

Bobby - Direct Continued

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

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

8 - - - - -
9 TRANSCRIPT OF PROCEEDINGS HAD BEFORE
10 THE HONORABLE LESLEY WELLS
11 JUDGE OF SAID COURT,
12 ON TUESDAY, FEBRUARY 19, 2002
13 Jury Trial
14 Volume 4
15 - - - - -

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

Bobby - Direct/Smith

1 Tuesday Session, February 19, 2002, at 8:30 A.M.

2 THE COURT: You're still under oath. You can
3 proceed.

4 MR. SMITH: Thank you, your Honor.

5 DIRECT EXAMINATION OF JACQUELINE M. BOBBY(cont.)

6 BY MR. SMITH:

7 Q. Ms. Bobby, when you testified last week, do you
8 recall a series of questions and answers that were asked to
9 you about the relationship between Charles O'Nesti and
10 Congressman Traficant? You recall that series of questions
11 and answers?

12 A. Yes.

13 Q. And did you -- you further recall a series of
14 questions and answers concerning statements that Charles
15 O'Nesti made to you about his pay situation?

16 A. Yes.

17 MR. TRAFICANT: Objection, hearsay.

18 THE COURT: There was an order issued by the
19 court related to that objection.

20 MR. TRAFICANT: Just for the record.

21 THE COURT: Congressman. Okay, as you know,
22 we usually take up objections at side bar. Thank you.

23 BY MR. SMITH:

24 Q. And again, approximately when did Charles O'Nesti
25 start making these kind of statements to you about his pay

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1 situation?

2 A. About early 1985, '86.

3 Q. And when did he quit making such statements to you?

4 A. I think probably about December of 1997, about six
5 months before he retired.

6 Q. And how often during that time period did he make
7 such statements to you?

8 A. Most every so often and once -- twice a year.

9 Q. All right.

10 And where did he make such statements to you?

11 A. In his office.

12 Q. And what did Mr. O'Nesti say to you about his pay
13 situation?

14 A. Mr. O'Nesti basically complained that he had to give
15 back so much money a month, and he -- and he was more upset
16 because of the fact that he had to pay tax on the money and
17 then give back so much money to Jim Traficant.

18 Q. Give back money from what, and out of what?

19 A. His paycheck.

20 Q. Did Mr. O'Nesti say anything else to you about his
21 pay situation in that regard?

22 A. Anything? Well, he just made the comments that he
23 was upset about it because he was working. He felt he
24 deserved all his paycheck because he worked hard for his
25 money, and he felt he deserved the whole thing.

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1 Q. Did Mr. O'Nesti ever, ever mention an amount of money
2 that he was paying back to Congressman Traficant?

3 A. I think one time he mentioned a thousand dollars.

4 Q. Thousand dollars what time period?

5 A. Per month.

6 MR. SMITH: Can I have a moment, your Honor?

7 BY MR. SMITH:

8 Q. Ma'am, approximately when did you first speak to the
9 FBI about this case?

10 A. It was in November of 1999.

11 Q. And did they contact you, or did you contact them?

12 A. They contacted me.

13 MR. SMITH: Your Honor, may we approach side
14 bar briefly?

15 THE COURT: All right

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

17 MR. SMITH: Your Honor, in light of your
18 ruling, which I received this morning, I am not going -- I
19 am not going into the restaurant conversation with the
20 police at this time because your Honor has indicated there
21 needs to be a further demonstration of unavailability.

22 THE COURT: Right.

23 MR. SMITH: Accordingly, I wanted to find out
24 if you just want me to tender --

25 MR. TRAFICANT: I didn't hear.

Bobby - Direct/Smith

1 MR. SMITH: -- wish me to tender her for
2 cross-examination now and pick that up at a later time, or
3 how do you want to proceed? Otherwise, I am done other
4 than that other.

5 THE COURT: Congressman, if you're prepared
6 to go forward on the foundation for the other statement, it
7 would seem the easiest thing would be to recess the jury
8 and see what that is. If you're not, then --

9 MR. SMITH: Your Honor, we don't have
10 anything right now to offer in addition to what we stated
11 last week, which is the Congressman indicated he was not
12 going to require Mr. DiBlasio to be brought up here from
13 Florida.

14 THE COURT: Okay. Then, I -- what I guess we
15 have to do is you go ahead and give her to him for
16 cross-examination, but then you be able to recall her on
17 direct regarding that, if you ever establish it.

18 MR. SMITH: All right. Very good, your
19 Honor.

20 THE COURT: And he can cross-examine her
21 then.

22 MR. TRAFICANT: Let me see if I understand
23 this. You -- you're going to conclude with this witness
24 now because of the Judge's order pending relative to
25 DiBlasio. Is that what you're saying?

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1 MR. SMITH: Yes.

2 MR. TRAFICANT: And the Judge is going to
3 allow you to quit now and let me cross-examine. Is that
4 where we are?

5 THE COURT: Yes, but if they bring her back
6 and in order to do that, they have to do some further --
7 they have to show foundation for unavailability. If they
8 do that, then we'll let them call her on direct, and you
9 would get another chance at cross-examining her on
10 whatever.

11 MR. TRAFICANT: You mean another shot of
12 unavailability? Isn't it a fact the Court accepted a
13 motion? Everybody agreed yesterday we wouldn't require Mr.
14 DiBlasio to travel all the way up here.

15 THE COURT: I can't do things just because
16 you guys stipulate to them in a criminal case.

17 MR. TRAFICANT: No, but you also ruled on
18 that yesterday, didn't you?

19 THE COURT: I ruled on the --

20 MR. TRAFICANT: Fifth Amendment.

21 THE COURT: I issued it this morning. You
22 have it, right? That's the --

23 MR. TRAFICANT: I just got it, I read it.

24 THE COURT: Everyone just got it.

25 MR. TRAFICANT: Yeah.

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1 THE COURT: I issued it about 8:30 this
2 morning, but this would allow you to -- if they would call
3 her back on direct, because they've been able to lay a
4 foundation, you can cross-examine her again on that.

5 MR. MORFORD: Your Honor, has the court given
6 any further consideration of the possibility of having him
7 assert the Fifth by way of teleconference instead of having
8 him travel, or you want him actually here in the courtroom?

9 THE COURT: We might be able to do it by
10 teleconference. I don't think we talked about him on the
11 telephone. It has to be -- there has to be an opportunity
12 for him to view him and so forth.

13 MR. TRAFICANT: I was under the agreement
14 that yesterday we had agreed he wanted to take the Fifth,
15 you got the letter, I didn't bring the letter. I agreed
16 that I wouldn't force him because of his health. You said
17 his health was bad.

18 THE COURT: I know. They --

19 MR. TRAFICANT: We were going to take another
20 three-day trip. I mean, what's going on here?

21 THE COURT: What's going on here is that the
22 Court has an independent obligation I have to fulfill
23 regarding this unavailability issue. It may be that they
24 have medical records on him that would satisfy 804 under
25 that rule. I don't know what they have, but they just got

Bobby - Cross

1 the record a few minutes ago. So did you.

2 MR. TRAFICANT: Okay.

3 THE COURT: So that's where we are.

4 MR. TRAFICANT: That's fine.

5 MR. MORFORD: One other request, your Honor.

6 If we do establish unavailability and have to call her
7 back, will there be an explanation to the jury as to why
8 she was brought back?

9 THE COURT: I don't know, I don't know.

10 Let's cross that when we get to it.

11 MR. TRAFICANT: How much more prejudicial are
12 we going to get in this case? I object to that, and I
13 object to even this business here.

14 THE COURT: You are going to get to
15 cross-examine this witness.

16 MR. TRAFICANT: I think we should let that
17 witness say what she had to say.

18 THE COURT: I did, I did do that.

19 MR. TRAFICANT: Conditionally.

20 THE COURT: Right.

21 MR. SMITH: I'm going to tender her for
22 cross-examination then at this time, your Honor.

23 THE COURT: Okay very well

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

25 MR. SMITH: Your Honor, at this time, the

Bobby - Cross

1 Government does not have any further questions, thank you.

2 THE COURT: Thank you.

3 MR. TRAFICANT: May I take a couple minutes?

4 I didn't think they'd be so quick, your Honor.

5 CROSS-EXAMINATION OF JACQUELINE M. BOBBY

6 BY MR. TRAFICANT:

7 Q. How are you doing, Jackie?

8 A. Great.

9 Q. You miss working for me?

10 A. No.

11 Q. How many years did you work for me?

12 A. 17.

13 Q. That's with the Sheriff's Department?

14 A. Yes.

15 Q. When I went on trial the first time, you took a leave
16 of absence; is that correct?

17 A. Yes.

18 Q. And after I was acquitted, you came back?

19 A. No, I came back while you were on trial.

20 Q. Oh, you did come back while I was on trial?

21 A. Yes.

22 Q. Okay. Good.

23 THE COURT: Everyone remember to keep your
24 voices up. It's hard to hear in this big old room.

25 BY MR. TRAFICANT:

Bobby - Cross

1 Q. Now, you came to -- you come to know Chuck O'Nesti
2 over a period of years, did you not?

3 A. Yes.

4 Q. And you said yesterday that you were not necessarily
5 close to Chuck; is that a correct statement?

6 A. I don't recall.

7 Q. Were you close to Chuck?

8 A. I was close, yes.

9 Q. Did you associate with him?

10 A. At work, yes.

11 Q. Did you ever go out to dinner with him in the
12 evening?

13 A. No.

14 Q. Did you have occasion to discuss Mr. O'Nesti in a
15 former trial where Mr. O'Nesti was a principal as you were
16 a principal in a criminal trial held in Cleveland?

17 A. Yes.

18 Q. What trial was that?

19 A. It was Phil Chance's trial.

20 Q. Would you explain who Mr. Chance was?

21 A. Mr. Chance was Mahoning County Sheriff.

22 Q. At the time, did I offer any instructions to the
23 staff about involvement in the Chance trial?

24 A. In the Chance trial, no.

25 Q. No. In the Chance campaign?

Bobby - Cross

1 A. Repeat your question.

2 Q. Did I give you any instructions to the staff, my
3 congressional staff, as to whether or not they should be
4 involved in that sheriff campaign?

5 A. I don't know if you gave it to the staff. You gave
6 it to me.

7 Q. And what, if anything, did I say to you?

8 A. You told me not to get involved with another person's
9 campaign.

10 Q. Okay. And do you know if I told that to anybody
11 else?

12 A. I don't know.

13 Q. And I didn't tell that to the staff, the best you can
14 recall?

15 A. I don't remember if you did or not.

16 Q. Okay. All right. Do you recall testifying that
17 Mr. O'Nesti was not very credible and was not telling the
18 truth relative to Mr. Chance's supposedly getting money
19 from mob boss Lenny Strollo, you remember that testimony?

20 A. I testified to -- I didn't have anything to testify
21 regarding getting money from the mob. They asked me about
22 Mr. O'Nesti, if he was credible. And they asked me if Mr.
23 O'Nesti lied. I said apparently he did because he was
24 indicted for lying to the Grand Jury.

25 Q. That was your testimony?

Bobby - Cross

1 A. Yeah.

2 Q. But, he was still your friend at that time?

3 A. Yes.

4 Q. Now, isn't it a fact that Mr. Morford on
5 cross-examination said that the reason you were supporting
6 Mr. Chance was because a Mrs. Claire Maluso was hired, and
7 you were very bitter, and she made as much money as you
8 made, is that a correct statement?

9 A. I don't believe it was. I don't remember.

10 Q. So you don't recall any questions that Mr. Morford
11 questioned you about your testimony regarding this support
12 of Sheriff Chance that he was prosecuted?

13 A. Not that question that you asked me about Claire
14 Maluso.

15 Q. Did you make the statement during that trial that
16 Mr. O'Nesti was not credible and could not be believed?

17 A. I said Mr. O'Nesti was not credible. He had a
18 reputation for being not credible. And yes, he was -- he'd
19 asked if he lied. I said apparently he did. He was
20 indicted for lying to the Grand Jury.

21 Q. Okay. Did Mr. Morford ask you about a trip made to
22 Atlantic city?

23 A. Yes.

24 Q. Wasn't that a fact that mob boss Lenny Stollo paid
25 for that trip to Atlantic city?

Bobby - Cross

1 A. I had no idea he paid for that trip.

2 Q. Was that brought up during the trial?

3 MR. SMITH: Object.

4 THE WITNESS: I don't know, I wasn't there.

5 MR. TRAFICANT: Foundation, your Honor.

6 THE COURT: She's answered that she wasn't
7 there, and she doesn't know. So that doesn't lay a
8 foundation.

9 MR. TRAFICANT: Okay.

10 Q. Did you ever come to read in the paper or come to
11 learn at a later time Lenny Strollo had financed that trip
12 to Atlantic city?

13 MR. SMITH: Object.

14 THE COURT: She stated she doesn't know.

15 MR. TRAFICANT: No, but I -- this is a
16 different question. I asked if she came to learn later
17 through a news article.

18 THE COURT: The objection is still sustained.

19 Q. You did go on a trip to Atlantic city, did you not?

20 A. I went on a few trips to Atlantic City.

21 Q. Okay. Was one of them with Mr. Chance and his wife?

22 A. Yes.

23 Q. Was one with -- was Mr. O'Nesti also on that trip to
24 Atlantic City?

25 A. Yes.

Bobby - Cross

1 Q. And the best of your knowledge, Mr. Morford did not
2 bring that up during the trial?

3 A. I don't know if it was Mr. Morford or Mr. Smith.

4 Q. But someone did bring it up?

5 A. I think they asked me if I went on a trip to Atlantic
6 City, yes.

7 Q. Okay. Now, when we talked earlier, I usually used
8 the word workmen's compensation, and that was a misnomer,
9 wasn't it?

10 A. Yes.

11 Q. You really filed after you resigned, and you did
12 resign, didn't you?

13 A. Yes.

14 Q. Okay. And it was -- you were seeking unemployment
15 compensation from the Government; is that correct?

16 A. Yes.

17 Q. And you recall that you had a three-way conversation
18 with a member of the House counsel dealing with
19 unemployment compensation of Mr. Marccone?

20 A. I don't know -- it was Mr. Marccone, but I thought it
21 was another person from the Unemployment Bureau, not from
22 the House counsel.

23 Q. Someone who dealt with the unemployment issue dealing
24 with your complaint?

25 A. It was with the State of Ohio, yes.

Bobby - Cross

1 Q. Or the State of Ohio?

2 A. Yes.

3 Q. Was it the State of Ohio?

4 A. Yes.

5 Q. And they asked you if you were mistreated, didn't
6 they?

7 A. I don't remember.

8 Q. Oh. Did they ask you if you were ever treated
9 discourteously?

10 A. I don't remember.

11 Q. Did they ever ask you if you were abused in any way?

12 A. I don't remember.

13 Q. Okay. Our memory when we get old gets a little
14 tough.

15 MR. SMITH: Objection.

16 THE COURT: Well, that's a comment, not a
17 question.

18 Q. The bottom line is, what was the ruling of the action
19 taken by you?

20 A. It was denied.

21 Q. And why was it denied?

22 A. Because I quit.

23 Q. And what was the reason you stated that you quit?

24 A. I quit -- the reason I stated was because I -- I quit
25 because I was not getting the amount of money for the job

Bobby - Cross

1 that I was required to perform.

2 Q. Um-hum. And you did not mention Mrs. Claire Maluso?

3 A. I don't remember. I just mentioned that I wasn't
4 getting the money that I was doing the job for.

5 Q. Now, during that conversation, were you not told by
6 Mr. Marcone that after the election, the Congressman was
7 going to reorganize his office?

8 A. In the conversation with the unemployment?

9 Q. Yeah. During all that time in the conversation that
10 was with Mr. Marcone and the unemployment people or with
11 Mr. Marcone, were you ever informed by Mr. Marcone that the
12 Congressman was going to make no decisions on employment
13 until after the election was over because you wanted to
14 reorganize, do you remember that?

15 A. It was probably after I quit.

16 Q. Oh?

17 A. Yeah, it wasn't before that.

18 Q. Did you ever make the statement to Mr. Marcone that
19 you wanted Chuck's job. You wanted Chuck's job now. You
20 wanted \$10,000 for being the campaign treasurer, and if you
21 didn't get the job now, you were going to quit. Yes or no.

22 A. No.

23 Q. Okay. Fine.

24 Now, have you ever seen Mr. O'Nesti give me any
25 money?

Bobby - Cross

- 1 A. No.
- 2 Q. Now, you were with me for a long time, and after the
3 Chance trial, you were asked if Mr. O'Nesti was an honest
4 person, do you recall that question?
- 5 A. After the Chance trial, no.
- 6 Q. You do not recall answering that question?
- 7 A. Repeat your question, please.
- 8 Q. After the Chance trial, were you asked by the press,
9 was Mr. O'Nesti an honest person?
- 10 A. Oh, asked by the press. You didn't say that the
11 first time.
- 12 Q. Yes, yes.
- 13 A. Do I recall that? Yes.
- 14 Q. And what did you say?
- 15 A. I said Mr. O'Nesti had a reputation as being the bag
16 man or not credible.
- 17 Q. Did you make the statement that he was not honest, he
18 was not an honest person?
- 19 A. I probably did. I can't remember exactly.
- 20 Q. Did they not ask you a question if Mr. Traficant was
21 dishonest?
- 22 A. I think -- I don't know, I don't remember that.
- 23 Q. So you do not recall your answers to that, is that
24 your testimony?
- 25 A. To that question?

Bobby - Cross

1 Q. Yes.

2 A. I don't recall the question.

3 Q. Oh, I see. Now, you maintain in your testimony that
4 for some ten years you had evidence of a crime, a felony,
5 kickbacks, is that your testimony?

6 A. Yes.

7 Q. But you did not report that?

8 A. No.

9 Q. Was that because you were angry with me and didn't
10 want to see me hurt in the campaign?

11 A. Well, I was loyal to you, plus I -- I really had it
12 in the back of my mind, how did you do something like that
13 after you kept telling me that the FBI and the IRS were out
14 to get you.

15 Q. Thank you. Now, did we often get calls to our office
16 to help constituents with the myriad of problems, Jackie?

17 A. Yes.

18 Q. Did I refer a lot them to you?

19 A. Yes.

20 Q. And isn't it a fact you addressed yourself diligently
21 to those matters?

22 A. Yes.

23 Q. Did you at times delegate those matters?

24 A. Not if you gave them to me. I did what you told me
25 to do.

Bobby - Cross

1 Q. Did I ask you to personally do it, you would
2 personally look into it, wouldn't you?

3 A. Yes.

4 Q. And they would normally be -- what you consider to be
5 something significant relative to congressional action?

6 A. Yeah, everything was significant.

7 Q. Yes, but I mean to a greater or lesser degree, I
8 would assign -- if I ever made personal assignments, would
9 it not be to people I felt could handle specific
10 assignments?

11 A. What was your question again.

12 Q. When I made these delegations and I made -- I just
13 didn't, say, have the staff look into Joe Blow, and I asked
14 for a specific member to look into it, more than likely
15 there was significant aspect to it that I thought maybe the
16 ability of the individual handling it would probably handle
17 it the best and probably most expeditiously, would that be
18 a fair statement?

19 A. Yes.

20 Q. And I did a lot of that with you?

21 A. Yes.

22 Q. And I did a lot of that with Grace, to the best of
23 your knowledge?

24 A. Yes.

25 Q. Did we get a lot calls from people who asked us about

Bobby - Cross

1 people who were incarcerated and hoping that they could be
2 moved closer so the family could visit them?

3 A. We -- what's a lot? We got calls, yes.

4 Q. Yes, we would get calls. Would we handle those
5 calls?

6 A. Yes.

7 Q. Yes. Did we discriminate as to any of those people
8 that ever called?

9 A. No.

10 Q. Thank you.

11 By the way, when we were sheriff, wasn't it a fact we
12 were only sheriff every year to succeeding to drop crime in
13 Mahoning County to a great degree each succeeding year?

14 A. I believe so.

15 Q. Did you play a part in that?

16 A. Probably.

17 Q. Now, Mr. O'Nesti, he was involved with the Sheriff's
18 Department, wasn't he?

19 A. Yes.

20 Q. And what was his involvement?

21 A. My understanding, he was in charge of volunteer
22 officers.

23 Q. What were the volunteer officers known as under Ohio
24 law, if you would know?

25 A. At that time, they were reserve officers.

Bobby - Cross

1 Q. And what were their powers?

2 A. They had all police powers that regular police
3 officers have.

4 Q. And isn't it a fact that I had fewer staff than a
5 sheriff that served 20 years before me. Did we not have a
6 very small staff?

7 A. You had a small budget, yes.

8 Q. And did I not have a number of reserved deputy
9 sheriffs?

10 A. Yes.

11 Q. Did I use them in a number of ways for street
12 activity and psychological warfare of street activity,
13 would you say?

14 A. Yes.

15 Q. Was it -- was it successful?

16 A. Yes.

17 Q. Did you have occasion to send me any notes?

18 A. Yes.

19 MR. TRAFICANT: I can give this?

20 THE COURT: Yes.

21 Q. Would you read the bottom words, if you can read
22 them?

23 THE COURT: While she's reading, would you put
24 the number of this exhibit on the record.

25 MR. TRAFICANT: Yes. I would like to place

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1 on the record what is known as JB-2 as evidence of defense.

2 THE WITNESS: JB-2.

3 MR. TRAFICANT: JB-2.

4 Q. What is the date on that?

5 A. March 18, 1998.

6 Q. And you sent this from where?

7 A. From my home.

8 Q. And could you, in fact, read the letter for us?

9 A. Okay. "Honorable James A. Traficant, 11 Overhill
10 Road, Youngstown Ohio, 44512."

11 Q. Would you please withhold one second and maybe slow
12 down for the Court Reporter and me as well?

13 THE COURT: Just read slowly.

14 THE WITNESS: Yes.

15 "Dear Mr. Chairman: If I don't ask, I'll never know.
16 I handle the majority of Chuck's response as district
17 director. My reputation and credibility are impeccable. I
18 have had total responsibility for your campaign with no
19 complaints. I donated many, many hours to the campaign. I
20 think you should give me the position of district director
21 and a salary increase because you could justify it, and I
22 deserve it. I will fulfill any obligation Chuck had,
23 parentheses, let's talk about this one.

24 "You won't be sorry because I don't want to be,
25 quote, a big shot. If you don't fill Chuck's position, I'm

Bobby - Cross

1 afraid it will look truly like he had a token job. Thanks
2 for listening, and I await your response. Sincerely
3 Jackie. P.S. I trust you won't share this letter with
4 anyone."

5 Q. When you said that you would trust I wouldn't share
6 this letter with anyone, did you have any specific person
7 in mind?

8 A. No.

9 Q. Wasn't it a fact you were concerned I was going to
10 get the district director job to Grace Yavorsky?

11 A. No.

12 Q. Let's go back to the line where you said "I will
13 fulfill any obligation Chuck had." Then you have in
14 parentheses, "let's talk about this one"?

15 A. Okay. What about it?

16 Q. You just testified that he said he was giving me
17 kickback's since 1985, was that what you were talking
18 about.

19 A. Yes.

20 Q. And you wanted to talk about that?

21 A. Let's talk about this one. I wasn't going to do it.

22 Q. Oh, I see. Let's talk about this one. But you
23 weren't going to do anything?

24 A. I wasn't going to give you money back like Chuck
25 O'Nesti did. That wasn't part of the job.

Bobby - Cross

1 Q. No. But your statement was "I will fulfill -- I will
2 fulfill any obligation Chuck had." Did you put any
3 conditions that there's some conditions that you may not
4 fulfill, or was your statement "I will fulfill" -- I want
5 you to read that sentence again to me. Read it again.

6 A. "I will fulfill any obligation Chuck had. Let's talk
7 about this one." Exclamation point.

8 Q. Just let me ask this question: You said since 1985
9 to '86, you had knowledge of this felony crime. Now you're
10 saying you would have nothing to do with any paybacks, and
11 that's what you were going to talk about. But in the
12 letter, it says "I will fulfill any obligation Chuck had."

13 What obligation did you have knowledge supposedly
14 that Chuck had told you?

15 A. Chuck had a title called district director. He had
16 an obligation that he was being paid to do, a job he was
17 being paid to do. That's the job I applied for. I was not
18 going to fulfill the -- let's talk about this one. It
19 meant I wasn't going to kickback money to you.

20 Q. Oh, I see. Although it says "I would fulfill any
21 obligation Chuck had," and you've testified here now for
22 two days that Chuck had an obligation to kickback money,
23 but now you're saying, that that was written here on March
24 18, 1998, when you were after the job, was mistaken now by
25 me or the Court or everybody, perhaps the jury? Is that

Bobby - Cross

1 your testimony? You didn't mean it that way, right?

2 A. What's the question?

3 Q. Yeah. You wouldn't fulfill any obligation not
4 dealing with money, that money wasn't part of it. It
5 didn't?

6 A. The kickback money?

7 Q. Yeah.

8 A. Absolutely. I wasn't going to kickback money to you.
9 Let's talk about it. But you don't know what it was
10 because you never talked about it.

11 Q. Well, first of all, now when we got this, did Paul
12 and I give you a call at some point and talk about your
13 future, and, in fact, ask to you stay on because we thought
14 you were a valuable stock person?

15 A. What's the question?

16 Q. Did Paul and I ever call you and ask you to stay on
17 because we felt you were valuable and would like to keep
18 you?

19 A. You called me and asked me to come back because I had
20 already quit by then.

21 Q. Yes. I mean, at some point after you quit.

22 A. Okay, yes.

23 Q. Yes.

24 And you quit over the hiring of Claire Maluso, is
25 that right?

Bobby - Cross

- 1 A. I quit when you told me that you hired Claire Maluso?
- 2 Q. Yes.
- 3 A. Yes.
- 4 Q. And you objected to the Congressman's hiring of this
5 woman?
- 6 A. I objected to the fact she was going to get paid the
7 same salary I was getting, and you asked me to train her.
- 8 Q. Yes. Did I also not tell you that she was up in her
9 70's years old, never made a whole lot of money,
10 volunteered for me for seven years?
- 11 A. Yes.
- 12 Q. Do you recall that?
- 13 A. Yes.
- 14 Q. And that in the future, there would be a revaluation
15 of staff, and there would be changes made as far as pay was
16 made, but she would start at that level so that she might
17 earn at her age a reasonable pension. Were you told that?
- 18 A. Yes.
- 19 Q. Okay. You were angry about the hiring of her at that
20 wage, were you not?
- 21 A. Yes.
- 22 Q. And you said I'm out of here. Is that about it?
- 23 A. You were forewarned.
- 24 Q. Yeah, but you told me if I did that, I'm gone, right?
- 25 A. I never told you that. I told that to Chuck O'Nesti

Bobby - Cross

1 a year before that.

2 Q. Yeah, but did you ever tell us at some point you quit
3 and did you not tell us that you quit because you just
4 would not tolerate Claire Maluso being hired at the same
5 rate of pay you were being paid?

6 A. I told you that I quit, and -- when you told me
7 Claire Maluso -- if you want -- I didn't say I quit because
8 of her. I told you I quit when you told me I would have to
9 train her and pay her the same salary as me.

10 Q. Was she being hired to do the same thing you were
11 doing?

12 A. I have no idea.

13 Q. Wasn't she hired to be an economic development
14 specialist?

15 A. I don't know.

16 Q. Were you an economic development specialist?

17 A. I don't know. I probably was if I was doing most of
18 Chuck's job at that point.

19 Q. What was your job title?

20 A. My job title was office manager.

21 Q. Was it economic development specialist?

22 A. No.

23 Q. Is there anything that you have in any document that
24 said you were to be involved in economic development?

25 A. In my job description?

Bobby - Cross

1 Q. Yeah.

2 A. I didn't have a job -- no.

3 Q. No. So, you don't know if Claire Maluso was hired
4 specifically as an economic development specialist to work
5 with the community on economic matters. You don't know
6 that?

