

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 MONDAY, FEBRUARY 25, 2002
13 Jury Trial
14 Volume 8
15 - - - - -

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

1 Monday Session, February 25, 2002, at 8:30 A.M.

2 THE COURT: I think we have something that
3 the Government wanted to raise before we bring in the jury.
4 You want the witness here or not?

5 MR. MORFORD: It doesn't -- I don't know that
6 it matters, your Honor.

7 THE COURT: Okay.

8 MR. MORFORD: I just wanted to raise in
9 limine or reraise in limine a motion in limine the
10 Government already raised prior to trial, and that was to
11 limit the questioning on other legislative acts the
12 Congressman did that are not relevant to the acts in this
13 case.

14 The Court's ruling was unless and until the
15 Congressman can tie those in as being relevant to the
16 charges in this case, that there be some limits on that.
17 We have not objected to that type of questioning up until
18 now.

19 But, based on the cross-examination on Friday, we're
20 getting into a lot of areas that had to do with his overall
21 effectiveness on other matters. He is not charged with not
22 being effective. He's charged with soliciting, receiving
23 gratuities and bribes, whether he was effective or not.
24 And so all I wanted to do was save the Court from -- if we
25 have a series of relevancy objections -- having to have a

1 side bar so the Court will know ahead of time what those
2 objections would be.

3 THE COURT: Do you want to give us all a
4 reference to the particular docket entry orders that you're
5 talking about? I pulled 153 and 154. I don't know which
6 ones you're referring to when you're representing what it
7 was I ordered, but --

8 MR. MORFORD: I don't have it in front of me,
9 but I believe it had to do with the issue we raised on
10 vendetta, not as much as it goes to other acts, and my
11 understanding was the Court's ruling was that some of that
12 may come in if the Congressman could lay a foundation to
13 show relevance.

14 THE COURT: Okay. Before you respond, we're
15 going to figure out exactly which orders you're talking
16 about, because there have been two orders on miscellaneous
17 in limine matters, and he needs to be able to look at those
18 orders --

19 MR. TRAFICANT: There's been a lot of orders.

20 THE COURT: -- before he responds. Okay?

21 MR. MORFORD: Yes. I don't have a set of the
22 orders with me.

23 THE COURT: Do you have the docket?

24 MR. MORFORD: I don't have it with me, your
25 Honor.

1 THE COURT: Okay. Well then, I think we'll
2 just have to delay it until we have the next break with the
3 jury.

4 MR. MORFORD: Okay.

5 THE COURT: There were -- I mean, the
6 principle that he's discussing is a sound principle, but in
7 terms of representing what my orders were, I did leave
8 things open, but I'm not sure I instructed him in how he
9 had to go forward.

10 MR. MORFORD: Your Honor, regardless of your
11 order, I guess I would just set that aside and ask even if
12 it hadn't been addressed before, that as to matters
13 involving legislation other than those -- or any official
14 acts other than the official acts in which he's charged
15 with bribes and gratuity, that unless and until Congressman
16 Traficant can directly show that the Government is charging
17 him because he did those things, not just simply saying "I
18 did those things, so therefore, this is what it must be" --

19 THE COURT: Evidence of noncriminal conduct
20 is generally irrelevant, and I think probably an order that
21 may be the one in subject of this is order Number 154, so
22 let me read that before you respond so you have the benefit
23 of hearing again what it was that the Court said.

24 The Government seeks to exclude evidence of
25 lawfulness and noncorrupt conduct of the Defendant. That

1 was what their motion in limine sought. And what the Court
2 said at that point in the proceedings, which was back in
3 January, I guess, was "Evidence of noncriminal conduct is
4 generally irrelevant to the question of whether a defendant
5 is guilty or innocent of the crimes charged in a given
6 case. A defendant is presumed innocent and need not
7 establish his or her innocence at all.

8 "However, a defendant showing that he or she did not
9 commit similar crimes on other occasions would not of
10 course establish anything with respect to the crimes that
11 are charged in this case. A defendant may only introduce
12 evidence of his or her good character in accordance with
13 the Federal Rules of Evidence."

14 And then it continues, "With respect to the charges
15 related to the bribery and gratuity statute, the
16 Prosecution moves to exclude evidence that the Defendant
17 Traficant would have performed other official acts alleged
18 in the indictment without taking bribes. It is not a
19 defense for a public official to claim that he would have
20 taken the official acts requested by the give of a bribe
21 even without one. Also, with respect to the charges
22 related to the bribery and the gratuity statute, the
23 Prosecution seeks to exclude evidence that Defendant
24 Traficant did not take the promised official action for
25 which he allegedly accepted a bribe and gratuity.

1 "As the United States Supreme Court explained in
2 United States v. Brewer, quote, 'To make a prima facie
3 case, the Government need not show any act of Defendant
4 subsequent to the corrupt promise for payment, for it is
5 the taking of the bribe, not the performance of the illicit
6 act, that is a criminal act.'"

7 And then the Court said, "The Court will apply this
8 principle at trial."

9 And then the rest of this, I think, deals with the
10 Government seeking to preclude the Defendant from referring
11 to materials not in evidence, and the statement, of course,
12 on that was neither pro se defendants nor attorneys are
13 permitted to assume facts not in evidence in their
14 questions to witnesses.

15 Now, I don't know if that covers the motions in
16 limine, but that at least gives you a fair recollection of
17 what the Court had ruled, and we'll just follow those
18 rulings.

19 MR. TRAFICANT: Can I speak now?

20 THE COURT: Yes.

21 MR. TRAFICANT: Number 1, you limited my
22 defense by not being able to talk about an obsession with a
23 vendetta. That was ruled out, so I did not discuss a
24 vendetta. Then it was my impression what the Government
25 was trying to do was limit me from bringing maybe a

1 thousand constituents that I helped and that they never
2 even talked to me about maybe even a lunch or a breakfast.
3 So I assumed that, now hear me, but to establish
4 congressional office, members are different, they run their
5 offices differently, and by their actions they do make
6 certain enemies.

7 Is the Court now saying that by the questioning of my
8 chief of staff, that I can't establish that I had certain
9 agencies that certainly were opposed to me? Are you saying
10 I can't now do that?

11 THE COURT: I don't think that was what he
12 was looking to exclude. I think --

13 MR. TRAFICANT: What's he looking to exclude?
14 He wants to exclude anything that looks good on behalf of
15 the Defense, from what I see.

16 THE COURT: Okay. Let's let him respond to
17 that.

18 MR. MORFORD: No, your Honor, I want to
19 exclude things that are irrelevant --

20 MR. TRAFICANT: Such as?

21 MR. MORFORD: -- under 403(a) and 403(b),
22 and exclude things like "Isn't it true that I passed
23 legislation that, you know, that affected tax laws in the
24 United States?" And my understanding of the Court's ruling
25 on the whole idea of vendetta is that the Court has said

1 unless and until Congressman Traficant can directly show
2 that that was the Government's motive that he can't just
3 get into these kinds of things to suggest that maybe the
4 Government doesn't like him.

5 THE COURT: Well, I think -- and he's
6 suggesting that this would be something which you could
7 raise without the jury present in a special hearing if
8 you've got some evidence to put on before the Court that
9 would demonstrate a special motive.

10 MR. MORFORD: Yes.

11 MR. TRAFICANT: Look, if you're telling me --
12 the witness knows that I, more than any other member of the
13 Congress of the United States, over the last -- over the
14 years he was there, was effective against the IRS and the
15 Justice Department, and that it was well known throughout
16 all of Congress that what I was doing was making a lot of
17 people mad, that that would be a question I couldn't even
18 get into --

19 THE COURT: No, I think --

20 MR. TRAFICANT: -- and couldn't establish a
21 foundation for why they would be --

22 THE COURT: I think he's saying bring in the
23 mad people and have a hearing out of the hearing of the
24 jury, and establish that you can go beyond.

25 MR. TRAFICANT: And I can't even ask a

1 witness about it?

2 THE COURT: He didn't object when he did all
3 that. That's all --

4 MR. TRAFICANT: He jumped up like a
5 jumping-jack last week.

6 THE COURT: Well, that evidence went to the
7 jury, okay, the evidence that you first described, but what
8 he's saying is if you have something further, if you've got
9 something you're going to bring in here and demonstrate
10 something more, just tell us, we'll have a hearing out of
11 the hearing of the jury, and see whether you establish a
12 basis to go on to the next step.

13 MR. TRAFICANT: Fine, fine. Here's what I am
14 hearing from the Court: Where I think it is necessary for
15 my defense to show that my performance may have initiated
16 or been a part of some of the problems that I have, I will
17 ask questions, and he has a right to stand up and object.

18 THE COURT: Right. But some of those
19 questions will need to be pursued so you can show how
20 they're relevant outside the hearing of the jury, and
21 that's what the motion in limine does. It says in front of
22 the jury, you can't put this evidence until you've
23 established it.

24 MR. TRAFICANT: For example, if a witness
25 would say to me, "Maybe you shouldn't go that direction,

1 you might get somebody mad," for example, wouldn't it go to
2 speak to the fact that I was an aggressive person, I had an
3 agenda, and I was moving on an agenda, and that agenda was
4 really 180 degrees from the powers of the federal
5 government? I can't bring that out now?

6 THE COURT: Well, it might be --

7 MR. TRAFICANT: What can I bring out?

8 THE COURT: It might be that would happen.

9 I'm just saying you have to bring it out just like anyone
10 else would have to bring it out, first in front of the
11 Judge without the Jury present. We give you all kinds of
12 time to do that, sir. You have every break, you have
13 lunch, you have after 4:30, and you have all Friday
14 afternoon, and before we start in the morning.

15 That's why you're supposed to be here at 8:30 in the
16 morning, so we can handle those things out of the hearing
17 of the Jury. The jury is waiting back there; they're
18 supposed to be out here.

19 MR. TRAFICANT: I'm under the impression I'm
20 to try a case in front of the jury, not in front of a
21 closed bench and a judge, prosecutor, and video camera on,
22 and I have constrained myself pretty much to the rules, and
23 I have established certain things with the IRS. And it's a
24 common knowledge throughout all of Washington, D.C., where
25 everybody who lives there knows the relationship between me

1 and the Justice Department and the IRS.

2 Now, if I move into them, I'd have to set proper
3 foundation for the questioning that would bring about an
4 attitude. Attitudes are important, motives are part of the
5 defense. If they're not, what are we doing here? Why
6 don't we go ahead and scratch the jury and go ahead and
7 make a judgment order here?

8 THE COURT: We're trying to do what we do in
9 every case. You're no different than any other defendant.

10 MR. TRAFICANT: I'm not asking to be treated
11 like any other defendant, but I tell you this, I object now
12 for the record that you are restricting my defense, they're
13 paranoid over my record, which evidently they admit is
14 great, and they're concerned that the jury's going to say,
15 "My God, that guy's done so much, maybe the Government is
16 going after him," and that's their concern.

17 Now, naturally -- I have an education, I can use
18 words -- I'll try and confine those words and conform them
19 to the aspects of the case within the confines of -- what
20 was that, 804?

21 MR. MORFORD: Yes.

22 MR. TRAFICANT: Yeah, and I will try and do
23 that.

24 THE COURT: I think we're ready then.

25 MR. TRAFICANT: I'm ready.

Marcone - Cross

1 THE COURT: Thank you.

2 MR. MORFORD: Thank you, your Honor.

3 MR. TRAFICANT: Thank you.

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

5 MR. TRAFICANT: Good morning, Paul.

6 THE WITNESS: Good morning

7 CROSS-EXAMINATION OF PAUL MARCONE (Resumed)

8 BY MR. TRAFICANT:

9 Q. Did you travel home or stay in the Cleveland area?

10 A. I traveled home.

11 Q. Would you rather live in Cleveland or live in

12 Virginia?

13 A. I love northern Virginia.

14 Q. Now, can you hear me while I get my water?

15 A. Um-hum.

16 Q. The Government had gone through quite a bit of
17 questioning with you relative to certain issues, and when I
18 started cross-examining -- quite frankly, I'm trying to
19 find it -- but, would you say that you and I had a
20 truthful, honest relationship?

21 A. Yes.

22 Q. I ever asked you to lie here, Paul?

23 A. There were times when you did ask me to shade things
24 to the media, but outright lie, no.

25 Q. If you thought that -- spin, is this known, is that

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1 known as a spin in the business?

2 A. Yes.

3 Q. Do you think if my spin may not be quite what you
4 agreed with, would you do it?

5 A. No.

6 Q. Would you tell me?

7 A. Yes.

8 Q. Did I ever say, "Hey, Paul, listen, I'm the boss
9 here, you take the spin the way I say it is"?

10 A. There were times when you put your foot down on
11 certain matters.

12 Q. And they were important matters?

13 A. In our office, yes.

14 Q. But in most part, were you basically -- basically
15 free to respond in my behalf on any issue, if you had
16 knowledge?

17 A. In terms of dealing with the media, I was free to
18 respond in your behalf, yes.

19 Q. Now, in dealing with federal agencies and things,
20 were there times when you initiated action, knowing perhaps
21 my agenda, without even conferring with me?

22 A. Yes.

23 Q. Such as?

24 A. It's a pretty broad question.

25 Q. Well, let's break it down like to say maybe like the

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1 Federal Building, the first Federal Building. Were you the
2 chief of staff then?

3 A. I was not the chief of staff when that -- when that
4 was first authorized.

5 Q. What was your -- what was your position?

6 A. I was legislative assistant and press secretary.

7 Q. Now, is it not a fact that we got a friendly call
8 from someone who gave us a tip, who gave me a tip that
9 money was going to be taken away from the courthouse?

10 A. Yes.

11 Q. And you testified the money was going to go where?

12 A. Laguna Nigel, California.

13 Q. What was unusual about it going to Laguna Nigel at
14 that point?

15 A. I'm not sure whose congressional district it was in.

16 Q. Do you believe it was the chairman of the committee?

17 A. It was either the chairman of the committee or a man
18 named Robert Lagomarsino.

19 THE COURT: You have to spell that.

20 THE WITNESS: L-A-G-O-M-A-R-S-I-N-O.

21 Q. Would you explain what a reprogramming is?

22 A. It's when the federal government makes a decision to
23 take money to the Congress that's authorized and
24 appropriated for a particular project, and makes a request
25 of the Congress to have those funds spent for another

Marccone - Cross

1 purpose.

2 Q. Now, do you recall the chairman of the subcommittee,
3 the chair of the Appropriation subcommittee by the name of
4 Mr. Royball?

5 A. Yes.

6 Q. Was he not a great guy?

7 A. I thought he was a very good member, yes.

8 Q. Do you know what area he represented?

9 A. Southern California.

10 Q. Do you know if he represented Laguna Niguel?

11 A. I don't know that for a fact.

12 Q. Did you and I -- isn't it a fact you and I went into
13 the, at the time, after work, the AA's desk as we were
14 informed that we got a letter on the matter, weren't we
15 informed?

16 A. Yes.

17 Q. Did we ever see the letter, Paul?

18 A. I don't recall.

19 Q. When did we first see the letter?

20 A. I don't recall.

21 Q. Did we go into the AA's desk and look? Do you recall
22 that?

23 A. No, sir.

24 Q. But, eventually we found the letter, didn't we?

25 A. Yes.

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1 Q. Did that lead to my removal of that AA, to the best
2 of your knowledge?

3 A. That was a -- that was my understanding, was that was
4 one of a number of factors that led you to remove that
5 person, yes.

6 Q. Did I not give that person 90 days to find a job, to
7 the best of your knowledge?

8 A. I believe you gave her six months.

9 Q. Six months. But she was still pretty vindictive,
10 wasn't she?

11 A. Fairly. She was very upset, yes.

12 Q. But, did she ever report the letter she received to
13 me?

14 A. I don't believe she did, no.

15 Q. Was I upset, Paul?

16 A. Yes.

17 Q. Did I threaten to sue the chairman of the
18 subcommittee?

19 A. I believe you did.

20 Q. Well, wouldn't a subcommittee have to hold a hearing
21 and have everybody vote on it before they could reprogram
22 money to go to Cleveland, Ohio, Federal Court, and take it
23 to Laguna Niguel, for example?

24 A. Yes.

25 Q. A chairman just couldn't do it on his own signature,

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1 could he?

2 A. He could try to attach it as an amendment to.

3 Q. But, he could not write and say "You do this," could
4 he?

5 A. My understanding is reprogramming of federal funds
6 would require an act of Congress.

7 Q. So I challenged the subcommittee on that issue, did I
8 not?

9 A. Yes.

10 Q. Okay. Was there a hearing?

11 A. I don't remember. This was 15, 16 years ago.

12 Q. Well, do you recall when general administration was
13 called in and I was called in before a subcommittee
14 relative to the reprogramming of the money?

15 A. Yes.

16 Q. What, if anything, happened after that was over?

17 A. My understanding is the end result was that the
18 courthouse in Youngstown was eventually built, that
19 probably --

20 Q. No. About the reprogramming, what happened about the
21 reprogramming?

22 A. I believe you halted the reprogramming, allowed the
23 project to continue.

24 Q. And the subcommittee had to vote before they made
25 that decision, didn't they?

Marcone - Cross

1 A. To be honest, I don't recall.

2 Q. Okay. But, even though it was approved, they didn't
3 go forward, did they?

4 A. Again, I don't recall the exact sequence of events.

5 Q. Was there an event that took place real late at night
6 when, in fact, I raised a record number of points of order
7 on the treasury postal bill?

8 MR. MORFORD: Your Honor, I just object as to
9 relevance as to where this is going.

10 THE COURT: Overruled. You can answer it.

11 THE WITNESS: I recall that happening.

12 Q. And when I raised those points of order, it basically
13 killed the whole spending bill for the IRS, the Treasury
14 Department, and all the other related agencies, right?

15 A. Yes, that was the effect of the points of order, yes.

16 Q. And at some point were you aware that the leadership
17 came to me and asked me not to do that again?

18 A. Yes.

19 Q. And what did they say they would do if I wouldn't do
20 that again?

21 A. That they'd get the courthouse built.

22 Q. Was the courthouse built?

23 A. Yes, it was.

24 Q. Had that not occurred, would the courthouse have been
25 built?

Marccone - Cross

1 A. Well, I -- my opinion, they probably would not have
2 had it built.

3 Q. Do you know since then there's been a second
4 courthouse built?

5 A. Yes.

6 Q. Do you know if, in fact, the new federal courthouse
7 building that is being built in Cleveland was authorized by
8 me when I was chairman?

9 A. Yes, it was.

10 Q. Were you my staff member when we authorized it?

11 A. Yes.

12 Q. Were you proud of our record on that committee?

13 A. Yes.

14 Q. Okay. Now, throughout all of Congress, was I known
15 as -- how was I known and perceived?

16 A. Amongst the staff I dealt with, you had a very good
17 reputation: Outspoken, a member who was not afraid to take
18 on tough issues, and the staff members all enjoyed your
19 speeches.

20 Q. But was there one specific political agenda I had
21 from day one that you can recall?

22 A. There were several items that were very important to
23 you, one of which was reforming the IRS. The other was
24 getting tough on drugs.

25 Q. Was I one of the original authors of drug legislation

Marcone - Cross

1 as a freshman?

2 A. Yes, in 1986, yes.

3 Q. Now, was I known as an assertive member relative to
4 trade, an assertive member relative to trade issues?

5 A. Yes.

6 MR. MORFORD: Objection, relevance, your
7 Honor.

8 THE COURT: We can have some kind of a mini
9 hearing. Go on to something else.

10 MR. TRAFICANT: Okay.

11 Q. Do the words "buy American" mean anything to you,
12 Paul?

13 A. Yes.

14 Q. Now, do you know where the Avanti cars were built?

15 A. My vague recollection is they were built in
16 Youngstown.

17 Q. And I was known as the "bi-American" legislator.
18 Would you say that's a true statement?

19 A. Yeah, fairly accurate.

20 Q. Would that be buying Youngstown, if I were to buy
21 cars made in Youngstown, Paul?

22 A. I don't understand the question.

23 Q. Well, if a company made cars in my own district --

24 A. Right.

25 Q. -- and I was the "bi-American" legislator, would I

Marcone - Cross

1 not take, in your opinion, wouldn't I --

2 THE COURT: No, we can't have his opinion on
3 something like that. Thank you.

4 MR. TRAFICANT: Okay.

5 Q. Do you know if I bought any cars that were made in
6 Youngstown?

7 A. I don't know.

8 Q. Would you be surprised though if cars were made in
9 Youngstown, that I would buy one?

10 A. That wouldn't surprise me, no.

11 Q. Now, I looked through -- how many times did you
12 testify before the Grand Jury?

13 A. Twice before the Grand Jury.

14 Q. Did you have immunity, Paul?

15 A. No.

16 Q. Did you ask for immunity?

17 A. No.

18 Q. Did you think you needed it?

19 A. No.

20 Q. Did I ever ask you to testify wrongfully or to lie
21 the Grand Jury?

22 A. You didn't -- you instructed me how to testify to a
23 specific issue.

24 Q. At the time when we had a conversation relative to
25 DiBlasio and Sinclair, was it not a fact that I was in the

Marcone - Cross

1 midst of the only heated debated election in my history?

2 A. Yes, you were in the middle of a primary.

3 Q. Wasn't there every day bombardment about rumors in
4 the press headlines, to the best of your knowledge?

5 A. As press secretary, I was getting calls every day
6 from reporters about the Grand Jury investigation.

7 Q. Was it unusual for me to talk to you about those
8 types of issues, especially around election time?

9 A. It was not unusual for you and I to have discussions
10 about that, no.

11 Q. From the day that I started, did you have the
12 impression or were you ever told by me that I didn't trust
13 the IRS, and that I would feel that my phones in my office
14 would be bugged?

15 THE COURT: Okay. This is a real example of
16 somebody saying something that we have no idea whether this
17 witness knows or not. And when it's put in the question,
18 it suggests an answer, and so that makes it a problem, so
19 you understand why it is an objection would be made and
20 sustained for somebody to basically try and put evidence in
21 front of you that way.

22 MR. TRAFICANT: Okay.

23 Q. Was I paranoid about bugs in my office?

24 A. Yes.

25 Q. Okay. Did we have conversations why? Did we ever

Marcone - Cross

1 have conversations why I was paranoid?

2 A. Yes.

3 Q. What was that?

4 MR. MORFORD: Objection, hearsay.

5 THE COURT: Sustained.

6 MR. TRAFICANT: Objection to his objection.

7 THE COURT: Okay.

8 BY MR. TRAFICANT:

9 Q. Did you and I have the conversation or did we have it
10 with a third party?

11 A. You and I had a conversation.

12 MR. TRAFICANT: Well then, your Honor, that
13 would not be hearsay, would it?

14 THE COURT: Why don't we deal with this one
15 at the break so we don't have to go through that.

16 MR. TRAFICANT: Okay.

17 THE COURT: Thank you.

18 BY MR. TRAFICANT:

19 Q. But you testified April 26, 2000, do you recall that?

20 A. Yes.

21 Q. I'm going to try to maybe refresh some of your memory
22 with your Grand Jury testimony, if I can.

23 THE COURT: Okay. Well --

24 MR. TRAFICANT: Are we going to limit that?

25 THE COURT: Well, it is one of those things

Marcone - Cross

1 where we do have to look at it to understand whether or not
2 what it is that you are trying to do is something that you
3 can legitimately do, so we'll do it at the next break, I
4 guess.

