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1 Thursday Session, February 14, 2002, at an 8:30 A.M.

2 THE COURT: We have a witness? Thank you,
3 sir. You're still under oath. You may be seated.
4 Congressman

5 CROSS-EXAMINATION OF ALLEN SINCLAIR, (continued).

6 MR. TRAFICANT: Good morning.

7 THE COURT: Good morning.

8 BY MR. TRAFICANT:

9 Q. I'd like to return to some of your testimony
10 yesterday.

11 In the packet submitted by the Government were a
12 number of 302's. Do you know what 302's are?

13 A. No, I don't.

14 Q. If I can, in fact, show you one, would it better
15 explain what they are?

16 THE COURT: If you will just identify the
17 Exhibit Number, and we'll make the record clear, sir.

18 MR. TRAFICANT: I've offered it as Exhibit
19 Number S-28. It hasn't been offered into evidence at this
20 point.

21 THE COURT: Okay. Now, I'm -- I don't
22 understand your reference before.

23 MR. TRAFICANT: I am trying to ascertain from
24 this particular witness if he understands what a 302 is and
25 what the contents of that 302 would be.

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1 THE COURT: I know, but I think you said it
2 was in a packet submitted by the Government, so I -- I
3 don't -- submitted to you by the Government?

4 MR. TRAFICANT: Yes.

5 THE COURT: Okay.

6 MR. MORFORD: The Jencks material, your
7 Honor.

8 THE COURT: Oh, all right. Very well. Yes,
9 you can bring it up and show the witness.

10 MR. TRAFICANT: Well, for the purpose of
11 time.

12 MR. MORFORD: Your Honor, we don't have a
13 copy of S-28 just for reference.

14 THE COURT: Okay. Could you provide --
15 provide it first.

16 MR. TRAFICANT: I'll be glad to.

17 THE COURT: No, but first before you give it
18 to the witness, give it to the other side so they can see
19 what it is you're giving to the witness. Thank you. And,
20 Congressman, I haven't seen it either, so if you'll hand it
21 up.

22 MR. TRAFICANT: Your Honor.

23 THE COURT: Do you have copies of your
24 exhibits for the Court?

25 MR. TRAFICANT: No, I do not. They were

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1 given to me in discovery by the Government. I would assume
2 that they have to give to the court such material.

3 THE COURT: But as you know, under the Court
4 procedures, you have to provide exhibits to the other side
5 as well as to us what you're actually using in trial so we
6 can all know what -- what's happening. Okay?

7 MR. TRAFICANT: I wasn't sure I would use
8 that in trial until yesterday's testimony.

9 THE COURT: Okay. And then you would need to
10 provide a copy to both sides. So let me just look at this
11 so I can see what we have. Is this your marking, S-28, is
12 that the Exhibit Number you're dealing with?

13 MR. TRAFICANT: Yes, I would again file such
14 before the Court.

15 THE COURT: Okay. So we've got that?

16 MR. MORFORD: Your Honor, I think if you look
17 through it, there's some writing and notes on there. My
18 only request, it's going to be used as an exhibit, if it
19 indeed is admissible, that we have a clean copy without the
20 Congressman's notes.

21 THE COURT: Okay. On Page 2, there appeared
22 to be maybe some working notes on this from somebody. So
23 what we'll do is give you an opportunity after the break or
24 during the break, we can take this up with this witness,
25 but first, it has to be something which could actually be

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1 handed to the witness. I don't know who made all these
2 marks on it, but if you didn't get it that way, then it
3 needs to be in its original form. Okay?

4 MR. TRAFICANT: Appreciate that.

5 THE COURT: Thank you.

6 Q. Would you please look at this now?

7 THE COURT: No. He can't look at this now.
8 You have to put it in a form so that it doesn't carry
9 things that have nothing to do with the document itself,
10 but some other person at some other time has put on it.

11 MR. MORFORD: Now that I know what it is, we
12 can find a clean copy, get a copy at the break if that will
13 help the Court.

14 THE COURT: Okay.

15 MR. TRAFICANT: Well, for the record, I was
16 admonished yesterday for not having with me those materials
17 that were purportedly evidentiary material presented on
18 discovery. This was presented to me on discovery, and I
19 would assume since this is the Government's witness, they
20 should have in their possession these documents.

21 THE COURT: He has said they have a clean
22 copy of it, and that they'll make it available to you again
23 in a clean copy that isn't marked up by some other person
24 so as to change what it is.

25 MR. TRAFICANT: Thank you.

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1 THE COURT: Thank you.

2 BY MR. TRAFICANT:

3 Q. Now, to proceed, I asked you, do you know what a
4 federal 302 form is?

5 A. And I said I do not.

6 Q. Okay. A 302 form is when a witness meets --

7 MR. MORFORD: Objection, your Honor. That's
8 not a question.

9 THE COURT: That's right. He says he doesn't
10 know what it is, so you --

11 BY MR. TRAFICANT:

12 Q. When you meet with a federal official, did you have
13 the occasion to take notes?

14 A. Yes.

15 Q. And did you see them take notes?

16 A. Yes, on occasion.

17 Q. Is there anybody in this room that you ever met with
18 that you had seen take notes? Could you please look at the
19 courtroom?

20 A. I know that some of the agents I did meet with took
21 notes, but to the best of my recollection, I can't recall
22 who it was. Some did, some didn't.

23 Q. Well, do you agree that on January 21st of the Year
24 2000 you met with the FBI in Boardman, Ohio?

25 A. That's correct.

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1 Q. And you say during that questioning, that you had
2 made kickbacks to the Defendant?

3 A. Yes, sir.

4 Q. In this report, evidently notes taken by the Federal
5 Bureau of Investigation, it states --

6 THE COURT: Which report, sir?

7 MR. TRAFICANT: This is what we're talking
8 about, S-28.

9 THE COURT: That's the report you need to
10 move away from until you can supply us with something that
11 could be used for this witness that isn't marked up.

12 MR. TRAFICANT: Question.

13 THE COURT: And in any event, you wouldn't be
14 able to read the content of it to him.

15 MR. TRAFICANT: I am not reading the content,
16 but he has admitted to knowing of a meeting --

17 THE COURT: Yes, he did --

18 MR. TRAFICANT: On February the -- on January
19 21, 2000, I'm asking questions about that meeting.

20 THE COURT: All right. I think you prefaced
21 this by saying in this report, it says, so just --

22 MR. TRAFICANT: I'm not talking about the
23 report.

24 THE COURT: Ask questions.

25 MR. TRAFICANT: I'm asking about the

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1 questions.

2 THE COURT: Okay

3 BY MR. TRAFICANT:

4 Q. You had stated yesterday that you did no work for
5 Valley Foods, John Valley and Valley Foods Mart.

6 A. You said I did no work, is that what you -- I'm
7 sorry.

8 Q. Yes.

9 A. That's what you stated. That was the question?

10 Q. Was that your statement in the testimony?

11 A. No, I do not believe it was. I believe I testified
12 that I did do some work for Mr. DiBlasio on Valley Foods
13 Mart.

14 Q. Is it true that at this -- you said you did not do
15 any work for Valley Foods. Is that your testimony?

16 A. No, that's not my testimony.

17 Q. Well, did you on January 21 -- could you recall
18 having stated that you did not do any real work involving
19 Valley Foods to the FBI?

20 A. No, I don't recall saying that to the FBI on January
21 21, 2000.

22 Q. Well, if it was in the FBI notes, would the FBI be
23 wrong in assessing your statement?

24 THE COURT: Please don't answer the question.
25 Congressman, you need to move beyond whatever that document

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1 is that you're using. You can certainly ask him questions
2 about what he did, but you can't cross-examine him on a
3 document that so far has not been put in the condition in
4 which it could be relied upon.

5 MR. TRAFICANT: Thank you.

6 BY MR. TRAFICANT:

7 Q. You met with the FBI several times, did you not?

8 A. That's a fair statement.

9 Q. You remember having met with the FBI on January 24 of
10 the Year 2000?

11 A. Yes, I did.

12 Q. Now, January 24th was before you had made your
13 agreement with the Government; is that correct?

14 A. I'm sorry, you said January 24th?

15 Q. Yes.

16 A. Question?

17 Q. Is it your recollection that you had stated that you
18 had made no kickbacks to the Defendant at that meeting?

19 A. No, I think I used the words to the effect I don't
20 know what you're talking about, and I asked to leave.

21 Q. Well, at some particular point and I am sure these
22 can be moved into evidence, I'm sure, your Honor, since
23 they were given to me on discovery by the Government.

24 THE COURT: Well, they just have to be clean
25 copies so they don't carry extra things that weren't on

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1 them when they came, and we have to go through a process
2 that you're well aware of, which is that they have to be
3 shown to the other side. The Court has to be given copies
4 so that we can conduct these proceedings according to the
5 normal process

6 BY MR. TRAFICANT:

7 Q. So it's your testimony that on January 24th of 2000,
8 before you made an agreement with the Government, you're
9 not sure you can remember whether you told the Government
10 that you did not give kickbacks to Jim Traficant. Is that
11 your testimony? Yes or no.

12 A. No, I remember exactly what I said.

13 Q. Do you recall in any conversations you had on that
14 same date, where you had stated that for Mr. DiBlasio to
15 have had the property in his name would have been a
16 conflict?

17 A. Are you asking me if I said that on January 24th
18 before the FBI agents?

19 Q. Yes.

20 A. No, I do not remember that. I know it was discussed,
21 I can't recall if it was --

22 Q. No. You've answered the question. I thank you.

23 Do you recall in your meeting of January 24th telling
24 the Government that you had contacted the House Ethics
25 Committee, and as long as the rent was reasonable and not

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1 usurious, that in fact, it was acceptable for both, your
2 partner and yourself to, in fact, even own the building?

3 A. I did not contact the House Ethics Committee. I
4 discussed the issue with Paul Marccone, in which I asked for
5 copies of the ethical considerations.

6 Q. And did you state at that meeting that it was clear
7 through the House Ethics Committee, as at least you were
8 made aware of by whomever in Washington; is that your
9 testimony?

10 A. That's correct, I understood it to mean that this was
11 no problem with what we were doing, and I was satisfied in
12 my mind, after reading the ethical considerations, that it
13 was an arm's length transaction.

14 Q. Now, returning to your meeting of January 21st that
15 we currently discussed, do you recall making a statement to
16 the FBI that, in fact, you were the current owner of the
17 building at 11 Overhill Road?

18 A. No, I do not recall those exact words.

19 Q. Thank you.

20 Do you recall at the meeting with the FBI on January
21 24th that you were asked was the building in the name of
22 other people? Do you recall your answer?

23 A. I explained the same way most likely as I testified
24 yesterday, but no, to answer your question, I can't
25 remember exactly what I said.

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1 Q. The FBI said you did not comment. You made no
2 remarks, no response, you were silent.

3 A. On January 24th?

4 THE COURT: Before we go further with this,
5 that's a statement, not a question, Congressman. And you
6 can't consider that as evidence because, as you know, it's
7 a statement. It's not under oath, it can't be
8 cross-examined, and you can't put evidence into the case
9 that way. Can you disregard that? Thank you.

10 BY MR. TRAFICANT:

11 Q. So then your last question then, I think the Court
12 very clearly summed it up was, you don't remember what your
13 answer was; is that correct?

14 A. To which question was that?

15 Q. For the Court Reporter, please repeat it.

16 THE COURT: What do you want repeated? She
17 has question.

18 MR. TRAFICANT: The question was that I was
19 not being placed into or made comment about?

20 THE COURT: The question before you made the
21 statement, is that what you're asking?

22 MR. TRAFICANT: Yes, about why -- why someone
23 else' name other than his was listed as owner of the
24 building.

25 THE COURT: Okay. Do you want the reporter

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1 to read back that question?

2 MR. TRAFICANT: Or he can answer that. To
3 the best of your knowledge -- what was your answer, give us
4 your answer.

5 THE WITNESS: I don't recall what my specific
6 answer was on that date, and that was prior to me giving
7 the proffered statement, most likely I did not answer many
8 questions on January 1st or 24th, that I felt
9 uncomfortable at the time.

10 Q. On January 31, you had occasion to meet with the FBI.
11 On that day, that was when you supposedly gave them a
12 handwritten message from the Congressman and turned over
13 some envelopes. Was there surveillance provided at that
14 meeting, supposedly that was held at the Burger King
15 restaurant, to the best of your knowledge?

16 A. Surveillance on who?

17 Q. Surveillance on the meeting, did the Government have
18 any surveillance, or were they covering that meeting?

19 A. Not that I'm aware of, sir. To say, I don't recall a
20 meeting at a Burger King.

21 Q. You don't recall something at Burger King?

22 A. No, sir.

23 Q. Thank you. Do you recall a meeting with the federal
24 government on February 4th of the Year 2000?

25 A. A meeting on February 4th, 2000 with who?

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1 Q. Yes.

2 MR. MORFORD: Your Honor, I believe he's got
3 the wrong date that he's talking about the 302.

4 THE COURT: We'll see. He's asking about
5 it's a meeting on February 24th.

6 MR. TRAFICANT: I am now talking about
7 whether or not you, in fact, had a meeting with FBI agents
8 or contact on February 4th of the Year 2000, to the best of
9 your knowledge.

10 THE WITNESS: Yes, I believe that I did.

11 Q. To the best of your knowledge, was there surveillance
12 provided by the Government relative to that meeting?

13 A. Not that I'm aware of.

14 Q. Were you aware that there were observations made by
15 the Government of the two of us at that particular or
16 so-called meeting?

17 MR. MORFORD: Your Honor, can we approach the
18 bench, your Honor.

19 THE COURT: Yes. We'll come up to a side
20 bar. You can all just relax and look at the beautiful
21 room.

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

23 THE COURT: This is not going to work because
24 they need to have their backs around this way. This is
25 another test.

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1 THE COURT: Okay.

2 MR. MORFORD: Your Honor, I believe there's
3 no basis for the question that he just asked, that there
4 was surveillance of a meeting between Allen Sinclair and
5 the Congressman, and I want to have it on the record what
6 his basis is for asking that question because his question
7 --

8 MR. TRAFICANT: Well, the 302.

9 THE COURT: Quiet.

10 MR. TRAFICANT: First of all, let's get
11 something on the record, these are 302's --

12 THE COURT: I'll release the jury if you
13 can't whisper.

14 MR. TRAFICANT: These are 302's that were
15 given to me by the Justice Department under discovery.

16 THE COURT: Right.

17 MR. TRAFICANT: I am currently going to ask
18 questions about it.

19 THE COURT: That's because you have marked up
20 copies of things that you haven't shown to anyone else.

21 MR. MORFORD: Can I also note, your Honor,
22 that these are 302 statements of an agent, his are
23 recollection of a meeting, and if Congressman Traficant
24 wants to call the agent and ask him about his 302, he can
25 do it, but he can't ask Allen Sinclair about the statements

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1 in the 302.

2 MR. TRAFICANT: He can ask Allen Sinclair
3 about the information, but Allen Sinclair can't be held to
4 the 302. He has to call the agent.

5 THE COURT: Right. I think you understand
6 that.

7 MR. TRAFICANT: I am asking about the
8 information, and I was getting to a point before I was
9 interrupted.

10 THE COURT: I know. But you keep asking about
11 surveillance and the question is, what is your basis for
12 asking about surveillance?

13 MR. TRAFICANT: Did he know that that was, in
14 fact, a meeting that was being covered or was being --

15 THE COURT: Well, there's nothing in the
16 evidence -- there's nothing in the record of this case that
17 would show that there was surveillance or even raise the
18 issue. You're asking a question of assumption that you
19 make.

20 MR. TRAFICANT: Let's visit what you just
21 said.

22 THE COURT: Okay.

23 MR. TRAFICANT: Which is an absolute
24 assumption I would assume since you haven't read this.
25 Traficant was observed --

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1 THE COURT: Whisper.

2 MR. TRAFICANT: -- a source driving with
3 Sinclair.

4 THE COURT: Okay.

5 MR. MORFORD: The source is Sinclair.

6 MR. TRAFICANT: They were both -- I was going
7 to ask if the source was Sinclair.

8 MR. MORFORD: Yes, he is.

9 MR. TRAFICANT: That's the purpose of what I
10 was going towards. Am I not allowed to do that?

11 MR. MORFORD: Your Honor, his question was,
12 was Mr. Sinclair aware that the FBI agents were surveilling
13 his meeting with Mr. Sinclair? He also --

14 THE COURT: Well, if he answers the -- I'm
15 going to let it in, and I am going to let him ask the
16 question and let him answer, and we'll live with it. But
17 this is more clear to me that you do understand that you
18 have to have the agent, who wrote this, on the stand.

19 MR. TRAFICANT: I understand that, and we'll
20 call the agent, but I do now have the witness who was part
21 and parcel to the 300, and I think it's within my rights to
22 be able to cross-examine that witness.

23 THE COURT: It is within your rights, but
24 he's not -- he didn't write the 302. He wasn't the person
25 who --

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1 MR. TRAFICANT: I understand that.

2 THE COURT: Okay?

3 MR. TRAFICANT: I understand that.

4 THE COURT: Thank you

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

6 BY MR. TRAFICANT:

7 Q. You were not aware of any surveillance?

8 MR. TRAFICANT: Excuse me.

9 Q. Back to this February 4, 2000 meeting, you were not
10 aware of any Government surveillance at all; is that
11 correct?

12 A. That's correct.

13 Q. But it says this was a source?

14 THE COURT: Excuse me, but you cannot read
15 from those documents until you --

16 MR. TRAFICANT: I'm not reading from the
17 document.

18 THE COURT: Well, you just said it says
19 something.

20 MR. TRAFICANT: This.

21 Q. Was there a source that reported to the Government
22 what happened at that meeting?

23 THE COURT: Congressman, we're going to take
24 a brief break, and during that time, we'll see whether we
25 can get copies of these and discuss a little more about

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1 what can and can't be put in front of the witness.

2 MR. TRAFICANT: Thank you.

3 THE COURT: We'll take a ten-minute break

4 (Proceedings in the absence of the jury:)

5 THE COURT: Gentlemen, what I'm going to ask,
6 you said something about having copies. We will make some
7 copying available if it will help resolve some of these
8 issues. So I ask you, Congressman, to talk to Mr. Morford
9 about what might get this situation clear, and I do need
10 you, for future things that you want to put in front of any
11 witness, to provide, according to the regular procedures
12 that you're aware of, copies. They need to be provided
13 copies.

14 MR. TRAFICANT: Question for the record
15 before I discuss this. I have been given a discovery
16 packet by the Government.

17 THE COURT: You all can sit down back there
18 if you want to.

19 MR. TRAFICANT: This discovery package
20 contains a number of 302's which are, in fact, written
21 reports of the agents and their opinions, whether they be
22 truthful or not, quite frankly. But nevertheless, it is
23 their written word. But when, in fact, that written word
24 pertains to a particular witness that is a Government
25 witness or my witness and subject to cross-examination, a

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1 302 is open and eligible material for cross-examination,
2 and I am glad to find out there is such a -- such a
3 questionable concern on behalf of everybody.

4 Now, if you want to go get clean copies, go get clean
5 copies, but --

6 THE COURT: Actually, sir, you're the person
7 who needs to be dealing with the copying issue right now.
8 We -- we have certain rules that we have to follow with
9 anybody. You can't hand to a witness in a case something
10 which is all marked up by some other unknown person, and we
11 don't know what it is. That was the first problem, and the
12 Government has said that they have some copies that don't
13 have any marks on them that they can give to you for use.

14 Second issue is that you do need to provide copies,
15 as the Court orders have told you, you have to provide to
16 the Government and to us when you're going to use
17 something, and it has to be something that we can all
18 concentrate on. Okay? Now, there is another -- I'll let
19 Mr. Morford respond to the other parts of this.

20 MR. MORFORD: Your Honor, the Congressman can
21 and has and we have not objected asked the witness about
22 certain statements. Did you tell the FBI this, did you
23 tell the FBI that? What he cannot do is state, didn't the
24 FBI in their 302 say this, didn't they say that? Those are
25 hearsay statements. If the Congressman -- if the

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1 Congressman is going to put in the statements of the FBI
2 agents who interviewed Mr. Sinclair, he has to have, under
3 the Rules of Evidence, he has to have an exception to the
4 hearsay rule.

5 If he wants to call the agent to testify to something
6 inconsistent that the agent heard Mr. Sinclair say, he can
7 call the agent to do that, and the agent is then subject to
8 cross-examination as is his recollection what he reported
9 and all that. But he can't take the statement of the agent
10 as though it were the statement of the witness and then put
11 those statements into evidence because they're hearsay.

12 MR. TRAFICANT: Cannot, your Honor, the
13 Defendant here ask the witness if he remembers a question
14 of one of the agents, are relative to the following.

15 THE COURT: Yes.

16 MR. MORFORD: Yes.

17 THE COURT: You can.

18 MR. TRAFICANT: In fact, is that not what I'm
19 doing?

20 THE COURT: Well, you're stating -- you're
21 stating the content of the document.

22 MR. TRAFICANT: Well, if I ask, did an agent
23 say to you that on January 19th you dated this beautiful
24 woman by the name of Judge Wells in chief, is that true or
25 false, am I not allowed to ask that question, your Honor?

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1 If an FBI agent asks you if you dated the court reporter in
2 the Traficant case, am I not allowed to ask that? It's on
3 the 302 that's been submitted by the Government. What kind
4 of latitude do I have here? This is a 302.

5 THE COURT: You have the latitude that the
6 Rules of Evidence permit you to have.

7 MR. TRAFICANT: And they allow me to
8 cross-examine --

9 THE COURT: They do.

10 MR. TRAFICANT: -- with wide latitude a 302
11 of the federal government. Now, if you're saying that I
12 can't repeat supposedly an FBI agent supposedly said this,
13 but I can say, did the FBI agent say this to you.

14 THE COURT: Yeah, that's what I'm saying.

15 MR. TRAFICANT: Do we understand that?

16 THE COURT: Yeah, I think you understand it,
17 too.

18 MR. TRAFICANT: I understand it. You said
19 some of us do, do you understand it?

20 MR. MORFORD: Your Honor, our objection is to
21 Congressman saying isn't it true that the FBI agent's note
22 say this or doesn't the 302 say that, that's the problem.

23 THE COURT: Right.

24 MR. MORFORD: The second problem is, for
25 instance, on the Burger King situation, the 302 says that

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1 he met with federal agents of the FBI at Burger King to
2 receive money. Congressman then says, isn't it true you
3 met me at Burger King, and there was surveillance. That's
4 no basis for that because that's not what the 302 says, and
5 those are the nature of the two objections.

6 MR. TRAFICANT: The wording needs to be
7 cleaned up, is that about it?

8 THE COURT: No. That's not about it, but
9 with -- with this witness on the stand, you did adequately
10 up until this point describe what you're permitted to
11 develop. It's just that you need to actually do that.

12 MR. TRAFICANT: Yes, yes.

13 THE COURT: Okay.

14 MR. TRAFICANT: Fine.

15 THE COURT: Thank you.

16 MR. MORFORD: One last thing for
17 clarification. I assume the Congressman understood this
18 and talked it about it at side bar, but for the protection
19 of the witness who did have some fears for his safety, the
20 FBI treated him initially as a confidential informant and
21 would call him source. So any time it says source in the
22 302, that is what you're --

23 MR. TRAFICANT: Are you stipulating that?

24 MR. MORFORD: Yes.

25 MR. TRAFICANT: Thank you.

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1 MR. MORFORD: So the 302 will say source of
2 this, source of that. That is Mr. Sinclair, which is why
3 we gave those over in the packet.

4 THE COURT: I think you should clarify that's
5 in all the 302's he's worried about or this one.

6 MR. TRAFICANT: All these 302's regarding Mr.
7 Sinclair.

8 THE COURT: So Mr. Sinclair in any of the
9 302's you provide to him --

10 MR. TRAFICANT: Question.

11 THE COURT: -- was in fact --

12 MR. MORFORD: Called source.

13 THE COURT: -- was called source.

14 MR. TRAFICANT: Question.

15 THE COURT: That should clarify it for you on
16 some of the other ones.

17 MR. TRAFICANT: Does that deal with all your
18 other witnesses or just talking about Mr. Sinclair?

19 MR. MORFORD: No. That's Mr. Sinclair, and I
20 don't believe that's the case with any other witness. If
21 it is, we'll note that and make sure.

22 MR. TRAFICANT: That should have been
23 something that should have been made available because they
24 put us through a big rigmarole here trying to find out how
25 sources were thus leaving my line of question of whether or

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1 not there was surveillance.

2 THE COURT: Okay. Let me ask about the clean
3 copy issue. Can we solve that right now?

4 MR. MORFORD: Yes, your Honor, I'll give the
5 Court a copy of everything Mr. Traficant says. And every
6 time he refers to a date, they're all dated, and the Court
7 and parties can turn to it.

8 THE COURT: Okay. So that will take care of
9 this part of the case.

10 MR. MORFORD: I'll also give you a copy of
11 the Grand Jury transcript in case he refers to that because
12 I don't know what he's going do.

13 THE COURT: Okay. Have you got a copy right
14 now?

15 MR. MORFORD: Yes, I do.

16 THE COURT: All right.

17 He doesn't have a clean copy of these 302's, though,
18 I don't think. So we need to take that and make copies.

19 MR. MORFORD: I will give it to your clerk.

20 THE COURT: And we'll try to get the copies.

21 MR. SMITH: If this will help.

22 MR. TRAFICANT: Question, are you saying I
23 cannot use --

24 THE COURT: You just interrupted somebody,
25 and you promised you would follow those --

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1 MR. TRAFICANT: Go ahead.

2 THE COURT: Thank you.

3 MR. SMITH: If the court wants, we can, as we
4 did with the exhibits, provide the Court with a copy of the
5 Jencks material at the time it was given to Congressman
6 Traficant if that will help the Court. You want us to do
7 that, we'll be happy to do it.

8 THE COURT: Well, all right. I'll be glad to
9 do that.

10 MR. TRAFICANT: Question I had is, if I did
11 make notations on the 302, it is my work product.

12 THE COURT: I understand that.

13 MR. TRAFICANT: And are you saying I cannot
14 use my work product, I have to use a clean form that they
15 have so graciously from the kindness of their hearts have
16 presented to me here today.

17 THE COURT: Congressman, think of it this
18 way, think of it this way, you take your work product, it's
19 all over a report. Okay.

20 MR. TRAFICANT: Yes.

21 THE COURT: That's yours, that's your work
22 product, you can't hand it then on the stand to a witness
23 and have him read it and review it because the witness is
24 then looking at two things. He's looking at whatever the
25 document is, and he is looking at whatever it is you're

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1 taking out of the document or writing comments on it or
2 doing anything else with it.

3 MR. TRAFICANT: I see.

4 THE COURT: And that -- understand?

5 MR. TRAFICANT: I agree, and that's been
6 settled.

7 THE COURT: There we go, okay.

8 MR. MORFORD: Your Honor, can I make one
9 more -- if it is not an objection because it hasn't
10 happened yet, but because the 302's are hearsay, I would
11 ask if the Congressman is going to offer them into
12 evidence, that it be done outside the jury's presence
13 because what I don't want is for him to offer it in front
14 of the jury and make it look like it's being withheld, if
15 it's improper to be admitted in the first place.

16 MR. TRAFICANT: Question then, were not some
17 of these 302's, in fact, leaked to the press before this
18 trial? I want that now answered, and I move.

19 THE COURT: Well, are you -- are you asking
20 me?

21 MR. TRAFICANT: It is a motion of the court
22 to determine whether any 302's were made available to the
23 press.

24 MR. MORFORD: I'll answer that, absolutely
25 not.

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1 MR. MORFORD: Okay. And the only time any
2 documents, any evidence in this case has been discussed
3 publicly is in an answer to motions that were filed by the
4 parties in these proceedings which is perfectly acceptable.

5 MR. TRAFICANT: I take no offense to that.

6 That is not true. The January 16th communication of
7 the Government at 3:36 P.M. with the Monday following being
8 Martin Luther King, Junior day, me having a 22nd deadline
9 getting -- at 2:46, did get a fax of Mr. Pikunas as that
10 dealt with a 302 and a tape that he had taken of a
11 witness --

12 THE COURT: I think you're talking about
13 court filings. You're talking about something attached to
14 something that they filed; is that correct?

15 MR. TRAFICANT: Yes. That became widely
16 media. It was not only a 302, it was a tape.

17 THE COURT: Okay.

18 MR. TRAFICANT: That was discussed in the
19 newspaper.

20 THE COURT: Congressman, unless the Court
21 orders otherwise, which is a rare thing for the Court to do
22 because our courts are open, except in very rare occasions
23 when there's a reason justifying not being opened, anything
24 that's filed in a case is available to the public, and
25 that -- in our case, you filed a lot of documents that you

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1 attached things to with the Court, and those are all
2 available to the public. And so did the Government filed
3 some things in support of their motions.

4 So if you filed something in the court and it's on
5 the docket and the Court has not ordered otherwise, then
6 they're available to the public, that means the press, the
7 public, anybody can see them. That's part of the open
8 process. Mr. Morford?

