Anthony Traficanti said he helped
4 Buccella on occasions. He was a great driver and had a
5 truck that was so dangerous he wouldn't drive it. And
6 there were times when Sandy said she called herself because
7 they didn't have sawdust and the horses would be on bare
8 ground. And they went and got sawdust.
9 Well, just go ahead and lock me up.
10 Now let's talk about Cafaro. How can you
11 talk about Cafaro when talking about Lange? Cafaro
12 admitted he paid for Lange's testimony. His attorney is
13 sitting there right where our great Marshal Troutman is
14 sitting, second from the right.
15 Mr. Lange hadn't been in the employ of United
16 States Aerospace for a year. Why was Cafaro paying for his
17 testimony? And did you notice how good it sounded? He
18 called Cafaro a liar three times, but then got on the same
19 in book on all of the conspiracy business, didn't he?
20 Now, you can run by Clouseau, chief
21 inspector, that is, but use your head now. As Americans,
22 what is the difference here? This isn't my courtroom.
23 This isn't actually Judge Wells' courtroom. Right now this
24 isn't the prosecutor's courtroom. This is your courtroom.
25 Do you know what separates us from every

1 other country? When you go to the ballot box, don't let
2 anybody tell you how to vote. He said I'm guilty. Well,
3 if I'm guilty, you look me in the eye and you say guilty.
4 But if you think I'm not guilty, I want you to look at him
5 right in the eye, square, flush, right in the face. This
6 is what makes America free. No one tells you how to vote,
7 and don't let anybody start. And you don't need a
8 congressman to tell you that.
9 And when you've got a high profile guy, the
10 only one in American history to not be an attorney to beat
11 the Justice Department, why did they go back to a guy by
12 the name of George Hooker, one of the nicest guys you will
13 ever meet, who sold me a horse 15 years ago, if they didn't
14 want to, quote-unquote, to use Sinclair's words, get Jim
15 Traficant?
16 Where's the tapes? Where's the photos?
17 Where's the videos from afar? Where is the airplane
18 surveillance tapes? Where is the agent? Why did they
19 bring a guy from Philadelphia seven times, spends 37 days,
20 that had to be thousands of thousands of thousands of
21 dollars to add up something your ten year old son or
22 granddaughter could do?
23 You give your ten year old granddaughter the
24 numbers they gave them to add them to the Traficant tax
25 return, and they'll come up with the same answer. And what

1 did he admit? He did not meet with an investigator and had
2 nothing to do with the investigation. What the hell was he
3 doing here? Where are the people that did it? Or did
4 they?
5 You see, the government is under an
6 obligation to provide me with what is known as exculpatory
7 material. Exculpatory means it is favorable to the
8 defendant.
9 I love America. I bend over backwards for
10 our military. I fight for transportation, General Services
11 Administration. In fact, I authorized that new courthouse
12 you're moving into. I did. And I lost the postal workers.
13 Many of them are getting screwed.
14 But you know what? When an agency comes
15 before the United States Congress and says, if you change
16 the burden of proof and change the seizure laws in the IRS,
17 you take away the only leverage we have to collect taxes.
18 And they say, "What's that?" And they said, "Fear. If the
19 taxpayers don't fear us, the dead beats will get over."
20 Now, we changed those laws, and do you know
21 what? We went from 10,067 seizures of homes to 51 in the
22 whole country when the IRS had to prove it in court.
23 Does the IRS like me? Hates my guts. Do I
24 like them? I'd like to break their damn necks.
25 I have a bill in right now that would abolish

1 the Sixteenth Amendment and get them out to get a real job
2 and exempt everybody up to the poverty level --
3 THE COURT: Congressman, these folks have to
4 deal with the evidence in the case.
5 MR. TRAFICANT: They are dealing with the
6 evidence. This is part of it. It was brought out in the
7 trial by their own specialist from Philadelphia.
8 THE COURT: Ladies and Gentlemen of the Jury,
9 you heard the evidence in this case. You rely on your own
10 memories of what the evidence is.
11 MR. TRAFICANT: I hope that doesn't come out
12 of my time.
13 Now let's talk about Angelo Delucia. He wouldn't
14 walk in the building, but called and apologized for not
15 giving me a price. So evidently I asked him about the
16 price.
17 DiBlasio, why didn't you hear about him? Why
18 is he talking for DiBlasio? How can he speak for DiBlasio?
19 I could break all the rules of the court and
20 introduce a tape on DiBlasio and Sinclair if she'd allow
21 me. And I've had it with that.
22 George Hooker, what did he say? "This is a
23 hell of a horse, Jim. If you don't come back and get busy,
24 I want $500 down." Who brought the only cash into this
25 trial? Jim Traficant. He said that Sandy and I put

1 together $500 down. He delivered it the next week and got
2 a $3,000 check.
3 And who is the other guy that said he got
4 cash? Was it their guy? It was Tyson. He said, "Give me
5 500, Jim." I went up, talked with Sandy, as he said, and
6 we put together 500.
7 The next time he wanted 400 cash. Who
8 brought cash in? Now, why do you think they went to speak
9 with George Hooker? Did they bring one witness in -- and
10 let's look at it this way: I want you to imagine you drink
11 a gallon of water because they say if you don't drink
12 enough water, you're going to kill your kidney. Now, you
13 drink a gallon of water and you don't pass it, and you
14 drink a gallon of water the next day and you don't pass it,
15 you'd better start passing some water.
16 Now, from 1987, when that horse was purchased
17 from George Hooker, they were looking for cash transactions
18 of the defendant. Did they bring one person in here that
19 says, "Jim Traficant paid me money in cash?" One. I
20 brought in three. It's been proven by every witness on
21 this stand, I don't pay by cash. I write checks. And I
22 accept checks.
23 And Sandy said Mr. Pennington wanted to pay
24 7,000 because you buy a $5,000 horse for 3500, and I didn't
25 want it. I refused it. But I needed to sell those horses,

1 and I accepted that 7,000. They bring up the fact that I
2 also had $500 a month coming in board money on those horses
3 that Sandy testified to. What does my deposit show? The
4 big thing they put on the board with these big numbers.
5 You add them up. $26,600 cash. Do you know what it
6 averages up to? About $480 a month, the average deposit of
7 a Congressman.
8 Now let's look at Rovnak. Anthony Traficanti
9 said he worked right next to him and never saw him miss a
10 day of work. Sandy said the only time she saw him was
11 before he got the job. After he got the job, she never saw
12 him.
13 He got mad when he got another job. He
14 wanted me to keep him on part time. I said I couldn't, it
15 was a conflict, it was a semi-government job, and he had to
16 go.
17 Also, look at the exhibit of George -- of
18 Richard Rovnak, if I could find it. He witnessed a repair
19 document to the boat. Remember, it wouldn't have been
20 admitted into evidence if he hadn't made the funny remark.
21 He not only admitted it was his signature, he said, "Oh,
22 you mean this is the guy that never showed up for work."
23 So he documented it, didn't he?
24 Contract to paint and make repairs on Egg
25 Harbor, supplies, paint, signed by Peter McQueen.

1 Did they ever go talk to Peter McQueen, black
2 fellow from around the Potomac River in Washington, D.C.?
3 I don't have to prove this. That's their burden.
4 Now let's talk about O'Nesti. Dennis Johnson
5 didn't even want to talk to him. He came looking for
6 Dennis Johnson and said, "I gave no kickbacks, I did
7 nothing illegal with Jim. Please, maybe he's not getting
8 my calls. Have him call me."
9 Mike Terlecky saw him out at the speedway
10 looking at a photograph, said, "What are you going to do
11 next?" I didn't give him kickbacks. Why don't they let
12 him alone.
13 Why isn't there an affidavit in this
14 courtroom that Mr. O'Nesti gave me kickbacks? Because I
15 could prove that 11 days before he died, they were there
16 pressuring him for an affidavit.
17 MR. MORFORD: Objection. There was no
18 substantive evidence to that, Your Honor.
19 THE COURT: There was no substantive
20 evidence --
21 MR. TRAFICANT: I'll put the 302 out by Mike
22 Pikunas.
23 THE COURT: Just move right along,
24 Congressman.
25 MR. MORFORD: On his death bed. And what was

he talking about the Army for? Because he wanted to die at home. And Denny Johnson just cut him right off. He didn't want to die in a medical facility separated from his grandchildren.

Now let's talk about Sugar. He talks about the piano. Sugar testified, and it was testified to by Manganarro, that it was a 1856 Steinway, one of only two made that year registered in the book, Handmade in New York. And he said that the defendant was honest and told him they weren't the original ivory. If it were, it would have been worth $100,000. He had it appraised between 500 to $6500.

I asked him, "Did you report it on your income tax?" He said he did. Now, if I owe Mr. Sugar any money, he could sure as hell have billed me for it.

Mr. Harry Manganarro also said, and testified, that he was not a good bookkeeper and backdated, backdated a bill to a local government entity he forgot to bill. If I'm not mistaken, it was New Middleton, Ohio, for some work he did in that little city.

But what did Sugar have? Sugar had immunity. What did Bucci have? Bucci had immunity. What did Sinclair have? Sinclair had immunity. What did Sabatine have? Sabatine had immunity. What did Cafaro have? Cafaro had immunity.

1 And what did Attorney Percy Squire say?
2 Percy Squire was the chief counsel to Chief Judge Thomas
3 Lambros, who was in charge of this whole courthouse, over
4 Judge Wells. I don't know if she was on the bench then.
5 But he was the boss. And Percy was his right-hand man.
6 And Percy was invited to that YSU meeting, come in late,
7 walked out with me, and saw me get into the green truck.
8 And the amazing thing was, Mr. Kidwell said
9 he picked me up in the green truck. But J.J. Cafaro said
10 we waited until everybody left, then we got in his green
11 Cadillac and he gave me money.
12 Because of the circumstances that there was
13 some withdrawal of cash? His secretary said he averaged
14 $20,000 cash out of his account every week.
15 By the way, Johnson did not have immunity.
16 Terlecky did not have immunity. Manganarro did not have
17 immunity. Allen Marchese didn't have immunity. Kidwell
18 did not have immunity. Ferrante didn't have immunity.
19 Greg Tyson? He was their witness. They
20 didn't call him because he told them there was nothing
21 illegal wrong. So they wanted him on cross, hoping I'd
22 call him. They tried to make it look like I'm in some deal
23 with the Buccis to screw Tyson. And Tyson's exact words
24 were, when we went outside and drove down the street and
25 went into that parking lot, I drove in the truck with him.

And he said, "Big Jim was standing next to me and told them you don't mess with his property."

And did I go to the bank and get him a loan? You're damn right. And I got him the first 108 major government loan in Washington for a minority in my city's history. And the Youngstown city screwed it up because they had an investigation into minority contracts, he got caught up in it, and that's how he got bankrupt, not that Jim Traficant banked it so the Buccis could gain.

Mark Colucci testified, Sugar said he would shake him down for $25,000.

How much time do I got?

THE CLERK: 42 minutes.

MR. TRAFICANT: Be exact.

Sugar said he was shaking him down for 25,000. Mark Colucci drove down there about four or five times, got his case reversed. He dropped his fee from 15,000 to 5,000, and his dad didn't want him to go ahead, and he could have had that taken off his record.

Do I have the power to tell Judge Wells whom she can release from prison? Do I have the power to get some Judge to move a prisoner? Do you think that your congresspeople at times do not intervene for families for hardship?

Now, Mr. Cafaro was called a liar by Mr.

1 Morford in the last trial, but he said, "I lied but I
2 didn't perjure myself."
3 Joseph Alteiro, Sandy said she saw him three
4 times, Buccella said he saw him a couple times, and Sandy
5 said he looked so decrepid, he explained to her she was
6 taking KFC chicken out of their dump baskets to survive,
7 and she felt sorry for him.
8 And Rovnak said he spent 16 hours out there
9 for 16 straight days and slept overnight.
10 Now let's talk about Anthony Traficanti.
11 Every one of my staff who was here said they didn't fear
12 me. There's no one on my staff that feared me. He kept
13 bringing up the point I could fire you. I have never fired
14 a person. The records are public documents. I let one
15 woman go and gave her six months to find a job because she
16 was incompetent, almost blew our courthouse, gave her six
17 months to find a job in D.C.
18 Linda Kovachik testified. She said Jackie
19 Bobby and Grace Yavorsky were not all the good friends they
20 acted they were. They were rivals, and they wanted the big
21 job. And she said Chuck O'Nesti did not care for them and
22 would not even allow them in his office.
23 And Linda Kovachik quit because she was
24 belittled by Jackie Bobby. And she said she asked Chuck,
25 after Jackie left, if there was an opening, and he said

1 there was. And she come back to work.
2 Here is where we are here, folks. This isn't
3 a case about what Mr. Morford is saying. This business on
4 the boat, that was a recommendation by some of our staff.
5 It was a staff building thing. If I'm not -- if my memory
6 hasn't faded me, because I haven't bought those transcripts
7 like they have, I think West Richards thought it would be a
8 good idea, and not everyone was compelled to go, and not
9 everyone went. And Congress was out of session.
10 Now, I'm going to sit here and I'm going to
11 listen to this garbage? Now, I'm a sheriff. Whenever you
12 have an informant that gives you information, you never
13 trust that contraband unless you independently corroborate
14 it. You know what they showed you? They showed you
15 envelopes, money. Boy, it looks exciting.
16 And you know what Mr. Sinclair said. But if
17 you look carefully through his testimony, he said he never
18 lied to the FBI. But on January 24th, when they asked him
19 about KAS Enterprises, he refused to comment. That's what
20 Mr. Bushner said on the stand. And he was very upset. And
21 then they talked to him about kickbacks, and he stood up
22 and says, "I'll have no part in, quote-unquote, helping you
23 get Jim Traficant."
24 Does that sound like a guy that fears me?
25 And one week later, he signs a proffer. And do I blame

him? I don't blame Cafaro, I don't blame Sinclair, I don't blame Sabatine, I don't blame Buccis. They're trying to save their asphalt. And they had an opportunity to do it with a license to do it.

My witnesses did not have immunity. They were subject to going to jail. And they corroborated truthfully what transpired here.

Now, there's a lot of things I can and cannot talk about, but I do know this: When you find that you have no evidence and you're a law enforcement agency, you wouldn't bring this case on a deep deal with a reliable snitch.

And the point I'm making is, who are we talking about here? Is this Lakewood Police Department? Not that they're not any good, but how many laws are there in the state of Ohio? How many laws are there in organized crime for the Feds?

If you believe in your heart they didn't tape me, then find me guilty. Because I've been around, and when they say they have no tapes, the boiler room noise was too loud, Ladies and Gentlemen, they could take a tape in a tornado, wipe out the background, and give you the clearest sound of that tape. Nobody has the technology of the Federal Bureau of Investigation and the Central Intelligence Agency. And you know what the difference is?