5 MR. TRAFICANT: Okay. Well, if I don't --

6 THE COURT: We're going to --

7 MR. TRAFICANT: If I don't read from the
8 Grand Jury testimony, you mean I can't ask questions about
9 his testimony? No, really, I --

10 THE COURT: Well, I don't know what you're --
11 I know --

12 MR. TRAFICANT: You're limiting me here.

13 THE COURT: I know. I don't know what it is
14 you have in your hand or what you're going to do. And in
15 fairness to the jury, if you have other questions you
16 should go forward with those, and we'll deal with this
17 issue, whatever it's going to be, the way we always deal
18 with these issues, which is to deal with them first without
19 taking up the jury's time, because they involve apparently
20 a legal issue.

21 I don't really know. So instead of sending them on a
22 break right away, if you have something else you can go to,
23 then we'll handle that at the break.

24 BY MR. TRAFICANT:

25 Q. Do you recall Mr. Morford's questioning about telling

Marcone - Cross

1 the truth?

2 A. I don't think he specifically raised the issue
3 telling the truth. I was sworn in. It's obvious that I
4 went before the Grand Jury, and you don't take the Fifth,
5 you have to tell the truth, so that's exactly what I did.

6 Q. Do you recall Mr. Morford talking about when targets
7 of investigations are called in, don't they normally tell
8 their witnesses just to tell the truth?

9 A. I don't recall them making reference to that. He
10 might have, I just don't -- I don't recall every aspect of
11 my Grand Jury testimony.

12 Q. Okay. Now, he brought up a number of issues.

13 A. Um-hum.

14 Q. One of them was the building at 11 Overhill Road,
15 right?

16 A. Um-hum.

17 Q. You always had concerns over that, didn't you?

18 A. I had concerns over it once we moved into the new
19 courthouse.

20 Q. Yeah. But, I mean you never had concerns over it
21 before relative to Henry DiBlasio, did you?

22 A. No. The few times I asked about that, you made it
23 clear to me that Henry did not own the building.

24 Q. Do you know if Henry called down to any committees
25 and inquired how to go about doing it?

Marcone - Cross

1 A. That would have happened in '85, and I'm not familiar
2 with -- I'm familiar now with the correspondence that was
3 exchanged between Henry and the House of Representatives
4 about that issue, but at the time, I was not familiar with
5 what was going on.

6 Q. Would you happen to know that there were three people
7 subpoenaed relative to Henry DiBlasio's activity at 11
8 Overhill Road on the building? Would you happen to know
9 that? Yes or no.

10 A. No.

11 Q. In this trial, you don't know that?

12 Did you ever come to find out that Henry DiBlasio's
13 name was or was not on the lease?

14 A. To this day, I'm not sure what the arrangement was
15 with that building.

16 Q. So you don't know if his name was on the lease?

17 A. My recollection of seeing the lease, it is that it
18 had Trumbull Land Company or Trumbull Land Management
19 Company on the lease.

20 Q. So there was a company set up that handled it, right?

21 A. That was my recollection of it.

22 Q. Was the signature, to the best of your knowledge, the
23 signature of Henry DiBlasio for the company on the lease?

24 A. I don't recall whose name appeared on the lease.

25 Q. If it would have appeared on the lease would it have

Marcone - Cross

1 been a red flag for you, Paul?

2 A. Yes, absolutely.

3 Q. Big time?

4 A. Yes.

5 Q. What, if anything, would you advise me to do?

6 A. Terminate the lease.

7 Q. Now, at some point, did you approach me about all of
8 the news stories before the primary election in that heated
9 election of '98?

10 A. We had many discussions about that.

11 Q. Who initiated it?

12 A. I did.

13 Q. What was your concerns, Paul?

14 A. I was concerned that I was getting calls on a daily
15 basis from reporters with detailed questions about a Grand
16 Jury investigation and was concerned that information about
17 that investigation was being deliberately leaked to the
18 media to damage you politically.

19 Q. And who did you, if anything, suggest to me you
20 thought was doing that?

21 A. At the time, my opinion was it was someone from the
22 federal government was deliberately leaking information to
23 the media to influence the primary.

24 Q. And what led you to that conclusion?

25 A. I felt the information reporters were asking were of

Marcone - Cross

1 a detailed nature that the only way they could get that
2 information was from the federal government.

3 Q. Isn't it a fact that a witness can go out and give
4 anything he said or she said to the Grand Jury?

5 A. At the time, I didn't realize that.

6 Q. Yeah. But, still, were there not times where you
7 said -- irrelevant, regardless of that statement -- that
8 there were some reporters that intimated to you that the
9 federal government is slick and they do manipulate the
10 press? Did you ever have that statement made to you?

11 A. No, I believe what I -- what I said, in my opinion,
12 it seemed to me as if they were getting such detailed
13 information that it could only come from the federal
14 government. That was my personal opinion that I conveyed
15 to you on several occasions.

16 Q. So no reporters ever intimated to you to be careful
17 about government tactics?

18 A. I don't think reporters -- no, I don't think they
19 told me -- they -- I don't think I ever received a caution
20 from a reporter telling me to be careful about the
21 government.

22 Q. Now, the government says that "You knew that Jim was
23 doing this with a company" or "Jim was doing this with a
24 company, would you have done anything for those companies";
25 you recall those questions?

Marccone - Cross

1 A. Yes.

2 Q. And what was your answer?

3 A. I believe I said no, I would have -- I would advise
4 we not help those companies.

5 Q. With all these allegations going on, were you
6 communicating with me about that?

7 A. Yes.

8 Q. And because of the heated -- well, let me ask you
9 this: How many campaigns did you go through with me as a
10 member of Congress?

11 A. Six.

12 Q. Would you say that this was the only serious
13 challenge made while I was a member?

14 A. Yes.

15 Q. This was the big one, wasn't it, Paul?

16 A. Yes.

17 Q. Now, after the primary, were there any more
18 headlines?

19 A. My recollection was after the primary, I didn't
20 receive any more calls from the reporters about the Grand
21 Jury investigation.

22 Q. Did you and I have conversations about that?

23 A. Yes.

24 Q. Did that, in fact -- did you, in fact, say anything
25 to me or make any statements to me relative to those

Marcone - Cross

1 dynamics?

2 A. Well, in my opinion, it looked suspicious that all of
3 a sudden the phone calls stopped after the -- after you had
4 won the primary.

5 Q. But, no one from the press ever told you the
6 Government was slick and keep an eye on them?

7 A. No. I mean, I had conversations with reporters that
8 it was a wide range of investigation. They made side-bar
9 comments like that. I had good relationships with our
10 reporters that called, and I remember someone telling me
11 that this seemed like it's a pretty big investigation.

12 Q. Now, when we talked about you -- or let me say this.
13 At some point, did I say to you that you should look for a
14 job?

15 A. You said that several times to me.

16 Q. What was your opinion why I said that to you, or let
17 me ask you this: In what sense did we have that
18 conversation? What did we talk about?

19 A. We talked about the investigation, about your
20 political future, and you basically were concerned about me
21 and my family and my future. You said, "You have a wife
22 and kids, you have a good future ahead of you, you should
23 look for a job. I don't know what's going to happen to
24 me."

25 Q. Did I intimate to you that I believed that I would be

Marcone - Cross

1 indicted?

2 A. Yes.

3 Q. Did you and I have discussions of why I was -- why I
4 thought I was going to be indicted?

5 A. You intimated to me that you were going to be
6 indicted because you had been targeted by the federal
7 government.

8 Q. Paul, are you familiar at all with my history?

9 A. Yes.

10 Q. Was I once before tried by the federal government?

11 A. Yes.

12 Q. Do you know if I had counsel?

13 A. I believe you were pro se.

14 Q. Did I have anybody at all helping me, to the best of
15 your knowledge?

16 A. To the best of my knowledge, no.

17 Q. Was there anybody else in the history of the country
18 that ever beat the Justice Department, pro se, to the best
19 of your knowledge, in a RICO case?

20 MR. MORFORD: Objection as to basis of his
21 knowledge on this.

22 THE COURT: I don't know how he would know
23 the answer to that question.

24 MR. TRAFICANT: If he knows.

25 THE COURT: If you know, you can say.

Marcone - Cross

1 THE WITNESS: I believe that there were
2 several reporters who had done in depth studies of your
3 case and told in their research you were the only person to
4 defend himself pro se against the RICO case against the
5 Government and prevail.

6 Q. Do you know who brought the charges against me back
7 then, what two agencies?

8 MR. MORFORD: Objection, unless he has a
9 basis of knowledge that's not hearsay, your Honor.

10 THE COURT: Was this in 198 --

11 MR. TRAFICANT: Yes, 1983.

12 THE COURT: What was it?

13 THE WITNESS: My understanding, it was the
14 Justice Department and the IRS.

15 THE COURT: Were you there? I mean, do you
16 have some --

17 THE WITNESS: No, no.

18 THE COURT: Okay. Other than your
19 understanding, which I don't know where it comes from, what
20 we're trying to get to is your personal knowledge.

21 THE WITNESS: At the time I had no personal
22 knowledge.

23 BY MR. TRAFICANT:

24 Q. As my press secretary did you do a lot of research on
25 me?

Marcone - Cross

1 A. Yes, I did.

2 Q. And did you come to find those facts out when you
3 researched me?

4 A. Yes.

5 MR. TRAFICANT: Was Mr. Morford standing up
6 to make an objection, or is he just going to block my view
7 here?

8 THE COURT: He appeared to be sitting down.
9 Maybe I missed it.

10 THE COURT: He's going up and down.

11 MR. MORFORD: Your Honor, I object to this in
12 front of the jury. You've instructed us not to do this in
13 front of the jury.

14 MR. TRAFICANT: She didn't instruct us not to
15 do this. I asked if he had knowledge, if he researched my
16 record before he became an employee.

17 THE COURT: Do you know what? You know what
18 really is going on here, and that is that you're having a
19 conversation that's sort of a blend of mixing some legal
20 things, which you could very well raise at noon, with some
21 statements that you're making. We're trying to examine
22 witnesses on the stand. We need to talk to people about
23 personal knowledge they have because that's required.

24 There's a reason why rules require someone have
25 personal knowledge rather than just talk off the top of

Marcone - Cross

1 their heads, so we need you to follow those rules. If you
2 need a break, we'll take a break, and we'll try to handle
3 whatever it is we need to handle.

4 MR. TRAFICANT: For the record, I really
5 don't care what they object to. And I'm trying to stay
6 within the rules.

7 THE COURT: Good.

8 MR. TRAFICANT: And I want to remind the
9 Court, I asked him when he was hired if he did a research
10 on the member he was going to work for. That was my
11 question.

12 THE COURT: Okay. Will you answer that
13 question?

14 THE WITNESS: I believe I answered it.

15 THE COURT: Okay. Well, answer it again.

16 THE WITNESS: Yes, I did do the research.

17 THE COURT: Thank you.

18 Q. So you knew pretty well my history?

19 A. Yes.

20 Q. Did we at times have a conversation about my
21 aggressive style on matters?

22 A. Many times.

23 Q. Would you advise me?

24 A. I would try to give you as good counsel as I could.

25 Q. And what would that counsel be, for example?

Marcone - Cross

- 1 A. It depends on the issue.
- 2 Q. Well, let's say the IRS.
- 3 A. I thought that by and large, the reforms you proposed
4 were good solid reforms.
- 5 Q. But, you also had concerns about what?
- 6 A. I don't think I ever expressed -- I supported that
7 initiative very strongly.
- 8 Q. Okay. The Government brought up the name of Leo
9 Jennings. Do you remember Leo Jennings?
- 10 A. This was a Jennings who served on the Youngstown
11 council. That's the Jennings I had familiarity with.
- 12 Q. Did the Government ever ask you about a question
13 about a Leo Jennings?
- 14 A. Yes. At the time I thought they were talking about
15 City Council member Jennings from Youngstown.
- 16 Q. Did we ever have an employee by the name of Lynn
17 Jennings?
- 18 A. Yes, we did.
- 19 Q. Did she have a father?
- 20 A. I don't know if she had a father or not.
- 21 Q. Okay. Now, there was a question brought up of the
22 timing of DiBlasio and Sinclair both being there for a
23 little short time; was that correct?
- 24 A. Um-hum.
- 25 Q. Now, first let's talk about Henry's pay. When you

Marcone - Cross

- 1 started out on my staff what were you first paid?
- 2 A. \$18,000 a year.
- 3 Q. When you left my staff, what were you paid?
- 4 A. \$114,500.
- 5 Q. When Henry first started on my staff, did you have
- 6 any knowledge what he was paid?
- 7 A. I believe he was paid \$50,000 a year.
- 8 Q. And when he left what was he paid?
- 9 A. I believe it was in the high 70's, 80's.
- 10 Q. Did he give COLAs every year, Paul?
- 11 A. Yes.
- 12 Q. Explain to the jury what a COLA is.
- 13 A. The cost of living adjustment that members of
- 14 Congress would generally -- it general follows whatever the
- 15 federal government, federal employees' COLA was, that
- 16 typically ranged from 1 and a half percent to 3 and a half
- 17 percent a year, and usually, we may be 3 and a half
- 18 percent, we gave everyone 4 percent.
- 19 Q. Did you ever hear of other members having attorneys
- 20 on their staff?
- 21 A. Many committee chairmen have counsel, senators have
- 22 counsel on their staff.
- 23 Q. Do some members also have counsel?
- 24 A. I can't speak for 434 other members.
- 25 Q. It was up to whom?

Marcone - Cross

1 A. It's up to the member.

2 Q. Okay. Now, were you aware of the assignment that was
3 made to Mr. Sinclair?

4 A. I believe the justification he gave me for hiring
5 Mr. Sinclair was to work on local economic development
6 issues.

7 Q. Was there a specific duty, though, that needed to be
8 performed in regard to that?

9 A. Other than trying to get the three counties to
10 approve the initiative, and doing some legal research on
11 how to set up an economic development corporation, no.

12 Q. Okay. To the best of your knowledge, was that done?

13 A. No, the economic development issue was never
14 approved.

15 Q. But to the best of your knowledge, was the work done
16 to attempt to have it approved?

17 A. I didn't see any work on it, no.

18 Q. Would it require a tax being put on the ballot in the
19 three counties?

20 A. Yes.

21 Q. So would that not then place a tax -- a time
22 restraint on, in fact, that initiative to be prepared?

23 A. I believe that there was a deadline for getting that
24 tax initiative on the ballot.

25 Q. So one was leaving them, one was coming, right?

Marccone - Cross

1 A. Yes.

2 Q. And that was about what, November of '98?

3 A. It was the middle of November of '98, yes.

4 Q. And the primary that year, coming year, was in?

5 A. May -- oh, in -- in what year?

6 Q. That would have been '98.

7 A. You're asking me when the federal primary was in
8 1998?

9 Q. Yes, as you recall?

10 A. It was in May 1998 and in November --

11 Q. If you think back, could it have been moved up to
12 March?

13 A. It was --

14 Q. Do you remember what year it was moved to March?

15 A. It was in 2000 because of the presidential election.

16 Q. In 2000, okay.

17 But in any regards now, if the election is in May, do
18 you have to file your petitions at a certain time to be on
19 the ballot?

20 A. I know you have to file your petitions at a certain
21 time. I'm not an expert in Ohio.

22 Q. Would you say in most states it would be
23 approximate -- what would it be, in your opinion -- what is
24 it in Virginia?

25 A. Again, I'm not an expert on election laws, so I can't

Marcone - Cross

1 answer that question.

2 Q. Okay. That's good.

3 How many hours did a full-time employee have to put
4 in, Paul?

5 A. The congressional rules require that full-time
6 employees work at least 30 hours a week.

7 Q. Okay. Now, the Government asked you questions about
8 George Buccella coming to Washington. Did he come to
9 Washington?

10 A. I don't believe they asked me any questions about
11 Mr. Buccella in this trial.

12 Q. Did they ask you in the Grand Jury?

13 A. Yes.

14 Q. What, to the best of your knowledge, did you testify
15 relative to Mr. Buccella?

16 A. I don't recall exactly what my testimony was before
17 the Grand Jury on Mr. Buccella.

18 Q. When people came from the district, did they usually
19 work in the office down there?

20 A. Yes, yes. I remember George working in the
21 Washington office on these matters, yes.

22 Q. Now, if someone would come down there with me and was
23 not around the office, would you bring that to my attention
24 or would you complain to me?

25 A. I don't think I -- I may have asked "Where's George,"

Marcone - Cross

1 just out of curiosity, where he was.

2 Q. Did you ever do that?

3 A. Yeah.

4 Q. But, did you know that he was working there in the
5 office?

6 A. Yes.

7 Q. Who brought up the issue of George Buccella in the
8 first place? How did you know it became an issue? Who
9 brought that up to you?

10 A. What time frame are you talking about?

11 Q. At about the time of your Grand Jury, isn't that when
12 you heard about the allegations of Buccella?

13 A. Yes, it was from reporters.

14 Q. Okay. And were you questioned at the Grand Jury
15 about it?

16 A. Yes. To go back, your Honor, it was -- our office
17 records were subpoenaed in December of 1999, and there was
18 specific request for certain payroll records of certain
19 employees. I personally called those employees just to
20 inform them that their payroll records had been subpoenaed,
21 and at that point, I had a conversation with Mr. Buccella
22 about possibly why his payroll records were subpoenaed.

23 Q. Okay. Now, the subpoenas that were made on that day,
24 were they subject -- were they public documents?

25 A. A lot of the information that was subpoenaed would

Marcone - Cross

1 have been available publicly.

2 Q. Throughout nearly the whole case up to a certain
3 point; is that a correct statement?

4 A. The -- the payroll records would have been public
5 knowledge. I don't know if the phone records, the type of
6 detail that they subpoenaed, would have been public.

7 Q. Okay. But, in the first subpoena, was it about
8 payroll records?

9 A. Payroll and office records.

10 Q. Okay. Now, were they public documents?

11 A. Most of that information was available to the public.

12 Q. Now, what happens when the subpoena is made to a
13 member of Congress?

14 A. It goes through the House counsel.

15 Q. And what must be done to announce it to the body?

16 A. The -- I'm not sure what the exact procedure was, but
17 the Speaker of the House is to be notified that a subpoena
18 has been issued by the Northern District of Ohio, and that
19 appears in the Congressional Record.

20 Q. And then is that -- is there any announcements made
21 relative to a subpoena being served?

22 A. It is made -- it is made the next legislative day the
23 House is in session, and announcement of all subpoenas are
24 made on the House floor, but the specific member's office
25 is never mentioned.

Marcone - Cross

1 Q. Now, you and I had conversations relative to the
2 public aspects that were being subpoenaed?

3 A. Yes.

4 Q. Did you wonder why they needed a subpoena for public
5 access?

6 A. I believe that was part of our conversation. I was a
7 little puzzled as to why they would subpoena information
8 that was available to the general public.

9 Q. Now, did the House counsel ever confer to you
10 information that came from the prosecutors, U.S. Attorneys?

11 A. Yes.

12 Q. And what type of things would they say to you?

13 MR. MORFORD: Objection, hearsay.

14 THE COURT: Sustained.

15 Q. Did you ever have conversations with House counsel?

16 A. Yes.

17 Q. Okay. And what were the basis of those
18 conversations?

19 A. Talking about the subpoenas that had been issued and
20 how we were going to proceed in complying with the
21 subpoena, whether or not you wanted to comply. A lot of it
22 was procedural.

23 Q. Now, when it got down to the nitty-gritty and there
24 were certain things that were requested by the Government,
25 did it involve the separation of powers, to the best of

Marcone - Cross

1 your knowledge?

2 A. A lot of discussions I would have with the general
3 counsel had to do with speech and debate issues, issues
4 related to what information the executive branch was
5 entitled to from the legislative branch and the general
6 counsel of the House. It was their responsibility to
7 protect the interest of the legislative branch in complying
8 with any subpoena.

9 Q. Did he designate somebody as custodian to work with
10 House counsel?

11 A. Yes.

12 Q. Who was it?

13 A. Me.

14 Q. Did you do that?

15 A. Yes.

16 Q. Did I ever even look at that material, Paul?

17 A. I made the material available to you.

18 Q. Would you know if I looked at it or did you seal it?

19 A. I made it available to you. I don't know if you
20 looked at it or not.

21 Q. Okay. Did House counsel though basically make the
22 decision of what they thought should be protected?

23 A. Yes, and they consulted with me on all those
24 decisions.

25 Q. Did I ever make any statements to you what should be

Marcone - Cross

1 protected or not protected?

2 A. Well, not with the first subpoena, no.

3 Q. What records did I ever request -- oh, after the
4 House counsel had made their decision, did we have
5 conversation?

6 A. You're asking about the first subpoena?

7 Q. No, after that. You said at some point you and I had
8 conversations about these House counsel business. Could
9 you explain that?

10 A. We had conversations from the time you first were
11 subpoenaed in December of '99 to the time I left the
12 office, so issues related to several subpoenas we received
13 from the federal Government.

14 Q. But on speech and debate, specifically?

15 A. On the second subpoena, you refused to comply with
16 the subpoena, and an issue arose that the House counsel was
17 concerned since I was custodian of records that I could be
18 held in contempt of court and for not turning over the
19 documents.

20 Q. And what did they recommend?

21 A. They recommended that you get an attorney to assist
22 you in dealing with the complex issues related to turning
23 over the documents.

24 Q. And do you know if I got an attorney?

25 A. No, you did not get an attorney.

Marcone - Cross

1 Q. Did we eventually turn over the documents?

2 A. Yes.

3 Q. Did we ever withhold anything from the Court that we
4 were ordered to give to the Court?

5 A. The only documents withheld were withheld by the
6 House counsel because in the House counsel's opinion, they
7 were protected under the speech and debate clause of the
8 Constitution.

9 Q. Do you happen to know if any of their decisions were
10 overruled by a court, for example?

11 A. If any of the House counsel's decisions --

12 Q. Yes, their opinions?

13 A. I haven't read through all the Court documents, I
14 don't know all the decisions were upheld or overruled.

15 Q. But, certainly the Court would have the right to do
16 that if they did, didn't they?

17 A. Yes.

18 Q. But, from what you now know about this case, does the
19 Traficant case bring forth perhaps some questions between
20 speech and debate, between -- on the separation of powers?

21 MR. MORFORD: Objection, your Honor.

22 THE COURT: There are issues, speech and
23 debate, privilege issues in this case, and they're among
24 the legal issues that the Court has been looking over quite
25 a period of time. And so I don't think it's really any

Marcone - Cross

1 question about whenever a Congressman is involved in
2 legislation there might be questions about constitutional
3 privilege, and those are being addressed by the Court.

4 MR. TRAFICANT: Fine.

5 THE COURT: They're not issues the jury has
6 to be bothered with, they have enough to do, but to the
7 extent we reach a point where we have to explain what the
8 speech and debate privilege is, then I will do that so that
9 the jury's not in the dark with what's going on. It's just
10 a matter that that's -- that's real legal work, and we've
11 got a case to try here. So let's go on with the issues
12 that relate to what the jury needs to be working on.

13 BY MR. TRAFICANT:

14 Q. Now, did you happen to get some information relative
15 to some disciplinary action taken against one of my
16 employees?