7 A. I mean that after the fact.

8 Q. You knew -- you came to learn that after the fact?

9 A. After I quit.

10 Q. After you quit. Okay.

11 A. Yeah.

12 Q. Now, when -- hold on one minute.

13 THE COURT: JB.

14 MR. TRAFICANT: I admit into evidence JB.

15 MR. SMITH: You want to take the time to look
16 at that, Jackie?

17 Q. Would you explain to the jury what this is?

18 A. I have to read it first.

19 Q. Fine.

20 THE COURT: While she's reading that, you
21 would have to offer it before you get a response. We can
22 do that at a break.

23 MR. TRAFICANT: Pardon?

24 THE COURT: You'd have to offer something,
25 and we have to see what the response is, and we'll do that

Bobby - Cross

1 at the break so we don't take up the jury's time. I think
2 what you said you admit something, and I have to admit it.

3 MR. TRAFICANT: No, I said I offered it into
4 evidence. I would offer to admit it.

5 THE COURT: Okay. Well, you can do that at a
6 break because that -- the jury doesn't need to hear that.

7 MR. TRAFICANT: Thank you.

8 THE COURT: You're welcome.

9 BY MR. TRAFICANT:

10 Q. Have you had time to review it?

11 A. Yes.

12 Q. You were basically responding to a co-worker?

13 A. Yes.

14 Q. And this co-worker was in a -- an area that was
15 formally not represented by us, is that not right?

16 A. Yes.

17 Q. And -- could you explain the original district?

18 A. It was basically -- what? -- Mahoning and Trumbull
19 County.

20 Q. At some point after ten years of census, they
21 redistrict, and we picked up most of what?

22 A. Picked up most of Columbiana County.

23 Q. And that was to the south of us?

24 A. Yes.

25 Q. And do you have any knowledge of what Carrie Davis

Bobby - Cross

1 did before she came to work for me?

2 A. She worked for Congressman Applegate.

3 Q. Yeah.

4 Did we ever have any relationship with Carrie Davis
5 before then?

6 A. I didn't.

7 Q. No. But I hired her, right?

8 A. Yes.

9 Q. And I hired Claire Maluso, yes?

10 A. Yes.

11 Q. Doesn't the Congressman have the right to hire and
12 fire?

13 A. Yes.

14 Q. Or does his staff tell him who to hire and fire?

15 A. I don't know.

16 Q. Well, then, let's's look at this. This was relative
17 to she was concerned about political campaigns, and you
18 were the treasurer of the campaign. What did you instruct
19 Carrie Davis?

20 A. Basically, I told Carrie Davis campaigning was to be
21 left out of the congressional office. It had to go through
22 my home and my personal residence.

23 Q. And that's basically the way they handled it; is that
24 correct?

25 A. Yes.

Bobby - Cross

1 Q. Okay. Fine.

2 Was there a time we had an issue with an employee by
3 the name of Linda Kovachick?

4 A. An issue? Yes.

5 Q. Was that issue a problem?

6 A. Yes.

7 Q. Who brought it to my attention?

8 A. I believe I did.

9 Q. And did I ask you to try and resolve these problems
10 with her, and did you try and do that?

11 A. I can't even remember the details of it right now,
12 but if you asked me to, I'm sure I did.

13 Q. Okay. And what was the problem that you presented to
14 me relative to Ms. Kovachik, as a staff representative, one
15 of my employees?

16 A. You know, I -- to be honest with you, I can't
17 remember what I -- I can't remember.

18 THE COURT: Can you spell her name for the
19 record?

20 THE WITNESS: I think it was
21 K-O-V-A-L-C-H-I-K.

22 Q. So you're saying you do not remember that much about
23 her, right?

24 A. I don't remember what I told you.

25 Q. Did you make any recommendations to me about Linda

Bobby - Cross

1 Kovachik?

2 A. Yes. I recommended she be -- you let her go because
3 she was not helping your cause.

4 Q. Do you know if she was fired?

5 A. I don't know if she was fired or asked to resign.

6 Q. Do you know whom, if anybody, had made that action
7 and had informed her of the decision made by the
8 Congressman?

9 A. No.

10 Q. Okay. Was it you?

11 A. I don't think so.

12 Q. Okay. Now --

13 THE COURT: JB-3.

14 MR. TRAFICANT: JB-3.

15 Q. Jackie, could you direct yourself to the top, and
16 where did this come from?

17 MR. SMITH: I'm going to object to the
18 document, your Honor.

19 THE COURT: We'll go over to the side bar

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

21 MR. SMITH: Your Honor, my objection is that
22 I do not see any relevance of this document to the charges
23 that are pending in this case, or on how to defend those
24 charges, I don't see any relevance.

25 MR. TRAFICANT: The relevance is simply this:

Bobby - Cross

1 That she had a close relationship with Mr. Marcone, and she
2 called Mr. Marcone on every matter, and when there were
3 problems, she would call him, and she hasn't admitted to
4 much conversation with Mr. Marcone.

5 THE COURT: Um-hum.

6 MR. TRAFICANT: Mr. Marcone would be up for a
7 future witness, and this would be to show that she did have
8 communication with Mr. Marcone, and there would be issues
9 of that of concern in the district. She would take it upon
10 herself to call Mr. Marcone, and that is the relevance of
11 it.

12 THE COURT: But this is from him to her.

13 MR. TRAFICANT: Yes, here's the thinking.

14 THE COURT: I know, but it's not from her to
15 him -- we don't know that -- if somebody's going to call
16 Marcone, that's how you can elicit this. The objection is
17 well taken that he --

18 MR. TRAFICANT: I want to show --

19 THE COURT: It's not showing anything that's
20 relevant.

21 MR. TRAFICANT: -- communication from Paul
22 Marcone and Jackie Bobby.

23 THE COURT: Just ask her about it. Just ask
24 her about it. Okay.

25 MR. TRAFICANT: I could ask her about a good

Bobby - Cross

1 full communication.

2 THE COURT: Sure. Talk to her about that,
3 but don't use this document for that because this doesn't
4 refer to anything that's relevant to the case, at least, so
5 far as we can see.

6 MR. TRAFICANT: You are not allowing me to
7 use this document?

8 THE COURT: You can't use it at this point.
9 If you have Marcone who prepared and wrote it. I don't
10 know it says to Traficant on the top.

11 MR. TRAFICANT: Okay.

12 THE COURT: You might be able to use it with
13 Marcone.

14 MR. TRAFICANT: Okay. Well I object to the
15 fact that I cannot establish the close relationship.

16 THE COURT: Well, you can just ask her about
17 her relationship.

18 MR. TRAFICANT: Thank you

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

20 BY MR. TRAFICANT:

21 Q. You've seen the document, correct?

22 A. Yes.

23 Q. You had a pretty good relationship with Paul, did you
24 not?

25 A. Yes.

Bobby - Cross

1 Q. And you would communicate with him quite regularly,
2 if it was necessary?

3 A. Yes.

4 Q. And how did this particular -- what was the genesis?
5 How did this thing develop?

6 A. I have no idea.

7 MR. SMITH: Objection.

8 THE COURT: Are you referring now to the
9 document?

10 MR. TRAFICANT: This memo.

11 THE COURT: We -- the objection was sustained
12 as to that memo.

13 Q. But in any regard, you contacted Mr. Marcone quite
14 often, didn't you?

15 A. Yes.

16 Q. And you confided in Mr. Marcone, did you not?

17 A. Confided in Mr. --

18 Q. I mean, you would confide about business and discuss
19 business of congressional concerns, and you would do it on
20 a regular basis when you called Washington. You called the
21 head man, and that was Paul, right?

22 A. Yes.

23 Q. Okay. And Paul called you many times, didn't he?

24 A. Yes.

25 THE COURT: Could you read the number on the

Bobby - Cross

1 top? I can't tell.

2 MR. TRAFICANT: Defendant's Exhibit JB-20,
3 2-0.

4 THE COURT: Okay. Are you reading it,
5 Mr. Traficant?

6 MR. TRAFICANT: No. Are you allowing it to
7 be given to the witness?

8 THE COURT: We haven't had an objection to
9 this yet. What it appears to me to be is a statement --
10 State of Ohio Unemployment Compensation Review
11 Commissioner's decision relating to Jacqueline Bobby. Is
12 that right?

13 MR. TRAFICANT: Do you have the document in
14 your possession, ma'am?

15 THE WITNESS: Yes.

16 Q. Does it list your social security number?

17 A. Yes.

18 Q. And what is the date of this document?

19 A. I don't know.

20 Q. Okay. Could you refer to the last page, Page 3, and
21 where it says appeal rights, read that first sentence under
22 that.

23 A. Oh, this decision was -- is mailed on October 20th,
24 1998.

25 Q. But, you don't know exactly -- you're saying when the

Bobby - Cross

1 meeting was held. Will you read the first statement of who
2 the employer representative was?

3 A. Okay. "Frederick M. Herrera, an attorney, U.S. House
4 of Representatives, Office of House Employ Counsel, 433
5 Cannon House Office Building, Washington, D.C. 20515-5532.

6 Q. Okay. Can you read the first line under case
7 history?

8 A. "Claimant Jacqueline M. Bobby filed an application
9 for determination of benefit rights on July 8th, 1998, for
10 a benefit here beginning July 5, 1998."

11 Q. Could you read then from there down to the fourth one
12 starting with "claimant filed a timely request"?

13 A. "Claimant filed a timely request for reconsideration
14 by decision mailed September 3, 1998. The administrator
15 affirmed the initial determination."

16 Q. Excuse me. That was September 2, not September 3?

17 A. Sorry.

18 Q. Okay.

19 Then on September 21, you filed the timely appeal, as
20 it says, with the review commission; is that correct?

21 A. Yes.

22 Q. And it says a telephone hearing was held. Was that
23 telephone hearing held? Would you read that last
24 paragraph?

25 A. "Telephone hearing was held by Hearing Officer Robert

Bobby - Cross

1 S. Bush, on October 19th, 1998. Claimant appeared.
2 Congressman James Traficant was represented by attorney
3 Frederick M. Herrera with Paul Marccone, chief of staff for
4 Congressman Traficant as a witness."

5 Q. Now, you stated earlier that it was the Ohio
6 Unemployment people that conducted the hearing; is that
7 right?

8 A. Yes.

9 Q. Okay.

10 THE COURT: It is a State of Ohio Review
11 Commissioner's decision.

12 MR. TRAFICANT: Yes, I know that.

13 Q. You said you had no knowledge of anybody other than
14 Mr. Marccone?

15 A. I said I didn't remember.

16 Q. You didn't? Okay.

17 Now, on the second page, would you read Paragraph 4,
18 starting with the word instead of?

19 A. "Instead of replacing the district director,
20 Congressman Traficant chose to split the position among
21 several employees and hire a new employee to handle
22 community outreach and economic development. When the
23 claimant discovered that she was not chosen to fill the
24 position as district director, she chose to resign her
25 position with Congressman Traficant."

Bobby - Cross

1 Q. Does it state in here that Mr. Traficant instructed
2 Mr. Marcone to try to get the claimant to return to work at
3 a small increase at that point?

4 A. I don't know. I haven't read the paper.

5 Q. Could you read the second to the last paragraph on
6 Page 2?

7 A. Where it says claimant's last day?

8 Q. Yes.

9 A. "Claimant's last day of work was May 14, 1998. She
10 was paid her vacation pay and sick leave through June 30th,
11 1998. During this time period, Congressman Traficant
12 instructed Mr. Marcone to try to get the claimant to return
13 to work at the increased salary of \$45,000 a year."

14 Q. Would that have been an increase over what you'd been
15 paid?

16 A. Yes.

17 Q. Would you read the last paragraph, claimant had not
18 found, et cetera, et cetera?

19 A. "Claimant had not found subsequent employment at the
20 time she resigned her position with Congressman Traficant.
21 Claimant's salary of approximately \$41,000 per year was
22 characterized by her as being a good salary for women in
23 the Youngstown, Ohio, area."

24 Q. Now, that \$45,000 would have made you the highest
25 paid woman in the district and in Washington, would it not?

Bobby - Cross

1 A. What was the question?

2 Q. Would that \$45,000 offered, would that not have made
3 you the highest paid woman employee in my congressional
4 office?

5 A. I don't know.

6 Q. Oh, okay. Who was in the district office?

7 A. I don't know.

8 Q. You didn't know anybody what anybody else was being
9 paid?

10 A. I know what Grace and I were being paid the same, and
11 clarify.

12 Q. Which was?

13 A. When I left, it was \$41,000.

14 Q. So Grace was being paid \$41,000?

15 A. Grace was being \$41,000, yes.

16 Q. You don't know if Grace was offered a raise, do you?

17 A. No, I don't.

18 Q. Was this denied?

19 A. The unemployment appeal?

20 Q. Yes.

21 A. Yes.

22 Q. And now, in closing, did you ever make the statement
23 to Mr. Marccone as follows:

24 "I want Chuck's job. I want Chuck's pay. I want
25 \$10,000 for being the campaign treasurer, and I want it

Bobby - Redirect

1 now, or I won't come back"?

2 A. No.

3 MR. TRAFICANT: No further questions.

4 THE COURT: Mr. Smith?

5 REDIRECT EXAMINATION OF JACQUELINE M. BOBBY

6 BY MR. SMITH:

7 Q. You recall being asked on cross-examination about
8 Defense Exhibit JB-2?

9 A. Yes.

10 Q. Do you still have that in front of you?

11 Now, showing you JB-2, do you recall a series of
12 questions being asked of you about the words, quote
13 unquote, any obligation in that document?

14 A. Yes.

15 Q. What were the -- when you wrote that letter, what
16 were the obligations of Charles O'Nesti that you were
17 referring to when you wrote the letter?

18 A. His job as the district director, the words were what
19 he did in the office.

20 Q. And what did that job of district director entail by
21 way of duties?

22 A. Representing Congressman Traficant at various
23 meetings, as a liaison between Washington D.C. and all the
24 other district offices. Mr. O'Nesti was basically a
25 troubleshooter for the office. He was a political liaison

Bobby - Redirect

1 between Congressman and the other political Government
2 offices.

3 Mr. O'Nesti also handled some of the constituent case
4 work. Off the top of my head right now, I can't remember
5 everything that he was obligated to do.

6 Q. And in the last couple of years that you were in the
7 Congressman's office, what was Mr. O'Nesti's health
8 situation?

9 A. Mr. O'Nesti had cancer, and he was going through a
10 series of radiation and chemotherapy treatments.

11 Q. And during that time, who -- were there times when
12 Mr. O'Nesti was unable to perform all of his duties because
13 of his illness?

14 A. Yes.

15 Q. And who was performing his duties while he was ill?

16 A. I was -- I was probably doing the majority of the
17 work for him.

18 Q. Do you know what Mr. O'Nesti was being paid as
19 district director during this last couple of years when he
20 was ill?

21 A. Not exactly.

22 Q. Do you know if it was more or less than you were
23 being paid?

24 A. Yes, I know that.

25 Q. Was it more or less?

Bobby - Redirect

1 A. Yes, it was more.

2 Q. Do you have any idea approximately how much more?

3 A. I think at one point it was -- he was getting paid
4 \$70,000.

5 Q. And you were being paid how much?

6 A. \$41,000.

7 Q. When you asked to take over Mr. O'Nesti's job when he
8 left, what duties of Mr. O'Nesti's that he had previously
9 performed did you expect to undertake if you took his job?

10 A. The same duties that I had been performing for the
11 last two years in the office.

12 Q. And did you request a salary commensurate with what
13 Mr. O'Nesti had received for performing those district
14 director types of duties?

15 A. Yes.

16 Q. And was that salary that Mr. O'Nesti had been making
17 significantly more than the \$45,000 that had been offered
18 to you?

19 A. Yes.

20 Q. You were asked a series of questions about who had
21 authority to hire and fire, do you remember in the office,
22 do you remember that?

23 A. Yes.

24 Q. Did you of your own authority have authority to hire
25 or fire any employee?

Bobby - Redirect

- 1 A. No.
- 2 Q. Who did?
- 3 A. Congressman Traficant.
- 4 Q. There were -- you were asked a couple of questions
5 about Mr. O'Nesti's reputation for truthfulness. You
6 recall that series of questions and answers?
- 7 A. Yes.
- 8 Q. And you indicated what concerning Mr. O'Nesti's
9 reputation for truthfulness in the community?
- 10 A. Well, I -- I said that Mr. O'Nesti had a reputation
11 of not being very credible, and he had been indicted
12 recent -- prior to his retirement, he had been indicted for
13 lying to the Grand Jury.
- 14 Q. And for how long had he had that bad reputation for
15 credibility?
- 16 A. As long as I knew him.
- 17 Q. And when did you meet him?
- 18 A. Probably -- I think like in 1981, '82.
- 19 Q. Did Mr. O'Nesti have a bad reputation for
20 truthfulness back then?
- 21 A. Yes.
- 22 Q. And when was he hired on the congressional staff?
- 23 A. 1985.
- 24 Q. Who hired him?
- 25 A. Congressman Traficant.

Bobby - Redirect

1 Q. You indicated that Mr. O'Nesti was charged by the --
2 with lying to a Grand Jury; is that correct?

3 A. Yes.

4 Q. Do you know what the result of that case was?

5 A. I think he -- I think he pled guilty.

6 Q. Do you know if he was ever sentenced or not?

7 A. Yes. I know he was -- he -- I don't know if he was
8 ever sentenced. He never went to jail.

9 Q. Do you know why he was never sentenced?

10 A. I don't know if he was sentenced. I can't say that
11 he was sentenced. I know he pled guilty. I don't know if
12 he was ever sentenced.

13 Q. Do you know -- where is he today?

14 A. Mr. O'Nesti died.

15 Q. In the series of questions and answers given, do you
16 recall any answer in which you referred to Mr. O'Nesti as
17 the bag man during your cross-examination?

18 A. Yes.

19 Q. What did you mean by that term when you used it?

20 A. Mr. O'Nesti had a reputation -- and they called it
21 the bag man because he would -- he had a reputation for
22 delivering money from politicians, from the mob figures in
23 our town to politicians.

24 Q. For how long did he have that reputation?

25 A. I don't know, but he -- when I met him, he had the

Bobby - Redirect

1 reputation.

2 Q. And you met him when?

3 A. 1981.

4 Q. Do you recall a series of questions and answers
5 concerning contact on behalf of people who wished to be
6 moved from one federal prison facility to another, do you
7 recall being asked about that on cross-examination?

8 A. Yes.

9 Q. And did you indicate there were multiple people over
10 the years that called to make such requests?

11 A. Yes.

12 Q. Was the Bucci brothers one of those people that made
13 such a call?

14 A. I -- I don't know. I can't say yes or no.

15 Q. Did you perform any duties in connection with any
16 effort to have Anthony Bucci moved from one facility to
17 another in the prison system?

18 A. Yes.

19 Q. And at whose direction or behest did you do that?

20 A. I don't -- I don't know. I don't know if it was the
21 Congressman's or Chuck O'Nesti's.

22 MR. SMITH: May I have one moment, your
23 Honor?

24 I don't have any further questions, your Honor.

25 THE COURT: Thank you. Congressman

Bobby - Recross

1 RECCROSS-EXAMINATION OF JACQUELINE M. BOBBY

2 BY MR. TRAFICANT:

3 Q. I want you to turn back to this document that you had
4 looked at. It's not marked for an exhibit -- do you have a
5 copy of it, do you need it?

6 MR. SMITH: I'll take a look at it.

7 MR. TRAFICANT: But I probably will put an
8 exhibit number on it and ask it be brought in later. But
9 had you seen it before?

10 THE COURT: Right. I have a copy up here. I
11 think we actually did put a number on this.

12 MR. TRAFICANT: Can we go forward with this?

13 THE COURT: Yes. Looks like it's Defendant's
14 Exhibit JB-20. Looks like it's written on this one.

15 Q. Yeah, can you refer to Page 2?

16 Now, would you direct your attention to paragraph 4
17 and take a look at that?

18 A. Instead?

19 Q. Yes.

20 A. Okay.

21 Q. Could you read that again?

22 A. Instead of replacing the district --

23 MR. SMITH: Object.

24 THE COURT: She can read it. Go ahead. Read
25 it.

Bobby - Recross

1 THE WITNESS: "Instead of replacing the
2 district director, Congressman Traficant chose to split the
3 position among several employees and hire an employee to
4 handle community outreach and economic development."

5 Q. That's fine.

6 At that point, the Congressman made a decision rather
7 than put one person into a position, to hire another person
8 and split up duties to do other things, was that your
9 interpretation?

10 A. Interpretation of this statement?

11 Q. Yeah, that he split up -- instead of hiring one
12 district director, he chose to hire additional staff so as
13 to do other things?

14 A. This is what Mr. Marcone said to the -- to the
15 employment bureau.

16 Q. Okay.

17 A. I don't know what he did.

18 Q. Okay. That's what he said.

19 Now, you said yesterday and today that you're pretty
20 good friends with Chuck, or did I hear you wrong?

21 A. What's the question?

22 Q. Were you pretty good friends with Chuck?

23 A. Yes.

24 Q. And you associated with him?

25 A. Yes.

Bobby - Recross

1 Q. Okay.

2 Now, the Government just asked you a number of
3 questions. They asked you if Chuck had a bad reputation as
4 early as 1981 and 1982, didn't they?

5 A. Yes.

6 Q. Did they ask you that, and what was your response?

7 A. Yes.

8 Q. You knew he had a bad reputation. Yes?

9 A. Yes.

10 Q. And they said he was hired in '85 by Jim Traficant,
11 and that was a true statement, wasn't it?

12 A. Yes.

13 Q. Who also was hired in 1985 by Jim Traficant?

14 A. About 19 other people.

15 Q. Yeah, but they're not here. Were you hired?

16 A. Yes.

17 Q. In 1985? Okay. And then they said that Mr. O'Nesti
18 had a reputation of being a bag man?

19 THE COURT: No, they didn't say. The witness
20 testified --

21 MR. TRAFICANT: The witness said that.

22 Q. Well, they asked you about your testimony where you
23 said he had a reputation of being a bag man. And was it
24 not your testimony that he had a reputation of being a bag
25 man since 1981, 1982?

Bobby - Recross

1 A. Yes.

2 Q. Um-hum.

3 But you still associated with him, and he was still
4 your friend in jury testimony?

5 A. He was my friend. I did not go out to dinner with
6 him. I associated with him in the office.

7 Q. But he was your friend?

8 A. Sure he was my friend.

9 Q. Fine.

10 When they asked you about the Bucci case, you said
11 you didn't know how that totally came about, right?

12 A. Yes.

13 Q. Because we had a lot of those type of cases, right?

14 A. We had some, I said -- I didn't know what a lot was.

15 Q. We had some that even were involved with murder
16 technicalities and tried to be moved closer to home, wasn't
17 that a fact?

18 A. I don't know what the charges were on them.

19 Q. But there were some very serious charges where their
20 family wanted to move closer to home?

21 A. Yes.

22 Q. Did you ever know of me ever instructing you to
23 refuse looking into any of those cases?

24 A. No.

25 Q. I always looked into all of them, didn't I?

Bobby - Recross

1 A. Yes.

2 Q. And it says that you -- they asked you, did you
3 perform any duty in having Anthony Bucci move, and you
4 said --

5 A. Yes.

6 Q. And then they said who told you to do it, and you
7 said -- do you remember your answer?

8 A. Yeah, I said it was either Chuck O'Nesti or
9 Congressman Traficant.

10 Q. Yeah.

11 Was Anthony Bucci moved to a halfway House, closer to
12 home?

13 A. I don't remember if he did get moved.

14 Q. We made requests, and we did what we could, and you
15 may remember, you may not, is that a correct statement to
16 make on these cases?

17 A. Yes.

18 Q. Was there anything unusual about a request being made
19 to look into a constituent's family's request to have them
20 moved closer to home?

21 A. No.

22 Q. And you found nothing unusual in that matter, did
23 you?

24 A. In which matter?

25 Q. The Bucci matter?

Bobby - Recross

1 A. No.

2 Q. Thank you, Jackie.

3 MR. TRAFICANT: How's your father by the way?

4 THE WITNESS: Fine.

5 MR. TRAFICANT: Good.

6 MR. SMITH: Nothing, your Honor.

7 THE COURT: Thank you very much. This is a
8 good time to take the morning recess. And so that's what
9 we're going to do. I'd like the lawyers to stay for a few
10 minutes. You can step down, but stay around. Okay.

11 (Proceedings in the absence of the jury:)

12 THE COURT: If you'll come back about five
13 minutes early, we can deal with anything that -- if there
14 is anything we need it to deal with. Go ahead and take a
15 break now.

16 MR. TRAFICANT: Excuse me, this may require a
17 side bar.

18 THE COURT: Okay. We don't need a side bar
19 because --

20 MR. TRAFICANT: When would I move these
21 things as exhibits?

22 THE COURT: You can do that when you come
23 back, five minutes early, you can offer them.

24 MR. TRAFICANT: Does the jury have to be
25 impaneled?

1 THE COURT: No, the jury shouldn't be in here
2 when you offer exhibits.

3 MR. TRAFICANT: Okay. All right.

4 THE COURT: But you have to let the
5 Government respond to anything you offer.

6 MR. TRAFICANT: All right. Thank you.

7 (Thereupon, a recess was taken.)

8 (Proceedings in the absence of the jury:)

9 THE COURT: We are going to do some things
10 before the jury comes out. You can be seated.
11 Mr. Traficant, you had some exhibits?

12 MR. TRAFICANT: Yes, I would like to offer
13 four documents, JB-3.

14 THE COURT: I'm sorry?

15 MR. TRAFICANT: JB-3.

16 THE COURT: Okay.

17 MR. TRAFICANT: JB-2, JB-20, and JB-4.

18 THE COURT: Thank you. Has the Government
19 seen all those?

20 MR. SMITH: Yes, your Honor, as to JB-2, the
21 Government has no objection, your Honor.

22 THE COURT: It'll be admitted without
23 objection.

24 MR. SMITH: As to JB-3, your Honor, we
25 objected at the side bar to the content of this document as

1 being irrelevant, and we still have the same objection to
2 it.

3 THE COURT: Okay. This document at this
4 point anyway is not going to be admitted.

5 MR. TRAFICANT: It's still open in other
6 words.

7 THE COURT: Well, if, for example, the author
8 of the document were here, it might be appropriate.

9 MR. TRAFICANT: Okay. Thank you.

10 THE COURT: So that's JB-3, which will not be
11 admitted at this point.

12 THE COURT: JB-20.

13 MR. SMITH: We have no objection to the --

14 THE COURT: It will be admitted. That's the
15 State of Ohio Unemployment Compensation Review Commission
16 decision.

17 MR. SMITH: As to JB-4, your Honor, again, as
18 to the content of this particular document, we don't see
19 the relevance of it, how the handling of campaign monies or
20 materials affects the case. There is no allegation in the
21 case about misuse of campaign funds, as I understand it.

22 THE COURT: Congressman.

23 MR. TRAFICANT: I didn't hear the
24 Prosecutor's statement, could you please repeat that?

25 MR. SMITH: My objection, your Honor, is to

1 the relevance of this particular document. This has to do
2 with the handling, as I understand the document, of
3 political campaign materials, and the Government just does
4 not see the relevance of that particular document. It was
5 established that Carrie Davis is a fellow staff member in
6 one of the other offices, but you don't need this document
7 to show that, and indeed, this document does not indicate
8 who Carrie Davis was, so it doesn't support it that way
9 either.