1 FBI is domestic; CIA is foreign.
2 And quite frankly, one of my bills was that
3 they should combine the two with the FBI, because neither
4 of them communicate with each other and don't know what the
5 hell is happening.
6 You know, I listened to some of these
7 questions. I'll never forget when Marchese was on the
8 stand, and Mr. Morford is asking about these photographs.
9 I was tempted to stand up and say, "Were you present when
10 you took the photographs?" That's how ridiculous it got.
11 I mean, absolutely ridiculous.
12 They paint the strong picture, when Mark
13 Twain made a statement once, he said, "There are lies, more
14 lies, and then there's statistics and paperwork, and I
15 don't know which is worse." Mark Twain.
16 And I'm not a historian, but there's another
17 statement that always got me. I think Ed Nishnic talked
18 about it. I think it had a bearing on my life. Our second
19 president, Thomas Jefferson -- and it's no offense to Judge
20 Wells, and I apologize if I've done anything to offend you,
21 I apologize, and it is not to gain favor. I am not an
22 attorney, I admit that. And at times I was testy with the
23 Judge, and I do have some problems with the Judge, but it
24 is not personal. She is a fine person. And I don't want
25 her to take offense to this.

1 But I believe America is afraid of our
2 government. And our second president, Thomas Jefferson,
3 said, "Beware of the appointment of federal judges for
4 lifetime terms, because they could take the Constitution
5 and mold it like clay in their hands. God bless juries."
6 He said it again: "God bless juries."
7 We have parts of our system of American
8 jurisprudence who are trying now to limit jury powers. I'm
9 a member of Congress, and you know what? I can only speak
10 for myself, but no one wants their name in the paper before
11 an election, with an IRS or FBI ticket on it. And Congress
12 has been passing laws. They have given the IRS and FBI too
13 damn much power. And when you are born in the United
14 States of America, you are born into a partnership with the
15 Internal Revenue Service the day you're born.
16 I don't think we live in a free nation. I
17 believe our freedoms are eroding.
18 It is very easy, you see, but when you deal
19 with a congressman, there is a different element, too. And
20 that element calls for full-blown surveillance,
21 corroboration.
22 Now I want to talk about something that I am
23 familiar with. Fingerprints are routinely found on cash
24 from bank robberies, betting parlors, and illegal
25 activities. Fingerprints can even be lifted from dead

1 bodies. The larger the volume of documents, the more
2 likely a print can be identified. Many thousands of
3 dollars in cash, it would be almost impossible to fail to
4 recognize one print. And the more the documents, the
5 impossibility of having not one print shown is almost
6 unheard of.
7 There was testimony by Anthony Traficanti
8 that I didn't even look at the evidence in this case. I
9 haven't read it yet. It was testified to. Anthony
10 Traficanti said he come to my office where he delivered
11 some of it. He said, "Jim, I think you'd better look at
12 this. I'm worried about this." He couldn't believe I
13 didn't look at it.
14 I haven't looked at their evidence because I
15 knew they had no evidence. Because if they had evidence,
16 they wouldn't treat me so damn nice. They'd have
17 handcuffed me and they would have put me in that cruiser
18 like everybody else, and they would have treated me just
19 like everybody else. I'm no special animal.
20 But I stood up to them. And America had
21 better start standing up. They have too much power. They
22 don't like me. It's nothing personal. They're not on
23 trial. In fact, let me tell you what: I have never met,
24 nor have I witnessed, three more competent attorneys in a
25 trial. They're good.

1 How much time do I have, Jeffrey?
2 THE CLERK: 27 minutes.
3 MR. TRAFICANT: I want you to imagine I'm an
4 artist. I've got an easel. I've got ten different colors
5 of oil paint on that easel. And I take that brush, and I'm
6 painting and I'm painting and I'm painting, and I'm trying
7 to put it together. I'm trying desperately to put it
8 together. And I'm frustrated with it.
9 So I go to Mickey D's, I go to McDonald's,
10 and I get those little plastic condiment cups about
11 three-quarters of an inch high, about an inch in
12 circumference, and I take them back with me, and I put ten
13 different colors of oil paint in those ten cups. And I
14 take them, and I throw them at that canvas and see what
15 sticks.
16 Now, here is what I can tell you: If you in
17 your heart believe they have proven beyond a reasonable
18 doubt my guilt, find me guilty. But I want to tell you
19 something, when you start taking down the burden of proof
20 and you start putting people in jail for circumstantial
21 evidence predicated on what someone said without being
22 corroborated, you have taken the Constitution and you
23 started to shred it. And if you don't understand that by
24 now, you don't need the explanation.
25 Proof beyond a reasonable doubt would be

1 this --

2 THE COURT: Excuse me, Congressman. Before

3 you do that, as you know and the jurors know, the

4 definition of that is in the jury instructions. They've

5 heard it, they have copies of it, and the same is true of

6 direct and circumstantial evidence, and they're bound to

7 follow the law. They've already heard it. You don't need

8 to give it to them. It's not the proper thing for you to

9 be doing in closing argument.

10 MR. TRAFICANT: Are you taking that out of my

11 time?

12 THE COURT: No.

13 MR. TRAFICANT: Give me some additional time.

14 If I'm not allowed to tell you that a

15 criminal case requires proof beyond a reasonable doubt,

16 then go ahead and lock me up right now.

17 No, I want you to ask yourselves some

18 questions. I don't have a lot of time left and I can't

19 come back, and they're going to have a lot more hearsay,

20 because they don't have a damn thing. If they bring up

21 anything new, disregard it if the Judge should happen to

22 overlook it, which I doubt if she will. She's been

23 conscientious. But if they do, they will, because I can't

24 come back and examine.

25 But the question you must ask yourself is,

1 why did they not have one local FBI agent, one local IRS
2 agent, come in here and say, we went and checked on all
3 those people that wrote checks to Mr. Sinclair and proved
4 that they were okay.
5 Now, you want to talk about circumstantial?
6 Why is it after the spring of 2000 there have been 22
7 straight months without $2500 in the account? Now, I
8 brought an expert on money, and did he lie? Mr. Morford
9 asked him directly, could those have been kickbacks? He
10 said, yes, they could. He didn't lie, did he? But did he
11 say there were kickbacks? No. He concluded by saying they
12 had no corroborative physical evidence to document any of
13 that money.
14 Now, you all had it passed between you. You
15 all handled it, you handled the joint exhibit. If I
16 handled 900 and some documents, and the report comes back
17 on October the 12th -- when did we go to trial? February?
18 They got the document October the 12th -- and you're trying
19 to tell me, you're trying to tell me October the 10th they
20 just decided to go to trial, and every one of these
21 witnesses admitted they were my friends and would have met
22 with me.
23 And look at the things they ask for. Do you know
24 when I heard in the newspaper about this? I had a motion
25 to quash it. And you know why?

1 MR. MORFORD: Objection. This isn't even in
2 evidence, Your Honor.
3 THE COURT: Yes. Just move along about your
4 motions to quash. That's not relevant.
5 MR. TRAFICANT: I don't trust them. You're
6 looking at a man who had a confession against him in his
7 first trial, proven to be false.
8 MR. MORFORD: There's no evidence on this
9 either.
10 THE COURT: This is the case they have to
11 work with, Congressman. This is your chance to give them
12 the closing argument. It's in this case.
13 MR. TRAFICANT: And they're getting it.
14 And you know what the problem is? They got a
15 guy to embarrass the hell out of them who then went after
16 the IRS. Through my efforts there is now an Inspector
17 General in the FBI office, and that isn't enough. There
18 should be a three-member team, independent, and when there
19 are matters like Chinese Red Army money, Waco and Ruby
20 Ridge, the FBI shouldn't investigate themselves. And they
21 don't like me.
22 And are all FBI agents bad? No. And there
23 are some great patriots. But they've gotten so powerful
24 they can just put a case up on you and scare you, and scare
25 your wife, and scare your kids, and take your property.

1 And my response? Take this. This is one American who
2 don't want to hear it.
3 Now, I want to know how 60 percent, $26,000,
4 only accounts for 60 percent of the repairs on a boat that
5 a professional surveyor with a prod -- a prod is where you
6 stick it in the wood, and if it's soft it at some point
7 hits something hard. What did they have to do? I need
8 money. What did the prosecutors say? Traficant had a
9 code.
10 I had codes. Where does he get the right to
11 testify for me, to say what I said? How could he say what
12 Bucheit says? How could he say what DiBlasio says? What
13 are we here about, what people are talking about or what
14 people did?
15 Now -- how much time, Jeffrey?
16 THE CLERK: 19 minutes.
17 MR. TRAFICANT: Don't lie. I'm just kidding.
18 I want to talk about Mrs. Ferrante. I want
19 to talk about rights.
20 They picked her up at her husband's home in
21 Canton. A week before they picked her up her husband
22 long-lined horses. Now, when you sit on a horse's back
23 you're steering with reins. When you long-line them you
24 get about a 30-foot line, you run it from the bit through a
25 wrapping around the stomach, and you go along the line and

1 exercise the horse. They played her a tape. They played
2 it for her twice. She believed that I was responsible for
3 attempting to have her murdered.
4 She testified, and the government agent told
5 her it was in her best interests to go public, no one would
6 harm you. She said, "Well, who is going to harm me?" They
7 said, "Do you want to hear the tape again?" She went
8 public. I'm up for reelection. Greg Tyson, Percy Squire
9 said it, as well, six-inch headlines: "Murder."
10 Then she comes to the grand jury, after all
11 this expense, but when she told them what really happened
12 they said she was a lying shoplifter. She was a queen
13 before then, because they thought they had her just right,
14 mad enough, too. Man, she knew what Jim Traficant did, all
15 those bad things. After she testified she came and
16 apologized to me. She said, "I was used. I was used to
17 hurt you, and I'm sorry."
18 That was her testimony. And she called my
19 wife, apologized to my family, because when the indictment
20 come down her name wasn't mentioned. Neither was the
21 $150,000 barn I supposedly had built. It's not in this
22 indictment, because it had both of the damn parties taped.
23 And you can throw me out, but I have tapes on every damn
24 one of these people.
25 And they didn't tape me? And none of them are in

1 evidence, are they?
2 MR. MORFORD: Objection, Your Honor. This is
3 entirely improper, and he's been instructed of such, just
4 making things up that aren't in evidence.
5 THE COURT: Numerous times. Congressman --
6 MR. TRAFICANT: Let me ask you this
7 question --
8 THE COURT: Congressman, you don't have much
9 time left.
10 MR. TRAFICANT: How much time do I have?
11 THE CLERK: 15 minutes.
12 MR. TRAFICANT: I'm going to close.
13 THE COURT: No more of this discussion
14 that's --
15 MR. TRAFICANT: When the prosecution --
16 THE COURT: -- outside the evidence of this
17 case.
18 MR. TRAFICANT: When the prosecution had
19 their witnesses on the stand, did you ever have to leave
20 the jury box? Now, when my witnesses were on the stand,
21 how many times did you have to leave the jury box? The
22 only testimony you were allowed to hear that was of any
23 significant value to me was from Dennis Johnson and Michael
24 Terlecky; and quite frankly, because Terlecky had a felony
25 conviction and Johnson had a DUI. But the same

1 circumstances that affect those two affected many others.
2 I've stood right here, I'm ready. I made up my mind.
3 I will not take their bullshit. Excuse my mouth, but
4 that's it.
5 Now, you hurt my family, you don't just hurt
6 me. I mean, where does it end? Where do we call an end to
7 this?
8 If you believed Cafaro, Sabatine, Sinclair, Bucci,
9 Lange, over Tyson, Squire, Anthony Traficanti, Kidwell,
10 Betty Manente, and my witnesses, put me in jail, because
11 they could have said any damn thing they wanted, and they
12 made big friends by saying it. My people told the truth.
13 I want you to make your own mind up. As an
14 American, I'm asking you what separates us from all these
15 other countries is that Bill of Rights that gives us our
16 own choice. Let no one else make it for you.
17 If you believe I'm not guilty, you say it.
18 If you believe I'm guilty, you say it. But don't let
19 anybody else say it for you.
20 Now, the prosecutor said, "Jim Traficant is
21 guilty; guilty, guilty, guilty." It resonated throughout
22 this beautiful room, and all the people heard it.
23 Well, Jim Traficant is just going to say this
24 to you: That's not for him to say, and that's not for me
25 to say. But I don't have the burden. I didn't even have

1 to stand up and take an oath. And if I was worried about
2 this bullshit case, I would have looked at their evidence,
3 quite frankly. And that worries them, that somebody has
4 looked them in the eye, and his voice ain't cracking, and
5 he's mad, but, you must admit, controlling it quite well.
6 How much time, Jeffrey?
7 THE CLERK: 11 minutes.
8 MR. TRAFICANT: I've been a real pain in the
9 ascot. I don't know if you were in the room when I threw
10 the box. If you were, I apologize.
11 I don't totally understand our courts, and I
12 don't want to know them, and I hope to God you never do,
13 either. But you are the Court now, you are the trier of
14 last resort. You're the one who makes the decision.
15 Now, those jury instructions, in my
16 opinion -- all I did was write a note to the Judge and
17 asked her to be fair. And I haven't heard her last part,
18 but I think she's been fair so far. And if I don't think
19 she's fair in the last part, you'll sure hear about it.
20 I'm tired of being pushed. When they go back
21 15 years, you can tell that to Barney Fife.
22 Several last things. Look very carefully.
23 Who took this off the screen? Matthew?
24 I've written it down there, Defense Exhibit
25 1007-AA. They feverishly attempted to corroborate the

1 testimony of their witnesses. And when they come with the
2 lame excuse "the boiler room," spare me.
3 There's a thing in the courtroom called the
4 truth. There are people who walk out of court that are
5 guilty, and there are innocent people who go to jail.
6 There have been people in jail for rape for 27 years; now
7 new technology through DNA has found they weren't the
8 rapist.
9 That's why it's so important that you don't
10 just accept what someone says. You look and see what they
11 do. In this case, you look and see what they proved.
12 I sure as hell didn't go investigate Al
13 Lange. I don't know if Al Lange put money in his pocket,
14 but I know that J.J. Cafaro and Al Lange were a team when
15 they testified.
16 Mr. Cafaro surely didn't pay for his
17 testimony to put Mr. Cafaro behind bars.
18 It's been a long trial, quite frankly. They
19 took seven and a half weeks, I only took three. I think it
20 would have been shorter.
21 There are other matters of evidence I want
22 you to look at. Look at the exhibits. Look at that survey
23 on the boat. Remember what the guy said from the rental
24 car: He was paid by the Congressman. Remember what the
25 woman said from T. C. Redi-Mix: That was concrete