9 MR. MORFORD: Your Honor, just really
10 briefly, because I know this issue has been raised a number
11 of times and apparently troubling Congressman Traficant, I
12 did receive a call from Mr. O'Nesti's son, and immediately
13 I sent a letter, not a public filing, to Congressman
14 Traficant because I felt what Mr. O'Nesti told me was
15 something he needed to know. I sent that letter just to
16 Congressman Traficant. I did not CC the Court, I did not
17 do a public filing.

18 Upon receipt of the letter, he filed a motion, which
19 we had to respond to, and it was in the response to the
20 motion then that we attached the letter to show the Court
21 exactly what had happened. And that's what he references.

22 MR. TRAFICANT: In the motion, I did not, in
23 fact, put in that element of the letter that was received,
24 but let me get back to that issue. I think this is very
25 important. He said he mailed it to me, he's faxed

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1 everything else to me.

2 THE COURT: Well, he --

3 MR. TRAFICANT: No, let me here, this is
4 important.

5 THE COURT: Congressman, I think I ruled on
6 this before, but go ahead.

7 MR. TRAFICANT: I'm sure you have, you've
8 ruled on nearly all of these things.

9 January 22nd was a very important date according to
10 the trial date schedule that you have sent to both the
11 Prosecution and defense here. Now, he takes a very
12 delicate piece of information and nearly 100 percent of the
13 time has faxed this information to me, but has it post
14 marked 3:36 P.M. in the mail. That's a Friday.

15 Now, hear me. Saturday the mail is not delivered,
16 Sunday the mail's not delivered. Monday is Martin Luther
17 King, Junior day, the 22nd, I have a 4:00 deadline, and at
18 10:46 A.M. I get what they consider to be their blockbuster
19 deal. Quite frankly, this Defendant is getting tired of
20 the blockbuster last minute fruit basket bread box ploys
21 here.

22 THE COURT: Okay.

23 MR. TRAFICANT: And I think it's time for you
24 to order and rule on this.

25 THE COURT: I did rule on it, I did.

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1 MR. TRAFICANT: Did you allow it in?

2 THE COURT: It wasn't offered. This -- this
3 was a situation that you complained about and among other
4 things, and which I dealt with in court orders, and the
5 Court orders are available to you. We do send them to you
6 sometimes by fax as everybody does in cases that gets close
7 to trial, but we don't have to. We can -- we simply send
8 them by mail.

9 And that's the same for the Government and the same
10 with you. In any event, this is an old issue, it's a --
11 still kind of bothering you, and I've addressed it as
12 thoughtfully as I can in prior court orders, and I would
13 ask you to go back and review those, and you'd see it
14 there.

15 MR. TRAFICANT: I will, but have you decided
16 a final order on that issue is my question here?

17 THE COURT: Tell me which part of what
18 happened in that motion you needed to have a final order
19 on.

20 MR. TRAFICANT: The tape recording of the
21 dying man who they were able to tape but not make available
22 for me to tape and depose.

23 THE COURT: Well, the way you're putting it
24 has not in itself been presented to me, but we have not
25 ruled that -- I have a conditional ruling on evidence that

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1 is conditioned on the Government being able to demonstrate
2 certain things that the law requires them to demonstrate
3 under these circumstances. It was a pretty straight
4 forward ruling, and you'll see it when you go back on the
5 docket.

6 The answer, I guess the way you're asking the
7 question is, I have said certain things in that order, but
8 I have reserved ruling on it because the Government still
9 would have to do some other things in order to make that
10 evidence meet the requirements of the Rules.

11 MR. TRAFICANT: Okay. For the record,
12 Mr. Morford stated that he had a call on January the 14th.
13 He immediately then, the next day, January 15th, called the
14 FBI agent. The FBI agent then confirmed that these things
15 did happen, and even took a fruit basket with his own money
16 and felt very sympathetic to the individual and visited the
17 house unannounced. Hear me. On January 16, they sent me
18 the letter, we know all about that. But --

19 THE COURT: Why do you think he sent it --
20 wait, wait, wait, why do you think they sent you the
21 letter?

22 MR. TRAFICANT: They want this man and
23 evidence --

24 THE COURT: Congressman, they sent you the
25 letter for reasons that I'll let them state.

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1 MR. TRAFICANT: Yep.

2 THE COURT: But as part of their
3 responsibilities.

4 MR. TRAFICANT: But I wasn't completed.

5 THE COURT: I know you weren't, but just
6 listen to this part of it. Why did you send the letter to
7 him?

8 MR. MORFORD: Your Honor, we sent the letter
9 because when I received the information, I believed it
10 could be argued that it could be exculpatory, something of
11 value to Congressman. I felt in fairness it was something
12 he should know. I think it's very important, and I get the
13 impression he's confused about this -- that in our original
14 motion regarding M O'Nesti's statements to Jackie Bobby,
15 which is what we're talking about here, we had noted that
16 interview but made it very clear we are not attempting to
17 place a tape in evidence because it's hearsay, and it's not
18 admissible.

19 And we are not attempting to put his statements made
20 in the house that day but merely felt we needed to let the
21 Court know that when he was first talked to, he initially
22 denied it and then admitted it. And we felt that was
23 something the Court should know as it considers Mr. Bobby's
24 testimony, but we made it very clear we were never going to
25 offer Mr. O'Nesti's testimony at the house that day or the

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1 tape.

2 When I got that information, I felt that that was
3 something that the Congressman should know happened in
4 case. He had an admissible way to use it, and I wanted him
5 to know it, and the only reason that I didn't fax him the
6 letter, and the Court may remember this, is that at a
7 hearing one day, I handed him a document, letter we had
8 faxed him some early questionnaire documents, and he made a
9 big stink and said the rules require you to mail it, I
10 don't want you faxing and give me stuff. I want it to be
11 mailed, so we made the decision then to mail it to him
12 because he didn't seem to like our courtesy.

13 THE COURT: In any event, the Court has ruled
14 on this, and when I rule on something I will not revisit it
15 here.

16 MR. TRAFICANT: I'm not trying to revisit it,
17 but the point I'm making, Mr. Morford admitted with his own
18 words that he knew of Mr. Pikunas' visit on January the
19 6th. He said he knew that Mr. Pikunas --

20 THE COURT: I don't know what you -- what
21 you're talking about.

22 MR. TRAFICANT: Yes, he did.

23 THE COURT: When?

24 MR. TRAFICANT: He said he knew Mr. Pikunas
25 had interviewed --

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1 MR. MORFORD: Yes.

2 MR. TRAFICANT: -- Mr. O'Nesti, and here's
3 the point that's been brought up -- not to argue the
4 case --

5 THE COURT: It seems like you are.

6 MR. TRAFICANT: No, I think it has to be
7 discussed because --

8 THE COURT: Sir, you are confused.

9 MR. TRAFICANT: I am not confused at all
10 here. I understand that the Government is really trying to
11 help me win this case. Let me say this: The Government
12 clearly knew that when Mr Pikunas went in there to tape
13 them, they knew that, and that even O'Nesti's attorneys
14 called and got authority to come in and go ahead, and he
15 said even without me being there, you people have got along
16 so well, go ahead and tape him.

17 The point is, they say the confession was even
18 recanted because at some point Mr. Pikunas turned the tape
19 off. That wasn't my issue. The issue was when the
20 Government decided they had a man that was, at least,
21 cognizant enough to be interviewed by the FBI, and to be so
22 integral to a case and died ten to 11 days later, then the
23 duty and responsibility under 401, 402, 403 is to notify me
24 of a deposition opportunity.

25 MR. SMITH: The case hadn't been indicted

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1 yet, your Honor.

2 THE COURT: I already ruled on that. All
3 these events took place long before there was any
4 indictment in this case, and so Congressman, I'm going to
5 ask you to go back and read the Court rulings and to move
6 on to something different. We have a jury of people here
7 who are ready to hear your cross-examination of a witness.

8 MR. TRAFICANT: I want them to hear that,
9 too. I don't want to be limited in that cross-examination.

10 THE COURT: Well, you're limited.

11 MR. TRAFICANT: And I do make a motion to the
12 court that I believe on these 302's I am being limited.

13 THE COURT: All right. What you can do then
14 is object on that basis, and we'll go forward.

15 MR. TRAFICANT: Thank you. I do object.

16 THE COURT: Thank you.

17 MR. MORFORD: Thank you.

18 MR. TRAFICANT: May I have a quick side bar
19 here, your Honor?

20 THE COURT: Question: Why don't we just come
21 over?

22 MR. TRAFICANT: I'm under the impression that
23 clean 302's can be shown to the Defendant -- to the
24 witness?

25 THE COURT: Not that.

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1 MR. TRAFICANT: Or stick to the question.

2 THE COURT: Not to this witness, just stick
3 to the question.

4 MR. TRAFICANT: Okay. Thank you.

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

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

7 THE COURT: There could be a situation in
8 which you could use a clean copy if it's needed, if there's
9 something that occurs and it's needed to refresh someone's
10 recollection in some way.

11 MR. TRAFICANT: I'm not looking to refresh.
12 I'm looking to impeach.

13 THE COURT: All right. So there may be many
14 ways you can impeach, but this witness didn't author this
15 302. There is a witness who authored it somewhere.

16 MR. TRAFICANT: The Government witness.

17 THE COURT: Right.

18 MR. TRAFICANT: An agent of the federal
19 government.

20 THE COURT: Right.

21 MR. TRAFICANT: I'm not cross-examining an
22 agent of the federal government. I'm examining a man who
23 has immunity to practice law, even though he's admitted to
24 serious felonies.

25 THE COURT: Wait a minute. That doesn't have

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1 anything to do with whether or not you can use the 302.

2 MR. TRAFICANT: The point is the veracity of
3 this and the motives.

4 MR. MORFORD: Your Honor, there are Rules of
5 Evidence that he has to follow.

6 THE COURT: Right. In order to get it in
7 order to get it in there, they have to be followed.

8 MR. TRAFICANT: I will assure you that I will
9 follow the Rules of Evidence.

10 THE COURT: Okay.

11 MR. MORFORD: That's fine. That's all we're
12 asking.

13 MR. TRAFICANT: But I want to say this: What
14 you did on January 16th was a manipulative ploy with --

15 THE COURT: This is not a place, this is not
16 a place for that kind of thing.

17 MR. TRAFICANT: Putting it on the record. He
18 has not been honest with the criminal Rules of Evidence.

19 THE COURT: You want to know something, this
20 is not the time to put that on this record.

21 MR. TRAFICANT: You seem to never have time
22 for it, and it's critical to the Defendant.

23 THE COURT: We keep going over a lot of the
24 same ground here. You need to pay attention to what the
25 Court has already ruled on.

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1 MR. TRAFICANT: I agree. Your Honor, I
2 didn't call for the side bar; you did.

3 THE COURT: That's right because I wanted to
4 clarify some things about --

5 MR. TRAFICANT: Are you concerned --

6 THE COURT: It's a hearsay --

7 MR. TRAFICANT: But hear me.

8 THE COURT: -- statement, and so you have to
9 find a way under the rules.

10 MR. TRAFICANT: Question --

11 THE COURT: No, don't interrupt. I'm trying
12 to help you by telling you there could be some
13 circumstances under which you might be able to do this.

14 MR. TRAFICANT: Um-hum. I understand there's
15 a Pro Se Defendant that you have no obligation to help me.
16 Number 1.

17 Number 2, are you concerned that in your limiting my
18 use of 302's and after having reconsidered this, that maybe
19 you should be granting me more latitude? That's why we're
20 here at the side bar?

21 THE COURT: No. It's just that the situation
22 that we're in right now with this witness on the stand and
23 with what it is you're trying to use and how you're trying
24 to use it, I'm trying to make as clear as I can to you that
25 I can't -- I can't -- I can't really tell always what it is

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1 you're trying to say, so it matters that the Rules of
2 Evidence do control.

3 MR. TRAFICANT: In that regard, must an
4 attorney at every stage of the process let everybody know
5 what he may or may not be trying to accomplish? Is that an
6 issue the Court should be concerned with or not, concerned
7 with the issue at hand and that be the evidence?

8 THE COURT: Right. That's what I am
9 concerned with.

10 MR. TRAFICANT: Okay. And you've -- you've
11 now stated that under certain circumstances, this person
12 could be shown a 302, is that what you're saying?

13 THE COURT: A cleaned up copy of a 302. You
14 asked me could -- you said your understanding was, it
15 couldn't be shown to this witness, and the answer that I
16 gave you was no, but then I thought that there might be
17 some circumstance that would develop, which might lay a
18 basis for it.

19 MR. TRAFICANT: They said they have a clear
20 302. Are you saying --

21 THE COURT: No, we just sent the Court staff
22 out in order to get it for you so you'd have it available
23 to you.

24 MR. MORFORD: Your Honor, my understanding,
25 and we were up here before, was Congressman was asking to

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1 either put the 302 in evidence or show it to the witness
2 for purposes of putting those statements in the 302 into
3 evidence, which was --

4 MR. TRAFICANT: Asking questions.

5 MR. MORFORD: My understanding of the court's
6 ruling. However --

7 THE COURT: If it goes into evidence, it's a
8 little bit different than if it's not in evidence.

9 MR. MORFORD: Your Honor, I agree. The
10 Congressman may -- he asked Mr. Sinclair did you meet with
11 the FBI on such and such a date? Did they ask you this
12 question, did you give them this answer? And he says no.
13 Might it refresh your recollection if I show you something?
14 He can't tell them what he's showing. He can't say might
15 it refresh your recollection if I show you a 302.

16 THE COURT: And you can't read what it says,
17 but you can show it to him.

18 MR. MORFORD: Without saying anything, he can
19 show it.

20 MR. TRAFICANT: And he need not answer.

21 MR. MORFORD: You can ask does this refresh
22 your recollection if he says yes. You can ask the same
23 question again.

24 MR. TRAFICANT: Yes.

25 MR. MORFORD: Did he make this statement. If

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1 he says no, then you're done. That's my understanding of
2 how that rule works.

3 THE COURT: Right.

4 MR. TRAFICANT: Will I give you enough time
5 to go out and meet with him in the back room and clean that
6 up for yourself?

7 MR. MORFORD: I've not talked with
8 Mr. Sinclair since he -- since you began cross-examining.

9 MR. TRAFICANT: I understand and I am
10 completely -- I have no further interest here.

11 THE COURT: Thank you.

12 MR. MORFORD: In that you brought up that
13 rule, I would ask that the Court order the Government and
14 the Defendant that during the course of witness testimony,
15 that once the witness begins cross-examination by either
16 party, that the party that put the witness on can no longer
17 talk with the witness.

18 MR. TRAFICANT: I object to that. There may
19 be issues where you want to clarify questions you may want
20 to ask of a witness, and you must let the witness know what
21 you are trying to ascertain in their testimony, and if, in
22 fact, they're doing that understanding, I think they have
23 the right to examine what is the purpose of the question
24 that you asked, and did they understand that? You've been
25 meeting with these witnesses all along, quite frankly, I

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1 haven't met with any.

2 MR. MORFORD: I have not met with any
3 witnesses, and I don't meet with witnesses from the time
4 you begin cross-examination until they've finished
5 testifying.

6 MR. TRAFICANT: You mean every --

7 MR. MORFORD: That's not what I just said,
8 sir.

9 THE COURT: That's not.

10 MR. TRAFICANT: I know what he said, he said
11 since they start cross-examining, he hasn't, but this
12 witness has been sitting in the back with FBI agents, and I
13 have noticed it myself, and I have gone to the restroom.

14 Let me say one thing: I know you were concerned
15 about my situation, I have been on a little carbohydrate
16 type of diet and a little too much cheese. This is no
17 excuse or ploy, but I have been informed by some people
18 there are some laxatives that are not volatile and
19 combustible, and that they do produce normalcy.

20 Let me say this to you. There have been occasions
21 where that has not been the case, and I am not trying to
22 delay this trial.

23 THE COURT: No, but we -- you brought this
24 up.

25 MR. TRAFICANT: I have to go to the restroom.

Sinclair - Cross

1 THE COURT: I know you brought this up
2 yesterday, and without getting anyone else involved except
3 my immediate court staff, we set up a system so you could
4 alert us if you needed to leave, and this was no reason for
5 you to bring it up now on the record, but there it is, we
6 took care of it. I did know.

7 MR. TRAFICANT: It's not a continuing thing
8 for a ploy, it is, in fact, a --

9 THE COURT: Well, no, that's the way we took
10 it so we said if you just give us the signal to these
11 folks, they -- we'll call a recess. That's what we've been
12 actually doing.

13 MR. TRAFICANT: Thank you very much.

14 THE COURT: You're welcome. Okay?

15 MR. SMITH: Thank you, your Honor.

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

17 THE COURT: Mr. Traficant, they're still
18 copying these things, would it be possible for to you move
19 on to some other area you want to examine this witness on,
20 and then as soon as we get them, we'll make them available
21 to you?

22 MR. TRAFICANT: If you wish to move forward,
23 I'll be glad to move forward.

24 THE COURT: Okay. Let's get the witness
25 back.

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1 MR. TRAFICANT: Although I would like to --

2 I'll go along with the court

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

4 BY MR. TRAFICANT:

5 Q. Welcome back, everybody.

6 You are currently the owner of 11 Overhill Drive?

7 A. No, I am not.

8 Q. Who is the owner?

9 A. My wife.

10 Q. Do you recall being asked by any FBI agent when you
11 were the owner of 11 Overhill Road?

12 A. I recall the subject matter being discussed, but not
13 specifically.

14 Q. To whom did the tenants make their checks out to when
15 they paid the rent at 11 --

16 A. KAS Enterprises.

17 Q. To whom did they make the checks out to when you were
18 a congressional staff employee?

19 A. KAS Enterprises.

20 Q. And you stated you had conversation with two D. C.
21 Staff members?

22 A. That's correct.

23 Q. And could you repeat their names again?

24 A. Paul Marcone and Charles, Charlie Straub.

25 Q. And what was the extent of the conversation you had

Sinclair - Cross

1 with Mr. Straub, for example?

2 A. I can't recall the specifics of the conversation, but
3 it dealt with the issue concerning the ownership of the
4 building.

5 Q. And did he give you a response?

6 A. Between him and Mr. Marccone, yes.

7 Q. So the two of you then had given your response?

8 A. Yes, sir.

9 Q. Did you, yourself, personally call any Government
10 entity at the House Ethics Committee or any function of the
11 House of Representatives of Congress that would have
12 jurisdiction over these issues? Did you make any personal
13 call for any further clarification?

14 A. No, I did not, outside of Mr. Marccone and Mr. Straub.

15 Q. So you relied upon their judgment in this legal
16 matter?

17 A. And my own.

18 Q. And your own?

19 A. Yes, sir.

20 Q. Fine.

21 Now, when you met with the Government, the Government
22 referred to you with a code name or some code word that
23 would automatically know that in their dealings with you,
24 that you were the one making the statements?

25 A. Not that I'm aware of.

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1 Q. And you met with the federal government how many
2 times?

3 A. Several. I can't tell you the exact number.

4 Q. When you had conversations with the FBI, did they
5 ever relate to you whom they referred to as the, quote
6 unquote, source for their materials?

7 A. No, sir.

8 Q. So you have no knowledge of what or who the source
9 was for these informations of questions they were asking
10 you?

11 A. Well, they were asking me questions, and I was
12 answering them.

13 Q. But did they identify to you the source which was the
14 predicate for the reason why they asked you those
15 questions?

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

17 Q. Well, did they identify to you in any way who the
18 source was that caused them to have asked you the question
19 that you would have answered?

20 A. I think to answer your question, I have no idea what
21 you're talking about of the source.

22 Q. So you never were informed of who the source was?

23 A. I am confused with your question, sir.

24 Q. Well, let's see if we can get beyond your confusion.

25 Did the Government ever state that they had

Sinclair - Cross

1 information from a source to you?

2 A. My dealings with the FBI agents concerned information
3 that I had. I'm not aware of any other information that
4 they had outside of what we were talking about specifically
5 at the time, if that answers your question.

6 Q. So you did not know who the source was in any
7 conversation with the FBI?

8 A. If you're defining the word the source as some person
9 or entity, no, I had no idea what you're talking about.

10 Q. Thank you.

11 Did the Government or the IRS or the treasury or the
12 C I A or whoever, did they ever ask you about my horse
13 business?

14 A. No, sir.

15 Q. So the horse business was never a part of your
16 discussions with them?

17 A. No, sir.

18 Q. Did the Government ever ask you about my mental and
19 physical well-being and competency?

20 A. No, I don't think any questions were asked of me. I
21 may have offered information concerning your health.

22 Q. The Government asked you questions about my
23 relationship with Mr. Cafaro?

24 A. Well, concerning the fact that I testified that I saw
25 J. J. Cafaro's name on one of the envelopes that contained

Sinclair - Cross

1 money, to that respect, yes.

2 Q. You said you saw an envelope with his name on it?

3 A. Yes, sir.

4 Q. I see. And you saw Mr. Cafaro hand me this envelope?

5 A. No, I did not.

6 Q. And where did you see that envelope?

7 A. This was in my basement on the night of the 24th,
8 January.

9 Q. And did you memorialize and preserve a copy of that?

10 A. No. I believe those are one of the envelopes that
11 were completely burned.

12 Q. I see. You were at that time fully cooperating with
13 the Government; is that right?

14 A. That is incorrect.

15 Q. You were familiar with the allegations in the trial
16 that concerned Mr. Cafaro reportedly having given me money?

17 A. At which time period are you talking about?

18 Q. Well, at about the time you said you did go ahead and
19 burn the so-called envelopes?

20 A. No, at that time, I didn't -- I don't recall any
21 personal knowledge that Mr. Cafaro was involved in the
22 situation at all.

23 Q. Well, then, why did you burn the envelopes?

24 A. I'm sorry?

25 Q. Why did you burn the envelopes? You were helping the

Sinclair - Cross

1 Government.

2 A. No, I wasn't. I did it at your direction.

3 Q. And what day was that?

4 A. That was January 24 in the evening.

5 Q. And when did you start cooperating with the
6 Government?

7 A. I gave my proffered statement on January 31st, that
8 particular Friday.

9 Q. I see. But you had met several times previously with
10 the FBI about matters involving the Traficant case; is that
11 correct?

12 A. I met with the FBI on January 21st and on January
13 24th.

14 Q. On February the 4th, after having already been
15 cooperating with the Government, and you did get did you
16 not.

17 A. There are a couple questions there. Which would you
18 like me to answer?

19 Q. Were you working with the Government before February
20 the 4th?

21 A. Yes.

22 Q. Okay. When did you get -- did you get immunity?

23 A. Yes, I did.

24 Q. When exactly did you get immunity?

25 A. That would have been on January 31, the day I gave my

Sinclair - Cross

1 proffered statement.

2 Q. On February the 4th, did the FBI make you aware that
3 you were observed by a source in a car with the
4 Congressman?

5 MR. MORFORD: Objection, the basis --

6 MR. TRAFICANT: For what?

7 THE COURT: -- for the question.

8 MR. TRAFICANT: I'd ask a ruling.

9 THE COURT: Well, first, we'll do what we
10 always do. We take the Court Reporter over here to the
11 side, and let's talk about it, okay?

12 MR. TRAFICANT: Before we do that, your
13 Honor, could you repeat the question? I do not believe it
14 really warrants the waste of the jury's time, and I'll be
15 glad to rephrase it.

16 THE COURT: I think it deals with the content
17 of the question

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

19 THE COURT: Okay. Mr. Morford.

20 MR. MORFORD: Your Honor, the reason for my
21 objection is we just explained to Congressman Traficant
22 that when the 302 says saw Congressman Traficant or
23 Mr. Sinclair together, that it's actually Sinclair who was
24 providing the information so that Sinclair is telling the
25 FBI that he was with Congressman Traficant so, therefore,

Sinclair - Cross

1 there's no basis to ask if Sinclair was aware that a source
2 saw him.

3 MR. TRAFICANT: Please. There is -- this is,
4 although I'm not an attorney, methodology to try impeach
5 witnesses that becomes critical, and again --

6 MR. MORFORD: Keep your voice down.

7 MR. TRAFICANT: Getting back to the point,
8 did the FBI inform him that a source had seen he and I
9 together.

10 THE COURT: He is the source.

11 MR. MORFORD: That's this witness.

12 THE COURT: He is the source.

13 MR. TRAFICANT: But I want to know what his
14 answer was.

15 THE COURT: Well --

16 MR. TRAFICANT: Whether he was told by the
17 FBI or not.

18 MR. MORFORD: You have to have a basis to ask
19 the question. If you're going to put --

20 MR. TRAFICANT: Keep your voice down.

21 MR. MORFORD: If my objection is, if you're
22 going to put facts --

23 MR. TRAFICANT: Well --

24 MR. MORFORD: Please.

25 THE COURT: Listen. It's to the content.

Sinclair - Cross

1 MR. TRAFICANT: Were you informed by the FBI
2 that his source had, in fact, seen you with the Congressman
3 on February the 4th?

4 MR. MORFORD: And I object to that question.
5 If you're going put facts into a question, you have to have
6 a basis for asking those facts. You cannot pose a question
7 under false information. That's why I objected.

8 THE COURT: And he already knows he's the
9 source that's referred to.

10 MR. TRAFICANT: Yeah, but he says he doesn't
11 know who the source is.

12 THE COURT: Well, that's right. You can't
13 impeach that by using something you already know that he
14 himself is the source. How could he himself know that he
15 was the source?

16 MR. TRAFICANT: All he has to say is no,
17 what's the problem.

18 THE COURT: The problem is, it gives the
19 implication to the jury of something exceedingly different.

20 MR. TRAFICANT: Yeah, on the jury.

21 MR. MORFORD: You have no factual basis for
22 making that --

23 THE COURT: If you have a factual basis, you
24 can do that. It's a -- okay? Let's go.

25 THE CLERK: Let me add, Congressman, your set

Sinclair - Cross

1 of clean copies of the document is on the corner of the
2 table.

3 MR. TRAFICANT: Thank you.

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

5 BY MR. TRAFICANT:

6 Q. Back to the envelope with Mr. Cafaro. What was the
7 date of that -- was that January 24th, did you say?

8 A. Yes, sir.

9 Q. Okay. And where was the Congressman, to the best of
10 your knowledge?

11 A. The spring of 2000?

12 Q. And was it not reported allegedly so-called crimes
13 were listed widely throughout the press?

14 A. After the indictment?

15 Q. Before the indictment?

16 MR. MORFORD: Can we have a date as to how
17 far before the indictment he's asking the witness?

18 BY MR. TRAFICANT:

19 Q. Once the subpoenas came out in 1999, and the records
20 of the Congressman were, in fact, subpoenaed, were you
21 concerned?

22 A. My understanding of the records that were subpoenaed
23 in 1999 were records that were public nature anyways, and I
24 was aware that they involved records concerning the
25 Overhill Road address.

Sinclair - Cross

1 Q. And they also listed records concerning other matters
2 as well; is that correct?

3 A. Yes, but I can't specifically recall what the other
4 matters were.

5 Q. So you do not recall that the matter of Cafaro U.S.
6 Aerospace was a part of the documentary evidence that was
7 sought by the Government?

8 MR. MORFORD: Your Honor, can we have a date
9 on that question?

10 Q. That would be sometime after the news broke on the
11 subpoena being public record?

12 THE COURT: So we still need to know for
13 those who don't know.

14 MR. TRAFICANT: That would be early 2000,
15 late '99.

16 THE COURT: Okay.

17 MR. MORFORD: I must object. There's no date
18 that he's asking.

19 THE COURT: Right. Well, he's asking him for
20 a period of time. Were you on the Congressman's staff, at
21 that time?

22 THE WITNESS: Yes, your Honor.

23 THE COURT: Okay. Well, he may have reason
24 to know what that refers to.

25 MR. TRAFICANT: Okay. If the Prosecutor's

Sinclair - Cross

1 going to stand and object to all these things, I think
2 we're going to be here for about four hours. I think these
3 are straight forward to the Congressman's questions.

4 THE COURT: Congressman, these are arguments.
5 Just ask the question.

6 MR. TRAFICANT: Okay. Fine.

7 BY MR. TRAFICANT:

8 Q. In late '99, it was sensational news, the former
9 Congressman once charged with bribery and acquitted, now
10 the Government sought all of its records.

11 THE COURT: What is your question?

12 Q. And the records were listed in the paper that they
13 specifically wanted --

14 THE COURT: That's your statement, sir.
15 You're trying --

16 MR. TRAFICANT: No. Did they not, in fact,
17 list specifically the type of documents they were seeking?
18 Yes or no.

19 THE COURT: We'll let you answer the
20 question, but in the future, you have to ask the question
21 so that he gives the answer that you're trying to elicit.

22 MR. TRAFICANT: Fine. Yes or no.

23 THE COURT: Can you answer that?

24 THE WITNESS: The only thing I can recall
25 personal knowledge were that the records that were

Sinclair - Cross

1 subpoenaed were of a public nature, and that a lot of the
2 documents concerned the entire agreement over the years
3 from when you first became Congressman, and to be honest
4 with you, I cannot remember any of the other details
5 concerning these subpoenas.