10 MR. TRAFICANT: I object to their
11 interpretation. It was a letter written by the witness,
12 and it speaks to the fact that she was a campaign treasurer
13 and did, in fact, set certain ground rules, and did set
14 those ground rules outside the work hours, and second of
15 all brought in a whole new district work office and the
16 relationship with new staff that was hired and new area
17 that was not previously represented by the Congressman.

18 THE COURT: Okay. I think this actual
19 document doesn't say anything about her being campaign
20 treasurer, but I think you did examine her on it, and she
21 was on the stand, and I will admit it, over objection.

22 MR. TRAFICANT: Thank you.

23 THE COURT: Anything from the Government
24 before the jury comes in?

25 MR. SMITH: No. During the break, we tried

1 to get a hold of Mr. Kersey, and I don't think we were able
2 to do that so it was pushed ahead for now.

3 THE COURT: Very well.

4 THE COURT: Okay. Let's put that on the
5 record, if you will.

6 MR. SMITH: I may have been misinformed about
7 Mr. Grant, sorry.

8 THE COURT: Okay. I don't know if the record
9 shows what my deputy bailiff said to me. So let her put
10 that on the record first.

11 THE CLERK: Mr. Grant had left me a voice
12 mail message during the break, and he indicated that he was
13 in court. He understood what the Government was trying to
14 do with the telephone conferencing, and he wanted to know
15 what our schedule was so he can work it out.

16 THE COURT: Okay. So I suggested that over
17 the lunch hour you pursue that with Mr. Grant. If you need
18 the help of the deputy clerk for the phone number or
19 whatever he left as a return number, that's fine.

20 MR. MORFORD: For purpose of the record, I
21 was going to note Mr. Grant is the law partner of
22 Mr. Kersey, and they're both co-counsel for Mr. DiBlasio.

23 THE COURT: Yeah, that's my understanding,
24 he's co-counsel for Mr. DiBlasio. Okay. Ready for the
25 jury? Thank you.

DiLoreto - Direct/Kall

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

2 THE COURT: Proceed.

3 MR. KALL: The Government calls Lisa

4 DiLoreto.

5 THE COURT: Thank you.

6 LISA DiLORETO,

7 of lawful age, a witness called by the Government,

8 being first duly sworn, was examined

9 and testified as follows:

10 DIRECT EXAMINATION OF LISA DiLORETO

11 THE COURT: We'll need you to speak up

12 clearly so everyone in the room can hear you.

13 BY MR. KALL:

14 Q. Could you please state your name, and spell your last
15 name?

16 A. Lisa DiLoreto, D-I-L-O-R-E-T-O.

17 Q. And where do you currently work?

18 A. At Rivertree Christian School.

19 Q. How long have you worked there?

20 A. Since June.

21 Q. Where did you work prior to that?

22 A. Well, first, I was a stay at home mom, then the State
23 home office for three and a half years, and before I had my
24 duty here, I worked for Attorney Tim Dousaksic, Nick
25 DiLoreto, John Stead.

DiLoreto - Direct/Kall

- 1 Q. Before that, where did you work?
- 2 A. Attorney Henry DiBlasio's office.
- 3 Q. How long did you work for Attorney DiBlasio?
- 4 A. For six years.
- 5 Q. What did you do for Mr. DiBlasio?
- 6 A. I was his legal secretary.
- 7 Q. What six years did you work for him timewise?
- 8 A. 1989 to 1995.
- 9 Q. As a legal secretary, what were your duties?
- 10 A. From answering the phones, setting up appointments,
11 filing, sorting the mail, typing of all legal documents. I
12 did all the book work, the payroll monthly, federal taxes,
13 paid all the bills.
- 14 Q. During the six years you worked for Mr. DiBlasio, did
15 you ever see his handwriting?
- 16 A. Yes, I did.
- 17 Q. How often?
- 18 A. Everyday he was there.
- 19 Q. Why would you see it?
- 20 A. He would write notes and sign things, and he would
21 write out legal documents for me to type.
- 22 Q. As a result of the time that you spent there, did you
23 become familiar with this handwriting?
- 24 A. Yes, I did.
- 25 Q. This was prior to the time you realized you might be

DiLoreto - Direct/Kall

1 called as a witness in this case?

2 A. Correct.

3 Q. If you could look in front of you, there are a number
4 of exhibits. Right on top Exhibit 1-11, do you see that?

5 A. Yes.

6 MR. TRAFICANT: Excuse me.

7 THE COURT: Just a moment.

8 MR. TRAFICANT: Are they under any obligation
9 I can look at other than looking at the screen?

10 THE COURT: I think you have been given all
11 the exhibit books. We went over that before. You have the
12 Government send you all exhibits in advance of the trial.

13 MR. TRAFICANT: All right. Thank you.

14 THE COURT: Do you have them with you?

15 MR. TRAFICANT: No, I don't, I'll watch the
16 screen.

17 THE COURT: Okay. They're these large books.

18 MR. TRAFICANT: Yes, I don't have it.

19 MR. MORFORD: Your Honor, we may have a
20 second working copy.

21 THE COURT: I know, but that -- they can
22 supply you those if they wish to, but this takes a lot of
23 extra time here.

24 MR. TRAFICANT: No, just go ahead.

25 THE COURT: I would like you to bring them

DiLoreto - Direct/Kall

1 in.

2 MR. TRAFICANT: Just go on.

3 MR. MORFORD: That's fine, Congressman.

4 MR. TRAFICANT: That's okay.

5 BY MR. KALL:

6 Q. Looking at Exhibit 1-11 you see any writing on that
7 document?

8 A. Yes, I do.

9 Q. Is that what I'm pointing to on the screen right now?

10 A. Yes.

11 Q. Do you recognize the handwriting on 1-11?

12 A. Yes.

13 Q. Whose handwriting is that?

14 A. Henry DiBlasio's.

15 Q. Turning now to Exhibit 1-1(2), you see any writing on
16 that document?

17 A. Yes.

18 Q. Do you recognize that handwriting?

19 A. Yes.

20 Q. Whose handwriting it?

21 A. Henry DiBlasio's.

22 Q. Turning to Exhibit 1-1(3), you see any writing on
23 that document?

24 A. Yes.

25 Q. Do you recognize the handwriting?

DiLoreto - Direct/Kall

- 1 A. Yes.
- 2 Q. Whose handwriting is it?
- 3 A. Henry DiBlasio's.
- 4 Q. Turning it Exhibit 1-1(4), look down to the bottom of
5 that. Do you see any handwriting there?
- 6 A. Yes.
- 7 Q. Do you recognize that handwriting?
- 8 A. Yes.
- 9 Q. Whose handwriting is it?
- 10 A. Henry DiBlasio's.
- 11 Q. Turn to Exhibit 1-1(5). Do you recognize that
12 handwriting?
- 13 A. Yes.
- 14 Q. Whose handwriting is it?
- 15 A. Henry DiBlasio's.
- 16 Q. Turning to Exhibit 1-1(6), you see any handwriting on
17 that document?
- 18 A. Yes.
- 19 Q. Do you recognize that handwriting?
- 20 A. Yes.
- 21 Q. Whose handwriting is that?
- 22 A. Henry DiBlasio's.
- 23 Q. Turning to Exhibit 1-1(7), do you see any handwriting
24 on that document?
- 25 A. Yes.

DiLoreto - Direct/Kall

- 1 Q. What I'm pointing to with my pen?
- 2 A. Yes, below it I can actually see the personal. You
3 can't see it on there.
- 4 Q. Do you recognize that handwriting?
- 5 A. Yes.
- 6 Q. Whose handwriting is that?
- 7 A. Henry DiBlasio's.
- 8 Q. If you could turn to Exhibit 1-1(8). You may need to
9 turn it upside down. You recognize the handwriting on that
10 document?
- 11 A. Yes.
- 12 Q. Whose handwriting is that?
- 13 A. Henry DiBlasio's.
- 14 Q. Can you read what it says on Exhibit 1-1(8)?
- 15 A. "J.T. personal" is Henry DiBlasio's handwriting. The
16 J.S. is not.
- 17 Q. Okay. What I'm pointing to with my pen?
- 18 A. Yes.
- 19 Q. Is Mr. DiBlasio's handwriting?
- 20 A. Yes.
- 21 MR. TRAFICANT: Could you please put that
22 back?
- 23 Q. Ms. DiLoreto, was it common for Mr. DiBlasio to write
24 "personal" on documents?
- 25 A. Yes.

DiLoreto - Direct/Kall

1 Q. How often would you see him do it during the course
2 of the time you worked for him?

3 A. Whenever he would do a letter to somebody, a client
4 or friend personal, he would write "personal" on the
5 envelope.

6 Q. If you'd turn to Exhibits 1-40, 1-41, and 1-42, if
7 you'd look at Exhibit 1-40, do you recognize the
8 handwriting on that?

9 A. Yes.

10 Q. Whose handwriting?

11 A. Henry DiBlasio.

12 Q. Same question as to Exhibit 1-41, do you recognize
13 the handwriting on that?

14 A. Yes.

15 Q. Whose handwriting?

16 A. Henry DiBlasio.

17 Q. And if you could look at Exhibit 1-42, it's a little
18 harder to make out. Do you recognize the handwriting on
19 that document?

20 A. Yes.

21 Q. Whose handwriting is that?

22 A. Henry DiBlasio.

23 Q. Turn to Exhibit 1-16. Do you recognize the
24 handwriting on that document?

25 A. Yes.

DiLoreto - Direct/Kall

1 Q. Whose handwriting is that, please?

2 A. Henry DiBlasio.

3 MR. TRAFICANT: Can I see a copy of that?

4 MR. KALL: If you'd flip in the book, it's
5 1-16.

6 Q. Finally, if you could look at Exhibit 1-20, do you
7 recognize the handwriting on that document?

8 A. Yes.

9 Q. Whose handwriting is that?

10 A. Henry DiBlasio.

11 Q. Where was Mr. DiBlasio's law office?

12 A. 11 Overhill Road.

13 Q. Could you describe briefly who else was in the
14 building?

15 A. There was a couple of attorneys that were upstairs
16 with two other secretaries, and then there was Congressman
17 Traficant's office was in the back on the upper level with
18 the law offices, and then his staff was located on the
19 lower level of the building.

20 Q. Now, you testified before that you were employed by
21 Mr. DiBlasio. Did you do work for him, for his law office,
22 or for his employment with the Congressman?

23 A. For his law office. There might have been a couple
24 of exceptions in -- six-year period I was there. Might
25 have typed a congressional thing. If he had dictated it,

DiLoreto - Direct/Kall

1 in dictation, sometimes he would maybe throw in a letter or
2 something.

3 Q. How often did that happen?

4 A. Not very often.

5 Q. Was there much interaction between the law office
6 staff and the congressional staff?

7 A. As far as myself?

8 Q. Yes.

9 A. No.

10 Q. Who was in charge of the building's operation at 11
11 Overhill?

12 A. It was in the name of a corporation, entitled Newport
13 Professional Center.

14 Q. Who ran the building, what person?

15 A. As far as like if something would break or the leases
16 for the new attorneys moving in, Henry DiBlasio would.

17 Q. And you testified earlier that you assisted Mr.
18 DiBlasio with finances for the office. Did that include
19 the building?

20 A. Yes.

21 Q. What types of things did you assist him with finances
22 for the building?

23 A. I would collect the rent every month and deposit it
24 into the corporation account, and I would pay utility
25 expenses out of that account.

DiLoreto - Direct/Kall

1 Q. At whose direction did you do this?

2 A. Henry DiBlasio's.

3 Q. Did you ever see any -- did you ever write any checks
4 to Mr. Jerry for the office?

5 A. No.

6 Q. Did you ever write any checks for a man named Mr.
7 Terraci for the office?

8 A. No.

9 Q. Did you also assist Mr. DiBlasio with his office and
10 personal finances? Let me break that up. Did you also
11 assist him with his office finances?

12 A. Yes.

13 Q. What about his personal finances?

14 A. He would have me pay for a lot of his personal
15 expenses out of the law office account.

16 Q. How would you do this?

17 A. He would -- when the bills would come in, he would
18 dictate pay so much on this charge card, pay his lease for
19 his automobile, pay his insurances, and then I would go
20 through and see how much money I needed that day to pay the
21 particular bills, and I would -- if there wasn't enough
22 money in the law office account, I would ask him for money,
23 and he would write me a personal check to deposit into the
24 law office account.

25 Q. Did Mr. DiBlasio ever give you any cash to be

DiLoreto - Direct/Kall

- 1 deposited into the account?
- 2 A. No.
- 3 Q. Did you ever cash any paychecks for Mr. DiBlasio?
- 4 A. A paycheck? No.
- 5 Q. Did you ever make deposits for Mr. DiBlasio into any
- 6 of his accounts?
- 7 A. Into the business accounts?
- 8 Q. Any of his accounts.
- 9 A. Into all the business accounts, I did.
- 10 Q. Did he ever give you cash to be deposited?
- 11 A. No.
- 12 Q. Were there ever occasions you needed more money in an
- 13 account to cover checks Mr. DiBlasio asked you to write?
- 14 A. Yes.
- 15 Q. What did you do when that happened?
- 16 A. If he was there, I would ask him for the money or
- 17 write him a note.
- 18 Q. What was his reaction?
- 19 A. He would scream.
- 20 Q. Do you know why he screamed?
- 21 A. He would just get upset and say he'd have to come up
- 22 with the money, and right before I resigned, he had come
- 23 out and screamed at me because I needed -- he was leaving
- 24 to go on vacation, and I needed like \$6 to \$7,000 to cover
- 25 the bills, and where am I going to get that money from, he

DiLoreto - Cross

1 would just scream.

2 Q. When did you resign from your employment with Mr.
3 DiBlasio?

4 A. I believe it was in May of 1995.

5 Q. Why did you resign?

6 A. Because I figured he was going to be retiring in the
7 next few years, and he would come out and just scream at me
8 when I would ask for money to pay his bills.

9 MR. KALL: May I have a moment, your Honor?
10 No further questions, your Honor.

11 THE COURT: Thank you. You may inquire,
12 Congressman.

13 CROSS-EXAMINATION OF LISA DiLORETO

14 BY MR. TRAFICANT:

15 Q. How are you doing, Lisa?

16 A. Hi, good.

17 Q. You saw a number of exhibits put on the board?

18 A. Yes.

19 Q. And some of them were, for example, Government's
20 Exhibit 1-42, it was a -- well, let me show it to you.

21 MR. KALL: Congressman, she has a copy.

22 THE WITNESS: 1-42? I have that one.

23 MR. TRAFICANT: Thank you for your
24 assistance.

25 Q. Although it's hard to read, who is it addressed to?

DiLoreto - Cross

- 1 A. Congressman James Traficant.
- 2 Q. Where?
- 3 A. Pardon me?
- 4 Q. Where was it addressed to Congressman James
- 5 Traficant?
- 6 A. Washington, D.C.
- 7 Q. What did it say on the bottom left?
- 8 A. Personal.
- 9 Q. Was that his writing?
- 10 A. Yes.
- 11 Q. Did he do that on letters?
- 12 A. Um-hum, yes.
- 13 Q. Now, you have another one here marked Government's
- 14 Exhibit 1-40. Can you describe what that is?
- 15 A. 1-40?
- 16 Q. Yeah.
- 17 A. It is -- it an envelope typed.
- 18 Q. Yeah, I guess it's an envelope. 1-40?
- 19 A. Yes, I have it.
- 20 Q. Yes. Where did that originate from?
- 21 A. The return address is inked out.
- 22 Q. Where was the post mark?
- 23 A. West Palm Beach.
- 24 Q. Where was it sent?
- 25 A. To Youngstown, to you.

DiLoreto - Cross

- 1 Q. And what address?
- 2 A. 11 Overhill.
- 3 Q. What was marked on it?
- 4 A. Personal.
- 5 Q. Was this a standard size envelope, from the best you
6 can tell?
- 7 A. Appears to be, yes.
- 8 Q. Post marked?
- 9 A. Yes, it appears to be.
- 10 Q. Okay. Now, Government's Exhibit 1-41, what was that?
- 11 A. An envelope handwritten to you.
- 12 Q. And was it post marked? Was there a stamp on it?
- 13 A. Yes.
- 14 Q. And was there a return address on it?
- 15 A. Yes.
- 16 Q. And was there a word written on it?
- 17 A. Yes.
- 18 Q. What was it?
- 19 A. Personal.
- 20 Q. Now, the times that you worked for Attorney DiBlasio,
21 did he represent a number of people?
- 22 A. Yes.
- 23 Q. Did he often have you type letters for him?
- 24 A. Yes.
- 25 Q. And then after you sealed the letters, did he write

DiLoreto - Cross

- 1 "personal" on them?
- 2 A. Yes.
- 3 Q. Did he do that quite often?
- 4 A. Not on the business letter, only if it was something
- 5 that was personal.
- 6 Q. It was personal?
- 7 A. Um-hum.
- 8 Q. But I mean, was it a client or a relative or son or
- 9 daughter, would you say?
- 10 A. I don't recall seeing things to son or daughter, but
- 11 to a client that was a friend, if it was something
- 12 personal, he would write personal on it.
- 13 Q. Yeah. So it's not unusual for him to write personal?
- 14 A. No.
- 15 Q. Now, Mr. DiBlasio complained about money to you?
- 16 A. Yes.
- 17 Q. And he'd scream about money?
- 18 A. Yes.
- 19 Q. But you quit because he was going to leave, and you
- 20 thought he's going to retire, I'd better start looking for
- 21 a job now, right?
- 22 A. No.
- 23 Q. Okay. Why did you quit?
- 24 A. Mainly because he came out screaming at me about
- 25 money.

DiLoreto - Cross

1 Q. He needed money, didn't he?

2 A. Um-hum. I just didn't feel appreciated. They
3 weren't my bills. I didn't think he should be screaming at
4 me. I was just doing my job.

5 Q. You know if at that time he was in the business
6 partnership with anybody?

7 A. Yes.

8 Q. Who was it?

9 A. R R. Allen Sinclair.

10 Q. You know if, in fact, the obligations of that
11 agreement were being met?

12 A. The obligations of the agreement?

13 Q. Yes, payments.

14 A. They had a line of credit that Henry would use to
15 advance expenses for the advertising in the partnership,
16 and --

17 Q. Did you have any knowledge that Mr. Sinclair had
18 fallen behind in payments for Mr. DiBlasio and became quite
19 concerned?

20 A. No.

21 Q. Now, you said you didn't have much contact with the
22 congressional staff, but on occasion, you had an urgent
23 matter, and you worked as a volunteer; is that correct?

24 A. As -- under the directive of Henry DiBlasio, yes.

25 Q. Yes, you would go ahead and take the letter in a

DiLoreto - Cross

1 congressional matter; is that right?

2 A. Yes.

3 Q. And it was urgent and that was rather rare, wasn't
4 it?

5 A. Yes.

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

7 A. No.

8 Q. You consider yourself -- you worked for him what you
9 say?

10 A. 1989 to 1995.

11 Q. '89 to 1995. Would you consider that Mr. DiBlasio
12 and I were very good friends?

13 A. Yes.

14 Q. Isn't it a fact that he worked very hard on the
15 matters that I instructed him to work on?

16 A. When you were in town in the few matters I was
17 involved in typing things but seemed like whenever you were
18 there, he would devote his time to you, but I don't know
19 what was worked on because usually your staff worked on
20 this.

21 Q. But I might be in town on a Friday and may be a
22 Monday and through the weekends, and you'd even have notice
23 of me working through the weekends and Mr. DiBlasio and I
24 working through the weekends, is that a fact?

25 A. I can't recall specific.

DiLoreto - Cross

1 Q. When I was there, he and I worked closely together,
2 is that a fact?

3 A. Yes.

4 Q. And other staff did come up and confer with Mr.
5 DiBlasio on occasions, is that a fact?

6 A. Yes.

7 Q. Mr. DiBlasio on occasion went down the stairs and
8 conferred with staff on occasions, did he not?

9 A. On occasion.

10 Q. But basically, his office was both his law office and
11 his congressional office, was that a fact?

12 A. Correct.

13 Q. And my office was on the same floor as Mr. DiBlasio,
14 is that a fact?

15 A. Yes.

16 MR. TRAFICANT: Good to see you. No further
17 questions.

18 THE COURT: Thank you. Any questions?

19 MR. KALL: No further questions, your Honor.

20 THE COURT: Thank you. You're excused.

21 MR. TRAFICANT: Your Honor?

22 THE COURT: Just a second. Let's us excuse
23 the witness.

24 THE COURT: Yes, sir, break?

25 MR. TRAFICANT: Yes. I would appreciate one.

Kavulic - Direct/Smith

1 THE COURT: Okay. Take a five, ten-minute
2 break. Thank you.

3 (Thereupon, a recess was taken.)

4 MR. SMITH: The Government calls Grace
5 Kavulic.

6 THE COURT: Thank you.

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

11 DIRECT EXAMINATION OF GRACE YAVORSKY KAVULIC

12 BY MR. SMITH:

13 Q. Ma'am, would you please state your full name, and
14 spell your last name for the Court Reporter.

15 A. My name is Grace Yavorsky Kavulic, and the last name
16 is spelled Y-A-V-O-R-S -- K-A-V-U-L-I-C.

17 Q. Spell your middle name, also.

18 A. Y-A-V-O-R-S-K-Y.

19 Q. What city do you reside?

20 A. I live in Liberty Township Girard mailing address.

21 Q. Did you ever work at the Mahoning County Sheriff's
22 Office?

23 A. Yes, sir.

24 Q. And during what years?

25 A. I worked at the Sheriff's Office from 1981 to 1985.

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1 Q. Who was the sheriff at that time?

2 A. James A. Traficant, Junior.

3 Q. How did you initially meet James A. Traficant,
4 Junior?

5 A. My children played on a baseball team, and
6 Mr. Traficant was running for sheriff at that time and was
7 the sponsor of the team, and he came to a few of the games.
8 I met him there.

9 Q. Who hired you to work at the Sheriff's Office?

10 A. Mr. Traficant.

11 Q. And what were your duties at the Sheriff's Office?

12 A. I was a secretary for awhile, and at one point, I
13 became the administrator at the Sheriff's Department.

14 Q. After leaving the Sheriff's Office in 1985, how did
15 you then become employed?

16 A. I was employed by Mr. Traficant in the United States
17 House of Representatives when he became a Congressman.

18 Q. And when specifically did you join the staff in the
19 year 1985?

20 A. January of 1985.

21 Q. Would you -- and for how long did you continue to
22 work at the Congressman's office in the Youngstown area?

23 A. Until 1998. I left my employment in October of that
24 year.

25 Q. And what was your job title while you worked in the

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1 congressional office?

2 A. I was a staff representative and the Congressman's
3 scheduling secretary. I did some personal work for the
4 Congressman, also.

5 Q. Okay. Why don't you go ahead and describe with some
6 completeness what your duties were as a staff
7 representative and secretary to Congressman Traficant?

8 A. I was as staff representative I would deal with
9 constituents calling the office that needed assistance with
10 any problems they were having within the federal government
11 or within the State of Ohio. I also did Congressman's
12 travelling to speaking engagements, arranged his travel
13 plans, paid his bills -- well, mailed his bills. I should
14 say that. I did some of his banking deposits, communicated
15 with his staff in Washington as far as scheduling was
16 concerned.

17 Q. This paying of -- or mailing of bills of the
18 Congressman, are you referring to office bills or personal
19 bills?

20 A. Personal bills.

21 Q. You referred to banking matters. Is that personal
22 banking or office banking that you were doing for the
23 Congressman?

24 A. It was personal.

25 Q. Did you have any responsibilities with respect to

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1 horses?

2 A. I typed some letters, yes, correspondence with the
3 American Saddlebred Horse Association.

4 Q. Would you describe what type of correspondence that
5 was?

6 A. I would just write to them if the Congressman
7 instructed me to write and send for a blood testing kit or
8 to mail a title or, you know, horse ownership papers or
9 something down there and to find out when the horse shows
10 were, things like that.

11 Q. This American Saddlebred Horse Association you
12 referred to --

13 A. Yes.

14 Q. --you have any recall as to where that was located,
15 where you were sending the correspondence to?

16 A. I believe it was in Kentucky.

17 Q. With respect to constituent service matters,
18 throughout the time period you worked for Congressman
19 Traficant, approximately how many such constituent matters
20 would the Youngstown District Office handle in --

21 A. Quite a few. People -- people would call the office
22 whenever they had a problem. I mean, if the garbage wasn't
23 picked up, sometimes they called us. And they called for
24 social security matters, Veteran's matters, any problem
25 within the realm -- somewhere in the state, and we would

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1 try to direct them to the proper people.

2 Q. During the time that you worked for Congressman
3 Traficant, do you know where his residence was located?

4 A. His residence?

5 Q. Yes.

6 A. It was on Main Street in Poland, Ohio.

7 Q. And how far is Poland from Youngstown?

8 A. I'm not very good at mileage, but I approximate about
9 three to five miles.

10 Q. Was there any other real estate that you associated
11 with Congressman Traficant during the time that you worked
12 for him?

13 A. Yes. There was also a farm in Green Township.

14 Q. When you started working for the Congressman in 1985,
15 at what office address did you work?

16 A. I worked at 11 Overhill Road in Boardman.

17 Q. Where was your personal -- withdrawn.

18 Where was your office within that complex?

19 A. On 11 Overhill Road, it was in the basement. My
20 office was the first office behind the receptionist's desk.
21 It was the reception area.

22 Q. And on what level of the building was the
23 Congressman's office?

24 A. That was upstairs, it was over the garage actually.

25 Q. Did you have the keys to the Congressman's office?

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1 A. There was a period of time -- no. I didn't have a
2 key to it, but there was a period of time when the
3 Congressman had a door put on that only he had a key to.

4 Q. Did you have any responsibilities in connection with
5 your official duties for handling Congressman's
6 congressional paycheck?

7 A. Yes, yes.

8 When we moved downtown to the Federal Building, I
9 deposited the Congressman's paycheck monthly.

10 Q. And how did you receive that paycheck?

11 A. It came through the mail to the office on Market
12 Street, 125 Market Street. And when I got the check, I
13 would write for deposit only on the back of it and make out
14 a deposit slip ticket, go to the bank and deposit it.

15 Q. You recall which bank you made the deposits.

16 A. Yes, at Bank One.

17 Q. Did -- you said that part of your duties included
18 travel arrangements?

19 A. Yes.

20 Q. Would you describe what -- in a little more detail
21 what that involved?

22 A. Well, various groups in the State of Ohio and around
23 the country would to request the Congressman as a speaker
24 at one of their functions. You know, they'd have meeting
25 like that. I forget the name of all the organizations, but

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1 I used to make his flight arrangements, his hotel
2 arrangements, and deal with the people that were having him
3 as their guests as to paying for his flights. They paid
4 his expenses to go.

5 Q. How often did the Congressman go to Washington D.C.?

6 A. When they were in session, he was there weekly.

7 Q. Did you make those travel arrangements for him?

8 A. No.

9 Q. Okay. Who did?

10 A. Well --

11 Q. If you know.

12 A. Well, he usually drove to Washington. If he needed a
13 flight, yes, I arranged the flight. If he drove, he just
14 drove on his own and then -- and gave the turnpike receipts
15 to me, and I forwarded them to the Washington office.

16 Q. During the time that you worked for Congressman
17 Traficant, was there any telephone communication between
18 the Youngstown District Office where you worked and the
19 office in Washington, D.C.?

20 A. Yes, sir.

21 Q. How frequently would there be telephone
22 communications between the Youngstown office and Washington
23 D.C.?

24 A. I think daily.

25 Q. How about mail communication between the Youngstown

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1 office and the Washington, D.C. office?

