

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 witnesses 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. Buccini,
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.

Kerchum - Voir Dire

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.

Kerchum - Voir Dire

- 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

Kerchum - Voir Dire

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

Kerchum - Voir Dire

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

Kerchum - Voir Dire

- 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?

Kerchum - Voir Dire

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).

Kerchum - Voir Dire

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.

Kerchum - Voir Dire

- 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.

Kerchum - Voir Dire

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.

Kerchum - Voir Dire

- 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.

Kerchum - Voir Dire

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

Hudach - Voir Dire

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

Hudach - Voir Dire

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.

Hudach - Voir Dire

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.

Hudach - Voir Dire

- 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

Hudach - Voir Dire

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

Hudach - Voir Dire

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 Marccone 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

Hudach - Voir Dire

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

Hudach - Voir Dire

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?

Hudach - Voir Dire

- 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

Hudach - Voir Dire

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?

Hudach - Voir Dire

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

Hudach - Voir Dire

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?

Hudach - Voir Dire

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.

Hudach - Voir Dire

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

Hudach - Voir Dire

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?

Hudach - Voir Dire

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 --

Hudach - Voir Dire

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

Hudach - Voir Dire

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

Hudach - Voir Dire

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.

Hudach - Voir Dire

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

1 a break and find out what, if anything, I have back there
2 at this point.

3 THE COURT: Do you have Linda Kovachik here?

4 MR. TRAFICANT: Yes, I do.

5 THE COURT: Can we go forward on the
6 photographs?

7 MR. MORFORD: We don't know what the
8 photographs are.

9 THE COURT: No, I know. Would you just show
10 the government what it is that you're bringing her in again
11 for?

12 MR. TRAFICANT: Why don't I bring her in and
13 let her bring it in. We don't have the jury here. Are we
14 going to do it without the jury?

15 THE COURT: I was going to bring the jury in.

16 MR. TRAFICANT: Then why don't you bring the
17 jury in?

18 THE COURT: Because you already had this
19 witness on the stand, and in order to call her back, you
20 indicated that there's something new. Therefore.

21 MR. TRAFICANT: I had her make an enlargement
22 of a photograph that was identified by Mr. Kidwell.

23 MR. MORFORD: We can stipulate to that if
24 it's --

25 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.

Squire - Direct

1 (Jury in at 11:10 a.m.)

2 (The Witness is Sworn)

3 THE COURT: I know your voice is big. Make
4 sure everyone can hear you in the back. There's a mike if
5 you need it.

6 THE WITNESS: All right, Judge.

7 DIRECT EXAMINATION OF PERCY SQUIRE

8 BY MR. TRAFICANT:

9 Q. Good morning, Percy.

10 A. Good morning, Congressman.

11 Q. Did you stay overnight or drive up from Columbus?

12 A. I drove up this morning.

13 Q. Would you give your full name and spell your last
14 name for the jury?

15 A. My name is Percy Squire, S Q U I R E.

16 Q. And what is your occupation?

17 A. I am an attorney.

18 Q. And how long have you practiced law?

19 A. I was admitted to practice in 1981. I began to
20 formally practice law following my discharge from the
21 active military in 1982.

22 Q. Could you give us your educational background?

23 A. I graduated in 1968 from Youngstown East High School.
24 I graduated in 1972 from the United States Military Academy
25 at West Point. I completed law school from the Ohio State

Squire - Direct

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

Squire - Direct

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.

Squire - Direct

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

Squire - Direct

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

Squire - Direct

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

Squire - Direct

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?

Squire - Direct

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.

Squire - Direct

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,

Squire - Direct

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

Squire - Direct

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

Squire - Direct

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

Squire - Direct

1 former member of your staff who is now a judge in
2 Youngstown, Robert Douglas, filed a lawsuit challenging the
3 configuration of state legislative lines in the city of
4 Youngstown, and we held our initial strategy sessions and
5 put together our plan for that action in your offices with
6 your support and assistance, based upon your knowledge of
7 events that led up to the lines that we were challenging.

8 And that lawsuit resulted in the establishment of
9 what is now the 64th Ohio House District, and resulted in
10 the election of the first African American in the Mahoning
11 Valley as a state representative in modern times. There
12 had been another, W. R. Stewart, back in 1904 or something
13 like that, but in modern times -- and that was attributable
14 in large measure to the Armour case.

15 Q. Other than Bob Douglas, now Honorable Bob Douglas,
16 and myself and you, were there any other significant forces
17 behind that movement?

18 A. Behind the Armour case?

19 Q. No. Behind this legislative remapping and making,
20 creating an opportunity for a minority seat.

21 MR. MORFORD: Your Honor, I'm going to object
22 just in terms of relevance to the issues in this case.

23 THE COURT: Thank you. Let's move on,
24 Congressman.

25 Q. Did you at some particular point become involved in

Squire - Direct

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

Squire - Direct

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

Squire - Direct

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

Squire - Direct

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?

Squire - Cross

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

Squire - Cross

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

Squire - Cross

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

Squire - Cross

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

Squire - Cross

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

Squire - Cross

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?

Squire - Cross

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

Squire - Cross

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?

Squire - Cross

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

Squire - Cross

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?

Squire - Cross

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,

Squire - Cross

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

Squire - Cross

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

Squire - Cross

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

Squire - Cross

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

Squire - Cross

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

Squire - Cross

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

Squire - Cross

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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Squire - Redirect

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

Squire - Redirect

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

Squire - Redirect

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

Squire - Redirect

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

Squire - Redirect

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

Squire - Redirect

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?