17 A. Could you specify the employee?

18 Q. Sinclair, Allen Sinclair?

19 A. I was aware of problems that Sinclair had relative to
20 some false advertising accusations, problems he had, I
21 believe, with the Ohio Bar Association.

22 Q. And how did you come to learn that?

23 A. I got a call from the reporter asking about it, and
24 then I had a conversation with Allen, I believe a
25 conference call between Allen, myself, and you.

Marccone - Cross

1 Q. Do you specifically remember calling Allen yourself?

2 A. Yes, after I got a call from the reporter. I believe
3 what I told the reporter was I will have to check on it,
4 get back to the reporter, and I called Allen to ask him
5 about it.

6 Q. Did you inform him we would be on the speaker phone?

7 A. Well, I think he -- I believe I had two conversations
8 with Allen. The first one was Allen and myself, and then
9 we had a conference call where you were involved with the
10 call, so obviously he knew that we were talking to him.

11 Q. Now, if Allen said he only had one call and it was at
12 his house, and it was from me, would that be a correct
13 answer?

14 A. I distinctly remember talking to Mr. Sinclair about
15 that issue.

16 Q. Was it a three-way conversation, Paul?

17 A. Again, it was awhile ago, but I remember that you
18 were on the call and I was on the call, and I also recall
19 speaking to him separately myself.

20 Q. What do you mean calling him -- by the way, what time
21 of day was it?

22 A. I don't remember the time of day.

23 Q. Was it work hours?

24 A. If I was in my office with him, it was work hours,
25 yes.

Marcone - Cross

1 Q. Did you have his phone number?

2 A. I believe I talked -- I don't know where I talked to
3 him, I don't know if he was at his home or if he was in his
4 office.

5 Q. Now, there also came at some point an issue relative
6 to the enterprise KAS leasing Overhill Road. Was there
7 some discussion about that?

8 A. When we made the decision to hire Mr. Sinclair, it
9 did come up that his wife either owned the building or was
10 going to own the building, and you and Allen wanted to know
11 if that was a problem. I looked at the ethics manual. Not
12 being a lawyer, it was unclear to me whether or not that
13 would be in compliance with the ethics rules.

14 I had a conversation with Allen. I said, look, I'm
15 not a lawyer, perhaps if the building is in her name and
16 you file taxes separately, it might be okay, but it's --
17 probably wouldn't look good. Let me fax you the ethics
18 rules, you look it over, but, you need to -- you need to
19 work this issue out in a way that's in full compliance with
20 the ethics manual.

21 Q. Now, when you said it wouldn't look good, did you
22 frown on it?

23 A. Yes. I didn't think it was a good idea.

24 Q. Did you, in fact, tell me that?

25 A. Yes.

Marcone - Cross

1 Q. Was there any advice or suggestion made to
2 Mr. Sinclair about that? Did you convey any of those --

3 A. What I conveyed to Mr. Sinclair, I said, look at the
4 ethics rules. We need to be in compliance with the rules.

5 Q. All right. You worked for me, and you owned a
6 building in Alexandria, hypothetically, okay? Understand
7 so far?

8 A. Um-hum.

9 THE COURT: We can't deal with a hypothetical
10 question in this situation. Go ahead and ask him.

11 MR. TRAFICANT: Okay.

12 Q. Would the money, if that goes to your wife, go to
13 your family as well?

14 MR. MORFORD: Still hypothetical question.

15 THE COURT: Right. I think it's the same
16 thing.

17 Q. Would the money that goes from the federal government
18 to Mr. Sinclair's wife inure to the benefit of the Sinclair
19 family in general?

20 A. I can't answer. I don't know how she would spend the
21 money, so I can't answer that question. I'm not Kimberly
22 Sinclair.

23 Q. In any regard, did you ever say it doesn't look good,
24 and you think it should be changed?

25 A. I don't recall my exact words, but I distinctly

Marcone - Cross

1 recall faxing him the ethics rules, and my recollection of
2 the conversations I had with Allen was that the lease
3 arrangement needed to be in compliance with the ethics
4 rules, and they needed to set it up in such a way that they
5 didn't have any interest whatsoever in the building.

6 Q. Did Mr. Sinclair ever report back to you that he
7 checked with the ethics rule?

8 A. My recollection was I was getting an assurance that
9 that issue would be dealt with, and I moved on to other
10 issues at the time more pressing for me as chief of staff.

11 Q. Well, if you can, do you remember -- and be more
12 specific, who led you to believe that the matter had been
13 resolved?

14 A. I believe it was you and Mr. Sinclair.

15 Q. Me and Mr. Sinclair?

16 A. Yes.

17 Q. Was it your understanding after this heated election
18 that I was going to reorganize the office?

19 A. What election, May of 2000?

20 Q. In 1998, the hotly contested one.

21 A. Yes, you made it clear to me that you were going to
22 make changes in the District Office following the November
23 '98 election.

24 Q. And that was after Henry had decided to retire; is
25 that correct?

Marccone - Cross

1 A. Well, Henry didn't actually retire until December of
2 '98.

3 Q. Yes, but didn't I say that after the next election we
4 were going to reorganize?

5 A. Yes.

6 Q. During that time span, was there not a lot of
7 grumbling?

8 A. A lot was going on in the District Office, yes.

9 Q. Was there a lot of -- how would you describe it?

10 A. I wouldn't use the word grumbling. There was some
11 disarray because I believe Mr. O'Nesti had left the office
12 and pled guilty, so we didn't have a district director.
13 Everyone was trying to chip in and fill in for Mr. O'Nesti,
14 who had a lot of control, did a lot of work, but my
15 recollection was that people were stepping up to the plate
16 back there and trying to work as hard as they can to fill
17 the void.

18 Q. And we still did the job?

19 A. Yes, the office -- the District Office was continuing
20 to run, from my standpoint, in Washington. Things were
21 going adequately.

22 Q. And did I then, because of that situation, give you a
23 little more latitude to check on the District Office? To
24 the best of your knowledge, did we ever have discussion
25 about you and the District Office?

Marcone - Cross

1 A. Yes. That came much later, in 2000. I was given
2 control over the District Office.

3 Q. Now, do you know what pay Mr. O'Nesti started at?

4 A. I don't recall what his starting salary was.

5 Q. But how many years was he employed?

6 A. From '85 to '98.

7 Q. Did he get automatic cost of living allowances?

8 A. Yes.

9 Q. While you were there, did we ever fail to give a
10 bonus to our people?

11 A. I believe every year everyone got bonuses.

12 Q. Sometimes they were greater or lesser?

13 A. That's correct.

14 Q. Did we ever return any money to the general fund?

15 A. Yes, every year.

16 Q. Every year?

17 A. Yes.

18 Q. So we never exhausted our budget, did we?

19 A. I'd have to go back and check, but I believe every
20 year we gave some money back to the general fund, yes.

21 Q. To the best of your knowledge, did we get a lot of
22 complaints in Washington about not doing our job, either in
23 the district or in Washington?

24 A. Complaints from whom?

25 Q. From constituents and/or people?

Marcone - Cross

1 A. You get occasional complaints, but for the most part,
2 no, we didn't get complaints about the district.

3 Q. Did we ever get many complaints about the Washington
4 office?

5 A. No.

6 Q. Would you say that people around the country come to
7 learn their Congressman?

8 A. Can you repeat the question?

9 Q. Do you have knowledge that from the use of C-SPAN
10 that people around the country come to learn members of
11 Congress?

12 THE COURT: That isn't a kind of question
13 that he could properly answer, I don't think. Do you have
14 some special knowledge about that?

15 THE WITNESS: No.

16 THE COURT: Thank you.

17 Q. Paul, would we usually find ourselves being visited
18 by people from -- people outside of our district? Did we
19 have a lot of that?

20 A. Yes. We have a lot of people come into the office
21 who were out of the country, wanted to have their picture
22 taken for media.

23 Q. Was it greater than what you thought was normal?

24 A. Again, I have not worked in other members' offices,
25 and I can't say whether it was more or less than other

Marccone - Cross

1 offices.

2 Q. There was a lot of that though, wasn't there?

3 A. Yes.

4 Q. Did that take time?

5 A. It took some time, for certain people on the staff,
6 yes.

7 Q. Would there be workers that would call and make
8 appointments to come in and take photographs, to the best
9 of your knowledge, from other staffs?

10 A. Yes, that happened quite often.

11 Q. Now, other than in my office, your office next to
12 mine --

13 A. Yes.

14 Q. -- there wasn't a whole lot of space there, was
15 there?

16 A. No.

17 Q. Now, when the payroll records were subpoenaed, did
18 you and I have a conversation?

19 A. Yes.

20 Q. Did I advise you in any way to instruct them?

21 MR. MORFORD: Objection, hearsay.

22 THE COURT: The objection is sustained.

23 BY MR. TRAFICANT:

24 Q. Okay. What, if anything, did you do -- did we have a
25 conversation about it?

Marccone - Cross

1 A. Yes, we did.

2 Q. What, if anything, did you do with those employees --

3 A. The --

4 Q. -- whose records were subpoenaed?

5 A. I simply called them to let them know that a subpoena
6 had been issued, and as part of the subpoena, they
7 specifically asked for their payroll records. It was those
8 employees that were still on the payroll.

9 Q. Do you remember any questions about the Ross
10 Sinkowski affair when you went to the Grand Jury?

11 A. I can't recall whether or not I was asked about
12 Congressman Ross Sinkowski or not when I was before the
13 Grand Jury. I may have been, I just don't recall. It was
14 almost two years ago.

15 Q. Okay. That's fine. Paul, you worked with me for 15
16 years. Do you believe I was truthful with you over 15
17 years?

18 A. Yes.

19 Q. Were you truthful with me over 15 years?

20 A. Yes.

21 Q. How would you describe our relationship?

22 A. Very close.

23 Q. Did you trust my advice?

24 A. I trusted your judgment, yes.

25 Q. When it comes down to big decisions, would I get

Marccone - Cross

1 involved?

2 A. Yes.

3 Q. Now, if there was a constituent matter that hit a
4 stone wall and couldn't be handled, what, if anything,
5 would happen?

6 A. I would ask you to get involved, make a phone call.

7 Q. To the best of your knowledge, did I do that?

8 A. You always did that, yes.

9 Q. To the best of your knowledge, did I ever refuse to
10 do that?

11 A. No.

12 Q. So, now, when you get calls by reporters around this
13 politically sensitive time, you were basically responding
14 as to what you felt was going on; am I correct?

15 A. Yes. Yes.

16 Q. And how would you try and assess what was going on
17 back in the district?

18 A. Can you be more specific?

19 Q. Well, they'd be calling and asking questions. Who
20 would you ask what would happen?

21 A. If you're talking about the period before the May
22 2000 -- the March 2000 primary --

23 Q. Yeah.

24 A. I was getting specific questions from reporters about
25 things that were going on inside the Grand Jury.

Marcone - Cross

1 Q. Yeah. But, then --

2 A. And my basic statement to reporters was, basically,
3 it was wrong -- I was upset because I felt that that
4 information, however it was getting to reporters, was going
5 to have an adverse effect on the election, and that was
6 wrong, and that the Congressman had not done anything
7 wrong, and that he was going to continue campaigning and
8 doing his job.

9 Q. Well, why would you make the statement the
10 Congressman had not done anything wrong?

11 A. Because they were -- the nature of the questions
12 were about things that were going on in the Grand Jury that
13 they were investigating. There were allegations of
14 wrongdoing on your part.

15 Q. Did you ask me about some of those allegations?

16 A. Yes.

17 Q. What, if anything, did I tell you, if you can recall?

18 A. There was a specific allegation about the Bucci
19 brothers, and --

20 Q. Were there others?

21 A. Specific allegations the Buccis had done a lot of
22 work --

23 MR. MORFORD: Objection. That's something
24 the Congressman can testify to. He can't ask him.

25 MR. TRAFICANT: I wasn't asking about the

Marcone - Cross

1 Buccis.

2 THE COURT: It would be the same principle,
3 if it's hearsay we can't use it unless it comes in under
4 exception.

5 MR. TRAFICANT: Okay.

6 THE COURT: Which we have to deal with out of
7 the hearing of the jury so that they don't have to listen
8 to evidence that they're not allowed to listen to until we
9 decide whether or not they can listen to it.

10 MR. TRAFICANT: Okay.

11 BY MR. TRAFICANT:

12 Q. Paul, if you got a call that said the Congressman was
13 in an accident and he was DUI, who would you check with to
14 see if the Congressman was DUI?

15 A. I would check with you.

16 Q. If they said the Congressman was getting gifts and
17 gratuities, who would you check with?

18 A. I would check with you.

19 Q. If someone said he was getting kickbacks, who would
20 you check with?

21 A. I would check with you.

22 Q. Do you recall having conversations with George
23 Buccella about the allegations being made?

24 A. I recall making a phone call to Mr. Buccella and
25 letting him know that his name had appeared on the

Marcone - Cross

1 subpoena.

2 Q. And you recall questions about that at the Grand
3 Jury?

4 A. I believe I was asked by Mr. Buccella, yes.

5 Q. And when you talked with Mr. Buccella did you ask him
6 any questions relative to these allegations?

7 A. I asked him why he thought that his payroll records
8 would have been subpoenaed, and we had a discussion about
9 work he did on your farm.

10 Q. He said he did work at the farm?

11 A. Yes. And I asked him, did you do the work during
12 work hours, and my recollection of the conversation was he
13 said he did it on his vacation time.

14 Q. Did he ever mention weekends, to the best of your
15 recollection?

16 A. Yes, and he -- yes.

17 Q. Did he basically deny that he did any wrongdoing?
18 Yes or no.

19 A. I don't think the issue of whether or not what he did
20 was wrong came up. I was just trying to ascertain what he
21 did that caused the Government to want to look at his
22 payroll records.

23 Q. For what purpose then?

24 A. Well, because from management standpoint, you want to
25 make sure all your employees are in compliance with the

Marcone - Cross

1 ethics rules.

2 Q. And were you not also being pounded every day by the
3 press?

4 A. I was getting a lot of questions from the media, and
5 I wanted to be able to give good informed answers to the
6 media.

7 Q. Did George ever make the statement to you that he did
8 the work on his own free time and it was not an agent
9 matter?

10 MR. MORFORD: Objection, hearsay.

11 THE COURT: It is hearsay, and you know it's
12 hearsay, Congressman. Don't put that in front of the Jury.
13 Please disregard that, please. Can you disregard that?

14 THE JURY: Yes.

15 THE COURT: Thank you.

16 MR. TRAFICANT: I'm not going to disregard
17 it. Excuse me a minute.

18 THE COURT: We'll take a break.

19 (Proceedings in the absence of the jury:)

20 THE COURT: This will be about 20 minutes to
21 30 minutes long, this break, and I want to give you ten
22 minutes now, and then I'd like you to come back, and we'll
23 see if we can cover some of these issues that have been
24 occurring.

25 For your purposes, we have 20-minute break to

1 30-minute break. I'm not sure how long this will take.

2 You folks take ten minutes, please.

3 (Thereupon, a recess was taken.)

4 (Proceedings in the absence of the jury:)

5 THE COURT: I just want to deal with a couple
6 issues. One is that we're still having -- Congressman, you
7 still tend to talk over the witness, and what happens then
8 is that the reporters have to struggle to take down two
9 conversations at once. And to protect your own record in
10 the case, I need to just caution you about talking over
11 witnesses.

12 The other thing, I suppose, is that we kept getting
13 into areas of your asking questions which elicit a response
14 from the Government that there's hearsay, so I just want to
15 get clear with you that we can't let you elicit that in the
16 case. I think you know what -- I hope you understand that
17 is an out-of-court statement, and there are strong reasons
18 why the Rules of Evidence don't permit it to be used unless
19 it meets certain exceptions. So I don't know if you want
20 to respond to that or not.

21 MR. TRAFICANT: Yeah, I'd like to respond and
22 say if an attorney, whether he's pro se or Johnny Cochran,
23 makes a statement that's subject to hearsay, can't the
24 prosecution object? Is that unusual that attorneys make
25 statements that may border and they may be thinking they're

1 within the bounds, may not be within the bounds? Don't I
2 have to protect the record by objecting?

3 THE COURT: Why, yes.

4 MR. TRAFICANT: Have they not done that?

5 THE COURT: They've tried to, although you
6 argued when they tried to get on their feet, so what I'd
7 like to get clear is you made some response to me on one of
8 those, and that a third person was present, so it wasn't
9 hearsay. And I don't know whether you're thinking of when
10 someone has a privilege and there's a third person or what
11 you're thinking of, but I don't understand that response.
12 I want to make sure you're dealing with the hearsay rules.

13 MR. TRAFICANT: Fine. Let me ask you then
14 this question as the Judge in this Court.

15 If you and I had a conversation and I asked you about
16 that conversation, is that hearsay?

17 THE COURT: Well, it depends, it depends on
18 what you're trying to put into evidence. I mean,
19 hearsay -- one of the reasons that hearsay has to be looked
20 at carefully is to see whether or not it meets an exception
21 or not, is because it lacks a level of trustworthiness
22 because it isn't subject to cross-examination, because it
23 isn't something that the other side can test and challenge
24 in the ways that we do under the rules and court of law.

25 Now, there's some other rules that are brought up to

1 say there are other reasons why this statement might be
2 trustworthy, and that's where we get into the issue of
3 objections, and those have to be established, as you well
4 know, not in front of the jury during the trial, but by
5 holding a hearing where the Judge and the lawyers and the
6 pro se parties look at whether or not any subject has been
7 met.

8 But basically the problem is if you try to get a
9 witness who was in a conversation just with you to testify
10 to the content of what you said, you're not subject to
11 cross-examination, there's no way for that to be tested.

12 MR. TRAFICANT: If it was phrased -- if it
13 was phrased wrongfully, I understand that.

14 THE COURT: It's not just phrasing it, it's
15 trying to get evidence in front of the jury that isn't
16 subject to the usual tests that make it reliable enough to
17 let it go to the jury.

18 MR. TRAFICANT: Well, then let me ask you
19 this: For the record, did the prosecutor ask Paul Marcone
20 about conversations he had with Jim Traficant?

21 THE COURT: Well, do you want to respond to
22 that?

23 MR. MORFORD: Yes, your Honor, and we
24 discussed that in open court before, that the statements of
25 the Defendant are the statements of a party opponent, and

1 by definition of Rule 801, they are not hearsay. The
2 adverse party can put the statements of the opposing party
3 in because by definition they are not hearsay, but the
4 party, Mr. Traficant, the Defendant, cannot put his own
5 statements in unless he takes the stand, testifies, and
6 allows me to cross-examine him.

7 MR. TRAFICANT: Now, if I can elicit an
8 answer on a conversation I had with Joe Blow relative to an
9 act between myself and Joe Blow, with you telling me that
10 you agree with the prosecutor that Joe Blow can't tell you
11 what happened and that I would have to be the one to tell
12 you what happened, what are we saying here? Now, come on.

13 THE COURT: I think -- I think what we're
14 saying is exactly what was just said to you, that there are
15 certain exceptions to the hearsay rule, and that to the
16 extent you can demonstrate to the Court that what you want
17 to put on in evidence in this case, something that you said
18 at some time to somebody else, has met one of those
19 exceptions, it can come in, but you have to establish that
20 before you elicit it in front of the jury.

21 You can't basically avoid the issue of having it
22 tested in some way that shows it's trustworthy. You can
23 put the statement on if you choose to testify. Of course,
24 you don't have to testify. You are not required to. But
25 if you choose to testify, then you can do that, and then

1 you're subject to being under oath and to being
2 cross-examined.

3 MR. TRAFICANT: Absolutely.

4 THE COURT: Okay. Well, those are two ways
5 that the Rules of Evidence has tried to make testimony
6 trustworthy. And one is that people are sworn before they
7 give it, which you can't do with outside statements, and
8 the other is they're subject to challenge or
9 cross-examination. So the way we do it --

10 MR. TRAFICANT: For the record then, is
11 Mr. Marcone my witness? Whose witness is he?

12 THE COURT: We are in the Government's case
13 right now.

14 MR. TRAFICANT: Is he the Government's
15 witness or are we going to get into a lot of language?

16 MR. MORFORD: Actually, your Honor, I have
17 not objected to beyond the scope on a lot of this stuff
18 because I don't think it's a good use of the Court's time
19 to have Mr. Marcone testify on direct, have him
20 cross-examined, and have Mr. Traficant bring him back at
21 the end of the trial. So much of what he's asking him is
22 actually beyond the scope of direct, and he's sort of his
23 witness, and I'm not objecting to that. So the answer is
24 it's a mixed bag.

25 MR. TRAFICANT: Is Mr. Marcone the

1 Government's witness or the Defense witness?

2 THE COURT: Well, the Government called him
3 as a witness.

4 MR. TRAFICANT: Okay, fine.

5 Do I have then the right to cross-examine him?

6 THE COURT: You certainly have the right.

7 MR. TRAFICANT: And do I not have the right
8 under cross-examination, have a broad latitude, within the
9 scope of a motive for my defense --

10 THE COURT: You have to talk softer because
11 we have a jury in the back, okay? Thank you.

12 MR. TRAFICANT: Okay.

13 THE COURT: Do you need a moment?

14 MR. TRAFICANT: You have a Government witness
15 they examined on direct.

16 THE COURT: Right.

17 MR. TRAFICANT: They examined him on direct
18 basically through the Grand Jury testimony. My one
19 question is, first of all, he's their witness, I have a
20 right to cross-examine him.

21 THE COURT: Yes, you do.

22 MR. TRAFICANT: Anything he said to me,
23 whether or not it's trustworthy or not, should be judged by
24 this jury, not by what you're saying or the prosecutor's
25 saying. Now, I don't -- I may not know all the hearsay

1 rules, but I just wasn't born yesterday.

2 THE COURT: Right.

3 MR. TRAFICANT: Now, second of all, can I
4 introduce Grand Jury testimony as evidence?

5 THE COURT: What you can do, if the sheet of
6 papers you're holding in your hand back there is the
7 transcript of Grand Jury testimony, that's an issue we need
8 to deal with as we are right now.

9 MR. TRAFICANT: I am asking questions from
10 the Grand Jury --

11 THE COURT: Fine.

12 MR. TRAFICANT: -- testimony, which he did.

13 MR. MORFORD: Your Honor, again, on
14 cross-examination, yes, Congressman Traficant has more
15 latitude than he would on direct examination, but the Rules
16 of Evidence still apply. He can't ask a witness to
17 speculate. He can't ask the witness to testify about facts
18 upon which he has no firsthand knowledge that he may have
19 done some --

20 THE COURT: Right, he knows.

21 MR. TRAFICANT: How do I know he doesn't
22 unless I ask him?

23 THE COURT: But you do know those rules.

24 MR. TRAFICANT: I know those rules, but your
25 Honor --

1 THE COURT: For example, when you ask does he
2 know because of CNN or C-SPAN, or something, you have a
3 nationwide audience, well, he may in fact have some
4 particular knowledge about that, but as it turned out he
5 didn't, and so you went on.

6 MR. TRAFICANT: I went on? Did I go on?

7 THE COURT: Yeah.

8 MR. TRAFICANT: But then I went on to say,
9 did I have a lot of visitors to my office from out of
10 state, so I rephrased it, didn't I?