2 A. Once a week. We'd mail the envelope down once a
3 week.

4 Q. Other than the office at 11 Overhill Road, did the
5 Congressman maintain any other offices within the district?

6 A. There was an office in Niles. That office moved a
7 couple times during the course of my employment. It was in
8 Niles, that was Warren then back at Niles, and there was an
9 office in Columbiana and East Liverpool.

10 Q. Niles is what County?

11 A. Pardon me --

12 Q. Niles is what County?

13 A. That is in Trumbull County. And there was an office
14 in East Liverpool and the one in Washington.

15 Q. Earlier in your testimony, did you refer to the
16 office moving someplace?

17 A. Yes.

18 Q. All right. Go ahead.

19 A. The office moved from Overhill Road down to the new
20 Federal Building that was built in downtown Youngstown.

21 Q. Do you recall approximately when that happened?

22 A. It was January of 1994.

23 Q. Did any congressional employees remain at the 11
24 Overhill location when that move occurred?

25 A. Yes, sir. The Congressman remained there, Mr. Henry

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1 DiBlasio remained there, and Mr. Bob Barlow remained there.

2 Q. After that move, was this any interoffice mail
3 between the 11 Overhill location and downtown?

4 A. Yes.

5 Q. How often did that happen?

6 A. About once a week. I would get an envelope or --
7 either I or Jackie would get an envelope from the Overhill
8 office.

9 Q. You indicated earlier in your testimony that you
10 provided secretarial services to the Congressman?

11 A. Yes, sir.

12 Q. Was any explanation ever given to you by him as to
13 why he was staying back at 11 Overhill, but you were going
14 downtown even though you were his secretary?

15 A. He just didn't want to go downtown.

16 Q. Who is the highest ranking staffer in the Youngstown
17 District Office?

18 A. Mr. DiBlasio.

19 Q. What was his title?

20 A. He was the administrative assistant to the
21 Congressman.

22 Q. And who had -- who was next highest in the order?

23 A. Mr. Charles O'Nesti.

24 Q. And what was his title?

25 A. He was the district director.

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- 1 Q. Do you know a person named Jackie Bobby?
- 2 A. Yes, sir.
- 3 Q. Who was she?
- 4 A. Jackie Bobby was my co-worker. I worked with Jackie
5 for a total of 17 years.
- 6 Q. What was her title?
- 7 A. She was the office manager.
- 8 Q. Who was the highest paid staffer in the Youngstown
9 District Office?
- 10 A. Mr. DiBlasio.
- 11 Q. How about -- who was the second highest paid staffer
12 in the Youngstown District Office?
- 13 A. Mr. O'Nesti.
- 14 Q. Was there anyone on the staff who appeared to you to
15 be more personally close to the Congressman than other
16 staffers?
- 17 A. Mr. O'Nesti.
- 18 Q. And would you describe the nature of the relationship
19 between the Congressman and Mr. O'Nesti?
- 20 A. Well, Mr. O'Nesti used to at one point drive the
21 Congressman back and forth to Washington, and he would stay
22 down there with him. Anything that the Congressman needed
23 done, personally when he was out of the district,
24 Mr. O'Nesti would handle some of his personal matters, you
25 know, if there was a problem with the plumbing at his house

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1 or something.

2 Q. And what were Mr. O'Nesti's duties as district
3 director?

4 A. Well, the duties, he dealt with the politicians,
5 anything that the Congressman wanted him to do.

6 Q. When did M O'Nesti come on staff at the Congressman's
7 congressional office?

8 A. He came on staff in 1985.

9 Q. When did he leave?

10 A. 1998, I believe, yes.

11 Q. Did M O'Nesti ever discuss his pay situation with
12 you?

13 A. Yes, Mr. O'Nesti complained to me.

14 Q. All right. And let me ask you, when was the first
15 time that he talked to you about his pay situation with
16 you?

17 A. I don't remember exact date. I know it was a couple
18 times over the years that we were employed together. He
19 used to complain about having to pay money to the
20 Congressman, and he had to pay taxes on it, and then he had
21 to give him money.

22 Q. Did Mr. O'Nesti identify the source of this money
23 that he was having to pay back?

24 A. This money from his paycheck.

25 Q. His congressional paycheck?

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1 A. His congressional paycheck, yes.

2 Q. And where did these conversations with Mr. O'Nesti
3 occur, where he made these remarks to you?

4 A. Usually, he called me or called us in his office,
5 Jackie and I, and then he'd complain about things, and that
6 was when he complained about those.

7 Q. While you work at 11 Overhill Road, did the building
8 ever experience any maintenance problems?

9 A. Yes.

10 Q. Would you describe the nature of that maintenance
11 problem?

12 A. There was a time that the roof over the Congressman's
13 office was leaking. It was a flat roof, and water was
14 leaking into the Congressman's office.

15 Q. Who was responsible for taking care of that problem?

16 A. Well, it was the landlord, Mr. DiBlasio, so I knew
17 about the complaint about having him fix it.

18 Q. Based upon your observations, who was responsible for
19 the building at 11 Overhill Road on a day-to-day basis?

20 A. Mr. DiBlasio.

21 Q. When did Mr. DiBlasio come on staff?

22 A. In 1985 as a congressional employee.

23 Q. From 1985 until you left, did Mr. DiBlasio have any
24 employment other than his position as the Congressman's
25 administrative assistant?

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1 A. Not to my knowledge. Oh, he was an attorney. I
2 mean, he was always employed as an attorney. He was an
3 attorney.

4 Q. And where was his law practice located?

5 A. His 11 Overhill Road.

6 Q. Was it full or part-time?

7 A. Full time, sir.

8 Q. How often did you see Henry DiBlasio working in the
9 downstairs congressional office at 11 Overhill Road?

10 A. Rarely, maybe once or twice.

11 Q. How much congressional office work product did you
12 see that Mr. DiBlasio produced or that you observed?

13 A. Not much.

14 Q. Were you ever asked to fill in or pinch hit for Mr.
15 DiBlasio in performing any duties?

16 A. Well, I thought it would have been Mr. DiBlasio's
17 responsibility to go out and represent the Congressman at
18 different political events and candidates, but most of the
19 other staff did that, myself included. The Congressman
20 would choose the people and --

21 Q. Who were other people who did such things in addition
22 to yourself?

23 A. Jackie Bobby would have gone out a few times, and Mr.
24 George Buccella had gone out a few times, Betty Manente,
25 various staff members.

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1 Q. Was Mr. DiBlasio --

2 THE COURT: I didn't get Betty's last name.

3 THE WITNESS: Manente.

4 THE COURT: Can you spell it?

5 THE WITNESS: M-A-N-E-N-T-E.

6 THE COURT: Thank you.

7 Q. Who was Betty Manente?

8 A. She was a staffer in the Niles office.

9 Q. What did she do there?

10 A. She was the office manager.

11 Q. All right. Did she perform a similar function at

12 Niles as Ms. Bobby performed in Youngstown?

13 A. Yes, sir.

14 Q. Was Mr. DiBlasio's position supervisory one?

15 A. I don't know how to answer that very honestly because

16 I didn't see Mr. DiBlasio that often.

17 Q. Did you receive any supervision or guidance from Mr.

18 DiBlasio on a day-to-day basis?

19 A. No, most of my supervision came from the Congressman.

20 Q. Did you ever encounter any unexpected cash while

21 working at the congressional office?

22 A. Yes, I did.

23 Q. And which location are we talking about, 11 Overhill

24 or downtown after the move?

25 A. The downtown office.

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1 Q. And would you please describe what happened the first
2 time that you encountered unexpected cash in the office?

3 A. Well, I -- I got my mail because we get -- he put
4 little stickers on everything as to who it was to go to,
5 and I opened my envelope, and there was all this money in
6 there, and I just said, "Oh, my God, look at this," and
7 I -- there was a deposit slip with it that the Congressman
8 had written the amount on, and there was no date. So I
9 filled in the date. I recounted the money to be sure that
10 it was all there, that the amount that was on the deposit
11 slip.

12 Q. How much money was in that envelope?

13 A. \$2000.

14 Q. Do you remember the denominations of any of the
15 bills?

16 A. That was all brand new \$100 bills in that envelope,
17 sir.

18 Q. And was there anyone else present when you
19 encountered this cash?

20 A. Yes, Mrs. Bobby was there. She worked right beside
21 me in the work station beside me.

22 Q. What, if anything, did you do with this cash?

23 A. I deposited it in his personal account.

24 Q. Which bank?

25 A. Bank One.

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1 Q. Whose personal account?

2 A. The Congressman's personal account.

3 Q. Anybody go with you to the bank?

4 A. Ms. Bobby walked me to the bank, Anthony would walk
5 me into the bank sometimes, depended who was available.

6 Q. After that first instance of receiving this cash at
7 the office, did that ever happen again?

8 A. Yes, intermittently, there were cash envelopes that I
9 would receive.

10 Q. And for how long a period of time did this go on?

11 A. I'd say two to three years or more. I don't really
12 remember.

13 Q. All right.

14 When did you quit working there?

15 A. In 1998.

16 Q. When was the cash deposit that you can recall of this
17 nature before you quit?

18 A. I don't recall the exact date. I'm sorry.

19 Q. And when you received these other cash amounts,
20 describe the procedure or the -- or the circumstances under
21 which you received those cash envelopes?

22 A. They usually came down in the envelope. We had kind
23 of a courier system that the Congressman's office was on
24 Overhill and whoever was up on Overhill Road. Mr. Barlow
25 most of the time would bring the envelope down to the

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1 office. Sometimes it was Mr. O'Nesti that brought it down,
2 and the envelope would be opened, and there were little
3 stickems on everything that said who were -- they were to
4 go to, and that's how I received the cash most of the time,
5 all of the time.

6 Q. You mentioned the name Anthony Traficanti a few
7 minutes ago; is that correct?

8 A. Yes, sir.

9 Q. What role did he play in this -- these amounts of
10 cash that were deposited at the bank?

11 A. Well, when I get that large of an amount of cash, I
12 didn't want to walk to the bank downtown by myself, so I
13 would ask Anthony if he would walk me to the bank.

14 Q. And what was Mr. Anthony Traficanti's position within
15 the office?

16 A. He was just a staff representative.

17 Q. Doing what kind of work?

18 A. Constituent work.

19 Q. At the time that you were receiving these amounts of
20 cash in the envelope from 11 Overhill, were you still
21 separately processing the Congressman's paycheck?

22 A. Yes, sir.

23 Q. Were you still depositing that paycheck?

24 A. Yes, I was.

25 Q. Were these amounts of cash you were receiving in the

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1 envelope from 11 Overhill separate and apart from his
2 paycheck?

3 A. Yes, sir.

4 Q. Did you ever ask Congressman Traficant about this
5 cash that you were receiving in the interoffice mail?

6 A. No, sir.

7 Q. Why not?

8 A. Because he wasn't going to tell me anyhow. I mean,
9 he knew -- you could ask -- you knew what you could ask and
10 couldn't ask, and I didn't ask.

11 Q. All right.

12 If you would turn your attention to the counter in
13 front of you, to a group of exhibits, Exhibit 1-27(2)?

14 A. Yes.

15 MR. TRAFICANT: What number was that?

16 MR. SMITH: 1-27(2).

17 Q. Do you see that document?

18 A. Yes, I do.

19 Q. How many pieces of paper compose 1-27(2)?

20 A. Two.

21 Q. Do you recognize either of those documents?

22 A. Yes, I do.

23 Q. Which one do you recognize?

24 A. It's a deposit slip with my handwriting.

25 Q. And what -- have you ever seen that document before?

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1 A. Yes. It's one of the Congressman's deposit slips for
2 his personal account, and it's dated 9-18-95 for \$2000.

3 Q. Is that a currency deposit?

4 A. Yes, sir, it is.

5 Q. And the -- thank you.

6 If you would move to Exhibit 1-27(3)?

7 A. Yes.

8 Q. Okay. Do you recognize that?

9 A. Yes, I do, sir.

10 Q. All right.

11 Specifically are you looking at the front first page
12 of Exhibit 1-27(3)?

13 A. Yes.

14 Q. And what is that?

15 A. It's a deposit slip for Mr. Traficant's personal
16 account, dated 5-20-96.

17 Q. And whose handwriting is that?

18 A. That is my handwriting, sir.

19 Q. All right.

20 And how much currency did you deposit on that
21 occasion?

22 A. \$2000.

23 Q. Turning your attention to 1-27(4), looking at Page 1
24 of that exhibit, do you recognize the item at the bottom of
25 that page?

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1 A. Yes, it's a deposit slip for Mr. Traficant's personal
2 account.

3 Q. And is this -- did you do this deposit?

4 A. Yes, I did.

5 Q. All right. Whose handwriting is that deposit slip?

6 A. That is my handwriting, sir.

7 Q. How much was the deposit of the currency portion of
8 the deposit?

9 A. \$2000.

10 Q. Moving to Government's Exhibit 1-27(5), do you
11 recognize the bottom document on that particular exhibit?

12 A. Yes, sir, that is deposit slip for Mr. Traficant's
13 personal account.

14 Q. Okay.

15 Did you do this deposit?

16 A. Yes, I wrote the date in, and the Congressman wrote
17 the amount.

18 Q. All right. What's the amount of the currency deposit
19 in that transaction?

20 A. \$2500.

21 Q. Moving on to Exhibit 1-27(6), do you recognize the
22 bottom document in that exhibit on the first page?

23 A. Yes, I do.

24 Q. And what is it?

25 A. It's a deposit slip for Mr. Traficant's personal

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1 account.

2 Q. And did you do that deposit?

3 A. I made the deposit, but it's in the Congressman's
4 writing \$2000.

5 Q. Is that a cash line of that particular deposit slip
6 for \$2000?

7 A. Yes.

8 Q. Moving to Exhibit 1-27(7), do you recognize the
9 bottom document on Page 1 of that exhibit?

10 A. Yes, I do, sir, it's a deposit slip for the
11 Congressman's personal account, in the amount of \$1400.
12 That's in his handwriting.

13 Q. And does that indicate cash deposit?

14 A. Yes, sir.

15 Q. Moving on to Exhibit 1-27(8), do you recognize the
16 document at the bottom of Page 1 of that document?

17 A. Yes, sir.

18 Q. And what is that?

19 A. A deposit slip for the Congressman's personal
20 account.

21 Q. Whose handwriting is that in?

22 A. That is in my handwriting, sir.

23 Q. Did you do that deposit?

24 A. Yes.

25 Q. And what is the cash amount of that deposit?

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- 1 A. \$800.
- 2 Q. Turning to Exhibit 1-27(9), do you recognize the
3 bottom document of Page 1 of that exhibit?
- 4 A. Yes, sir. It's a deposit slip for Mr. Traficant's
5 personal account, in the amount of cash deposit \$500.
- 6 Q. And do you recognize any of the handwriting on that
7 document?
- 8 A. Yes, the -- where it says cash amount, that's the
9 Congressman's handwriting. I wrote in the date and the
10 total.
- 11 Q. Turning to Exhibit 1-27(10), do you recognize the
12 bottom document on Page 1 of that exhibit?
- 13 A. Yes, sir. It's a deposit slip for Mr. Traficant's
14 personal account. I wrote in the date, there's a cash
15 amount for \$1500 and in the Congressman's handwriting and I
16 wrote in the total.
- 17 Q. Finally, moving to Exhibit 1-27(11), document of Page
18 1 of that exhibit, do you recognize that exhibit?
- 19 A. Yes, I do. It's a deposit slip for Mr. Traficant's
20 personal account.
- 21 Q. Whose handwriting is that in?
- 22 A. That's in the Congressman's handwriting, sir. It's
23 at \$2000 cash amount.
- 24 Q. How about the date?
- 25 A. The date is on July 5, '98.

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1 Q. Whose handwriting is the date?

2 A. That's in Mr. Traficant's handwriting.

3 Q. How is it that you recognize Congressman's
4 Traficant's handwriting?

5 A. Well, I've been -- I worked for him for 17 years, so
6 I recognize it.

7 Q. How often did you see his handwriting while you were
8 working?

9 A. Daily.

10 Q. You can set that aside.

11 During your tenure as an employee in the
12 Congressman's office, did you ever encounter a person or
13 persons with the last name of Bucci?

14 A. Yes.

15 Q. All right. Who was this person or persons named
16 Bucci?

17 A. They had a business in Girard, Ohio.

18 Q. And you refer to they, more than one Bucci?

19 A. Pardon?

20 Q. Is there more than one Bucci?

21 A. Yes, this was Robert Bucci, and I can't -- oh,
22 Anthony, Robert and Anthony Bucci.

23 Q. What -- with respect to the work in the congressional
24 office, what dealings did you have with either of the two
25 Buccis?

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1 A. I talked to them over the telephone. They would call
2 the office for the Congressman, and I would forward
3 messages to him to call them, to return their call. They'd
4 call looking for him and tell him he was in Washington, or
5 I would try to reach the Congressman and tell him that they
6 were looking for him.

7 Q. Did you ever discuss the Buccis with the Congressman?

8 A. No.

9 Q. Did you ever perform any actions on the Buccis'
10 behalf while you worked for the Congressman's office?

11 A. There was a time that we had to make a telephone call
12 down to the State of Ohio, Department of Transportation,
13 because of a problem that the Buccis were having with the
14 state Government.

15 Q. And specifically what did you do in connection with
16 that phone call to the Ohio Department of Transportation?

17 A. Asked them to consider the Buccis, what the problem
18 was, to find out, get to the bottom of it so they could
19 again contract with the State of Ohio.

20 Q. At whose direction did you make the call to the Ohio
21 Department of Transportation?

22 A. The Congressman's direction.

23 Q. What did he tell you to say to the Ohio Department of
24 Transportation when you made the call, what kind of
25 instructions did you get?

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1 A. The instructions, I called to find out what's going
2 on down there and tell them, you know, to consider this,
3 and --

4 Q. Consider?

5 A. --they are, you know, a good business in my area as
6 such.

7 Q. What were you trying to accomplish on behalf of the
8 Buccis in this conversation or conversations?

9 A. Just to get them to be able to work with the State of
10 Ohio again.

11 Q. If you would turn to Exhibit 2-21 on the counter
12 before you, do you have that document?

13 A. Yes, sir.

14 Q. And toward the top of the document, you see the word
15 "hello" written over somebody's name on that document?

16 A. Yes, I do.

17 Q. And whose handwriting is the word hello?

18 A. That's in the Congressman's handwriting, sir.

19 Q. Okay. If you'd direct your attention to the bottom
20 left-hand corner of the document, do you see some language
21 -- I would appreciate your help?

22 A. Yes.

23 Q. Whose handwriting is that in?

24 A. That's the Congressman's handwriting.

25 Q. During your tenure, did you ever encounter someone by

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- 1 the name of Tyson?
- 2 A. Yes.
- 3 Q. Do you remember?
- 4 A. Greg Tyson.
- 5 Q. I'm sorry?
- 6 A. Greg Tyson.
- 7 Q. Who was Greg Tyson?
- 8 A. He had a construction company, that is called big G,
9 Big G.
- 10 Q. G as in the letter G?
- 11 A. Yes, sir.
- 12 Q. And what, if any, dealings in the congressional
13 office did you have with Greg Tyson?
- 14 A. This was one time that I recall talking to Mr. Tyson
15 that there was a problem out at the farm in Green Township,
16 that he was to repair a water tank, furnace, I don't recall
17 exactly what it was. I thought I dealt with water, with
18 the water tank, and he was supposed to have it fixed, get
19 it fixed.
- 20 Q. All right. What farm are you referring to?
- 21 A. I'm referring to the Congressman's farm out in Green
22 Township on South Grange Road.
- 23 Q. Did you talk to Mr. Tyson on that occasion?
- 24 A. I talked to him and told him that he wanted to -- I
25 guess arrangements for -- it was prearranged that he wanted

Kavulic - Direct/Smith

1 to do this, and I was to call and say, you know, go ahead,
2 go do it.

3 Q. During your tenure in the Congressman's office, were
4 there any employees who were absent more often than others?

5 A. Yes.

6 Q. Who?

7 A. Mr. George Buccella and Anthony Traficanti.

8 Q. Who was George Buccella?

9 A. George Buccella was another staff representative who
10 worked -- he worked with the Overhill office. Before that,
11 he was in the Niles office, then he came to Overhill, and
12 then he went back to Niles.

13 Q. The first time that Mr. Buccella worked in Niles, was
14 there anything that happened in Niles that resulted in his
15 working in the Youngstown office for awhile?

16 A. I don't recall.

17 Q. Did you ever have discussions with the Congressman
18 about Mr. George Buccella's absences from the office?

19 A. Yeah, it was mentioned to the Congressman. Mr.
20 Buccella was gone frequently, and sometimes he was supposed
21 to be at the farm, and I would get a phone call, where's
22 George.

23 Q. Who was that phone call from that you just referred
24 to?

25 A. Phone call would be from the Congressman, where's

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1 George, and I said I thought he was supposed to meet you at
2 the farm, and he'd say, oh, well, I don't know, you know,
3 or he isn't here, or something, he used to get angry.

4 Q. Do you ever recall the phrase, quote unquote, down
5 south occurring when you talked to the Congressman about
6 Mr. Buccella?

7 A. Yes.

8 Q. What did -- what did that mean?

9 A. That was frequently used. And it was known to me
10 down south was down at the farm.

11 Q. How often was Mr. Buccella absent from the office?

12 A. Depended on what time of the year it was. Sometimes
13 through the year he was absent more so than others.

14 Q. Was there any part of the year he was more absent
15 than the rest of the year?

16 A. Spring, summer.

17 THE COURT: Mr. Smith, it's very close to
18 noon, so we'll come to place where you can stop and recess.

19 MR. SMITH: Very well, your Honor. I can
20 stop here, sure.

21 THE COURT: All right. Very well.

22 We're going to give you your lunch recess. We'll
23 reconvene with you at about 1:30. So we'd like you to be
24 ready to come down at 1:30. Remember your admonitions.
25 You still haven't had this case really submitted to you.

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1 You haven't heard all the evidence in the case, so think
2 about other things. Don't let anyone talk to you. Don't
3 talk to anyone. Don't make up your mind. Don't read
4 listen or watch anything about the case. And enjoy your
5 lunch. Thank you.

6 MR. MORFORD: I've asked the agents to try to
7 touch bases with Mr. DiBlasio. I haven't been able to talk
8 to him but asked them to set something up for the lunch
9 hour, if possible.

10 THE COURT: Okay. Then you'll need to be in
11 touch with the Congressman over lunch, too, I take it,
12 right?

13 MR. MORFORD: Yeah, but I don't know how to
14 do that, so --

15 THE COURT: Okay. That's what we need to
16 work out.

17 (Proceedings in the absence of the jury:)

18 THE COURT: I don't know if you're contacted
19 over the noon hour somehow by the lawyers for Mr. DiBlasio,
20 Congressman, how would they be able to reach you? Over the
21 noon hour?

22 MR. TRAFICANT: Well, I believe in the law
23 library, in the restroom, or out to lunch. I've given a
24 number with the assistant who's a liaison and in the area,
25 so I guess call that.

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1 THE COURT: Okay. I'm thinking maybe if we
2 get back here ten minutes before the jury does, then
3 whatever happens, we can discuss it together. So if you
4 would all be back ten minutes before, which means 20 after
5 1:00, 1:20, then we can see where we are.

6 We may have to use the afternoon break rather than
7 the lunch break in order to do whatever it is you may come
8 up with. I don't know where that's all going, but we can
9 talk about it for the ten minutes preceding the afternoon
10 session, okay? Very well. We'll see you. Enjoy your
11 lunch.

12 (Thereupon, a luncheon recess was had.)

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Kavulic - Direct/Smith

1 Tuesday Session, February 19, 2002, at 1:20 P.M.

2 (Proceedings in the absence of the jury:)

3 THE COURT: Mr. Traficant.

4 MR. TRAFICANT: Your Honor, I have conferred
5 with the Prosecution, and three of their exhibits are also
6 three of mine, and we want to make them joint exhibits.
7 The Defense exhibits would be numbered G-90, G-91 and G-92.

8 THE COURT: So would these be joint exhibits?

9 MR. MORFORD: Yes, they would, your Honor.
10 We have no objection to that.

11 THE COURT: Fine, thank you. And so you have
12 no objection to their admission?

13 MR. MORFORD: That's correct.

14 THE COURT: All right. They'll be admitted.
15 Thank you.

16 MR. TRAFICANT: Thank you.

17 MR. MORFORD: One other thing, your Honor.

18 THE COURT: Yes.

19 MR. MORFORD: The next witness after Mrs.
20 Kavulic, will be an IRS summary agent that's going to do
21 some summary charts, and we have two. Charts -- now the
22 other two are in the office just three doors down. And I
23 don't know if we need to do anything in between the two
24 witnesses, or we can put those up, but I want to alert the
25 Court before we have the jury out when the next witness

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1 comes, we would ask to put those charts up there in his
2 testimony.

3 THE COURT: Okay. Has he -- has the
4 Defendant seen the charts?

5 MR. MORFORD: He has copies, small copies of
6 the charts, and we've made the larger charts available as
7 well.

8 THE COURT: All right.

9 MR. TRAFICANT: I've had some copies of some
10 minuscule things. I think these are rather large. Maybe
11 I'll be able to see them this time. But they were
12 submitted in a timely fashion; is that correct, sir?

13 MR. MORFORD: Yes.

14 MR. TRAFICANT: Under the rules of the
15 deadline dates?

16 MR. MORFORD: Yes, they were.

17 THE COURT: Only submitted between the
18 parties so I don't know. I just --

19 MR. MORFORD: They're also in the court's
20 evidence book marked as exhibits --

21 MR. TRAFICANT: So --

22 THE COURT: So they're in his exhibits books
23 as well as my exhibit books?

24 MR. MORFORD: Yes.

25 THE COURT: Okay.

Kavulic - Direct/Smith

1 MR. MORFORD: The only other thing I bring up
2 now is, I didn't know if the Congressman was going to ask
3 for an opportunity to look at the charts. We told them
4 they were coming. We have them available, but if you want
5 to do that between the witnesses and give the jury a
6 five-minute break or something, I just wanted you to know
7 before the jury came in so we don't have to take a side
8 bar.

9 MR. TRAFICANT: I would request when we
10 complete with this jury, 300 seconds might be enough for me
11 to look at them, your Honor.

12 THE COURT: All right. We'll give you an
13 opportunity.

14 MR. TRAFICANT: Thank you.

15 THE COURT: Ready for the jury?

16 MR. SMITH: Yes, your Honor.

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

18 THE COURT: You're still under oath

19 DIRECT EXAMINATION OF GRACE YAVORSKY KAVULIC (continued)

20 BY MR. SMITH:

21 Q. Before the lunch break, you recall being asked a
22 series of questions about a man named George Buccella?

23 A. Yes.

24 Q. And do you recall the questions and answers about
25 seasons of the year where he was more or less absent?

Kavulic - Direct/Smith

1 A. Yes, sir.

2 Q. Okay. When George Buccella was absent from the
3 office, was that during normal office working hours?

4 A. Yes, it was.

5 Q. How did the office keep track of when Mr. Buccella
6 would be absent?

7 A. The office manager kept track of that, sir. I don't
8 know.

9 Q. All right. That would be Ms. Bobby?

10 A. Yes.

11 Q. Now, prior to the break, you mentioned another
12 employee other than George Buccella who was absent more
13 often than others?

14 A. Yes, Mr. Anthony Traficanti.

15 Q. And how often was he absent?

16 A. He wasn't absent as often as George was but a few
17 days here and there.

18 Q. Was that during normal office working hours as well?

19 A. Yes, it was.

20 Q. You indicated earlier in your testimony that part of
21 your job was to handle some of Congressman Traficanti's
22 personal bills, things like that?