1 evidence.
2 I was under no obligation to do that. But
3 you know what predeposition is? You want to see signs of
4 innocence.
5 And now I want to close with Jackie Bobby and
6 Grace. They were two of my most important employees, but
7 they got to the point where they thought they were the damn
8 Congressman. And I'll be damned -- and they objected to an
9 appointment I made of an older woman because of the wage I
10 paid her, because she tolled all her life at a low wage,
11 and I decided to pay her a decent wage so she'd have maybe
12 some retirement, and I don't have to explain that to
13 nobody.
14 I never compelled anybody to go to my farm, I
15 never threatened anybody that they had to go to my farm.
16 There's not one damn bit of evidence that anybody gave me
17 any money other than their circumstantial rap.
18 And if Mr. Kidwell wasn't in to build that
19 prototype, why did he have the blueprints? And by the way,
20 Mr. Kidwell testified I owned two horse trailers, and he
21 had just repaired the one, and he owed me money because he
22 said I gave him a cap worth a thousand dollars for a
23 pick-up that wouldn't fit mine anymore, and he had to repay
24 me. And he was in that truck when he picked me up in front
25 of that YSU building where Cafaro said he took me around

1 the block and gave me $13,000. You know, that guy that lied
2 under oath but said he didn't lie and commit perjury?
3 And you know what? Mr. Kidwell would build
4 this better than the prototype. And if the Judge finds it
5 in her heart, she'll let you read a 302 --
6 MR. MORFORD: Objection, Your Honor.
7 THE COURT: Sustained.
8 MR. TRAFICANT: I'm going to leave this here
9 for you, because that's about the only thing they can't
10 lift a print from. They might have a hundred or 200 or 300
11 or 400 or 500, I don't know what denomination those bills
12 are in, as many of them as there are supposed to be. Do
13 you think the FBI goes over them with a fine tooth comb? I
14 don't know.
15 If I've offended you, I apologize. For
16 taking too much of your time, I apologize. But you have a
17 tough duty. If you believe I'm guilty, you come out and
18 just say it. I'll accept it like a man. But if you
19 believe in your heart I'm not guilty, I want you to look at
20 that prosecutor right in the damn eye, because that's what
21 makes us free.
22 In this courtroom the people still govern. I
23 wish I could say that about our government.
24 Thank you for listening.
25 THE COURT: Thank you. We'll take about a

1 ten-minute break. We are not going to take a lunch break
2 at this point because the remaining time on closing
3 argument and final instructions is not a long time. So I'm
4 going to give everybody a ten minute break, but ask the
5 lawyers and the defendant to stay back for a moment, and
6 juror number 3.
7 Thank you.
8 THE CLERK: All rise for the jury. This
9 Honorable Court is now in recess for ten minutes
10 (Jury out at 12:01 p.m.)
11 (At side-bar with Juror Grodi off the record.)
12 (At side-bar with Juror Grodi on the record, with
13 counsel and pro se defendant present.)
14 THE COURT: We have enough alternates.
15 JUROR GRODI: In fairness to you and to you,
16 I mean, my head hasn't -- I probably heard probably not
17 half of what you guys said this morning, and I don't think
18 that's fair to you.
19 THE COURT: That's an important
20 consideration, but let me just tell you a few things,
21 because you still have some continuing obligations.
22 JUROR GRODI: You don't have to worry.
23 THE COURT: Let me just tell you what they
24 are. You're excused, and we will put an alternate in.
25 Until there is a verdict delivered in open

1 court, and we don't know when that will be, but you can
2 call in and check if you want to, you're still under your
3 admonitions not to let anybody talk to you about the case,
4 not to talk to anyone about the case.
5 You have the 24-hour number. If anybody puts
6 you under any pressure on this case, then you call that
7 24-hour number, but do not let anybody get you involved in
8 talking about this.
9 JUROR GRODI: Okay.
10 THE COURT: Because you're leaving at a key
11 time. You've been here for a long time, and the jury is
12 just about to go into deliberations.
13 JUROR GRODI: Well, I mean, you don't have
14 to worry about that.
15 THE COURT: Okay. I won't worry about it,
16 but I have to say it and say it to you with everyone here,
17 and on the record.
18 JUROR GRODI: Right.
19 THE COURT: And so then let me take you
20 beyond that. The verdict will come in at some point, and
21 once that's happened, like every other person who served on
22 the jury or who was an alternate, you're free to talk or
23 not, as you wish.
24 Remember though that you never speak for
25 another juror.

JUROR GRODI: I won't.

THE COURT: It's been nice having you here.

JUROR GRODI: I'm sorry about this.

THE COURT: But you can't help it.

MR. MORFORD: We understand.

THE COURT: Especially right at the end, too. Thank you.

JUROR GRODI: Pretty good learning experience.

THE COURT: My clerk will give you some things so you can actually go. And please go back and say good-bye to everybody.

JUROR GRODI: Yeah. They were all upset, too. This isn't that easy, too. Sorry.

MR. MORFORD: We're very sorry for that.

THE COURT: We appreciate your work.

JUROR GRODI: What do I do? Go back there?

THE COURT: Lynn will help you out. You go home, and stay under the admonitions.

JUROR GRODI: No, I won't talk to anybody.

THE COURT: Could you tell Alternate 1 to come sit here, and I'll make an announcement to the rest of the world at some point.

I guess I should do that now.

(End of discussion at side-bar.)

1 THE COURT: For those of you who are in the
2 back, as soon as we come back in after this ten-minute
3 recess, we'll announce what went on, why it went on, and
4 you'll all have the same information at the same time.
5 Okay? Thank you.
6 (Recess had.)
7 (Jury in at 12:18 p.m.)
8 THE COURT: Juror number 3 has asked to be
9 excused due to a death in his family, and alternate number
10 1 has replaced juror number 3. That bumps each of our
11 alternates up a number just in terms of the way we seat you
12 and refer to you when we use your numbers.
13 Thank you. We'll proceed. Mr. Morford.
14 MR. MORFORD: Thank you, Your Honor.
15 Ladies and Gentlemen, Congressman Traficant
16 just spent an hour and a half addressing the evidence in
17 this case.
18 In the final analysis, what did he tell you?
19 He told you he's never even looked at the evidence in this
20 case. Six binders full of documentary evidence that firmly
21 establishes that he did the very things he's charged with
22 doing, that he did perform official acts for these people,
23 that he did immediately have them out to his farm and his
24 boat to do work, and that he did not pay them for the fair
25 value of that work.

1 Those things are not disputed, and that's
2 where you start as you start to look at these charges.
3 Now, if you think about what Congressman
4 Traficant just told you, he just described for you a world
5 that is very different from the world in which we live. He
6 described for you this incredible world that's filled with
7 coincidences, convenient excuses and convoluted conspiracy
8 theories.
9 In his world, it's just a coincidence that he
10 asked Tony Bucci, Greg Tyson, Pete Bucheit, Dave Sugar,
11 James Sabatine, and the people from USAG to come out and do
12 things for him immediately after he'd done official acts
13 for them. That's all just a big coincidence.
14 It's also a coincidence that none of them is
15 actually in the business of doing what he has them out to
16 do. Think about it. What are Tony Bucci and James
17 Sabatine? They're commercial highway pavers, and they're
18 out cleaning up the farm, taking down trees, dredging out
19 creeks. That's not the business they're in. There are
20 people that do that work. He could have looked up in the
21 Yellow Pages and called them and had them out. But he
22 doesn't do that. He has these contractors come out and do
23 work they don't even do.
24 Greg Tyson and Dave Sugar were commercial
25 utilities contractors. Pete Bucheit builds malls and

1 office buildings. He doesn't have a home improvement
2 business. In fact, he had to go out and find a carpenter
3 and hire him to send him out to do the work because they
4 didn't do that kind of work. These were not legitimate
5 business transactions.
6 And USAG is a high tech laser company --
7 MR. TRAFICANT: Objection. Bucheit didn't
8 testify. That will be enough of that.
9 THE COURT: You can continue.
10 MR. MORFORD: Look at USAG. They're a high
11 tech laser company. They're not a car rental agency.
12 They're not a boat repair company.
13 Allen Sinclair was a personal injury lawyer.
14 He was not an economic development specialist. He had no
15 experience in that area whatsoever.
16 It's also convenient that Congressman
17 Traficant's employees, employee after employee after
18 employee, are out there working on his farm and working on
19 his boat. That's not disputed, that they were out there.
20 It's just a coincidence. And it's a coincidence that
21 witness after witness after witness, including many of his
22 own witnesses -- he keeps wanting to call them government
23 witnesses. He called them. He put them on the stand.
24 Those were his witnesses. Those are his employees. Those
25 are his friends, his cronies. And even they came in and

1 testified to this repetitive pattern that occurs over and
2 over and over again.
3 But that's how it is in his world.
4 Everything is a coincidence or some nefarious conspiracy.
5 The problem is: Common sense doesn't exist
6 in the world he just described to you for the last hour and
7 half, but it does exist here. You see, that's why you're
8 here. That's what we do in America. We bring in ordinary
9 citizens who have good, old-fashioned common sense. And we
10 ask them to look at the facts that are in evidence, not
11 inadmissible stuff that's not properly before a jury,
12 because it's not reliable, but the evidence that's in the
13 case, and apply their good common sense to it.
14 And when you apply your common sense to the
15 evidence in this case, what does it show you? It's
16 interesting, Congressman Traficant said that I told you he
17 was guilty. No. I told you that the evidence tells you
18 he's guilty because that's what you need to do. You need
19 to focus on what the evidence says, not what I say, not
20 what he says, not what anybody else says. It's what the
21 evidence and the testimony and documents say.
22 Congressman Traficant spent an hour and a
23 half, and he talked about everything under the sun except
24 for one thing, the actual evidence and documents and
25 testimony in this case as far as what people actually said.

He talked about freedoms being eroded and the IRS is bad and the FBI is bad and the government is bad. Who's he? He's the government. He's a U.S. Congressman, one of the 435 most powerful people in this country. If the government is so bad, what's he been doing for 18 years?

He talks about everything but the evidence. And then he says they don't have a damn thing. We don't have a damn bit of evidence. His words; not mine.

How would he know? He told you he never looked at the evidence. How would he know whether there's any evidence or not?

And make no mistake, when he starts talking about the fact that this was something corrupt, what he's really saying, what he's really saying is that I'm corrupt, and Matt is corrupt and Bernie is corrupt. We're all corrupt and we're all out to get him.

Well, your job is, again, to focus on the evidence, those six binders full of documents.

As you heard the arguments that he just made for the last hour and a half, I want you to think about one thing, and he brought it up, mentioned it. Michael Roberts, I think he called him a money expert. You recall him.

What happened when he came on the stand? He

1 came on and suggested to you that maybe Allen Sinclair,
2 when he took that $2500 cash out of his paycheck every
3 month, didn't give it to Congressman Traficant. And he
4 showed you some records that showed that there were some
5 $2500 deposits into an IOLTA account, his law client
6 account. And he suggested to you that possibly those
7 transactions could be the redeposit of the cash that was
8 going into the IOLTA account instead of to Congressman
9 Traficant.
10 And then it wasn't until cross-examination
11 when I asked him, "Sir, did you ever pull any of the
12 deposit items to see what those actually were?" And he
13 officially said, "Yeah, three of them and those were
14 checks, so those wouldn't count."
15 "Well, did you bother to look at the other
16 11?
17 "No. We didn't have time."
18 And then I came back and I showed him the
19 actual checks that were deposited, payments from clients,
20 from insurance companies that were properly deposited into
21 an IOLTA account. What did he tell you? He said, "My
22 entire thesis, my entire testimony is irrelevant."
23 You know, you go to a carnival, and they have
24 something called cotton candy where they take a little
25 sugar and spin it around real fast, and suddenly it becomes

1 a big mound of fluff that looks like something. You buy it
2 and take a bite. The minute you take a bite, it disappears
3 because there's nothing there.
4 That's what that testimony was. You take a
5 few deposits, and you make it look like something that it's
6 not, and then you get confronted with the actual documents.
7 You take a bite into it, and there's nothing there.
8 Congressman Traficant talked an awful lot
9 about fingerprints, that there's no fingerprints. We told
10 you that right up front. Joe Bushner testified very early
11 in this case. And what did he tell you? The documents
12 that matter, the money, the burned envelopes, there were no
13 fingerprints at all. And he explained to you why that is,
14 and it makes perfect sense. And you can go back and pull
15 on his testimony about that. It's very difficult to get
16 fingerprints from paper documents because paper tends to
17 absorb the very things that leave fingerprints. Sometimes
18 you get them; sometimes you don't.
19 But with all those bills, there's no
20 fingerprints. Not just not Congressman Traficant's
21 fingerprints, none at all. Those were in evidence; those
22 were available. He had access to them. He could have
23 examined them. And while he's right, he doesn't have any
24 duty to do any of that, he could have. There were no
25 fingerprints, period.