11 THE COURT: Right.

12 MR. TRAFICANT: But evidently -- I'm trying
13 to make a point. The point is, why do I always have to,
14 every 15 minutes, tell this prosecutor what the point is
15 I'm trying to make, and why do I have continue to try and
16 show him beforehand what my defense is?

17 You limited obsession, vendetta, and you have been
18 very tough on hearsay. I mean it. And you have made it
19 look like as if when he objects, it's because I'm somebody
20 back there that's just wasting the jury's time, and I put
21 that on the record, and I object to that.

22 Now, I have a question unless you have a response.

23 THE COURT: No, I don't have a response.

24 MR. TRAFICANT: Thank you.

25 I want to make the charts that the Government used by

1 their IRS chief inspector investigator, I want to make them
2 joint exhibits. I want to make them defense exhibits.

3 THE COURT: Talk to them about that. That's
4 a good issue to take up during the break. I want to go
5 back to the sheaf of papers you had in your hand because I
6 told you we needed to cover at this discussion what those
7 were and where you were going with them, rather than have
8 the conversation in front of the jury, so tell me.

9 MR. TRAFICANT: Okay. Let me tell you what.
10 I have before me Grand Jury testimony. I know what he told
11 the Grand Jury. I'm trying to ask questions relative to
12 that, that deal with the indictments in this case.

13 Now, that's exactly what I'm doing. Now, I've seen
14 them -- I followed their case, much of their case is they
15 asked about the Grand Jury testimony. Now, I didn't get
16 into some of the salient points yet that deal with some of
17 these other people, but, I plan to.

18 THE COURT: Okay.

19 MR. TRAFICANT: But, I'm not allowed to have
20 his Grand Jury testimony in front of me to know what he
21 told the Grand Jury?

22 THE COURT: No. It was just very hard to
23 tell what it was you were walking into. He posed an
24 objection, and instead of recessing the jury then, I said
25 we'd recess them now. That's what we've done.

1 So now let me find out whether you have a response --

2 MR. MORFORD: Yes, I do, your Honor.

3 THE COURT: -- now that you'd like to talk
4 about.

5 MR. MORFORD: Yes.

6 The Grand Jury transcript in and of itself would be
7 again hearsay unless you set a foundation to show that the
8 witness has said something in the courtroom that's
9 inconsistent with what he said in the Grand Jury. And the
10 way you have to do it is to point out what the answer was
11 on direct that was inconsistent, ask him, "Isn't it true
12 that," say what your understanding of the inconsistency is,
13 if he denies it, then you say, "Didn't you testify at the
14 Grand Jury," and you impeach him with his prior
15 inconsistent statement.

16 That's not what has happened here.

17 THE COURT: Well, I don't know, because we
18 interrupted the Congressman before he got to that. That
19 may well be what he was going to do with the Grand Jury
20 testimony, and it's true --

21 MR. TRAFICANT: Thank you.

22 THE COURT: -- you can cross-examine with
23 it, with inconsistent statements he made at the Grand Jury.

24 MR. TRAFICANT: Yes, but it appears to me
25 that the Court, I must say this, and the prosecution is

1 very worried about the papers I put on that little table
2 back there. That's my domain. That has nothing to do with
3 them or you.

4 THE COURT: All we're worried about is that
5 we were having a heated exchange between lawyers in front
6 of the jury, and we're not going to do that in this case.
7 Right now, we're delaying the jury. The jury's sitting
8 back there when they should be in the box. So if this is
9 clear, then we'll go forward.

10 MR. TRAFICANT: Okay. Could we come to an
11 agreement on the joint exhibits or --

12 MR. MORFORD: Let's talk about it during the
13 break. We won't keep the jury for now.

14 MR. TRAFICANT: Thank you.

15 MR. MORFORD: Only thing would I say, on at
16 least a couple of those charts Congressman Traficant
17 objected, and he's going to lose his right to appeal the
18 admission of those if he makes them joint exhibits. That's
19 what we need to talk about.

20 MR. TRAFICANT: I understand that, and I am
21 going to ask if the big charts they blew up on the board,
22 certain of them be made defense exhibits.

23 THE COURT: Okay.

24 MR. TRAFICANT: If that has to be Joint
25 Exhibit, then so it can be Joint Exhibit. I want to use

1 their own exhibits.

2 THE COURT: Do you want to use them with this
3 witness?

4 MR. TRAFICANT: No. It doesn't deal with
5 this witness.

6 THE COURT: We can do it at the next break.

7 MR. TRAFICANT: I don't know if I can do it
8 at the next break. I might do it tomorrow, because I have
9 to put together the exact ones I want to be made.

10 THE COURT: Okay. You just discuss it with
11 him first. It's usually not a problem.

12 MR. MORFORD: Your Honor, one last objection.
13 I object to the editorial comments by the Congressman, and
14 I have not objected to a lot of those, but there have been
15 a number. I've written a list. I won't go into those now,
16 but things like, "The prosecutor's jumping up like a
17 jack-in-the-box," I object to his objection. Those things
18 are not proper to bring out in front of the jury.

19 THE COURT: They're not proper. He knows
20 that.

21 MR. TRAFICANT: I apologize.

22 THE COURT: Thank you.

23 MR. TRAFICANT: Sorry to have offended you.

24 MR. MORFORD: Just stop it, and then we'd
25 have no problem.

Marcone - Cross Continued

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

2 THE COURT: You're still under oath.

3 THE WITNESS: Yes, your Honor.

4 BY MR. TRAFICANT:

5 Q. Good to see you again, Paul.

6 Would you explain what your new job is, Paul?

7 A. I'm vice-president at the Russ Reid Company, which is
8 a government relations firm in Washington, D.C.

9 Q. Do you do lobbying?

10 A. Yes, I do.

11 Q. Would you explain to the Jury what a lobbyist does?

12 A. I work on behalf of nonprofit organizations which are
13 clients that we're trying to get them federal money,
14 appropriation bills, so we will work with the Congress to
15 try to accomplish that goal.

16 Q. Now, how do you go about trying to get them money and
17 appropriation bills? What do you do?

18 A. We develop a project proposal based on their needs,
19 and we present that proposal to their member of Congress,
20 their senators, and other members of Congress who are
21 involved in the process.

22 Q. So you would go to a member of Congress or the Senate
23 and try and explain the veracity and goodness of your
24 program, right?

25 A. Yes.

Marccone - Cross Continued

1 Q. Do you get paid more money by this company than what
2 you get paid by me?

3 A. Yes.

4 Q. You get substantially more money?

5 A. Not substantially more.

6 Q. On or about the time we had conversations about you
7 perhaps looking at other jobs, what do you recall
8 specifically being the reason for that conversation, if you
9 can recall?

10 A. I think on several occasions you just simply said,
11 "You have a wife and family, I don't know what's going to
12 happen to me. You should go look for another job." That
13 was in the context of the ongoing Grand Jury investigation.

14 Q. Paul, are jobs that pay over \$100,000 in Washington
15 easy to find?

16 A. No.

17 Q. Did we know at the time or did you know at the time
18 for sure I was going to be indicted?

19 A. No.

20 Q. Did we have conversations relative to it?

21 A. Yes, we did.

22 Q. Now, you testified how many times before the Grand
23 Jury?

24 A. Twice.

25 Q. Did you testify truthfully?

Marccone - Cross Continued

1 A. Yes.

2 Q. Did you have any doubt in your mind that I would want
3 you to testify anyway, but truthfully?

4 A. I can't speak as to what was in your mind.

5 Q. Did I always consider you to be truthful, Paul, in
6 our relationship?

7 A. Yes.

8 Q. Did I always consider that you would be truthful in
9 your interactions regarding me?

10 MR. MORFORD: Objection.

11 THE COURT: Sustained. He's got to testify
12 as to what he was considering.

13 MR. TRAFICANT: Okay.

14 BY MR. TRAFICANT:

15 Q. Let's deal with the truthfulness issue. To the best
16 of your knowledge, were you always truthful?

17 A. Yes.

18 Q. To the best of your knowledge, did I expect you to be
19 truthful?

20 A. Yes.

21 Q. To the best of your knowledge, was I truthful?

22 A. The evidence that I've been presented with leaves me
23 to question that right now.

24 Q. You're worried because of the evidence that you're
25 hearing about, right?

Marccone - Cross Continued

- 1 A. Yes.
- 2 Q. Is that unnatural?
- 3 A. I think I wouldn't be human if I didn't start to
4 question your truthfulness.
- 5 Q. Now, you testified twice before the Grand Jury?
- 6 A. Yes, sir.
- 7 Q. Did FBI or any other agents ever come out and visit
8 you in addition to that?
- 9 A. Yes, I was visited by the U.S. Attorney's Office.
- 10 Q. How many times?
- 11 A. Twice in Washington.
- 12 Q. Where?
- 13 A. Once in the Justice Department building, the second
14 time was at a hotel in Washington, D.C.
- 15 Q. Did you ever notify me of those meetings?
- 16 A. No.
- 17 Q. Did I ever ask you if the FBI was investigating or
18 asking questions?
- 19 A. After I left your employ, no.
- 20 Q. No. Before, at any time?
- 21 A. I don't recall that, no, although I did inform you I
22 was testifying before the Grand Jury in April of 2000.
- 23 Q. Yes, you did. And is that a time when the heavy
24 election was coming on?
- 25 A. Yes, sir.

Marccone - Cross Continued

1 Q. Did we have any conversations relative to that
2 election?

3 A. Many conversations.

4 Q. Did you have concerns because of the press coverage?

5 A. I believe I answered that, yes, I did. Leading up to
6 the March, 2000 primary, I had a lot of concerns about
7 reports in the media concerning the Grand Jury
8 investigation.

9 Q. From your experience on Washington Hill, when there's
10 a tough election and, for example, a member's name is in
11 the headlines with serious allegations, what normally
12 happens to that member in most cases?

13 A. I have to go back and look at every election in which
14 it happened, but someone who's very experienced in
15 politics, that's usually a nightmare scenario to have
16 damaging allegations of wrongdoing at the eve of any
17 election.

18 Q. With all these allegations, did I win the primary?

19 A. Yes, you did.

20 Q. In the face of all of these allegations, did I win
21 the general?

22 A. Yes.

23 Q. Now, when you started to work with me in Washington,
24 what was the condition of the district, to the best of your
25 knowledge?

Marccone - Cross Continued

1 A. In 1985?

2 Q. Yes, financially.

3 A. I believe it was very high unemployment. Their
4 economic development was at a snail's pace, and it was --
5 it was hurting economically.

6 Q. What was the one word that if you can recall that I
7 was always pushing you for?

8 A. Jobs.

9 Q. Did I ever miss an opportunity, to the best of your
10 knowledge, to inflect jobs into an issue?

11 A. I'd say that's a fair statement.

12 Q. Now, when you met with the Justice Department, how
13 many people met with you totally, the first time?

14 A. At the Grand Jury?

15 Q. No, when the -- you said you met, before the Grand
16 Jury, twice with the Government?

17 A. The meetings I had with the Government in Washington,
18 D.C., occurred after -- one occurred after my first Grand
19 Jury appearance, the other occurred after my second Grand
20 Jury appearance.

21 Q. Okay. After your first Grand Jury appearance, how
22 many people visited you, to the best of your knowledge, and
23 interviewed you?

24 A. There were -- there were three people present, and
25 there were -- I also had my own attorney present.

Marccone - Cross Continued

1 Q. Okay. Now, you testified they didn't intimidate you,
2 right?

3 A. No.

4 Q. But, did you feel some pressure?

5 A. It's never an easy thing to -- the pressure I felt
6 was just the pressure of having to appear before a Grand
7 Jury and answer questions about someone that I respected or
8 cared a great deal about.

9 Q. Okay. Now, the next time you met with them, how many
10 were there?

11 A. In Washington?

12 Q. Yes.

13 A. Two.

14 Q. Do you recall who they were?

15 A. Mr. Morford, and I don't recall the name of the other
16 individual.

17 Q. Meeting with the Government is really though a pretty
18 scary thing, wouldn't you say?

19 THE COURT: He can answer, ask -- if you want
20 to ask him his response, that would be the way to do it.

21 Q. What's your response? Would your response be --

22 A. I wouldn't say I was scared. Having done hundreds of
23 meetings with federal, state, city officials, I wouldn't
24 say I was scared at all in any of the meetings.

25 Q. Okay. Now, you said I was known for taking the

Marccone - Cross Continued

- 1 offense; is that right?
- 2 A. Um-hum.
- 3 Q. Did I take the offense from day one?
- 4 A. In regards to the --
- 5 Q. When we started working together, did I always take
- 6 the offense, or what?
- 7 A. Yes.
- 8 Q. Would we have conversations about that?
- 9 A. Yeah.
- 10 Q. Did we at times have differences?
- 11 A. Yes, yes.
- 12 Q. Did we at times have some heated differences?
- 13 A. Yes.
- 14 Q. Now, the Government said that we had a, what was the
- 15 term, an argument, a big argument over an issue. Do you
- 16 recall that question?
- 17 A. Yes, I do.
- 18 Q. Was it a big argument or was it a heated debate?
- 19 A. That -- that particular incident was a big argument.
- 20 Q. Okay. What was it about?
- 21 A. You wanted me to call the Hannity & Colmes, a cable
- 22 television show, and get you time to speak on the show to
- 23 make allegations about the U.S. Attorney General.
- 24 Q. Okay. And what was your advice to me?
- 25 A. I thought that it was inappropriate for you to make

Marcone - Cross Continued

1 allegations based on hearsay evidence. I felt it was
2 inappropriate for you as a Congressman to make those kind
3 of statements, that it was a wrong thing to do, and I
4 wasn't going to -- I refused to set up an interview.

5 Q. Did you ever ask to see any evidence I might have
6 attained?

7 A. Yes.

8 Q. And what were those in the form of?

9 MR. MORFORD: Objection.

10 THE COURT: Sustained.

11 Q. Okay. To the best of your knowledge, would I put
12 important matters on the Congressional Record, to the best
13 of your knowledge?

14 A. On many occasions, you would ask me and other members
15 of the staff to put certain documents into the
16 Congressional Record.

17 Q. Do you know if they were printed?

18 A. They were always printed in the Congressional Record,
19 yes.

20 Q. Did you have knowledge that I had -- was conducting a
21 congressional investigation in my own district into FBI and
22 IRS activities?

23 A. Yes.

24 Q. Do you have any knowledge that I put anything on the
25 record relative to those --

Marccone - Cross Continued

1 A. Yes.

2 Q. -- allegations?

3 A. Yes.

4 Q. Do you know if I had ever written to an attorney
5 general relative to Government corruption in the Youngstown
6 area?

7 A. Yes, on several occasions.

8 Q. Did we ever get any response, Paul?

9 A. Yes.

10 Q. And what, if anything, did they say?

11 MR. MORFORD: Objection, hearsay.

12 THE COURT: We keep going back to the same
13 place.

14 MR. TRAFICANT: Okay.

15 BY MR. TRAFICANT:

16 Q. But, is it your testimony that we did write and
17 notify the Justice Department and ask them questions about
18 my concerns about FBI and IRS corruption in Youngstown,
19 Ohio? Yes or no.

20 A. Yes.

21 Q. Now, you recall the Demjanjuk issue, when that
22 occurred?

23 A. Yes.

24 Q. Did we have a conversation about it, Paul?

25 A. Your direct involvement with the Demjanjuk case came

Marcone - Cross Continued

1 when I was not in the office. However, prior to my leaving
2 in March of '89, I did get a letter from the Demjanjuk
3 family, I believe it was a form letter they sent to every
4 member of Congress, asking for assistance in the case. And
5 I remember when viewing the letter, and I don't even -- I
6 don't know if I brought it to your attention or not, but I
7 didn't think the case warranted your support or help.

8 Q. Did you know if they visited members of Congress?

9 A. I came to find out later on that they did start
10 visiting with members of Congress, yes.

11 Q. At some point, though, you were in the office when
12 they appeared in the office -- were you in the office when
13 they came to the office, asked for my assistance?

14 A. For the first time, no, I was no longer working
15 there.

16 Q. Did you and I have conversations relative to my
17 involvement with the Demjanjuk case?

18 A. When I came back in '93, yes.

19 Q. All right. And what, if anything, did you say?

20 A. I -- I felt that while he may not have been Ivan the
21 Terrible, he probably was a prison guard, and it probably
22 was not a good idea for you to be supporting him.

23 Q. What was he charged with, do you know, the charge?

24 MR. MORFORD: Objection as to relevance, your
25 Honor.

Marcone - Cross Continued

1 THE COURT: The objection is sustained.

2 Q. Do you know if Mr. Demjanjuk was cleared of the
3 charges?

4 MR. MORFORD: Objection.

5 THE COURT: The objection is sustained.

6 BY MR. TRAFICANT:

7 Q. Now, you at some point you started to get a lot of
8 calls about some contractors, right?

9 A. Yes.

10 Q. And who were you getting those calls from?

11 A. Newspaper reporters.

12 Q. Was one of them a Mr. J. J. Cafaro?

13 A. That was one of the contractors I was getting calls
14 about, yes.

15 Q. Do you know if Mr. Cafaro was a part of a company?

16 A. Yes, he was the owner of a U.S. Aerospace Group.

17 Q. You know who the president of that company was?

18 A. I believe it was his daughter.

19 Q. Do you know who the chief executive officer was?

20 A. I believe it was Richard Detore.

21 Q. Do you know if any of those -- would you have any
22 knowledge if any of those three had been indicted?

23 MR. MORFORD: Objection.

24 THE COURT: Sustained.

25 Q. Did you have a lot of dealings with Mr. Detore?

Marccone - Cross Continued

1 A. Many dealings, yes.

2 Q. How would you describe your relationship and dealings
3 with Mr. Detore.

4 A. I had a very close professional relationship with
5 him. I worked very closely with him on the enhanced vision
6 technologies issue. I also became very close to him
7 personally, have socialized with him on several occasions.

8 Q. Did you find Mr. Detore to be truthful?

9 MR. MORFORD: Objection.

10 THE COURT: Sustained.

11 Q. Did you form an opinion of any kind of Mr. Detore
12 relative to our working relationship with the office?

13 THE COURT: I believe the objection is
14 sustained.

15 Q. Did Mr. Detore ever lie to you, Paul?

16 A. I -- I don't know of any incident in which he
17 specifically lied to me about an issue.

18 Q. Do you recall an incident where the Government asked
19 you about setting up a meeting with the FAA people in our
20 office?

21 A. Yes.

22 Q. How many of those meetings did we set up?

23 A. On the enhanced vision issue?

24 Q. Yes. On the -- on the --

25 A. I would say there were several. There were several

Marcone - Cross Continued

1 meetings that were set up.

2 Q. And where were the meetings conducted?

3 A. In my office.

4 Q. All right. Do you remember who represented the
5 company at those meetings?

6 A. Richard Detore, Al Lange, and at one of the meetings
7 Ron Sinkowski was there.

8 Q. Do you ever remember Capri Cafaro?

9 A. Capri Cafaro was at several of the meetings. There
10 were meetings that took place at the company's headquarters
11 at Manassas Airport, and Capri was there at some of those
12 meetings.

13 Q. Did you ever get calls relative to Mr. Cafaro's
14 behavior, and were you ever asked to assist or help
15 entities in Washington with Mr. Cafaro?

16 A. Yes.

17 Q. Would you explain what they were.

18 MR. MORFORD: Objection, hearsay.

19 THE COURT: Well, there are two things. One
20 is I have no idea what time span we're talking about, and
21 the other is it's the same thing. It sounds as if you're
22 trying to get information from him about what other people
23 said, which we've been over and over.

24 Q. Okay. On or about the time --

25 THE COURT: Wait a minute, wait a minute.

Marcone - Cross Continued

1 I'm going to -- I'll give the jury a mini course in
2 the hearsay rules if I need to, but usually we don't have
3 to get you involved in all of that.

4 What we're talking about is having people who have
5 firsthand knowledge, also that they're sworn under oath and
6 subject to cross-examination before they give testimony to
7 a jury. And so when one person is on the stand and they
8 are saying what somebody else said, who isn't here, who
9 isn't under oath, who isn't subject to cross-examination,
10 then there's a question of whether or not it's reliable.

11 There are ways sometimes that the rules have made
12 exceptions because there are other reasons that things
13 aren't trustworthy, but it is hard for you when we have to
14 keep stopping and interrupting, and that's why we're trying
15 to get this clear across the board.

16 Just please don't go forward on the questions that
17 are going to lead to hearsay, to the extent you can avoid
18 it.

19 BY MR. TRAFICANT:

20 Q. Paul, did you and I have conversations relative to
21 Mr. Cafaro's trustworthiness?

22 A. Yes.

23 Q. Who initiated the conversations, you or me?

24 A. I usually did.

25 Q. And why did you bring them to my attention?

Marccone - Cross Continued

1 A. Because of conversations I was having with other
2 individuals who had dealings with Mr. Cafaro.

3 Q. Could you explain why you had conversations about his
4 trustworthiness, what some of those were?

5 A. Yes.

6 Q. Go ahead.

7 A. There is one instance of two businessmen from New
8 York who were trying to enter into a business venture with
9 J. J., with Mr. Cafaro, and he simply -- he had made some
10 promises to them, for months he was refusing to take their
11 phone calls.

12 THE COURT: I don't know where this is going
13 to go, but this is something we're going to have to move
14 beyond until we have an opportunity to see whether or not
15 this is evidence which can come in through this witness.
16 And I asked you to move on because we've been over this
17 during the break. Go to something else so that we have an
18 opportunity over lunch or some other time without being in
19 front of the jury when we can address this.

20 BY MR. TRAFICANT:

21 Q. Paul, are you aware that J. J. Cafaro is one of the
22 counts of the indictment in this case?

23 A. Yes.

24 Q. Was there more than one occasion where you in fact
25 verified that he had lied to somebody?

Marcone - Cross Continued

1 MR. MORFORD: Objection.

2 THE COURT: Is there an occasion on which you
3 verified that he lied to somebody?

4 THE WITNESS: There were several occasions
5 where he represented that he would do certain things to
6 individuals that I know that he didn't do those things.

7 THE COURT: But, did you know that or someone
8 else --

9 THE WITNESS: Someone else was telling me
10 those things.

11 BY MR. TRAFICANT:

12 Q. Okay. But, did you share those conversations with
13 me?

14 A. Yes, I did.

15 Q. Okay. Now, let's deal with U.S. Aerospace, and was
16 it Volpe?

17 A. The Volpe Center in Massachusetts, yes.

18 Q. Explain what the Volpe Center does.

19 A. My understanding of the Volpe Center is it's a
20 research arm of the Department of Transportation and they
21 work with private companies in developing promising
22 research to enhance transportation in the United States,
23 and most of the dealings they had with companies are
24 cooperative arrangements in which the Government -- the
25 company is paid a fee to the Volpe Center to finance part

Marccone - Cross Continued

1 of the research.

2 Q. Did we, in the office, do everything possible to
3 advance the interests of this new technology?

4 A. Yes, we did.

5 Q. Did we have conversation about that technology?

6 A. You and I?

7 Q. Yes.

8 A. Yes, we did, many conversations.

9 Q. And what basically did you advise me about the
10 technology?

11 A. That was very promising, that it would save lives.
12 It also would save a lot of money at airports because the
13 pilots used less energy than conventional landing lights.