Squire - Redirect

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

Squire - Redirect

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

Johnson - Direct

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

Johnson - Direct

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?

Johnson - Direct

- 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?

Johnson - Direct

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?

Johnson - Direct

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?

Johnson - Direct

1 A. No, I didn't.

2 Q. Did you notify me that he wanted to see me?

3 A. Yes, I did.

4 Q. Do you know for a fact if I had seen him?

5 A. Yes. You informed me no one --

6 MR. MORFORD: Objection to what Congressman
7 Traficant told the witness unless he has firsthand
8 knowledge.

9 THE COURT: Right.

10 Q. Do you have any firsthand knowledge that I had seen
11 him?

12 A. Only your conversation, sir.

13 Q. How was his voice when you talked to him?

14 A. It was very weak, almost like a whisper, because I
15 had to lean over and listen to him when he was talking to
16 me.

17 Q. Did you expect to see Mr. O'Nesti that day?

18 A. No, I did not.

19 Q. Did you ever see him after that again?

20 A. Only at calling hours, sir, when he passed away.

21 MR. TRAFICANT: No further questions.

22 THE COURT: Thank you.

23 THE COURT: You have may inquire, Mr.
24 Morford.

25

- - - - -

Johnson - Cross

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

Johnson - Cross

- 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

Johnson - Cross

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

Johnson - Cross

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?

Johnson - Cross

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

Johnson - Cross

1 a law enforcement officer?

2 A. No, sir.

3 Q. Isn't it true that there was an incident in which you
4 held yourself falsely out as a law enforcement officer?

5 A. When we was with ODOT, yes, sir.

6 Q. Go ahead and tell the jury what that was about.

7 A. We had a work area a car went through, the work area
8 too fast. I had an employee with me from ODOT. We stopped
9 the car. They went and filed charges and the prosecutor
10 heard it. I was found guilty. I appealed it, 17th
11 District Court reverse appealed and went to the Supreme
12 Court, and they upheld the 17th Court of Appeals.

13 I never lost my job and I still worked for
14 ODOT, rehired back by ODOT seven years later.

15 Q. Didn't you after that Supreme Court case enter a
16 guilty plea, sir?

17 A. No. The prosecutor said to me he didn't want to try
18 it again, the Judge didn't want to try it. We went in,
19 pleaded no contest, and they fined me \$50, and it was over.

20 Q. For impersonating a law enforcement officer, correct?

21 A. Well, I guess you could say that. The prosecutor
22 said I was throwing my weight around.

23 Q. Do you know a man by the name of David Sugar?

24 A. I have met Dave Sugar.

25 Q. And isn't it true you met Dave Sugar after

Johnson - Cross

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

Johnson - Cross

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.

Johnson - Cross

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.

Johnson - Cross

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

Johnson - Redirect

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?

Johnson - Redirect

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

Johnson - Redirect

1 me \$50, I believe, sir. It's been a long time ago. It was
2 30 years ago, I think.

3 Q. 30 years ago.

4 A. I was 29, I think, at the time, sir, 29 or 30.

5 Q. Now, you were asked some questions about Dave Sugar;
6 is that right, sir?

7 A. Correct.

8 Q. Would it be unusual for me to call you about a
9 constituent of mine?

10 A. No, it wouldn't be.

11 Q. Would it be unusual for me to call anybody about a
12 constituent of mine?

13 A. No, sir.

14 Q. In your duties, do you call people about constituents
15 of mine?

16 A. Yes, I do.

17 Q. Do you just work in one office or do you work
18 throughout the region?

19 A. I work throughout the region.

20 Q. Now, the prosecutor talked to you about the ditch.
21 Can you explain where that occurred?

22 A. On Leffingwell Road, sir, in Mahoning County.

23 Q. And were you driving the car?

24 A. Yes, I was.

25 Q. Did you accidentally run off the road?

Johnson - Redirect

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.

Johnson - Redirect

- 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 calibrated 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?

Johnson - Redirect

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.

Johnson - Redirect

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.

Chesney - Direct

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

Chesney - Direct

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?

Chesney - Direct

- 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.

Chesney - Direct

1 Q. Did you end up building the deer stand?

2 A. No, I did not.

3 Q. Do you know if a deer stand was built?

4 A. Not for sure.

5 Q. Were you subpoenaed here today about the government
6 or about a deer stand?

7 MR. MORFORD: Objection as to why he was
8 subpoenaed.

9 THE COURT: Was there something on your
10 subpoena that told you what you were subpoenaed here for?

11 THE WITNESS: Not specifically.

12 THE COURT: Thank you. Objection sustained.

13 Q. Did we basically just converse about the purpose for
14 your being here?

15 A. Yes, we did.

16 Q. And after that conversation, what was your impression
17 as to what -- as to why you were subpoenaed here?

18 MR. MORFORD: Objection. Speculation and
19 relevance.

20 THE COURT: Right. You can ask him questions
21 that would be useful in this case for the jury to have
22 evidence of.

23 Q. Did I subpoena you relative to this deer stand?

24 A. Yes, I believe so.

25 Q. Did you inform me of the other matters as we sat in

Chesney - Direct

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

Chesney - Direct

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.

Chesney - Direct

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

Chesney - Direct

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

Chesney - Direct

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?

Chesney - Direct

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, 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	
10	BY MR. TRAFICANT.....	5726:5
11	DIRECT EXAMINATION OF DENNIS CARL JOHNSON	
12	BY MR. TRAFICANT.....	5735:1
13	CROSS-EXAMINATION OF DENNIS CARL JOHNSON	
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		
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