6 Q. So on January 24th of 2001, now having been dealing
7 with the Government, right, you weren't dealing with them
8 until the 31st; is that correct?

9 A. That's correct.

10 Q. You didn't sign the proffer until the 31st?

11 A. That's correct.

12 Q. But you met with the Government before then and had,
13 in fact, answered some of their questions, had you not?

14 A. As I stated, I met with the Government January 21 and
15 January 24th.

16 THE COURT: Would you state the year?

17 THE WITNESS: Of 2000.

18 THE COURT: Thank you. I think you said 2001.

19 MR. TRAFICANT: 2000, forgive me. I may be a
20 couple years ahead here.

21 THE COURT: Okay.

22 Q. Are you an attorney, Mr. Sinclair?

23 A. Yes, I am.

24 Q. And you just purchased ads in the Yellow Pages of the
25 phone book, two pages, for the 2002 book that will cost

Sinclair - Cross

1 between \$20 to \$30,000?

2 A. I think I answered that question yesterday, and your
3 question is correct.

4 Q. Okay. You said yesterday that you carried over some
5 old television and radio ads, is that your testimony?

6 A. I'm sorry, that I did what?

7 Q. You carried over some old radio and television ads
8 that you had, but you made no significant expense on them?

9 A. I don't understand what you mean carried over.

10 Q. Well, that you had paid before, and you had some
11 outstanding, and that it was not a money issue when I asked
12 you that question?

13 A. I said --

14 Q. Does that refresh your memory?

15 A. I still don't understand the nature of the question.

16 Q. Let me ask you this question: Did you in the Year
17 2000, buy radio and television ads?

18 A. In the Year 2000? No, I did not.

19 Q. In the year 2001?

20 A. No, I did not.

21 Q. For the upcoming year 2002, have you made a purchase?

22 A. Of what, sir?

23 Q. Media ads, television or radio?

24 A. No, sir, no television or radio.

25 Q. No cable?

Sinclair - Cross

- 1 A. No, cable.
- 2 Q. Only the Yellow Pages?
- 3 A. That is correct.
- 4 Q. Any other publications, any other expense of
5 advertising of your business?
- 6 A. For the coming year?
- 7 Q. Yes, and for this current year.
- 8 A. No, I believe the only advertising that I'm doing as
9 far as media purchase would be considered the Yellow Page
10 advertisements.
- 11 Q. That's a two-page with the picture?
- 12 A. Yes, sir.
- 13 Q. What is the exact cost of that?
- 14 A. I can't tell you the exact cost of that specific ad
15 because the cost is blended in with another area in
16 Columbiana County that I also have a full page ad in. The
17 approximate cost for those two ads are \$3500 a month.
- 18 Q. \$3500 a month?
- 19 A. Yes, sir.
- 20 Q. And see if my math is correct, \$3500 times 12, that
21 would be \$42,000?
- 22 A. If your math is correct.
- 23 Q. Do you believe it is?
- 24 A. Sure.
- 25 Q. Thank you. So in 2000, you made no ads?

Sinclair - Cross

- 1 A. No, that's not correct. No adds regarding, no
2 television or radio, you are correct.
- 3 Q. But in 2000, you had the Yellow Page ad?
- 4 A. I'm sorry. You confused me.
- 5 Q. In the Year 2000, did you have Yellow Page ads?
- 6 A. Yes, sir.
- 7 Q. And were they two pages?
- 8 A. Yes.
- 9 Q. And did they have your photograph?
- 10 A. Yes.
- 11 Q. And is that not quite an expensive ad?
- 12 A. I would agree with you.
- 13 Q. And how much did those ads cost you?
- 14 A. I believe I just testified to that.
- 15 Q. So it was about the same as the following year, about
16 \$3500 a month?
- 17 A. Are you referring to the Year 2000?
- 18 Q. Yes.
- 19 A. I believe in the Year 2000, I do not have what is
20 called a double impact page. The AmeriTech phone book for
21 the Youngstown Warren area runs from March to March, so
22 it -- there's some overlapping of the years.
- 23 Q. Some overlap. Nevertheless, you had presence in 2000
24 in the Yellow Page ads?
- 25 A. Yes, sir.

Sinclair - Cross

1 Q. And, in fact, did you not have it in Columbiana
2 County in that process?

3 A. Yes, I did.

4 Q. What would your guesstimate be on your cost over that
5 period of time between overlapping the coming year, which
6 would be \$42,000; guesstimate?

7 A. As I testified, the ad for Youngstown, Warren and
8 Columbiana County is approximately \$3500 a month, and there
9 may be some other charges in there for -- it's basically a
10 phone bill. It is broken down, but I cannot give you
11 accurate testimony today as the breakdown.

12 Q. How about the Cleveland Indian's ballpark figure?

13 A. About \$3500 a month.

14 Q. So another \$42,000?

15 A. You are confusing me with another \$42,000. I don't
16 understand what you mean.

17 Q. You're saying it was not a total 42 for the one year
18 and 42 for another. There's some carry-over from the last
19 year end. Is that what you're saying, or my question is
20 specifically for the new book that's coming out, is it
21 going to cost you \$42,000 in the new book of AmeriTech
22 Yellow Pages for you to run your ad?

23 A. For the year 2002 through 2003?

24 Q. Yes.

25 A. I believe that figure may have gone up a little bit.

Sinclair - Cross

1 Usually, the ads go up every year.

2 Q. How much do you project it will be for those two
3 years?

4 A. I believe it will be approximate hi \$3800 a month.

5 Q. Oh. So we're getting up close to what, \$50,000 a
6 year?

7 A. If your math is correct.

8 MR. TRAFICANT: I might ask the Court request
9 if the Government can get me drinking water here on the
10 table?

11 MR. SMITH: That's fine.

12 MR. TRAFICANT: Thank you.

13 BY MR. TRAFICANT:

14 Q. I would like to now look at a federal form, dated
15 January 24, 2000, that has been -- must apologize, cleaned
16 up by my cumbersome writing, and I brought it up to you,
17 but because I had written on it, I was not allowed to show
18 it to you. Might I present this to the Court and ask that
19 this be brought into evidence as S-27 or at least be
20 offered to be viewed by the witness at this time if not
21 entered into evidence?

22 THE COURT: You haven't -- we've been over
23 this about what it would take in order to be able to put
24 this in front of the witness.

25 MR. TRAFICANT: Fine.

Sinclair - Cross

1 THE COURT: And that has not happened here.

2 MR. TRAFICANT: Okay. Can I show the witness
3 this statement?

4 THE COURT: Not as things are right now.
5 If -- if you can't remember what we went over over this
6 last break, over the lunch, I'll be glad to go over it
7 again.

8 MR. TRAFICANT: What I remember was, if it
9 would refresh --

10 THE COURT: No, no, no, no, Congressman, ask
11 the next question of the witness. Move on to your next
12 question. We went over this extensively during the break,
13 and there's no reason right now, since it's a legal issue
14 and not an issue for the jury, for us to go over it. I'll
15 be glad to meet with you over the lunch break.

16 MR. TRAFICANT: My purpose was to refresh
17 memory. I'm sure we want to know what the witness knows.

18 THE COURT: Well, there hasn't been any kind
19 of a basis laid for that at this point. So we'll go over
20 the rules again with you some time over a break. Just go
21 to the next question, please.

22 MR. TRAFICANT: Thank you.

23 BY MR. TRAFICANT:

24 Q. Do you recall a meeting with the FBI on February 17,
25 2000?

Sinclair - Cross

- 1 A. No, sir, not specifically.
- 2 Q. Do you recall an agent asking you about the ownership
3 of the building and KAS Enterprises?
- 4 A. At what time period?
- 5 Q. As I stated earlier, February 17th. Do you need a
6 little piece of paper and pencil? I'll be glad to provide
7 it.
- 8 A. Your question, sir?
- 9 Q. My question was that the FBI, at any time and more
10 effectively on February 17th, make inquiries about your
11 wife's ownership with KAS Enterprises?
- 12 A. No, I don't recall any FBI agent making any specific
13 inquiry on February 17th concerning KAS Enterprises.
- 14 Q. At some time you informed the Government that you
15 intended to tape a party?
- 16 A. No, sir.
- 17 Q. Did you ever tape anyone involved with you or this
18 case or your partnership?
- 19 A. Can we take that one at a time? Did I ever take --
- 20 Q. You ever tape, for example, did you ever have any
21 tape on me or anyone associated with me?
- 22 A. No, sir.
- 23 Q. Did you make a tape?
- 24 A. Are you talking about video?
- 25 Q. Video or audio?

Sinclair - Cross

1 A. No, sir.

2 Q. To the best of your knowledge, did the Government ask
3 you to do that?

4 A. No, sir.

5 Q. To the best of your knowledge, do you know if the
6 Government did that?

7 A. No, I do not have any knowledge of that.

8 Q. Now, did you tape anyone who was on this staff of the
9 Congressman?

10 A. No, sir.

11 Q. Voluntarily?

12 Did you tape anyone who had any connection with you
13 in any concerns you might have in this case?

14 A. Any concerns with me?

15 Q. Yeah, that you might have in this case as it could,
16 in fact, concern you and the family?

17 A. No, sir.

18 Q. I mean, in general, did you tape somebody for any
19 purpose?

20 THE COURT: Give him a time period.

21 MR. TRAFICANT: On or about the Spring, after
22 you had reached an agreement with the Government.

23 THE WITNESS: Did I tape somebody? No, no,
24 sir.

25 Q. Okay. Is it your testimony here that you did not

Sinclair - Cross

1 tape Alan Matavich concerning Henry DiBlasio?

2 A. I did not personally tape him, no.

3 Q. You were asked if you had knowledge if there were any
4 tapes of anybody concerning your case?

5 A. You were asking me if I taped anybody. I did not
6 tape anybody.

7 Q. Do you know who, in fact, did that taping?

8 A. The FBI did tape a conversation I had with Matavich,
9 yes.

10 Q. I did previously ask you if the Government had asked
11 you if you had done any taping?

12 A. Yes.

13 Q. Okay. Did the Government come to you with the
14 appropriate paperwork to, in fact, effect the legality of
15 you to go ahead and do that?

16 MR. MORFORD: Objection. The question
17 assumes things that aren't required.

18 THE COURT: There's nothing in evidence of
19 that.

20 Q. Well, and I have testified the Government taped a
21 conversation between you and Mr. DiBlasio's attorney; is
22 that correct?

23 A. That is correct.

24 Q. Are you familiar with attorney-client privilege, Mr.
25 Sinclair?

Sinclair - Cross

1 A. Yes, I am.

2 Q. And you went along honk with the Government, and
3 on -- would you say somewhere around the middle of June,
4 you went ahead and taped Mr. Matavich?

5 A. I can't recall the specific time period, but it was
6 done, yes.

7 Q. Fine. Where did that taping occur?

8 A. In my office on 11 Overhill Road.

9 Q. So then the Government did use you to tape sides in
10 this case?

11 A. The only individual I was aware of was Attorney
12 Matavich.

13 Q. Yes. But my question was, they did use you to tape
14 witnesses in this case?

15 A. For that specific purpose, yes.

16 Q. Yes. Thank you.

17 Now, you said when they put that big thing on the
18 wall about the Congressman trying to fraudulently hide his
19 assets, if that's the exact words I think that came out of
20 this, that you put my name down as the preparer; is that
21 correct?

22 A. You're referring to the quit claim deed?

23 Q. Did you prepare it?

24 A. I typed it for you.

25 Q. Did you prepare it?

Sinclair - Cross

1 A. I typed it for you, yes.

2 Q. Did I prepare it?

3 A. You did not type it, no.

4 Q. Is Mrs. Traficant my wife?

5 A. As far as I'm aware.

6 Q. As an attorney who has a two-page ad that specializes
7 in injury, divorce, security matters, real estate
8 transaction, properties, wouldn't any prudent attorney,
9 relative to such an action, in fact, ensure that a quit
10 claim deed would carry no dowry rights, and I've asked you
11 that before, and your testimony was, you could, in fact --
12 let me quote you, quit claim this building, which we know
13 you can't because the federal government owns it.

14 Is Patricia Traficant my wife?

15 A. Yes.

16 THE COURT: There was a statement in there by
17 the Congressman about which you can't consider, because
18 the federal government owns it, you have to disregard that.
19 That's not evidence in this case. That's an opinion of
20 his.

21 MR. TRAFICANT: I think we're trying to
22 establish some understanding here.

23 THE COURT: Well, still --

24 MR. TRAFICANT: He made the statement, not
25 me.

Sinclair - Cross

1 THE COURT: Not that statement.

2 MR. TRAFICANT: He made the statement he
3 could quit claim this deed on this building yesterday.

4 THE COURT: That's right.

5 MR. TRAFICANT: And I was just returning to
6 that, your Honor. Is that objectionable?

7 THE COURT: You're also trying to state
8 something yourself on the record. He's in the witness box.
9 He's sworn to tell the truth. You're cross-examining.

10 MR. TRAFICANT: We certainly want him to tell
11 the truth.

12 THE COURT: Well, let's get on with the
13 cross-examination.

14 MR. TRAFICANT: I'm trying.

15 Q. And you said Patricia Traficant owned the farm, but
16 that she did not know about what I was really doing, was
17 that your testimony yesterday?

18 A. No, I did not testify to that.

19 Q. Okay. Did my wife sign the deed?

20 A. Yes, she did.

21 Q. Was that her property?

22 A. She has an interest in the property, yes.

23 Q. No, was that her property by title?

24 A. From the best of my recollection, the property was in
25 both of your names, I believe. I would have to look at the

Sinclair - Cross

1 deed to be positive of that.

2 Q. Okay.

3 Now, that was May 22nd of 2000, and you had already
4 been working with the Government; is that correct?

5 A. When are you referring to in your question as to what
6 I should answer? That I was no --

7 Q. The deed was made 22nd of the Year 2000, and at that
8 point, you were not working with the Government; is that
9 correct?

10 MR. MORFORD: Your Honor, I --

11 THE COURT: Can you give us the exhibit so we
12 can go to the exhibit?

13 MR. TRAFICANT: The exhibit is a deed, and it
14 was printed and put on the board yesterday, and I don't
15 think it need take that much longer to be put on the board.
16 It is a quit claim deed. Were you --

17 THE COURT: Well, just a minute. We'll find
18 it.

19 MR. MORFORD: Your Honor, I believe it's
20 Exhibit 6-11. And, your Honor, my objection is the basis
21 of his question because the date doesn't match the date on
22 the deed.

23 THE COURT: But you're not supposed to talk
24 about your objections in front of the whole jury. You're
25 supposed to say I have an objection, and we'll come over

Sinclair - Cross

1 and talk about it.

2 MR. TRAFICANT: But you see, they're getting
3 away with it, but I'm not.

4 THE COURT: Whoa, whoa.

5 MR. TRAFICANT: And I don't like that.

6 THE COURT: Would you just wait a minute,
7 please? Do we need to take a break?

8 MR. TRAFICANT: I don't need a break.

9 THE COURT: Good. Let's just take our time
10 here. This is important. Is it Government's Exhibit 611
11 that we're talking about? Congressman, is it 611 we're
12 talking about?

13 MR. TRAFICANT: I really don't have the
14 document. It was their document. Evidently -- is there
15 another page to this? This financing certificate is a
16 little problematic. I don't want to give you the finger.
17 Fine.

18 MR. MORFORD: Do you need this?

19 MR. TRAFICANT: No, I don't need it at all.

20 THE COURT: What's the date, Congressman, on
21 the deed that we're talking about?

22 MR. TRAFICANT: I would allow the Prosecutor
23 to ask that question.

24 THE COURT: No, I ask you, did you just look
25 at it.

Sinclair - Cross

1 MR. TRAFICANT: Your Honor, I don't remember
2 the date of the deed.

3 THE COURT: It appears to be dated December
4 10th of '99 on the front. It was notarized on the 7th of
5 January, '99.

6 MR. TRAFICANT: That is true.

7 THE COURT: Okay. Well, that's important so
8 that the jury doesn't have an idea that's not correct about
9 what the document says. Okay?

10 BY MR. TRAFICANT:

11 Q. Did you state at that time that you weren't sure who
12 owned the property totally, was that your statement?

13 A. What time, sir?

14 Q. When you prepared this quit claim deed?

15 A. At the time it was prepared, I believed that I had
16 done the necessary research for you to determine it was a
17 problem who was the proper owner because I believe you
18 yourself weren't sure how the property was titled.

19 Q. So you didn't do a title search, you just went ahead
20 and had a quit claim deed even though it could have been
21 owned by McDonald's Corporation. Is that your statement?

22 A. No, I did a research to see the nature of how the
23 deed that was filed before and how the names were listed on
24 that particular deed.

25 Q. Fine.

Sinclair - Cross

1 THE WITNESS: I don't know, I can't answer
2 that question.

3 Q. Did you ever see Mr. DiBlasio give me any money?

4 A. No, sir.

5 THE COURT: Congressman, these are very long
6 pauses between questions. See if you can move on to
7 another question, please.

8 MR. TRAFICANT: I'll ask the Court, this is
9 not really a walk in the park, either.

10 THE COURT: No, I understand that.

11 BY MR. TRAFICANT:

12 Q. As an attorney, you are aware that for certain
13 actions, you can be disbarred; is that correct?

14 A. That is correct.

15 Q. Could you explain some of them to the jury?

16 A. Well, there are a variety of reasons.

17 Q. Could you explain some to the jury?

18 A. Well, it can range from your actions concerning
19 clients, not representing clients zealously.

20 Q. Client misconduct?

21 A. Client misconduct, commissions of clients, drug
22 alcohol abuse, any -- anything that would involve the
23 character and fitness of being able to practice law.

24 Q. Now, you signed a proffered agreement with the
25 Government; is that correct?

Sinclair - Cross

1 A. That's correct.

2 Q. But in the beginning, you said there were no
3 kickbacks; is that correct?

4 A. No, that's not correct.

5 Q. Okay. At some point, the Government began to
6 question you about KAS Enterprises; is that correct?

7 A. No, sir, I don't believe you're correct. To me, that
8 was not really an issue.

9 Q. Okay.

10 Even though you have an immunity in this court, do
11 you have an immunity?

12 A. Yes, I do.

13 Q. Who granted it to you?

14 A. The Government.

15 Q. Whom in the Government granted it to you?

16 A. I would assume the Justice Department.

17 Q. Does anyone in the Justice Department carry a name or
18 face?

19 A. It's the United States, on behalf of the people.

20 Q. Did Uncle Sam in the red white and blue hat come to
21 you, say, my man, you have immunity?

22 A. Well, I think, of course, the answer to that question
23 would be no.

24 Q. Was this anybody in this room that offered you the
25 immunity, that proffered you the immunity?

Sinclair - Cross

1 A. Mr. Morford.

2 Q. Is he here in the room?

3 A. Yes, sir.

4 Q. Point to him and identify him.

5 A. I think everyone knows who Mr. Morford is.

6 Q. I want you to point to him and identify him.

7 A. This is Mr. Morford.

8 MR. TRAFICANT: Let the record reflect he's
9 made a positive identification of Mr. Morford.

10 THE COURT: He has.

11 Q. Do you also understand, though, that that immunity --
12 or do you understand there's immunity under those
13 circumstances that that immunity relates to your criminal
14 behavior, your purported criminal behavior?

15 A. If any, yes.

16 Q. But it does not, in fact, overlap and protect you
17 from a civil action, does it?

18 A. That's correct.

19 Q. Now, under the circumstances of your testimony here,
20 if an attorney would be offended, believing you to be
21 truthful or not, could they not raise a question with the
22 Ohio Bar and have you disbarred out of the testimony you've
23 just given?

24 A. I'm sure it could be done, yes.

25 Q. Did the Government intervene and tell you they would

Sinclair - Cross

1 intervene and protect you from disbarment and protect your
2 law license? Yes or no.

3 A. No, sir.

4 Q. Now, you started working with the Government on the
5 31st of January?

6 A. That's correct.

7 Q. Now, you and I had a lease, and what were the terms
8 of that lease relative to separation?

9 A. I would have to review that to answer that question
10 properly.

11 Q. Could I refresh your memory then and see if this
12 might help to expedite the Court process. Do you know if
13 this was a 30-day clause where either party for cause
14 could, in fact, terminate the lease?

15 A. Again, I don't specifically recall the terms of the
16 lease.

17 Q. Might I inquire of the Government if they have a copy
18 of the lease?

19 MR. MORFORD: I don't think we do.

20 MR. TRAFICANT: I will withhold that for
21 further questioning of this witness.

22 THE COURT: Fine.

23 MR. MORFORD: I think we might have it.

24 THE COURT: Okay. If you want to wait a
25 minute. They're looking.

Sinclair - Cross

1 MR. TRAFICANT: KAS, Kimberly A. Sinclair

2 Enterprises: Boy, you guys are efficient. Thank you.

3 MR. SMITH: You're welcome.

4 MR. MORFORD: Your Honor, it's in the book.

5 THE COURT: Thank you.

6 MR. TRAFICANT: Your Honor, they have -- I
7 believe you've already introduced this. Can I show this
8 lease to the witness, your Honor?

9 THE COURT: Is this the lease that --

10 MR. TRAFICANT: It is dated.

11 THE COURT: One second.

12 MR. TRAFICANT: December, 1998, there's no
13 date on it. 11th day of December, 1998.

14 MR. MORFORD: That was marked yesterday, your
15 Honor, and we have no objection to him showing it to the
16 witness.

17 THE COURT: Okay. Take it up.

18 MR. TRAFICANT: Being an attorney of law and
19 understanding this work, having performed this work, did
20 you peruse through this as expediently as possible and find
21 the salient point that, in fact, directs yourself to the
22 question I just asked?

23 THE WITNESS: Paragraph 3 states this lease
24 agreement may be terminated by either party, by giving 30
25 days notice in writing to the other party.

Sinclair - Cross

1 Q. Is that 30 days notice?

2 A. 30 days notice, that's what's stated in the lease,
3 yes, sir.

4 Q. By either party?

5 A. By either party.

6 Q. Thank you. And I want to thank you guys.

7 MR. SMITH: You're welcome, sir.

8 Q. Now, you entered into a cooperative agreement with
9 the FBI, the U.S. Attorney, and the Internal Revenue
10 Service on January 31, of 2001, correct?

11 A. I don't know if you're involving all those branches
12 of Government as one entity, but I would have to disagree.

13 Q. When did you begin cooperating with the Government,
14 whichever form they were, including the Salvation Army if
15 it's applicable here?

16 A. I made my intent to cooperate that week prior on
17 January 31st and sat down to give my proffer statement on
18 January 31st, Year 2000.

19 Q. So on January 24th, you basically had committed
20 yourself to become a Government witness and cooperate with
21 them, is that a true statement?

22 A. I don't think I can answer that a yes or no. I was
23 debating in my own mind and torn with my loyalties to you,
24 sir. Thank God I did the right thing.

25 Q. Yeah. Your loyalty is very apparent.

Sinclair - Cross

1 So from January 24th, at least, right, or let's give
2 you the benefit of the doubt, say January 31st, you were
3 now appalled, you didn't want me around you anymore.

4 THE COURT: Sir you're trying to testify, you
5 can't.

6 MR. TRAFICANT: No, he testified to this.

7 THE COURT: Just ask the question.

8 Q. Okay.

9 Did you want me around your office anymore after
10 January 31st?

11 A. The moment you asked me to lie for you, I lost all
12 respect for you, and yes, I did at that time.

13 Q. All right. That is your statement that you asked me
14 to lie?

15 A. Yes, it is my statement.

16 Q. All right.

17 Then having said so and having lost all respect, why
18 did you not exercise your right to remove me on February
19 1st?

20 A. I believe we had -- we had talked about you moving
21 out of the building many months prior even. My attempts
22 with talking, but I would get no response from you, or we
23 would talk about it later, or it was a bad time to talk
24 about this. I don't know if I had accurately answered your
25 question.

Sinclair - Cross

1 Q. As an attorney, what does a response have to do with
2 the legal term in a contract? Did you have in your
3 possession a contract that could have removed me as early
4 as February 1st?

5 A. You're correct.

6 Q. Could you not have mandated and evicted me February
7 1st?

8 A. I could have placed you on notice at that time, yes.

9 Q. Could you have me removed by March the 1st?

10 A. I certainly tried.

11 Q. And was it not a fact that I left 11 Overhill
12 February the 1st, 90 days later?

13 A. Yes, sir.

14 Q. So there were 90 days when you said you had someone
15 you disrespected because he asked you to lie, in your
16 building, you said you didn't want him in the building, but
17 you said you did not ask the Government the permission to
18 report conversations with the Congressman. Did you ask the
19 Government permission to tape the Congressman's
20 conversations?

21 A. Did I ask permission of the Government to tape the
22 conversation? Was that the question?

23 Q. Yes, unless there's an echo, I think you hit it right
24 on the head.

25 A. No, I did not.

Sinclair - Cross

1 Q. Okay.

2 In this 90-day period, did the Government ask you, as
3 they had asked you to tape Attorney Matavich in a related
4 matter concerning your testimony, did they ask you to wear
5 or to, in fact, tape me?

6 A. No, sir.

7 Q. Did you ever engage in conversations with the
8 Government relative to the potential of taping the
9 Congressman?

10 A. No, sir.

11 Q. Now, you're not a criminal attorney, are you, Allen?

12 A. No, sir.

13 Q. And I must admit you are a good attorney, and your
14 work was satisfactory by the way.

15 THE COURT: That's a statement. You'll have
16 to wait until it's made somehow from the witness stand,
17 subject to cross-examination.

18 MR. TRAFICANT: But I have a number of other
19 questions now, and I don't know what the status is of the
20 court in all fairness to the jury, I do now have some other
21 questions that could take some time, and I'm letting the
22 Court know that it is 11:15 and give you your notice of
23 that. I don't know where we stand because you asked me
24 earlier what my position was.

25 THE COURT: All right. We had an early break

Sinclair - Cross

1 this morning. I still would rather recess the jury at
2 noon. It's useful for lot of reasons for us to maintain a
3 regular schedule, but let me ask the jury, we have 45
4 minutes to go. Would you like a ten-minute break now.

5 THE JURY: No.

6 THE COURT: Would anyone, any of the
7 participants like a ten-minute break now.

8 MR. SMITH: The Government does not, your
9 Honor.

10 THE COURT: Okay. You can go forward,
11 Congressman

12 BY MR. TRAFICANT:

13 Q. As an attorney, are you familiar with the Code of
14 Professional Responsibility that governs the conduct of the
15 lawyers in the State of Ohio?

16 A. Yes, I am.

17 Q. Do you agree that you have testified to violations of
18 law here?

19 A. You have asked me to step in the shoes of the
20 Government? I don't believe I can answer that question.

21 Q. Well, then, can you tell me why the Government has
22 given you immunity?

23 THE COURT: Those two things don't
24 necessarily go together, Congressman.

25 Q. Let me put it this way: You have immunity, so you

Sinclair - Cross

1 can't be what? Would you answer that?

2 A. I have immunity so that the words that I say cannot
3 be used against me.

4 Q. You can't be prosecuted for what you say here, right?

5 A. That's correct.

6 Q. You can walk out of here with a get out of
7 jail freedom ticket, right, I mean, in street terms?

8 A. I wouldn't necessarily agree with that, but if that's
9 how you'd like to term it.

10 Q. I'm not. I'm asking you if you were caught in a lie?

11 A. That's correct. One of the conditions of the
12 immunity agreement is I testify truthfully.

13 Q. But nevertheless, after you're done with this trial,
14 you can go to another courtroom, be it federal or state or
15 municipality, and you can still practice law; is that
16 correct?

17 A. I currently have a license in good standing, yes.

18 Q. Is the disciplinary counsel in the State of Ohio
19 located in Columbus, to your knowledge?

20 A. Yes, there is an office of the disciplinary counsel
21 in Columbus.

22 Q. Have they taken any action regarding your testimony
23 to this point?

24 A. No, sir.

25 Q. Has the local Bar Association, in which you are, in

Sinclair - Cross

1 fact, a member, to your knowledge, taken any action
2 relative to your testimony?

3 A. I am aware that there is an investigation, yes.

4 Q. You know if there are any complaints filed against
5 you about your conduct relative to this case?

6 A. No, sir.

7 Q. Are you aware of any complaints filed by citizens of
8 your past actions with those former clients?

9 A. Other than what we discussed yesterday.

10 Q. Only one?

11 A. The complaint that we discussed yesterday is
12 considered what is known as a formal complaint, and yes,
13 that is the only one.

14 Q. To the best of your knowledge, do you know if any
15 member of the Government met with the local bar
16 association?

17 A. No, I'm not aware of that.

18 Q. Do you know, or to the best of your knowledge, did
19 the federal Government or any of its entities meet with the
20 licensing board in Columbus?

21 A. No, I have no knowledge.

22 Q. Relative to your matter?

23 A. No, I have no knowledge.

24 Q. Does the lawyer swear an oath when they're, in fact,
25 made a member of the bar and allowed the opportunity to --

Sinclair - Cross

1 this great opportunity to represent the American people in
2 civil and criminal proceedings?