14 Q. Did we discuss air landing accidents?

15 A. Yes, we discussed the accident involving John F.
16 Kennedy, Junior. There also was an accident I believe at
17 Dallas -- or Oklahoma Airport in which the -- in which the
18 problem of visibility was acute. And it was discussed that
19 perhaps if these technologies were in place, most types of
20 these accidents could have been avoided.

21 Q. Did you consider yourself as my representative on
22 transportation, Aviation Subcommittee, to be pretty
23 knowledgeable in aviation matters?

24 A. I had -- I had acquired a good deal of knowledge
25 about aviation matters, yes.

Marccone - Cross Continued

1 Q. To your knowledge, were we requested by a chairman to
2 conduct the investigation for the subcommittee?

3 A. Yes.

4 Q. In relation to what?

5 A. TWA Flight 100.

6 Q. Who, in fact, conducted that investigation?

7 A. I did.

8 Q. And who supervised you?

9 A. You did.

10 Q. And what was our conclusions?

11 A. Our conclusions, for the most part, were in line with
12 the conclusions of the FBI and the National Transportation
13 Safety Board. The report that we issued showed that --
14 found that the accident was likely caused by an explosion
15 inside the center fuel tank.

16 Q. Isn't it a fact we concurred with the findings after
17 an investigation of the FBI?

18 A. Yes.

19 Q. To the best of your knowledge, did we commend them
20 for their actions?

21 A. Yes, you did, yes.

22 Q. Who was the subcommittee chairman that asked me to do
23 that?

24 A. John J. Duncan, Junior.

25 Q. Now, at some point -- and maybe the jury might

Marccone - Cross Continued

1 understand, maybe I'll ask you this question: On many
2 flights, where people are killed on landing, what is the
3 usual cause to have caused those accidents, to the best of
4 your knowledge as a fairly good expert in aviation?

5 A. Most aviation accidents occur on take-off and
6 landing.

7 Q. On landing, what is the key significant factor?

8 A. Inability to sight the runway.

9 Q. Would there also be factors of landing further down
10 the runway?

11 A. Um-hum.

12 Q. Missing the runway?

13 A. Yes.

14 Q. Would you explain just in brief terms -- because I
15 probably have caused much of this delay and I admit to
16 that -- could you just in brief terms tell the jury exactly
17 why we wanted the laser program and supported it so hard?

18 A. Having worked very hard in close centers for several
19 years, our motivation was two-fold; Number 1, the
20 technology would save lives. It would be a major
21 advancement in aviation safety. And Number 2, the
22 understanding was if they could get certification,
23 Mr. Cafaro would set up manufacturing operations in the
24 Youngstown area and many jobs in your congressional
25 district.

Marccone - Cross Continued

- 1 Q. Did I have a deal with Mr. Cafaro for those jobs?
- 2 A. That was my understanding, yes.
- 3 Q. Headquarters, too?
- 4 A. Yes.
- 5 Q. Now, did the -- did the claims -- did the aviation
6 companies have to spend any money on this technology?
- 7 A. No, the way it was set up, they got certification
8 that airports could spend in the federal funding -- the
9 formula money they would get from the federal government,
10 they would be allowed to spend that formula money on the
11 landing lights.
- 12 Q. Now, did I or did you suggest calling Jane Garvey,
13 the FAA administrator?
- 14 A. That was my suggestion.
- 15 Q. Was it Jim Traficant or Paul Marccone that suggested
16 that maybe we should bring the subcommittee chairman on?
- 17 A. That was my suggestion.
- 18 Q. Did you know if I followed through with that?
- 19 A. Yes, you did.
- 20 Q. Did you think it was unusual that they both came?
- 21 A. I thought that was a huge coup. It was a very
22 significant accomplishment.
- 23 Q. Now, do you recall specifically when Chairman Duncan
24 was there, do you remember that?
- 25 A. Yes, that was a separate visit from the FAA

Marccone - Cross Continued

1 Administration.

2 Q. What were the weather conditions?

3 A. It was raining out, with visibility less than a mile.

4 Q. Now, will you explain what this thing is that saves
5 lives, what it looks like, briefly, and where is it
6 located?

7 A. It's located on the runway. It's a little laser
8 light that sets -- amber colored laser beam that you can
9 see from fairly far away. We were up that night, and we
10 picked it up about seven or eight miles out from the
11 runway.

12 Q. Now, were there different lights on this little
13 machine?

14 A. Yeah. I call it a different color sequence, but as
15 long as you had an amber light, the plane was aligned
16 properly for landing on the runway. If you got a red
17 light, that means you had to change your alignment and
18 allow the pilot to adjust his flight so that he could -- as
19 long as he saw the amber light, he was guiding that plane
20 in on a perfect flight path to the runway.

21 Q. So in other words, if he seen anything but an amber
22 light, he'd better find an amber light? Is that your
23 testimony?

24 A. Yes.

25 Q. Was the wind blowing very hard that night?

Marccone - Cross Continued

- 1 A. Yeah, I was a little concerned being in the plane
2 that night.
- 3 Q. Did Mr. Duncan have anybody with him from his family?
- 4 A. I believe he had his son with him.
- 5 Q. Were any concerns expressed about the weather?
- 6 A. There were some concerns expressed, yeah.
- 7 Q. Do you know if it was a big plane or small plane?
- 8 A. It was a small private jet.
- 9 Q. Okay. Who was flying it?
- 10 A. I believe it was Mr. Detore.
- 11 Q. Was Mr. Detore considered a professional aviator?
- 12 A. He was a licensed pilot.
- 13 Q. Yes, he was.
- 14 Do you recall the statements when the laser beam was
15 first seen?
- 16 A. I think everyone was very impressed they could see it
17 from that far out, and under those conditions.
- 18 Q. Do you know where the plane landed?
- 19 A. Right on the runway in Manassas.
- 20 Q. What spot?
- 21 A. Dead center of the runway.
- 22 Q. Was that where the laser was located?
- 23 A. Yes.
- 24 Q. Now, what's the difference between a light, such as
25 this light, and a cold cathode light, Mr. Marccone?

Marccone - Cross Continued

1 A. If that light were turned up and lights were turned
2 up, and we were looking at it and you look away, you would
3 see spots in your eyes and your vision would be impaired.
4 A cold cathode light, you look at it and no impairment, so
5 you could look away and no impairment, and that's crucial
6 for helicopter landings.

7 Q. Did there come a point this technology was starting
8 to be used?

9 A. The Navy was using the laser technology and the U.S.
10 Park Police were testing the cold cathode lights on
11 helipads in the Washington, D.C. area.

12 Q. Do you have any knowledge that this was also approved
13 for the Coast Guard?

14 A. My understanding and my recollection is that we were
15 able to put language in a bill that directed the Coast
16 Guard --

17 MR. TRAFICANT: Objection, speech and debate.

18 BY MR. TRAFICANT:

19 Q. Do you have any knowledge that there was a study
20 performed on the maritime issues of the laser?

21 A. I don't recall exactly what was done with the
22 maritime side.

23 Q. On the Coast Guard side?

24 A. On the Coast Guard side, yes, I don't recall exactly.

25 Q. Do you know if they studied it?

Marccone - Cross Continued

1 A. I know again not to get into speech and debate, but
2 we were working to get legislative language to direct the
3 Coast Guard to do a study. I don't recall what happened
4 with that language.

5 Q. During that period of time, was there close contact
6 between the company and myself?

7 A. Yes.

8 Q. Who usually was that contact with?

9 A. Richard Detore.

10 Q. Did I at times meet with Mr. Cafaro?

11 A. Yes.

12 Q. Now, the Government brought up the fact Mr. Cafaro
13 presented me with a \$26,000 check; is that correct? Do you
14 remember them asking you that?

15 A. I remember reading about that allegation, yes.

16 Q. Do you know if I sold my boat to Mr. Cafaro?

17 A. I know that you were trying to sell your boat. The
18 way it was represented to me, you were trying to sell your
19 boat to Al Lange, who's an employee of the Aerospace Group.

20 Q. Now, did you ever have any conversations with Al
21 Lange about his special model of boat called Egg Harbor?

22 A. Yes. He indicated that --

23 MR. MORFORD: Objection. Hearsay.

24 THE COURT: You see, there's one, somebody
25 else saying something, and it's coming in through his

Marcone - Cross Continued

1 testimony. The person isn't here.

2 BY MR. TRAFICANT:

3 Q. Did you have knowledge that Mr. Lange or his father
4 had literally worked at the Egg Harbor factory?

5 MR. MORFORD: Objection as to the basis of
6 that knowledge.

7 MR. TRAFICANT: It's part of the indictment
8 here.

9 THE COURT: Well, this person, you can
10 explore whether this person has personal knowledge of
11 something, but you can't basically put the knowledge into
12 his head right here.

13 Q. Okay. Did you have conversations with Al Lange about
14 the boat?

15 A. Yes.

16 Q. And what, if anything, did he tell you during some of
17 those conversations about the boat?

18 THE COURT: Sustained.

19 BY MR. TRAFICANT:

20 Q. Did Al Lange ask you about the purchase of the boat?

21 A. He indicated to me that he was --

22 MR. MORFORD: Objection, hearsay.

23 THE COURT: Sustained.

24 BY MR. TRAFICANT:

25 Q. On the strength of the conversations you had with Al

Marccone - Cross Continued

1 Lange, did you have occasion to call any government office?

2 A. Not on the basis of my discussions with Al Lange, no.

3 Q. Did you call the Ethics Committee relative to the
4 sale of the boat?

5 A. Yes, I did.

6 Q. And what, if anything, were you told by the Ethics
7 Committee?

8 A. I was told -- I explained to them that he had a boat,
9 that the Congressman wanted to sell the boat to an employee
10 of the company that we were working on behalf of both
11 legislatively and with federal regulations, and whether or
12 not it would be in accordance with the ethics rules to sell
13 that boat to the employee.

14 The response I got was that as long as the employee
15 paid fair market value for the boat, and didn't pay
16 anything more than the boat was actually worth, that there
17 were no ethics problems.

18 Q. Who instructed you to make that call?

19 A. You did.

20 Q. Now, as far as Volpe was concerned, do you know if
21 the company ever met the conditions of the Volpe Company
22 contract?

23 A. My understanding is that they never -- two things,
24 they never completed the requested paperwork, and they
25 never came up with the \$100,000 that they needed to come up

Marccone - Cross Continued

1 with to initiate the cooperative research agreement.

2 Q. Did the company -- did the company ever state to you
3 that they were going to make those payments?

4 A. Yes, the meeting we had that was discussed during my
5 original testimony last week, there was a meeting we had in
6 my office, and one of the action items off that meeting was
7 for U.S. Aerospace Group to complete the paperwork and get
8 the payment to Volpe. But, that never happened, to my
9 knowledge.

10 Q. And who was to pay those -- do you know who, if
11 anybody, was to make those payments?

12 A. U.S. Aerospace Group.

13 Q. Okay. Do you know if they ever made those payments
14 and if it was ever certified?

15 A. To my knowledge, they never completed the payment.

16 Q. The Government listed a number of meals with myself
17 and members of U.S. Aerospace. Did you and I ever have
18 discussions about those?

19 A. I remember talk -- we never talked about the cost of
20 the meals, no.

21 Q. Well, what was the rules, the basic rules about a
22 member going out to eat?

23 A. Again, I'm not a House ethics rules expert, but I
24 believe that as long as it's under \$25, it's in compliance
25 with the rules, but I'm not clear about cumulative value,

Marccone - Cross Continued

1 but --

2 Q. You said \$25?

3 A. I'm not sure whether it's \$25 or \$50. I'm not an
4 ethics rules expert, so I can't --

5 Q. Okay, fine.

6 But, we did have conversations about that?

7 A. I don't know if we talked specifically about -- it
8 wasn't my place to ask you if you went out to dinner with
9 someone, it wasn't my place to ask you who's paying for the
10 dinners, you being in Congress long enough where you were
11 familiar with the ethics rules, and there was no reason for
12 me to question how the meals were paid for.

13 Q. How did you find out we went out to dinner?

14 A. Excuse me?

15 Q. How did you come to find out we went out to dinner?

16 A. A lot of times you would call me at the end of the
17 day and say, "Call Richard to ask if he could meet me for
18 dinner," so I knew you were having dinner with Richard on a
19 regular basis.

20 Q. Were there times Richard called and asked to meet
21 with me?

22 A. I can't recall specifically, but I know sometimes he
23 did show up and wanted to meet with you, yes.

24 Q. You believe in your heart today that the laser
25 technology would save people's lives?

Marccone - Cross Continued

1 A. I believe that very strongly, yes.

2 Q. Did you personally look at the results of that
3 accident in Arkansas? Do you remember the one in Arkansas?

4 A. There was an accident. I can't recall where, but
5 there was an accident directly related to the pilot not
6 being able to see the runway, a fatal accident.

7 Q. Did, in fact, the plane strike something?

8 A. I believe it struck the fence.

9 Q. Were all the people killed?

10 A. I don't know, but there were fatalities.

11 Q. Were we asked to investigate that?

12 A. I don't think we were asked to investigate that, no.

13 Q. Now, at some point after Mr. Duncan and Ms. Garvey
14 saw the technology demonstrated, did you have any
15 conversations with them further than that?

16 A. I don't know if I spoke directly to Ms. Garvey or
17 through Duncan, but I did speak with their staffs after
18 that.

19 Q. Yes? Wasn't it a fact they were prepared to go
20 forward if they met the conditions of this \$100,000 and
21 other things?

22 A. Well, with Ms. Garvey, she was very impressed with
23 it, and my understanding was she instructed her staff to,
24 you know, to work closely with the company to try to
25 expedite certification, with the understanding again that

Marcone - Cross Continued

1 there were certain things the company would do with
2 Chairman Duncan, simply a matter of him endorsing the
3 amendments we already drafted to the airport approval
4 program and authorization bills pending before the
5 subcommittee.

6 Q. Would you say through all this and the conversations
7 we had, that you had some reservations about Mr. Cafaro's
8 performance?

9 A. Based upon conversations I was having with Mr. Detore
10 and with other people who were having separate dealings
11 with Mr. Cafaro, I had concerns about Mr. Cafaro's ability
12 to effectively run the company and to keep up his end of
13 the bargain with the Federal Aviation Administration.

14 Q. Did Mr. Cafaro ever lead you to believe that he was
15 going to take care of the matter with the Volpe Center?

16 A. I don't recall ever having conversation with
17 Mr. Cafaro directly about the meeting we had in my office.
18 Most of my dealings were with Mr. Detore.

19 Q. Paul, did I get requests to -- and did our office get
20 requests, district and D.C., relative to people who were in
21 prison?

22 A. On occasion, we would get requests.

23 Q. Would I get involved with some of those?

24 A. I can recall only a handful of cases in which you got
25 personally involved.

Marccone - Cross Continued

1 Q. When normally, as my chief of staff, would I get
2 involved?

3 A. Again, it was so rare that we got a request from
4 prisoners. There was only one or two occasions where I can
5 actually remember you getting involved with a prisoner.

6 Q. Not just about prisoners, when would I personally
7 take the ball --

8 A. On constituent --

9 Q. -- on any situation.

10 A. It's a general rule, there were two instances, one
11 where the staff asked you to, and they would say, "We're on
12 a roadblock here, we need you to call a certain person here
13 in the federal or state government," or sometimes you would
14 simply come in and say, "I want you to get so-and-so on the
15 phone," you would initiate it yourself.

16 Q. Fine. Do you know if I attempted to have former
17 Sheriff Phil Chance -- did you know who former Sheriff Phil
18 Chance was, by the way?

19 A. Yeah, I knew who he was.

20 Q. Did you know what, if anything, happened to former
21 Sheriff Phil Chance?

22 A. He got convicted.

23 Q. And he was sent to?

24 A. Federal prison.

25 Q. Did you and I have conversations about Phil Chance

Marccone - Cross Continued

1 being moved?

2 A. Yes.

3 Q. And what, if anything, did you advise me?

4 A. I said if Phil Chance doesn't like where he's in
5 prison it's his own fault, and you shouldn't get involved
6 with it.

7 Q. Did you know Phil Chance's family?

8 A. No.

9 Q. Did you know if I knew Phil Chance's family?

10 A. You indicated to me that you didn't know his family.

11 Q. And the conversations that we had, was there any
12 discussions why --

13 MR. MORFORD: Objection, hearsay.

14 THE COURT: It is hearsay.

15 Q. Paul, did I fight hard to have Phil Chance moved?

16 A. Yes, you did.

17 Q. Did you think that was a stupid thing to do?

18 A. Yes.

19 Q. And did you advise me of that?

20 A. Yes.

21 Q. Now, usually -- you work with me -- would I always
22 explain reasons why I did things?

23 A. Not always, no.

24 Q. Did you sometimes question?

25 A. Yes.

Marccone - Cross Continued

- 1 Q. Did you sometimes disagree?
- 2 A. Yes.
- 3 Q. Did I ever ask you, Paul, in all the years you worked
4 for me to do anything wrong?
- 5 A. No.
- 6 Q. Did you ever see me do anything wrong, Paul?
- 7 A. No.
- 8 Q. Was there another case where we got involved relative
9 to moving the prisoner?
- 10 A. I can't think of one off the top of my head, no.
- 11 Q. Would the Bucci name ring a bell?
- 12 A. The Bucci name rings a bell, yes.
- 13 Q. And do you know if there was a request made from the
14 family to have him moved?
- 15 A. I recall the Phil Chance case, I do not recall -- I
16 have vague recollections of the Bucci case.
- 17 Q. Do you know who might have handled the Bucci case?
- 18 A. Someone on the staff. I don't recall who exactly it
19 was.
- 20 Q. Was it Jim Welfley?
- 21 A. Jim Welfley was working on the Bucci case as related
22 to their disbarment. I don't know if he was also working
23 on having him moved to prison.
- 24 Q. Did you make any recommendation to me relative to the
25 moving of Mr. Bucci?

Marccone - Cross Continued

1 A. Again, my recollection, it was the same line of
2 reasoning I used with Phil Chance, that it wouldn't be a
3 good idea to get involved with that, whatever this person
4 did was their own fault, and they should have thought of
5 that before they committed those crimes. If they're in
6 prison, that's where they should be.

7 Q. Do you know how many times -- you would have no
8 knowledge of how many times, though, there would be
9 requests made to the District Office, for example, on
10 prisoners being relocated?

11 A. As a general rule, I did not review the constituent
12 case work files in the Youngstown and Trumbull County
13 offices.

14 Q. Do you know if the Buccis did any work at the farm?

15 A. At the time? No.

16 Q. Do you remember testifying before the Grand Jury
17 about any of the Buccis work at the farm?

18 A. I remember testifying before the Grand Jury about a
19 conversation you and I had regarding reporters questioning
20 about the Buccis.

21 Q. So you made no statements to the Grand Jury, other
22 than that?

23 A. I made statements to the Grand Jury about
24 conversations we had in response to reporters' questions.
25 I made statements to the Grand Jury regarding what went on

Marccone - Cross Continued

1 in our office in regards to our handling of the Bucci
2 disbarment matter.

3 Q. So when the Bucci matter hit the fan, did you confer
4 with me?

5 A. We started getting questions from reporters; yes, I
6 conferred with you.

7 Q. Do you recall telling any of the FBI or prosecutors
8 or Grand Jury about a wall being knocked down at the farm?

9 MR. MORFORD: Objection, basis of knowledge.
10 It's hearsay.

11 THE COURT: You want to do this at the next
12 break? Do you have some more questions to ask or should we
13 do it now?

14 MR. TRAFICANT: I have more questions to ask.

15 THE COURT: Okay, why don't you --

16 MR. TRAFICANT: I'd rather go with the
17 questions and not let the jury --

18 THE COURT: There are some things we have to
19 deal with regarding that question. So just go on to the
20 next question, and we'll deal with it at noon first, and
21 then appropriately we'll deal with it outside the jury.

22 Q. Did you know if the Buccis owed me money or I owed
23 them money? Did you have knowledge?

24 A. I have no direct knowledge who owed you money.

25 Q. Now, on the issue of phone records that were

Marcone - Cross Continued

1 subpoenaed, isn't it a fact that most of the phone records
2 could be gotten from the library?

3 A. On the issue of the phone records, what you get in
4 the library is simply what a congressional office would
5 spend each month on long distance phone calls. I don't
6 believe you get a breakdown on the item per item the way
7 calls were made.

8 Q. That would require a subpoena, would that be correct?

9 A. That is correct.

10 Q. And was a subpoena served?

11 A. Yes.

12 Q. And was it satisfied?

13 A. It was complied with.

14 Q. Fine. Now, when there's knowledge of a subpoena of a
15 Congressman on the House floor, how do they do that?

16 A. The recording officer of the House simply announces,
17 "The U.S. Attorney's Office in the Northern District of
18 Ohio serves a subpoena on the House of Representatives,"
19 and it's a very short statement, and made verbally on the
20 House floor, and it also appears in the Congressional
21 Record.

22 Q. Do you know if that first subpoena was made before
23 the Congress break for the winter break?

24 A. The subpoena was issued in December of '99. The
25 House was not in session. So the middle of January, when

Marccone - Cross Continued

1 the House resumed work, that was one of the first orders of
2 business was to make that announcement.

3 Q. Now, when was the primary election that year?

4 A. March of 2000. It was a presidential year.

5 Q. First Tuesday of 2000 of March?

6 A. I believe so.

7 Q. The primary?

8 A. Yes.

9 Q. First Tuesday in March, to the best of your
10 knowledge? So you said the Congress went back in when?

11 A. I believe it was the middle of January of 2000.

12 Q. Now, were you now being gouged with phone calls?

13 A. No. Middle of January, I got one phone call from the
14 reporter after that, after it was announced from the
15 Northern District of Ohio, asking if we had gotten
16 subpoenaed. And my understanding later was that he simply
17 was just guessing it was our office because it was the
18 Northern District of Ohio.

19 Q. Did I actually go through a campaign and, in short,
20 two months with this cloud over my head, Paul?

21 A. Yes.

22 Q. Did I try and convey to you what had happened? To
23 the best of your recollection, did you and I have
24 conversations relative to you questioning me and me giving
25 you information to answer questions on this issue?

Marccone - Cross Continued

1 A. I would talk to you every time I got a call from a
2 reporter about various allegations I had. I would have
3 conversations with you about those allegations and about
4 how you wanted me to answer those inquiries.

5 Q. Was a point you came to me very concerned about
6 possible Government leaks?

7 A. I became very concerned about the detailed nature of
8 the questions that reporters were asking. I assumed on my
9 own that the only way the reporters could get that type of
10 in-depth information about the Grand Jury proceedings was
11 if someone from the inside was leaking it to them, someone
12 on the federal government side was deliberately leaking
13 that information to reporters, and because they were in the
14 middle of a heated primary, I felt that they were trying to
15 unfairly influence the outcome of that primary, and I
16 conveyed those thoughts to you.