23 A. Yes, sir.

24 Q. Did you ever have as part of your responsibilities
25 the duty to put checks in the mail and mail those checks

Kavulic - Direct/Smith

1 out and pay the Congressman out of those personal checks?

2 A. Yes.

3 Q. During your tenure working for the Congressman, did
4 you ever observe any check written by the Congressman to
5 Mr. Buccella and Mr. Traficanti for personal services
6 rendered by them to the Congressman?

7 A. No, sir.

8 Q. Did you ever see any invoices or bills from
9 Mr. Buccella or Mr. Traficanti to the Congressman for
10 personal services rendered requesting payment?

11 A. No.

12 Q. If you would turn your attention to Government's
13 Exhibit 6-28 on the counter before you.

14 MR. TRAFICANT: Would you repeat that?

15 MR. SMITH: 6-28. You can pull it right out
16 of the sleeve, if you would.

17 THE WITNESS: Okay.

18 Q. Do you recognize that document?

19 A. Yes, it's a financial disclosure.

20 Q. Financial disclosure for whom?

21 A. This is Congressman Traficant's financial disclosure
22 for -- that I had filled out.

23 Q. Okay. Let me ask you a couple questions. First of
24 all, on the bottom of Page 1 of that document, is there a
25 signature Page?

Kavulic - Direct/Smith

1 A. Yes.

2 Q. Do you recognize that signature?

3 A. Yes, I do.

4 Q. Whose is it?

5 A. That is Congressman Traficant's signature.

6 Q. What's the date of the document upon which he signed
7 it?

8 A. April 10, 1998.

9 Q. All right. Now, would you please describe the
10 circumstances under which you came to prepare this
11 document?

12 A. Okay.

13 Jackie had asked me to do this particular disclosure.
14 She said that she wanted me to learn how to do the
15 financial disclosure for the House. So I filled it out,
16 and she assisted me.

17 Q. Jackie is Jackie who?

18 A. Jackie Bobby.

19 Q. And where did you get the information from to fill
20 out this form?

21 A. Well, from the records that I kept for his speaking
22 engagements and the records that we had on hand, plus the
23 information that the Congressman would give us.

24 Q. All right.

25 Now, the information that you had for travel; is that

Kavulic - Direct/Smith

1 correct?

2 A. Yes, sir.

3 Q. And is that information reflected on Page 6 out of 7
4 of this document, on the sixth page?

5 A. Yes.

6 Q. After you fill out this form, what -- filling it out,
7 what did you do with it?

8 A. After I filled it out, I would put a note on it to
9 the Congressman that he should review the document, and
10 that he should make any additions, deletions, you know,
11 just check it over to make sure it was correct, that all
12 the information was on there that was supposed to be.

13 Q. All right.

14 A. And then I would, you know, send it to his office.

15 Q. Did you --

16 A. For signature.

17 Q. -- did you send it to his office for signature?

18 A. Yes.

19 Q. All right. Did you ever see the document again after
20 you sent it for his signature?

21 A. Yes. He signed it and sent it back to the office,
22 and at that point, I sent it to the Office of the Clerk of
23 the United States House of Representatives.

24 Q. And did your local office retain a copy of this
25 document, Government's Exhibit 6-28?

Kavulic - Direct/Smith

- 1 A. Yes, sir.
- 2 Q. In the section of that document, which would be on
3 the -- it says Page 5 of 7 at the top right-hand corner of
4 the page?
- 5 A. Okay.
- 6 Q. You have that page before you?
- 7 A. Page 5 of 7?
- 8 Q. Says 5 of 7 up in the right-hand corner. You have
9 that?
- 10 A. Yes, I have it.
- 11 Q. Is there a schedule 5, liabilities, on that page?
- 12 A. Yes, sir.
- 13 Q. All right. How many liabilities are reported for
14 that calendar year?
- 15 A. There's only one listed, sir, the Internal Revenue
16 Service.
- 17 Q. Did Congressman Traficant inform you of any other
18 liabilities exceeding \$10,000 for that reporting period?
- 19 A. No, sir.
- 20 Q. In the next schedule, schedule 6, gifts, were any
21 reportable gifts reported to you by Congressman Traficant?
- 22 A. No, sir.
- 23 Q. If you would set that one aside and turn to
24 Government's Exhibit 1-5(1) on the counter before you, do
25 you have that?

Kavulic - Direct/Smith

1 MR. TRAFICANT: Could you repeat that?

2 MR. SMITH: 1-5(1).

3 Q. And I'll ask you, do you recognize any handwriting or
4 hand printing on that document?

5 A. Yes, I do. I recognize the Congressman Traficant's
6 handwriting on here.

7 Q. If you would move to Government's Exhibit 1-5(2), do
8 you have that in front of you?

9 A. Yes, sir.

10 Q. Do you recognize any handwriting or hand printing on
11 that document?

12 A. Yes, I -- I recognize Congressman Traficant's
13 writing, sir.

14 Q. On the entire document?

15 A. Yes.

16 Q. Okay. If you would move to Government's Exhibit 1-6,
17 do you have that?

18 A. Yes, I do.

19 Q. And do you recognize the handwriting on that
20 document?

21 A. Yes, I do. I recognize it as Congressman Traficant's
22 handwriting.

23 Q. And is all the handwriting on that page his?

24 A. Yes, sir.

25 Q. And moving to Government's Exhibit 1-7?

Kavulic - Direct/Smith

1 A. Okay.

2 Q. All right. First of all, is there a page of that, if
3 you flip it over, it says Allen?

4 A. I see that, yes.

5 Q. All right.

6 And the words Allen, A-L-L-E-N, whose handwriting is
7 that, if you know?

8 A. That is in Congressman Traficant's writing, sir.

9 Q. And flipping the document over, is there a
10 handwritten note on the other side of that document?

11 A. Yes, there is.

12 Q. And whose handwriting is that?

13 A. That is Congressman Traficant's handwriting.

14 Q. If you would turn to Government's Exhibit 2-11.

15 A. Okay.

16 Q. First of all, do you recognize the type of document
17 that that is?

18 A. Well, it's Congressman's handwriting on part a place
19 mat from a restaurant.

20 Q. Do you have any idea which restaurant by looking at
21 the place mat?

22 A. It looks familiar to me to be from the Newport Deli,
23 which is across from the office on Overhill.

24 THE COURT: Your voice is dropping. So at
25 the end of the sentence, whatever you said, Overhill,

Kavulic - Direct/Smith

1 right.

2 THE WITNESS: Yes.

3 THE COURT: Okay. I need you to keep your
4 voice up.

5 THE WITNESS: Okay.

6 Q. And how much of the handwriting on that Exhibit 2-11
7 is the Congressman's handwriting?

8 A. It's all Congressman's handwriting.

9 Q. Are there numbers on that particular Exhibit 2-11?

10 A. Yes, there are.

11 Q. Specifically Number 1 through 8; is that correct?

12 A. Yes, sir.

13 Q. Did you ever receive any other -- did you receive any
14 handwritten notations during the time that you worked for
15 the Congressman with itemized lists of this sort?

16 A. Yes, yes. On occasion, I would. They would be on
17 place mats, napkins, different things.

18 Q. Thank you.

19 If you would move to Government's Exhibit 2-65 on the
20 counter before you.

21 A. Okay.

22 Q. And on the front of that document, is there
23 handwriting along the left-hand column, with Number items 1
24 through 9?

25 A. Yes, there are, sir.

Kavulic - Direct/Smith

1 Q. And with respect to that left-hand column of writing,
2 itemized 1 through 9. Do you recognize that handwriting?

3 A. Yes. I recognize it as Congressman Traficant's
4 handwriting, sir.

5 Q. Now, toward the bottom of the document, do you see
6 another column of handwriting in the -- kind of left center
7 at the bottom of that document?

8 A. Yes, I do.

9 Q. Starts with the word Poles, P-O-L-E-S and ends
10 with --

11 A. Yes.

12 Q. A line at the bottom, last word, sides of the bottom
13 line, you see that column?

14 A. Yes, I do.

15 Q. Do you recognize the handwriting in that column of
16 written material?

17 A. Yes, I recognize that as Congressman Traficant's
18 handwriting, sir.

19 Q. Moving to Government's Exhibit 3-5.

20 A. Okay.

21 Q. Referring to Page 1 of that exhibit, is there
22 handwriting at the top center of the document that runs
23 down the right-hand side of the document?

24 A. Yes, this is, sir.

25 Q. And do you recognize that handwriting?

Kavulic - Direct/Smith

1 A. Yes. I recognize that as Congressman Traficant's
2 handwriting.

3 Q. Moving to Government's Exhibit 5-8.

4 A. Okay.

5 Q. For what kind of a document is that that you have in
6 your hand?

7 A. It's a check.

8 Q. And do you recognize -- I'm sorry. Do you recognize
9 the handwriting of the date, the payee line, and the
10 handwritten numerals and the filling out in handwriting of
11 the amount line, do you recognize that handwriting?

12 A. Yes.

13 MR. TRAFICANT: Can we -- can we break those
14 questions down, maybe one at a time? There are about three
15 or four there and pretty hard to keep track of.

16 MR. SMITH: I'll do that, your Honor.
17 Certainly.

18 THE COURT: Thank you, sir.

19 BY MR. SMITH:

20 Q. With respect to the date line on that check, do you
21 recognize whose handwriting the date is in?

22 A. Yes, that's Congressman Traficant's writing.

23 Q. And there's a line saying "pay to the order of." Do
24 you see that?

25 A. Yes, sir.

Kavulic - Direct/Smith

1 Q. And who is the -- in whose handwriting is the payee?

2 A. Congressman Traficant's.

3 Q. And to the right of that payee, is there some
4 handwritten numerals 1142 and then 00 for cents?

5 Q. Who's handwriting is that?

6 A. Congressman Traficant's.

7 Q. Is there some handwriting \$1142, then get to the
8 dollar thing, whose handwriting is that?

9 A. Congressman Traficant's writing, sir.

10 Q. Finally, the signature line, you recognize the
11 handwriting?

12 A. Yes. That's Congressman Traficant's.

13 Q. If you would move along to Government's Exhibit 7-21.

14 A. Okay.

15 Q. All right.

16 First of all, toward the top of that document, do you
17 see the word written "hello" over the salutation line?

18 A. Yes, I do.

19 Q. Whose handwriting is that, if you know?

20 A. That's the Congressman's, Congressman Traficant's
21 handwriting sir.

22 Q. Directing your attention to the lower left-hand
23 corner of the same document, there are words reading, "in
24 this case, our Government should be ashamed." Do you
25 recognize that handwriting?

Kavulic - Direct/Smith

1 A. Yes, I recognize it as Congressman Traficant's
2 handwriting.

3 Q. If you would move to Government's Exhibit 6-1 and
4 pull it out of the pack there, if you would.

5 A. Okay.

6 Q. If you would turn to Page 2, what generically -- what
7 type of document is that?

8 A. Looks like a tax return.

9 Q. All right. And if you'd -- on the third page of that
10 exhibit, which would be the second page of the tax return,
11 if you'd go to the bottom, do you see there at the bottom?

12 A. Yes.

13 Q. Are there several signatures down there at the
14 bottom?

15 A. Yes, sir.

16 Q. All right.

17 Where it says your signature, is there a signature
18 there?

19 A. Yes.

20 Q. Do you recognize that signature?

21 A. Yes. I recognize it to be Congressman Traficant's
22 signature.

23 Q. And moving to Government's Exhibit 6-2, again,
24 generically, can you describe what type of document this
25 appears to be?

Kavulic - Direct/Smith

1 A. It's a tax return.

2 Q. Looking at the third page of the Exhibit, the second
3 page of the return, are there signature lines at the bottom
4 of Page 2 of the return?

5 A. Yes, there are.

6 Q. And by the words "your signature," is this a
7 signature there?

8 A. Yes, sir.

9 Q. Do you recognize that signature?

10 A. Yes, I recognize it to be the signature of
11 Congressman Traficant.

12 Q. During the time that you worked in the congressional
13 office, did the phone Number 202-225-5261 mean anything to
14 you?

15 A. Yes. That was the number of our Washington D.C.
16 office.

17 Q. And how about the telephone Number 330-743-1914?

18 A. That was the telephone number of our office in the
19 Federal Building downtown Youngstown.

20 Q. And how about the phone Number 330-757-8891?

21 A. That was the phone number of the Congressman's
22 personal residence.

23 Q. You indicated you left the Congressman's employment
24 when?

25 A. In 1998, in October.

Kavulic - Direct/Smith

1 Q. And when you left, were you a discontented employee
2 in any way?

3 A. Yes. I was upset with the Congressman when I left my
4 employ.

5 Q. And would you please explain the source of that
6 discontentment?

7 A. Congressman Traficant had called my home one evening
8 and told me that he would be hiring an another person to
9 our staff, and that she would be starting at the same
10 salary that I was receiving, and he wanted to call and let
11 me know before he made the press release. So I continued
12 to go to work.

13 I asked him if he was calling the other employees to
14 let them know, and I continued to go to work, and June --
15 this happened in May -- in fact, I had gotten married. I
16 had just got back from my honeymoon, and it was June when
17 he brought in the new employee.

18 Q. And it was something about that employee being
19 brought on that ultimately resulted in your resignation?

20 A. Well, yes. He brought the employee in one day, and
21 he called me into his office. And we sat and we talked,
22 and he told me that he wanted me to help her because she
23 was not able to use the computers or to type, and that he
24 wanted me to work with her and help her out and do the
25 typing stuff. And I told him no, I don't think I can do

Cross - Kavulic

1 that. I'm sorry, but if she is going to make the wage that
2 has taken me 13 years to attain, then I think she should be
3 able to do the job that she was hired to do. I won't do
4 her work for her.

5 Q. Is your testimony here given under granted use of
6 immunity?

7 A. Yes.

8 Q. What do you understand the terms of that immunity to
9 mean?

10 A. The terms of that immunity, just to protect myself
11 and make sure that I tell the truth here. I -- I have done
12 nothing wrong.

13 MR. SMITH: May I have a moment, your Honor.
14 No further questions, your Honor.

15 THE COURT: You can inquire, Congressman.

16 MR. TRAFICANT: Thank you.

17 CROSS-EXAMINATION OF GRACE YAVORSKY KAVULIC

18 BY MR. TRAFICANT:

19 Q. How are you doing, Grace?

20 A. I'm fine. Thank you.

21 Q. You started out working in the Sheriff's Department;
22 is that correct?

23 A. Yes, sir.

24 Q. And isn't it a fact that we reduced crimes all four
25 years I was sheriff?

Cross - Kavulic

1 A. You know, I don't know. Did we? I don't know.

2 Q. At some point, did I put you in charge of that
3 office?

4 A. Yes, you did.

5 Q. Towards the end of my term as sheriff, I made you
6 technically the boss; is that correct?

7 A. No -- well, you gave me a promotion, sir, in 1984, I
8 believe.

9 Q. Okay.

10 A. But nobody in the department was ever boss.

11 Q. I was boss, technically. You were under me as the
12 civilian who was in charge of all other civilians, am I
13 correct?

14 A. As the administrative assistant?

15 Q. Yes.

16 A. All other civilians, yes.

17 Q. But you didn't have any control or authority over law
18 enforcement officers, did you?

19 A. Oh, no, sir.

20 Q. I had a lot of trust in you, didn't I?

21 A. You said you did.

22 Q. Well, did I do any of my personal banking at all, or
23 did you do it for me?

24 A. Which question do you want me to answer?

25 Q. First one: Did you do all my personal banking for

Cross - Kavulic

1 me?

2 A. To my knowledge, I don't know. I don't know if I did
3 all of your personal banking for you.

4 Q. Did I send you down to make every month deposits and
5 other paraphernalia and things for you to do like to go to
6 the bank, et cetera, make deposits, et cetera, as you
7 testified to?

8 A. Yes, you sent checks and cash for deposit.

9 Q. And you did that since 1981 until 1998?

10 A. No.

11 Q. When did you start doing that, do you remember?

12 A. I started doing your deposits, sir, when we moved out
13 to the Federal Building, as I remember. I don't recall
14 doing anything before that.

15 Q. And that was -- what was the date we moved down
16 there?

17 A. In 1994.

18 Q. You remember the month?

19 A. January.

20 Q. So from January, '94, to October, '98, you basically
21 did all the depositing?

22 A. Yes.

23 Q. When you visited the bank, did they ever intimate to
24 you -- or did you ever find out that I had done some
25 banking there myself?

Cross - Kavulic

- 1 A. I never asked.
- 2 Q. Did you conclude that you did my personal banking?
- 3 A. Some of it.
- 4 Q. Now, when you did write a letter, that was not
5 necessarily as the Government has stated, might have been
6 business related, for example, relative to a blood kit for
7 a horse. Did you use the mail?
- 8 A. Yes.
- 9 Q. You put stamps on it, didn't you?
- 10 A. Yes.
- 11 Q. Okay. You did not violate the law and use the
12 privilege of the professional frank where -- a Congressman
13 does not have to pay postage, does he?
- 14 A. No, we didn't use the frank for personal, no.
- 15 Q. Now, you said when we were there, we were deluged
16 with a myriad of problems. Is that truthful testimony?
- 17 A. In what time period are you talking about?
- 18 Q. When we were in the Congressional staff, I mean,
19 people would call us for everything; is that correct?
- 20 A. Oh, yes, that's true, yes.
- 21 Q. An insurance claim, garbage, you even mentioned
22 garbage; is that correct?
- 23 A. Yes.
- 24 Q. They had a high regard for our office?
- 25 A. Yes.

Cross - Kavulic

1 Q. And did our office perform well for those
2 constituents?

3 A. Yes.

4 Q. Did I go to bat for those constituents?

5 A. Well, I can only speak for the ones I know about,
6 yes.

7 Q. Basically, the people were very satisfied with our
8 constituent service?

9 A. Yes.

10 Q. Okay. Now, when there were specific concerns I might
11 have relative to a particular case, might I send down in
12 that weekly envelope and direct someone that I felt
13 personally was attuned to handle it the best to do it?

14 A. Yes.

15 Q. Okay.

16 Now, there was a time when you said that certain
17 people went out to speak for me, and certainly, people did
18 not go out to speak for me for political purposes; is that
19 right?

20 A. Yes.

21 Q. You went out, didn't you?

22 A. Yes.

23 Q. And you said Jackie went out, didn't you?

24 A. Yes.

25 Q. Okay. So evidently, the people that I selected to go

Cross - Kavulic

1 out I felt represented me at that time, would you agree, in
2 the best interest of, for example, my reelection campaign?

3 A. Yes.

4 Q. I mean, I wouldn't have sent you, for example, to a
5 group that, say, hated women, would I?

6 A. No.

7 Q. All right.

8 So it's not unusual for a member of Congress when
9 they are in Washington or on other business to ask
10 representatives of their staff to represent them even after
11 hours, is that a fair statement?

12 A. Yes, that's a fair statement.

13 Q. What is the amount of time pursuant to federal law
14 that a full-time worker must, in fact, put in to justify
15 their paycheck?

16 MR. SMITH: Objection.

17 THE COURT: You're going to have to lay some
18 basis for her to know the answer to that

19 BY MR. TRAFICANT:

20 Q. Are you familiar with the federal law of how many
21 hours are required of a full-time worker?

22 A. As I understood it, 40 hours a week.

23 Q. You understood it to be 40?

24 A. Yes.

25 Q. And we scheduled 40, right?

Cross - Kavulic

1 A. In the office, yes.

2 Q. Yes. And what were those hours?

3 A. The hours were 8:00 to 4:30.

4 Q. And we gave a break for lunch, did we not?

5 A. Half hour.

6 Q. And also gave breaks in between, did we not?

7 A. Well, I didn't even get the lunch break most of the
8 time.

9 MR. TRAFICANT: Yeah, I'll agree to that.

10 Q. But would you be surprised to find out a full-time
11 worker is required to put in 32 hours a week, by law?

12 A. Yes.

13 Q. You would be surprised?

14 A. Yes.

15 Q. Now, you said that I lived in Poland, Ohio, about
16 three to five miles away. That was a guesstimate?

17 A. Yeah, it was a guess.

18 Q. More like seven, but five and seven is not much a
19 difference, right?

20 A. Away from Youngstown?

21 Q. Yeah.

22 A. No.

23 Q. Now, when we were at 11 Overhill Road, did I not
24 maintain, from day one, my administrative office on the
25 second floor upstairs?

Cross - Kavulic

1 A. Yes.

2 Q. Okay. Did I not also use the downstairs when
3 necessary for press conferences?

4 A. Yes.

5 Q. Is it not a fact that Mr. DiBlasio maintained his
6 congressional office on the second floor with me?

7 A. You shared the office?

8 Q. No. Was his office on the second floor where mine
9 was located?

10 A. Yeah. His was upstairs, yes.

11 Q. And mine was upstairs?

12 A. Yours was upstairs, yeah. I'm confused. I'm sorry.

13 Q. Well, we had the whole basement sort of filled up,
14 didn't we?

15 A. Yes.

16 Q. Okay.

17 A. Mr. DiBlasio had his congressional office and his law
18 office on the second floor.

19 Q. His law office was also used as his congressional
20 office, and I had my office up on the second floor, too, is
21 that a correct statement?

22 A. Yes.

23 Q. Fine.

24 Now, you said my paychecks came through the mail and
25 came to where?

Cross - Kavulic

1 A. They came to -- well, when we were downtown on 25
2 Market Street, the Federal Building.

3 Q. And what, if anything, did you do when you got those
4 checks exactly?

5 A. Exactly what I did was, I would -- there was with
6 your deductions and such on it, I separated that from the
7 check stub. I'd write out a deposit slip, make a copy of
8 the deposit slip, attach it to your pay stub, and take your
9 paycheck, write "for deposit" on the back and deposit it at
10 Bank One in your personal account.

11 Q. So I didn't really sign it, did I?

12 A. No.

13 Q. No. And then you sent a copy to me for my records,
14 correct?

15 A. A copy of the deposit slip and your pay slip, yes,
16 sir.

17 Q. Yes, my pay slips.

18 Now, you said you made travel arrangements, and there
19 were times when I was asked to speak around the country,
20 and you made the flight arrangements. You'd make the
21 arrangements with the hotel, and also, you would work with
22 the people who had made the request and facilitated all the
23 arrangements for my appearance; is that correct?

24 A. Yes, sir.

25 Q. Was that fairly often?

Cross - Kavulic

1 A. Yes. The last few years, yes.

2 Q. Now, when I was in the Washington office, did I
3 maintain communication with you?

4 A. Yes.

5 Q. On a fairly regular basis?

6 A. Yes.

7 Q. Would you say that I relied on you for your judgment?

8 A. Sometimes, yes.

9 Q. Grace, would you agree you were my most trusted
10 employee or not?

11 A. No.

12 Q. Fine.

13 Now, you mentioned that J.T. drove basically to D.C.;
14 is that correct?

15 A. Yes.

16 Q. First couple years I was flying; is that right?

17 A. Yes.

18 Q. Now, when you fly, who pays for that expense?

19 A. The Government pays for your transportation to
20 Washington.

21 Q. And if you drive, then what is the difference in
22 compensation between driving and, for example, flying?

23 A. Well, you were allowed certain amount for mileage on
24 the car when you drove, and your turnpike expenses. When
25 you flew, it was the cost of an airplane.

Cross - Kavulic

1 Q. For example, 31 cents a mile. Is that what you
2 recall?

3 A. I believe so.

4 Q. And Youngstown was about 320 miles or 300 miles,
5 whatever?

6 A. Yeah, it -- round trip, yeah, 600 something, yes.

7 Q. So I would drive, and I would get reimbursed at
8 approximately \$6 to \$800 a month in expenses for driving,
9 wouldn't I?

10 A. Yes.

11 Q. But now, if I had taken the plane, I wouldn't have
12 got any money. They would have just paid for the plane
13 fare, right?

14 A. Right.

15 Q. Do you know how many years I drove back and forth to
16 Washington, D.C.?

17 A. I don't really don't recall. I have to stop and
18 think about that. I don't.

19 Q. It would have to be a long time ago that I flew for
20 you to remember, wouldn't it, in all honesty?

21 A. Yes.

22 Q. I basically drove, didn't I?

23 A. Yes, I think you did drive.

24 Q. All right. Thank you. Did I at times take members
25 of ATF to Washington?

Cross - Kavulic

1 A. Yes.

2 Q. Did I ever take you to Washington?

3 A. No, sir.

4 Q. When people went to Washington, members of the staff,
5 did they come back with an identification badge showing
6 they had been a congressional staffer, to the best of your
7 knowledge?

8 A. Yes. I -- I saw a couple that had those, yes, sir,
9 um-hum.

10 Q. Are you familiar with Washington, D.C.? Have you
11 ever been there?

12 A. I was there one time when they were sworn in the
13 first time. I have not been back.

14 Q. Do you remember how long it took you to get to
15 Washington D.C.?

16 A. No.

17 Q. Did you drive or fly, Grace?

18 A. A few of us drove down, my daughter and some friends.
19 I don't remember.

20 Q. When would you say -- it's a fair estimate if you get
21 caught in the rush hour, it would be a seven to eight-hour
22 trip?

23 A. Yeah, that's possible.

24 Q. So, for example, if I were to speak, just as an
25 example, as a probability, for example, in northern

Cross - Kavulic

1 Trumbull County at a banquet, say, the new lease on life,
2 did I not speak there?

3 A. Yes, you did.

4 Q. And that was usually on a Monday night, and that
5 concluded about 11:00, did it not?

6 A. Yes.

7 Q. And I'd have folks starting the following morning on
8 a Tuesday and be required to be in Washington by noon, is
9 that a correct statement?

10 A. It depended what legislation we were before. I mean
11 it was --

12 Q. Yes. But -- let me ask you this. Did I not take
13 advantage of the opening session of Congress to make
14 one-minute speeches, and was I not, in fact, almost
15 everyday on the House floor when the House opened its
16 doors?

17 A. Yes.

18 Q. So now having left at 11:00 or 11:30 from Northern
19 Trumbull County?

20 THE COURT: I'm not sure if she is in a
21 position to testify to this. This sounds like something
22 you're trying to establish, but this isn't a witness who's
23 made the trip.

24 MR. TRAFICANT: Well, maybe if you give me a
25 little more time, you could have understood why I was doing

Cross - Kavulic

1 that.

2 THE COURT: Okay.

3 MR. TRAFICANT: Will you allow it?

4 THE COURT: You want a little more time?

5 MR. TRAFICANT: Yes, to explore that for
6 purposes of an explanation.

7 THE COURT: I think she's now testified that
8 you left for Washington at 11:00 after a meeting at 11:00.

9 Q. Well, let me put it this way: If someone had driven
10 me, would they not have spent perhaps six to seven hours
11 driving all night with me to get to D.C.?

12 A. I don't know. I suppose so.

13 Q. And weren't there times that did occur?

14 MR. SMITH: Objection.

15 THE COURT: If you know.

16 THE WITNESS: I mean, I wasn't there. I
17 don't know. You know, it's possible, I guess.

18 THE COURT: We have to deal with --

19 MR. TRAFICANT: We can only deal with what
20 you know. That's fine.

21 THE COURT: Thanks.

22 BY MR. TRAFICANT:

23 Q. Now, in moving downtown, you said that Jim did not
24 want to move downtown. That was your testimony, right?

25 A. I believe I said he said you weren't going.

Cross - Kavulic

- 1 Q. Yeah.
- 2 A. That's all he said. I'm not going, that's right.
- 3 Q. Did I maintain an administrative office?
- 4 A. Where?
- 5 Q. Did I maintain one of my offices as an administrative
6 office?
- 7 A. Yes.
- 8 Q. Where was it located?
- 9 A. It was located in downtown Youngstown, in the Federal
10 Building.
- 11 Q. No. That was the district service office, Grace.
12 Did I not have an administrative office?
- 13 A. Yes.
- 14 Q. Where was my administrative assistant located, where
15 was I located?
- 16 A. Oh, you were on Overhill Road.
- 17 Q. I see. Now, are you pretty good friends with Chuck
18 O'Nesti?
- 19 A. Chuck and I had an up and down relationship as
20 co-workers. We used to get into arguments a lot, you know,
21 but we basically got along.
- 22 Q. Yeah.
- 23 And did you discuss with other workers his
24 reputations and things like that?
- 25 A. No, not really.