3 A. Yes, it is a privilege, and I am an officer of the
4 court.

5 Q. Does a lawyer have a responsibility to report
6 wrongdoings when they, in fact, discover those wrongdoings?

7 A. Yes, they are.

8 Q. Pardon?

9 A. Yes, they are.

10 Q. And do they not, in fact, have a responsibility, if
11 it's criminal, to report it to criminal authorities?

12 A. Depends on what context you're using that in.

13 Q. Well, do you understand what a crime is as an
14 attorney, Mr. Sinclair?

15 A. Yes, I do.

16 Q. And you believe there were crimes committed in this
17 case?

18 A. The disciplinary rules regard --

19 Q. That's not my question. I asked you, do you believe
20 there were crimes committed in this case? Yes or no.

21 A. Yes, I do.

22 Q. Okay. And is it not a requirement of the Code of
23 Ethics of an attorney to report immediately crimes where
24 you have, in fact, personal knowledge?

25 A. I would need to review the specific disciplinary rule

Sinclair - Cross

1 regarding that subject matter, but as I tried to state to
2 you before, the conduct of the disciplinary rule regards
3 actions between an attorney and his client.

4 Q. I do not want to interrupt you. I am not talking to
5 you about the Ohio disciplinary rules; I am talking to you
6 about the code and the oath that a lawyer signs. You said
7 you are an attorney. You do know what a crime is. I would
8 assure you that you know both the difference between
9 criminal and civil actions.

10 Is it not the duty of an officer of the court, which,
11 in fact, a lawyer is, to report wrongdoing or crime once
12 they have, in fact, uncovered it, yes or no?

13 A. That's exactly what I did.

14 Q. But you said in your testimony that you believed that
15 there was a crime being committed in early 1999?

16 A. Concerning what, sir?

17 Q. Concerning all the evidence on the board where they
18 claim that the withdrawals you made were given to me.

19 Did you not say that in early 1999, you had, in fact,
20 engaged in a criminal pattern of taking \$2500 out of banks
21 and handing them to me in some sort of envelopes or putting
22 them on their chairs or putting them on doors or putting
23 them on tables, wasn't that your testimony?

24 A. I testified that I took \$2500 from my paycheck and
25 gave it to you.

Sinclair - Cross

1 Q. That wasn't my question.

2 Did you not testify that you did that in early 1999?

3 A. That I took \$2500 from my paycheck in 1999 and gave
4 it to you, yes, I testified to that.

5 Q. And did you not state that with all those things you
6 put them on my table or put them on my chair, was that your
7 testimony?

8 A. I believe I stated I gave them to you, put on your
9 table or chair.

10 Q. I see. So then you knew, as an attorney, for at
11 least 12 months, if we're to assume that I am guilty, that
12 you had a guilty crook who was taking away your money, and
13 you, under oath of a lawyer, kept silent, is that your
14 testimony, yes or no?

15 A. No, it is not my testimony.

16 Q. Do you disagree that an attorney has the obligation
17 to report crime when they, in fact, discover it, if it's
18 not subject to their own attorney-client privilege, yes or
19 no?

20 A. I don't believe that specifically to the attorney but
21 as a citizen. So I don't know how you're requiring me to
22 answer that question.

23 Q. Mr. Sinclair, I'm not asking you what you believe. I
24 want you to listen to the question because I do not want to
25 belabor this jury with reading the Ohio disciplinary rules

Sinclair - Cross

1 and the conduct and the expectations of a lawyer who takes
2 an oath. Here's the question:

3 Is it not a fact that a lawyer has the obligation to
4 report crime once they discover that a crime was being
5 committed if it is not in violation of an attorney-client
6 privilege, yes or no?

7 A. Again, you're asking a question in context of an
8 attorney-client relationship. That's what the disciplinary
9 rules refer to, not as my duty as a citizen.

10 Q. So you're saying no, you didn't really think that you
11 had any obligation to report anything over that period of
12 12 months?

13 THE COURT: That wasn't his testimony. It
14 didn't come out of the witness' mouth.

15 MR. TRAFICANT: Okay then. You're saying --

16 THE COURT: Well let him say. That's why
17 he's here.

18 MR. TRAFICANT: He keeps referring to
19 disciplinary rules.

20 THE COURT: Well --

21 MR. TRAFICANT: Explain what the disciplinary
22 rules then say, or do we have to bring them out.

23 THE WITNESS: Yes, you would have to bring
24 them out for me to review them and give you my opinion as
25 an attorney.

Sinclair - Cross

1 Q. Okay.

2 Now, then, let me ask this question before we do that
3 because we will do that. We've determined you are an
4 attorney, you've taken an oath, you do know the difference
5 between right and wrong, and you do know that you are
6 required --

7 THE COURT: You're going to need to shorten
8 this sentence up. Ask him one question, and ask him --

9 Q. Were you required to report this so-called illegal
10 activity of the Congressman, yes or no?

11 A. I did report it.

12 Q. You said you reported it 12 months later, is that
13 your testimony?

14 A. 12 months later until what, sir?

15 Q. Fine. Now, if, for example, you did not accept the
16 Government's proffer, would you have lost your law license?

17 A. I can't answer that. I don't know if --

18 Q. If you did not accept the Government's proffer, would
19 you have been indicted, Mr. Sinclair?

20 A. You're asking me to step in the shoes of the
21 Government, and I can't answer that question.

22 Q. Did they ever mention that to you?

23 A. No, sir.

24 Q. Well, your previous testimony makes you feel very
25 sure, and the question is that you feel so comfortable

Sinclair - Cross

1 about your position, that you were able to purchase 40 some
2 thousand dollars worth of ads in next year's phone book.

3 A. There's no guarantees in life.

4 Q. \$40,000 is a lot of money.

5 A. I continue my practice on the assumption that I will
6 be continued -- be allowed to continue to practice law.

7 Q. So you consider yourself an honest citizen who came
8 forth to do the duty for the Government, and that you
9 yourself committed no crime, is that your testimony?

10 A. I am very disappointed in what I participated in, and
11 I know in my heart that I did the right thing in reporting
12 it.

13 Q. 12 months later?

14 A. If you're talking -- if you're referring to January
15 31, 2000?

16 Q. Yes.

17 A. That was the date I gave my proffered statement.

18 Q. I just want some yes or no answers from you if we
19 could.

20 Do you have any fear of going to jail?

21 A. No, sir.

22 Q. For any involvement in anything you've given me?

23 A. No, sir.

24 Q. Does the desire to maintain your law license play a
25 role in the testimony you gave for the Government?

Sinclair - Cross

1 A. No, sir.

2 Q. Were you concerned about the Government's questioning
3 and possible involvement of your wife in this case?

4 A. No, sir.

5 Q. Were you in a law partnership with Attorney Henry
6 DiBlasio?

7 A. Yes, sir.

8 Q. From when to when?

9 A. From January 1stst, 1996, until I believe somewhere
10 in the summer of 1998, when he announced his retirement.

11 Q. Was it DiBlasio and Sinclair?

12 A. No, the name of the partnership was R. Allen Sinclair
13 and Associates.

14 Q. Okay. But when you went and worked with Attorney
15 DiBlasio, were there not other attorneys, in fact, in that
16 firm?

17 A. During my time period there, yes, during my time
18 period at the office, yes.

19 Q. And who were they?

20 A. Attorney Michael Gollings rented space downstairs.

21 THE COURT: Can you spell it?

22 THE WITNESS: Michael G-O-L-L-I-N-G-S.

23 THE WITNESS: And Edward A. Flask.

24 Q. Ed Flask?

25 A. Yes, sir.

Sinclair - Cross

1 Q. Now, Mr. Flask, he was indicted, was he not?

2 A. Yes, he was.

3 Q. And he was under investigation for many years while
4 you were one of his law partners; is that correct?

5 MR. MORFORD: Objection.

6 THE COURT: We're going to go up to the side
7 bar here for a few minutes on this one.

8 (Sidebar resumed within the hearing of the jury:)

9 MR. MORFORD: The objection is to relevance
10 as to what Ed Flask's background has anything to do with
11 this witness.

12 MR. TRAFICANT: He said he was unaware of my
13 behavior. Mr. Flask has been the subject of this case for
14 ten years and finally convicted for having swindled
15 millions of dollars by the Mahoning Sanitary District, and
16 his name appears on the letterhead with Mr. Flask.

17 THE COURT: You can ask him questions in
18 terms of the partnership that he had with him, but your own
19 statements about how many years, whatever it was Mr. Flask
20 being convicted for doing all this stuff, we don't know.
21 We have no idea, that is not relevant to this, but
22 certainly, you can ask him questions.

23 MR. TRAFICANT: If Mr. Flask was there in the
24 office with him.

25 THE COURT: Yeah.

Sinclair - Cross

1 MR. MORFORD: Your Honor, if I could, if he
2 opens this door, it was Mr. DiBlasio who was partners with
3 Mr. Flask before he was partners with Mr. Sinclair. Mr.
4 DiBlasio was Congressman administrative assistant, and if
5 he's going to open this door then on redirect, I will ask
6 about the relationship.

7 THE COURT: That's certainly --

8 MR. TRAFICANT: You can certainly do that.

9 THE COURT: Okay

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

11 BY MR. TRAFICANT:

12 Q. Mr. Sinclair, it was your testimony you were
13 absolutely finally overwhelmed by your association with me
14 and could no longer take it, correct, yes or no?

15 A. I believe -- I don't believe that was my exact
16 testimony, no.

17 Q. I have here I'd like to present to the jury, and I
18 present a copy to the Prosecution.

19 THE COURT: Okay. Let me see, Congressman,
20 please. You give it to the witness. It's a letterhead?

21 MR. TRAFICANT: Yes.

22 THE COURT: Okay.

23 Q. Remember this?

24 A. Yes, sir.

25 Q. This is a letterhead, and basically what does the

Sinclair - Cross

1 letterhead state?

2 THE COURT: We need to give it some kind of
3 number so the record shows what it was, Congressman.

4 MR. TRAFICANT: I don't know what my last
5 Exhibit Number is. Can we say S-35.

6 THE COURT: If you haven't already used that,
7 we can.

8 MR. TRAFICANT: Pardon?

9 THE COURT: If you haven't already used that
10 number, we can use S-35.

11 MR. TRAFICANT: I don't think we have let's
12 make it S-40.

13 THE COURT: Okay.

14 Q. Well, the reason for the question is, it states these
15 law offices of Flask -- DiBlasio Flask and Sinclair at 11
16 Overhill Road, attorneys and counselors at law, and all
17 three names are listed at the left. Now --

18 THE COURT: We need -- is this going to be a
19 question?

20 MR. TRAFICANT: No, I'm describing --

21 THE COURT: I know. But you can't testify,
22 so you need to --

23 Q. I'm sorry. It is -- is your name listed on this law
24 office stationery with that of Mr. DiBlasio and Mr. Flask?

25 A. Yes, it was.

Sinclair - Cross

1 Q. Is it listed on the same line?

2 A. Yes, it is.

3 Q. In the same bold print?

4 A. Yes, it is.

5 Q. Does it not say the law offices of all three?

6 A. Yes.

7 Q. Okay. Now Mr. Flask, you have any knowledge of
8 Mr. Flask, Attorney Flask?

9 A. Yes, I do.

10 Q. Okay. And was it not a fact Mr. Flask was convicted
11 of some embezzlement of millions of dollars of money
12 relative to the Mahoning County Sanitary District in
13 Mahoning County?

14 A. That is correct.

15 Q. Yes.

16 Did you leave that office firm when the cloud of
17 investigation surrounded and the allegations hit very hard
18 on Mr. Flask?

19 A. Mr. Flask was asked to leave the office, yes.

20 Q. And who asked him to leave the office?

21 A. I urged Attorney DiBlasio to initiate that.

22 Q. Isn't it a fact that Attorney DiBlasio asked Attorney
23 Flask to leave the office, yes or no?

24 MR. MORFORD: Objection.

25 THE COURT: I think that was his testimony.

Sinclair - Cross

1 Q. Mr. DiBlasio asked him to leave the office; is that
2 correct?

3 A. Yes, specifically would have come from Attorney
4 DiBlasio.

5 Q. Yes. And how many years were you in partnership with
6 Mr. Flask while this was going on? Any knowledge?

7 A. I was not in a partnership with Mr. Flask.

8 Q. But it was DiBlasio Flask, and Sinclair?

9 A. It was an office sharing arrangement. As I testified
10 before, I rented space in Attorney DiBlasio's office as did
11 Mr. Flask.

12 Q. Thank you. Did you at some point state that the
13 problem that you had with the Disciplinary Council and your
14 partnership was due to Mr. DiBlasio?

15 A. No. I am not placing blame on Mr. DiBlasio.
16 However, I relied on him for counsel.

17 Q. Did you blame Henry DiBlasio for the failure of the
18 law firm?

19 A. No, sir, it was basically business.

20 Q. Were you told by anyone associated with Mr. DiBlasio
21 that you were to be sued for half a million dollars?

22 A. I'm sorry, you have to repeat that.

23 Q. Were you told by anyone associated with Mr. DiBlasio
24 that Mr. DiBlasio was going to sue you for \$500,000 that
25 you owed him?

Sinclair - Cross

1 A. Yes. I think you told me that.

2 Q. I didn't ask you if I told you that; I said, did
3 anyone else tell you that?

4 A. Besides you, no.

5 Q. Okay. Was it your testimony yesterday you were not
6 aware of any lawsuits?

7 THE COURT: Well --

8 MR. TRAFICANT: About Mr. DiBlasio and your
9 situation.

10 THE WITNESS: There are no lawsuits.

11 Q. That you were not aware of any?

12 A. I wouldn't be aware of a lawsuit that was not filed
13 against me.

14 Q. Did there come a point when you complained to staff
15 about the bad press surrounding the 11 Overhill office
16 building and the negative media?

17 A. Did I complain to my staff?

18 Q. Did you complain to anybody about the bad press that
19 the business was getting, that your name was on the sign,
20 and that you resented this bad press?

21 A. During what period of time, sir?

22 Q. After the subpoenas and the records and all the news
23 cameras appeared relative to my case?

24 A. No, I can't recall.

25 Q. Did you make a statement that you felt that there was

Sinclair - Cross

1 something fraudulent about the relationship within the
2 congressional office, but you were not involved?

3 A. No, I don't recall making that statement.

4 Q. Did you ever make the statement that you weren't even
5 sure you would have a practice in six months?

6 A. I vaguely remember something to that effect.

7 Q. Do you remember who you said that to?

8 A. No, I don't.

9 Q. Now, when you talked with the federal government,
10 were you always truthful with them?

11 A. Yes, I was.

12 Q. Because you do know as an attorney it is a federal
13 crime to lie to an FBI agent, is that a fact?

14 A. Well, if I were under oath at the time, yes, that
15 would be perjury.

16 Q. I didn't ask if you were under oath. As an attorney,
17 do you or do you not know that it is a federal crime to
18 make a false statement to a FBI agent?

19 A. No, I honestly also don't know the answer to that
20 question.

21 Q. Well, isn't it true that you originally lied to the
22 Government when you said you gave no kickbacks to the
23 Congressman?

24 A. Again, I don't believe I made that statement.

25 Q. So you never made that statement to the Government?

Sinclair - Cross

1 A. I do not recall.

2 Q. Do you recall a meeting at the Burger King
3 restaurant?

4 A. I stated before that I do not remember meeting at the
5 Burger King restaurant. To the best of my recollection, I
6 can't -- I know we had meetings at several other
7 restaurants, but I don't specifically recall Burger King.

8 Q. So you don't remember meeting with me at a Burger
9 King or anywhere else, right?

10 A. No, I don't believe that we did.

11 MR. MORFORD: Your Honor, that was a compound
12 question, and I'm not sure which the answer related to.

13 THE COURT: Do you want to clarify which part
14 of that question you were answering? Or just --

15 Q. Did you have a meeting with me at the Burger King?

16 A. I don't believe that I did.

17 Q. Thank you.

18 Now, you were working with the Government since
19 January 31st?

20 A. Yes, sir.

21 Q. Did they ever ask to follow you and me to the
22 so-called destinations where nefarious acts took place?

23 A. No, sir.

24 Q. They never attempted to get a photograph of you
25 giving me money, for example?

Sinclair - Cross

1 A. Not to my knowledge.

2 Q. Did they ever request that?

3 A. No, sir.

4 Q. Did you pay the expenses for my moving from your
5 building?

6 A. Yes, I did.

7 Q. Did you pay for them, or did your wife pay for them?

8 A. I believe I paid for them.

9 Q. Did you pay for them by check or cash?

10 A. By check.

11 Q. Now, you previously stated that you did not work on
12 the Valley Foods case; is that correct?

13 A. No, I did not -- that was not my testimony. I know I
14 did some work on the Valley Foods case. At that time, that
15 was Attorney DiBlasio's associate and he had assigned
16 various assignments for me to work on. I do remember
17 working on Valley Foods case.

18 Q. So can I say that -- did you tell the Government at
19 least twice that you did work on Valley Foods?

20 THE COURT: He's been telling us in testimony
21 that he did.

22 Q. My question, though, is different.

23 Did you tell the federal government that you did work
24 on the Valley View -- on the Valley Foods case, and did you
25 tell the Government this twice?

Sinclair - Cross

1 A. Well, I told them once. I would think that's
2 sufficient.

3 Q. Did you tell them this before the immunity or after,
4 do you recall?

5 A. I believe questions regarding Valley Foods was
6 brought up in my initial meeting with the FBI agents
7 January 31st in which the questions were more geared
8 towards Attorney DiBlasio.

9 Q. You turned over a file then to the Government in the
10 Valley Foods case, right?

11 A. No, I did not.

12 Q. So you never turned over a file from the Valley Foods
13 case; you just gave them conversation, is that your
14 statement?

15 A. I advised the agents that I was aware that Attorney
16 DiBlasio had a client by the name of John Valley, and that
17 I may have done some work on the case. I believe that was
18 the extent of the questions.

19 Q. I will now show the Prosecution and the Court what
20 has been marked as both Exhibit S-11 and S-12. Are you
21 familiar with it? Could you identify this envelope, say
22 what it is?

23 A. It's an envelope, approximately eight and a half by
24 12, first class mail, the word "important," and it's
25 underlined in red.

Sinclair - Cross

1 Q. Did you write important on it?

2 A. That appears to be my handwriting, yes.

3 Q. Is that your envelope?

4 A. I wrote on it, yes.

5 Q. Would you identify what this is?

6 A. This is some research that you asked me to perform
7 for you.

8 Q. Research. Let me get back and check my notes. I'm
9 getting old.

10 You said these are notes that I asked you to
11 research?

12 A. I said the document itself was some research you
13 asked me to conduct for you, and it is a sample complaint
14 along with research regarding various federal laws.

15 Q. There are handwritings on these, is this your
16 handwriting?

17 A. I need to see that again, sir.

18 Q. There are handwritings and some -- well, yellow
19 liners and things like that. Is that your handwriting?

20 A. Yes, it is.

21 Q. And what does it state?

22 A. It says I need your address.

23 THE COURT: Congressman, we're confused about
24 the numbering, is that S-12. What's S-11?

25 MR. TRAFICANT: The envelope in which he

Sinclair - Cross

1 submitted to me.

2 THE COURT: Thank you.

3 MR. MORFORD: May I see that for just a
4 moment?

5 MR. TRAFICANT: Pardon?

6 MR. MORFORD: May I see it for just a moment?

7 MR. TRAFICANT: I thought you had a copy of
8 it.

9 MR. MORFORD: I'm not sure.

10 Your Honor, the copy that we have is three pages in
11 length, and it appears that there's several other pages.
12 So I'm not sure exactly what S-12 was. That's why I asked.

13 THE COURT: Okay. Congressman. Give us a
14 copy of the pages of S-12 so the record that will protect
15 you and the trial proceedings will be accurate.

16 MR. TRAFICANT: We'll deal with the three
17 pages.

18 THE COURT: Well, no, you have labeled
19 something, it's fine, just count the pages up so we know
20 how many pages are in it.

21 MR. TRAFICANT: Apologize, it's pretty tough
22 being here.

23 Q. I said approximately 32 because that's what it
24 appears to be. I could be wrong.

25 THE COURT: Okay. Well, I'm going to ask you

Sinclair - Cross

1 then to give the document to some of your -- one of your
2 assistants there so they can count the pages. It's
3 important to keep a record in the case.

4 MR. TRAFICANT: The Government states they
5 did not receive this on discovery.

6 THE COURT: They have a three-page exhibit.

7 MR. TRAFICANT: They didn't have these
8 attachments.

9 THE COURT: Would you just hand it to one of
10 your assistants there so they can count them? Not -- not
11 to Mr. Morford, sir.

12 MR. TRAFICANT: Pardon?

13 THE COURT: To one of your office people back
14 there so they can help you.

15 MR. TRAFICANT: What, count them?

16 THE COURT: Yes, sir. If you can't give us
17 an accurate number, we have to have an accurate number for
18 the record in the case.

19 MR. TRAFICANT: Is what's submitted S-12 I'm
20 under the impression I did submit that to the Prosecutor,
21 and if I did not, I will make it available for him.

22 THE COURT: Okay. Well, we just -- if we
23 have the numbers, it at least keeps the number straight.
24 He has something that has three pages, and that has an
25 additional amount. Let's just get it done.

Sinclair - Cross

1 THE WITNESS: 30.

2 THE COURT: Thank you, that's fine, you can
3 give it back to the Congressman.

4 MR. TRAFICANT: Well let the record reflect I
5 counted 32 so somewhere between 30 and 32.

6 THE COURT: Well, actually it's 30, I think.

7 MR. TRAFICANT: Fine.

8 THE COURT: You have a sore thumb.

9 (Laughter.)

10 Q. This is a lawsuit, a sample of a lawsuit; is that
11 right?

12 A. It's a draft of a complaint, yes, sir.

13 Q. Pursuant to an action being taken against the federal
14 government, right?

15 A. That's correct.

16 Q. Now, having looked at that, is that your writing?

17 A. Yes, it is.

18 Q. Okay.

19 Did you put that red mark on there?

20 A. Yes, I did.

21 Q. Okay.

22 There are a number of yellow citations in here. I'm
23 trying to get to them. If you can help me, I'd appreciate
24 it. Look through this thing. But in any regard, did you
25 make these yellow notations on this thing?

Sinclair - Cross

- 1 A. There are some highlighted areas, so --
- 2 Q. Is that your highlighting?
- 3 A. That I outlined for you, yes.
- 4 Q. You highlighted and outlined them all. Thanks. Do
5 you know if this was filed?
- 6 A. No, sir, I do not.
- 7 Q. Now, you stated yesterday that I asked you to prepare
8 this for me; is that correct?
- 9 A. That is correct.
- 10 Q. And you did that?
- 11 A. I'm sorry?
- 12 Q. And you did that?
- 13 A. I prepared a draft for you.
- 14 Q. And you recall when you made this draft?
- 15 A. No, I do not.
- 16 Q. Well, would it have been certainly after the
17 headlines had broke and all the revelations had broken
18 about the criminal investigation and subpoena you, is that
19 a fair assessment or statement?
- 20 A. No, because you had been talking about your lawsuit
21 against the Government long before that.
- 22 Q. I see. Well, you said that I instructed you to
23 prepare a lawsuit for half a million dollars, is that it?
- 24 A. If you look on the page where there is a demand or a
25 prayer made, I had a question mark as to what specific

Sinclair - Cross

1 damages you were to ask for.

2 Q. So you say you're saying you did not put the damages
3 in?

4 A. I put -- I think that's 1 million dollars I put it if
5 I remember correctly.

6 Q. And I instructed you to put in \$1 million or half
7 million?

8 A. I believe just through casual conversation, yes.

9 Q. Well, from the casual conversation, what, if
10 anything, do you remember, half million, one million?

11 A. If I drafted the complaint and it says a million to
12 the best of my recollection, that would have been the
13 amount I put in the prayer.

14 Q. Would you -- would you report to the court what the
15 amount is?

16 A. It's \$1 billion.

17 Q. \$1 billion?

18 A. Yes.

19 Q. I see. And I asked you to do this, that's your
20 testimony?

21 A. Yes, sir.

22 Q. And this had nothing to do with the negative press
23 around the building that you were so hot about?

24 A. Again, I cannot recall when that was prepared.

25 Q. And you did not initiate or, in fact, request that I

Sinclair - Cross

1 go ahead and sue the Government and thought I had a good
2 case?

3 A. Did I request of you to do that?

4 Q. Yes.

5 A. No, sir.

6 Q. Let me ask this question: Did you state that you
7 thought I had a good case, Number 1?

8 A. No, I thought it was ridiculous.

9 Q. Okay. Number 2, did you, in fact, advise me to sue
10 the Government?

11 A. No, I did not.

12 Q. Did you ask anybody on the staff to ask me to sue the
13 Government?

14 A. Did I ask anyone on your staff?

15 Q. Yes, anyone on the staff asking them that perhaps I
16 should is sue the Government?

17 A. No.

18 THE COURT: Congressman, this would be a good
19 time for the lunch break. I think it's a little after
20 12:00.

21 Ladies and gentlemen, enjoy your one and a half hour
22 break. We'll be back at 1:30. Remember your admonitions.
23 Don't talk about the case with each other, don't allow
24 anyone to talk to you about the case. And don't watch or
25 read or listen to anything about the case, but enjoy

Sinclair - Cross

1 yourselves over the lunch. Leave your juror notebooks
2 here. We'll take care of them. We're locking up the
3 courtroom for lunch. Thank you.

4 (Thereupon, a luncheon recess was had.)

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Sinclair - Cross

1 Thursday Session, February 14, 2002, at 1:30 P.M.

2 THE COURT: Ladies and gentlemen, the
3 question has been raised with me, properly so, about
4 whether or not we'll be in session on Monday, the 22nd, and
5 it's a court holiday, a federal holiday, and we will not be
6 in session. So you'll enjoy the time off that you're
7 entitled to enjoy off, so you will have a long weekend.
8 We're ready to proceed.

9 CROSS-EXAMINATION OF ALLEN SINCLAIR (cont.)

10 BY MR. TRAFICANT:

11 Q. I have a letter that I would like to share with all
12 the parties and show to the --

13 THE COURT: Okay. Is this something that --

14 MR. TRAFICANT: The witness.

15 THE COURT: Well, is this something that
16 you've provided?

17 MR. TRAFICANT: Yes, I did.

18 THE COURT: Could you just give us the number
19 of it?

20 MR. TRAFICANT: I have it numbered as S-24.

21 THE COURT: Okay.

22 MR. TRAFICANT: I don't know if it was given
23 in the original documents. It's a question I want to ask
24 relative to this particular letter.

25 THE COURT: So the jury will understand, as

Sinclair - Cross

1 part of the pre-trial proceedings before trial, with regard
2 to certain exhibits that either side intends to use, they
3 number them, and they assign numbers in a particular way so
4 that there always is a record of exactly what everybody is
5 referring to, and there isn't a mistake about what
6 particular document it is.

7 And in addition, just as a matter of the way all
8 proceedings go, you always show them to the other side and
9 make them available, so I only raise the question since
10 this morning there was something that had come up since you
11 had made things available, and I don't know which category
12 this is in.

13 MR. TRAFICANT: Well, these are just three
14 additional things that -- questions I'd' like to ask of
15 this witness relative to some of the testimony.

16 THE COURT: Were these made available to them
17 that we --

18 MR. TRAFICANT: I just made them available.

19 MR. MORFORD: They were not, your Honor, but
20 we have no objection to him using this.

21 THE COURT: Okay. But, I just want you to
22 remember that you need to make them available early on so
23 we don't have to take up time from the jury so they have a
24 chance to see this.

25 MR. TRAFICANT: I did it as soon as I could,

Sinclair - Cross

1 your Honor.

2 THE COURT: Thank you. Go ahead.

3 MR. TRAFICANT: Might I show this to the
4 witness?

5 THE COURT: Sure.

6 BY MR. TRAFICANT:

7 Q. I've just shown you a letter that you had submitted
8 to me. Can you describe what it is?

9 A. That was my letter of resignation to you, resigning
10 from my position on your staff.

11 Q. What was the date of the resignation?

12 A. The date of the letter or the date of the
13 resignation?

14 Q. The date of the letter and the date of resignation.
15 Perhaps I'll just give this back to you, and it might save
16 us a lot of time. I apologize for that.

17 A. It's a letter dated February 16, 2000.

18 Q. And would you read the contents of the letter?

19 A. It's addressed to Congressman James A. Traficant,
20 Junior, and it's your downtown address, "Dear Congressman
21 Traficant: Please be advised as of March 1, 2000, I must
22 resign as your administrative counsel. The time that I've
23 worked for you has been rewarding and excellent learning
24 experience. Thank you for this opportunity." And signed
25 by myself.