17 Q. Now, if I thought a person was worthy of support,
18 would I support them?

19 A. Yes, you would.

20 Q. If you advised me not to, would I still support them?

21 A. You would.

22 Q. Did you ever see me or hear me, in all the years you
23 worked for me, refuse any family or person?

24 A. I never saw you refuse help to any constituent who
25 came to you for help.

Marccone - Cross Continued

1 Q. Do you have any knowledge that Mr. Chance or
2 Mr. Bucci's family came to me?

3 A. Based on what you told me, they did come to you.

4 Q. Did I treat -- to the best of your knowledge, did I
5 treat them differently than anybody else?

6 A. On the Chance issue, it was unusual you would get
7 involved in prisoner service, that is not something that we
8 normally did, and I remember having arguments with you
9 about Chance, and I viewed that as unusual.

10 Q. At some point though, were they willing to transfer
11 Mr. Chance, to the best of your knowledge?

12 A. The Federal Bureau of Prisons was willing to transfer
13 him to a facility, but not the facility you wanted him
14 transferred to. They were willing to transfer him to a
15 facility closer to his family, but you were very angry
16 because it wasn't the facility he wanted transfer to.

17 Q. Yes. Let me ask you this: Mr. Chance -- I was done
18 at that point, it was up to Mr. Chance to make the decision
19 to move. He could have gone to Loretta, Pennsylvania,
20 couldn't he?

21 A. I don't know what the options were to Mr. Chance. I
22 can't speak to what the Federal Bureau of Prisons offered.

23 Q. Fine. You know the Federal Bureau of Prisons was
24 willing to relocate him?

25 A. Yes.

Marccone - Cross Continued

1 Q. And did you find out that he did not go?

2 A. I don't recall what the ultimate disposition of the
3 dispute was.

4 Q. Now, the Bucci matter, did Mr. Welfley bring to your
5 attention problems with that?

6 A. On the disbarment?

7 Q. Yes.

8 A. Yes, he did.

9 Q. Did he have concerns about even our helping them?

10 A. He did not feel he -- I don't recall his exact words,
11 but he was basically saying this is a dirty company, we
12 shouldn't be helping them.

13 Q. Did you do anything to look into Mr. Welfley?

14 A. I -- I came to you and presented his concerns to you,
15 and you were adamant that this -- the 250 jobs were at
16 stake, the company paid its dues, and they're constituents,
17 and we need to help them. And I relayed that to Mr.
18 Welfley, and I believe what I told Mr. Welfley was, "Look,
19 there are jobs at stake, the Congressman feels the
20 company's paid its dues. Just ask the Government to be
21 fair and to try to expedite whatever needs to be expedited,
22 and do nothing more than that."

23 Q. Do you know if the Buccis were the low bidders on the
24 job?

25 A. The only thing I know about the matter is what you

Marccone - Cross Continued

1 had told me about it, and what Welfley had learned from the
2 Department of Labor, from the Department of Transportation.

3 Q. Did I tell Mr. Welfley if he didn't write the letter,
4 he was gone?

5 A. No, I think the dealings were between me and
6 Mr. Welfley and you Mr. Welfley.

7 Q. Did you tell him look if you don't write this letter,
8 you're out of here, buddy?

9 A. No, I didn't threaten to fire him.

10 Q. Was I that kind of guy?

11 A. No, no.

12 Q. Did I ever pressure anybody, Paul?

13 A. Well, people who don't know you very well would think
14 you were pressuring them, yes.

15 Q. Would you say I used an aggressive ploy on Capitol
16 Hill?

17 A. Very aggressive.

18 Q. Was it successful?

19 A. I think in many areas, you were extremely successful,
20 yes.

21 Q. Was Welfley's concerns about these fellows, not only
22 were they disbarred, but they had been convicted felons?

23 A. Yes.

24 Q. When I say they, meaning there was more than one
25 Bucci.

Marcone - Cross Continued

1 A. My understanding is it was a family-owned business.

2 Q. Do you know how many principals there were in the
3 business?

4 A. I don't recall, no.

5 Q. So, is it your -- in your conversation with
6 Mr. Welfley, to the best of your knowledge, did you order
7 him to write a letter? Did you ask him to take a second
8 look --

9 A. I told him that he -- I told him we needed to help
10 the company. That's what the Congressman wanted done. And
11 I simply asked the Government to take a second look at it,
12 that there was nothing wrong in asking the federal
13 government to reexamine its decision in light of the fact
14 that there were 250 jobs at stake, and I think he was fine
15 with that, and I think I had -- since he was somewhat new
16 to the job, I had my basic discussion I have with all
17 employees; we're in the business of constituent service and
18 we have to fight for our constituents, the good, the bad
19 and the ugly, and that's simply the job of a Congressman.

20 Q. Did we have a relationship with ODOT over the years?

21 A. A very good one, yes.

22 Q. Were they pleased with the work we did as an office?

23 A. I can't -- I can't speak to their state of mind about
24 whether they were pleased with us. I know that we worked
25 very closely with them on a number of issues that they were

Marccone - Cross Continued

1 concerned about.

2 Q. Did we not increase minimum allocation of states?

3 A. Yes.

4 Q. Did we not make guardrails, light safety barriers,
5 100 percent funded so they didn't have to pay out of their
6 budget?

7 A. Yes.

8 Q. Were they happy with that?

9 A. I think they expressed on many occasions their
10 gratitude for your work on those issues, yes.

11 Q. Do you know if I talked to ODOT officials about the
12 Bucci bid?

13 A. Yes, you did.

14 Q. Did I talk to them about moving them from prison or
15 talking about the Bucci bid?

16 A. The -- the ODOT officials, you talked about the Bucci
17 bid.

18 Q. Do you recall who I talked to?

19 A. I believe it was Jerry Wray.

20 Q. Do you know what, if anything, happened as a result
21 of that conversation?

22 A. I can't recall the exact sequence of events, what
23 eventually happened with the Buccis on the contracting
24 issue.

25 Q. Now, as far as companies were concerned, would you

Marccone - Cross Continued

1 say that we intervened in many cases?

2 A. Yes.

3 Q. And when it came down to company problems, where were
4 they usually resolved?

5 A. It depends on the case, but it wasn't -- over the
6 years, we helped out many, many companies in your
7 congressional district and some companies that weren't in
8 your congressional district, they came to us for help.

9 Q. Did companies around the country call us to help them
10 even though they didn't call their own congressman?

11 A. I don't know about companies, but there were
12 individuals who came to us for help who were not from your
13 district.

14 Q. Now, you said you knew a Peter Bucheit?

15 A. Yes.

16 Q. Do you know what the problem was with Mr. Bucheit?

17 A. Mr. Bucheit had two problems. One involved an
18 investment in Saudi Arabia, the other involved an
19 investment he made in the Gaza Strip and Palestinian
20 territory.

21 I also was aware of Mr. Bucheit's company's desire to
22 sell the building he owned in Washington, D.C. to the
23 federal government.

24 Q. Did you and I have conversations about that?

25 A. Yes.

Marccone - Cross Continued

1 Q. And what, if anything, did you do with the building
2 in D.C. they wanted to sell?

3 A. I arranged a meeting for the Bucheits, their
4 lobbyist, and GSA, and I believe the General Accounting
5 Office.

6 Q. Was I there?

7 A. I don't believe you were in that meeting, no.

8 Q. Did the building they had to sell meet the codes of
9 the Government?

10 A. No. Even if the Government wanted to, they couldn't
11 move into the building because it didn't meet their
12 specifications.

13 Q. Was the matter dropped or did --

14 A. I didn't --

15 Q. Was there pressure put on?

16 A. One, I didn't pursue it after that, and you didn't
17 raise the issue with me after that. I informed the
18 Bucheits that they didn't meet the specs, and I don't -- it
19 dropped after that.

20 Q. In the dealings with the Bucheits, did you become
21 somewhat familiar with the difference between the way
22 America operates legally in Saudi Arabia?

23 A. I was -- the issue in Saudi Arabia happened and was
24 resolved before I returned to the office in '93.

25 Q. To the best of your knowledge, did you come to learn

Marcone - Cross Continued

1 what the disposition was?

2 A. Yes, I believe it was resolved in the Bucheits'
3 favor.

4 Q. Now, you then were presented -- were you not
5 presented with another problem the Bucheits had? Would you
6 explain what that was?

7 A. Their first problem was they wanted to make an
8 investment in the Gaza Strip and they wanted insurance,
9 risk insurance, from the Overseas Private Investment
10 Corporation, and we assisted them in getting that. And
11 then once they made their investment in the Gaza Strip, to
12 my understanding, it was a period of years ago, was that
13 their equipment was apprehended by a Palestinian company
14 and the Palestinian authority, that they had lost their
15 investment, and through myriad of court battles and ongoing
16 correspondence between our office and the State Department
17 and OPIC there were several court battles. We tried to
18 assist them in their investment.

19 THE COURT: What was apprehended by the
20 Palestinian Government?

21 THE WITNESS: I believe it was the
22 construction equipment.

23 THE COURT: "Equipment" then is what he said.

24 THE WITNESS: Yes.

25 Q. Do you have any knowledge as to whether or not the

Marcone - Cross Continued

1 PLO took their bank account?

2 A. It wasn't --

3 MR. MORFORD: Objection as to relevance,
4 firsthand knowledge.

5 Q. Do you have any other knowledge about the PLO's
6 actions with the Bucheits in this case?

7 A. Not other than what I was told by staff.

8 Q. And what was that again?

9 THE COURT: That's what he can't testify to.

10 BY MR. TRAFICANT:

11 Q. You say one of our big arguments dealt with Janet
12 Reno; is that correct?

13 A. Yes.

14 Q. You felt I shouldn't have made that statement on TV,
15 right?

16 A. I felt very strongly about it.

17 Q. Was I known to hold my tongue, Paul?

18 A. No.

19 Q. Was I protected by the speech and debate clause on
20 CNN?

21 A. No.

22 Q. Now, not being protected under the speech and debate
23 clause, you're not an attorney, but could she have sued me?

24 MR. MORFORD: Objection.

25 THE COURT: Now we're going off into

Marccone - Cross Continued

1 something we can't get into at all.

2 Q. Paul, do you know if Janet Reno ever sued me?

3 MR. MORFORD: Objection.

4 THE COURT: Sustained.

5 Q. Did you ever have a conversation with me relative to
6 my possibly taking any legal action against the Buccis?

7 A. Yes.

8 Q. Did you come to find out what that legal action would
9 have been for?

10 MR. MORFORD: Objection.

11 THE COURT: Sustained.

12 Q. Now, several times, you were asked by the Government
13 about quid pro quo?

14 A. Um-hum.

15 MR. MORFORD: Objection.

16 THE COURT: Objection sustained.

17 Q. Let me ask you this, is quid pro quo one of the terms
18 you would normally use, Paul?

19 A. It's not a term that I used regularly, no.

20 Q. Where did you hear that term?

21 A. It's a legal term, I heard it, read it.

22 Q. Who was talking to you about quid pro quos?

23 A. You were.

24 Q. Who else? Anybody from the Government?

25 A. I believe the Government asked me a question during

Marcone - Cross Continued

1 my Grand Jury testimony about a statement I made in the
2 press in which I used the term quid pro quo.

3 Q. Now, there came a time when there was a private
4 prison in the City of Youngstown; is that correct?

5 A. Yes.

6 Q. And on the strength of that, were there ever any
7 conversations relative to private prisons between you and
8 me?

9 A. Yes. You had many questions -- many conversations
10 about that issue.

11 Q. What, if anything, did I end up doing, if you have
12 knowledge of it?

13 A. You were able to secure a private memorandum of
14 understanding between yourself and Corrections Corporation
15 of America that you would make a good faith effort to find
16 sites in your congressional district for at least one,
17 possibly two, private prisons, and in return, the company
18 would build those prisons, create those jobs, and also
19 create space for the local sheriff's office in each of the
20 counties where they built an additional prison.

21 Q. When the incident of Chuck O'Nesti was brought up,
22 did you have conversation with Chuck O'Nesti?

23 A. I had several conversations with Mr. O'Nesti about,
24 first, his name appearing in the newspaper in relation to
25 the Lenny Strollo investigation into various audio tapes

Marcone - Cross Continued

1 that transcripts of which had been made public, and Chuck's
2 name had come up as someone who had been having
3 conversations with Mr. Strollo, and because I was getting
4 media inquiries about that, I had a conversation with
5 Mr. O'Nesti about it.

6 Q. And what, if anything, did Mr. O'Nesti tell you?

7 A. He informed me that he had known Mr. Strollo since he
8 was a young man, that their wives knew each other, that his
9 wife was helping both Mr. O'Nesti and Chuck's wife with
10 some homeopathic medicine through the treatment, and that
11 he simply saw Mr. Strollo in a restaurant on several
12 occasions and would say hello to him and basically chitchat
13 with him, but there was nothing more to it than that.

14 Q. Is it a fair assessment then that Mr. O'Nesti told
15 you he did nothing wrong?

16 A. On that occasion, yes.

17 Q. Did I ask your advice on political matters, Paul?

18 A. Yes.

19 Q. Did I accept them usually?

20 A. Most of the time you accepted my advice.

21 Q. You're not familiar or have any knowledge about the
22 Cafaro and the car business?

23 A. I have limited knowledge of Mr. Cafaro's attempts to
24 revise the Avanti.

25 THE COURT: Congressman, it's noon.

Marccone - Cross Continued

1 MR. TRAFICANT: I would recommend we do take
2 a break.

3 THE COURT: Thank you. We'll take a break
4 until 1:30. The lawyers should be in at -- no, the lawyers
5 can wait until 1:30. I think we're okay.

6 (Thereupon, a luncheon recess was taken.)

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Marcone - Cross Continued

1 Monday Session, February 25, 2002, at 1:30 P.M.

2 (Proceedings in the absence of the jury:)

3 THE COURT: It's my understanding that the
4 feed between the two courtrooms has been corrected, so if
5 there's anybody here who wants to go back down to the other
6 courtroom, you're welcome to do so now.

7 In any event, that's only one of the issues. I
8 understand we have some questions from you, Congressman,
9 and also from the Government that we should -- or requests
10 that we should handle before we bring the jury in.

11 MR. TRAFICANT: Yes. Two specifically.
12 Number one, I called ODOT because I wanted the personnel
13 records of Mr. Tom Williams, and was informed that they
14 would send them to me. Then I got a call back that said
15 they couldn't send them to me, I had to subpoena them, and
16 that they didn't have them in their possession, and I had
17 to go look in the archives in Columbus because they
18 retired.

19 Then I get a call back from one of the attorneys that
20 said they really can't get them to us, and I told you this
21 last week that I was having difficulty getting that, and I
22 wanted the personnel records of David Dreger and Tom
23 Williams.

24 THE COURT: And you have the right to
25 subpoena them.

Marcone - Cross Continued

1 MR. TRAFICANT: Yes, but he says that they
2 can't -- I couldn't subpoena them.

3 THE COURT: First you have to do the -- get
4 the subpoena.

5 MR. TRAFICANT: Subpoena. But what I'm
6 trying to tell you, I'm having problems with that. That's
7 the first issue.

8 THE COURT: Okay.

9 MR. TRAFICANT: However, does the Court have
10 the leeway to order them to make available those records to
11 me?

12 THE COURT: Well, the normal process is that
13 you subpoena them. If they have a problem with it and they
14 let us know or move to quash the subpoena or do something,
15 then I can do something, but I can't do your work for you.
16 You have to do your work.

17 MR. TRAFICANT: Okay. Second issue, it was
18 determined that the '83 trial, that horrible ordeal, was
19 not to be a part of this case, and no vendetta and all that
20 business, and that was case 4:82CR00148, USA versus
21 Traficant.

22 THE COURT: Slow down a little so they can
23 make your record here.

24 MR. TRAFICANT: Okay. Case CR, 4:82CR00148,
25 USA versus Traficant, 1983.

Marcone - Cross Continued

1 There were a couple of documents that I wanted from
2 that file.

3 THE COURT: Um-hum.

4 MR. TRAFICANT: So I checked with the clerk,
5 and the assistant clerk said that they only keep the
6 records here for three years, that I'd have to appeal to
7 the archives in Chicago. They gave me the forms and told
8 me their retrieval fee is \$35.

9 After having checked with the clerk and with this
10 process that I was prepared to go forward with, they said
11 that the files were not in Chicago, that they were in
12 Cleveland, in the possession of --

13 THE COURT: I think you brought them in. I
14 think we brought the files in.

15 MR. TRAFICANT: -- in possession of Judge
16 Wells.

17 THE COURT: Right. I don't know if they're
18 in my possession, but I think we ordered the file box to be
19 sent to Cleveland, because it sometimes takes up to a month
20 to get it.

21 MR. TRAFICANT: That's what's on the record,
22 Judge Wells.

23 THE COURT: Right.

24 MR. TRAFICANT: Now, I want some documents
25 out of there, and I have a right to those documents. The

Marcone - Cross Continued

1 first thing I want to know is, you know, what is my 1983
2 case, if it was not to be a part of this, first of all,
3 being brought back up here for? Why isn't it being treated
4 like every other case, sir -- your Honor? Excuse me.

5 THE COURT: That's okay.

6 First of all, let us find out where the documents are
7 here in the Clerk's Office in Cleveland. But, I think we
8 ordered them in, and it's been some time, so I don't
9 remember whether we ordered them in or not.

10 MR. TRAFICANT: Was there a written order?

11 THE COURT: Well, I don't know. That's what
12 I have to find out for you. I think we made a request they
13 get the files here. So we will deal with that, maybe over
14 the break my deputy clerk can look, but my deputy clerk
15 isn't in the courtroom right now, so we'll try to get to
16 that issue. If they're here, everything in that file is
17 public record, and so of course you have access to it.

18 MR. TRAFICANT: So you'll let me have access
19 to it?

20 THE COURT: I don't have to let you, anybody
21 has access to that file. It's just a question of getting
22 things that are in storage from Chicago to Cleveland, and I
23 think we did ask that it be brought in.

24 MR. TRAFICANT: They said you have them here.
25 They don't have them in Chicago.

1 THE COURT: I know they don't. I am telling
2 you that I think we requested that the file be made
3 available in Cleveland. So what we have to do now is find
4 out whether or not -- or where it is in Cleveland, and I
5 think it will be in Cleveland.

6 MR. TRAFICANT: All right. Thank you.

7 THE COURT: And then --

8 MR. TRAFICANT: I can get the documents with
9 the normal retrieval fee, et cetera; is that correct?

10 THE COURT: If you don't have to go to
11 Chicago, if the file's here, you and anyone else can see
12 the file. It's finding where it is. I think the retrieval
13 has to do with some administrative costs they have and when
14 they have to go hunt through all the files over very long
15 periods of time.

16 MR. TRAFICANT: I don't want to just look at
17 it, I want a couple of documents from it, from the trial.

18 THE COURT: Congressman, we will give you
19 access to that file. I just have to find out where the
20 file is so I can give you access to it.

21 MR. TRAFICANT: Thank you.

22 THE COURT: Okay.

23 MR. MORFORD: One brief thing, your Honor, I
24 mentioned it to Ed. When this witness is finished, we have
25 another witness. After that second witness is finished,

Marcone - Cross Continued

1 we'll have an immunity situation, so we would need to
2 address the immunity outside the presence of the jury.

3 THE COURT: Okay. We will see where we are
4 when we get to that point and then we can see when we'll
5 address it. Thank you.

6 I think we're ready for the jury, right? Very well.
7 Thank you.

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

9 THE COURT: You're still under oath.

10 BY MR. TRAFICANT:

11 Q. Good afternoon, Paul.

12 A. Good afternoon.

13 Q. I know you and I have been here a long time, and
14 perhaps too long.)

15 Did the House counsel ever advise you not to speak
16 with me about any matters concerning this case?

17 A. Yes.

18 Q. Did you abide by their --

19 A. I abided by their advice, and in the sense I did not
20 speak to you about the Grand Jury testimony.

21 Q. Did I ask you when you were testifying at any time
22 what you testified to?

23 A. No, we did not discuss your Grand Jury testimony.

24 Q. No. There's an opinion being widely circulated that
25 I tried to get you to lie to the Grand Jury. Is that a

Marccone - Cross Continued

1 true statement?

2 A. You suggested what I should say if I were asked about
3 certain individuals.

4 Q. Were those two individuals, though, part of the time
5 when they were discussing kickbacks in the press, to the
6 best of your knowledge?

7 A. I can't recall whether or not kickbacks were
8 expressly discussed in the media.

9 Q. Okay. But, anyway, if you had thought I would have
10 done that, would that have been your idea of a wrongdoing,
11 a crime?

12 A. Not being a lawyer, I just know how I felt. I --

13 Q. Okay. Fine.

14 Did I ask you to lie to the Grand Jury, Paul?

15 A. What you asked me to say, what you were trying to put
16 words in my mouth, were not that -- I had no way of
17 knowing. For example, you asked me to say that Henry
18 DiBlasio worked very hard and that Allen Sinclair was
19 working on the economic development issue if I was asked by
20 the Grand Jury.

21 I had no way -- I had no way of knowing whether or
22 not Henry DiBlasio worked hard or not. That may or may not
23 have been the truth.

24 Q. Yeah. But, we had conversation about it, right?

25 A. Yes.

Marcone - Cross Continued

1 Q. Okay. Now, after you testified, did I ever call you
2 and say, "Hey, Paul, what happened?"

3 A. No, you did not ask me for details of my Grand Jury
4 testimony.

5 Q. And did you say in your Grand Jury testimony, to the
6 best of your knowledge, that I asked you to testify
7 truthfully?

8 A. I can't recall my aspect of my Grand Jury testimony.

9 Q. Now, you worked very hard on the burden of proof,
10 didn't you?

11 A. I worked on that issue and I supervised several staff
12 people who worked on it, yes.

13 Q. Yeah. Without getting into that, going back over to
14 that and getting into the objections and all that, that
15 dealt with who had the burden of proof, innocence or guilt,
16 right?

17 A. Civil tax case, yes.

18 Q. Yes. And the taxpayer had the burden, right?

19 A. Yes, prior to the Tax Bill of Rights.

20 Q. Now they don't, right?

21 A. That's correct.

22 Q. And what is the common standard of American
23 jurisprudence if you were put in a couple words, if you
24 would know?

25 MR. MORFORD: Objection.

Marcone - Cross Continued

1 THE COURT: Sustained.

2 Q. Are you familiar with the term "innocent until proven
3 guilty"?

4 A. Yes.

5 MR. MORFORD: Objection.

6 THE COURT: Sustained.

7 Q. Towards the end of the situation, you said this
8 truthfulness business, now that you've heard about all this
9 evidence, concerns you; is that your true statement?

10 A. Um-hum.

11 Q. Yeah. And where did you hear about that evidence?

12 A. Through the course of my Grand Jury testimony, and
13 reading newspaper, newspaper accounts.

14 Q. Did the jury come to a conclusion in this case?

15 A. No.

16 Q. Is evidence conclusive, Paul, has it been proved to
17 be conclusive yet?

18 THE COURT: That's not a question for a
19 witness to answer. That's their --

20 Q. Let me ask you --

21 THE COURT: Wait, wait. That's their
22 responsibility in this case. It's not yours or mine
23 either.

24 MR. TRAFICANT: The point is then -- let me
25 ask it this way.

Marccone - Cross Continued

1 Q. The alleged accusations really concerned you, didn't
2 it?

3 A. As I stated before, I don't think I would be human if
4 I wouldn't allow the allegations against you to cause any
5 grave concern, having worked for you for many years and you
6 being someone I hold very high esteem for. Of course it's
7 going to bother me.