1 And think about this: Congressman
2 Traficant's own handwritten notes that some of his
3 employees looked at and said that's clearly his writing,
4 those didn't even have his fingerprints on them, and you
5 know he touched those.
6 In fact, there was only one piece of evidence
7 that even mattered in the entire case that had a single
8 fingerprint on it, and it wasn't Congressman Traficant's.
9 And we told you that, and it was this envelope right here.
10 But look: This is full of cash (indicating) and I've
11 pulled that out, and I hand it to somebody because I'm a
12 former sheriff and I don't want my fingerprints on it.
13 Would there be a fingerprint on it? No. His fingerprints
14 are not on this. They're not on anything. So what? Does
15 that mean he's innocent?
16 And what does that relate to? It only
17 relates to Allen Sinclair's portion of the testimony.
18 Now, we put in a document that shows that
19 lots of other documents were looked at. Agent Bushner told
20 you what happened. There was one piece of Bucci evidence,
21 that handwritten list that numerous of his employees looked
22 at and identified it as his handwriting, that they wanted
23 to see if any of his prints were on that, and it came back
24 no prints. There were no prints on it.
25 But because it was in a file filled with

1 other documents that have been obtained for Buccis, their
2 own internal business records that Congressman Traficant
3 would have never seen, would have never touched, all those
4 got printed, and some of those, not many, did have
5 fingerprints, probably a tenth of all those paper
6 documents. But we wouldn't expect his fingerprints to be
7 on any of those. It's irrelevant.
8 The whole fingerprint issue is nothing but
9 more cotton candy.
10 He talked about tapes. Why didn't they tape
11 me? Why aren't there tapes in this case? Agents Bushner
12 and Hassman explained to you why the decision was made not
13 to tape record Congressman Traficant. And the biggest
14 factor was this: We were investigating historic crimes
15 that had already occurred. And Agent Hassman explained
16 when you're doing that, it's very difficult to get tapes.
17 You end up getting self-exculpatory tapes where the people
18 come in and deny everything.
19 Why? Because they know they're under
20 investigation. They're not going to talk like that,
21 particularly when you have a case like this, where you have
22 a defendant like Congressman Traficant who the evidence
23 shows knew he was under investigation in December of 1999,
24 over a month before Allen Sinclair came in and began to
25 cooperate, was taking Allen Sinclair places, telling him he

1 couldn't talk to him in the car because he was afraid it
2 was bugged.
3 He was a touchy-feely guy. Allen Sinclair
4 was nervous. His father was dying. They didn't think he
5 could pull it off. And more important, Congressman
6 Traficant was paranoid about being tape-recorded in the
7 first place.
8 Paul Marcone, his own friend and chief of
9 staff, told you how Congressman Traficant pulled him out of
10 the office and took him all the way down the congressional
11 halls to the elevator because he was afraid the FBI had his
12 congressional office wiretapped.
13 He wouldn't talk to Allen Sinclair in the
14 car. When Allen Sinclair borrowed somebody else's car, he
15 still wouldn't talk. He talked in code because he was
16 afraid he was going to be tape-recorded.
17 This is just more cotton candy.
18 He says there's no evidence that Al Lange
19 paid for the boat repairs. That's just not true. Al Lange
20 kept detailed records, and you saw those records.
21 They're in evidence. Running tallies, signed
22 receipts, cancelled checks, and even photographs of Ernst
23 deGroot doing the work on the boat.
24 Take a look at Government's Exhibits 3-36,
25 8-37, 8-38 and 8-69. That's documentary evidence

1 documenting what was done on that boat.
2 Congressman Traficant says that Leisel
3 Bucheit never said that he didn't pay. What's your
4 recollection of the testimony? What she said was she left
5 the company, but not until 1996, three years after the work
6 was done, and at the time she left he had not made any
7 effort to pay. Three years later they had not received a
8 penny.
9 Just assume that's all it is. Then
10 Congressman Traficant had an interest-free loan of $30,000
11 for three years. Is that something of value? Absolutely.
12 Congressman Traficant argues that Allen -- Al
13 Lange's legal fees were paid by J.J. Cafaro and, therefore,
14 you should set aside and throw out his entire testimony.
15 The testimony was that Al Lange was working
16 for J.J. Cafaro's company when the investigation started.
17 And his only legal problem was coming about because of the
18 work he had been doing for that company, and so the lawyer
19 who was hired to represent Mr. Cafaro and the company
20 talked to Al Lange, came back and said, "You know what? Al
21 Lange needs his own lawyer looking after his own
22 interests," and suggested the company should pay that, and
23 they did.
24 But what did they get for their money? He
25 came in and sat on the stand, as Congressman Traficant

1 reminded you, and said, "I don't trust J.J. Cafaro. I
2 don't like J.J. Cafaro." But the most important thing he
3 said is, "At the advice of my independent counsel, no
4 matter who he was being paid by, I provided information to
5 the FBI against J.J. Cafaro that ended up getting J.J.
6 Cafaro charged."
7 Does that sound like somebody that's being
8 paid off?
9 And again, when you think of testimony of
10 people like Al Lange, look at the corroboration. Look at
11 what the documents say. Look at what the other witnesses
12 say. And then ask yourself: Does what he's saying make
13 sense?
14 Rather than address the massive amount of
15 physical evidence that there is in this case, Congressman
16 Traficant wants you to shift your focus to all these side
17 issues that he talked about for the last hour and a half,
18 what we could have done instead of what the evidence that's
19 before you proves.
20 But the issue is not what we could have done,
21 would have, could have, should have. The issue is based on
22 the evidence that you've been given in this case, do you
23 believe that Congressman Traficant is guilty as charged
24 beyond a reasonable doubt. And he mentioned that topic,
25 but remember, that's not something that Judge Wells cooked

1 up just to apply to this case. That's the standard that
2 applies to every single criminal case across this whole
3 country. And every single jury that's ever convicted a
4 defendant has done so under that burden.
5 What the evidence proves is this repetitive
6 pattern that simply cannot be explained away.
7 Congressman Traficant talked about the boat
8 survey. The boat survey was prepared by the very guy that
9 was trying to get Al Lange's business in the first place,
10 and Al Lange told you what happened with that. They
11 overstated the value of the boat and understated the value
12 of the repairs so Al Lange would go ahead and do the boat
13 deal so they could make money.
14 And how do you know that? You know that
15 because of Congressman Traficant's own cross-examination of
16 Al Lange. Do you remember when he said to Al Lange, "Al,
17 isn't it true there are companies out there that buy boats
18 like mine, they renovate them and sell them at a profit?"
19 And Al Lange said, "Yes." If that boat was worth 30- to
20 $35,000, why didn't Congressman Traficant take it to one of
21 those companies and sell it to them for $26,000 so they
22 could make a quick, if it was going to be worth 42 at the
23 end, a quick 16,000?
24 Or why didn't he take it to some
25 disinterested third party? Why would he take the risk and

1 try to sell it first to Bucci, and then to Bucheit, and
2 then to Cafaro, if it's really worth all that money? Why
3 risk the appearance of impropriety?
4 MR. TRAFICANT: Objection.
5 MR. MORFORD: Why face the potential ethics
6 issues?
7 MR. TRAFICANT: Bucheit offered no evidence
8 to that.
9 MR. MORFORD: Bob Gatti testified to that.
10 MR. TRAFICANT: Objection.
11 THE COURT: Congressman. Congressman. You
12 can continue.
13 MR. MORFORD: You will recall the testimony
14 of Bob Gatti about the boat.
15 Why create these potential ethical issues and
16 create the potential bad press when you're so worried about
17 this big, tough election that's coming up? Why? There's
18 only one answer to that question: Because the boat wasn't
19 worth $30,000 or $35,000. It wasn't worth $26,000, because
20 it was rotting away in the water getting ready to sink.
21 Remember what he told Paul Marcone? "I've
22 got to get rid of this boat. You've got to unload this
23 boat." It was a problem.
24 It is kind of like the issue of the ownership
25 of the farm. At the beginning of the trial, he suggested

1 it wasn't even his farm. Then witness after witness after
2 witness came in, and when they were asked, usually by him,
3 they'd say, "Well, it was my understanding it was your
4 farm." And they were his horses. And it was his horse
5 operation that was taking place on the farm.
6 Remember what Sandy Ferrante said. Who told
7 her she could live in the farmhouse? It was Congressman
8 Traficant. And who was it who told Dave Manevich and gave
9 him the go-ahead for each little job added to the job? It
10 was Congressman Traficant. And who sent Tony Bucci, Greg
11 Tyson, Dave Sugar, George Buccella, Anthony Traficanti,
12 Rich Rovnak out to the farm to do the work? It was
13 Congressman Traficant. Congressman Traficant. Congressman
14 Traficant.
15 And regardless of whose name they put the
16 ownership in, it's no different than 11 Overhill Road. It
17 was Henry DiBlasio's business whether he put it in Jeren's
18 name or Chuirazzi's name. Why? Because he was the one
19 that exercised dominion and control.
20 And it was Allen Sinclair's building whether
21 he put it in his wife's name or KAS, because he exercised
22 dominion and control. And it's Congressman Traficant's
23 farm because he exercised dominion and control, and he was
24 the one who benefited personally from every one of those
25 jobs that was done out there, because they all helped his

1 horse operation.
2 The issue of the farm ownership is just more
3 cotton candy.
4 He talked about all these witnesses that were
5 immunized. Tony Bucci, James Sabatine, Sugar, Cafaro.
6 They weren't immunized. You heard about the plea
7 agreements. They were not immunized. The only witnesses
8 that were immunized were five of Congressman Traficant's
9 own employees who wouldn't testify about their dealings
10 with Congressman Traficant without immunity, and one other
11 witness, Al Lange, and then one of his witnesses, Greg
12 Tyson. That's it, out of 55 witnesses.
13 And remember, he talked a lot during this
14 case and during his questioning about Tony Bucci. What a
15 terrible guy Tony Bucci is. And he had Greg Tyson tell you
16 what an awful guy Tony Bucci was.
17 He called him a liar and a thief, and a
18 convicted felon. But there's one name he forgot to
19 mention. It was the name that Tom Williams testified to.
20 Do you remember Tom Williams, when he said Congressman
21 Traficant said to him, "Why did you get so mad about this?"
22 And he said, "You're darned right I got mad. You took the
23 side of two people you constantly referred to as your
24 friends over 3,000 people who wanted to be in that damn
25 park on a holiday weekend," quote-unquote.

1 And my question to you is not was Tony Bucci
2 a bad guy. We brought that out in his direct examination.
3 He was a really bad guy. The question is: Why is a U.S.
4 Congressman embracing this bad guy? And why does he
5 continue to embrace him after he knows he's a convicted
6 felon? Why does he continue to embrace him after Greg
7 Tyson has told him all the terrible things he's done to
8 Greg Tyson, trying to put him out of business?
9 That took place in 1994, yet he's still going
10 to bat for him in 1995 and 1996.
11 Why does he continue to embrace him after Tom
12 Williams tells him what a creep Bucci is and all the
13 terrible things Bucci is doing. Who's side does he take?
14 He threatens to call the head of ODOT and the governor and
15 the governor's chief of staff to get Tom Williams fired for
16 doing what? For trying to enforce the law against this
17 guy.
18 Why is Congressman Traficant embracing him
19 and trying to fire Tom Williams? Or pushing the Department
20 of Labor to let these people still do business even though
21 they are crooked, or pushing ODOT or pushing Mahoning
22 County into contracts they don't want to do? Why does he
23 keep doing that if these people are so bad?
24 You know why. Because the evidence shows
25 why. His own handwritten to-do list he gave the Buccis

1 tells you why. It is because they were doing what
2 Congressman Traficant wanted to have done.
3 It's the same reason he embraced J.J. Cafaro
4 and Sugar and Sabatine. The same reason he hired Allen
5 Sinclair.
6 You know, there's an old saying: Tell me who
7 you're running with, and I'll know what you're up to.
8 He's the one that chose to run with these
9 people, these felons, these crooks, as he describes them.
10 Now, as you consider the testimony of some of
11 these people, don't just think about what they testified
12 to, but also think about what they didn't testify to. For
13 instance, Dave Sugar. If Dave Sugar is lying to curry
14 favor, why wouldn't he say, "You know what? When I made up
15 those false invoices, I only did that because Congressman
16 Traficant told me to."
17 That's not what he said. He said, "No,
18 Congressman Traficant had nothing to do with that. I did
19 that on my own."
20 If he's lying to curry favor, why doesn't he
21 go all the way?
22 Another example, J.J. Cafaro, he testified
23 about the Jeep and the two Avantis, and I said to him,
24 "Were those gratuities?" And he said, "No. Those were
25 actually -- that was going to be a sale. He just hadn't

1 paid me for them."
2 If J.J. Cafaro is lying to curry favor, why
3 doesn't he say, "Absolutely, those were more gratuities"?
4 But that's not what they said, so think about not only what
5 these witnesses said, but what they didn't say.
6 Allen Sinclair, he says you shouldn't believe
7 him because Allen Sinclair was facing bar disciplinary
8 matters. What matters? There was a minor infraction
9 involving advertising. And Allen Sinclair told you what we
10 told him: "Whatever problem you have with the bar, that's
11 your problem. We're not getting involved."
12 And Congressman Traficant brought out through
13 cross-examination that Allen Sinclair could possibly lose
14 his law license because of the misconduct that he admitted
15 to you in this case, giving kickbacks to Congressman
16 Traficant. And ask yourself this: Why would Allen
17 Sinclair make this up and put his law license in jeopardy?
18 That's his meal ticket.
19 Why would he give the FBI $24,500 of his own
20 money? And how is it that within a couple days of his
21 first interview with the FBI, he is able to come up with
22 $24,500 in cash? And you saw his bank accounts. It wasn't
23 coming out of there, and burned envelopes that just
24 happened to have Henry DiBlasio's handwritten notations
25 "J.T. personal." How does he pull all that off in a couple

1 days?

2 Congressman Traficant also told you that you

3 should pay really close attention to his witnesses, and you

4 should. Remember who those witnesses were. They were his

5 employees, his friends, his loyalists, biased witnesses who

6 admitted that they liked him. And as you think about their

7 testimony, think about what Paul Marcone told you happened

8 to him when Congressman Traficant took him out in the

9 hallway and tried to put words in his mouth. This was

10 Congressman Traficant's cross-examination, by the way.

11 "Paul, there's an opinion being widely

12 circulated that I tried to get you to lie to the grand

13 jury. Is that true?"

14 "You suggested what I should say if I were

15 asked about certain individuals."

16 He persisted: "Did I ask you to lie to the

17 grand jury, Paul?

18 "What you did is, you asked me -- you were

19 trying to put words in my mouth."

20 Then he comes back again on redirect and he

21 says, "So other than that conversation where you felt I was

22 trying to put words in your mouth, is that your words, was

23 there anything else ever?

24 "Anything in terms of what?

25 "In terms of this case."