Sinclair - Cross

1 Q. And you did sign it?

2 A. Yes, I did.

3 Q. Thank you. May I have that back?

4 You gave me a two-week notice?

5 A. Approximately, yes. In the formal agreement, in the
6 formal letter there, yes.

7 Q. Thank you.

8 THE COURT: This is S-3.

9 MR. TRAFICANT: Pardon?

10 THE COURT: It's S-3.

11 MR. TRAFICANT: Yes.

12 THE COURT: Check to put it on the record.

13 I'm doing it for you. Okay? You can go ahead.

14 Q. Can you look at this and identify this?

15 A. This is a memorandum to Henry DiBlasio, dated April
16 21st, 1999, concerning the partnership agreement.

17 Q. Thank you.

18 You acknowledge receiving a letter from Mr. DiBlasio
19 on April 18th of 1999; is that correct?

20 A. I did not read the contents of my memo. If you are
21 going to ask me questions concerning that, I'd like it
22 back, please.

23 MR. MORFORD: Your Honor, if it saves time, I
24 can give the Congressman back his copy. We have the
25 original he gave us.

Sinclair - Cross

1 MR. TRAFICANT: Why don't you let the witness
2 use yours, and I'll take mine back.

3 Q. Would you read it through thoroughly, please.

4 A. To myself or out loud?

5 Q. Pardon?

6 A. To myself?

7 Q. Yeah, I ask you to look through it, and I will
8 perhaps ask you some questions.

9 A. I'm done.

10 Q. All right. Thank you. So you did receive his
11 letter of April 18th?

12 A. Yes.

13 Q. Could you read Paragraph 3?

14 A. Paragraph 3?

15 Q. Yes.

16 A. I'm sorry. Your voice is a little muffled.

17 Q. Paragraph 3?

18 A. "You keep talking about the interest on your lines of
19 credit. I had no idea that you were not applying the money
20 I gave you to pay off the -- pay the loans off. I assumed
21 that these loans are used for business purposes only, and I
22 had no idea that you were using the money for living
23 expenses. How can I be responsible for this? I don't
24 expect you or the partnership to pay for the years of
25 interest that have accumulated on my student loans because

Sinclair - Cross

1 I had to request deferments on the payments. This is my
2 decision and sacrifice."

3 Q. Would you now read Paragraph 4?

4 A. "You also infer that I'm not working hard enough to
5 settle claims. You have no idea how hard I work on these
6 cases, and I won't bore you with the details."

7 Q. Now, would you read the next paragraph?

8 A. "You know the cash flow is slow during certain times
9 of the year. If I had the money here to pay you, I would.
10 I have to keep the office running and pay expenses. I am
11 sorry that it has come to this. I am sorry that it has to
12 be this way. But I cannot do any more than what I am
13 already doing."

14 Q. And the next paragraph?

15 A. "I am past the point of burn out, and I have thought
16 about moving out of this area to another job. I have an
17 offer that is very enticing. I have -- I've had also
18 numerous offers in the past. Because of my dedication and
19 loyalty to you, I did not make the change. However, if
20 this becomes too much for me to handle because of finances,
21 I may have to make a decision for my own benefit and of my
22 family's. I'm near the point of bankruptcy, and I cannot
23 keep up with my bills.

24 Q. At this time, this was a contention whether you owed
25 Mr. DiBlasio \$116,000 versus \$473,000, is that a correct

Sinclair - Cross

1 statement?

2 A. I can't answer to the accuracy of the numbers, but I
3 think it's a fair statement to say that I owed him money,
4 yes.

5 Q. But there was a rather large discrepancy between what
6 you believe you owed on this and what he believed you owed
7 on this lease, would that be a fair question?

8 A. A discrepancy?

9 Q. Well, would this be a disagreement and opinion as to
10 how much you owed him versus how much he felt you owed him?

11 A. At the time of this memo?

12 Q. Yeah.

13 A. No, I do not believe at the time of this memo there
14 was a discrepancy.

15 Q. Now, you -- your bottom paragraph, and I'll read it,
16 it says, "please be patient. If you really need
17 disbursement sheets, I'll send them to you. However,
18 everything is in the computer. You don't understand that
19 it takes a considerable amount of time to keep track of all
20 of this, and I am handling this in the most efficient way
21 possible. You say that everything is in the computer.
22 Were your financial records in the computer?"

23 A. This is referring to the case work of the office that
24 is in the computer that Henry had access to.

25 Q. Did it also include anything involving your own

Sinclair - Cross

1 personal finances and hardship?

2 A. No, sir.

3 Q. Thank you.

4 MR. TRAFICANT: Do you have an extra S-7?

5 MR. MORFORD: I believe we do.

6 MR. TRAFICANT: Thank you.

7 THE COURT: You may proceed.

8 MR. TRAFICANT: Pardon?

9 THE COURT: You may proceed.

10 MR. TRAFICANT: Thank you.

11 Q. You want to acknowledge what that letter is?

12 A. It's a letter dated January 19th, 2000.

13 Q. From?

14 A. From myself.

15 MR. TRAFICANT: Thank you.

16 Q. Now, your last letter was April 21, 1999, correct?

17 A. That's correct.

18 Q. This is now February 16, 2000?

19 A. I'm sorry, it's not.

20 Q. This letter here is -- this letter is dated January
21 19th, 2000?

22 A. That's correct.

23 Q. Okay. Would you read the first two paragraphs?

24 A. "I received your letter dated January 10th, 2000. I
25 want you to know that I'd been working very hard to settle

Sinclair - Cross

1 cases. It seems that this has been a bad year as I have
2 many cases in for settlement that may need to be litigated.
3 I am attempting to avoid litigation at all costs.

4 "The office cash flow has not been very good either.
5 I can barely make ends meet with all the overhead. The
6 harder these insurance companies push me into litigation
7 and prolonged settlements, the more overhead I have."

8 Q. Would you then read Paragraph 4?

9 A. "In order to reduce overhead this year, I have cut
10 down on the AmeriTech advertising. This will save some
11 money. However, I am afraid that it may also reduce case
12 load. Our open cases are about 210, and we are not
13 replacing the cases we settle. This is not very
14 promising."

15 Q. Would you read the next paragraph?

16 A. "I am in a very difficult predicament because if I
17 try to pay you on a regular basis, I will not have enough
18 money to retain the office. Therefore, I can only hope
19 that I get a very good case that will solve this problem.
20 There's not much more I can do. I am attempting to operate
21 as cheaply as possible and only take enough money home to
22 maintain."

23 Q. Now, would you read the last paragraph on that first
24 page?

25 A. "Additionally, I need to be extra careful over the

Sinclair - Cross

1 next few years on advertising. You may remember the
2 agreements against by Rhonda Shure. The Board of
3 Commissioners recommended to the Supreme Court to suspend
4 my license for six months with all of the time stayed with
5 the condition I go on one-year probation and allow the
6 Mahoning County Bar Association to mentor my advertising.
7 I have enclosed a copy of the" -- it's misspelled. I
8 believe it says "recommendation. In response, I felt it
9 necessary to hire a lawyer. I asked Attorney Charles
10 Kettlewell to prepare a brief for me to object to these
11 filings. I had to give him a \$2500 retainer to get
12 started."

13 Q. When I looked originally at your case with the bar,
14 you were a pro se litigant, but in the beginning, you did
15 hire an attorney, is that what you're saying?

16 A. I was not a litigant.

17 Q. I mean, you were before the disciplinary board, and
18 you represented yourself, is that a fact?

19 A. That's correct.

20 Q. But, in the beginning, you did pay and hire an
21 attorney to write a brief or give you advice or whatever;
22 is that correct?

23 A. That is not correct.

24 Q. What is correct?

25 A. That is not correct.

Sinclair - Cross

1 Q. Pardon?

2 A. That is not correct.

3 Q. It is not correct?

4 A. You are not correct in your assumption.

5 Q. I'm not sure. I said your statement said "I asked
6 Attorney Charles Kettlewell to prepare a brief for me to
7 object to these findings."

8 A. Yes.

9 Q. And I asked you, did you hire or engage in the
10 service of anybody to help you to prepare as you
11 represented yourself in these proceedings?

12 A. And you are incorrect. You're asking me if I hired
13 an attorney prior to these proceedings? The answer is no.

14 Q. No. Well, then, let me put it to you this way. Did
15 you ask Attorney Kettlewell to prepare a trial brief for
16 you to object to the findings?

17 A. No, I did not ask him to prepare a trial brief. I
18 believe you may be confusing terms of art.

19 Q. Okay. Did you ask him to prepare a brief for you?

20 A. My words in this memo state I asked him to prepare a
21 brief for me, but actually, there was no brief prepared.

22 Q. So he did not prepare a brief for you?

23 A. No, I hired him to give me advice on the
24 recommendations and findings of the Board of Commissioners.

25 Q. Okay. So then I'm mistaken whether I say that I

Sinclair - Cross

1 asked Attorney Charles Kettlewell -- this is your writing.

2 Correct me if I'm wrong, I asked Attorney Charles

3 Kettlewell to prepare a brief for me to object to these

4 findings. Are those your words or not?

5 A. Those are my words.

6 Q. Fine. And now you're saying though that you didn't

7 really mean them, that way, right?

8 A. No, sir. I did ask him to prepare a brief for me,

9 but what I'm telling you was that my brief was not

10 prepared.

11 Q. I see. So he didn't prepare the brief?

12 A. No, I deferred to consultation. I decided not to go

13 that route.

14 Q. Fine. But you said you had to give him a \$2500

15 retainer to get started?

16 A. Yes, sir.

17 Q. Did you do that?

18 A. Yes, I did.

19 Q. And you didn't file a brief, he gave you advice?

20 A. He gave me advice.

21 Q. Okay. How did you pay Attorney Kettlewell?

22 A. I paid him out of my -- out of money my office

23 expense account.

24 Q. By check?

25 A. Yes.

Sinclair - Cross

1 Q. Fine.

2 I won't belabor the jury nor the Court much longer,
3 but I do have one more question. It goes back to your
4 involvement in a taped conversation of an Attorney Allen
5 Mataovich. Can you tell the Court who Allen Mataovich was?

6 A. My understanding Allen Mataovich represented Henry,
7 Henry DiBlasio, in relation to the allegations that were
8 being made against him at the time.

9 Q. Okay. You stated at some point the Government came
10 to you and requested you to participate in a taped
11 conversation with Attorney Maravich?

12 A. That is correct.

13 Q. Did they contact you to do this?

14 A. Yes.

15 Q. And you did agree?

16 A. Yes.

17 Q. Where was this conversation held?

18 A. I believe I already testified to that. It was in my
19 office.

20 Q. All right. Forgive me. I forgot. Now, being that
21 Attorney Mataovich was the attorney for your business
22 partner, you as an attorney, did you form any opinion as to
23 the attorney-client privilege element that involved this
24 taped conversation?

25 A. You're asking me to testify as an expert?

Sinclair - Cross

1 Q. I'm asking you to testify as an attorney relative to
2 an attorney-client privilege issue?

3 THE COURT: You can answer that.

4 THE WITNESS: Conversation between me and
5 Attorney Matavich involved the partnership and the reason
6 why I was not paying Henry and that I cut him out of the
7 computer, and Attorney Matavich wanted to find out more
8 details as to why regarding the other aspect of this case.
9 I don't believe that we discussed that.

10 Q. Okay.

11 As a matter of not just courtesy and privilege, but a
12 matter of due process with lawyer relationships, when one
13 attorney representing one interest is meeting with another
14 attorney representing another interest, isn't it a fact
15 that the attorney-client privilege is honored and, in fact,
16 is a credit?

17 MR. MORFORD: Objection.

18 THE COURT: You're asking a question of this
19 witness that goes beyond what you can legitimately ask this
20 witness. I understand that part of what you're trying to
21 do may be something that you could do with this witness,
22 and so I'd ask you to just think about it.

23 MR. TRAFICANT: Thank you. I'll try and
24 rephrase it.

25 THE COURT: Okay.

Sinclair - Cross

1 Q. When you come to learn that the Government wanted you
2 to tape and participate in a taped conversation with
3 Attorney Matavich, did you have any misgivings or concerns
4 about taping a fellow colleague due to your understanding
5 and knowledge of the attorney-client privilege that is
6 afforded under the due process laws of our nation?

7 A. I have no idea what you just said.

8 THE COURT: Well, I think you may be able to
9 answer the question in a way that allows you to answer part
10 of what he says. It's -- the due process part of it may be
11 set aside for a moment, and just try and ask it the way you
12 intend the question.

13 MR. TRAFICANT: Your Honor, I don't mean to
14 weigh any more on the Court. I think my question was
15 directly to the point to an attorney, and I'm going to
16 repeat it.

17 THE COURT: Well, he can answer the question,
18 and I'm asking him to answer it.

19 MR. TRAFICANT: He said he didn't understand
20 it.

21 THE COURT: Do you want him to answer the
22 question?

23 MR. TRAFICANT: Yes, I want to first clarify
24 that.

25 Q. Mr. Sinclair, are you an attorney?

Sinclair - Cross

1 A. I think that's well established.

2 Q. Are you familiar with the attorney-client privilege?

3 A. Yes, I am.

4 Q. You were asked by the Government to tape a
5 conversation with another attorney who represented a party,
6 who you had an interest with; is that correct?

7 A. I was representing myself at the time, if you want to
8 go that far. There was no attorney-client relationship
9 between me and Henry, and I think that's where you're
10 trying to go with this. You can't make that connection.

11 Q. You didn't talk with Henry, you talked with Attorney
12 Allen Matavich who was representing Henry DiBlasio?

13 A. That's correct, and I was representing myself at the
14 time.

15 Q. Fine. Were you not, in fact, then a representative
16 as an attorney of one side discussing an attorney
17 representing -- an issue with an attorney representative of
18 another side?

19 THE COURT: Well, I think -- I think this
20 witness can answer these questions. I think it's fair -- I
21 mean, if you can't, say you can't, but I'm not going to
22 prevent him from making an effort to answer the questions.
23 Well, the last -- the last question maybe needs to be read
24 back. Read back just the last question

25 (Thereupon, the record was read back by the Court

Sinclair - Cross

1 Reporter.)

2 THE COURT: I think you can answer that of
3 your own point of view, at the time is what he's probing, I
4 think.

5 THE WITNESS: No.

6 Q. Did you express any concern or opinion to the
7 Government when they asked you to tape a fellow colleague?

8 A. No.

9 Q. Did that tape take place before you entered into an
10 agreement with the Government?

11 A. No, it did not.

12 Q. Took place afterward?

13 A. Yes, sir.

14 Q. Now, in just summary, was your testimony today that I
15 asked you to prepare a lawsuit to sue the Government, is
16 that your testimony?

17 A. That you asked me to prepare a lawsuit?

18 Q. Yes, or the predicate of a lawsuit that I would
19 against the United States Government?

20 A. You asked me to prepare a draft and some research for
21 you to review, and it was my understanding that I could not
22 or would not act as your attorney on that matter.

23 Q. But you did draft it?

24 A. I did draft a sample complaint, yes.

25 Q. Fine. You also stated that at this time the bad

Sinclair - Cross

1 press surrounding the building had no bearing on any of
2 these drafting of potential lawsuits, was that your
3 testimony?

4 A. Yes, it is because the -- the issues concerning the
5 building never really did concern me. I just considered it
6 as media, media coverage.

7 Q. So now you're saying you weren't concerned about the
8 media coverage concerning 11 Overhill, is that your
9 testimony?

10 A. I would have to qualify the answer. I can't say that
11 I enjoyed coverage or that I welcomed the coverage, but it
12 wasn't such a -- such a major concern that I was incensed
13 or angered or berated about it, no.

14 Q. When you testified this morning that you never
15 complained to any congressional staff members about the bad
16 press and all the media around 11 Overhill Road, is that
17 your testimony?

18 A. That I never complained to staff?

19 Q. Any congressional staff?

20 A. Congressional staff.

21 Q. About the bad press concerning 11 Overhill Road?

22 A. No, I can't even recall discussing those matters with
23 any of them -- any of your staff.

24 Q. Was it your statement that you were never in J.T.'s
25 garage apartment without J.T. being there himself?

Sinclair - Cross

1 A. I believe there were times that you would leave your
2 door open for me to do something. There was a -- if you
3 recall, there was a bad leak in the roof where a lot of
4 your clothing and items got soaked because of the roof
5 blowing up, and I needed access at that time. That's the
6 only time I can remember me having access to your office
7 without your presence.

8 Q. And I was not there, you're saying?

9 A. No, needed access for the room to the roof, and you
10 understood that.

11 Q. Was there a member of the congressional staff there?

12 A. Mr. Barlow was there at times.

13 Q. Was he there then?

14 A. I can't recall.

15 Q. All right. Did Bob Barlow of my staff attempt to
16 arrange several meetings with you and me relative to issues
17 concerning the move and other elements involving this case?

18 A. Well, you have a couple questions there. Which would
19 you like me to answer?

20 Q. Did Mr. Barlow make several attempts to arrange a
21 meeting with you and me?

22 A. Concerning what subject, sir?

23 Q. Well, that was the first part you asked about. Did
24 he, in fact, make any attempts to arrange several meetings
25 with you and me?

Sinclair - Redirect

1 A. Well, many times Mr. Barlow would come up and say he
2 needed to talk to the Congressman about this or that, or he
3 needed to do this or that for him, in that respect, yes,
4 concerning congressional matters.

5 Q. Did you respond to any of Mr. Barlow's attempts to
6 arrange meetings with me relative to this case?

7 A. No, sir.

8 Q. Did he, in fact, not attempt several times to make
9 such arrangements?

10 A. I don't believe that he did.

11 Q. The last question, when you taped Attorney Allen
12 Matavich, did you at least discuss your concerns about it
13 with the Government and the propriety of it?

14 A. No, sir.

15 Q. And you had no reservations?

16 A. No, sir.

17 MR. TRAFICANT: Thank you very much. No
18 further questions.

19 MR. MORFORD: Thank you, your Honor.

20 REDIRECT EXAMINATION OF ALLEN SINCLAIR

21 BY MR. MORFORD:

22 Q. Mr. Sinclair, have you and I talked at all since the
23 Defendant began his cross-examination yesterday?

24 A. No, you have not.

25 Q. I'd like to ask you some questions just to follow-up

Sinclair - Redirect

1 on a series of questions Congressman Traficant just got
2 done asking you.

3 He was asking you a series of questions about the
4 attorney-client privilege, do you recall that?

5 A. Yes, I did.

6 Q. And let me ask you this: Can you tell me the
7 attorney-client privilege, what types of conversations does
8 it exist to protect, between whom and whom?

9 A. The attorney-client privilege is a privilege that you
10 have with your attorney in discussions made with your
11 attorney, not be divulged to a third party without the
12 client's consent.

13 Q. Okay. As you understand it, you're telling us it
14 protects the client's conversations with his attorney,
15 correct?

16 A. Yes, sir.

17 Q. And if those communications by an attorney or a
18 client are made to a third party, who was not the attorney
19 for the client, are those types of conversations protected?

20 A. As far as my opinion is concerned, there is no
21 privilege there.

22 Q. At the time that you were asked to tape the
23 conversation with Mr. Matavich, who did you understand
24 would be at that conversation, present at that
25 conversation?

Sinclair - Redirect

1 A. Just Attorney Matavich.

2 Q. Was Henry DiBlasio, the client, going to be present?

3 A. No, sir.

4 Q. Was he present?

5 A. No, sir.

6 Q. So, therefore, did you have any attorney-client
7 privilege concerns whatsoever, knowing that the client
8 would not be present at this conversation?

9 A. No, sir.

10 Q. Now, Congressman Traficant asked you a number of
11 questions about the bar disciplinary matters. There were
12 two sets of questions. One went to an actual bar
13 disciplinary matter that already occurred, correct?

14 A. Yes.

15 Q. And then there was another series of questions about
16 potential of future bar proceedings based on your testimony
17 here today; is that correct?

18 A. That's correct.

19 Q. I'd like to start with the first set, which would be
20 questions Congressman Traficant asked you about the 1998
21 advertisement infraction, okay?

22 A. Yes.

23 Q. With respect to that infraction, what did you say the
24 ultimate disposition was, what was the penalty for the
25 advertising infraction?

Sinclair - Redirect

1 A. I was on probation one year with Mahoning County bar
2 association monitoring my advertising.

3 Q. Were you allowed to continue practice law?

4 A. Yes.

5 Q. At any point, did you have any concerns that after
6 you were placed on probation, that you were still -- that
7 you were going lose your law license over that infraction?

8 A. As long as I didn't violate any terms of the
9 probation, I assumed there would be no problems.

10 Q. How great a concern was the 1998 advertising
11 infraction to you when you met with the Government agents
12 and myself on January 31st, 2000?

13 A. It was an open issue. I can't even recall how it
14 came up.

15 Q. Did the topic come up so far in that conversation?

16 A. I don't believe it did. I believe I received a phone
17 call from one of the agents when it was finally announced
18 in the newspaper approximately March of 2000.

19 Q. Prior to March of 2000, do you recall ever having any
20 discussions with anybody from the U.S. Attorney's Office,
21 any FBI agent or any IRS agent about that matter?

22 A. No, sir.

23 Q. I'll turn the focus to the second aspect of these bar
24 disciplinary questions. Those would be questions about
25 potential actions that may lie in your future as a result

Sinclair - Redirect

1 of your testimony here today. Okay?

2 A. Yes.

3 Q. To what extent were you concerned when you first met
4 with the FBI agents and then with myself and others from my
5 office to discuss testifying in this matter, to what extent
6 were you concerned about the potential that could have on
7 your ability to continue to practice law?

8 A. Well, there was no issue related to -- in my mind
9 they're two distinct problems for me, and I do not
10 commingle the two together.

11 Q. Well, did you have any concerns that if you admitted
12 to the facts you've admitted here, that that could lead to
13 bar proceedings in the future?

14 A. Personally, yes, but I never -- I never discussed
15 that.

16 Q. What was the position of my office and the Government
17 officials you talked to throughout our dealings with you as
18 to what the Government would or would not do, what position
19 it would take regarding the merits of any future bar
20 proceedings that are taken against you as a result of your
21 testimony here today?

22 A. That the Government would not get involved one way or
23 the other.

24 Q. That it would be something entirely between you and
25 the bar; is that correct?

Sinclair - Redirect

1 A. That's correct.

2 Q. And what was your understanding of our position as to
3 what, if any, action or help our office or the FBI or the
4 IRS would ever give you in the event you end up being sued
5 by Mr. DiBlasio regarding any of the matters you've
6 testified to here today?

7 A. There would be no action.

8 Q. You're on your own, correct?

9 A. That's correct.

10 Q. Congressman Traficant asked you some questions about
11 what he characterized as the January 31st, quote,
12 "cooperation agreement with the Government." Do you recall
13 that?

14 A. Yes.

15 Q. I'd like to show you what I've marked as Government's
16 Exhibit 1-36. Congressman, you were given a copy of this
17 but not a marked copy.

18 MR. TRAFICANT: Your Honor, we would request
19 a side bar, brief side bar.

20 THE COURT: Okay.

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

22 MR. TRAFICANT: On those documents that I
23 presented to Mr. Sinclair that I want on the record, do I
24 have to move to have them admitted as evidence?

25 THE COURT: You can move for the --

Sinclair - Redirect

1 MR. TRAFICANT: At any time.

2 THE COURT: Well, yeah.

3 MR. TRAFICANT: I don't need to move on them
4 now?

5 THE COURT: Pardon?

6 MR. TRAFICANT: I do not have to move on them
7 now?

8 THE COURT: No. You don't have to move on
9 them right now.

10 MR. TRAFICANT: Will I lose my right if, in
11 fact, he's not recalled?

12 THE COURT: Oh, you may need to move -- no,
13 no, you wouldn't lose your right, but if you want to, you
14 can move before he leaves.

15 MR. TRAFICANT: Okay.

16 MR. MORFORD: One more thing before we go on
17 with this witness' testimony, as long as we're over here,
18 we don't do it in front of the jury in case he has an
19 objection because Congressman Traficant brought up some
20 questions about his, quote, cooperation agreement with the
21 Government.

22 THE COURT: Um-hum.

23 MR. MORFORD: I would like to ask
24 Mr. Sinclair to read what his actual proffer letter
25 provided, and I just want to make sure rather than ask in

Sinclair - Redirect

1 front of the jury and have him object if he has an
2 objection.

3 THE COURT: You have an objection?

4 MR. TRAFICANT: I think they've already done
5 that, how many times are you going to do it?

6 THE COURT: He hasn't read it, have you?

7 MR. TRAFICANT: An original question and read
8 it but they talked about his first proffer, and he
9 discussed it and gave testimony.

10 THE COURT: Okay. Well, since you've brought
11 it into question, you have a right.

12 MR. MORFORD: One more thing. He was also
13 asked about questions, about his immunity and whether he
14 would be charged or not. I would also like to have him
15 read the actual terms of immunity order so it's clear what
16 the deals were.

17 THE COURT: Okay.

18 MR. TRAFICANT: Your Honor, I object to both.

19 THE COURT: Okay.

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

21 BY MR. MORFORD:

22 Q. Have you had a chance to read the letter?

23 A. Yes, I have.

24 Q. And without telling us what the contents say, can you
25 tell us what this is?

Sinclair - Redirect

1 A. This is a proffer agreement dated January 31, 2000.

2 Q. And I'd like to ask you to turn to the second page,
3 and tell me whose signatures are on this document?

4 A. Your signature as the author of the letter and my
5 signature acknowledging that I've read the letter.

6 Q. What date did you sign this letter?

7 A. January 31, 2000.

8 Q. I'd like to ask you to go ahead and read the letter,
9 if you will.

10 A. "Dear Mr. Sinclair: This letter will confirm you
11 expressed an interest in participating in an interview
12 under the terms and conditions of our standard proffer
13 agreement.

14 "In order to assure that there are no
15 misunderstandings about the meaning of the term proffer,
16 I'm willing to clarify the terms and conditions of such an
17 interview. First, you must be completely candid and
18 truthful."

19 THE COURT: Excuse me, Mr. Sinclair. You're
20 reading very fast, as people frequently do, and our
21 reporters are really first rate, but slow down a little.
22 Sometimes you forget when you're reading.

23 THE WITNESS: I'm sorry. I'll start the
24 second paragraph.

25 "First, you must be completely candid and truthful

Sinclair - Redirect

1 during the proffer. Any statements you make during the
2 proffer will not be admissible against you at any criminal
3 or civil case except as expressly provided below. Third,
4 the Government may make derivative use of statements you
5 make during the proffer and may pursue investigative leads
6 suggested by any such statements. Finally, in the event
7 you ever become a witness in a judicial proceeding,
8 offering testimony before a Grand Jury and offering
9 testimony materially different from any statement made
10 during the proffer, the attorney for the Government may
11 cross-examine you and introduce rebuttal evidence
12 concerning any statements you make during the proffer.

13 "This provision is necessary in order to assure that
14 you do not abuse the opportunity for a proffer, you do not
15 make materially false statements, and you do not commit
16 perjury while testifying in any future proceedings."

17 Page 2 reads, "we trust that you will find these
18 ground rules fair and reasonable. If so, please sign this
19 letter where indicated below. Please do not hesitate to
20 call me at 216-622-3921 if you have any questions regarding
21 this matter. Very truly yours," signed Craig Morford,
22 Assistant United States Attorney.

23 Q. With the exception of the terms you just read in this
24 letter, including the term the Government promised not to
25 use the statements you were going to make at this proffer

Sinclair - Redirect

1 against you in any criminal or civil case, was any other
2 promise made to you before you gave the Government your
3 first complete statement on January 31, 2000, about your
4 dealings with Congressman Traficant?

5 A. No, sir, there were no other promises.

6 Q. Next I'd like to show you what we have marked as
7 Government's Exhibit 35 -- I'm sorry, 1-35.

8 There's a portion of the transcript from your Grand
9 Jury appearance on February 1, 2000. I'd like you to turn,
10 if you will, to the second page of this exhibit, which is
11 the 6th page of the transcript and just ask you if you
12 would read beginning at the bottom of the Page 6, through
13 Page 7 and the top of Page 8?

14 A. "Raymond Allen Sinclair will be called to testify or
15 provide other information in proceedings before the federal
16 Grand Jury."

17 Q. I'm sorry. You're on Page 6 with the second page of
18 that?

19 A. I'm now on Page 7.

20 Q. See if you can start at -- right there where it says
21 "foreperson." I'm sorry.

22 A. "On a motion of Emily M. Sweeney, the United States
23 Attorney for the Northern District of Ohio, filed in this
24 matter on the first day of February, 2000, and appearing to
25 the satisfaction of the court, one, that Raymond Allen

Sinclair - Redirect

1 Sinclair will be called to testify or provide other
2 information from proceedings before the Federal Grand Jury
3 in the above captioned matter and in any further
4 proceedings resulting therefrom or ancillary thereto.

5 2. That in the judgment of the United States
6 Attorney, Raymond Allen Sinclair may refuse to testify or
7 provide other information on the basis of his privilege
8 against self-incrimination.

9 3. That in the judgment of the United States
10 Attorney, the testimony or other information from
11 Raymond Allen Sinclair may be necessary to the public
12 interest.

13 And 4. That the aforesaid motion filed herein has
14 been made with the approval of the deputy assistant
15 Attorney General in charge of the criminal division of the
16 United States Department of Justice, pursuant to the
17 authority vested in him by Title 18, United States Code
18 Section 6003 and 26 CFR, 0.1785(a).