8 Q. Do you know why the House counsel asked you not to
9 speak with me?

10 A. As I recall it, since you were defending yourself, it
11 wouldn't be appropriate for me, and because I was your
12 employee, it wouldn't be appropriate for me to speak to
13 you. I was also advised by my own personal counsel not to
14 talk to you about the specifics of my Grand Jury testimony.

15 Q. Okay. And I never asked you, did I?

16 A. That's correct.

17 Q. So other than that conversation that you felt I was
18 trying to put words in your mouth, is that your words, was
19 there anything else ever?

20 A. Anything else in terms of what?

21 Q. In terms of this case. I mean, we had no discussion
22 about this case.

23 A. Other than discussions we had about reporters'
24 inquiries about certain allegations, yes.

25 Q. Yes. But let me ask, this is the point I'm trying to

Marcone - Cross Continued

1 make, it was an election year. Was it not a fact that the
2 headlines were kickbacks and construction contracts, and
3 did we not have a lot of conversations about it?

4 A. There were a lot of newspaper articles about
5 allegations against you, but we did have conversations
6 about those newspaper articles.

7 Q. Now, in closing, do you believe strongly a person is
8 innocent until proven guilty?

9 MR. MORFORD: Objection.

10 THE COURT: That's what the law says.

11 MR. TRAFICANT: Yeah, but I'm asking --

12 THE COURT: That's a statement of law. Okay?

13 BY MR. TRAFICANT:

14 Q. To your understanding of the law, is a person
15 innocent until proven guilty?

16 A. Of course.

17 Q. Do you agree with that?

18 A. Yes.

19 Q. Did we fight for that, Paul?

20 MR. MORFORD: Objection.

21 THE COURT: Sustained.

22 MR. TRAFICANT: I hope your kids are okay.

23 Take care.

24 THE COURT: You may inquire.

25

Marcone - Redirect/Morford

1 REDIRECT EXAMINATION OF PAUL MARCONE

2 BY MR. MORFORD:

3 Q. Mr. Marcone, Congressman Traficant just asked you
4 some questions if there were ever any other discussions
5 between you and him about this case other than that time he
6 brought you out in the hallway because he didn't want to
7 talk to you in his office.

8 A. Um-hum.

9 Q. Did he ever talk to you in the last few weeks about
10 this case?

11 A. He called me several weeks ago, and I returned his
12 phone call.

13 Q. And when he called you several weeks ago, and you
14 returned his phone call, what did he tell you the purpose
15 of the call was?

16 A. He just -- I took it as him acting as an attorney, he
17 just called me because I was a witness, to go over certain
18 aspects of my testimony.

19 Q. So in answer to his question, did you ever discuss
20 the facts of this case other than that one time out in the
21 hallway, the true answer is?

22 A. Well, yeah, we did -- we did have that discussion,
23 several weeks ago.

24 Q. Was there anything about that discussion that made
25 you feel uncomfortable?

Marcone - Redirect/Morford

1 A. The issue of Henry and Allen came up again, and
2 again, he was trying to elicit from me that Henry and Al
3 worked hard, and I recall again, reiterating, I couldn't --
4 because I wasn't your supervisor, I couldn't speak to that
5 issue.

6 Q. But, that's something you had explained to him all
7 the way back in the hallway two years ago, correct?

8 A. That's correct.

9 Q. Now, two weeks before this trial he's asking you
10 again if you will say something that you've already told
11 him you can't say, correct?

12 A. That's correct.

13 Q. And did that bother you?

14 A. I wouldn't be human if it didn't bother me.

15 Q. Did he tell you during that conversation that he
16 needed you to help him in your testimony?

17 A. He didn't put it in those terms, no.

18 Q. What terms did he put it in?

19 A. He's fighting for his life, and he needed -- he
20 needed some help in fighting for my life here.

21 Q. And it's in that context then he asked you again if
22 you could say that Henry worked really hard?

23 A. I think the way he put it was Henry -- he just made a
24 statement, "Henry worked very hard."

25 Q. Which was a statement you had already told him you

Marcone - Redirect/Morford

1 have no way of knowing whether it was true or not, correct?

2 A. I believe what I told him was that, as I stated today
3 many times, that I got the impression that Henry was out
4 there working in the community, that I couldn't testify as
5 to how many hours he worked and how hard he worked because
6 I wasn't in Ohio.

7 Q. But that's something you had told him --

8 A. That's right.

9 Q. -- long before this conversation, correct?

10 A. Correct.

11 Q. And now in this conversation, he's again suggesting
12 that you tell this jury that you knew Henry worked very
13 hard, something you told him you couldn't do, correct?

14 A. Correct.

15 Q. Now, do you recall some questions Congressman
16 Traficant asked you about whether Henry DiBlasio's name
17 ever appeared on a building lease after the building at 11
18 Overhill was put in the name of Trumbull Land Company? Do
19 you recall that?

20 A. Yeah.

21 Q. And do you recall in answer to his question that you
22 agreed that it would have sent up red flags to you if, in
23 fact, Henry DiBlasio's name had been on that contract?

24 A. Yeah.

25 Q. Let me ask you this: Would it have sent up red flags

Marcone - Redirect/Morford

1 for you if you had learned that Nicholas Chuirazzi, whose
2 name was on the lease, is the president of Trumbull Land
3 Company, had simply put the name of the building, the title
4 of the building in the name of Trumbull Land Company as a
5 favor to Henry DiBlasio?

6 A. I don't know the question.

7 Q. You were talking about --

8 A. There was nothing -- if it said Nicholas Chuirazzi on
9 the lease it wouldn't send up a red flag at all.

10 Q. Would it if you saw Chuirazzi's name on the lease and
11 came to learn he was nothing but a nominee for Henry
12 DiBlasio?

13 A. If I learned that Henry DiBlasio still owned the
14 building and still had an interest in the building, it
15 would have sent a red flag up for me.

16 Q. What if Mr. Chuirazzi had told you that Henry still
17 received the rents, paid the expenses, and paid the taxes,
18 and was just using him to put his name on the building?

19 A. That would have sent up a red flag. It would have
20 been a violation of federal statute and House ethics rules.

21 Q. Did Henry DiBlasio ever tell you that was the case?

22 A. No.

23 Q. Did Congressman Traficant ever tell you that was the
24 case?

25 A. No.

Marcone - Redirect/Morford

1 Q. Congressman Traficant asked you the following
2 question, quote: "Was one of the major roles of the D.C.
3 office to help companies in trouble with the federal
4 government," end quote? Do you recall that?

5 A. Um-hum.

6 Q. And you answered that, quote, "That's a fair
7 statement, yes," end quote. You recall that?

8 A. Yes.

9 Q. Let me ask you this: Are you saying that the
10 Washington, D.C. office of Congressman Traficant believed
11 that one of your major roles was to lobby on behalf of
12 companies before federal agencies?

13 A. No, but it was to intervene on -- if companies were
14 having a problem with a federal agency, it wasn't unusual
15 for our office to intervene on their behalf.

16 Q. But, isn't it also not unusual for companies to hire
17 lawyers and lobbyists to go to bat for them with agencies?

18 A. Yes, but in my view, my experience, it is just as
19 effective for them to solicit help with their member of
20 Congress.

21 Q. Were there times that businessmen like Pete Bucheit
22 and J. J. Cafaro and Tony Bucci used your office to lobby
23 on their behalf in front of federal agencies? Is that
24 fair?

25 A. Yes.

Marcone - Redirect/Morford

1 Q. Now, Congressman Traficant also asked you whether
2 there were many times when the Government gave businesses
3 that were coming to you for help, quote, "the shaft," end
4 quote. You recall that?

5 A. I recall answering the question, yes.

6 Q. And you recall answering that, quote, "Oh, yeah," end
7 quote?

8 A. Yes.

9 Q. Let me ask you this: Do you believe that the U.S.
10 Department of Labor was giving the Buccis the shaft when
11 they tried to enforce a law that says convicted felons
12 can't bid on Government contracts for a three-year period
13 after their conviction?

14 A. After discussions I had with Jim Welfley, and looking
15 at the case, my view is that the Department of Labor was
16 adhering to the letter of the law.

17 Q. So they weren't giving the Buccis the shaft, right?

18 A. I had other keys cases in my mind when I gave that
19 answer.

20 Q. And I want to ask you about specific ones.

21 A. Sure.

22 Q. You believe the Ohio Department of Transportation was
23 giving the Buccis' company the shaft when they tried to
24 keep the Buccis from bidding on federally-funded highway
25 projects?

Marcone - Redirect/Morford

1 A. I believe all the agencies involved in the Bucci case
2 were adhering to the letter of the law.

3 MR. TRAFICANT: I didn't hear that.

4 THE WITNESS: All the federal and state
5 agencies involved in the Bucci case, in my opinion, were
6 adhering to the letter of the law.

7 Q. Do you think the FAA was giving USAG the shaft when
8 it would not go forward on certification until the USAG
9 complied with the standard requirement that the company
10 submit a written description of what the FAA needed to test
11 and provided the funding for such tests?

12 A. In that instance, no, they were not given the shaft.

13 Q. They were not right on that issue, correct?

14 A. On that one issue, yes.

15 Q. Do you believe that OPIC was giving Pete Bucheit the
16 shaft when it refused to pay insurance claims for insurance
17 that he refused to pay the premiums on?

18 A. No. Again, they were -- they were simply adhering to
19 what the regulations were.

20 Q. Do you believe that the Youngstown, Ohio, local
21 agencies called the Community Investment Corporation was
22 giving Dave Sugar the shaft when it awarded the Higbee
23 demolition contract to the lowest qualified bidder instead
24 of Dave Sugar?

25 A. I can't answer that because I'm not familiar with

Marcone - Redirect/Morford

1 that case.

2 Q. Do you recall Congressman Traficant asking you if the
3 office of Congressman Traficant treated any company any
4 different than anyone else? Do you recall that?

5 A. Yes.

6 Q. Were there some companies that the office spent more
7 time helping than others?

8 A. Yes.

9 Q. Where would the Bucheit companies fit?

10 A. They'd be at the top of the list.

11 Q. How about Cafaro and USAG?

12 A. Very high on the list, yes.

13 Q. How about the Buccis?

14 A. Very high on the list.

15 Q. So it's fair to say that the Bucheits, Cafaro, and
16 Bucci received more time and assistance from your office
17 than the 100 or so companies you testified you helped over
18 the years?

19 A. Correct.

20 Q. Now, you were asked a whole series of questions about
21 your personal concerns at one time and perhaps the
22 Government might have been deliberately leaking information
23 prior to the election. Do you recall that?

24 A. Yes.

25 Q. As part of your answer, you said something, you said,

Marcone - Redirect/Morford

1 "At that time"?

2 A. Yes.

3 Q. But, you never explained what you meant by that.

4 What did you mean by that, "At that time"? What were the
5 significance of the words you used, "At that time"?

6 A. I later learned that many of the people who were
7 going in to testify before the Grand Jury immediately spoke
8 to reporters who were hanging around the courthouse, and
9 that was a source of the majority of the articles that had
10 appeared in the paper.

11 Q. Now, you testified also about the subpoena that was
12 served on the House of Representatives, and you said that
13 that -- the fact that a subpoena had been received was read
14 in the record, correct?

15 A. Yes.

16 Q. But, it didn't indicate which congressman it dealt
17 with, correct?

18 A. That's right.

19 Q. And there are how many congressmen approximately in
20 the Northern District of Ohio?

21 A. About four or five.

22 Q. There's how many in the state, 17?

23 A. There's 19 in the whole state, 21 -- sorry, 21.

24 Q. 21. Ball park, how many in the northern half of the
25 state?

Marcone - Redirect/Morford

1 A. Seven or eight, maybe more, probably more because of
2 the Cleveland area.

3 Q. Was there anything whatsoever in what was read in the
4 House that indicated it was Congressman Traficant as
5 opposed to one of those seven or eight other congressmen?

6 A. No.

7 Q. Who was the first person who ever publicly tied that
8 subpoena to Congressman Traficant?

9 A. Our office was.

10 Q. So you were the -- it was your office that announced
11 that it was, in fact, Congressman Traficant that was being
12 looked at, correct?

13 A. We got a phone call from a reporter. Looking back,
14 it was a clever ploy on the reporters' part. He asked me
15 have our office documents been subpoenaed by the U.S.
16 Attorney's Office, and I answered in the affirmative. I
17 later found out he was just taking a shot in the dark.

18 Q. Because there had been an announcement in the House?

19 A. Right. I didn't know that at the time. I thought
20 that someone had leaked that to him. I spoke with the
21 Congressman, and I knew that the next day that he would
22 write that story, so we issued a statement that evening,
23 and we sent it out to the media that evening.

24 Q. And when was that, approximately?

25 A. It was in January of 2000, I believe.

Marcone - Redirect/Morford

1 Q. The very end of January, correct?

2 A. Yes.

3 Q. And for how many weeks had you known yourself
4 privately that the U.S. Attorney's Office had issued a
5 subpoena to Congress?

6 A. About six or seven weeks.

7 Q. And during that six or seven-week period, had any
8 reporter called you and asked you questions about this
9 investigation?

10 A. No.

11 Q. Had you ever received a single call from a reporter
12 prior to the day that Congress, under their own rules, read
13 onto the record that a subpoena had been issued to
14 Congress?

15 A. No, I never received any calls up to that point.

16 Q. So there would have been no -- no leaks of any kind,
17 correct?

18 A. Correct.

19 Q. Is it unusual during a hotly contested election to
20 have the media cover allegations of misconduct no matter
21 where they're coming from?

22 A. No, that's not unusual.

23 Q. Is it unusual during a hotly contested election for
24 the opponent of an incumbent Congressman to be raising
25 allegations of misconduct?

Marcone - Redirect/Morford

1 A. No, that's Politics 101.

2 Q. Is it unusual if the opponent and the media are
3 raising questions of allegations that the reporters would
4 be calling you all the time, looking for the Congressman's
5 response?

6 A. That's not unusual.

7 Q. And how unusual is it after the election, after the
8 primary election ends, for all the commotion to die down?

9 A. It's not unusual for the commotion to die down. What
10 struck me was I didn't get a single call from a reporter
11 for months related to the Grand Jury investigation, when I
12 knew for a fact that the Grand Jury investigation was still
13 ongoing. That's just struck me as somewhat unusual.

14 Q. But the election was over, correct?

15 A. The primary was over; there was the general election
16 in the fall.

17 Q. Was the general election much of a contest?

18 A. We took it very seriously. Yes, it was, given the
19 allegations. I believe it was a three-way race. We were
20 very concerned about the outcome.

21 Q. Is there usually a lull between the coverage that
22 happens just before the primary and when coverage picks up
23 again before the general election?

24 A. Certainly, yes.

25 Q. And was there that normal lull in this case?

Marcone - Redirect/Morford

1 A. Yes.

2 Q. And is that during the time that you weren't getting
3 many calls?

4 A. Yes.

5 Q. Did you ever have any evidence whatsoever of any
6 Government leaks in this investigation, besides your own
7 suspicions?

8 MR. TRAFICANT: Let him answer the question.

9 A. The only thing I would say, to fully answer that
10 question, the only evidence I have is the detailed nature
11 of the type of questions I was getting from some reporters.

12 Q. Yeah, but you --

13 A. I later learned that many of the reporters who called
14 me got their information from people who had testified
15 before the Grand Jury.

16 Q. And isn't it true --

17 A. I never got a single reporter to tell me they got any
18 information from the federal government.

19 Q. And isn't it true sometimes in the articles they even
20 quoted some of those witnesses?

21 A. Yes.

22 Q. They quoted some of the staff members and former
23 staff members, members of your office, correct?

24 A. Correct.

25 Q. And they quoted some of the businessmen who had been

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1 before the Grand Jury, correct?

2 A. Correct.

3 Q. You were asked a number of questions about the need
4 for -- strike that.

5 You were asked a question about Congressman
6 Traficant's statement that he wanted Allen Sinclair to work
7 on the tax initiative. You recall that?

8 A. Yeah.

9 Q. Was that a federal or a local tax initiative?

10 A. A local -- it's a local -- it's a local ballot issue
11 to increase the sales tax in three counties to create a
12 pool of money for economic development purposes.

13 Q. Okay. So who was actually going to put the
14 referendum on the ballot and receive the revenues from that
15 tax increase?

16 A. The Regional Economic Development Authority created
17 under state statute.

18 Q. So these are state and local tax levy type issues?

19 A. Yes.

20 Q. To the best of your knowledge, don't counties and
21 cities and localities have lawyers that work on tax levy
22 issues on a regular basis?

23 A. From my experience in working with the City of New
24 York, yes.

25 Q. Were you ever given explanation why your office had

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1 to provide these localities with a personal injury lawyer
2 to help them on these issues?

3 A. It was never clear to me that Mr. Sinclair was going
4 to be working with any county officials. He was just
5 simply going to be advising the Congressman on the creation
6 of the -- of this economic development.

7 Q. Let me ask you this: Based on your understanding of
8 the structure of your office, could you have simply hired
9 on an as-needed basis a local lawyer who specialized in tax
10 levies and tax referendum, and that type of thing?

11 A. Yes.

12 Q. Did you do that?

13 A. No.

14 Q. Congressman Traficant asked you a number of questions
15 about things that were put in the Congressional Record.
16 Are there any restrictions on what a congressman can put
17 into a Congressional Record?

18 A. No, just about anything he wants.

19 Q. There had been times congressmen would put a recipe
20 for chicken soup into the Congressional Record, correct?

21 A. That's correct.

22 Q. And it gets printed?

23 A. If that's what the member of Congress wants, yes.

24 Q. Finally, you were asked a series of questions about
25 your belief on the merits of the USAG technology. Do you

Marccone - Recross

1 recall that?

2 A. Yes.

3 Q. I just have one question for you: Does the issue of
4 merit, whether it was meritorious technology or not, does
5 that have any bearing on whether a congressman can receive
6 things of value because of what he's doing for a company?

7 A. Absolutely not.

8 Q. So whether it's a good technology, bad technology,
9 those rules are the same?

10 A. Yeah.

11 MR. MORFORD: Just one moment, your Honor.

12 Nothing further.

13 THE COURT: Thank you. Congressman?

14 RE-CROSS-EXAMINATION OF PAUL MARCONE

15 BY MR. TRAFICANT:

16 Q. Paul, how long do you think this redirect the
17 Government took, did you time it, how long it took?

18 MR. MORFORD: Objection.

19 THE COURT: Sustained.

20 Q. Did they spend an awful lot of time on Government
21 leaks?

22 A. Who? Who's "they"?

23 Q. Mr. Morford?

24 MR. MORFORD: Objection.

25 THE COURT: Objection sustained.

Marcone - Recross

1 Congressman, please.

2 BY MR. TRAFICANT:

3 Q. Were you questioned extensively on your knowledge
4 relative to whether or not there were government leaks or
5 not?

6 MR. MORFORD: Objection.

7 THE COURT: Shall we take a break and explain
8 why that question --

9 MR. TRAFICANT: No, I don't need a break, and
10 I don't want to waste the jury's time.

11 THE COURT: Well, then ask questions of this
12 witness.

13 MR. TRAFICANT: He asked him about ten
14 minutes of questions on it.

15 THE COURT: Excuse me, excuse me. Ask
16 questions that will provide evidence to the jury.

17 MR. TRAFICANT: Okay.

18 THE COURT: Thank you.

19 BY MR. TRAFICANT:

20 Q. Did you answer many questions about government
21 potential leaks in the redirect?

22 THE COURT: That'll do, Congressman. We'll
23 take a recess.

24 (Proceedings in the absence of the jury:)

25 THE COURT: Congressman, the jury was present

Marcone - Recross

1 during that cross-examination. They can decide whether it
2 was long or wasn't long. This doesn't elicit any
3 information that they can use.

4 MR. TRAFICANT: Can I --

5 THE COURT: Do you have something more that
6 you want to examine him on?

7 MR. TRAFICANT: Yes, I do. Can I speak about
8 it?

9 THE COURT: Yes.

10 MR. TRAFICANT: They took so much time,
11 they're very defensive about government leaks. I was
12 trying to get at a little bit more detailed information.
13 Maybe Mr. Marcone may have given me --

14 THE COURT: Well, we'll go back to that.
15 He's going to come back on the stand. You can ask him for
16 the information.

17 MR. TRAFICANT: Yes, but why -- let me ask
18 you this.

19 THE COURT: You have a time when you can make
20 a final argument to this jury. This is not it.

21 MR. TRAFICANT: No, I'm not trying to make a
22 final argument.

23 THE COURT: It sounds like it.

24 MR. TRAFICANT: I'm on recross now.

25 THE COURT: That's right.

Marcone - Recross

1 MR. TRAFICANT: And the Government spent more
2 than half their time on government leaks.

3 THE COURT: And?

4 MR. TRAFICANT: And you're saying I asked him
5 a question, "Did the government ask you a lot of questions
6 about government leaks," and you said "Objection";
7 "Sustained."

8 THE COURT: The jury's sitting right here.
9 They heard every question you asked him.

10 MR. TRAFICANT: Well, then what was the
11 problem with it? Why did you sustain the objection?

12 THE COURT: Because that is by inference an
13 argument that doesn't elicit anything that they can really
14 use. And then you did it again, and again, so I thought
15 we'd better just stop and touch on it. If you have some
16 questions you can ask this witness --

17 MR. TRAFICANT: Your Honor --

18 THE COURT: -- he has personal knowledge
19 about that are not simply positions that you want to make
20 in front of the jury, fine.

21 MR. TRAFICANT: Your Honor, a case is tried
22 in front of a jury, isn't it?

23 THE COURT: It is.

24 MR. TRAFICANT: Okay. The government, under
25 redirect, brought up the issue of leaks, did they not?

Marcone - Recross

1 THE COURT: The issue of leaks has been
2 brought up before in this case.

3 MR. TRAFICANT: But, it was brought up under
4 redirect. I still have a chance to recross. What I'm
5 saying is why do you continue --

6 THE COURT: You can ask him --

7 MR. TRAFICANT: -- to limit me from my
8 ability to cross-examine witnesses? I want that on the
9 record.

10 THE COURT: Because asking them whether or
11 not the government took a certain amount of time with their
12 examination which was conducted right in the presence of
13 the jury, the jury knows whether or not it took a lot of
14 time, it doesn't get anywhere. If you want to examine more
15 about leaks, ask him questions about what he knows. He's
16 been testifying about it, and this isn't the first time,
17 but it's -- it's what does he know we're --

18 MR. TRAFICANT: A trial is also about
19 motives, your Honor.

20 THE COURT: It is, and --

21 MR. TRAFICANT: And you're attempting to
22 limit the defense in establishing motives and patterns.
23 That's all I have to say. No offense personally, just for
24 the record.

25 THE COURT: All right. Are you ready now to

Marcone - Recross

1 go on with this witness?

2 MR. TRAFICANT: I'm ready.

3 THE COURT: Thank you, sir.

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

5 BY MR. TRAFICANT:

6 Q. Paul, let's see if I can fumble and bumble through
7 this with you.

8 Did I bring up the issue of leaks or did you bring up
9 the issue of leaks when it first surfaced?

10 A. I came to you with my concerns about potential leaks.

11 Q. Isn't it a fact you told me that there's just too
12 much detailed information, that there's got to be something
13 coming from the government? Just yes or no.