Cross - Kavulic

1 Q. It didn't bother you at all?

2 A. I mean Chuck had a reputation all over. Not just --
3 so I just didn't discuss that, no.

4 Q. Okay. Now, other than Henry DiBlasio and Chuck
5 O'Nesti in the district, who were the next two highest paid
6 employees?

7 A. I believe it was Jackie and I.

8 Q. Okay. We did not -- did we not discuss on or about
9 the time the Claire Maluso hiring, when I paid you the
10 courtesy call, that I was going to reorganize a staff after
11 the election?

12 A. You told me -- in your call, your courtesy call,
13 you -- I discussed we did not have an office manager, who
14 was going to be your office manager, because I didn't
15 realize at that time, sir, if you realized the function of
16 the office and the need for an office manager.

17 Q. Who was the office manager?

18 A. You told me you were. Jackie Bobby had been the
19 office manager. Jackie was no longer there. I stayed on
20 when Claire came on.

21 Q. Yes.

22 A. And I asked you who was going to be office manager so
23 that the daily operation of the office could go on
24 smoothly. And you told me you were going to reorganize
25 after the beginning of the year, and I said well, I need to

Cross - Kavulic

1 know now. I need an office manager. What are we going to
2 do? And you said I'm the office manager. And that was the
3 end of the conversation.

4 Q. Well, did you not say that you resented the fact that
5 I was hiring a woman at the same rate of pay as you?

6 A. I resented the fact that being only one of two people
7 who operated the computers, did any of the typing, opened
8 the mail, had to do the scheduling, that there now was
9 another person that I would have to do the typing for, run
10 the computer for, and if she was making my salary, she
11 should be able to do the job.

12 Q. Did Anthony Traficanti handle the computer and do
13 some typing?

14 A. I started teaching Anthony how to type on a computer,
15 yes, sir. He had some knowledge of the computer, and I
16 helped him as best I could so that he could do his own
17 work, but I had the rest of the staff to take care of.

18 Q. Did I inform you Claire Maluso was not computer
19 trained; is that correct?

20 A. Yes, sir.

21 Q. But, she was being hired as an outreach worker and an
22 economic development specialist. Is that not what I told
23 you?

24 A. Yes, sir.

25 Q. Now, you said that we had a Niles office; is that

Cross - Kavulic

1 correct?

2 A. Yes.

3 Q. In the beginning, where was that office located, do
4 you recall?

5 A. It was on Youngstown-Warren Road. There was a
6 building -- I think it was right by Niles Road and a
7 tornado came in 1985, and the building was damaged.

8 Q. Completely destroyed the building, didn't it?

9 A. It damaged it pretty bad, but it's still standing
10 there.

11 Q. Yeah, they finally refixed it. But it took them some
12 time, did it not?

13 A. Yes.

14 Q. And we then found additional space. Where was that
15 space, do you know?

16 A. On Mahoning Avenue in Warren.

17 Q. And more specifically, was it not, in fact, with the
18 City of Warren, Ohio, in their municipal building?

19 A. I believe so. I don't recall the details of that.

20 Q. Okay.

21 But at some point, that was crowded, and we took up
22 new residence and took up new space. You know when we
23 rented that space?

24 A. At the Eastwood Mall.

25 Q. You know who owns the Eastwood Mall?

Cross - Kavulic

- 1 A. Yes, the Cafaro company.
- 2 Q. Okay.
- 3 And we rent up there -- what? -- the second floor?
- 4 A. Yes. You're on the second at first.
- 5 Q. And Betty Manente was the manager in Niles?
- 6 A. Yes.
- 7 Q. And she basically performed the same duties up in
- 8 Niles that Jackie performed in Youngstown. Would you say
- 9 that's a fair assessment?
- 10 A. She ran the office in Niles, yes, but the Niles
- 11 office didn't get into as much, I don't believe, as the
- 12 Youngstown office.
- 13 Q. You felt --
- 14 A. We had a bigger influx of constituents.
- 15 Q. You felt you had more work in the Youngstown office
- 16 than you had in Niles office?
- 17 A. Yes, because I -- I understood that that was the
- 18 administrative office in the district, sir.
- 19 Q. Yeah, but the administrator and the Congressman
- 20 wasn't located there, was he?
- 21 A. No.
- 22 Q. Okay. We've established that.
- 23 Do you recall an incident with an employee by the
- 24 name of Linda Kovachik?
- 25 A. Yes, I do.

Cross - Kavulic

1 Q. What, if anything, do you recall about that
2 situation?

3 A. Linda, when you -- when we were on Overhill?

4 Q. No. I believe when we were in the downtown office,
5 wasn't she working in the downtown office?

6 A. No, sir, not when I was there.

7 Q. She worked at the Overhill office?

8 A. Yes, sir.

9 Q. Okay.

10 Was there recommendation made to me relative to her
11 work performance?

12 A. I don't recall.

13 Q. Well, do you know if she was terminated?

14 A. I know she was terminated, but I don't remember when.

15 Q. And you do not know what the reason was --

16 A. Oh, I know the reason why you terminated her.

17 Q. And what was that reason?

18 A. The reason was because Linda would come into my
19 office, and she'd start talking about the office manager,
20 and she's doing this and that, you know. It was just one
21 of those things where it's -- you know, I'm going to go
22 into Jackie's office, and I'm going to sit there and tell
23 her that Grace's daughter is applying for a job, and she's
24 doing this and that, sticking the knife in your back and
25 then come back and tell me, and I thought this is

Cross - Kavulic

1 ridiculous, and I went in and sat down and confronted it.

2 Q. Yeah.

3 A. And that came to you.

4 Q. Basically you did what?

5 A. Then we came to you.

6 Q. And what, if anything, did -- what, if anything, did
7 you recommend to me?

8 A. I recommended that you should fire her.

9 Q. Okay. Well, a little bit earlier, you weren't quite
10 sure of that, but now, okay, now we've established that you
11 do remember, and that's fine.

12 Did I take the recommendation?

13 A. Yes.

14 Q. Do you know, in fact, who did the termination of
15 Linda Kovachik?

16 A. Well, I imagine you did because you're the boss.

17 Q. So I had then, as all Congressmen do and with the
18 separation of power, the complete power over my staff; is
19 that correct?

20 A. Well, you're the bottom line.

21 Q. Yeah, I mean, I hire, or I could fire?

22 A. Yeah.

23 Q. Have I fired many people over the years that you
24 worked with me, that you can recall?

25 A. No.

Cross - Kavulic

1 Q. Did you recommend that I fire anybody else other than
2 Linda Kovachik?

3 A. No.

4 Q. But at some point, I was questioned by you about a
5 hiring I was making, and that I asked you to help this
6 person become sort of computer capable; is that correct?

7 A. I don't know who you're talking about.

8 Q. Claire Maluso?

9 A. Oh, okay, yeah.

10 Q. Is it not a fact that Claire Maluso worked for
11 several years as a volunteer, working with me on different
12 community projects?

13 A. Yes.

14 Q. And she worked pretty hard, didn't she?

15 A. I don't know.

16 Q. Would you happen to know what she was paid by the
17 city by any chance, if you would know?

18 A. No.

19 Q. Did you know how many days she was hired,
20 approximately?

21 A. She was seven days, I believe.

22 Q. And isn't it a fact that I told you that I started
23 her at that rate so that maybe she could have a reasonable
24 pension for all the work she'd put in the community, did I
25 make that statement to you, Grace?

Cross - Kavulic

- 1 A. No, you did not, sir.
- 2 Q. Fine.
- 3 Now, when was the first time you saw any cash
- 4 deposits that I sent down to you?
- 5 A. A couple years, a year or two after we moved into the
- 6 Federal Building, somewhere in there.
- 7 Q. '94, '95?
- 8 A. Yeah, '94 I would say.
- 9 Q. When you moved in, right? Now, you're on 11 Overhill
- 10 Road. I didn't give you these things to do?
- 11 A. I don't recall making your deposits then. I may have
- 12 made a couple, but I don't recall making as frequent
- 13 deposits of anything that --
- 14 Q. I mean, when you went downtown, you got them all
- 15 every month, right?
- 16 A. Yes, sir.
- 17 Q. Even the ones that had cash in them came to you,
- 18 right, that you testified to?
- 19 A. Yeah, they were in the envelope, and they had my
- 20 name, you know, little stickems you put, you staple.
- 21 Q. You had the deposit slip, and what did it say?
- 22 A. The deposit slip?
- 23 Q. Yeah, said?
- 24 A. It would have the amount of the deposit.
- 25 Q. Basically instruct you to do what?

Cross - Kavulic

1 A. Deposit it.

2 Q. Deposit it.

3 Now, were there times when we got calls that I had
4 overruns and overdrafts in my checking account?

5 A. Oh, that was awhile back, yeah. I don't think that's
6 when we were on -- in the Federal Building, though. I
7 could be wrong, but --

8 Q. Okay. Now, I want to go over specific documents, and
9 the Government laid them out for you and in such good
10 chronological order for you that we'll be able to follow
11 them easily. If you want to get some water, if you don't
12 mind, I'd like to get some for myself. Is that all right?

13 THE COURT: That's fine.

14 MR. TRAFICANT: You might direct yourself to
15 the exhibits that the Government brought in as evidence and
16 asked you to answer questions about cash deposits while I'm
17 getting me some water.

18 And if you could get them in chronological order if
19 you could. If you can't, I will go back to my notes and
20 see if I can, in fact, revisit some of those.

21 And the Government has been so helpful, I'd
22 appreciate it, perhaps they'll assist.

23 THE COURT: You will, however, need to
24 identify the exhibits you're questioning the witness about.

25 MR. TRAFICANT: I understand that.

Cross - Kavulic

1 THE COURT: Go in any order you please.

2 MR. TRAFICANT: I understand that.

3 Q. Now the first was 1-27(2). It was two pages. Have
4 you found that document?

5 A. Not yet. 1-27 --

6 Q. 1-27, Government's Exhibit (2), the notes I have say
7 two pages?

8 A. Oh, here it is. Yeah. Okay.

9 Q. What was the exact date of that deposit?

10 A. 9-18-95.

11 Q. Now, direct yourself to 1-27(3).

12 A. Okay.

13 Q. What was the date, exact date of that deposit?

14 A. 5-20-96.

15 Q. Now, you recall 1-27(4), what was the exact date of
16 that deposit?

17 A. 7-22-96.

18 Q. Now, direct yourself to 1-27(5). You have the exact
19 date of that deposit?

20 A. 8-27-96.

21 Q. Now, directing yourself to 1-27, do you have the
22 exact date on that deposit (1-27(6))?

23 A. 10-96, I can't make out anything, 10-96 -- oh, on the
24 cash, yeah, that's 10-22.

25 Q. 10-22?

Kavulic - Cross

- 1 A. '96, yes.
- 2 Q. Thank you.
- 3 Now, directing yourself to 1-27(7), is there an exact
- 4 date on that?
- 5 A. Yes.
- 6 Q. What was that date?
- 7 A. That is April the 14th, '97.
- 8 Q. Directing yourself to 1-27(8), is there an exact date
- 9 on that check?
- 10 A. On the check?
- 11 Q. No, I mean on the deposit?
- 12 A. 1-8-98.
- 13 Q. Now, directing yourself to 1-27(9), is this an exact
- 14 date on that check?
- 15 A. 3-17-98.
- 16 Q. Now, directing yourself to 1-27(10) is there an exact
- 17 date on that check?
- 18 A. 3-17-98.
- 19 Q. So there were two on the same day?
- 20 A. Yes.
- 21 Q. And you got them both in the same envelope. Is that
- 22 what you're saying, with just one deposit slip or two
- 23 deposit slips?
- 24 A. It's one deposit slip, two deposit slips, there's two
- 25 deposit slips.

Kavulic - Cross

1 Q. One for 500 and one for what, 1500?

2 A. Yes, sir.

3 Q. Okay.

4 Now, on 1-27(11), was there an exact date on that?

5 A. Yes, 7-6-98.

6 Q. Grace, do you happen to know when real estate taxes
7 are due and payable? Are they due by the half in Mahoning
8 and Trumbull County?

9 A. Yes.

10 Q. Now, you have testified that this was -- see if I'm
11 mistaken here -- \$16,700 worth of checks over a period of
12 what was this, let's try to figure out these months. About
13 35 months?

14 A. Yeah, approximately. I have --

15 Q. Now if we divide \$16,700 by 35 months, roughly,
16 without getting a calculator out or a computer trained --

17 THE COURT: She has to supply the answer, not
18 you.

19 MR. TRAFICANT: Okay.

20 Q. What roughly is the approximate amount of money cash
21 that you deposited over that period of time, if you average
22 it per month?

23 A. Oh, I wish I had a calculator. That's not fair. And
24 I'm not that good in math.

25 Q. I think you are. Well, do you have a pencil, can I

Kavulic - Cross

1 give you one?

2 A. 30 -- no, 35 months? \$16,700?

3 Q. Yeah, roughly?

4 A. 6, 7.

5 Q. How about \$521 per month, does that sound about
6 right?

7 A. No, I thought about \$600. Okay.

8 Q. Shall we do the math?

9 THE COURT: Well, one of you is a witness,
10 and the other one is asking questions, and so --

11 Q. Okay, you will admit then --

12 THE COURT: Congressman, it's not a joint
13 project. Now go on to another question, would you?

14 MR. TRAFICANT: Okay.

15 Q. In any regard, you agree it was not more than \$550
16 per month on an average. Would that be a fair statement?

17 A. I don't know.

18 Q. Okay. Fine.

19 A. I don't know.

20 Q. Now, did you know when George Buccella was hired that
21 he owned a pizza shop?

22 A. Yes, I do.

23 Q. Did you know that there was specific arrangements
24 made with him he would be allowed to start late?

25 A. Would you repeat that?

Kavulic - Cross

1 Q. Did you know that there was a specific arrangement
2 made with George Buccella that he could come in at a later
3 hour to work?

4 A. Yes.

5 Q. Isn't it a fact that George Buccella personally
6 helped his family make pizzas to give to the schools for
7 lunches?

8 A. Yes.

9 Q. Weren't there times when I called and inquired where
10 George Buccella was?

11 A. Yes.

12 Q. Were there times that I called and inquired where
13 Anthony Traficanti was?

14 A. Yes.

15 Q. Well, then, would you assume then that they were
16 evidently not with me?

17 A. I would assume not.

18 Q. But I inquired wanting to know where they were.

19 A. Yeah, I don't know why you asked me that.

20 Q. Okay. Fine. Do you have any knowledge of either of
21 these two fellows saying they were going to be with the
22 Congressman, but the Congressman had no knowledge of it,
23 and they simply did not go to work? Yes or no.

24 A. Would you repeat that question?

25 Q. Did you have any knowledge that if they called and

Kavulic - Cross

1 said I'm going to be with the Congressman and they weren't
2 to be with the Congressman, how would you know?

3 A. If they -- if they --

4 MR. SMITH: Objection.

5 MR. TRAFICANT: Let me rephrase the question.

6 THE COURT: Thank you.

7 Q. Let me rephrase the question. I'm George Buccella,
8 and I call the office and say I'm going to be with the
9 Congressman, I won't be in today.

10 A. Okay.

11 Q. Okay. Did you guys get on the phone and call me and
12 say is George Buccella going to be with you?

13 A. No, but there wasn't time to. When you called the
14 office and said where is George and I said he was supposed
15 to be with you down south, and you'd say well, he ain't
16 here. I mean, you got mad a couple times.

17 Q. But where did the "down south" come from? Who said
18 down south, George?

19 A. George, yeah.

20 THE COURT: Just supply the answer. Just ask
21 her the questions.

22 MR. TRAFICANT: I did.

23 THE COURT: Okay. But you gave the answer,
24 and I can't consider that. Just she gives the answer.

25 Q. You want to give me the answer again?

Kavulic - Cross

1 A. It came from George, but you used the phrase, Anthony
2 used the phrase, I mean, he wasn't the only one that used
3 the phrase, sir.

4 Q. So the phrase "down south" refers to the farm. We'll
5 agree to that?

6 A. That's -- yes.

7 Q. Okay. Now, did you ever go out to the farm and check
8 and see if they were there at the farm?

9 A. No.

10 Q. Now, you said Buccella was absent more than Anthony;
11 is that correct?

12 A. Yes.

13 Q. And how did you find that out because he worked out
14 of the Niles office?

15 A. Well, I'm talking about when he worked at the
16 Overhill office. When he worked in the office where I was,
17 I -- I knew he was absent.

18 Q. Okay.

19 A. I mean, it was obvious when he wasn't there.

20 Q. How long did he work at the Overhill office, do you
21 recall?

22 A. No. I don't remember the length of time that was.

23 Q. Well, he lived up in Trumbull County; is that
24 correct?

25 A. Yes.

Kavulic - Cross

- 1 Q. North, pretty far away from Youngstown?
- 2 A. He lived in Middle Ridge.
- 3 Q. Nevertheless, it was a pretty good drive to
4 Youngstown, more closer to the Niles office, wouldn't you
5 say?
- 6 A. Yes.
- 7 Q. Okay. But at the time, we needed more help in
8 Youngstown, is that a fair question?
- 9 A. I don't know why he was transferred to that office.
10 I have no idea.
- 11 Q. No. I said he was located at the Youngstown office?
- 12 A. Yes.
- 13 Q. Okay.
14 And you testified earlier that we had more problems
15 with the Youngstown office?
- 16 A. Well, yeah, we got --
- 17 Q. More calls?
- 18 A. Right.
- 19 Q. Okay. So you said when you did the disclosure form,
20 you did so because Jackie says you'd better learn how to do
21 it, I won't be doing it anymore?
- 22 A. Well, she told me that I should be learning how to do
23 it, yeah. She wasn't going to do it anymore, right.
- 24 Q. She informed you she was quitting?
- 25 A. No, no, no. That disclosure was done in April.

Kavulic - Cross

1 Q. When did she first inform you?

2 THE COURT: Don't talk across her answer,
3 please.

4 MR. TRAFICANT: Okay. Go ahead.

5 THE WITNESS: I had no knowledge that she was
6 quitting her job in April.

7 Q. When did you first get the knowledge that she was
8 quitting her job?

9 A. When she didn't show up for work one day.

10 Q. She just didn't call. She just didn't show up, did
11 she?

12 A. Well, she didn't call me, but then I wasn't her boss.

13 Q. Do you know if she called anybody?

14 A. No, I don't.

15 Q. How long was she missing before she called you?

16 A. Well, how long she -- she wasn't going to work how
17 long --

18 Q. Yes.

19 A. She didn't call me; I called her.

20 Q. And you remember how long after you called her?

21 A. Oh, about three days approximately.

22 Q. And what, if anything, did she say?

23 A. I am a not coming back to work.

24 Q. Did she give you a reason?

25 A. No. She had discussed that with you, no.

Kavulic - Cross

1 Q. So she never told you that she was quitting because
2 of --

3 MR. SMITH: Objection.

4 THE COURT: Sustained.

5 Q. Did you ever have any discussions with Jackie Bobby
6 relative to the hiring of Claire Maluso?

7 A. Yeah. There was a point when I did discuss it with
8 Jackie.

9 Q. And what, if anything, was said?

10 A. Well, basically, Jackie and I felt the same way about
11 it, that you were hiring someone that was earning our
12 salary after we had been there for awhile.

13 Q. For completely different duties, was that not clear?

14 A. It was clear, but the problem with that,
15 Mr. Traficant, is that I had to train her to do her -- I
16 mean, she had to have access to computers, typewriters and
17 such to do her work. And she wasn't able to do that. I
18 would have had to have trained her or somebody would have
19 had to have trained her, and I -- I didn't think it was
20 fair. I didn't think it fair of you to do that. So it was
21 principle, and I said I'm not going to do it.

22 Q. Did I force to you do it?

23 A. No, because I --

24 Q. Did I mention it anymore?

25 A. No.

Kavulic - Cross

1 Q. And did Claire not have to tremble and stumble and
2 bumble and learn to handle the computer?

3 A. I don't know. I left. I don't know what she did.

4 Q. How long after she was employed did you quit?

5 A. I quit in October, sir. I left at the end of July.

6 Q. And?

7 A. I left by my doctor's orders.

8 Q. Okay.

9 And at approximately when you left on your doctor's
10 orders, how long had Claire been employed?

11 A. Six weeks approximately.

12 Q. She was there six weeks?

13 A. Approximately.

14 Q. Did we not have a meeting between the three of us,
15 try to resolve this, and so we could go forward and --

16 A. You had a meeting and called me in, yes. You -- you
17 had brought Claire into the office and into your office
18 downtown and called me in.

19 Q. And did I not try to sort of like put things together
20 and explain I'd be reorganizing the staff in the future,
21 and I'd like to get through this election, was that
22 discussed?

23 A. You know, you said to me that you wanted to
24 reorganize. I don't remember it being about the election.
25 It was about the end of the year you were going to

Kavulic - Cross

1 reorganize.

2 Q. Did Jackie ever intimate to you that she was
3 concerned I was going to make you the district director?

4 A. No.

5 Q. When I was sheriff and made the head civilian
6 administrative officer in my office, who was that person?

7 A. Repeat that.

8 Q. At the end of my sheriff's administration, were you
9 and Jackie both on staff?

10 A. Yes.

11 Q. Okay.

12 Did I at that time make a decision to name one the
13 administrative assistants who would have some authority
14 over civilian affairs?

15 A. Yes.

16 Q. Who was it?

17 A. Me.

18 Q. Isn't it a fact, Grace, you were my closest and most
19 trustworthy employee? Yes or no.

20 MR. SMITH: Objection.

21 THE COURT: She can answer that.

22 THE WITNESS: I dispute that, sir, because I
23 felt that if I was your most trusted employee, that you
24 would have done better than give me a phone call one night
25 and say I'm making a press release I'm hiring this woman at

Kavulic - Redirect/Smith

1 your salary, with no prior discussion. So, therefore, I
2 determined myself not to be one of your most trusted
3 employees. I mean, you are the boss.

4 Q. Okay.

5 A. You were the boss. However, the trusted employee
6 stuff just didn't jive.

7 Q. Okay.

8 But you did get a courtesy call, didn't you?

9 A. Yes.

10 Q. And you didn't have to read it in the paper, did you,
11 Grace?

12 A. No, um-um.

13 MR. TRAFICANT: No further questions.

14 MR. SMITH: Briefly, your Honor.

15 THE COURT: Thank you.

16 REDIRECT EXAMINATION OF GRACE YAVORSKY KAVULIC

17 BY MR. SMITH:

18 Q. During cross-examination, do you recall a series of
19 questions and answers about hours per week and office hours
20 and that sort of thing, do you recall being asked that?

21 A. Yes, about working hours?

22 Q. Yes.

23 A. Yes, sir.

24 Q. And you mentioned the figure 40 hours a week during
25 your testimony. Do you recall that answer?

Kavulic - Redirect/Smith

- 1 A. Yes.
- 2 Q. Were there weeks you worked more than 40 hours a
3 week?
- 4 A. Yes.
- 5 Q. How often?
- 6 A. Our -- how often? It wasn't all that often, but
7 there were times, yes, maybe once a month.
- 8 Q. Were there other employees that occasionally worked
9 on 40 hours a week?
- 10 A. Yes.
- 11 Q. When -- you recall being asked a series of questions
12 by the Congressman about driving to Washington, D.C. and
13 back and reimbursement for mileage and such for that. Do
14 you recall that?
- 15 A. Yes, sir.
- 16 Q. Now, was the reimbursement by check, cash, what form?
- 17 A. He was reimbursed. He got that through the
18 Washington office so it was by check I would imagine. I
19 don't know.
- 20 Q. But that came from the Washington office?
- 21 A. Yeah. I'm trying to recall, sir, and there -- it
22 may -- it was by check, I believe, because there may have
23 been one time -- it's been awhile since I worked there. I
24 think there may have been a time where the Washington
25 office may have forwarded it to our office.

Kavulic - Redirect/Smith

1 Q. Let's -- how about most of the time, where did the
2 reimbursement come from, which office?

3 A. Washington.

4 Q. All right.

5 And whose choice was it to drive or fly to go to
6 Washington?

7 A. That was the Congressman's choice.

8 Q. Do you recall being asked a couple of questions about
9 Charles O'Nesti's reputation when you discussed that with
10 people? You recall being asked a couple questions about
11 that?

12 A. Yes, sir.

13 Q. And did your answer say that, something to the
14 effect, that Charles O'Nesti had a reputation all over or
15 words to that effect?

16 A. Yes, sir.

17 Q. What reputation are you referring to?

18 A. He -- he had a reputation of being called a bag man.

19 Q. Do you recall going through a series of deposit
20 slips, Government's Exhibit 1-27(2) through (11) inclusive
21 with the Congressman?

22 A. Yes, sir.

23 Q. And you were asked about a monthly average, you
24 recall that?

25 A. Yes, I do.

Recross - Kavulic

1 Q. Were you making such deposits on a monthly basis?

2 A. No.

3 Q. All right.

4 Did you receive this cash and these envelopes from 11
5 Overhill Road, every month?

6 A. No.

7 Q. On direct examination, do you use the word
8 intermittent to refer to that?

9 A. Intermittent, yes.

10 MR. SMITH: May I have a moment, your Honor?

11 THE COURT: Yes.

12 MR. SMITH: No further questions, your Honor.

13 THE COURT: Congressman.

14 RE-CROSS-EXAMINATION OF GRACE YAVORSKY KAVULIC

15 BY MR. TRAFICANT:

16 Q. When the Government just reopened their examination
17 of you, they talked about this 40-hour business you said
18 you did, and you worked more than 40 hours probably once a
19 month. And there were other staff you said worked more
20 than 40 hours once a month or more; is that correct?

21 A. I didn't say a lot. I may have mentioned there were
22 some.

23 Q. Some that you knew of?

24 A. Yeah.

25 Q. Weren't there times when the Congressman with several

Recross - Kavulic

1 members of his staff spent four full days locked up on a
2 school strike? Do you remember those events?

3 A. Yes.

4 Q. Wasn't it a fact that Henry DiBlasio was one of the
5 people involved in that?

6 A. Yes.

7 Q. Wasn't it a fact that George Buccella was one of the
8 people involved in that?

9 A. I don't remember George.

10 Q. Wasn't it a fact that George Buccella was the guy
11 that drove me to Washington after because I didn't sleep
12 for 96 hours and didn't you, in fact, know that, Grace?

13 MR. SMITH: Objection.

14 THE COURT: Sustained.

15 Q. Now, certain times of the year you pay taxes, don't
16 you?

17 A. Yes, sir.

18 Q. Is it unusual for people to borrow money to pay taxes
19 or if, in fact, their checks are in arrears?

20 MR. SMITH: Objection.

21 THE COURT: Sustained. It's not a question
22 to put to this witness.

23 Q. Did you ever have a check bounce?

24 MR. SMITH: Object to that.

25 THE COURT: You don't have to answer that

Recross - Kavulic

1 question. Sustained.

2 MR. TRAFICANT: Okay.

3 BY MR. TRAFICANT:

4 Q. Do you know if I ever had a check bounce, Grace?

5 A. Yeah, yes, I do.

6 Q. Did you also know that I rented stalls at the farm
7 for income?

8 MR. SMITH: Object.

9 THE COURT: There's no foundation for this
10 witness. If you want to ask these questions of somebody
11 who would have knowledge of that.