19 Now, therefore, it is ordered pursuant to Title 18,
20 United States Code, Section 6002 that Raymond Allen
21 Sinclair give testimony or provide other information which
22 he refuses to give or provide on the basis of his privilege
23 against self-incrimination, as to all matters about which
24 he may be interrogated in the above-captioned proceedings
25 and any further proceedings resulting therefrom or

Sinclair - Redirect

1 ancillary thereto. This order shall become effective only
2 if after the making of this order, Raymond Allen Sinclair
3 refuses to testify or provide other information on the
4 basis of his privilege against self-incrimination. As this
5 matter involves an ongoing investigation, this motion and
6 order are sealed until further order of the court."

7 Q. With the exception of this Court ordered immunity
8 that you just read, and the proffer letter that you read a
9 moment before that, has the Government ever made any other
10 promises to you whatsoever regarding your testimony in this
11 matter?

12 A. No, sir. I had --

13 Q. I'd like to go back and ask you a couple questions in
14 response to Congressman Traficant's questions to you about
15 the deed that you prepared to transfer the farm to the
16 Congressman's daughter. Do you recall those questions that
17 you were asked by the Congressman?

18 A. Yes, I did.

19 Q. Who was it who actually asked you to prepare this
20 deed?

21 A. Congressman Traficant.

22 Q. And who was it that told you why the property was to
23 be transferred and the way you were being directed to
24 transfer this deed?

25 A. The Congressman.

Sinclair - Redirect

1 Q. Did you ever have any conversations whatsoever with
2 Congressman Traficant's wife?

3 A. No, I did not.

4 Q. How were you paid for your services as a lawyer in
5 preparing this deed?

6 A. I was not paid.

7 Q. Were you being paid in any way by Congressman
8 Traficant at that time?

9 A. Other than being on the payroll of the congressional
10 staff, no.

11 Q. Was this something you considered as part of your
12 duties as the congressional office staff attorney?

13 A. No, sir.

14 Q. Why would you prepare this for free of charge then?

15 A. At his request.

16 Q. Are you familiar with the term nominee?

17 A. Yes.

18 Q. Just explain to the jury from a lawyer's standpoint
19 what is a nominee?

20 A. Basically, it's a minimum procedure that -- it's hard
21 to explain. Normally, it's just a nominal event. I do
22 many things for clients that I don't charge for that are
23 just a nominal matter, just for -- just for their
24 assistance.

25 Q. I'm sorry. I didn't mean nominal. I mean the term

Sinclair - Redirect

1 nominee as used in the ownership and title of property.

2 A. I'm sorry, nominee. No, I am not very well versed on
3 property law. A nominee is basically someone who is noted
4 within the document as having some sort of interest in the
5 proceeding or the subject matter of the document.

6 Q. Let me ask you this: In your experience as a lawyer
7 who's done some property transaction work, have you ever
8 come across a situation where someone can be listed as the
9 title holder of a property but someone else the true
10 beneficial owner of the property?

11 MR. TRAFICANT: I object.

12 THE COURT: We'll see if he can answer it.

13 THE WITNESS: I'm sorry, can you ask me that
14 question again?

15 Q. Yes. Have you ever come across a situation in which
16 a piece of property or an asset can be titled to one person
17 even though the true beneficial owner is someone else?

18 A. Yes, in situations where property is owned by a
19 corporation or some other entity.

20 Q. Well, let me ask you a question about the building 11
21 Overhill Drive. Congressman Traficant asked you some
22 questions. Setting aside all the legal documents and who
23 holds legal title to the building, in reality, who are the
24 true actual owners of the building, apart from whatever
25 legal title has been set up?

Sinclair - Redirect

1 A. You mean by name or just control, who has control of
2 the building.

3 Q. Who has control and ownership of the building?

4 A. Are you asking me the specific time period? I'm
5 sorry --

6 Q. Right now.

7 A. Right now?

8 Q. Yes.

9 A. On the deed, the property is titled in my wife's
10 name. I formed an entity called KAS Enterprises, merely as
11 a business or a trade name. I control the building.

12 Q. Would it be fair to say that you're one of the
13 beneficial owners of the building?

14 A. Yes, for all practical purposes, I am what's called a
15 management agreement. It is signed between KAS Enterprises
16 and my wife to give me the authority to make decisions and
17 conduct business for the building.

18 Q. With that concept in mind, in your dealings regarding
19 the farm, who did you understand to be the true beneficial
20 owner of the farm, regardless of whoever the title may have
21 been placed?

22 A. The Congressman.

23 Q. With respect to the building at 11 Overhill Drive,
24 prior to the time that you purchased it, who was it that
25 you paid rent to?

Sinclair - Redirect

1 A. Attorney DiBlasio.

2 Q. When you sought to purchase the building, who did you
3 negotiate the deal with?

4 A. Attorney DiBlasio.

5 Q. Who did you pay when you purchased the building?

6 A. I believe at that time, the documents state Trumbull,
7 T-R-U-M-B-U-L-L. The bank would have given Attorney
8 DiBlasio the money.

9 Q. What was your understanding as to who the true
10 beneficial owner of the building 11 Overhill Road was?

11 A. Attorney DiBlasio.

12 Q. What was your understanding of what Trumbull Land
13 Company was?

14 A. It was a corporation whereby Henry was one of the
15 officers.

16 Q. To that you, held title to the property, correct?

17 A. That's correct.

18 Q. You were asked some questions about a piece of
19 letterhead that says under the law this is DiBlasio, Flask
20 and Sinclair, you recall that?

21 A. Yes, I do.

22 Q. What period of years are we talking about when those
23 law offices at 11 Overhill Road were referred to as the law
24 offices of DiBlasio, Flask and Sinclair?

25 A. This would probably have been 1994, 1995, not even

Sinclair - Redirect

1 before that, maybe '93 or '94.

2 Q. Approximately how long had you been out of law school
3 at that point?

4 A. Two years.

5 Q. Were you actually in partnership with Mr. Flask?

6 A. No, sir.

7 Q. Who was it that brought Mr. Flask into the law
8 offices of the DiBlasio, Flask, and Sinclair?

9 A. Attorney DiBlasio.

10 Q. Of the three people in the law offices of DiBlasio
11 Flask, and Sinclair, who had the least seniority?

12 A. Myself.

13 Q. Did you and Mr. DiBlasio ever have any discussions of
14 any concerns about having what Congressman Traficant
15 described as a convicted felon working in the law offices
16 of DiBlasio, Flask and Sinclair?

17 A. Yes, we did.

18 Q. Could you describe those discussions to the jury?

19 A. I can't remember the time period, but it became known
20 that there was an investigation concerning Attorney Flask
21 and his involvement with what's called the Mahoning County
22 sanitary district. He was a board member, and there were
23 some questions that arose as to his management of the money
24 and also concerning his participation as consulting work
25 for various businesses such as Blue Cross, Blue Shield and

Sinclair - Redirect

1 them. It just wasn't a very -- it was just something that
2 I could see coming on down the line that was not conducive
3 to my practice, so I discussed this with Henry and urged
4 him to ask Attorney Flask to leave the office.

5 Q. Did you have the power or ability to throw him out of
6 the office yourself?

7 A. No.

8 Q. Had you brought him into the office?

9 A. No, I did not.

10 Q. Who had?

11 A. Attorney DiBlasio.

12 Q. One last question: Congressman Traficant showed you
13 a letter that you had written dated February 16, 2000,
14 where you said that you were advising him that as of March
15 1, 2000, you were going to resign as administrative
16 counsel, and you stated the time that you've worked for him
17 as being a rewarding and excellent learning experience and
18 thanked him for the opportunity.

19 At the time you sent this letter to the Congressman
20 on February 16, 2000, had you notified the Congressman that
21 you were providing information to the FBI, the type of
22 information you testified here today?

23 A. No, sir.

24 Q. Why did you state in this letter at the time that you
25 worked for him had been a rewarding, excellent learning

Sinclair - Redirect

1 experience?

2 A. That's merely language that's included in the lot of
3 resignation letters, laying out the terms I guess.

4 Q. Were you attempting to conceal the fact from him that
5 you were cooperating with the FBI?

6 A. I was trying to make it my best effort not to have
7 him notice my concerns at the time. I was very concerned
8 that he could see through me during that time period, yes.
9 It's -- I'm not a good liar.

10 MR. MORFORD: May I have just a moment, your
11 Honor?

12 Q. With regard to the 1998 advertising infraction, at
13 what stage was that matter when Congressman Traficant hired
14 you to go to work for his office in December -- November,
15 December, 1998?

16 A. What stage it was at?

17 Q. Had it developed yet, or had you been notified yet?

18 A. Yes, and I believe it had already developed, and I
19 may have gone through a hearing regarding it. I may have
20 been awaiting the outcome at that time.

21 Q. What, if any, discussions did you have with
22 Congressman Traficant about the fact that you had a pending
23 disciplinary matter at the time he was talking about
24 bringing you on staff to be his staff counsel?

25 A. In the car ride where he offered me the job, I

Sinclair - Redirect

1 disclosed that to him because I didn't want this to affect
2 him politically as the papers do pick this type of stuff
3 up, and it would be published. I wanted him to know that
4 this would be something negative that would come out, and I
5 wanted him to be aware of it so that he could make his
6 decision.

7 Q. And did you describe the nature of the proceedings
8 for him the same way you did in court today or yesterday?

9 A. Oh, I did, but I don't think he really cared or
10 listened to the subject.

11 Q. What was his reaction when you told him about that?

12 A. Really nothing. It was just a -- he really didn't
13 have any response to it.

14 MR. MORFORD: I have no further questions.

15 THE COURT: Thank you. This is a very good
16 time for an afternoon break, so we'll take an afternoon --

17 MR. TRAFICANT: Your Honor, I won't take
18 long, perhaps maybe five minutes. We can then excuse the
19 witness if that would be all right with the jury.

20 THE COURT: All right. Is that okay, five
21 minutes long? Very well, thank you Congressman

22

23

24

25

Sinclair - Recross

1 Government, true or false?

2 A. If you lie, you lie.

3 Q. Just yes or no. If you lie, you'd be prosecuted, yes
4 or no?

5 A. Yes. If my lie had been discovered, yes, I assume I
6 would be prosecuted.

7 Q. And if you didn't lie, you would not be prosecuted?

8 A. That's correct.

9 Q. That's your proffer agreement.

10 Now, isn't it a fact that Mr. Paul Marccone, and I
11 called you relative to a newspaper article when your name
12 appeared because of the fact that you worked for me,
13 because of this violation with a Mr. Shure. You recall
14 that testimony?

15 A. Yes, I remember you called me at home.

16 Q. Do you recall that Mr. Marccone and I both talked to
17 you on the phone?

18 A. No, I just recall talking to you.

19 Q. Were you not asked the severity of this charge?

20 A. Yeah, I believed your impression of it was much more
21 serious than what it was. I believe you had some idea that
22 it was somewhat of a criminal probation rather than an
23 administrative probation, and I explained to you that, you
24 know, it was -- it was not a concern.

25 Q. It was minor, it was minor?

Sinclair - Recross

- 1 A. Yes.
- 2 Q. And you satisfied me with that, did you not?
- 3 A. I believe so, yes.
- 4 Q. Yes. And was there any further conversation I had
5 with you on that?
- 6 A. No. You acted surprised as if you didn't know about
7 it.
- 8 Q. Perhaps did not recall it?
- 9 A. Perhaps.
- 10 Q. Okay.
- 11 But, did I treat you differently?
- 12 A. No, sir, you sounded concerned and --
- 13 Q. In fact, did I not support you through the process?
- 14 A. Well, you supported me in that whole conversation,
15 but I can't say through the process.
- 16 Q. But I mean I made no statements or when I was asked
17 by the press, did I say anything that was derogatory?
- 18 A. No. I believe you did let me know that you received
19 a call from the media concerning the issue, and I -- I
20 think you were a little taken aback because you had no idea
21 what was going on.
- 22 Q. But, I said nothing bad about you, did I?
- 23 A. No.
- 24 Q. Okay. Now, they brought up this deed business.
25 First of all, they bring up Mr. Flask. Mr. Flask happens

Sinclair - Recross

1 to have been convicted. I only bring up the fact that you
2 were in a law partnership. In fact, Mr. Flask, even though
3 he's convicted happens to be a friend of mine, I have
4 nothing to hide about that. My point was: Were you, in
5 fact -- was your name on the letterhead with these three?

6 A. I'd like to clarify to you and for you that it was on
7 a partnership. There was no partnership between Mr. Flask,
8 myself, and Attorney DiBlasio.

9 Q. But you, as the Junior, as you said, did they not, in
10 fact, lay most of the work on you?

11 A. No, it was an office sharing arrangement. I had my
12 own practice at the time, and if there were menial jobs
13 that either attorney Flask or Mr. DiBlasio did not want to
14 perform, they felt I was capable of handling those, I
15 would -- I would conduct that work for them and charge them
16 on an hourly basis for the work that I did.

17 Q. Okay. Now, do you pay rent to your wife for your
18 office space?

19 A. I pay rent to KAS Enterprises.

20 Q. Do you know if I pay rent on the property in Green
21 Township, commonly referred to as the farm?

22 A. No, I have no knowledge of that.

23 Q. So then your answers relative to ownership that was
24 brought forth by Mr. Morford could be confusing, couldn't
25 it?

1 A. No, I think they're very clear.

2 Q. I mean, if someone would pay rent on a property, it
3 wouldn't make a difference, would it?

4 A. Well, the fact that you pay rent to an individual or
5 an entity, I think is very clear.

6 Q. Thank you.

7 MR. TRAFICANT: No further questions.

8 THE COURT: Thank you. Anything further?

9 MR. MORFORD: No, your Honor.

10 THE COURT: Very well. You can be excused,
11 sir. The jury and everybody can have a break. This will
12 be about half an hour break. I think it means we'll be
13 back here at 3:10. How's that, ready to be in the box.

14 MR. TRAFICANT: Your Honor, could we make
15 that 3:15 for cause?

16 THE COURT: 3:15, how's that? All right.
17 Thank you.

18 (Proceedings in the absence of the jury:)

19 THE COURT: Okay. If we do it now or you
20 want to do it at 3:10?

21 MR. TRAFICANT: No. I asked for a little
22 additional time for cause. Personal.

23 THE COURT: Okay, fine. What I'd like to do
24 is say a couple of things here. You can -- the rest of you
25 can be seated or take your break, do whatever you'd like to

1 do. These are things we have to take care of.

2 We have one motion before the Court, which is the
3 Government's motion to permit an IRS summary witness to
4 attend trial, view transcripts of proceedings, and I need
5 the Government to say a little more than is said in this
6 motion about what is it about this party, which is
7 essential to the presentation of your case?

8 I want to just infer that, but it's so -- it isn't
9 written with enough specificity for me, so if you do, then
10 the Congressman here, since I haven't gotten anything in
11 writing from you, if you wish, you can respond right here.

12 MR. MORFORD: The purpose of the testimony is
13 to have an IRS revenue agent review specific items that
14 could constitute income during the two taxable years that
15 are alleged in the indictment, to have false income tax
16 returns.

17 For example, he would review the testimony of Allen
18 Sinclair as to when Allen Sinclair paid the Congressman
19 specific portions of money, to determine which portions of
20 those \$2500 payments, if the jury finds those facts, should
21 have been taxable in 1998, should have been taxable in
22 1999. And so that would be one example.

23 Another example would be, he would look at the
24 testimony of J. J. Cafaro to determine what, if any,
25 payments J. J. Cafaro made and paid during 1998 and 1999,

1 would be taxable income, assuming a certain set of facts,
2 and then it's up to the jury to decide the facts, but if
3 they decide the facts a certain way, there's some timing
4 issues as to whether those items would be taxable income
5 and in what year they would be taxable. So the jury can
6 determine whether the tax returns are false as charged.

7 THE COURT: Thank you.

8 MR. TRAFICANT: Naturally, I object. I'm
9 even amazed at the motion. You have seated out here
10 Officer Denholm, FBI agent, who's scheduled to testify.

11 THE COURT: Well, you had --

12 MR. TRAFICANT: No. I want to make a
13 statement. I think I have the floor.

14 THE COURT: All right. You can make a
15 statement.

16 MR. TRAFICANT: They have Government agents
17 sitting in here listening to witness statements that they
18 can later come back and clean up, where clearly these
19 statements could be impeached were they not present.

20 Now, they have submitted evidence pursuant to a trial
21 schedule. These IRS people are highly trained. You try to
22 tell me they can't take the books and the records and
23 determine for themselves and make an assessment relative to
24 an individual status as it relates to a tax matter?

25 I believe for the Court to allow the Government to

1 have their witnesses, who will take the stand, sit in here
2 and hear testimony clearly is prejudicial to the Defense.

3 THE COURT: All right. Now you're making
4 a -- you're blending two things here, and I just want to
5 point out that the transcripts and record in this case show
6 that you acknowledged from the outset the propriety of
7 their having an agent sit -- seated at the trial table. It
8 was then you made the decision that you did not want any of
9 your assistants to sit at the trial table.

10 MR. TRAFICANT: I didn't object to them being
11 at the table.

12 THE COURT: Exactly.

13 MR. TRAFICANT: But, I objected to any of
14 their witnesses being in the courtroom. Why should their
15 witness sit at the table here? Why should an FBI agent be
16 seated here when they have 100 FBI agents? Why do they
17 need Jones, when Jones is going to testify? I mean, the
18 Court -- the Court should consider that factor where the
19 Government has the distinct advantage of listening to the
20 testimony, having an agent come up, and embellish and/or,
21 in fact, help a witness whose testimony is rather lengthy.

22 THE COURT: You have certainly changed your
23 position on the two people who from the beginning of this
24 case have been seated here. We're now talking about a
25 different situation. So I want to -- I want to assure

1 myself that you're clear that we're talking about a
2 different situation. You filed a motion for separation of
3 witnesses with the Court?

4 MR. TRAFICANT: Yes.

5 THE COURT: I granted your motion.

6 MR. TRAFICANT: They're in the room.

7 THE COURT: No, no, no. That was after we
8 already dealt with the fact that the Government has -- that
9 they could be seated at this table here, these two agents
10 here, which you acknowledged was appropriate.

11 MR. TRAFICANT: No, I --

12 THE COURT: We said you could have your
13 assistants sit at the table with you, and you said no, I do
14 not want them to sit at the table.

15 MR. TRAFICANT: Hear me out. Let's not put
16 words in my mouth.

17 THE COURT: We have a transcript.

18 MR. TRAFICANT: I know we have transcripts,
19 and transcripts --

20 THE COURT: Don't mix that issue with the
21 ones currently here. I'm giving you an opportunity to
22 argue the motion that was filed.

23 MR. TRAFICANT: Okay. First of all on this
24 motion, this person has an education, he's a tax agent.
25 Evidently, he's real good because this is a high profile

1 case for them. He should have enough understanding to be
2 able to handle the matter. Number 1.

3 Number 2, when I agreed in the beginning they could
4 have 20 people in here, it was not under the assumption
5 that 17 of them would be called as witnesses and would have
6 the benefit of having heard the testimony presented before
7 them.

8 THE COURT: Okay. Now -- now we're on
9 something else.

10 MR. TRAFICANT: No, but I want to correct
11 that to the court because I think the first issue's clear.
12 I object to that person being in this courtroom at any
13 time, that tax analyst.

14 THE COURT: This one that's the subject of
15 the motion?

16 MR. TRAFICANT: Any tax analyst who will
17 testify.

18 THE COURT: Okay. I understand. Thank you.
19 Now, I understand your position on this motion. That's why
20 I gave you an opportunity to address it.

21 MR. TRAFICANT: Thank you.

22 THE COURT: You're welcome.

23 I want to point out to you that we need you from --
24 we need you to always be able to provide us -- you can't
25 rely on the Government to always have some copy of what

1 you're going to use as exhibits.

2 And that's been gone through from the beginning of
3 this preparation of this case. We need an exhibit for the
4 Court so that we can keep a record of this case. And they
5 need a copy of an exhibit. Okay? Just so you're clear
6 about that and we don't get into difficulty about it
7 because I can't let you go forward when we don't have the
8 exhibits that are necessary to make the proceedings
9 function. Otherwise, we would have chaos in the record.
10 And that wouldn't protect you.

11 MR. TRAFICANT: I agree, but today, they said
12 they did not have certain documents, and we had to count 32
13 pages, and I was informed that it was all a part of a
14 discovery package that was sent to them, and they had it.

15 MR. MORFORD: We do not have those extra
16 pages.

17 MR. TRAFICANT: Then you misplaced them, sir.

18 THE COURT: Okay. Well, that we'll have to
19 work out. And we'll have to work it out at 4:30 so that
20 everybody gets a break now, and we will hold the lawyers
21 after we dismiss the jury today to work that out.

22 MR. SMITH: Your Honor, before we call the
23 next witness, there's an evidentiary matter that I have to
24 deal with before the next witness comes in. You want to
25 deal with it now or after the break?

1 MR. TRAFICANT: I -- I would like now that we
2 have spent this much time, I would like a little more
3 leeway on the time due to matters that I brought to the
4 attention of the court and request that we withhold any
5 more of their verbiage until after I handle some very
6 personal matters.

7 THE COURT: If we're going to have an
8 evidentiary issue with the next witness, can't you postpone
9 it until after we've had -- after we've had the afternoon
10 session, the rest of this session?

11 MR. SMITH: Well, my intention is to show
12 Exhibits 1-24 to the next witness. I don't think I can do
13 that until I lay the foundation that these are
14 self-authenticating documents, that's all I want to do.

15 THE COURT: Is there anything about that that
16 you can work out with the Congressman so that we don't have
17 to?

18 MR. SMITH: I'll try. I'll try.

19 MR. TRAFICANT: These are very complicated
20 with all these numbers, and I object to that. They should
21 have some witness in the late hour of the day.

22 THE COURT: Congressman, we'll give you a
23 break right now. I think it's time for a break. We will
24 reconvene at 3:15, at which point --

25 MR. TRAFICANT: 3:15?

1 THE COURT: Is that what I said? Yes, we'll
2 reconvene at 3:15.

3 MR. SMITH: Thank you, your Honor.

4 MR. MORFORD: Thank you, your Honor.

5 (Thereupon, a recess was taken.)

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

7 MR. TRAFICANT: I must make a strong
8 objection to the following: There are agents who will
9 testify in this trial, who have the opportunity to sit back
10 and listen to witness testimony that later will be called
11 and has the benefit of that testimony, Number 1.

12 Number 2, may have the ability to communicate with
13 someone relative to testimony. I just think in fairness
14 anybody who is to testify in this case should not be in
15 this courtroom, nor downstairs, and I move that the Court
16 remove anyone as such.

17 Now, they could have ten people at this table, but
18 not witnesses.

19 THE COURT: Do you want to respond?

20 MR. MORFORD: Yes, your Honor. First of all,
21 when Congressman Traficant raised this motion for
22 separation of witnesses, we filed something in writing,
23 noting that we were asking the two case agents to be
24 present in court, he did not object to that. Number 2 --

25 MR. TRAFICANT: I didn't know they were

1 testifying.

2 MR. MORFORD: Number 2, we indicated in
3 writing we did not intend to call them in our case-in-chief
4 unless the Court allowed Congressman Traficant to put the
5 state of mind of the Government into evidence, and if the
6 Court allowed that or if Congressman Traficant did that,
7 even over the Court's objection, that at that point, we
8 would call Agent Perkins for the sole purpose of talking
9 about the initiation of the investigation and the things
10 that caused us to focus an investigation in continuing the
11 investigation of Congressman Traficant to show the true
12 state of mind of the Government.

13 MR. TRAFICANT: All well and good. We've
14 already been over that.

15 THE COURT: Wait. Don't interrupt.

16 MR. MORFORD: And so as a result, Number 1,
17 he knew those were the parameters of which there might be
18 testimony, and he didn't object to either.

19 MR. TRAFICANT: But, there are certain 302's
20 signed by agents that have been sitting listening to this
21 testimony that may lead to some questions that could, in
22 fact, have some significance and bearing on the veracity of
23 testimony. I don't believe they should be able to sit in
24 here, then come in here and then for the purpose of
25 whatever, carry the Government's ball.

1 Why they need to be here, if they're case agents and
2 they're here to testify if they had signed memos or, in
3 fact, did 302's, what the hell do they need them for?
4 You've got the Government, they have got agents, why do you
5 need someone who could be a potential witness here? I
6 think that is ridiculous. I think it's unfair, I think
7 it's prejudicial, I think it opens up for abuse, and I
8 think that's not -- that's the last thing you want.

9 THE COURT: Why is it that you waited through
10 all this period of time, listened to the court give the
11 instructions saying that --

12 MR. TRAFICANT: Because I --

13 THE COURT: Wait, giving the instructions
14 that were based on all the issues that the Government has
15 just put on the record, and also on the fact that agents
16 have frequently been permitted to be at a table in long and
17 complex cases, why did you wait until we are this far along
18 in the case to suddenly tell us that you objected to
19 something? It was even in the instructions that I gave to
20 the jury when I talked to them that it was -- it was all
21 right for --

22 MR. TRAFICANT: Case agents.

23 THE COURT: -- to sit at the table.

24 Why did you wait until we were --

25 MR. TRAFICANT: Can I respond?

1 THE COURT: -- in the trial.

2 MR. TRAFICANT: Because I have now put faces
3 with names and have seen names on documents and seen that
4 these faces with names on documents are sitting in this
5 courtroom listening to this testimony.

6 THE COURT: Okay.

7 MR. TRAFICANT: Now, I don't have that
8 advantage, and it's clearly disadvantage and one having now
9 brought that to the attention of the court and having
10 brought it to a point where I noticed it, I think it is
11 only fair that for you to assume and come back because of
12 my statements not complaining about who sits at their
13 table, as long as they're not witnesses, I don't want
14 witnesses sitting at their table. They can have -- they
15 could have --

16 THE COURT: But they said -- they said they
17 were not going to call these people as witnesses unless,
18 unless you put something --

19 MR. TRAFICANT: I may call them.

20 THE COURT: Well --

21 MR. TRAFICANT: After what I'm seeing, my
22 God, I may call several of them. There's a lot of 302's in
23 this case.

24 THE COURT: Which one of us is going to talk?
25 You want to talk for a little while? I'll give you five

1 minutes on the record right here, and you can talk. Is
2 that what you want to do? Or can I finish a sentence?

3 MR. TRAFICANT: I'm going to apologize and
4 let you complete.

5 THE COURT: Thank you.

6 All right. What we have is a situation that you've
7 raised based on something that you apparently just saw
8 today in the 302's?

9 MR. TRAFICANT: I noticed --

10 THE COURT: Okay. What is it? Bring me a
11 302 that you just saw that you are concerned with.

12 MR. TRAFICANT: You're now having me bring my
13 defense in to you.

14 THE COURT: I'm asking you if you say --

15 MR. TRAFICANT: No. I will not do that, I
16 just put my objection on the record here, and I'm not going
17 to be giving you any more of my evidence and/or, in fact,
18 give the Government my case. You've already ruled out half
19 of it.

20 THE COURT: Okay. Are we through with this
21 issue? We're --

22 MR. TRAFICANT: I would hope you will rule.

23 THE COURT: I will rule. Are we through with
24 the discussion on this issue?

25 MR. TRAFICANT: They have a concern about

1 this IRS and his sitting through the whole thing.

2 THE COURT: That's a different issue. They
3 raised that by motion. You had a chance to respond, and
4 I'll rule on that in a minute. Mr. Smith.

5 MR. SMITH: I do have a different question if
6 you are ready to move to it.

7 The next witness before I put something on the
8 overhead --

9 MR. TRAFICANT: Could you keep it down?

10 MR. SMITH: Certainly, sir.

11 Under Rule 902 and 902 (2), and 902 (4), the Rules of
12 Evidence, I intend to show the next three witnesses, U.S.
13 treasury checks payable to Henry A. DiBlasio, under Rule
14 902 (2) and (4). The Treasury Department has given us
15 certified copies of the originals. Of course, we would
16 prefer somebody would use the originals, but we do have the
17 certified copies, which make these authentic under Rules
18 902 (2) and (4). I'll be simply showing the bank witnesses
19 and asking them to identify certain markings on the checks,
20 but I didn't know if you wanted me to issue
21 self-authenticating documents in front of a jury, if you
22 wanted that done separate.

23 THE COURT: No. It should be done here at
24 the side bar. Okay.

25 MR. TRAFICANT: I'll leave it to your

1 discretion.

2 THE COURT: Thank you. Well, those -- that
3 would be a correct application of those rules, and so
4 they're really -- you're going to bring a bank witness
5 next. Is that your next witness?

6 MR. SMITH: Yes, your Honor.

7 MR. MORFORD: The next three witnesses.

8 THE COURT: Okay. Very well.

9 MR. SMITH: One final thing: You want us to
10 wait until the end of the case to move exhibits or after
11 each witness?