1 "I mean, we had no discussion about this
2 case."
3 You know, it's amazing. At the time he asked
4 that question, he knew he had talked to Paul Marcone again
5 just two weeks before Paul Marcone took the stand, because
6 I came back on recross.
7 I said, "Mr. Marcone, Congressman Traficant
8 just asked you some questions if there were ever any other
9 discussions between you and him about this case other than
10 that time when he brought you out in the hallway. Did he
11 ever talk to you in the last few weeks about this case?
12 "Answer: He called me several weeks ago and
13 I returned his phone call.
14 "Questions: Was there anything about that
15 discussion that made you feel uncomfortable?
16 "Answer: The issue of Henry and Allen came
17 up again, and he was trying to elicit from me that Henry
18 and Allen worked hard, and I recall again reiterating I
19 couldn't speak to that issue.
20 "Question: But that's something you'd
21 explained to him all the way back in the hallway two years
22 ago, correct?
23 "Answer: That's correct.
24 "Question: And now two weeks before this
25 testimony, he's asking you again if you'll say something

1 that you've already told him you can't say?
2 "Answer: That's correct.
3 "Question: And did it bother you?
4 "Answer: I wouldn't be human if it didn't
5 bother me."
6 And then he said one last thing that is very
7 important, he said to you, "He told me, 'I'm fighting for
8 my life, and I need some help here fighting for my life.'".
9 Remember that testimony and the way he tried
10 to put words in Paul Marcone's mouth as you think about
11 what his loyal cronies came in and said on this case.
12 On direct examination, Anthony Traficanti and
13 Bob Barlow both came in and testified that Henry DiBlasio
14 worked hard, the very thing he was trying to get Paul
15 Marcone to say that Paul Marcone wouldn't say. But what
16 happened on cross-examination? They had to admit, Anthony
17 Traficanti, that he never worked directly with him, he and
18 Henry had a hi-bye relationship, no one was allowed on the
19 second floor, and Anthony Traficanti never had any business
20 going up on the second floor.
21 Bob Barlow had to admit on cross-examination
22 that it was infrequent for Henry to be involved in strikes.
23 That's supposedly the big thing he does. He said there
24 were three or four in the period of 11 years.
25 There was other testimony that they generally

1 lasted about five days, Betty Manente.
2 He said he worked downstairs and didn't know
3 what Henry was doing during the day and that he had no idea
4 how much congressional work Henry did or didn't do.
5 Then there was Mr. Kidwell. Mr. Kidwell
6 tried to claim that USAG bought him over $5,000 worth of
7 welding equipment so he could build these trailers that had
8 to be built to strict Army specifications. Where? In his
9 garage of his house, because he didn't even have a factory.
10 Even though USAG had a professional
11 legitimate trailer manufacturer located right in
12 Congressman Traficant's district, that Congressman
13 Traficant set up for them supposedly. Now they're going to
14 leave that professional manufacturer when they're going to
15 get a big Army contract and have this joker build them out
16 of his garage. Does that make any sense? And where is the
17 evidence for that? It's ridiculous.
18 MR. TRAFICANT: Objection as to joker.
19 THE COURT: Ladies and Gentlemen, you heard
20 the evidence in the case, and so you have to rely on your
21 own recollection.
22 MR. MORFORD: You will also --
23 MR. TRAFICANT: Object to referring to a
24 party as a joker. That's uncalled for.
25 THE COURT: Congressman. You can proceed.

1 MR. MORFORD: You will also recall the
2 testimony that they didn't even get the Army contract until
3 when? April of 2000. And yet if you look at the receipts
4 on the welder and the generator, they're bought and sent in
5 May and June of '99. Nine or ten months before they even
6 have the contract. It's nonsense.
7 And he'd have you believe that they
8 drop-shipped them to Virginia so they could put them on his
9 trucks so he could drive them back to Mr. Kidwell so
10 Mr. Kidwell could build these for the Army. But on
11 cross-examination, Mr. Kidwell acknowledged that
12 Congressman Traficant had talked to him about building an
13 aluminum trailer that would have a sleeping compartment,
14 but he didn't have an aluminum welder to do it, which is
15 exactly what Al Lange testified to about the very first
16 meeting when the welder was mentioned.
17 Lo and behold, this same hunting buddy,
18 Mr. Kidwell, not only can provide this excuse about the
19 welder, he claims he was there at YSU sitting in his truck
20 waiting to pick up Congressman Traficant. Imagine that.
21 What an amazing coincidence. How lucky can Congressman
22 Traficant be? The same guy that can give the excuse on the
23 welder is going to be able to talk about YSU.
24 But you know what's interesting? Compare the
25 testimony of Mr. Kidwell and Percy Squire. What did

1 Mr. Kidwell say? Mr. Kidwell said that Congressman
2 Traficant was the first to leave. Mr. Squire said he was
3 one of the last to leave.
4 MR. TRAFICANT: No, he didn't.
5 MR. MORFORD: Mr. Squire said he walked out
6 with Congressman Traficant and watched him get into his
7 truck. Mr. Kidwell, asked by Mr. Traficant to describe the
8 person that walked out with him, said, "It was a shorter
9 fellow with gray hair."
10 Does that sound like a description of Percy
11 Squire? Their stories don't even match up. They
12 contradict each other.
13 Remember what else Percy Squire admitted: He
14 admitted that he could not say that Congressman Traficant
15 didn't take a few minutes and meet with J.J. Cafaro,
16 because there was no way he could say that.
17 In closing, Ladies and Gentlemen, look at the
18 evidence in this case, and ask yourself this question:
19 What should my office have done that day when Tony Bucci's
20 lawyer called and said, "I have a series of allegations I'm
21 going to give you"? And the allegations were what you
22 heard Tony Bucci say in this case about a sitting United
23 States Congressman. Was it wrong to go out and see if, in
24 fact, as Tony Bucci claimed, that Congressman Traficant was
25 contacting all these agencies on Tony Bucci's behalf? And

once we confirmed that, in fact, through documents that happened, was it wrong to try to get documents to see if, in fact, Tony Bucci had done work for Congressman Traficant, like he said he did?

And once we established that, was it wrong as we received other allegations about other contractors doing the same thing, people like Dave Sugar and Jim Sabatine and Greg Tyson and Pete Bucheit, to go out and pull documentation on those, as well? It wasn't.

THE COURT: Mr. Morford, your time is up.

MR. MORFORD: Okay.

In closing, Ladies and Gentlemen --

MR. TRAFICANT: Your time is up.

MR. MORFORD: -- I would ask that you decide this case on the testimony and the evidence. And if you do, you will reach a verdict that is both fair and just in this case. That will be a verdict of guilty.

THE COURT: Thank you. The final instructions in this case are not very long, and so it seems to me to be prudent to just go forward with them. Is everybody comfortable with doing that? Is anybody not comfortable with doing that? Okay.

First let me give a brief instruction to the alternate jurors. When the jury retires to deliberate, which they will be doing very soon, I'd like all the

1 alternate jurors to remain right where you are, seated
2 here, so I can release you to the marshals.
3 And now we'll give you the section of sort of
4 practical jury instructions in this case.
5 I think you'll find in your books it begins
6 on D-1, and you can follow along or you can just listen if
7 you like.
8 Members of the Jury: Upon retiring to the
9 jury room, you will immediately proceed to select one juror
10 as foreperson. The purpose in appointing or electing a
11 foreperson is not because anyone has any greater weight or
12 authority than anyone else, but to ensure that
13 deliberations are carried on in an orderly fashion. It is
14 the responsibility of the foreperson to confine discussions
15 in the jury room to the evidence and the law in this
16 particular case.
17 This is a criminal case. It requires a
18 unanimous verdict. Each and every one of you must
19 individually consider and judge the evidence. The rules of
20 law which were explained to you in these instructions are
21 binding upon each of you as a member of the jury.
22 It is your duty as jurors to talk with each
23 other about the evidence and to make every reasonable
24 effort to reach unanimous agreement. Each of us has our
25 own personal style. Some are gregarious, some shy, some

1 weigh many factors before they speak, others speak easily.
2 We need all of you to make sure everyone participates
3 fully, so make allowances for different styles. Each of
4 you must decide the case for yourself, but you should keep
5 an open mind as you listen to what your colleague jurors
6 have to say. Do not hesitate to change your mind when
7 you're convinced by others that your original position was
8 wrong, but do not change your mind just because other
9 jurors see things differently or just to get the case over
10 with.
11 Remember that you must make your decision
12 based only on the evidence that you saw and heard here in
13 court. Do not try to gather any information about the case
14 on your own while you're deliberating.
15 For example, do not conduct any experiments
16 inside or outside the jury room. Do not bring any books,
17 like a dictionary, or anything else with you to help you
18 with your deliberations. Do not conduct any independent
19 research, reading, or investigation about the case. And do
20 not visit any of the places that were mentioned during the
21 trial.
22 Make your decision based only on the evidence
23 that you saw and heard here in court.
24 To find a defendant guilty, every one of you
25 must agree the government has overcome the presumption of

1 innocence with evidence that proves guilt beyond a
2 reasonable doubt.
3 To find a defendant not guilty, every one of
4 you must agree the government has failed to convince you
5 beyond a reasonable doubt.
6 Either way, guilty or not guilty, your
7 verdicts must be unanimous.
8 Nothing in these instructions and nothing in
9 any verdict form prepared for your convenience is meant to
10 suggest or convey in any way or manner any idea as to what
11 I think your verdict should be. What the verdict shall be
12 is the sole and exclusive duty and responsibility of the
13 jury.
14 A verdict form for each charge has been
15 prepared for your convenience, which I'll now read to you.
16 You don't find these in your book. There is only one copy
17 of each of these forms. And I think if I hold it up, even
18 though some of you are pretty far away, you'll get an idea
19 as I read through it what we're looking at.
20 For each of the counts in the case, there is
21 a verdict form. And on the top of each verdict form is the
22 same caption you have at the beginning of your jury
23 instructions, which identifies which case this is in. It
24 identifies who the parties are, and it also -- and who the
25 Judge is, and it says, verdict for Count 1, conspiracy, 18

1 U.S.C., Section 371. That's all in the top third of the
2 page.
3 At the bottom part of the page, you'll see 12
4 signature lines, one of which is designated for your
5 foreperson, and under that a date.
6 It's the heart of this, as well as the name
7 of the verdict form, that varies between the counts.
8 This one is Count 1, and it says, "As to
9 Count 1 of the indictment, that is, conspiracy to violate
10 the federal bribery statute, we, the jury, find that James
11 A. Traficant, Jr. is," and then there are two choices.
12 After you've completed all of your deliberations on this
13 count and you know what your unanimous choice is, then your
14 foreman fills out this verdict form, signs it, and each of
15 you signs it.
16 So this on each count is the last thing you
17 do.
18 Here is Count 2, and it looks exactly the
19 same in terms of signature lines and the caption across the
20 top, but it says, "Verdict for Count 2, conspiracy, 18
21 U.S.C., Section 371."
22 And then in the core of it, it says, "As to
23 Count 2 of the indictment, that is, conspiracy to violate
24 the illegal gratuity provision of the federal bribery
25 statute, we, the jury, find that James A. Traficant, Jr.

1 is," and there are the two choices.
2 Now is when this gets a little boring. I'm
3 going to go through each one of them and you'll see, until
4 we get to the last one, they are fairly similar.
5 The same form. Caption on this one is,
6 "Verdict for Count 3, conspiracy, 18 U.S.C., Section 371,"
7 and it says, "As to Count 3 of the indictment, that is,
8 conspiracy to violate the illegal gratuity provision of the
9 federal bribery statute, we, the jury, find that James A.
10 Traficant, Jr. is," guilty or not guilty.
11 This is for Count 4, and it says, "As to
12 Count 4 of the indictment, that is, conspiracy to violate
13 the illegal gratuity provision of the federal bribery
14 statute, we, the jury, find that James A. Traficant, Jr.
15 is," and the two choices are there.
16 This is the verdict form for Count 5, illegal
17 gratuity, 18, U.S.C., 201(c)(1)(B). "As to Count 5 of the
18 indictment, that is, receiving an illegal gratuity, we, the
19 jury, find that James A. Traficant, Jr. is," and you have
20 your choices, signature lines, and date.
21 This is the verdict form for Count 6,
22 obstruction of justice, 18, United States Code, Section
23 1503. "As to Count 6 of the indictment, that is,
24 obstruction of justice, we, the jury, find that James A.
25 Traficant, Jr. is," and your choices are here.

1 Each of these relate right back into the
2 substantive jury instructions that I gave you before as to
3 each count.
4 This is the verdict form for Count 7,
5 conspiracy to defraud the United States, Title 18, U.S.C.,
6 Section 371. "As to Count 7 of the indictment, that is,
7 conspiracy to defraud the United States, we, the jury, find
8 that James A. Traficant, Jr. is," and you choose according
9 to your deliberations and decision.
10 This is the verdict for Count 8, filing false
11 tax return. "As to Count 8 of the indictment, that is,
12 willfully filing a false tax return for tax year 1998, we,
13 the jury, find that James A. Traficant, Jr. is," and then
14 you exercise your decision and record it on this verdict
15 form.
16 Verdict for filing false tax return, and it
17 gives the code section. "As to Count 9 of the indictment,
18 that is, willfully filing a false tax return for the tax
19 year 1999, we, the jury, find that James A. Traficant, Jr.
20 is."
21 Now we come to Count 10, which is a little
22 different. This is the RICO count, and it gives the
23 statute up at the top. It says, "As to Count 10 of the
24 indictment, that is, participation in the affairs of an
25 enterprise through a pattern of racketeering activity, we,

1 the jury, find that James A. Traficant, Jr. is," and then
2 you record your decision here and you sign this.
3 And at the bottom of this page, unlike the
4 other ones, this is a two-page document. It says, "Go to
5 the next page for the special RICO verdict form."
6 The second page is captioned, "Special RICO
7 verdict form, Count 10." And in italics there is some
8 instructive language.
9 The first sentence says, "If you found the
10 defendant not guilty on Count 10, stop here and do not
11 complete this page."
12 Then there's a dividing space, and the next
13 instruction is, "If you found the defendant guilty on Count
14 10, please record which racketeering acts you unanimously
15 found that the defendant knowingly committed by checking
16 the, quote, committed column for those particular acts."
17 And then it lists 11 alleged racketeering
18 acts, and next to each one of them there's a column with a
19 blank that says, "committed."
20 "Act 1, bribery relating to Bucci. Act 2,
21 illegal gratuity relating to Bucheit. Act 3, illegal
22 gratuity relating to Tyson. Act 4, illegal gratuity
23 relating to Cafaro. Act 5, illegal gratuity relating to
24 Sugar, parens, 1999. Act 6, illegal gratuity relating to
25 Sugar, parens. Act 7, illegal gratuity relating to

1 Sinclair. Act 8, illegal gratuity relating to Sabatine.
2 Act 9, mail fraud relating to Buccella. 10, mail fraud
3 related to Traficanti. 11, mail fraud relating to Rovnak."
4 And again, you find 12 signature lines, one
5 of them designated for your foreperson, and a date.
6 You're going to take these verdict forms back
7 to your jury room. When you've reached unanimous agreement
8 as to your verdict for each charge, you will have your
9 foreperson fill in, date, and each of you will sign the
10 forms which set forth the verdicts upon which you
11 unanimously agree. After you have reached a verdict on all
12 of the charges against the defendant, then contact us.
13 Remember that the defendant is only on trial
14 for the particular crimes charged in the indictment. Your
15 job is limited to deciding whether the government has
16 proved the crimes charged.
17 Also remember that whether anyone else should
18 be prosecuted and convicted for these crimes is not a
19 proper matter for you to consider. The possible guilt of
20 others is no defense to a criminal charge. Your job is to
21 decide if the government has proved the defendant guilty.
22 Do not let the possible guilt of others influence your
23 decision in any way.
24 I hope these instructions have been
25 sufficiently clear to enable you to perform your duties.