12 MR. TRAFICANT: I just asked if she had that
13 knowledge.

14 Q. Do you have any knowledge that I had, in fact, people
15 who rented stalls at the farm and paid by cash?

16 A. No.

17 MR. TRAFICANT: No further questions.

18 MR. SMITH: Nothing additional, your Honor.

19 THE COURT: Thank you. You may step down.

20 We're going to take the afternoon break now. It's
21 about half an hour, and it's 3:00 -- not quite 3:00, right?
22 We'll be back at 3:25. Thank you very much.

23 (Thereupon, a recess was taken.)

24

25

1 THE COURT: This is a telephonic hearing, and
2 it is arranged by consent of the parties due to the
3 illness, and frailty, I guess, of this particular witness;
4 is that correct, that we're doing it telephonically?

5 MR. TRAFICANT: They arranged --

6 MR. MORFORD: The Judge's question: Is it
7 the consent of both parties?

8 MR. TRAFICANT: Well, I was satisfied as we
9 had already agreed to the letter that I thought resolved
10 the matter. Evidently, they want more publicity for the
11 press, so let's get on with it.

12 THE COURT: Actually, that mischaracterizes
13 what this is about. As I told you when we started the
14 hearing this afternoon, the Court has an independent duty,
15 and the lawyers on both sides cannot in a criminal matter
16 simply stipulate to things that are required under the
17 rules.

18 I have to go further than that, and I have to follow
19 the case law as to the unavailability of this particular
20 witness. There are potentially two different issues. One
21 has to do with one provision of the rule, which I think is
22 (a) (1), 804, and the other has to do with 804 (a) (4), which
23 is one that has to do with illness or incapacity or so
24 forth.

25 So before we do this telephonically, I just want the

Teleconference - DiBlasio

1 record to reflect what the actual situation of the parties
2 is in regard to doing it by phone rather than having the
3 gentleman come up to Cleveland. It was my understanding
4 that everybody was concerned about his health.

5 MR. TRAFICANT: I think I stated earlier I
6 didn't want to see him put through that. I thought that
7 had solved it, however. I didn't think we were going into
8 a soap opera here, and I object to this as a soap opera.

9 THE COURT: Well, you can call it a soap
10 opera, but it's required under the law --

11 MR. TRAFICANT: Fine.

12 THE COURT: -- to do some inquiry. So this
13 is an opportunity to do that. I don't know whether we'll
14 start right this minute or when. Do we make the phone
15 call?

16 THE CLERK: Yes.

17 THE COURT: Okay. Very well.

18 Yes, this is Lynn from Judge Wells' chambers
19 for the telephone conference.

20 MR. KERSEY: Yes, Lynn.

21 THE CLERK: Just a minute, Mr. Kersey.

22 MR. KERSEY: Yes, ma'am.

23 THE CLERK: Mr. DiBlasio?

24 MR. DiBLASIO yes.

25 THE COURT: This is Lynn from Judge Wells'

Teleconference - DiBlasio

1 chambers.

2 MR. DiBLASIO: Wait until my answering device
3 goes off. Okay.

4 THE CLERK: Mr. Kersey.

5 MR. KERSEY: Yes, ma'am.

6 THE CLERK: And Mr. DiBlasio.

7 MR. DiBLASIO: Yes.

8 THE COURT: We're going to have -- this is an
9 open court proceeding. The Defendant in this case is
10 present as well as lawyers for the U.S. Attorney's Office,
11 and Mr. Kersey has presented the Court with a letter, which
12 the Court can't act alone on. We need to have specific
13 questions asked of this witness and see what he asserts
14 then, and then do it question by question, and see where we
15 are.

16 So this is really a hearing to determine whether or
17 not this witness is unavailable under any provision of Rule
18 804(a).

19 MR. KERSEY: Yes, Judge, I can hear you well.
20 But not great.

21 THE COURT: Did you hear what I was -- what I
22 said?

23 MR. KERSEY: Yes, your Honor, I can hear you.

24 THE COURT: Okay. And your client's on the
25 other line; is that right?

Teleconference - DiBlasio

1 MR. KERSEY: That's right, if you hear the
2 Court, Henry?

3 MR. DiBALSIO I can hear your Honor sort of
4 very, very lightly, but can I -- can you hear me?

5 THE COURT: Yes, we can hear you very well,
6 sir.

7 MR. DiBLASIO: What she says, yes.

8 MR. KERSEY: She can hear you.

9 MR. DiBLASIO your Honor, on advice of
10 counsel, Jim Kersey and Dave Grant, I decline to answer any
11 questions in accordance with the protection offered to me
12 under the Fifth Amendment of the constitution of the United
13 States. Is that enough, your Honor?

14 THE COURT: Well, let's -- let's -- let's
15 have the Government pose a couple of questions to you, and
16 then you can respond to those questions.

17 MR. DiBLASIO: I didn't hear that.

18 MR. KERSEY: She'll post a couple questions
19 to you, and you can respond.

20 MR. DiBLASIO: You tell me if I can't hear.

21 MR. KERSEY: Okay.

22 MR. SMITH: Mr. Kersey and Mr. DiBlasio, my
23 name is Bernard Smith. I'm assistant United States
24 Attorney with the U.S. Attorney's Office for the Northern
25 District of Ohio.

Teleconference - DiBlasio

1 MR. DiBLASIO: Okay.

2 MR. SMITH: I'm going to ask a few questions.

3 MR. DiBLASIO: Certainly.

4 MR. SMITH: All right.

5 Sir, first of all, would you please state your full
6 name?

7 MR. DiBLASIO: Henry A. DiBlasio spelled
8 D-I-B as in boy, L-A-S-I-O.

9 THE COURT: Mr. DiBlasio, do you know a man
10 by the name of James A. Traficant, Junior.

11 MR. DiBALASIO: I certainly do.

12 MR. SMITH: And have you ever worked for him
13 in any fashion?

14 MR. DiBLASIO: Well, yes, I did. Everybody
15 knows that for about 15 years or so before I retired.

16 MR. SMITH: And do you know Congressman
17 Traficant's office manager by the name of Jackie Bobby?

18 MR. DiBLASIO: Well, yes. Am I supposed to
19 answer these, Jim or --

20 MR. KERSEY: Would start taking the Fifth
21 Amendment now.

22 MR. DiBLASIO: I'm going take the Fifth
23 Amendment.

24 MR. TRAFICANT: Are we determining his
25 medical capability. I object. Do we determine his medical

Teleconference - DiBlasio

1 capability to be here, or are you letting him examine a
2 witness here today? What are you doing? I -- I now want
3 to know.

4 THE COURT: We're doing exactly what we told
5 you we were going to do.

6 MR. TRAFICANT: No, you're not. He's
7 questioning on relevant matters pursuant to testimony
8 that's been brought forth in this trial.

9 THE COURT: He's questioning him, and he's
10 allowed to ask questions, and now he's just said that he
11 wants to assert his Fifth Amendment privilege.

12 MR. SMITH: Your Honor, I'll ask one more
13 question.

14 MR. KERSEY: All right.

15 MR. SMITH: All right. The -- Bernard Smith
16 back on the line again.

17 MR. DiBLASIO: Go ahead.

18 MR. SMITH: The question is in the mid
19 1980's, did you ever tell Jackie Bobby that you were paying
20 part of your congressional salary back to Congressman
21 Traficant?

22 MR. DiBLASIO: Jim, what shall I do? Would
23 I take the Fifth to answer?

24 MR. KERSEY: That's correct.

25 MR. DiBLASIO: Okay.

Teleconference - DiBlasio

1 MR. TRAFICANT: What was the answer?

2 THE COURT: He refuses to answer.

3 MR. TRAFICANT: Now, can I ask him questions.

4 THE COURT: You can ask a couple questions.

5 MR. TRAFICANT: Mr. DiBlasio, Henry.

6 MR. DiBLASIO: I can't hear too well.

7 MR. TRAFICANT: This is Jim Traficant. Can
8 you hear me?

9 MR. DiBLASIO: No.

10 THE COURT: Come closer to the phone,
11 Congressman.

12 MR. DiBLASIO: No. It's very fuzzy.

13 MR. TRAFICANT: This is Jim Traficant. Can
14 you hear me now?

15 MR. DiBLASIO: Yes.

16 MR. TRAFICANT: Yeah.

17 Are you in ill health, Henry?

18 MR. DiBLASIO: Very badly. I'm -- I don't
19 even want to go into details, but I've had five coronary
20 bypasses, and three angioplasty. You need to know anymore?

21 MR. TRAFICANT: You notified me the
22 Government pressured you so bad you almost died.

23 MR. KERSEY: You would take the Fifth
24 Amendment to that.

25 MR. DiBLASIO: I'm going to take the Fifth

1 Amendment. I'm sorry, Jim.

2 MR. TRAFICANT: No further questions.

3 THE COURT: Thank you.

4 MR. SMITH: No additional questions from the
5 Government, your Honor.

6 THE COURT: Very well. This is a witness who
7 is unavailable by reason of his assertion of the Fifth
8 Amendment privilege and so we can close this hearing.
9 Thank you.

10 THE COURT: Mr. Morford?

11 MR. MORFORD: Your Honor, when we ended the
12 questioning, Mr. Smith said he had no further questions.
13 This witness is now going to be brought back, and we would
14 request that without getting into detail. But would the
15 Court indicate there were some matters that the Court had
16 to address outside the jury's presence with this witness,
17 and that's why the witness is being brought back?

18 THE COURT: All right.

19 MR. MORFORD: Thank you.

20 THE COURT: Are you bringing her back now?

21 MR. SMITH: Yes, your Honor.

22 THE COURT: That's good because the jury's
23 ready to go. It's 3:30. We only have an hour with the
24 schedule.

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

Bobby - Direct/Smith

1 THE COURT: Thank you. You're still under
2 oath. Just so the jury understands, we're bringing a
3 witness back around. We had an opportunity while you were
4 on break to take care of something I needed to take care
5 of. And so the lawyers knew beforehand that we might
6 recall this witness, and now we're recalling her briefly,
7 and we've done our work, and now you get to hear testimony.

8 JACQUELINE BOBBY,
9 of lawful age, a witness called by the GOVERNMENT,
10 being previously duly sworn, was examined
11 and testified as follows:

12 DIRECT EXAMINATION OF JACQUELINE BOBBY

13 BY MR. SMITH:

14 Q. Ms. Bobby, on your prior examination today, were you
15 asked some questions about Henry DiBlasio?

16 A. Yes.

17 Q. All right.

18 Did during the time that you worked for Congressman
19 Traficant, did Henry DiBlasio ever talk to you about his
20 pay situation?

21 A. Yes, he did.

22 MR. TRAFICANT: Objection, as to hearsay.

23 THE COURT: I issued an order in this case,
24 which covered your objection, and now --

25 MR. TRAFICANT: Just for the record, just for

Cross - Bobby

1 the record.

2 THE COURT: That's fine. Thank you.

3 BY MR. SMITH:

4 Q. And approximately when did this conversation occur?

5 A. It was in early tenure when the Congressman took
6 office. So it was sometime between 1985 and 1987.

7 Q. Where did this conversation occur?

8 A. In a restaurant in Niles, Ohio, at a lunch.

9 Q. Who was present at the table at that lunch?

10 A. Henry DiBlasio and myself.

11 Q. And what did Mr. DiBlasio say to you about his pay
12 situation?

13 A. He told me -- he said to me that he was working here
14 with Congressman Traficant, and he had -- he was giving him
15 back so much money per month out of his congressional
16 salary.

17 Q. Did Mr. DiBlasio indicate any amount to you that he
18 was giving back?

19 A. I can't remember the amount.

20 MR. SMITH: No further questions, your Honor.

21 THE COURT: Thank you. You can inquire

22 CROSS-EXAMINATION OF JACQUELINE BOBBY

23 BY MR. TRAFICANT:

24 Q. Jackie, you in your testimony, you more or less
25 intimated you resented the fact he did no work, and you did

Cross - Bobby

1 most of the work; is that correct?

2 A. No, I never said I resented him.

3 Q. Oh.

4 But, you're saying an attorney at law met with you in
5 a restaurant in Niles, Ohio, which is approximately 25
6 miles from Youngstown, and gave you information of a
7 felonious act, is that your testimony?

8 A. We went together. He didn't meet me there. We went
9 together and stopped for lunch, yes, and then he told me
10 that.

11 Q. But he didn't say any amounts, right?

12 A. No.

13 Q. He just said he gave paybacks, was that your word you
14 used?

15 A. Yes.

16 MR. TRAFICANT: No further questions.

17 THE COURT: Thank you.

18 MR. SMITH: No redirect.

19 THE COURT: Thank you. You're excused.

20 THE WITNESS: Thank you very much.

21 THE COURT: Remember how I told you the
22 climate would change in here? I think it changed, didn't
23 it? It's beginning to feel like a sauna. We really have
24 to come prepared.

25

Semesky - Direct/Morford

1

DONALD SEMESKY, JR.

2

Of lawful age, a witness called by the GOVERNMENT,

3

being first duly sworn, was examined

4

and testified as follows:

5

DIRECT EXAMINATION OF DONALD SEMESKY, JR.

6

BY MR. MORFORD:

7

Q. Good afternoon.

8

A. Good afternoon.

9

Q. Could you please state your name for the jury and

10

spell your last name?

11

A. My name is Donald Charles Semesky, Junior, spelled

12

S-E-M-E-S-K-Y.

13

Q. And what do you do for a living, Mr. Semesky?

14

A. I'm employed as a Special Agent with the IRS Criminal

15

Investigation Division.

16

Q. How long have you been a Special Agent with the IRS

17

Criminal Investigation Division?

18

A. Approximately 28 and a half years.

19

Q. And as part of your duties as a Special Agent, were

20

you assigned the task of reviewing and summarizing

21

information contained on some financial records that relate

22

to this case?

23

A. Yes, I was.

24

Q. And as part of that process, did you review the

25

congressional paychecks of Allen Sinclair?

Semesky - Direct/Morford

1 A. Yes, I did.

2 Q. Did you also review deposit slips, cash withdrawal
3 slips, and bank account statements with respect to the bank
4 account of Allen Sinclair?

5 A. That's correct.

6 Q. And did you prepare a summary chart of some kind that
7 would list out the paychecks and what banks the paychecks
8 were deposited into and what, if any, cash was received
9 back from each of those paychecks?

10 A. That's correct.

11 MR. MORFORD: Your Honor, at this time, I
12 would ask to be able to display to the jury Government's
13 Exhibit 1-9.

14 THE COURT: Thank you.

15 BY MR. MORFORD:

16 Q. Special Agent Semesky, are you familiar with the
17 chart that has just been displayed to the jury?

18 A. Yes, I am.

19 Q. And can you tell us who actually prepared that chart?

20 A. I prepared the chart, a smaller version of the chart
21 blown up by our trial illustration section.

22 Q. Okay. And can you walk us through the different
23 items at the top, and tell us what the chart reflects?

24 A. Sure.

25 The chart is made to reflect Mr. Sinclair's

Semesky - Direct/Morford

1 negotiation of his congressional salary checks, and all the
2 chart does is explain income levels, Mr. Sinclair's receipt
3 of the check, the date he negotiated the check, and how he
4 negotiated the check and what, if any, cash he received
5 back, going across the top, the column, check date is the
6 actual date of the check, and that would be the treasury
7 salary check and the congressional salary check. If you'll
8 notice Lines 2 and 6 do not relate to a congressional
9 salary check. They're cash withdrawals from his account,
10 and I'll explain that shortly.

11 The second column is the Check Number, the number of
12 the congressional salary check, the third column is the
13 amount of the check, the fourth column is the date that
14 Mr. Sinclair negotiated the check at his bank, which is
15 reflected in the fifth column, Home Savings and Loan
16 Company, and the sixth column is the cash generated from
17 those checks, with the last column explaining what happened
18 and what type of negotiation it was.

19 Q. Okay. If we start -- there's a glare on there, but
20 if we start to the very first item, says check dated
21 December 18, 1998. Can you tell us what the bank records
22 showed happened with respect to the negotiation of the
23 December 18, 1998, check of any cash that was generated?

24 A. The bank records show that Mr. Sinclair received --
25 negotiated that check on the 21st of December, of 1998, at

Semesky - Direct/Morford

1 Home Savings and Loan Company, by depositing it to his
2 account, and 230361036, I believe.

3 Q. Okay. And then was there a time when there was a
4 cash withdrawal?

5 A. Yes, if you look on Line 2 of the chart on the 28th
6 of December, 1998, Mr. Sinclair withdrew \$2500 from that
7 same account.

8 Q. Okay. How about the January 29, 1999, paycheck?

9 A. The -- that paycheck was only partially deposited
10 into the -- into Mr. Sinclair's account. And if you look
11 in the last column where it says split deposit, what that
12 means is that part of the paycheck was deposited and part
13 was returned in cash.

14 Q. And that would be the \$2500 amount?

15 A. That's correct.

16 Q. And how about the third check, this one dated
17 February 26, 1999?

18 A. The third check was negotiated at Home Savings and
19 Loan Company by Mr. Sinclair on March 8, 1999. And he
20 received \$2500 in cash, the remainder deposited to his
21 account.

22 Q. How about the next check, March 31, 1999?

23 A. On that -- on that date, he -- the bank records
24 reflect that he deposited that check and on the same date
25 withdrew \$2500 from the account.

Semesky - Direct/Morford

- 1 Q. How about the April --
- 2 A. In cash.
- 3 Q. The April 30, 1999, paycheck?
- 4 A. The bank record shows that on May 3, 1999,
- 5 Mr. Sinclair, again split his deposit at Home Savings and
- 6 Loan and received \$2500 in cash, the rest going into the
- 7 account.
- 8 Q. How about the May 1999 paycheck?
- 9 A. The May check was negotiated on June 2, 1999, at Home
- 10 Savings and Loan. Again, Mr. Sinclair received \$2500 in
- 11 cash. The rest was deposited to his account.
- 12 Q. June 1999 paycheck?
- 13 A. June '99, was negotiated on June 29th, 1999, at Home
- 14 Savings and Loan Company. Mr. Sinclair received \$2500 in
- 15 cash and deposited the remainder to his account.
- 16 Q. How about the July 1999 paycheck?
- 17 A. July was negotiated on August 2, 1999, at Home
- 18 Savings and Loan Company. Mr. Sinclair received back \$2500
- 19 in cash, the remainder was deposit today his account.
- 20 Q. How about the August paycheck?
- 21 A. The August paycheck was negotiated by Mr. Sinclair
- 22 again at Home Savings and Loan, on September 1, 1999. He
- 23 received back \$2500 in cash. The remainder was deposited
- 24 to his account.
- 25 Q. The September paycheck?

Semesky - Direct/Morford

1 A. September was negotiated on October 5, 1999, at Home
2 Savings and Loan Company. Mr. Sinclair received back \$2500
3 in cash, and deposited the remainder to his account.

4 Q. And the October paycheck?

5 A. The October paycheck was negotiated on November 2,
6 1999, at Home Savings and Loan Company. Mr. Sinclair
7 received \$2500 in cash and deposited the remainder to his
8 account.

9 Q. The November paycheck?

10 A. The November paycheck was negotiated on November
11 30th, 1999, at Home Savings and Loan Company. Mr. Sinclair
12 received \$2500 in cash and deposited the remainder to his
13 account.

14 Q. And finally the December 1999 paycheck?

15 A. The December '99 paycheck was negotiated on December
16 29, 1999, at Home Savings and Loan Company. Mr. Sinclair
17 received back \$2500 in cash and deposited the remainder to
18 his account.

19 Q. Based on your analysis then, would Mr. Sinclair have
20 had access to \$2500 cash from every one of his paychecks
21 from December 1998 through December of 1999?

22 A. Yes, he would.

23 Q. Next I would like to ask you, did you also attempt to
24 review congressional paychecks for Henry DiBlasio?

25 A. Yes, I did.

Semesky - Direct/Morford

1 Q. And how far back were you able to obtain and review
2 congressional paychecks for Henry DiBlasio based on the
3 records that were available?

4 A. In -- back to 1996, I believe it was June or
5 somewhere around there.

6 Q. And in reviewing those checks, were you able to
7 determine from those checks which banks the checks were
8 actually negotiated at?

9 A. Yes, I was. The bank stamp was reflected on the back
10 of the check.

11 Q. And was there one bank or more than one bank?

12 A. I believe there were four banks.

13 Q. And have you prepared a summary of the amount of
14 those checks and the bank where each of those checks were
15 negotiated?

16 A. Yes, I have.

17 MR. MORFORD: And, your Honor, at this point,
18 I'd like to display what's been marked Government's Exhibit
19 1-25.

20 THE COURT: Fine.

21 MR. TRAFICANT: What is that Exhibit Number
22 there.

23 MR. MORFORD: The first was 1-9.

24 MR. TRAFICANT: Thank you.

25 BY MR. MORFORD:

Semesky - Direct/Morford

1 Q. Again, can you walk us through just what is on the
2 chart?

3 A. This chart is very similar to the chart of
4 Mr. Sinclair's salary checks. Again, the check date is
5 reflected for the congressional salary check along with the
6 Check Number in column 2, column 3, the amount of the
7 check. 4 is the date that the check was negotiated by Mr.
8 DiBlasio. 5 is the identification of the name of the bank
9 where the check was negotiated. And column 6 is comments
10 of what happened or what did not happen to that check. If
11 you notice, it says -- many of the columns it was not
12 deposited into the account.

13 Q. Okay. In fact, do all of the checks indicate they
14 were not deposited to any -- to an account Mr. DiBlasio had
15 at that bank except for one?

16 A. That's correct.

17 Q. Okay. Let's just focus on the one, and particularly
18 I'm drawing your attention to the check dated 11-4-1996.

19 A. Actually, that is not salary check. That check is a
20 check drawn by Mr. DiBlasio on his -- on the account, which
21 was -- the check was dated 11-4 of 1996, payable to cash in
22 the amount of \$1,000.

23 Q. Okay. Going right above that check then, check 852
24 you're referring to; is that correct?

25 A. That's correct.

Semesky - Direct/Morford

1 Q. And that's the check of \$1,000?

2 A. Drawn on Mr. DiBlasio's account, that's correct.

3 Q. And you said the account was drawn to cash?

4 A. Yes.

5 Q. Okay.

6 Just above that, there's an entry October 31, 1996,
7 you see that?

8 A. Yes.

9 Q. And what was that?

10 A. That was a congressional salary check, and it was in
11 the amount of \$4200.41. Mr. DiBlasio deposited that check
12 to his account at Home Savings and Loan Company on November
13 2, 1996.

14 Q. Is that the only check that from the checks you saw
15 that was actually deposited into the account at --

16 A. That's correct.

17 Q. And what happened then five days later?

18 A. Well, actually, two days later, from the deposit, the
19 deposit was on November 2. On the 4th, the check -- Check
20 Number 852 drawn to Mr. DiBlasio's account.

21 MR. TRAFICANT: What day are we talking
22 about?

23 MR. MORFORD: 11-2-96.

24 THE WITNESS: Was negotiated at Home Savings
25 and Loan.

Semesky - Direct/Morford

1 Q. Now, from the checks themselves, are you able to tell
2 on those checks that were not deposited to the account Mr.
3 DiBlasio had at the bank where the check was negotiated,
4 whether or not he actually received cash for the check?

5 A. The -- the banks differ on the way they cancel a
6 check and the notations they put on the check. One of the
7 banks -- and I believe it was Key Bank -- actually their
8 cancellation line showed the check was cashed. The other
9 banks, I could not tell from their stamps. The banks
10 themselves would be able to identify how the check was
11 negotiated.

12 Q. So we'd have to hear from a representative of the
13 bank itself to identify the stamp to indicate whether it
14 was cashed?

15 A. That's correct. It did not go into the account,
16 however.

17 Q. Now, that you also prepared a summary chart regarding
18 congressional salaries that were being paid to employees of
19 Congressman Traficant during the years 1996, 1997, 1998,
20 and 1999?

21 A. Yes, I did.

22 Q. And from what source of information did you prepare
23 the figures that are listed on that summary chart?

24 A. It was a public record, the statement of
25 disbursements from the House of Representatives.

Semesky - Direct/Morford

1 Q. Is this a publication that the House of
2 Representatives puts out every year?

3 A. That's correct.

4 Q. And are these official figures of the House of
5 Representatives?

6 A. I believe so, yes.

7 Q. And so then you summarize those figures on the chart;
8 is that correct?

9 A. Yes, I did.

10 MR. MORFORD: Your Honor, at this time, I
11 would ask to display what has been marked as Government's
12 Exhibit 1-26(1).

13 THE COURT: Very well.

14 Q. Do you recognize this chart?

15 A. Yes, I do.

16 Q. Okay. And can you tell us again, just taking us
17 through the columns, what the chart represents?

18 A. This chart represents a congressional salary that
19 were disbursed to Congressman Traficant's staff as
20 reflected in the statement of disbursements published by
21 the House of Representatives, and it covers years 1996
22 through 1999. The statements actually are issued on a
23 quarterly basis or reflected on a quarterly basis, and what
24 I did was had each of the four quarters for each of the
25 years to get the figures reflected on the chart.

Semesky - Direct/Morford

1 Q. Starting with 1996, who were the four highest paid
2 staff members of the congressional office of Congressman
3 Traficant during 1996 by name, position, and then the
4 amount of their income?

5 A. In 1996, they were Paul P. Marccone, chief of staff,
6 and he received a salary of \$88,416.66, Henry A. DiBlasio,
7 administrative assistant, the salary of \$80,000.04.,
8 Charles Patrick O'Nesti district director, salary
9 \$72,124.96. And Daniel Ross Blair, legislative director,
10 salary \$46,991.65.

11 Q. Turning your attention, do you see two additional
12 names, Jackie Bobby and Grace Maria Yavorsky?

13 A. Yes, I do.

14 Q. Those would be here?

15 A. Yes.

16 Q. And what were their salaries in 1996?

17 A. Their salaries were \$38,216.65 for Jackie Bobby, 66
18 cents, for Grace Yavorsky.

19 Q. Turning to 1997, who were the four highest paid
20 employees in 1997, and what were their positions and
21 salaries?

22 A. In 1997, the four highest paid were Paul P. Marccone,
23 salary of \$91,338.92; Henry A. DiBlasio, salary was
24 \$80,472.22, Charles Patrick O'Nesti, salary \$74,961.14 and
25 Daniel Ross Blair salary \$48,968.77.

Semesky - Direct/Morford

1 Q. And Mr. Blair was the legislative director; is that
2 correct?

3 A. That's correct.

4 Q. And how about 1998?

5 A. 1998, the four highest paid salaries were Paul P.
6 Marcone, \$101,511.09; Henry A. DiBlasio, \$86,538.93, and
7 you'd have to go to --

8 Q. What's the three lines? That's fine.

9 A. In that particular, Daniel Blair would be the third
10 highest \$51,966.69.

11 Q. And in 1998, is there a new employee that shows up
12 the first time named R. Allen Sinclair?

13 A. Yes, there is.

14 Q. Now, turning to 1999, who were the three highest paid
15 staff employees of Congressman Traficant's office in 1999?

16 A. Paul P. Marcone, at \$109,195.59; R. Allen Sinclair,
17 \$60,169.40, and Daniel Ross Blair \$54,700.

18 Q. Next I'd like to ask you if you've reviewed the
19 records of Bank One, account Number 400900018 and the name
20 of James A. Traficant, Junior?