12 THE COURT: You can do that as you choose,
13 or --

14 MR. MORFORD: The end of the day.

15 THE COURT: It does, of course, take time,
16 and we have to do it out of the presence of the jury.

17 MR. TRAFICANT: If I want to introduce, for
18 example, a piece of evidence on the Elmo they're bringing
19 up next and I'm going to do it three weeks from now, will I
20 still have that right?

21 THE COURT: All depends.

22 MR. TRAFICANT: I didn't hear what you said.

23 THE COURT: Well, he's going to be here if he
24 has a witness on the stand. You have a chance to
25 cross-examine.

1 MR. TRAFICANT: What if it is something that
2 I later come up with, that I believe has certain or salient
3 facts and want to offer it as evidence?

4 THE COURT: It's going to depend where we are
5 in the proceedings of the case.

6 MR. TRAFICANT: You're saying I should have
7 to file when the witness is on the stand that which I
8 intend to have given to the jury, is that you're telling me
9 now?

10 THE COURT: No.

11 MR. TRAFICANT: Because I did not hear you
12 say that earlier.

13 THE COURT: Well, I wouldn't have said that
14 earlier. I don't -- I guess you have a witness. We have
15 three witnesses potentially this afternoon, one after the
16 other. They're all bank witnesses. I think you were told
17 their names. I didn't recognize them because I haven't
18 been following that part of the case, but you want to know
19 who the next witness will be? Do you want to? You can
20 call a witnesses, you can call witnesses in your case, you
21 can call witnesses in --

22 MR. TRAFICANT: No. I'll wait until it's my
23 turn, don't I? I think it's their turn.

24 THE COURT: Right. But if you want to
25 cross-examine this witness, it's the witness available to

1 you.

2 MR. TRAFICANT: But do I have to offer a
3 piece of evidence today or tomorrow on a witness for
4 tomorrow or on a witness for Friday, or do I lose the right
5 to offer a document and in concern to that after I have
6 reviewed or perhaps studied this matter?

7 MR. SMITH: I can respond, your Honor.

8 It seems that normal practice in any trial and
9 efficiency of a trial requires that both parties, when they
10 have the witness on the stand, put on -- show that witness
11 whatever exhibits they want to show that witness, when the
12 witness is here. So you don't have constantly people being
13 recalled and recalled and recalled. That would be our
14 position. Thank you.

15 MR. TRAFICANT: That which I submitted on
16 discovery is not considered evidence unless you rule it in?

17 THE COURT: Well --

18 MR. TRAFICANT: Is that what I'm hearing
19 here?

20 THE COURT: Nothing is evidence unless it is
21 submitted to the Court. The Court makes a ruling on
22 whether or not it can be considered as evidence.

23 MR. TRAFICANT: Well, did you have a ruling
24 on the January 9th submission of evidence?

25 MR. MORFORD: It wasn't an offer of evidence.

1 THE COURT: I don't think --

2 MR. TRAFICANT: That was discovery, January
3 9th.

4 MR. MORFORD: You're mentioning discovery
5 with offer of evidence. You can't offer evidence until you
6 have a jury, so you haven't offered any of those things
7 yet.

8 MR. TRAFICANT: So I have to offer them today
9 or start offering them while the jury's seated. Is that
10 what you're telling me?

11 THE COURT: Not when the jury is in the room.
12 But it is correct, that until we have a jury to consider
13 things, we don't start offering any evidence. Sometimes
14 lawyers ask for rulings about whether evidence could be
15 offered. That might be what's confusing.

16 But there is no evidence before this jury now except
17 for the first -- what, 16 documents? -- that were -- the
18 Government decided to ask to go ahead and be admitted and
19 we did, and --

20 MR. TRAFICANT: But they did that while the
21 jury was in the room, and you admitted it while the jury
22 was in the room.

23 THE COURT: That's true.

24 MR. TRAFICANT: Now you're saying I can't do
25 that while the jury's in the room?

1 THE COURT: You know what it's like, a whole
2 course in evidence can't be taught in a side bar.

3 MR. TRAFICANT: But hear me. When we dealt
4 with challenges, there was one confusing point, and maybe I
5 should have gone further. Now I am going further.

6 Here's what you said. You cannot bring and put into
7 evidence those documents while the jury is seated. Then
8 you said that the Government put 16 of them on.

9 THE COURT: Until we have a jury seated in
10 the case, impaneled would be a better word, we have to have
11 a jury impaneled.

12 MR. TRAFICANT: You said they put 16 on the
13 record while they were in the room.

14 THE COURT: Well, they were, but first, you
15 had to have them impaneled before they would be in the
16 room, and they were impaneled. We -- we chose a jury.

17 MR. TRAFICANT: So you're saying --

18 THE COURT: The jury was selected, so nothing
19 that you put in any pleadings or anything else until we
20 had --

21 MR. TRAFICANT: So when they come in, I can
22 put some evidence on the record. Is that what you're
23 saying?

24 THE COURT: Well, it depends on what evidence
25 it is and how you want to offer it. There has to be a

1 foundation laid for most evidence.

2 MR. MORFORD: Your Honor, may I respond to
3 that last question? I would move in limine right now with
4 respect to out-of-court affidavits and tape recordings of
5 people who are not here to testify, that those matters not
6 be offered in front of the jury until a proper foundation
7 has been set.

8 THE COURT: No, that's true, a foundation has
9 to be set. Do you remember today when you asked about
10 whether or not some statements could come in regarding
11 somebody going to talk to somebody and I said I made a
12 conditional rule, first the Government would have to show
13 the trustworthiness of the statements, okay, so you don't
14 do that in front of the jury. The rules -- the jury has
15 its job, and I have my job, and my job has to do with the
16 rules and enforcing rules.

17 So what we do is, after the jury's gone, after
18 they're recessed, we see whether the Government is going to
19 be able to establish the proper foundation to admit
20 something. They may be able to, maybe they can't.

21 So I can't tell them right now if that evidence is
22 going to come in, and I can't tell you. I don't know
23 anything about what you want to bring in as evidence.

24 So that may help you understand, and evidence comes
25 in in different ways, but it isn't whether there's a jury

1 in the box or not. That doesn't determine anything. We
2 make the decisions about whether evidence would come in or
3 not come in depending on what it is, whether there are
4 objections and the rules of law. We do that work outside
5 the hearing of the jury.

6 MR. TRAFICANT: Um-hum.

7 THE COURT: Okay? Now, are we ready to bring
8 the jury in? We have a witness.

9 MR. SMITH: Yes.

10 THE COURT: Does he know.

11 Mr. Smith: Carrie Davis from Key Bank.

12 MR. TRAFICANT: What Key Bank?

13 MR. SMITH: Key Bank.

14 MR. MORFORD: One last thing: I don't know
15 whether we'll get there today --

16 THE COURT: Probably not.

17 MR. MORFORD: Well -- Congressman, we had --

18 MR. TRAFICANT: Don't call me names.

19 MR. MORFORD: We had three custodians, bank
20 custodians. I don't know how long he'll take, but if we do
21 have time, our fourth and final witness would be an IRS
22 agent who simply took bank records and did a 1006 summary
23 for separate summaries that --

24 MR. TRAFICANT: That's the guy you want in
25 the room, right?

1 MR. MORFORD: No, no. He's not in the room,
2 not watched any testimony, but there is those, are smaller
3 versions given to the court, and he'll use the wall chart
4 the jury can see.

5 MR. TRAFICANT: Fine. Before we leave, I'd
6 like you to rule on any agent that participated in the
7 investigation, wrote a 302, could possibly be called by the
8 defense for either impeachment or for purposes of
9 testimony, and/or evidence, they should not be allowed to
10 be seated in the courtroom. They should be excluded from
11 the courtroom.

12 Now, you could have -- you could bring in Mr.
13 Ashcroft. You can bring in the Assistant U.S. Attorney
14 General and put 20 chairs over here, but I am saying this
15 for the record: That anyone who may be or has written or
16 has participated in this investigation, who sits in this
17 allowed to sit in here, is prejudicial to the Defendant,
18 and I move that you restrict that and strike it now.

19 THE COURT: So far we don't have anyone in
20 that position.

21 MR. TRAFICANT: Yes, you do. You have Agent
22 Denholm sitting back there who signed several.

23 THE COURT: Who's not going to be called as a
24 witness, right?

25 MR. MORFORD: Not by the Government.

1 MR. TRAFICANT: Not by the Government, but
2 what I'm saying is, he participated in the investigation,
3 and he has contact with these witnesses for the Government.
4 Why does he have to be in here? He's done his job. Can't
5 they do their job now?

6 MR. MORFORD: I believe in our trial brief I
7 believe we cited cases that hold that it's proper to have a
8 case agent in the courtroom during the case. That's very
9 normal in the trial, and I would also like --

10 MR. TRAFICANT: You're leaving people in here
11 that are making it very unfair for a trial in this case,
12 and I'm just want to put that on the record. Do what you
13 want. I'm going to accept your ruling.

14 MR. MORFORD: I would like to put one last
15 thing on the record.

16 I assume that you are not calling Bob Barlow, despite
17 your cross-examination of Mr. Sinclair, because I was told
18 that he was downstairs watching Mr. Sinclair's testimony,
19 and you were the one that moved for exclusion of witnesses
20 so I assume you are not calling him.

21 MR. TRAFICANT: No, you can't assume
22 anything. I didn't know where the hell he was seated or
23 whether or not he should be seated.

24 THE MORFORD: You gave him a hug out of the
25 hallway.

1 they are --

2 MR. TRAFICANT: The Defense witnesses, and
3 allowing -- it's -- you mean --

4 THE COURT: It's such a -- I haven't --

5 MR. TRAFICANT: I can't call a Government
6 agent? Am I hearing that here at the side bar?

7 THE COURT: No, you didn't hear that.

8 MR. TRAFICANT: What I'm trying to tell you
9 is, I do plan to do so, and I want them removed from the
10 courtroom.

11 THE COURT: You're going call these two
12 witnesses?

13 MR. TRAFICANT: Anyone that's had anything to
14 do with a 302 that affects any evidence in this case will
15 probably be reviewed by the Defendant.

16 THE COURT: Well, since you have 302's, but
17 I've never seen them, if you really want me to be able to
18 rule on that motion, you need to do what I asked you to do,
19 which is to tell me which ones you're talking about, not
20 the agents, but the 302's, and you said you refused to do
21 that.

22 MR. TRAFICANT: Here's the only problem I
23 have. Let me put it on the record. I submitted questions,
24 not to get --

25 THE COURT: What did you submit?

1 MR. TRAFICANT: I submitted evidence of
2 prosecutorial misconduct.

3 THE COURT: You haven't submitted any
4 evidence in this case.

5 MR. TRAFICANT: Wait a minute. Let me make
6 my statement. I think I have the floor there now.

7 THE COURT: Well, it would not be -- it would
8 not be a representation -- well, it isn't an analogy.

9 MR. TRAFICANT: It is an analogy. It is an
10 analogy. I submitted -- you called for and had a motion
11 saying if there's prosecutorial misconduct, Congressman,
12 you submit it. I submitted four pieces, you were quoted in
13 the Youngstown Vindicator saying it was frivolous, and you
14 denied it on its face.

15 THE COURT: I actually wrote a motion about
16 that.

17 MR. TRAFICANT: Yes, you did, and it was
18 printed widely. They had four pieces of significant things
19 that I should have never submitted to you that now they
20 have some knowledge of. You have limited the Defense here,
21 and I do not like what's happening, and I don't want these
22 damn FBI agents who have submitted 302's in this courtroom
23 period.

24 THE COURT: Okay. Are you through now? Are
25 you ready for us to call witnesses?

1 MR. TRAFICANT: And I am reluctant to give
2 you the 302's because of the fact that the Government has a
3 way of simply finding out what the Defense might be about,
4 quite frankly. I am concerned about the confidentiality of
5 my defense and the tactics of the Northern District of
6 Ohio, and I want it on the record.

7 THE COURT: Okay.

8 The two agents who have been here throughout the
9 trial may stay here. They have been here throughout the
10 trial, and there's no reason so far that I've been given
11 that would make me change that. As to the other one, it's
12 a motion, you responded to it, and after --

13 MR. TRAFICANT: If they sit here, if they're
14 going to sit here.

15 THE COURT: After the afternoon is over --
16 well, then you put your people at the table.

17 MR. TRAFICANT: I don't have any people here.
18 I have no people here that are legal advisors, paralegals,
19 or have anything to do with this investigation at all.

20 THE COURT: Okay.

21 MR. TRAFICANT: And if they're going to be
22 here, put them at the damn table, or move them out because
23 I don't want to see their facial expression.

24 MR. MORFORD: You're saying on the record you
25 have no one assisting you with this trial in the courtroom?

1 MR. TRAFICANT: I'm saying I have people that
2 do prepare notes for me and do things at my direction, but
3 I have no help in that regard, and whether I do or not,
4 that's not important, and if you want those two people
5 removed, I'll have them removed. But, for the sake of
6 expedience of this trial, not knowing who's going to be
7 called and to give me the files I need or go to a car,
8 that's what much of this has been about, but I'm talking
9 about a different matter.

10 If you're going to leave Denholm and these other
11 agents here who are significant in this case, put them at
12 this table and remove them, that's the recommendation, and
13 I'm recommending they be removed.

14 MR. MORFORD: And our request is that if the
15 trial assistants are going to be in court today, sit at the
16 trial -- that all trial assistants for both sit at the
17 table and if they --

18 MR. TRAFICANT: I have no assistants.

19 THE COURT: Who are the people who you've
20 been having help you?

21 MR. TRAFICANT: Two young women here have
22 helped me, and they can go downstairs, they need not be in
23 the courtroom.

24 THE COURT: Who are they, just tell us their
25 names.

1 MR. TRAFICANT: One is Ernestine, I forget
2 her last name, and one is Donnette Palmer.

3 THE COURT: Donnette works with you, right?

4 MR. TRAFICANT: Yes.

5 THE COURT: There's no trouble if Donnette
6 stays here and takes notes, I don't have any problem with
7 that. That's what she's been doing, helping you.

8 MR. TRAFICANT: What's the problem?

9 THE COURT: Who is the other person?

10 MR. TRAFICANT: Ernestine, the black woman,
11 and she's very friendly, who happens to like me, and her
12 name escapes me at this particular point.

13 MR. MORFORD: Where does she work?

14 MR. TRAFICANT: I think she works for the
15 Cleveland Symphony. She has some legal background, but I
16 have not, in fact, used any legal advice from this person.
17 But I'll be glad to have them be sent downstairs. But I'm
18 going tell you this, if a witness comes in here and I need
19 a file, I need someone to go get it. I'll have to go find
20 somebody or get the file myself.

21 THE COURT: If they're sent downstairs,
22 they're seeing the whole trial, I mean, that was his point
23 with anyone who is -- who you were going to call as a
24 witness who you then sent downstairs to watch. They're
25 watching it, it's an audio visual feed.

1 MR. TRAFICANT: Which I objected to in the
2 first place.

3 THE COURT: Well, I understand you may have
4 objected.

5 MR. TRAFICANT: And there's an awful lot of
6 empty seats in this courtroom that I don't think
7 necessitated a need for a video closed circuit by the way.

8 THE COURT: We have a potpourri of objections
9 here, okay. Now, we have witnesses to be called, so we're
10 going to go with the witnesses.

11 MR. TRAFICANT: What about those agents?

12 THE COURT: Denholm and I can't remember
13 who's the other one.

14 MR. MORFORD: The IRS case Agent Chuck
15 Perkins.

16 THE COURT: They only get one from each
17 agency.

18 MR. TRAFICANT: Then I wanted seated at the
19 table, and I'm going to look at the facial expressions.

20 THE COURT: Okay. We'll have to accommodate
21 that somehow. You have to find space for them to come up.

22 MR. TRAFICANT: You want me to have the other
23 two removed downstairs?

24 THE COURT: What two removed downstairs?

25 MR. TRAFICANT: The two women.

1 THE COURT: Your two women, I think it's much
2 better, Congressman, if you let them come up, help you out.

3 MR. TRAFICANT: They will not be at my table,
4 I don't want anybody at my table.

5 THE COURT: Okay. If they're seated back
6 here.

7 MR. TRAFICANT: Yes. One of them could
8 possibly be called as a witness, and maybe I should, in
9 fact, remove that person then or not have that person sit
10 in downstairs, at least.

11 THE COURT: Well, if you don't want them.

12 MR. TRAFICANT: They're only here for the
13 purpose of facilitating my --

14 THE COURT: Your case?

15 MR. TRAFICANT: No, my needs.

16 THE COURT: Okay.

17 MR. TRAFICANT: Paperwork, my files.

18 THE COURT: Well, you're entitled to have
19 them at your table.

20 MR. TRAFICANT: I want no one at my table.

21 THE COURT: Okay. It's your call.

22 MR. TRAFICANT: But I may call one of those
23 witnesses so in that regard, I should separate them, is
24 that your call?

25 THE COURT: If these are -- if these folks

Davis - Direct/Smith

1 are your helpers, they've been here all the way through
2 this.

3 MR. TRAFICANT: I don't plan to, but if
4 something comes up they may have knowledge of and I may
5 need to call them, then it would be of significant
6 difference, but right now, there is no plan for me to call
7 them.

8 THE COURT: Okay. Then that's fine.

9 MR. TRAFICANT: So, therefore, if it becomes
10 that, I would notify you. Would that be fair.

11 THE COURT: Yes. That would be fair and
12 basically the same position the Government has.

13 MR. TRAFICANT: Thank you.

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

15 THE COURT: The Government's calling their
16 next witness.

17 MR. SMITH: Carrie Davis.

18 CARRIE DAVIS,
19 of lawful age, a witness called by the Government,
20 being first duly sworn, was examined
21 and testified as follows:

22 DIRECT EXAMINATION OF CARRIE DAVIS

23 BY MR. SMITH:

24 THE COURT: Will you speak loudly enough so
25 everyone can hear you.

Davis - Direct/Smith

1 THE WITNESS: Okay.

2 THE COURT: There's a microphone, too.

3 BY MR. SMITH:

4 Q. Would you please state your name, spelling your last
5 name for the Court Reporter?

6 A. Carrie Davis, D-A-V-I-S.

7 Q. What city do you live, ma'am?

8 A. Twinsburg, Ohio.

9 Q. Where do you work?

10 A. Key Bank.

11 Q. And what do you do at Key Bank?

12 A. I'm a financial investigator for Key Bank.

13 Q. Please describe the duties as a financial
14 investigator for that bank?

15 A. I'm a senior manager, and I supervise five other
16 investigators in investigations for Northeast Ohio for Key
17 Bank and investigations internally and externally.

18 Q. What city is your office located?

19 A. Parma Heights, Ohio.

20 Q. Are you familiar with the process by which checks are
21 negotiated at various Key Bank locations?

22 A. Yes, I am.

23 Q. Do you have personal knowledge concerning the
24 meanings of markings that employees at Key Bank place on
25 checks when they negotiate them?

Davis - Direct/Smith

1 A. Yes.

2 Q. When Key Bank negotiates a check and gives the
3 customer cash, is any marking placed upon the check that
4 signifies that fact?

5 A. Yes.

6 Q. How does the bank employee physically go about
7 placing that marking on the check?

8 A. It's actually done with a computer that is located at
9 each teller station.

10 Q. Are you familiar with such markings that the tellers
11 use?

12 A. Yes.

13 MR. SMITH: Your Honor, may I use the
14 overhead?

15 Q. Showing you Exhibit -- if you look at Exhibit 124 on
16 the counter before you, is that a series of checks from the
17 United States Treasury, all made payable to Henry A.
18 DiBlasio, the series of checks in Exhibit 1-24?

19 A. That's correct.

20 Q. If you would look at the check dated November the
21 30th, 1998, which is on the first page, do you see that
22 check?

23 A. Yes.

24 Q. And are you able to tell from examining markings on
25 that check whether it was negotiated by Key Bank?

Davis - Direct/Smith

1 A. Yes.

2 Q. Was it negotiated by Key Bank?

3 A. Yes.

4 Q. And what side of the check are you looking at to
5 determine, the front or the back?

6 A. The back.

7 Q. And would you explain to the jury what markings on
8 the back of that particular check allow you to say that
9 check was negotiated by Key Bank?

10 A. The bottom line on the top check, the bottom line is
11 a teller validation line, and basically what that is, the
12 first letters on there would be the teller, who cashed the
13 check. There would be some numbers to indicate what branch
14 that teller's located, the date of the check transaction,
15 the amount of the check, and then all the way over, those
16 letters indicate check cashed, not on us, indicating it's
17 not drawn off of Key Bank.

18 Q. All right. Have I pointed to the correct line of
19 typed information that you have just referred to on the
20 overhead?

21 A. That's correct.

22 Q. All right.

23 Now, is there any way you can tell from that line of
24 type that you have just read whether the customer deposited
25 the check into an account or took cash?

Davis - Direct/Smith

1 A. By the latter part of that validation line, that
2 indicates that this was a check which was cashed.

3 Q. Have I pointed to the correct piece of typewritten
4 material that indicates this was negotiated for cash?

5 A. That's correct.

6 Q. All right.

7 If you would turn to the check that bears the date
8 July the 31st, of 1998, and that would be on the third page
9 in this series of exhibits, and if you would -- was that
10 check negotiated by Key Bank?

11 A. Yes.

12 Q. And from the markings on the back of that particular
13 check, can you tell whether the person who negotiated it
14 received cash or if it was deposited into an account?

15 A. Again, this was a check cashed, not on Key Bank.

16 Q. All right. The person received cash when they
17 negotiated this check; is that correct?

18 A. That's correct.

19 Q. And is the line of typed information similar in this
20 check as it was on the other one, in terms of the marking
21 that allows you to determine it?

22 A. Yes.

23 Q. All right.

24 If you would now turn to the check and if you would
25 turn to the next page, the check bearing the date February

Davis - Direct/Smith

1 27, 1998, you have that check before you?

2 A. Yes.

3 Q. And turning to the back of that check, are you able
4 to determine whether that check was negotiated by Key Bank?

5 A. Yes.

6 Q. And did the person who negotiated that check receive
7 cash when they did so?

8 A. That is correct.

9 Q. And was -- did the mark -- are the markings similar
10 to the other checks that you had seen that allow to you
11 make that determination?

12 A. Yes.

13 MR. TRAFICANT: Excuse me. Are we using the
14 overhead or not?

15 MR. SMITH: I'm not going to do it on every
16 one, your Honor, to save time.

17 THE COURT: Okay.

18 Q. Turning to check Number -- excuse me -- check bearing
19 the date of October the 31st, 1997, you might have to flip
20 a couple pages to get there.

21 A. Okay.

22 Q. All right? And if you'd turn -- if you stay on the
23 front of that particular check, are there any markings on
24 that check that would indicate whether that one was cashed
25 by Key Bank?

Davis - Direct/Smith

1 A. Yes.

2 Q. All right. And specifically where are those markings
3 located on this particular check?

4 A. This would be on the front top of the check.

5 Q. And is the actual material that allows to you make
6 this determination actually printed upside down on the
7 check?

8 A. That's correct.

9 Q. So if we flip it over, the check for 10-31, am I
10 pointing to the correct line of type here with my pen?

11 A. Yes.

12 Q. All right. And was this check cashed by Key Bank?

13 A. Yes.

14 Q. Did the customer who cashed it receive cash when they
15 did so rather than depositing the check?

16 A. That's correct.

17 Q. Turning next to the check bearing the date September
18 the 30th of 1997, can you tell whether that check was
19 cashed by Key Bank, looking at the back?

20 A. Yes.

21 Q. All right.

22 And there's a similar line of print on that
23 particular check that allowed you to make that
24 determination?

25 A. That is correct.

Davis - Direct/Smith

1 Q. All right. And was this particular check cashed or
2 deposited to an account?

3 A. Again, this was a check cashed.

4 Q. All right. And have I pointed with my pen to the
5 correct place on the check that allowed you to make that
6 determination?

7 A. That's correct.

8 Q. Turning to the check bearing the date -- excuse me --
9 August 29, 1997, do you have that in front of you?

10 A. Yes.

11 Q. All right. And can you tell whether that check was
12 cashed by Key Bank by looking at the back of the check?

13 A. Yes.

14 Q. All right. And was it -- was it cashed by Key Bank?

15 A. That's correct.

16 Q. And did the customer receive cash when they did so?

17 A. Yes.

18 Q. If you will direct your attention to the next page in
19 that series of documents to the check bearing the date of
20 May the 30th, 1997, and turning to the back of that check,
21 do you have that there?

22 A. Yes.

23 Q. All right. Are you able to determine whether that
24 check was negotiated at Key Bank?

25 A. Yes.

Davis - Direct/Smith

- 1 Q. And what happened in that transaction?
- 2 A. Again, this is a check cashed, not on us.
- 3 Q. Did the customer receive cash?
- 4 A. Correct.
- 5 Q. Turning to the check that had -- and you'll have to
6 turn, I believe to the next page, to the check bearing the
7 date April the 30th of 1997, at the bottom of that
8 particular page, do you have that check before you?
- 9 A. Yes.
- 10 Q. And was that check negotiated at Key Bank?
- 11 A. Yes.
- 12 Q. And staying on the front of that particular check,
13 are there markings on there that allow you to determine how
14 it was negotiated?
- 15 A. Yes.
- 16 Q. Would you please explain what happened based upon
17 those markings?
- 18 A. On the top front of this check, again, it's the
19 teller validation line, which indicates the teller, the
20 branch, the date, the amount, and cash, check not on us.
- 21 Q. Is that teller validation line also printed actually
22 upside down as that other check was that we displayed?
- 23 A. Correct.
- 24 Q. When the person who negotiated this check did so, did
25 they receive cash, based upon the markings on the check?

Davis - Direct/Smith

- 1 A. Yes.
- 2 Q. Turning your attention to the check right above that,
3 the check dated March the 31st of 1997 and if you'd turn to
4 the back of that particular item, did Key Bank negotiate
5 that check?
- 6 A. Yes.
- 7 Q. And does the teller validation line substantiate that
8 when the customer negotiated the check, the cash -- the
9 customer received cash in return?
- 10 A. That's correct.
- 11 Q. Turning to the check bearing the date of February the
12 28th, 1997, and again, turning to the back of that
13 particular item, was that check negotiated at Key Bank?
- 14 A. Yes.
- 15 Q. And what does the teller validation line tell you
16 about how that was negotiated?
- 17 A. Again, it's a check cashed, not on us.
- 18 Q. And did the customer receive cash when they
19 negotiated that check as opposed to depositing it to the
20 account?
- 21 A. That's correct.
- 22 Q. Turning your attention to the next page in the series
23 at the bottom of that page, do you have before you a check
24 bearing the date January the 31st of 1997?
- 25 A. Yes.

Davis - Direct/Smith

1 Q. And turning to the back of that check, directing your
2 attention to the teller validation line, can you tell us
3 what happened on that check?

4 A. Again, this is a check which was cashed out, cashed
5 not on us.

6 Q. Did the customer receive cash on that particular
7 check when it was negotiated?

8 A. That's correct.

9 Q. Finally, turning your attention, you'll have to turn
10 the page, one page to the check in the middle of the next
11 page, September the 30th of 1996, check, do you have that
12 one in front of you?

13 A. Yes.

14 Q. And directing your attention to the front of that
15 check, is there a teller validation line printed upside
16 down like the other two?

17 A. That's correct.

18 Q. And what does that teller validation line tell you
19 about how this check was negotiated?

20 A. Again, it's a check cashed, not on us.

21 Q. All right. And did the customer receive cash as
22 opposed to depositing that check to the account?

23 A. That's correct.

24 Q. Now, if you would direct your attention to Exhibit
25 1-1(9) on the counter before you, do you have that item

Davis - Cross

1 before you?

2 A. Yes.

3 Q. Do you recognize any printed material on that
4 particular item?

5 A. Yes, the Key Bank logo as well as our customer
6 service phone number.

7 Q. Thank you.

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

9 THE COURT: Yes.

10 BY MR. SMITH:

11 Q. With respect to all the checks that I've shown you
12 here during your examination, were all of those checks
13 cashed for cash and not deposited to an account?

14 A. That's correct.

15 MR. SMITH: Thank you, your Honor. Nothing
16 additional.

17 THE COURT: Any questions, Congressman?

18 MR. TRAFICANT: Yes

19 CROSS-EXAMINATION OF CARRIE DAVIS

20 BY MR. TRAFICANT:

21 Q. Is it Miss Davis or Mrs. Davis?

22 A. Mrs.

23 Q. And you live in Parma?

24 A. Now.

25 Q. Where in Parma?

Davis - Cross

1 A. Parma Heights.

2 Q. You live in Twinsburg work in Parma?

3 A. Correct.

4 Q. Do you know who I am?

5 A. Yes.

6 Q. Who am I?

7 A. Mr. Traficant.

8 Q. Have I ever visited Key Bank in Twinsburg, in Parma?

9 A. Parma? I do not know.

10 Q. Is this any record of any accounts of Jim Traficant
11 in Key Bank in Parma?

12 A. I do not know.

13 Q. Are you subject to find out by computer if Jim
14 Traficant has any accounts with Key Bank?

15 A. I am able to do that, yes.

16 Q. Yes. And could you do that for the Court and make
17 that available to us and make that in the form of a motion?

18 MR. SMITH: Objection.

19 THE COURT: You may be able if you wish, to
20 subpoena a witness or to bring a witness down and to tell
21 her what you wish her to bring.