1 If you have a question about these instructions, it should
2 be discussed first in the privacy of your jury room. If
3 you disagree as to the meaning of these instructions, it
4 may be possible under certain circumstances to review those
5 matters by a request to the Court.
6 If you wish to send any communication of any
7 kind to the Court, you must put it in writing, have it
8 signed by your foreperson, and seal it in an envelope.
9 Then contact the clerk and deliver the envelope to him or
10 her. The clerk will deliver it to me. You may reach the
11 clerk by using the telephone located in your deliberation
12 room. The Court will then contact the parties with your
13 question. You will be notified as to how we will proceed.
14 No member of the jury should attempt to
15 communicate with the Judge by any means other than a signed
16 writing, and only through the foreperson. I will not
17 communicate with any member of the jury except here in open
18 court with all jurors, parties, and counsel present.
19 Until you have reached a unanimous verdict
20 and signed all of the appropriate verdict forms, you are
21 not to reveal to any person, not even the Judge, how the
22 jury stands numerically or otherwise on your deliberations.
23 Deliberations are to take place only in the
24 jury room and only with all jurors present.
25 The admonitions I gave you during the trial

in regard to forming or expressing an opinion about the case and discussing the case with your colleague jurors are removed when you retire to the jury room and begin your deliberations.

The other admonitions I gave you in regard to the media, radio, television, newspapers, and Internet, and the admonition not to discuss the case with anyone except now your colleague jurors, and not to allow anyone to talk to you about the case, are still in effect until a verdict has been reached and announced in court.

Members of the Jury, after your verdict is returned and you are discharged as jurors in this case, you may discuss it with anyone. However, whether or not you do is a matter of your own personal preference. If you decide to discuss this case, please do not speak for any of the other jurors in the case.

Ladies and Gentlemen of the Jury, having carefully weighed all of the evidence in this case and applied the law as stated in these instructions, let your verdict be fair and impartial, thus assuring you've been mindful of your solemn oath or affirmation to well and truly try the issues joined in this case.

The case is now in your hands for a verdict.

(Jury out at 1:09 p.m.)

THE COURT: You can all be seated. And now

1 for our four alternates, I need to give you your
2 admonitions as you go forward in your responsibilities in
3 this case. As alternate jurors, you continue to be bound
4 by your oaths or affirmations and your responsibilities as
5 alternate jurors to do justice. Whenever and wherever you
6 are, you shall not discuss this case with anyone.
7 You must not permit yourself to be addressed
8 by any person who wants to discuss this case. If anyone
9 tries to speak to you about this case or puts you under
10 pressure, you know you must report the incident immediately
11 to the U.S. Marshal.
12 In addition, you must not read, watch, or
13 listen to any conversation on the subject of this trial,
14 nor read, watch, or listen to any newspaper, magazine,
15 computer, radio, television, or other information on the
16 subject of this trial.
17 When the verdicts are returned in this case,
18 you will each be free for yourself to decide if you want to
19 talk about the case or not. It will then be a matter of
20 your own free choice. And as you heard me say to the other
21 jurors, please remember not to speak on behalf of other
22 people, jurors or alternates in the case.
23 So now I am going to release you to the
24 marshals for your care, and thank you for your long
25 attention, but you'll be staying with us throughout the

1 balance of this case.
2 (The alternate jurors were excused at 1:11 p.m.)
3 THE COURT: Everybody can be seated for one
4 more minute. I need to talk to the lawyers and the
5 defendant.
6 This is the period of the case where actually
7 the jurors themselves determine the times during which
8 they're going to be deliberating, within limits. They'll
9 put in a full day at least. But as all of you who have
10 been involved in trials know, we never know exactly when
11 we're going to be needed. We have to stay available. I
12 need all the lawyers and the Congressman to stay available
13 to us.
14 I suggest that a 30 to 40-minute distance
15 away from the courthouse is about all we can tolerate. I
16 don't know whether we'll have a jury that will have
17 questions or whether they'll have just one or two, or they
18 may have more than that.
19 We need to be able to reach you. So I need a
20 contact number for everybody, but this has to be a 24-hour
21 number that actually works. And we can't stop everything
22 for long periods of time while we hunt people down.
23 So Congressman, if you'll provide one to my
24 staff.
25 MR. TRAFICANT: I've already talked to Lynn,

1 and I will give her my confidential number where she can
2 reach me.
3 THE COURT: Okay. Very well. All right?
4 Anything further then? Well, enjoy your lunch, and this is
5 yet another phase of this trial.
6 (Trial adjourned at 1:13 p.m.)
7 - - - - -
8 C E R T I F I C A T E
9
10
11
12
13 I certify that the foregoing is a correct transcript
14 from the record of proceedings in the above-entitled
15 matter.
16
17
18
19
20 Heidi Blueskye Geizer 4-24-02
Heidi Blueskye Geizer, RMR, CRR Date
21
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25

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

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

8 - - - - -
TRANSCRIPT OF PROCEEDINGS HAD BEFORE
9
THE HONORABLE LESLEY WELLS
10
JUDGE OF SAID COURT,
11
ON TUESDAY, APRIL 9, 2002
12
Jury Trial
13
Volume 35
14
15 - - - - -
16
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24 Cleveland, Ohio 44114-1201
(216) 685-9949
25 Proceedings recorded by mechanical stenography; transcript
produced by computer-aided transcription.
BRUCE A. MATTHEWS, RDR-CRR (216) 685-9949

1 (The following proceedings were held in chambers,
2 with the attorneys and pro se defendant participating on
3 the telephone, starting at 2:44 p.m.)
4 THE COURT: Hi. This is Judge Wells.
5 MR. MORFORD: Hi, Your Honor.
6 THE COURT: We've had a question from the
7 jury, and it's a very common kind of question. And so I'll
8 read you the question and I'll tell you the response, and
9 it may be since there's nothing unusual about it, that we
10 can just go forward by answering it in writing. I don't
11 know, but let me tell you what the question is.
12 "We would like to view the Tom Williams
13 testimony tape."
14 That's it. It's a request really, not a
15 question.
16 Now, they were instructed that they treat
17 videotape deposition testimony as if it were testimony of a
18 witness in the courtroom. And just as we don't send back
19 to the jury room transcripts of a witness's oral testimony,
20 we would not be sending back a videotape of this. So
21 that's sort of where we are with this.
22 I'll listen to either of you if you have
23 anything you want to say.
24 MR. MORFORD: We agree with that as far as
25 the law goes, Your Honor. We have no objection to that

1 response.
2 THE COURT: Congressman, what we could do,
3 unless you want us to do it otherwise, because it's a
4 fairly routine request and response, I could write out the
5 answer. It's all a matter of record. It's preserved with
6 the record, and our conversation right here is part of the
7 transcript of the case, and I could simply send back the
8 written answer. I could read you what I would send back,
9 and you could then avoid needing to come all the way down
10 here and having the jury come out and so forth.
11 It's a request to take another look at Tom
12 Williams' testimony.
13 MR. TRAFICANT: And if they want to see Tom
14 Williams' testimony, what are you going to tell them?
15 THE COURT: Here is what I would send back.
16 What they do is: They send out a piece of paper, and then
17 I then write on that same paper, so it's all a matter of
18 the record, the answer, and here is what I would write.
19 I would say on the paper, "As you know, you
20 should treat videotape deposition testimony as if it were
21 testimony of a witness in the courtroom. See page B-13."
22 That's in their instructions. And then I would add the
23 sentence, "Just as we do not send to the jury room
24 transcripts of a witness's oral testimony, we do not send
25 to the jury room a witness's videotape testimony," period.

1 MR. TRAFICANT: Well, the only problem I have
2 is you let the prosecutor get into Bucheit and DiBlasio and
3 make statements and did not overrule. You did not sustain
4 my objections. I don't know what you're doing with this
5 case, but that was highly unusual, and you do whatever you
6 want.
7 THE COURT: Well, if you want to come down --
8 MR. TRAFICANT: I don't want to come down
9 there. But I am telling you, you let the prosecution open
10 up two areas that were not offered, let them make
11 statements about Bucheit and DiBlasio in his final close.
12 I objected. You did not sustain it. And you have one guy
13 that's sitting here that is totally upset.
14 Now, you do whatever you're going to do. I
15 am going to stipulate to nothing. Now, whatever you do,
16 just send me a copy of it. I don't want no one calling
17 here, no one knowing where I am. I don't want no more FBI
18 following me around. And if this number gets out to
19 anybody, I'm going to be highly upset.
20 Send me a copy. When the Justice Department
21 gets off the phone, I will give a fax number to your
22 assistant.
23 THE COURT: We don't send copies of jury
24 questions and jury answers to anybody. They become part of
25 the record in the case.

MR. TRAFICANT: Well, you didn't let any of my information become part of the evidence in this case, so treat this as you will. I don't need to drive down for this.

THE COURT: Okay, Congressman.

MR. TRAFICANT: Thank you.

THE COURT: Thank you. Thank you, gentlemen.

MR. MORFORD: Thank you, Your Honor. Good-bye.

THE COURT: I'm going to ask that this be sealed until a verdict is returned in the case.

(Proceedings adjourned at 2:50 p.m.)

C E R T I F I C A T E

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

Bruce A. Matthews, RDR-CRR 4/9/02
Date

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

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

8 - - - - -

9 TRANSCRIPT OF PROCEEDINGS HAD BEFORE

10 THE HONORABLE LESLEY WELLS

11 JUDGE OF SAID COURT,

12 ON THURSDAY, APRIL 11, 2002

13 **Jury Trial**

14 **Volume 36**

15 - - - - -

16

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

1 MORNING SESSION, THURSDAY, APRIL 11, 2001 12:00 NOON.
2 (Proceedings had in open court, out of the
3 presence of the Jury. The Defendant was present by way of
4 telephone.)
5 THE COURT: Please be seated. Good morning
6 everybody.
7 MR. MORFORD: Good morning, Your Honor.
8 MR. SMITH: Good morning, Your Honor.
9 THE COURT: Congressman, are you on the line?
10 THE CLERK: Can you hear us?
11 MR. TRAFICANT: Hello. Hello.
12 THE CLERK: Hello.
13 THE COURT: Hi, Congressman. Can you hear me
14 now?
15 MR. TRAFICANT: I thought the jury had a
16 question. I didn't know you were going to bring the jury
17 in for session.
18 THE COURT: The jury isn't in for a session.
19 The jury did have a question. You have the right
20 information.
21 MR. TRAFICANT: Well, is the jury present
22 there now?
23 THE COURT: No.
24 MR. TRAFICANT: What is the question?
25 THE COURT: I'm about to read it,

1 Congressman. I just want to make sure you could hear me.
2 MR. TRAFICANT: I can hear you.
3 THE COURT: Very well.
4 The question is, "In deciding RICO Count 10,
5 act one, relating to Bucci," and then there's a
6 parentheses, "for example," end parentheses, "what is
7 meant," and then there's a parentheses, "page 37, part 3,
8 paragraph A" -- that refers to the indictment in the
9 case --
10 MR. TRAFICANT: Page 37, part 3, paragraph
11 A --
12 THE COURT: "Paragraph A." And then it says,
13 "Do we need to agree on all," underlined, "overt acts or
14 just one," underlined, "as in the original Count 1?"
15 That's the entire question, and I'll give
16 both sides an opportunity to respond to that question.
17 Congressman, I don't know if you have a copy
18 of the --
19 MR. TRAFICANT: I don't have a copy of
20 anything here.
21 I don't give a damn what you do. That's for
22 the record.
23 Now, I just want to know what the issue is,
24 and I want to know what you're ruling and what you're
25 telling this jury, and at what stage this jury is, because

1 you know how this case has been mishandled completely, and
2 I am so upset that you just do what you want to do.
3 I object to anything now that you do.
4 THE COURT: Thank you. I'll let the
5 government respond.
6 MR. MORFORD: Your Honor --
7 MR. TRAFICANT: I can't hear him. Why don't
8 you tell him to bring his people close to desk level so I
9 can hear?
10 MR. MORFORD: Can you now hear me,
11 Congressman?
12 MR. TRAFICANT: Not very well.
13 MR. MORFORD: How is this?
14 MR. TRAFICANT: Can you hear me?
15 MR. MORFORD: Yes, I can. Can you hear me
16 now?
17 MR. TRAFICANT: Speak up.
18 MR. MORFORD: Can you hear me now?
19 MR. TRAFICANT: I will respond after you.
20 MR. MORFORD: Can you hear me now?
21 MR. TRAFICANT: Are you getting loud with me
22 on the phone?
23 THE COURT: Congressman, if you want to come
24 down here, we'll --
25 MR. TRAFICANT: I said I could hear you a

1 couple minutes ago.
2 THE COURT: You indicated you did not want to
3 come, but if you want to be down here, come.
4 MR. MORFORD: Racketeering act one charges a
5 substantive bribe and not a conspiracy to commit bribery,
6 and therefore, they don't need to find any overt act at
7 all. They merely need to find what's in the Court's
8 instruction for a bribery offense.
9 MR. TRAFICANT: So in other words, all
10 they've got to do is believe that I've been bribed, and
11 there's a conspiracy count, according to the Judge's
12 instructions, they must hold against me.
13 Is that the question here? I'm asking the
14 Judge.
15 THE COURT: I read the question to you, and
16 I'll be happy to read it again.
17 MR. TRAFICANT: I want to know your answer.
18 I don't want to know what the question is.
19 You conspire with somebody to do something,
20 and if they're still dealing with the Bucci case, then I
21 don't know where the hell they are in this case. Because
22 if they have anything to believe about the Buccis, we've
23 got a problem with this jury, and I want to know where we
24 are.
25 I'm over here, and I'm spending four days

1 waiting by a telephone, and quite frankly, I'm getting
2 tired of it. I think it's time you instruct this jury to
3 make their decisions, because I think your instructions
4 were such that if they didn't follow your instructions that
5 they couldn't rule. And I think this jury has been
6 limited, I think they should be allowed to rule on what
7 they believe is truth and nontruth, and what they believe
8 in their heart to be the case, period.
9 THE COURT: Thank you very much.
10 MR. TRAFICANT: I can't hear you.
11 THE COURT: I said thank you very much.
12 MR. TRAFICANT: Now, what is your decision?
13 THE COURT: I'll tell you as soon as I make
14 it, sir.
15 Anything further from the government?
16 MR. MORFORD: No, Your Honor. It would just
17 want to let them know that it's a substantive bribery --
18 MR. TRAFICANT: There is no conspiracy with
19 the Buccis. That's been brought out through testimony.
20 And I disagree with the fact you will not make available to
21 them written testimony.
22 THE COURT: Congressman, the government was
23 in the middle of a sentence. I'm going to ask him to
24 finish.
25 MR. TRAFICANT: I can't hear you.