21 A. Yes, I did.

22 Q. And for what purpose did you review the records of
23 that account?

24 A. To see if there were any cash deposits reflected to
25 that particular account.

Semesky - Direct/Morford

1 Q. And what did you find when you looked at the bank
2 records for that particular account?

3 A. There were some cash deposits, yes.

4 Q. And did you prepare a summary chart reflecting the
5 cash deposits into that account?

6 A. Yes, I did.

7 MR. MORFORD: And, your Honor, at this point,
8 I'd like to ask permission to display that chart.

9 Q. Once again, can you walk us through the different
10 columns of that chart, explain what that shows?

11 A. This chart has four columns, first being the date of
12 the deposit of currency, the second, the name of the bank,
13 which is all Bank One, third, the Account Number is all the
14 same account, 400900018, and the fourth column is the
15 amount of currency that was deposited on that particular
16 day.

17 Q. Okay. And the Exhibit number on this particular
18 chart is Exhibit 1-27.1; is that correct?

19 A. I believe so, yes.

20 Q. Now, is there any way for you to determine the actual
21 source of the cash that's being deposited into this account
22 through this period of September 19, 1995, through November
23 9th, 1999?

24 A. No. Cash by its nature does not leave a financial
25 footprint. So it's very difficult, if not impossible, to

Semesky - Direct/Morford

1 determine source of cash.

2 Q. As a Special Agent with the IRS, do you, as part of
3 your duties, do you try to track financial transactions?

4 A. Yes, I do.

5 Q. And what particular difficulties do you have when
6 you're presented with the use of cash as opposed to checks
7 or other bank transactions?

8 A. As I just explained, cash doesn't leave a financial
9 footprint or an audit trail, and the best analogy or
10 comparison would be to the checks that we just showed you
11 on the other three charts, and that -- those checks, you
12 could see a lot of information through the check was
13 payable to the date of the transaction -- the date of the
14 check, the date that the check was negotiated, who
15 negotiated the check, where the check went, what account it
16 went into. All that is available, all that information is
17 available.

18 Cash on the other hand, because of its nature being
19 really bare form, as soon as cash is transferred from one
20 party to the next, there's no trail, there's no historical
21 evidence that an investigator can go back to a
22 document-wise to trace where that cash went.

23 Q. So as far as your analysis, once the cash leaves this
24 account, that's as far as you can take it?

25 A. That's as far as I can take it backwards. Forwards,

Semesky - Cross

1 once it's in the account, I can trace it out of the
2 account. Backwards, it's very difficult independent of any
3 corroborating testimony or other documents telling where
4 that cash came from.

5 MR. MORFORD: Just one moment, your Honor.

6 No further questions.

7 THE COURT: Thank you. Congressman

8 CROSS-EXAMINATION OF DONALD SEMESKY, JR.

9 BY MR. TRAFICANT:

10 Q. Is it Semesky?

11 A. Yes, sir.

12 Q. 28 and a half years?

13 A. That's correct, sir.

14 Q. You have a lot of background in criminal
15 investigation work of IRS matters, don't you?

16 A. Yes, sir.

17 Q. Are you familiar with my legislation that would
18 abolish the IRS, sir?

19 A. Abolish the IRS?

20 Q. Yes. And create national sales tax?

21 A. No, sir.

22 Q. Have you dealt on any matters concerning me in
23 previous years?

24 A. No, sir, I haven't.

25 Q. Who, in fact, asked you to do this summary?

Semsky - Cross

1 A. Mr. Morford.

2 Q. Is he in the room?

3 A. Yes, sir.

4 Q. Point to him.

5 A. (Indicating).

6 MR. TRAFICANT: Let the Court reflect he's
7 made a positive identification.

8 THE COURT: That is Mr. Morford

9 BY MR. TRAFICANT:

10 Q. Did you audit Jim Traficant for the last seven years
11 as you're entitled to under law?

12 A. Did I? No, sir, I did not.

13 Q. Did the Government ask you to audit me?

14 A. No, sir.

15 Q. Did you do a net worth on me?

16 A. No, sir.

17 Q. Did you check my assets and what I own?

18 A. I did not, no.

19 Q. Do you know if any IRS agent was asked to, in fact,
20 perform a net worth on Jim Traficant?

21 A. I know there was an investigation of you,
22 Congressman, that I believe began in 1999. Sure, as part
23 of that investigation, there was investigation into assets
24 that you owned. I don't know if there was any net worth
25 computation done of that investigation. I know -- I know

Semesky - Cross

1 the computation that the Special Agent used was what we
2 call specific items, which they took individual items and
3 income and added them up instead of doing the other type of
4 net worth --

5 Q. Did you interview anybody about Jim Traficant?

6 A. No, sir, I did not.

7 Q. All you did is you looked at numbers?

8 A. That's correct.

9 Q. Right?

10 A. Yes, sir.

11 Q. Okay.

12 And there was no audit to the best of your knowledge?

13 A. There was -- this particular case involved a criminal
14 investigation. It was not an audit.

15 Q. Well, let me ask you this: If the IRS is going to go
16 after somebody, wouldn't they audit him if, say, he's
17 spending a lot of cash, wouldn't they go to a neighbor,
18 wouldn't they go to the grocer, wouldn't they go to a car
19 dealer, wouldn't they go and see if he, in fact, spent and
20 expended some cash, or would they just give us a report on
21 a bulletin board?

22 A. No, sir, the IRS -- again, it depends on the
23 allegations that are made and what the IRS is looking into
24 and which division, whether it's a civil examination or a
25 criminal investigation, and again, depending on the type of

Semesky - Cross

1 evidence that's uncovered, it could proceed and in several
2 different ways to determine what yours or anybody else's
3 income is for a particular year.

4 One would be to determine value of assets through a
5 net worth computation. The other would be a specific item
6 computation wherein we would take items of income and add
7 them up and compare that to the report on the return.

8 Q. And you did none of that?

9 A. I personally did none of that, no, sir.

10 Q. Do you know if anybody at the IRS did any of that?

11 A. I'm sure that Special Agent Chuck Perkins did.

12 Q. You believe there was then an audit. Is that your
13 testimony?

14 A. No, sir, there was a criminal investigation.

15 Q. I see. So you have no knowledge of an audit?

16 A. No, sir.

17 Q. No knowledge of a net worth?

18 A. No.

19 Q. No knowledge after asset statement?

20 A. No, sir.

21 Q. No knowledge of a cash expenditure trail?

22 A. There's always -- there's evidence of all of that,
23 but the way your income was computed for this investigation
24 was specific items, specific items of income and added it
25 up.

Semesky - Cross

1 Q. Let me ask you this: Were you in a vacuum, or did
2 you meet with Mr. Perkins?

3 A. I met with Mr. Perkins, yes.

4 Q. How many times did you meet with Mr. Perkins?

5 A. A number of times. I've been in Cleveland five
6 times.

7 Q. Did you have occasion to visit anybody with
8 Mr. Perkins relative to the investigation of Jim Traficant?

9 A. No, sir, I did not.

10 Q. Did Mr. Perkins disclose to you that, in fact, he had
11 these assets and other elements of investigation performed?

12 A. He would have performed them, and he did --

13 Q. Excuse me. I didn't ask you that. I asked you, did
14 Mr. Perkins inform you that he had these items performed
15 relative to net worth, cash expenditure flow, visitation to
16 people where cash could have been expended?

17 THE COURT: It's a lot of questions. You
18 need to ask him one question.

19 MR. TRAFICANT: Let's ask the first one.

20 Q. Did Mr. Perkins say to you that he did an asset
21 survey and study of Traficant?

22 A. We don't -- you're using a term that is not used
23 in --

24 Q. Go ahead and use your term.

25 A. The term would be a net worth computation.

Semsky - Cross

- 1 Q. Did he say he did a net worth computation to you?
- 2 A. No, sir, he did not.
- 3 Q. Did he ask you at any point would you assist in doing
- 4 such a thing?
- 5 A. No, sir, he did not.
- 6 Q. Did he state to you that he, in fact, did a cash flow
- 7 expenditure review of Traficant's activities?
- 8 A. He did not state that, no.
- 9 Q. Did he ask you to assist in that?
- 10 A. No, sir.
- 11 Q. You've been an agent for 28 and a half years, and you
- 12 work in the criminal division?
- 13 A. That's correct.
- 14 Q. And you're working with the lead IRS agent evidently,
- 15 which is Mr. Perkins in the Traficant case; is that
- 16 correct?
- 17 A. Yes, sir.
- 18 Q. And he gave you no information other than he wanted
- 19 you to put together a summary chart?
- 20 A. That was all I was asked to do in this trial.
- 21 Q. Were you in any one of those banks?
- 22 A. I spoke to people over the phone at those banks, but
- 23 I was not -- I did not visit any of those banks.
- 24 Q. So you then did some investigation relative to it so
- 25 you just didn't put what the Government gave you in a

Semesky - Cross

1 summary chart; is that correct?

2 A. Well, where there was a note for additional
3 information, I did as requested.

4 Q. And naturally, did you do that with subpoena, or did
5 you do that with warrant?

6 A. I believe the -- excuse me.

7 Q. Help yourself.

8 A. I believe the banks were already subpoenaed, and this
9 is just a follow-up contact.

10 Q. So you then called the bank, and you said I'm the guy
11 that the IRS is sending out to talk to. Is that about it?

12 A. Well, what I did, I requested additional information
13 for them to recheck their records to see if there was --
14 additional documents of certain transactions.

15 Q. Did you have occasion to meet with Treasury
16 Department agents relative to this case, other than IRS?

17 A. No, sir.

18 Q. Did you visit a fellow by the name of George Hooker
19 in Ohio?

20 A. No, I don't know who he is.

21 Q. Did Mr. Perkins ever discuss with you income activity
22 generated by a piece of property owned by the Traficant
23 family?

24 A. No, sir.

25 Q. And you never heard about that legislation that would

Semesky - Redirect/Morford

1 abolish your job?

2 A. No, Congressman, I haven't.

3 MR. TRAFICANT: No further questions.

4 THE COURT: Thank you.

5 MR. MORFORD: Just a couple, your Honor.

6 REDIRECT EXAMINATION OF CHARLES SEMESKY, JR.

7 BY MR. MORFORD:

8 Q. I'm going to ask a couple follow-up questions on the
9 book end questions that Congressman Traficant started with,
10 on the bill to abolish the IRS.

11 Even if there was a national sales tax, who would see
12 to it it was enforced fairly?

13 A. Unless there was another agency created, I would
14 imagine the IRS.

15 Q. What exactly are the functions of the IRS, what
16 function does it serve?

17 A. The IRS really serves two functions: It is the
18 processing agent for all the millions of tax returns and
19 tax revenues that are collected by the Government, and it
20 also serves a function of servicing the tax paying public;
21 that is, to assist taxpayers with their filing of tax
22 returns, and to, as part of that also, the operational
23 functions would be to administer and enforce the Internal
24 Revenue laws, and the purpose of that is to help ensure and
25 instill a confidence in the public that the IRS is

Semesky - Redirect/Morford

1 attempting to make sure that all Americans pay their fair
2 share of income tax, and that the tax burden is not put on
3 the shoulders of any of the honest taxpayers where other
4 taxpayers are not paying their fair share, are shifting
5 that burden.

6 Q. Shift -- you're saying somebody that doesn't pay
7 their fair share of taxes would be shifting it to whom?

8 A. They'd be shifting it to taxpayers who are reporting
9 all of their income. The Government's bill continuum has
10 to be paid by someone.

11 Q. Does the IRS actually set the tax rates and determine
12 how much people have to pay in taxes?

13 A. No, it's done by Congress.

14 Q. Now, you were asked questions about audits and net
15 worth and cash flow analysis. Are those things that are
16 done in every criminal investigation?

17 A. Part of the -- or not part of each, but one of the
18 others is done, and at times, both in every criminal
19 investigation. The criminal investigation attempts to
20 determine a taxpayer's true income for any particular
21 year. There are a number of methods that we use to do
22 that. The most direct and the best is the specific items
23 where we can identify specific items of income. They're
24 simply after they're identified, documented, added up,
25 compared to the tax return, to see if there's an

Semesky - Recross

1 understatement of income for that particular year. There
2 are other methods, such as the net worth computation where
3 if we're unable to identify specific items of income, say
4 if somebody in the cash business, then we would attempt to
5 determine how much money -- either how much money that
6 person expended during the -- or how much they brought in
7 by way of assets. Those expenditures would represent
8 income. From that, we would subtract any non-income type
9 items, such as loans or gifts to arrive at that person's
10 income for that particular year.

11 MR. MORFORD: Just one moment, your Honor.
12 Nothing further.

13 THE COURT: Congressman.

14 RE-CROSS-EXAMINATION OF DONALD SEMESKY, JR.

15 BY MR. TRAFICANT:

16 Q. Well, you know, since the Prosecutor brought it up,
17 it's fair game under recross, you know, this matter of bill
18 to abolish the IRS.

19 THE COURT: I think you brought that out.

20 MR. TRAFICANT: I did, but the Prosecutor did
21 bring that out, and he says is it not a fact that the IRS
22 would be in fact the enforcer of whatever the tax law would
23 be. And what was your answer.

24 THE WITNESS: My answer was absent the
25 creation of another agency or some other method of

Semsky - Recross

1 collecting processing the tax, I would imagine it would be.

2 Q. Well, actually, you see the bill would abolish the
3 16th amendment, kill all income taxes, abolish the IRS, and
4 have a small treasury unit that would go out after
5 retailers, not people. Did you know that?

6 A. No, sir.

7 Q. Did you know that the complete IRS would be fired?

8 THE COURT: He said he didn't know anything
9 about the bill.

10 MR. TRAFICANT: He brought it up.

11 Q. Now, you said you had several functions; basically to
12 assist the taxpayers, make sure they're not getting ripped
13 off.

14 Am I wrong in the interpretation of Government
15 witnesses who testified that 60 percent of the calls that
16 go to the IRS go unanswered, and it's one of the biggest
17 complaints that caused the IRS reform bill two years ago,
18 is that assistance, sir?

19 A. That assistance at the IRS is continuing to try to
20 upgrade, and assistance that the IRS has agreed with
21 Congress is lacking, and believe me, they're doing
22 everything they can to upgrade that.

23 Q. Okay.

24 Now, are you familiar with the fact that I did change
25 IRS law, the burden of proof in a civil tax case, are you

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1 familiar with that?

2 A. I did not know that you did it. I know that it was
3 changed.

4 Q. And the change means that before these jurors were
5 guilty, and they had to prove themselves innocent.

6 THE COURT: Whoa, whoa, whoa. Wait a minute,
7 whoa.

8 Q. No, I'm asking a question. Do you know that the
9 change in the burden of proof would mean that, for example,
10 these jurors in a civil tax course would be considered
11 guilty under the old law; yes or no?

12 MR. MORFORD: Objection.

13 THE COURT: Sustained.

14 Q. Do you have any knowledge of the old burden of proof
15 law, Mr. Semesky?

16 A. In a civil contest?

17 Q. Yes.

18 A. Yes, sir.

19 Q. What is the burden on?

20 A. The burden was placed on the taxpayer, which meant
21 that the IRS would require the taxpayer to produce records
22 to prove any income or deductions that they questioned, as
23 opposed to the new burden, which falls on the IRS, where
24 IRS, I believe, cannot force a production of those records
25 and must document it themselves.

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1 Q. Would that answer be simply to say the IRS now has
2 the burden of proof?

3 A. Yes.

4 Q. Now, was there also not a provision in there that
5 dealt with property liens; are you familiar with that?

6 MR. MORFORD: Objection.

7 THE COURT: Sustained. I don't know what
8 this has to do with this case.

9 MR. TRAFICANT: I think it has a lot to do
10 with the case.

11 THE COURT: Well, you will have to
12 demonstrate that to me.

13 MR. TRAFICANT: Okay.

14 THE COURT: And we'll do that after the jury
15 is recessed for the day because I can't see what that has
16 to do --

17 MR. TRAFICANT: I won't be that much longer
18 then, and I don't want to belabor the jury.

19 THE COURT: Thank you.

20 BY MR. TRAFICANT:

21 Q. You say many IRS investigations aren't necessarily to
22 do audit and net worth or cash flow type of activities, is
23 that your testimony?

24 A. It depends on the evidence that's available,
25 Congressman. The preferable method in a criminal

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1 investigation would be -- and even in a civil contest, if
2 the IRS is determining income, would be where we can
3 identify, specifically identify types -- amounts of income,
4 that's direct, and it's very accurate. And net worth is
5 more circumstantial in that we're determining how much a
6 person spent as opposed to how much they earned, and then
7 taking away any amounts of money that can come from a
8 non-taxable source, we arrive at income that way. So we do
9 net worth cases. It's preferable to do it the other way.

10 Q. So 28 and a half years, it is your testimony that you
11 have, for example, Jim Traficant, on trial, you're familiar
12 with that for sure, right?

13 A. Yes, sir.

14 Q. Okay. And the allegations are that he has taken an
15 awful lot of money from his staff illegally, isn't that
16 part of the investigation?

17 A. Yes, sir.

18 Q. And you are feverishly working on a paper trail to in
19 fact document through evidence the conclusive evidence that
20 would get this jury to say guilty; is that what you're
21 working on?

22 A. That's what the Government was working on, yes.

23 Q. And you would not want to know whether or not Jim
24 Traficant, between the years 1981 and 2002 went to anybody
25 and bought something for cash, is that your testimony here

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1 today?

2 A. Congressman, I --

3 Q. Yes or no.

4 A. It would depend on the --

5 Q. I didn't ask what it depended on, I asked yes or no.

6 THE COURT: Well, let him answer that.

7 MR. TRAFICANT: Answer it.

8 THE WITNESS: Congressman, it would depend on
9 how the income was being documented. And in this case --

10 Q. You didn't answer my question.

11 THE COURT: And you interrupted him again.

12 MR. TRAFICANT: Well, I apologize for the
13 interruption, but I think it's time that you answer my
14 question.

15 THE COURT: Well, then --

16 Q. I'm on trial, and you know I'm on trial for cash and
17 a lot of cash; is that correct, sir?

18 A. That's correct.

19 Q. And you're saying for 28 and a half years of
20 experience in criminal investigation work, you were not
21 asked to participate, to go out and find somebody that Jim
22 Traficant paid cash for, yes or no?

23 A. I was not asked to do that, no, sir.

24 MR. TRAFICANT: No further questions.

25 THE COURT: Anything further?

Semesky - Recross

1 MR. MORFORD: One second, your Honor. One
2 question, your Honor.

3 REDIRECT EXAMINATION OF DONALD SEMESKY

4 BY MR. MORFORD:

5 Q. If the subject you're investigating received cash in
6 envelopes but held on to those envelopes and wasn't out
7 spending the cash, would any net worth or cash flow
8 analysis help you in any way?

9 A. Not at all.

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Semesky - Recross

1 RECCROSS-EXAMINATION OF DONALD SEMESKY

2 BY MR. TRAFICANT:

3 Q. Mr. Semesky, your experience of 28 and a half years
4 as a criminal investigator, over 20 years, wouldn't someone
5 slip and make one cash purchase?

6 A. Congressman, every case is different. There are --
7 there could be, and -- but, to answer -- to go back to
8 Mr. Morford's question, if certain things were done, then
9 no, but if -- there could be cash expenditures, but as I
10 explained earlier, cash does not leave a trail. I could
11 take your checking account, and I could find all your
12 expenditures if you spent cash. I may or may not be able
13 to find where you spent it.

14 Q. Are you familiar with the legal term known as corpus
15 delicti?

16 A. No. Could you explain it to me?

17 THE COURT: It's okay. We really haven't had
18 an issue that would require us to explain it.

19 Q. It's about a body of crime, proving the body of a
20 crime. The body of crime here surrounds cash. Now
21 Mr. Morford stood up --

22 THE COURT: I'm sorry, but I have to tell you
23 about the law in this case. You need to ask questions of
24 the witnesses. Thank you.

25 MR. TRAFICANT: Okay. Thank you, thank you.

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1 Okay.

2 BY MR. TRAFICANT:

3 Q. At some point after 20 years, a reasonably prudent
4 investigator would feverishly be working, would you not
5 agree, to find cash expenditures on behalf of a defendant?

6 A. If I had a witness that would sit on the stand and
7 say I gave the Defendant cash, then probably not.

8 Q. You would just take the word of that witness?

9 A. I'd corroborate it with the method he said was paid
10 to the extent possible.

11 Q. If that witness was under protection from the Court
12 and made an agreement with the Government, you'd just take
13 his word and wouldn't corroborate it at all?

14 A. As I said, sir, I said I would corroborate it to the
15 extent possible, with independent documents.

16 Q. Okay. Did Mr. Perkins ever mention anything to you
17 about attempting to arrange a wire or a microphone or a
18 bugging of the Defendant?

19 A. No, sir.

20 Q. Did you suggest that to him?

21 A. I did not get involved in this case until the last,
22 probably three months ago, four months ago.

23 Q. So really you don't know that much about this case,
24 do you?

25 A. That's correct.

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1 MR. TRAFICANT: No further questions.

2 THE COURT: Thank you, sir.

3 THE WITNESS: Thank you, your Honor.

4 THE COURT: We're going to recess for the
5 day. We'll come in at the usual time tomorrow and begin at
6 the usual time tomorrow. Remember all your admonitions,
7 rules you have to live by. Enjoy yourselves this evening.
8 It's been nice weather for us. I'm really glad. So I hope
9 it holds up. We'll see you.

10 (Proceedings in the absence of the jury:)

11 I'm not aware of anything we need to handle
12 this evening. Is there anything?

13 MR. MORFORD: The only thing would be details
14 of the deposition so we can get that set.

15 THE COURT: Well, that's right. I did give
16 you a deadline, didn't I?

17 MR. TRAFICANT: Your Honor, I'd like to make
18 the suggestion --

19 THE COURT: You all can be seated or you can
20 get up and leave if you want to.

21 MR. TRAFICANT: -- on this deposition. I
22 don't know what their thinking is on flying down, where
23 they're flying down from, but I'm assuming they're paying
24 my expenses.

25 THE COURT: You asked them, they said they

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1 would.

2 MR. TRAFICANT: And I would make my own
3 arrangements.

4 THE COURT: What I need to do is hear from
5 them. They were supposed to report back to the Court, and
6 so let's listen to them, and I'll listen and you listen,
7 and then we'll discuss it further.

8 MR. KALL: Your Honor, we spoke to
9 Mr. Williams. He indicated that his treatments are hardest
10 on him earlier in the week, specifically Monday, then it
11 gets better as the week goes on. He indicated he goes in
12 every morning around 9:00 A.M. for radiation treatments, so
13 any deposition he would strongly prefer be done in the
14 afternoon.

15 That being said, we've got our office working on
16 making arrangements for the deposition to occur on the
17 Thursday, which I believe is the 28th, at 2:00 in the
18 afternoon. They're trying to get a conference room
19 reserved for doing that. We would make Mr. Traficant's
20 travel arrangements or have his assistant contact our
21 office, and those arrangements could be made. If an
22 overnight stay is required, he may have to pay for it and
23 we would reimburse him for it at the Government rate.

24 THE COURT: They're going to reimburse you.

25 MR. TRAFICANT: That's not the question.

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1 What will next week's schedule be? I --

2 THE COURT: That's what we're listening to.
3 We're listening to it.

4 MR. TRAFICANT: What day would we depart?

5 MR. KALL: It's up to you, Congressman.
6 Assuming we can do it Thursday at 2:00, you could fly down
7 Thursday morning. If you'd like to fly down Wednesday, we
8 can make that arrangement for you.

9 MR. TRAFICANT: I'd like to fly down there
10 Tuesday because I'm investigating this matter as well, and
11 this has been brought to me at the last minute, and I think
12 I need some time to prepare for this deposition.

13 THE COURT: I don't know how it's brought to
14 you in the last minute, but in any event, what I -- what we
15 try to do is to set this up during -- it was suggested that
16 we do it on the holiday, and we decided -- I decided we
17 needed to do it during trial days so that --

18 MR. TRAFICANT: Three days.

19 THE COURT: During -- well, I said we would
20 give them a three-day period. They could choose where it
21 was going to be, depending on what they learned about the
22 witness' needs because he's in treatment. And I allowed
23 the three-day period. I don't mean you have to do three
24 days, but I did allow a three-day period. And the reason
25 for that is that you've got other responsibilities, and I

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1 understand that, and so I didn't want to take time that
2 wasn't in what was our regular court time.

3 So once they had firmed up whether this witness could
4 be deposed, then they can go ahead and make travel
5 arrangements, and your secretary or whoever makes your
6 arrangements can call them and make them parallel. But,
7 there are -- there is a three-day period here. I don't
8 know how long it will take to depose him. I don't know how
9 well he is, how much energy he has. And so I would -- I
10 expected when I said three days that there would be travel
11 time and also that you might need to have some flexible
12 time for this particular witness because of his treatment.

13 MR. TRAFICANT: Also, your Honor -- not to
14 interrupt, also may use a little bit of rest. This is
15 going to be a flight. This is their witness.

16 THE COURT: Okay. Well, let's wait and see
17 what they come up with in terms of his availability, and
18 then you can talk to me about whatever your concern is
19 about how much time you'll have, but I've allowed three
20 days. I just don't know which three they are.

21 MR. KALL: It would be our preference to do
22 it Wednesday, Thursday, Friday, with the deposition to
23 happen on the Thursday.

24 THE COURT: Okay.

25 MR. TRAFICANT: I would much rather do it on

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1 the Tuesday, Wednesday, Thursday, come back to the court
2 for the half day Friday.

3 THE COURT: But, see --

4 MR. TRAFICANT: A weekend at least.

5 THE COURT: Well, if you -- yes, but the
6 problem with that is his treatment schedule. If he's doing
7 chemo -- I have enough experience with this from family
8 members, if he's doing chemo and radiation, he needs a
9 recovery period after his treatment. And so that's what
10 they're trying to coordinate with.

11 MR. KALL: Your Honor -- excuse me.

12 THE COURT: He needs not to be doing it
13 having a deposition in the morning and needs not be doing
14 this the earlier part of the week, what I understand.

15 MR. TRAFICANT: Let me inquire then. If we
16 flew down there Friday, then both sides will at least have
17 one evening at least to organize their thoughts and prepare
18 for the deposition.

19 THE COURT: You can go down there on
20 Wednesday. I imagine you could fly down ahead of them.
21 You could leave on Tuesday night if you wanted. I mean the
22 Court proceedings under this schedule would be only two
23 days; Monday and Tuesday.

24 MR. TRAFICANT: We will not be in session
25 Friday, then?

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1 THE COURT: Well, I would say if you -- if
2 you're going to be down there, depose him on Thursday, you
3 might want Wednesday, Thursday and Friday to travel in, to
4 do whatever you want to do, but those are the days we would
5 let you off, and then you can stay over that weekend if you
6 want down there and do whatever you need to do down there,
7 but the point is we need to meet his medical problems so
8 that you have somebody with enough energy to do a
9 deposition.

10 MR. TRAFICANT: Well, I just want on the
11 record I want to be back by Friday.

12 MR. KALL: Your Honor, it's our anticipation
13 the deposition could be completed in the course of one
14 afternoon. So it's --

15 THE COURT: There's no reason you would have
16 to stay down there then.

17 MR. TRAFICANT: One other question. You have
18 reduced these graphic arts into small exhibits that were
19 given to me?

20 THE COURT: Yes.

21 THE COURT: We usually schedule attorneys in
22 at 8:30 so we can handle anything that comes up, and we'll
23 begin the proceedings at 9:00. Thank you.

24 MR. TRAFICANT: I would like to fly Tuesday
25 afternoon.

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1 THE COURT: We need a full court day. We
2 need Monday/Tuesday or Tuesday/Wednesday, but you can go
3 down Tuesday night. Once court's out at 4:30, you can go.

4 MR. TRAFICANT: Thank you.

5 THE COURT: And then you'd have all day
6 Wednesday.

7 (Proceedings adjourned.)

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

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