22 Q. Did you ever see me in your bank?

23 A. No.

24 MR. TRAFICANT: No further questions.

25 MR. SMITH: Just briefly, your Honor.

Davis - Redirect

1 REDIRECT EXAMINATION OF CARRIE DAVIS

2 BY MR. SMITH:

3 Q. Are any of fully of the checks that I've made -- that
4 I showed you made out to Congressman Traficant?

5 A. No.

6 Q. They are made out to a person named Henry DiBlasio;
7 is that correct?

8 A. That is correct.

9 MR. SMITH: No other questions, your Honor.

10 THE COURT: Thank you. Congressman?

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Davis - Recross

1 RECCROSS-EXAMINATION OF CARRIE DAVIS

2 BY MR. TRAFICANT:

3 Q. If a person, instead of depositing a check, cashes a
4 check, does that imply to you that there's something wrong
5 with the behavior of that individual?

6 MR. SMITH: Objection.

7 THE COURT: She can answer the question.

8 THE WITNESS: No, it does not.

9 MR. TRAFICANT: No further questions.

10 THE COURT: Thank you.

11 MR. SMITH: None, your Honor.

12 THE COURT: Thank you. You're excused.

13 THE WITNESS: Thank you.

14 MR. TRAFICANT: Your Honor, I move to --

15 MR. SMITH: Object.

16 THE COURT: We'll -- you want a break?

17 MR. TRAFICANT: No, I want to make a motion.

18 THE COURT: Okay. We have a witness coming
19 down the hall. Can it wait until after the witness has
20 been called?

21 MR. TRAFICANT: It dealt with this last
22 witness.

23 THE COURT: Okay. You can still make the
24 motion at a time when the jury isn't here.

25 MR. TRAFICANT: Fine.

Findley - Direct/Smith

1 THE COURT: Would you raise your right hand
2 VALERIE FINDLEY,
3 of lawful age, a witness called by the Government,
4 being first duly sworn, was examined
5 and testified as follows:

6 DIRECT EXAMINATION OF VALERIE FINDLEY

7 BY MR. SMITH:

8 Q. Would you please state your full name, spelling your
9 last name for the Court Reporter?

10 A. Valerie M. Findley, F-I-N-D-L-E-Y.

11 Q. And where do you work, ma'am?

12 A. I work for a customer service center.

13 Q. Okay. Of what company?

14 A. It's -- it's for the FMB Corporation.

15 Q. And in what city do you work?

16 A. Parma, in Parma, Pennsylvania.

17 Q. What, if any, relationship does FMB Corporation bear
18 to Metropolitan Bank and also First National Bank of
19 Pennsylvania?

20 A. They're both part of the corporation.

21 Q. Are you appearing here today as a custodian of
22 records of -- for documents relating to Metropolitan Bank
23 and First National Bank of Pennsylvania?

24 A. Yes, I am.

25 Q. As the custodian of record, did you have personal

Findley - Direct/Smith

1 knowledge concerning the meaning of markings that employees
2 of those financial institutions place on checks when they
3 negotiate checks?

4 A. Yes.

5 Q. With respect to First National Bank of Pennsylvania,
6 does that bank offer checking account services to its
7 customers?

8 A. Yes.

9 Q. After a customer writes a check on an account that
10 they have at that bank, does the bank have occasion to
11 process that check?

12 A. Yes.

13 Q. And would you please describe the -- how the check
14 was processed.

15 A. If a teller receives the bundle of checks, she,
16 bundles it together and sends it to our proof department,
17 and our proof department processes it through a sorter, and
18 that's where it is -- the information is read off the
19 check, and the check is also microfilmed.

20 Q. After the check is microfilmed -- withdrawn.

21 Is the check microfilmed at or about the time the
22 processing occurs?

23 A. Yes, it is.

24 Q. Is it the regular business practice of First National
25 Bank of Pennsylvania to make a copy of all negotiated

Findley - Direct/Smith

1 customer checks?

2 A. Yes, it is.

3 Q. And after making those copies, are such copies then
4 kept in the course of the bank's regularly conducted
5 business activities?

6 A. Yes.

7 Q. If you would direct your attention to exhibits 736 --
8 7-36?

9 A. Um-hum.

10 Q. And also 7-37 (1) and 7-37 (2) on the counter before
11 you. Should be stacked up there.

12 A. I have a -- oh, okay I'm sorry. Yes, I have them.

13 Q. All right.

14 Now, does Exhibit 7-36 contain a number of -- a
15 series of checks which are copies of checks?

16 A. Yes.

17 Q. All right. And are they all payable to a particular
18 person?

19 A. Yes.

20 Q. And his name is David Matavich?

21 A. Yes.

22 Q. Are the series of checks contained in Government's
23 Exhibit 7-36 taken from microfilm records made and
24 maintained in the ordinary course of the bank's business as
25 you described earlier?

Findley - Direct/Smith

1 A. Yes.

2 Q. Now -- and is that true of all the checks in this
3 series of exhibits 7-36?

4 A. That's correct.

5 Q. All right. If you now direct your attention to
6 Exhibit 7-37 (1) and 7-37 (2), does that exhibit contain
7 two particular checks?

8 A. Yes.

9 Q. All right.

10 And were those checks also made and maintained by the
11 First National Bank of Pennsylvania in accordance with the
12 regular procedures that you've already described?

13 A. Yes.

14 Q. If you would set those aside, and I'll direct your
15 attention to Exhibit 1-24 on the counter before you.

16 A. Um-hum.

17 Q. And with respect to Metropolitan Bank, you're also
18 appearing as custodian for them; is that correct?

19 A. Yes, that's correct.

20 Q. When a teller negotiates a check at Metropolitan Bank
21 and gives the customer cash, is any marking placed upon
22 that check that signifies that fact?

23 A. Yes. A teller will stamp it, and it has the branch
24 name and branch number and the teller number and the date.

25 Q. Would you please describe what that stamp looks like.

Findley - Direct/Smith

1 A. It says Metropolitan National Bank, Market Street,
2 which would be the branch, and this is December 28, 1998.

3 Q. All right. I'll get the particular checks in a
4 minute, but please generically describe the stamp.

5 A. Sorry. There is -- they're stamped and read, and
6 they have notification that they are Metropolitan's checks.
7 They stamp them.

8 Q. Okay.

9 A. They're teller stamped.

10 Q. Okay. If you would direct your attention to the
11 first page of Exhibit 1-24, do you have before you a check
12 dated December the 18, 1998?

13 A. Yes.

14 Q. All right.

15 MR. SMITH: May I put this up, your Honor?

16 THE COURT: Yes.

17 BY MR. SMITH:

18 Q. And with respect to that particular check, is there
19 any stamp on there that you -- such as you have described?

20 A. Right.

21 Q. All right. And if have I pointed to the correct
22 place on the check where that stamp is.

23 A. That is correct.

24 Q. And on the copy -- or the original that you have in
25 front of you, is this stamp actually red in color?

Findley - Direct/Smith

1 A. Yes, it is.

2 Q. What does that stamp signify?

3 A. It signifies that -- or Metropolitan Bank at Market
4 Street cashed that check, teller Number 8 cashed that.

5 Q. All right. And by cashed it, did the customer obtain
6 cash or deposit to some kind of account? Can you tell that
7 from the stamp?

8 A. She received -- the customer received cash for it.

9 Q. All right. Directing your attention next to the next
10 page of that exhibit 1-24, specifically the check dated
11 September the 30th of 1998, do you have that before you?

12 A. Yes.

13 Q. And on the front of that particular check, is there
14 any marking on there that indicates whether Metropolitan
15 Bank negotiated this check?

16 A. Yes, there is.

17 Q. The same stamp we referred to earlier?

18 A. Yes, just a different teller number, that's all.

19 Q. Did the customer who negotiated this check receive
20 cash in return as opposed to depositing to an account?

21 A. Yes.

22 Q. All right.

23 You'll have to now turn to the next page if you
24 would, in the middle of that page, a check bearing the date
25 June the 30th of 1998, do you have that one in front of

Findley - Direct/Smith

- 1 you?
- 2 A. Yes.
- 3 Q. On the front of that check, is there any marking
- 4 indicating whether Metropolitan Bank negotiated this item?
- 5 A. Yes, there is.
- 6 Q. And is it the same stamp we referred to?
- 7 A. Yes, it is.
- 8 Q. Did the customer receive cash when they negotiated
- 9 this check as opposed to depositing it to an account?
- 10 A. Yes, they did.
- 11 Q. If you would now turn to the next page of documents
- 12 in that series, at the bottom of the page, is there a check
- 13 there dated April the 30.
- 14 Th of 1998?
- 15 A. Yes, there is.
- 16 Q. And was that check negotiated by Metropolitan Bank?
- 17 A. Yes, it was.
- 18 Q. And did the customer receive cash when they
- 19 negotiated it as opposed to depositing it to the account?
- 20 A. Yes, they did.
- 21 Q. Right above that April check is a check dated March
- 22 the 31st of 1998; is that correct?
- 23 A. Yes.
- 24 Q. Was that check negotiated by Metropolitan Bank?
- 25 A. Yes, it was.

Findley - Direct/Smith

- 1 Q. It's the same stamp affix today that check?
- 2 A. Yes.
- 3 Q. Did the customer receive cash when they negotiated
4 that check as opposed to depositing it to an account?
- 5 A. Yes.
- 6 Q. And if you would kindly turn to the next page, which
7 is at the bottom, is there a check dated January the 30th
8 of 1998 on that page?
- 9 A. Yes, there is.
- 10 Q. All right. And was that check negotiated by
11 Metropolitan Bank?
- 12 A. Yes, it was.
- 13 Q. And is the same stamp affixed to that check?
- 14 A. Yes, it is.
- 15 Q. Did the customer receive cash when they negotiated
16 the check as opposed to depositing the check to an account?
- 17 A. Yes.
- 18 Q. Moving onto the check right above that one, bearing
19 the date of December 19th, 1997, in Exhibit 1-24, do you
20 have that check before you?
- 21 A. Yes.
- 22 Q. And was that check negotiated by Metropolitan Bank?
- 23 A. Yes, it was.
- 24 Q. Does it bear the same stamp as the other ones we
25 discussed?

Findley - Direct/Smith

- 1 A. That's correct.
- 2 Q. Did the customer receive cash when they negotiated
3 that check as opposed to depositing it into an account?
- 4 A. Yes.
- 5 Q. If you would stay on that same page and look at the
6 check bearing the date November the 28th of 1997, do you
7 have that one in front of you?
- 8 A. Yes.
- 9 Q. Was that check negotiated by Metropolitan Bank?
- 10 A. Yes, it was.
- 11 Q. Does it bear the same stamp as the other checks we've
12 described?
- 13 A. Yes, it does.
- 14 Q. Okay. And did the customer receive cash when they
15 negotiated that check as opposed to depositing it into an
16 account?
- 17 A. Correct.
- 18 Q. Finally, moving to Exhibit -- withdrawn. If you
19 will, if you'd turn a couple pages to the check dated June
20 30thth of 1997?
- 21 A. Um-hum.
- 22 Q. Do you have that one in front of you?
- 23 A. Yes.
- 24 Q. Was that check negotiated by Metropolitan Bank?
- 25 A. Yes, it was.

Findley - Cross

1 Q. Bear the same stamp indicating as such?

2 A. Yes, it does.

3 Q. And did the customer receive cash when they
4 negotiated the check as opposed to depositing it into an
5 account?

6 A. Yes.

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

8 THE COURT: Yes.

9 MR. SMITH: No further questions, your Honor.

10 THE COURT: Thank you. Congressman?

11 CROSS-EXAMINATION OF VALERIE FINDLEY

12 BY MR. TRAFICANT:

13 Q. Good afternoon.

14 A. Good afternoon.

15 Q. Is it Valerie M. Simbley, S-I-M-B --

16 THE WITNESS: Findley, F-I-N-D-L-E-Y.

17 Q. F-I-N-D --

18 A. L-E-Y.

19 Q. Thank you. And you said you live in --

20 A. I live in Sharon Hill, Pennsylvania.

21 Q. And the FMB Corporation is located in Hermitage,
22 Pennsylvania?

23 A. The corporate office is in Naples, Florida.

24 Q. But you work out of Hermitage?

25 A. Yes, I do.

Findley - Cross

1 Q. Now, Metropolitan Bank was discussed here. What
2 Metropolitan Bank is that?

3 A. It was originally in Youngstown, Ohio.

4 Q. On?

5 A. It used -- it was currently -- it was called
6 Metropolitan Savings and Loan. It is currently called
7 Metropolitan National Bank.

8 Q. I see. Do you know who I am?

9 A. Yes.

10 Q. Who am I?

11 A. Jim Traficant.

12 Q. Do I have an account with FMB?

13 A. Not to my knowledge.

14 Q. Do I have an account with Metropolitan Bank?

15 A. Not to my knowledge.

16 Q. Have you have you ever seen me at any of your banks?

17 A. No.

18 Q. Have you ever heard of me being at any of your banks?

19 A. No.

20 MR. TRAFICANT: No further questions.

21 MR. SMITH: No questions, your Honor.

22 THE COURT: Thank you. You may step down.

23 THE WITNESS: Thank you.

24 MR. TRAFICANT: You know Steve Kesmis?

25 (Laughter.)

Davies - Direct/Smith

1 MR. SMITH: The Government calls Melinda
2 Davies.

3 THE COURT: Kind of thread your way up here
4 behind the court reporter. Would you raise your right
5 hand.

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

10 DIRECT EXAMINATION OF MELINDA DAVIES

11 BY MR. SMITH:

12 Q. Ma'am, if you would please state your full name,
13 spell your last name for the court reporter?

14 A. My name is Melinda Mincher Davies, D-A-V-I-E-S.

15 Q. Where do you work, ma'am?

16 A. Home Savings and Loan in Youngstown, Ohio.

17 Q. And for how long have you worked for Home Savings and
18 Loan?

19 A. Two years.

20 Q. How long have you worked in the banking industry?

21 A. Another 25 years at another institution.

22 Q. What is your job title with Home Savings and Loan?

23 A. Assistant administrator, deposit services.

24 Q. What are your duties there?

25 A. I work in deposit-related functions, checking,

Davies - Direct/Smith

1 savings, certificates, research, check clearing.

2 Q. Are you appearing today as custodian of records for
3 Home Savings and Loan?

4 A. Yes, I am.

5 Q. Do you have knowledge about the meaning of markings
6 that employees of Home Savings place on checks when they
7 negotiate them?

8 A. Yes, I do.

9 Q. Does Home Savings and Loan offer checking account and
10 savings account services to customers?

11 A. Yes, we do.

12 Q. When a customer negotiates a check at Home Savings,
13 are any records created when that is done?

14 A. Yes, they are.

15 Q. As to the check itself that is negotiated, does any
16 bank employee place any marking on the check indicating
17 that it's been negotiated at Home Savings and Loan?

18 A. Yes.

19 Q. When is that marking affixed to the check?

20 A. The marking is affixed as the teller transacts the
21 process right at the teller window.

22 Q. After that occurs, does the bank maintain a copy of
23 that negotiated check?

24 A. Yes, sir.

25 Q. When is that copy made?

Davies - Direct/Smith

1 A. In the evening, all the checks are sent to a central
2 location, item processing, and those checks then are run
3 through machinery that captures the image of all the checks
4 that are processed.

5 Q. Talking the same business day in the evening?

6 A. That's correct.

7 Q. Is it the regular business practice of Home Savings
8 and Loan to make such a copy of all negotiated customer
9 checks?

10 A. Yes, it is.

11 Q. And are those copies then kept by Home Savings and
12 Loan in the ordinary course of its business?

13 A. Yes, they are.

14 Q. If you would direct your attention to Exhibit 1-4 (1)
15 on the counter before you, would you pull those out of
16 there.

17 Is that a series of 12 checks?

18 A. Yes, they are copies of 12 checks.

19 Q. Are they all made payable to a gentleman named Allen
20 Sinclair?

21 A. Yes, they are.

22 Q. Did Home Savings and Loan negotiate all of those
23 checks?

24 A. Yes.

25 Q. How do you know?

Davies - Direct/Smith

1 A. There's a stamp on the back of the check that has an
2 endorsement of Home Savings and Loan Youngstown, Ohio.

3 Q. And were all 12 of those checks made and maintained
4 in accordance with the procedures you already described?

5 A. Yes, they were.

6 Q. Do some bear the notation "for deposit only"?

7 A. Yes, they do.

8 Q. Some or all of them?

9 A. All of them.

10 Q. All right.

11 And at Home Savings and Loan, does the notation "for
12 deposit only," signify that necessarily all the proceeds of
13 the check had been deposited?

14 A. No. That check stamp indicates the endorsement of
15 the company as we process the checks and deposit them at
16 our account at Federal Reserve bank.

17 Q. So is it possible for a customer to receive cash back
18 on a check bearing "for deposit only" at your bank?

19 A. Yes, yes.

20 Q. If you would next direct your attention to 1-30 on
21 the counter before you and specifically I want to take --
22 you may have to remove it from the glassine, Exhibit 1-30
23 (5).

24 MR. SMITH: May I come forward, your Honor?

25 Q. Can you find an item that's submarked 1-30 (5)?

Davies - Direct/Smith

- 1 A. Yes, I do.
- 2 Q. And what is that item?
- 3 A. It's a copy of a U.S. Treasury check payable to R.
4 Allen Sinclair.
- 5 Q. Dated?
- 6 A. Dated 12-18-98.
- 7 Q. And was that check negotiated at your bank?
- 8 A. Yes, it was.
- 9 Q. And did you -- did your bank make and maintain a copy
10 of that check in accordance with the procedures that you've
11 already described?
- 12 A. Yes.
- 13 Q. All right. If you'd now direct your attention to
14 Exhibits 1-30 (3) and 1-30 (4) and you may have to look at
15 the back to find exhibit stickers, do you have those two
16 documents before you?
- 17 A. Yes, I do.
- 18 Q. All right.
- 19 Do you know what those two documents are?
- 20 A. Yes, they are the receipts for transactions.
- 21 Q. All right. Issued by what institution?
- 22 A. Home Savings and Loan.
- 23 Q. And how can you tell that?
- 24 A. They are stamped with the Home Savings and Loan stamp
25 on both the documents.

Davies - Direct/Smith

1 Q. And what happens to one of those documents after it's
2 stamped by Home Savings and Loan? What is done with them?

3 A. This is a receipt that would be given to the customer
4 to confirm the transaction they've just -- that just
5 occurred at the teller window.

6 Q. Thank you.

7 If you would now direct your attention to Exhibit 1-3
8 on the counter before you, it's in a different envelope.
9 Would you pull those out of there, please? And could you
10 tell us what -- do you recognize what those items are on
11 Exhibit 1-3?

12 A. They are deposit slips for funds being deposited into
13 an account listed under the name of R. Allen Sinclair and
14 Kimberly A. Sinclair.

15 Q. Did Home Savings and Loan process those series of
16 deposit slips in the ordinary course of this business?

17 A. Yes, they were all processed.

18 Q. How can you tell?

19 A. There's a stamp of Home Savings and Loan on every
20 document.

21 Q. If you would set those aside and turn to Exhibits 1-4
22 (2), 1-4 (3) and 1-4 (4), do you recognize those items?

23 A. Yes, they are statements from Home Savings and Loan.

24 Q. And let me backtrack. A -- whether a customer has an
25 account, either savings account or checking account, are

Davies - Direct/Smith

1 periodic statements created with respect to that account?

2 A. Yes, they are.

3 Q. How are those statements prepared and generated?

4 A. Checking account statements are prepared monthly and
5 mailed out to the customers.

6 Q. And are they mailed out to the customer at or about
7 the time that they are prepared?

8 A. At or about the time they are prepared, yes.

9 Q. And is the regular practice of Home Savings and Loan
10 to make and distribute these monthly customer account
11 statements?

12 A. Yes, it is.

13 Q. And does the bank keep a copy of such statements in
14 the ordinary course of this business?

15 A. Yes, we do.

16 Q. Were exhibits -- the documents in Exhibit 1-4 (2),
17 1-4 (3) and 1-4 (4) made and maintained in accordance with
18 the procedures you just described?

19 A. Yes.

20 Q. Moving on to Exhibit 1-29, if you can find that.

21 Does 1-29 contain a series of documents?

22 A. Yes, it does.

23 Q. If you'd just take a moment and scan through that.

24 When a customer deposits a check into his or her
25 account, does the bank make records of that?

Davies - Direct/Smith

- 1 A. Yes, we do.
- 2 Q. All right.
- 3 And specifically what types of records are made on
- 4 deposit transactions?
- 5 A. The deposit would be posted to the customer's account
- 6 and reflected on the books of the bank and on the
- 7 customer's statement.
- 8 Q. Does the bank keep any copies of deposit items such
- 9 as checks?
- 10 A. We keep copies of the deposited items, yes, sir.
- 11 Q. And when are those copies made?
- 12 A. The day the check is negotiated.
- 13 Q. Is the regular business practice of your bank to make
- 14 and -- make a copy of each and every check that is
- 15 deposited into an account by a customer?
- 16 A. Yes, sir.
- 17 Q. And are they then maintained by the bank in the
- 18 ordinary course of business?
- 19 A. Yes, they are.
- 20 Q. And are all of the documents contained within
- 21 Exhibits 1-29 made and maintained in accordance with those
- 22 procedures?
- 23 A. Yes.
- 24 Q. And can you tell us whose account it was that all of
- 25 these documents in Exhibit 1-29 were deposited into?

Davies - Direct/Smith

1 A. They were deposited into an account for Allen
2 Sinclair.

3 Q. Thank you. If you would set those aside?

4 MR. SMITH: Your Honor, I'm about to move to
5 a new area. You want me to continue?

6 THE COURT: We have a little time here.

7 MR. SMITH: All right.

8 Q. Turning to 1-24 on the counter before you, is that a
9 series of checks made payable, all made payable to a person
10 named Henry DiBlasio?

11 A. Yes, they are.

12 Q. And from the markings on those checks, are you able
13 to determine whether some of those checks were negotiated
14 at Home Savings?

15 A. Yes, I am.

16 Q. Next, in conjunction with this exhibit, I need you to
17 look at Exhibit 1-28 (1) through (6) inclusive, which will
18 be in a different envelope. You have that in front of you?

19 A. Yes, I do.

20 Q. All right. And generically, what are Exhibits 1-28
21 (1) through (6)?

22 A. They are copies of the monthly checking account
23 statement for H. A. DiBlasio.

24 Q. Do some of those statements that you've just
25 identified, are they accompanied by deposit or withdrawal

Davies - Direct/Smith

1 items relating to particular transactions?

2 A. Yes. There are copies of some of the items with this
3 statement.

4 Q. Are Exhibits 1-28, (1) through (6) inclusive, copies
5 of records of your bank made and maintained in the ordinary
6 course of business?

7 A. Yes, they are.

8 Q. Pursuant to the procedures we described earlier?

9 A. Yes, they are.

10 Q. Now, if you would turn back to Exhibit 1-24 and
11 locate a check toward the back of the pack dated June the
12 28th, 1996, do you have that one before you?

13 A. Yes, I do.

14 Q. Does that -- was that check -- are you able to tell
15 whether or not that check was negotiated at Home Savings
16 and Loan?

17 A. It was negotiated at Home Savings and Loan. I see
18 the stamp.

19 Q. And where is that stamp located?

20 A. The reverse of the check.

21 MR. SMITH: May I use the overhead, your
22 Honor?

23 Q. All right. Is this the check we're talking about,
24 June 28th, '96 check, that I put on the overhead?

25 A. Yes, sir.

Davies - Direct/Smith

1 Q. We flip it over to the back, that stamp that you just
2 referred to, have I accurately pointed to it with my pen?

3 A. Yes, you have.

4 Q. All right. Would examining a bank statement in the
5 Exhibit 1-28 series allow you to determine if the proceeds
6 of this check were deposited at the time it was negotiated?

7 A. Yes.

8 Q. All right. And if you would turn to Exhibit 1-28
9 (1), and is that one of those monthly statements we were
10 talking about earlier?

11 A. Yes. It is a monthly statement of the checking
12 account.

13 Q. And what period does it cover, that statement,
14 Exhibit 1-28 (1)?

15 A. Covers a period of time from June 25, 1996, through
16 July 25th, 1996.

17 Q. All right. And what was the date that the June 28,
18 1996, check was negotiated in Exhibit 1-24?

19 A. That check was negotiated June 29th.

20 Q. Of what year?

21 A. 1996.

22 Q. And so would this statement, Exhibit 1-28 (1) cover
23 the time period in which the check dated June the 28, 1996,
24 in Government's Exhibit 1-24 was negotiated?

25 A. Yes, this statement would cover that time period.

Davies - Direct/Smith

1 Q. Were any deposits made to this account at all by the
2 customer during that month?

3 A. No, sir.

4 Q. Were the -- from the bank statement, are you able to
5 determine were the proceeds of the June 28, 1996 check
6 deposited when the check was negotiated?

7 A. No, sir.

8 Q. All right. So the -- I may have misworded that.
9 Tell us whether the proceeds were negotiated or not.

10 A. The proceeds were not deposited into the checking
11 account.

12 Q. All right. And you can tell that how?

13 A. There is no deposit to the checking account.

14 Q. In the entire month?

15 A. Correct.

16 Q. All right.

17 Let's move on to Exhibit 1-24, the check dated July
18 the 31st, of 1996.

19 MR. TRAFICANT: What exhibit was that?

20 MR. SMITH: 1-24, the check dated July the
21 31st of 1996. Have you found that one?

22 A. Yes, I found the check.

23 Q. Okay. And from markings on that check, can you
24 determine whether that check was negotiated by your
25 financial institution?

Davies - Direct/Smith

1 A. That check was negotiated at Home Savings and Loan,
2 yes.

3 Q. All right.

4 And does that -- we're talking about this check here
5 at the top, 7-31-96, correct?

6 A. Yes, sir.

7 Q. We flip it over, there's a -- there's your stamp
8 again; is that correct?

9 A. That's correct.

10 Q. All right.

11 When was this particular check negotiated by your
12 bank, what date?

13 A. July 31st, 1996.

14 Q. Now, if you'd turn your attention to Exhibit 1-28.2,
15 do you have that before you?

16 A. Yes, I do.

17 Q. And what time period is covered by Exhibit 1-28.2?

18 A. From July 25th, 1996, through August 23, 1996.

19 Q. So is the check dated July the 31st, 1996, in Exhibit
20 1-24, negotiated during the time period covered by the
21 statement, which is Exhibit 1-28.2?

22 A. Yes, it is.

23 THE COURT: Mr. Smith, let me ask how much
24 longer you think it would take?

25 MR. SMITH: I have to go through four more,

Davies - Direct/Smith

1 your Honor.

2 THE COURT: Four more checks?

3 MR. SMITH: Yes, in addition to this one.

4 THE COURT: Jurors, would you just as soon be
5 recessed right now?

6 THE JURY: No.

7 THE COURT: You want -- yes, yes.

8 THE JURY: Go ahead and finish.

9 THE COURT: All right. We would have to
10 bring the witness back tomorrow.

11 MR. SMITH: Very well, your Honor.

12 THE COURT: We're going to recess. First, I
13 have to explain that this tells something about my age.
14 President's Day is Monday. It's a national holiday. It is
15 not the 22nd, I was thinking about one president we used to
16 get to celebrate each individual old time presidents. Now
17 they collapsed it all into one day. Monday is the 18th. I
18 didn't want to leave you with that confusion because I'm
19 told that I said the 22nd, and I'm sure I did, thinking of
20 George.

21 The admonitions, remember them all, as you go home.
22 And we'll be in recess beginning tomorrow at the same time
23 just the same as we did today, and you can expect the same
24 sort of day. I'm told we may have harsher weather. That's
25 something that you should pay attention to, too, and give

Davies - Direct/Smith

1 yourselves enough time to get down here in case it turns
2 out there really is harsher weather. All right? Very
3 well. Thank you.

4 (Proceedings in the absence of the jury:)

5 THE COURT: Congressman, you said you had a
6 motion. Would you like to submit it in writing, or do you
7 want to raise the motion now?

8 MR. TRAFICANT: The motion relative to the
9 FBI agents involved in any court proceeding?

10 THE COURT: I don't know after the bank
11 witness the first bank witness testified, you said that you
12 had a motion that you wanted to make, and I don't know what
13 it was related to, but I want to give you an opportunity to
14 make it orally.

15 MR. TRAFICANT: I was going to -- I was going
16 to make a motion to go ahead and put those things into
17 evidence. I did not object to them.

18 THE COURT: Okay. Very well. Thank you.
19 Then we're in recess, and we'll see you tomorrow at 8:30.

20 MR. SMITH: Yes, your Honor.

21 (Proceedings adjourned.)

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11 C E R T I F I C A T E

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

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