1 THE COURT: Okay.
2 MR. MORFORD: Your Honor, it would be our
3 position that they should be instructed that overt -- or
4 racketeering act one is a substantive bribery. In the
5 instruction that the Court gave as to the elements of a
6 substantive bribery are the elements that have to be proven
7 beyond a reasonable doubt.
8 MR. TRAFICANT: Now --
9 MR. MORFORD: And that there is no overt act
10 requirement in that instruction.
11 MR. TRAFICANT: Now, my response is what the
12 government gave them was a bunch of bullshit, and I think
13 the jury recognizes it, and I think you should free the
14 jury to make up their minds about right and wrong.
15 THE COURT: Thank you. This will conclude
16 this part of this.
17 MR. TRAFICANT: I can't hear you.
18 THE COURT: This will conclude this part of
19 this conversation, and we will bring the jury out and give
20 them an instruction. We'll keep you on the line. Okay?
21 THE CLERK: All rise for the jury.
22 (Jury in courtroom at 12:09 p.m.)
23 THE COURT: Good morning.
24 JURORS: Good morning.
25 THE COURT: Please be seated. Well, you

1 asked a very good question, Ladies and Gentlemen. We're
2 going to give you an answer to the question.
3 Congressman Traficant is here, but by
4 telephone. And because he's on a telephone, it's sort of
5 like a conference call. We have to make sure he can hear
6 from time to time.
7 We've had an opportunity for both sides to
8 respond to your question. I'm now going to read the
9 question into the record. And what I've sent my clerk back
10 to get is something which is basically a simplification of
11 the elements of bribery.
12 The question was a very good one that you
13 asked. I'm going to read it so that the record shows your
14 question. "In deciding RICO Count 10, act one, relating to
15 Bucci, for example, what is meant, page 37, part 3,
16 paragraph A," and there you're referring to the superseding
17 indictment in the case. "Do we need to agree on all overt
18 acts or just one as in the original Count 1?"
19 And that was a good question, and in order
20 to -- although bribery is described in your instructions
21 back on C 14, it seems to me that it would assist you in
22 having the elements broken down, and so we're going to
23 prepare for you something that takes those elements and
24 spells them out.
25 We do distinguish in your instructions

1 between illegal gratuity and bribery, but because your
2 question relates to this aspect of it, racketeering act one
3 alleges a substantive bribery charge. In order to find
4 that racketeering act one was committed, you need not find
5 that the defendant committed any of the overt acts alleged
6 in Count 1.
7 You must find that each and every element of
8 the crime of bribery has been proven beyond a reasonable
9 doubt by the government. And those are suggested right
10 there in your instructions, but I'm going to give them to
11 you, and then what I'll provide to you with your question
12 coming back to you is what they are. I think I can do it
13 orally here, but we'll do it for you in writing so that you
14 have a sheet to add to your instructions.
15 The three essential elements that have to be
16 proven by the government beyond a reasonable doubt are,
17 one: That the defendant demanded, sought, or received
18 something of value as described in the indictment.
19 Two: The defendant was at that time a public
20 official of the United States or was acting on behalf of
21 the United States.
22 And three: The defendant demanded, sought,
23 or received the item of value corruptly in return for being
24 influenced in the performance of any official act."
25 And you will find those are familiar words to

1 you because they're in your instructions, but your question
2 properly prompts a special response, and so we'll make it
3 to you in writing, and it will be brought back to you right
4 away. But I don't need to keep you out here while we do
5 that.
6 So thank you very much for your continuing
7 attention, and we will ask you to go back and continue your
8 deliberations, and this will follow quickly.
9 THE CLERK: All rise for the jury.
10 (The jury exited the courtroom.)
11 THE CLERK: This Honorable Court is now
12 adjourned.
13 THE COURT: Thank you very much. Thank you,
14 Congressman.
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1 AFTERNOON SESSION, THURSDAY, APRIL 11, 2002 4:25 P.M.
2 THE COURT: Bring in the jury.
3 THE CLERK: All rise for the jury.
4 (The jury entered the courtroom.)
5 THE COURT: Let the record show that all
6 parties are present in court, pro se Defendant Congressman
7 James A. Traficant, Jr., and the United States as
8 represented by counsel.
9 Members of the Jury, have you reached
10 verdicts?
11 JURY FOREPERSON: We have reached a verdict.
12 THE COURT: Thank you. Will you please hand
13 your verdicts up to my clerk?
14 THE COURT: Congressman Traficant, please
15 rise.
16 Members of the Jury, I'm going to read each
17 of these verdict forms, and I want you to listen carefully
18 as I read what's reported on these forms.
19 As to Count 1 of the indictment, that is
20 conspiracy to violate the federal bribery statute, we the
21 jury find that Defendant James A. Traficant, Jr. is guilty.
22 This verdict form is signed by all 12 jurors.
23 So say you Members of the Jury?
24 JURY FOREPERSON: Yes.
25 THE COURT: Do you want the jury to be

1 polled?
2 MR. TRAFICANT: (The Defendant shook his head
3 in the negative.)
4 THE COURT: Is this your verdict, Ladies and
5 Gentlemen?
6 JURORS: Yes.
7 THE COURT: Thank you. As to Count 2 of the
8 indictment, that is, conspiracy to violate the illegal
9 gratuity provision of the federal bribery statute, we the
10 jury find that James A. Traficant, Jr., is guilty. And
11 this is signed by all Members of the Jury.
12 Ladies and Gentlemen, is that your verdict?
13 JURORS: Yes.
14 THE COURT: Do you want them to be polled?
15 MR. TRAFICANT: (The Defendant shook his head
16 in the negative.)
17 THE COURT: As to Count 3 of the indictment,
18 that is, conspiracy to violate the illegal gratuity
19 provision of the Federal Bribery Statute, we the jury find
20 that James A. Traficant, Jr., is guilty. This is signed by
21 all 12 Members of the Jury.
22 Ladies and Gentlemen, is that your verdict?
23 JURORS: Yes.
24 THE COURT: Would you like them to be polled?
25 MR. TRAFICANT: No.

1 THE COURT: As to Count 4 of the indictment,
2 that is, conspiracy to violate the illegal gratuity
3 provision of the Federal Bribery Statute, we the jury find
4 that James A. Traficant, Jr., is guilty, signed by all
5 Members of the Jury.
6 Is that your verdict, Ladies and Gentlemen?
7 JURORS: Yes.
8 THE COURT: Would you like them to be polled?
9 MR. TRAFICANT: No.
10 THE COURT: As to Count 5 of the indictment,
11 that is, receiving an illegal gratuity, we the jury find
12 that James A. Traficant, Jr. is guilty, signed by all
13 Members of the Jury.
14 Is that your verdict, Ladies and Gentlemen?
15 JURORS: Yes.
16 MR. TRAFICANT: (The Defendant shook his head
17 in the negative.)
18 THE COURT: "No" to polling.
19 As to Count 6 of the indictment, that is,
20 obstruction of justice, we the jury find that James A.
21 Traficant, Jr., is guilty. That's signed by 12 Members of
22 the Jury.
23 Is that your verdict, Ladies and Gentlemen?
24 JURORS: Yes.
25 MR. TRAFICANT: (The Defendant shook his head

in the negative.)

THE COURT: No polling.

As to Count 7 of the indictment, that is, conspiracy to defraud the United States, we the jury find that James A. Traficant, Jr., is guilty. And this is signed by 12 Members of the Jury.

Ladies and Gentlemen, is that your verdict?

JURORS: Yes.

THE COURT: Poll?

MR. TRAFICANT: (The Defendant shook his head in the negative.)

THE COURT: Okay.

As to Count 8 of the indictment, that is, willfully filing a false tax return for the tax year 1998, we the Jury find that James A. Traficant, Jr., is guilty.

This is signed by all Members of the Jury. Is that your verdict, Ladies and Gentlemen?

JURORS: Yes.

THE COURT: Would you like them polled?

MR. TRAFICANT: (The Defendant shook his head in the negative.)

THE COURT: As to Count 9 of the indictment, that is, willfully filing a false tax return for tax year 1999, we the Jury find that James A. Traficant, Jr. is guilty, signed by all Members of the Jury.

1 Is that your verdict, Ladies and Gentlemen?
2 JURORS: Yes.
3 THE COURT: Would you like them to be polled?
4 MR. TRAFICANT: (The Defendant shook his head
5 in the negative.)
6 THE COURT: As to Count 10 of the indictment,
7 that is, participation in the affairs of an enterprise
8 through a pattern of racketeering activity, we the Jury
9 find that James A. Traficant, Jr., is guilty, signed by all
10 Members of the Jury.
11 Is that your verdict, Ladies and Gentlemen?
12 JURORS: Yes.
13 THE COURT: And there is on this a special
14 RICO verdict form, which I will read. As to alleged
15 racketeering act, I'll read the ones that were checked as
16 committed by the jury:
17 One: Bribery relating to Bucci.
18 Two: Illegal gratuity relating to Bucheit.
19 Four: Illegal gratuity relating to Cafaro.
20 Five: Illegal gratuity relating to Sugar,
21 1999.
22 Seven: Illegal gratuity relating to
23 Sinclair.
24 Nine: Mail fraud relating to Buccella.
25 Ten: Mail fraud relating to Traficanti.

Eleven: Mail fraud relating to Rovnak.

Ladies and Gentlemen, is that your verdict on Count 10?

JURORS: Yes.

THE COURT: Both sections?

JURORS: Yes.

THE COURT: Do you wish them to be polled?

MR. TRAFICANT: No.

THE COURT: Thank you.

Ladies and Gentlemen, because of your finding on Count 10, you have a little bit more work to do, one more task to perform in this court.

What I'm going to do now is give you a brief recess, and then we will bring you back out and give you instructions on the next phase of a RICO charge which has to do with forfeiture.

So we'll let you go back now, and then we'll re-bring you out shortly, very shortly. Okay? Thank you very much.

THE CLERK: All rise for the jury.

(The jury exited the courtroom.)

THE COURT: I'm going to ask that the alternates, as well, be escorted out. We'll bring you back in for the instructions.

(The alternative jurors exited the

1 courtroom.)
2 THE COURT: Okay. Everyone can be seated.
3 And Congressman, if you would stand, I'll take these one by
4 one.
5 Based upon the verdicts in this case, the
6 verdict of the jury finding you guilty, first of the
7 offense of conspiracy to violate the Federal Bribery
8 Statute, the Court adjudges you guilty of that offense.
9 That's Count 1.
10 As to Count 2, conspiracy to violate the
11 illegal gratuity provision of the Federal Bribery Statute,
12 the Court will find you guilty of that as it is related in
13 Count 2 of the indictment, as in Count 3 of the indictment,
14 and as in Count 4 of the indictment.
15 As to Count 5 of the indictment, based on the
16 verdict of this jury, the Court will find you or adjudge
17 you guilty of receiving an illegal gratuity.
18 On the same basis, on the basis of reading
19 the verdict form from the jury, Count 6, obstruction of
20 justice, the Court adjudges you guilty of obstruction of
21 justice, and guilty, as the jury found in Count 7, of
22 conspiracy to defraud the United States.
23 The Court adjudges you guilty of willfully
24 filing a false tax return for the tax year 1998, based on
25 the verdict of the jury, and for 1999, based on Count 9 of

1 the indictment and the verdict of the jury.
2 And as to Count 10, participation in the
3 affairs of an enterprise through a pattern of racketeering
4 activity, based upon the verdict of the jury, the Court
5 will adjudge you guilty of those.
6 We'll continue you on bond until there's a
7 presentence investigation and report, and your sentencing
8 will be on Thursday, June 27th, 2002. And at that time
9 you'll be given all of your appeal rights. You also will
10 be able to allocute or talk to the Court.
11 There will be a presentence investigation
12 report that will be provided to you when it's ready, and
13 you have an opportunity to make objections to it or not, as
14 you choose. Sometimes those are resolved before
15 sentencing. If they aren't, then they can be resolved at
16 the sentencing hearing.
17 Now what we're going into is a series of
18 instructions and some discussion of RICO forfeiture, so you
19 can be seated, sir, and we will move to that stage of this.
20 I want to bring both the jury back out and
21 the alternates back out. So we'll get them from their
22 separate places, and I'll allow you to make whatever
23 comments you want to make before having instructions for
24 the jury and what their responsibilities are regarding
25 forfeiture. Okay?

1 You can bring the jury out.
2 (The jury entered the courtroom.)
3 THE COURT: We can all be seated. We're
4 waiting for the alternates.
5 (The alternate jurors entered the courtroom.)
6 THE COURT: You will find on your seats a
7 copy of -- it's a very short copy of an instruction. These
8 are supplemental instructions on RICO forfeiture. And
9 because of the verdict on Count 10, this becomes something
10 additional that you need to turn your attention to. We'll
11 let the government and the defendant make whatever remarks,
12 if any, they want to make, and then I'll give you the
13 instructions just as we did before, which is to say, I'm
14 going to sit here and read them all to you word by word,
15 and then we'll send you back.
16 Thank you. Mr. Morford?
17 MR. KALL: Thank you, Your Honor.
18 THE COURT: Mr. Kall. Congressman, you can be
19 seated. Thank you.
20 MR. KALL: Ladies and Gentlemen, as the Judge
21 will instruct you, the final issue for your consideration
22 is the issue of forfeiture. As part of the indictment,
23 Congressman Traficant is accused of having received
24 proceeds or property as a result of his racketeering
25 activity. By your verdict, you have found him guilty on

1 Count 10, the RICO count, and have found that he conducted
2 the affairs of the charged enterprise, his congressional
3 office, through a pattern of racketeering activity. And
4 you returned special verdicts finding him guilty as to
5 racketeering acts as to Bucci, Bucheit, Cafaro, David Sugar
6 for 1999; Allen Sinclair, kickbacks; George Buccella,
7 Anthony Traficanti, and Richard Rovnak, acts of mail fraud.
8 It is your final responsibility to determine
9 the value, if any, of the property and proceeds that
10 Congressman Traficant received as a result of this
11 racketeering activity.
12 In making this determination, the government
13 is relying on the same evidence that you heard over the
14 course of the nine-week trial and that we presented to you,
15 and the same evidence that you used to find the Congressman
16 guilty of the RICO count.
17 In determining whether he received property
18 or proceeds as a result of the racketeering activity, we
19 would like to ask you to please recall the following
20 evidence that you heard.
21 As to racketeering act one, the Bucci count,
22 you will recall by seeing Exhibit 2-6 in Mr. Bucci's
23 testimony that the Buccis forgave a bill for some $12,985,
24 and that would be proceeds that he received.
25 You will also recall Mr. Bucci and a number

1 of the Bucci farm workers testifying about substantial work
2 and improvements being done at the Congressman's farm after
3 that, including bringing up to 30 truckloads of sawdust,
4 work doing regrading, slagging in the driveway, and roads
5 in back of the farmhouse, hauling away stumps and garbage,
6 giving a two or $3,000 lawnmower to the Congressman,
7 loaning him a truck, sending farm worker Joe Alteiro out
8 there for several months.
9 And value of that, we would submit, would be
10 at least $10,000, putting the value for racketeering act
11 one of the property and proceeds received being at least
12 $22,985.
13 As to racketeering act two, the work done by
14 the carpenters hired by Pete Bucheit, you've seen the
15 checks and you heard the testimony of Dave Manevich. And
16 totaling up the value of those checks as to Mr. Manevich
17 for the work that was done out at the Congressman's farm
18 comes to a total of $26,994, and those checks were in
19 Exhibit 7-37.
20 You will also recall hearing the testimony of
21 Tom Passewitz, the electrician that was hired by Aey
22 Electric to do work at Congressman Traficant's farm. Aey
23 Electric was paid by the Bucheits for that work, and you
24 will also recall the testimony of Leisel Bucheit that they
25 were never paid by the Congressman for that work.

1 Taking those two items together, the value of
2 the property or proceeds received as to racketeering act
3 two would be at least $30,000.
4 As to racketeering act four, dealing with
5 J.J. Cafaro and the U.S. Aerospace Group, you heard
6 testimony that the value of the boat repairs was at least
7 $26,000, that Mr. Cafaro gave at least -- gave the sum of
8 $13,000 cash to Congressman Traficant, putting down at
9 least $39,000.
10 If you also include the welder and the
11 generator at Exhibits 8-43 and 8-46, the welder was $2,250,
12 the generator was $2,714, that puts the value of the
13 property and proceeds for racketeering act four to be at
14 least $44,000.
15 As to racketeering act five for Dave Sugar,
16 he testified that the value of the work done at the farm
17 was between 10 to $12,000. Taking the conservative number
18 there, we would ask that you find property or proceeds as
19 to $10,000 for that racketeering act.
20 Finally, as to the Allen Sinclair kickbacks,
21 he testified he gave $2,500 a month to the Congressman for
22 a period of 13 months, coming to a total of $32,500.
23 Given the difficulty of putting a value on
24 the work done by Traficanti, Rovnak and Buccella, we're not
25 going to ask you to return any verdict of forfeiture as to

1 those racketeering acts.
2 But as you total up what I've just described,
3 the work done by Bucci, Bucheit, Cafaro, Sugar in 1999, and
4 the kickbacks given by Allen Sinclair, the government would
5 ask you to return a verdict of forfeiture in the amount of
6 at least $139,000.
7 Thank you.
8 THE COURT: Thank you. Congressman?
9 MR. TRAFICANT: I accept your verdict, but if
10 you recall, the testimony of Susan Bucci said that the
11 Bucci family owed me money.
12 Number two, on Pete Bucheit, the last
13 statement of his daughter was, she never knew if the amount
14 was paid or not, only her father knew, and they did not
15 call her father.
16 Quite frankly, the Judge after my closing
17 arguments allowed the prosecution to open up DiBlasio and
18 Bucheit, which I objected to, and she overruled. And quite
19 frankly, it was a very unfair process.
20 Pete Bucheit, until today, no one knows
21 whether he was paid or not. So if you listened carefully
22 to the testimony, she said she did not know if that account
23 was paid. Pete Bucheit was their witness; he wasn't called
24 to court.
25 The third one is Cafaro. You had three

1 witnesses on the welder, the generator. You had
2 photographs. You had two witnesses that claimed that
3 Mr. Cafaro did not leave the building with me. He didn't
4 give me the $13,000.
5 He said he lied in the previous trial under
6 oath, but it wasn't perjury; but I guess you accepted
7 Cafaro's statements.
8 Second of all, you now see this table
9 surrounded by the investigators of the United States
10 Government. Not one of them offered testimony against me,
11 because they were scared to death of my cross-examination.
12 Fourth of all, Sugar, he declared $70,500 on
13 his income tax, and they assessed his total work at
14 somewhere between 10,000. They're asking for $10,000,
15 where he claimed $7,500 in income tax.
16 Sinclair said he bought a house for $275,000.
17 I don't know if you looked at the evidence, but he had a
18 mortgage for $276,000. When do you buy a home without
19 putting down a down payment?
20 In addition, my employee bought a brand new
21 Buick van, leased a new car, spent $50,000 on advertising.
22 Thirty-two, five.
23 What the government has asked for the
24 government has gotten. And you are the jury, and you made
25 that decision, but I will say this to you: That whatever

1 you do and whatever action you take, you go ahead and take
2 it, because I will accept it.
3 But I will say one thing about trial and what
4 you've done: You've allowed a trial of the most severe
5 criminal nature to be resolved by circumstantial evidence.
6 And I understand it, I understand the government, I
7 understand the country very well. And whatever you decide,
8 I'll live by it and take whatever legal grounds I can take.
9 Thank you for your time.
10 THE COURT: Ladies and Gentlemen, I'll read,
11 and you can read along, or you can simply listen if you'd
12 like. You'll have those instructions with you.
13 Members of the Jury: As you know, Count 10
14 of the indictment charged Defendant Traficant with having
15 violated Title 18, United States Code, Section 1962, by
16 participating through a pattern of racketeering activity in
17 the affairs of an enterprise, the activities of which
18 affected interstate commerce.
19 Since you have determined by your verdict
20 that Defendant Traficant did violate this section as
21 charged in Count 10, you must now decide whether Defendant
22 Traficant must forfeit certain properties as alleged in
23 Count 10 as being subject to forfeiture under Section
24 1963(a)(1) and (3) of Title 18 of the United States Code.
25 That part of the law provides that anyone who

1 violates this section may be required as part of the
2 penalty to forfeit to the United States any interest
3 acquired or maintained in violation of the section, or any
4 property constituting or derived from any proceeds which
5 the person obtained directly or indirectly from
6 racketeering activity in violation of Section 1962.
7 The term "forfeiture" means to be divested or
8 deprived of the ownership of something as a penalty for the
9 commission of a crime. A part of the indictment describes
10 in particular the interest and proceeds allegedly subject
11 to forfeiture to the United States, and you'll have a copy
12 of that portion of the indictment with you in the jury room
13 for your study during your supplemental deliberations.
14 With regard to forfeiture, you're instructed
15 that to be entitled to such forfeiture, the government must
16 have proved each of the following elements beyond a
17 reasonable doubt:
18 First: That the property or proceeds sought
19 to be forfeited constituted an interest acquired by
20 Defendant Traficant.
21 Second: That such interest was acquired by
22 Defendant Traficant as a result of the conduct of the
23 enterprise's affairs through the pattern of racketeering
24 activity, or constituted or was derived from proceeds which
25 the defendant obtained directly or indirectly from

1 racketeering activity committed by Defendant Traficant as
2 charged in Count 10, in violation of Title 18, United
3 States Code, Section 1962(c).
4 In your consideration of the forfeiture
5 claims, you're instructed that your previous determination
6 that Defendant Traficant was guilty of having committed the
7 offense alleged in Count 10 is final and conclusive, and
8 you must not seek to discuss or determine anew his guilt or
9 innocence.
10 You are further instructed that all of the
11 instructions previously given to you concerning your
12 consideration of the evidence, the credibility or
13 believability of the witnesses, the government's burden of
14 proof beyond a reasonable doubt, your duty to deliberate
15 together, and the necessity of a unanimous verdict, will
16 all continue to apply during your supplemental
17 deliberations concerning the forfeiture claim.
18 The specific instructions I gave you earlier
19 concerning Count 10 and the definition of the terms
20 "enterprise" and "pattern of racketeering activity" also
21 continue to apply.
22 With respect to these claims of forfeiture,
23 you'll be provided a special verdict form for your
24 convenience and use.
25 Here it is. It has the familiar format. Up

1 at the top is the name of the case and the caption, and so
2 forth. And down below that -- oh, and there's a title,
3 "Special verdict for Count 10, RICO forfeiture, 18 U.S.C.
4 1963." And then it reads, "As to Count 10 of the
5 indictment, do you unanimously find that James A.
6 Traficant, Jr. has property or proceeds subject to
7 forfeiture?"
8 There's a "yes" and a "no." And then in
9 italics, as you're familiar with, there is some
10 instructions at the bottom of this page. It says, "If your
11 answer to the above question was no, stop here, and do not
12 complete the next question."
13 It also says, "If your answer to the above
14 question was yes, then turn the page and complete the next
15 question."
16 And the next question is, "What is the value
17 of the property or proceeds that you unanimously find to be
18 subject to forfeiture?" And there's a blank space for you
19 to fill in the value.
20 Then all the signature lines follow, with one
21 for the foreperson, and the date.
22 So you're familiar with our form, and this is
23 the last form to be done. It's a special verdict form.
24 You'll take this verdict form to the jury
25 room, and when you've reached unanimous agreement as to the

1 claim of forfeiture, you complete the form and contact the
2 clerk.
3 Thank you.
4 THE CLERK: All rise for the jury.
5 (The jury retired to deliberate.)
6 - - - - -
7 (6:30 p.m.)
8 THE COURT: The record should show that the
9 parties are present in court, the pro se defendant
10 Congressman James Traficant, and the United States
11 represented by counsel.
12 Members of the Jury, have you reached your
13 special verdict?
14 JURY FOREPERSON: We have, Your Honor.
15 THE COURT: Thank you. Could you hand it up,
16 please? Members of the Jury, listen to the verdict as
17 recorded carefully. Thank you. Congressman?
18 As to Count 10 of the indictment, do you
19 unanimously find that James A. Traficant, Jr. has property
20 or proceeds subject to forfeiture?
21 The answer is yes.
22 What is the value of the property or proceeds
23 that you unanimously find to be subject to forfeiture?
24 The sum recorded is $96,000.
25 This verdict form is signed by all jurors.

1 Ladies and Gentlemen, is that your verdict?
2 JURORS: Yes.
3 THE COURT: Do you want them to be polled,
4 sir? Congressman?
5 MR. TRAFICANT: No, I don't want them to be
6 polled at all.
7 THE COURT: Thank you.
8 MR. TRAFICANT: But I do have a question.
9 Does this jury have any jurisdiction over fines, or is that
10 the jurisdiction of the Court?
11 THE COURT: No. That's something that will
12 be considered at the time of sentencing.
13 MR. TRAFICANT: Will that be subject to
14 forfeiture?
15 THE COURT: All of the things that will be
16 before the Court at sentencing will be presented to you in
17 the papers that come to you before sentencing.
18 MR. TRAFICANT: Now I want to make a
19 statement to the Court.
20 THE COURT: Okay. Well, what I want to do
21 before you do that is proceed with the regular proceedings
22 with the jurors and the alternates, then you can make a
23 statement to the Court.
24 MR. TRAFICANT: You've had 11 of my witnesses
25 that weren't allowed to address this jury, and denying my

1 tapes that they weren't allow to hear.
2 Are you going to release them before I can
3 speak again? Is that your statement?
4 THE COURT: Well, the jury has returned their
5 verdict in your case, sir.
6 MR. TRAFICANT: They have after not
7 hearing --
8 THE COURT: And they're entitled to be
9 released, and I am going to release them, and also the
10 alternates.
11 MR. TRAFICANT: I want to speak to the jury
12 before they're released, because I believe they set a
13 precedent in the United States --
14 THE COURT: Well, you can take that up as you
15 go forward with whatever you want to go forward with, but
16 they returned their verdict. We accepted their verdict,
17 you were adjudged guilty under that verdict, and now we've
18 had the forfeiture returned.
19 MR. TRAFICANT: Well, then I do have a
20 question of the jury.
21 THE COURT: Well, you don't put questions to
22 this jury.
23 MR. TRAFICANT: You said do I want to poll
24 the jury.
25 THE COURT: I did, and you said you didn't.

1 MR. TRAFICANT: The government said they
2 wanted $139,000 in forfeitures, and they come back with
3 $96,000. I want to know which of the $33,000 was not, in
4 fact, found by the jury.
5 THE COURT: Congressman, I'm about to
6 discharge these men and women from their duty.
7 MR. TRAFICANT: Do what you're going to do.
8 THE COURT: They're not responsible to answer
9 your questions at this point in the proceedings.
10 MR. TRAFICANT: Do what you're going to do.
11 THE COURT: Thank you. Members of the Jury,
12 and also your colleagues, the alternates, who are here with
13 us today, on behalf of the public and the parties in the
14 case, and myself, accept our deep appreciation for your
15 thoughtfulness, for your perseverance, for your careful
16 attention, and for your service.
17 When we started this out all together, I
18 think when you were prospective jurors, I talked about our
19 recognition, those of us who serve here in the courts, of
20 the necessary but great inconvenience that is occasioned by
21 jury service. These are not only necessary, but as you've
22 learned better than many people who have an opportunity to
23 do difficult public duties that we perform, we have these
24 responsibilities as Americans. You help guarantee the rule
25 of law. You help guarantee social order and precious

1 rights under the Constitution.
2 This right to a trial by jury is rare across
3 human experience. It is fundamental really to our
4 200-year-old system of government under law and justice.
5 And the other thing we talked about when we
6 began was we enjoy all these rights and liberties. We
7 enjoy the social order which government under law permits
8 us to have in this country, and we enjoy these blessings of
9 liberty and justice that our 200-year-old, more than
10 200-year-old Constitution protects, but these were hard-won
11 rights and liberties. And the promises are one thing,
12 these 200-year-old promises, that's one thing, and they're
13 high minded, but the actual men and women who day in and
14 day out make justice real under these promises, that's
15 another story, and you've lived it.
16 So your verdicts have come in, your service
17 has ended. You're now released from those odd rules that
18 you've had to live under week after week. You now can
19 speak if you wish to speak about this case. On the other
20 hand, you need never speak about it if that's your choice.
21 You've met the high calling, and now you're going to be
22 free of these strange rules that govern you.
23 Just remember to speak, if you speak, for
24 yourselves and not for your colleagues, and know that you
25 go away from here having functioned as part of the Court

where the duty and the hours were long, but you performed exceedingly well. And it was a pleasure and a great privilege for me to serve with you on the court.

Please go back now to the jury room, all of you together, including the alternates, and relax a little so we can move everybody out of the Court area here in a reasonable way, and then we will dismiss you from the court, but you're discharged from your duties as of now.

Thank you very much.

THE CLERK: All rise for the jury.

(Proceedings concluded.)

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C E R T I F I C A T E

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

Heidi Blueskye Geizer 4/11/02

Heidi Blueskye Geizer, RMR, CRR Date