14 A. Yes.

15 Q. Well, that's different than what you just testified
16 to. Are you afraid to testify?

17 A. I'm not afraid of anything. What I testified to was
18 at the time I was convinced that the federal government was
19 leaking the information because of the detailed nature of
20 the information. I later learned that most of the
21 information that reporters got came from people who had
22 testified before the Grand Jury.

23 At the time I made that statement to you, we were in
24 a heated battle, and I was very concerned that they were
25 leaking information.

Marcone - Recross

1 Q. Yeah. Let me ask you this: Were you not being faxed
2 everyday, every update on this trial, on this
3 investigation?

4 A. No, I was -- as part of my job, I would read the
5 newspapers.

6 Q. Did the District Office fax you things that concerned
7 me?

8 A. Yes.

9 Q. And the investigation --

10 A. They were -- as a matter of course, any time there's
11 article about you in any local papers, the District Office
12 would fax that to my attention.

13 Q. So you were able to read those articles, weren't you?

14 A. Most of the information was also available online,
15 which I read, as well.

16 Q. So immediately as these witnesses supposedly made
17 their statements, it was all over the Internet and all over
18 the country and available to everybody, wasn't it?

19 A. Throughout the Grand Jury investigation, up until the
20 time prior to the primary, there were many stories in local
21 newspapers about the Grand Jury investigation.

22 Q. Now, the prosecutor says there comes a lull between
23 elections. Is that in the normal election, Paul?

24 A. In a normal cycle there's always a lull between the
25 primary and the general election.

Marccone - Recross

1 Q. Do you believe -- let me say this: Under the
2 circumstances of that hotly contested election and the
3 powerful media placed on me, was there a normal lull?

4 A. After any primary, there's going to be a decrease in
5 media attention of the primary itself. What concerned me
6 at the time was the fact that the stories in the media
7 about the Grand Jury investigation ceased after the primary
8 was over and you prevailed.

9 Q. Did you have knowledge at that time the Grand Jury
10 was still going on?

11 A. I knew there was still ongoing Grand Jury
12 investigation.

13 Q. But, there were no more witnesses making any
14 statements, would that be a fair statement?

15 A. I don't know who was talking to who after the
16 election.

17 Q. Did you get one call from any media up until the
18 election recycle started to heat up, Paul, about Grand Jury
19 testimony?

20 A. What I recall is that -- what I testified before the
21 Grand Jury at the end of April, between the March primary
22 and that testimony, I did not receive a single call from
23 any reporter about the Grand Jury investigation.

24 Q. And did you not bring that to my attention?

25 A. Yes, I did.

Marccone - Recross

1 Q. And what did you tell me?

2 A. I told you that I was very suspicious about that.

3 Q. Suspicious of what?

4 A. That there were people inside the federal government
5 who were leaking information damaging to you to try to
6 influence the outcome of the primary.

7 Q. All right. Now, they then said there was a general
8 election?

9 A. Um-hum.

10 Q. Was it a highly contested general election?

11 A. Yes, it was.

12 Q. Did we survive?

13 A. You were elected, yes.

14 Q. Did you help me?

15 A. Yes.

16 Q. Under the laws?

17 A. Yes.

18 Q. Now, they talk about a couple weeks ago we had a
19 conversation.

20 A. Um-hum.

21 Q. Are you familiar with the fact I represent myself?

22 A. Yes.

23 Q. When I called, did I tell you I was calling as an
24 attorney, talking to you, who would be a potential witness?

25 A. Yes.

Marcone - Recross

1 Q. Did I clarify that very clearly?

2 A. Yes.

3 Q. Didn't we have some small talk?

4 A. A little bit, yeah.

5 Q. Did I ask about your family?

6 A. Yes.

7 Q. Did you ask about me?

8 A. Yes.

9 Q. Did we do anything wrong in that conversation?

10 A. I viewed it as a conversation that I would have with
11 an attorney about a pending trial. But, I would say that
12 again, I -- when I hung up the phone, I still was bothered
13 by the fact that you were trying to push me in certain
14 directions with my testimony related to Henry and Allen.

15 Q. Was I inquiring about that issue with you? Certainly
16 these are key issues in the trial.

17 Do you know how many counts there are to this
18 indictment, Mr. DiBlasio -- Mr. --

19 MR. MORFORD: Objection, your Honor. There
20 are at least three questions in there.

21 THE COURT: One at a time.

22 Q. Do you know how many counts there are to this
23 indictment?

24 A. I believe there are ten.

25 Q. Okay. Did I inquire about information you might have

Marccone - Recross

1 known about any of these cases?

2 A. I can't recall the exact way the conversation went.

3 I do know that you very quickly brought up the issue of

4 DiBlasio and Sinclair.

5 Q. Yes. Very good. Now, they said that -- you were

6 asked about us helping companies, and we helped all

7 companies, right?

8 A. Um-hum.

9 Q. Did I get involved with all the companies?

10 A. No.

11 Q. When was it that I got involved, Paul?

12 A. As I stated previously, you would get involved at the

13 suggestion of a staff or you would on your own initiative

14 say you wanted to make certain phone calls.

15 Q. Did you investigate to find out if Buccis were the

16 low bidder on that job?

17 A. I did not conduct any investigation on it.

18 Q. Fine.

19 A. I simply took your word for it.

20 Q. Okay. Now, you were asked about U.S. Aerospace, and

21 if you were asked if you thought or you knew that I was

22 getting something from Mr. Cafaro, would you have helped,

23 and what was your answer?

24 A. No, I wouldn't have helped.

25 Q. Let me ask you something. You had meetings with

Marccone - Recross

1 Mr. Cafaro?

2 A. Yes.

3 Q. Did you trust him?

4 A. No, I -- I do not trust Mr. Cafaro.

5 Q. Now, when a constituent is dealing with the
6 government and they've run into a roadblock, what's their
7 last resort, Paul?

8 A. With any person dealing with the federal government
9 they have a number of recourses they can take. People who
10 don't have much money, obviously hiring an attorney is not
11 a viable alternative. Contacting your congressman is
12 always a viable -- sometimes very effective method of
13 addressing grievances that a person might have in the
14 federal government.

15 Q. Are some members more effective than others?

16 A. Yes.

17 Q. Do some members get more requests than others?

18 A. Yes.

19 Q. You know if Mr. Bucheit had an attorney?

20 A. I believe the Bucheit company did have an attorney.

21 Q. Did you know if Mr. Bucheit had a team of attorneys?

22 A. My recollection was Bucheit had counsel, and also at
23 one point, had a lobbyist help him with the building on H
24 Street.

25 Q. Did Mr. Bucheit make any progress with any of his

Marcone - Recross

1 lawyers?

2 A. You'd have to ask Mr. Bucheit that question. I don't
3 know how much progress he made or didn't make with his
4 attorneys. I do know there were several court cases that
5 were resolved in their favor in relation to the investment
6 on the Gaza Strip.

7 Q. Do you know if he was paid? Do you know if they paid
8 him after those judgments?

9 A. If who paid?

10 Q. The PLO?

11 A. The Palestinian Authority?

12 Q. Yes.

13 A. I don't know --

14 MR. MORFORD: Objection as to basis of
15 knowledge, your Honor. We're wandering into hearsay again.

16 THE COURT: Okay. Just testify to what you
17 know personally.

18 Q. Tell us what you know. Why did Mr. Bucheit come to
19 me about the Gaza Strip if he had a judgment already in
20 it --

21 A. Well, the judgment came much, much later. The
22 initial contact from our office and the Bucheits in
23 relation to Gaza Strip were initially they wanted to invest
24 in Gaza. They needed the OPIC insurance.

25 Q. Okay. At some point, do you know that Mr. Bucheit

Marccone - Recross

1 made his payment to the OPIC insurance?

2 A. Yes. At some point, he finally -- he finally did
3 what OPIC had been asking him to do to pay his premium, and
4 they were able to help him.

5 Q. There was a dispute there, would you say that's
6 correct?

7 A. Yes.

8 Q. And then they came to a settlement?

9 A. We intervened on several occasions at OPIC, and I
10 instructed our staff to make it clear to Mr. Bucheit that
11 we couldn't really be effective in helping him unless he
12 did certain basic things that OPIC was requesting, and
13 finally, after several months, Bucheit eventually did that,
14 and we were able to resolve the issue.

15 Q. Who resolved the issue?

16 A. OPIC did, with our intervention.

17 Q. Do you know to this day if Mr. Bucheit had been paid
18 by the Palestinian Liberation Organization?

19 A. I don't know if he's got anything from the
20 Palestinian Authority.

21 I know that there were two judgments in federal court
22 in the Bucheits' favor.

23 Q. In America?

24 A. In the United States, but I don't know whether or not
25 that resulted in the Palestinian Authority being able to

Marcone - Recross

1 get the Bucheits' equipment back or compensating the
2 Bucheits for the stolen equipment.

3 Q. Now, in my questioning you about the FAA, did I ever
4 ask you if the FAA was giving us the shaft?

5 A. No, you never used those terms.

6 Q. Did I ever blame the FAA?

7 A. No. The only problem I can see with the FAA, USAG,
8 was the fact that there was a staff person at the FAA who
9 was very skeptical of the technology, and we also were
10 critical of the FAA for the way they conducted their
11 initial test, in testing technology during a day.

12 Q. Let me stop there now. Who brought that to our
13 attention?

14 A. The USAG.

15 Q. Who from USAG?

16 MR. MORFORD: Objection, back to hearsay
17 again, your Honor.

18 THE COURT: You can testify as to who, why,
19 you just can't testify as to what he said.

20 THE WITNESS: Mr. Detore brought that to our
21 attention.

22 Q. Laser lights -- what time in the day are laser lights
23 to be used?

24 A. At night.

25 Q. When did the FAA test the laser light equipment?

Marcone - Recross

1 A. During daylight hours.

2 Q. Did I raise a fuss?

3 A. Yes.

4 Q. Do you believe I was unjustified in raising that
5 fuss?

6 A. I thought the concerns you raised were entirely
7 justified.

8 Q. Is that what led us to -- for you to advise me about
9 inviting certain key people out to the -- to witness it
10 themselves?

11 A. Yes, I -- I felt that was important to have key
12 people view the technology for themselves and the setting
13 for which the technology was built to reform.

14 Q. Was our office known for fighting for American jobs,
15 Paul?

16 A. I think you were known as a fierce defender of
17 American companies and keeping jobs in this company, yes.

18 Q. Did I raise questions relative to Chinese money that
19 came in through an election?

20 MR. MORFORD: Objection.

21 THE COURT: Sustained.

22 BY MR. TRAFICANT:

23 Q. Now, you had stated that there was a clever ploy by a
24 media guy to sort of trick you to get the original
25 admission that it was Traficant they were after?

Marcone - Recross

1 A. Um-hum.

2 Q. Is that right, is that your testimony?

3 A. Yes.

4 Q. What, if anything, did you do when you realized that
5 you admitted it was me?

6 A. Well, he asked me the question, has your office been
7 subpoenaed by the Northern District. I believe I consulted
8 with you about it, and we decided to admit it because I --
9 I advised it'll come out eventually so we might as well
10 just admit it. And that evening, we issued a press release
11 announcing it because the paper wouldn't come out until the
12 next day.

13 Q. What, if anything, did I say when you told me that?

14 MR. MORFORD: Objection, hearsay.

15 THE COURT: Sustained.

16 Q. Did you and I have a conversation about what -- how
17 we should proceed?

18 A. Yes.

19 Q. And what was decided?

20 A. That we would issue a press release that evening,
21 send it out to the local and national media announcing that
22 our office records had been subpoenaed by the U.S.
23 Attorney's Office.

24 Q. Isn't it a fact that you could put a recipe for
25 chicken soup in the Congressional Record?

Marcone - Recross

1 A. Yes.

2 Q. How was I mostly -- how did I mostly appear in the
3 Congressional Record, Paul?

4 MR. MORFORD: Objection.

5 MR. TRAFICANT: Pardon?

6 THE COURT: Ask him a little bit more
7 specific question so he'll know when you're talking about,
8 and what it is you're talking about.

9 Q. Did I put documents that I felt were important in the
10 Congressional Record, Paul?

11 A. Yes.

12 Q. Did I put commendations to constituents that did
13 specific things in the Congressional Record?

14 A. Yes.

15 Q. Did I put every document I had on the Demjanjuk case
16 in the -- printed in the Congressional Record?

17 A. My understanding is you did do that.

18 Q. Did I put nearly every document I had relative to FBI
19 investigation in Northern Ohio on the record?

20 MR. MORFORD: Objection.

21 MR. TRAFICANT: He can't have it both ways,
22 your Honor.

23 THE COURT: No, I'm going to overrule the
24 objection.

25 MR. TRAFICANT: Thank you.

Marcone - Recross

1 THE COURT: But, what you need to do is ask
2 him questions that he can provide the answers to, not you.
3 Okay?

4 BY MR. TRAFICANT:

5 Q. You have knowledge that I submitted the evidentiary
6 matter that I had gathered on FBI and IRS corruption in the
7 northern area of Ohio and put it on the record?

8 A. Yes.

9 Q. Did I treat that any different than the Demjanjuk
10 case?

11 A. No. Let me say that I was not working for you at the
12 time you were heavily involved in the Demjanjuk case.

13 Q. Paul, do you miss working on the Hill?

14 A. No. I enjoy my job now.

15 Q. I hope that's not because you don't like to work for
16 me?

17 A. No.

18 Q. You didn't mean that, did you?

19 A. No.

20 MR. TRAFICANT: No more further questions,
21 your Honor.

22 MR. MORFORD: Nothing further, your Honor.

23 THE COURT: Thank you, sir. You can step
24 down.

25 (Witness excused.)

Bushner - Direct/Morford

1 THE COURT: Sir, would you raise your right
2 hand?

3 JOSEPH BUSHNER,
4 of lawful age, a witness called by the GOVERNMENT,
5 being first duly sworn, was examined
6 and testified as follows:

7 DIRECT EXAMINATION OF JOSEPH BUSHNER

8 BY MR. MORFORD:

9 Q. Good afternoon.

10 A. Good afternoon.

11 Q. Could you please state your full name and spell your
12 last name for the Court Reporter?

13 A. Joseph A. Bushner, B-U-S-H-N-E-R.

14 Q. Mr. Bushner, can you tell the jury how you're
15 employed?

16 A. I'm employed as a Special Agent with the FBI.

17 Q. And how long have you been a Special Agent with the
18 FBI?

19 A. Since January of 1998.

20 Q. And how were you employed prior to joining the FBI in
21 January of 1998, did you say?

22 A. Yes. I was an officer in the United States Marine
23 Corps.

24 Q. And for how long were you with the Marine Corps?

25 A. Six and a half years.

Bushner - Direct/Morford

1 Q. And what was your rank when you left the Marine
2 Corps?

3 A. Captain.

4 Q. Now, through your duties as a Special Agent with the
5 FBI, did you have occasion to meet with a man named Allen
6 Sinclair?

7 A. Yes.

8 Q. And where are you actually assigned, what office for
9 the FBI are you assigned to?

10 A. The Youngstown resident agency.

11 Q. And when was the first time that you personally
12 recall meeting Allen Sinclair?

13 A. On January 24 of 2000, Agent Denholm came up to me
14 and said that Allen Sinclair was coming into the Youngstown
15 office, that he was bringing with him some paperwork
16 concerning the 11 Overhill congressional office, the
17 paperwork had to do with rental agreements, and he stated
18 that he had met with him a couple days earlier, and would I
19 sit in on the interview.

20 Q. And did you, in fact, sit in on an interview?

21 A. Yes.

22 Q. And during the course of the interview, was Allen
23 Sinclair asked some questions?

24 A. Yes.

25 Q. At any point during the interview was he asked any

Bushner - Direct/Morford

1 questions about kickbacks?

2 A. Yes.

3 Q. And to the best of your recollection now, how do you
4 recall that topic coming up?

5 A. It came up at the end of the interview. It wasn't a
6 long interview. Initial questions had to do with the 11
7 Overhill office, did he work for Congressman Traficant, and
8 how much he made working for Congressman Traficant, if he
9 was -- if he was able or if there was any sort of a rules
10 restriction for him to work full time for Congressman
11 Traficant and to have a full-time job as an attorney.

12 After we addressed that, we talked a little bit about
13 the Overhill office itself, was it owned by him; if it was,
14 whose name was it in; did he buy from Henry DiBlasio. And
15 then the final question was, how much money are you kicking
16 back to Congressman Traficant.

17 Q. And how did he react just physically and facially,
18 and in terms of his response, when he was asked that
19 question?

20 A. Well, up until that point in the interview, it had
21 been a pretty good dialogue and pretty good free exchange
22 of information. That question hit him kind of hard. He
23 paused, he looked down at the floor. We waited for his
24 answer. He ended up saying to the effect that if you
25 don't -- I don't want to be a part of this, I don't want to

Bushner - Direct/Morford

1 be a part of this get Traficant thing. He denied he gave
2 money back to Congressman Traficant.

3 Q. How long after that question was asked and you gave
4 that answer was it before the interview ended?

5 A. That was essentially the end of the interview. The
6 only thing before he left was we advised him that he would
7 have to tell the Grand Jury up in Cleveland what he had
8 just told us, that he would be subpoenaed to the Grand
9 Jury.

10 Q. At whose request was the interview terminated?

11 A. Mr. Sinclair's.

12 Q. At any time did either you or Mr. Denholm restrict
13 him from leaving?

14 A. No.

15 Q. Now, at the time of that January 24, 2000 interview,
16 did you have any evidence with which you could have charged
17 Allen Sinclair regarding kickbacks?

18 A. No.

19 Q. What happened next?

20 A. Two days later, on January 26, he was given a
21 subpoena to come up here to the Grand Jury.

22 MR. TRAFICANT: What date was that?

23 THE WITNESS: January 26, 2000.

24 Q. Okay. And when you say he was given a subpoena,
25 where was the subpoena delivered?

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1 A. To his office, his law office, which is at 11
2 Overhill.

3 Q. Describe the next time that you personally recall
4 meeting with Allen Sinclair after that first meeting on
5 January 24th.

6 A. He came into the Youngstown resident agency. He was
7 accompanied with an individual named John, who was his
8 close friend of his, also worked for him as an investigator
9 on his staff. They came into the office. Mr. Sinclair had
10 some concerns, and we addressed those concerns.

11 Q. Did you discuss his concerns with him?

12 A. Yes, we did.

13 Q. What was the nature of those concerns?

14 A. First concern, the primary concern had to do with
15 safety. He was -- he was concerned that if he told us the
16 truth, how Congressman Traficant would react. He described
17 him as being potentially volatile, unpredictable, said he
18 had a lot of weapons in his Overhill office, said that he
19 knew where he lived, and he had a real trouble if
20 Congressman Traficant knew he was being truthful with us,
21 how he would react.

22 Q. What other concerns were addressed?

23 A. Well, he brought up the fact that, you know, he knew
24 he was going to be incriminating himself, and how that
25 would impact his law practice and how it would obviously

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1 look publicly when it came out.

2 Q. What if any promises did you make to him at that
3 time?

4 A. We didn't make any promises to him.

5 Q. Did you have any discussions about that issue with
6 him, the issue of his own personal culpability?

7 A. As far as -- as far as that one, we told him
8 basically two things. One was that he needed to be
9 truthful regardless of the outcome. The other thing is we
10 discussed with him that, you know, we could -- we could
11 enter a proffer agreement. Being a lawyer, he was already
12 somewhat familiar with what a proffer was, but we discussed
13 what it was with him.

14 We also told him that, you know, the person who gets
15 kickbacks in an extortion case is rarely someone who's
16 prosecuted, and we placed him in that category.

17 Q. You say somebody who does "really" or "rarely" did
18 you say?

19 A. Rarely.

20 Q. Okay. Now, did there come a time where there was
21 actually a proffer taken from Mr. Sinclair?

22 A. Yes.

23 Q. Do you recall the date of that proffer?

24 A. It was January 31st of 2000.

25 Q. And when was that in relation to the date that

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1 Mr. Sinclair was scheduled to testify before the Grand
2 Jury?

3 A. The Grand Jury date was the next day, February 1st.

4 Q. And did Mr. Sinclair make a number of statements
5 during the course of the proffer?

6 A. Yes.

7 Q. As a result of those statements, did you meet with
8 him again that same day after the proffer concluded?

9 A. Yes.

10 Q. And what was the purpose of that subsequent follow-up
11 meeting?

12 A. He had some material that was of evidentiary value to
13 us. After he told us of this information, the proffer,
14 myself and Agent Mike Pikunas went out in an FBI van. We
15 met with him within a couple of blocks of the Overhill
16 office near Burger King on Market Street in Youngstown, and
17 he came -- he parked his vehicle, got into the van, he
18 provided us with a blue plastic bag. It was a Wal-Mart
19 bag.

20 Within the bag was cash and several envelopes. The
21 envelopes were -- some were full envelopes, some were
22 partial envelopes that had been burned. Some of them were
23 damp, some of them had "J.T. personal" and just "personal"
24 written on them. And there's also a note from Congressman
25 Traficant to Mr. Sinclair that said, "To Allen."

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- 1 Q. Did you and Agent Pikunas count the cash in
2 Mr. Sinclair's presence?
- 3 A. Yes.
- 4 Q. And how much cash would you count?
- 5 A. \$18,500.
- 6 Q. And what denominations were those bills, if you
7 recall?
- 8 A. 50's and 100's.
- 9 Q. And did you take the envelopes and the letter and the
10 cash into evidence?
- 11 A. Yes.
- 12 Q. And what did you do with that evidence?
- 13 A. Eventually we sent the evidence to the lab to be
14 checked for fingerprints and handwriting.
- 15 Q. And was the \$18,500 cash maintained in evidence, the
16 exact bills you received that day?
- 17 A. Yes.
- 18 Q. Turning your attention to February 4, 2000, which is
19 three days after the Grand Jury, did you meet with Allen
20 Sinclair on that date?
- 21 A. Yes.
- 22 Q. And who attended that meeting?
- 23 A. Myself, Agent Pikunas again, and Agent John Stoll.
- 24 Q. And what was the purpose of that meeting?
- 25 A. Mr. Sinclair had telephoned one of us at the FBI

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1 office and said that Congressman Traficant had given him a
2 subsequent envelope, and he believed there would be cash in
3 it, and he said, "I need to turn this over to you."

4 Q. And did he meet with you and turn an envelope over to
5 you?

6 A. Yes.

7 Q. And was the envelope open or sealed when you received
8 it?

9 A. It was sealed.

10 Q. Did you open the envelope in his presence?

11 A. Yes.

12 Q. Did you count the contents of the envelope?

13 A. Yes.

14 Q. What was in the envelope?

15 A. \$6,000 in cash.

16 Q. After receiving these materials, the \$18,500 cash,
17 \$6,000 cash, partially burned envelopes, the final
18 envelope, and the letter, did you attempt to have those
19 items examined for fingerprints?

20 A. Yes, all of them.

21 Q. Why?

22 A. Well, even though the money is -- rarely you get
23 fingerprints on money, and even though those envelopes had
24 been burned and doused with water, we thought it was worth
25 a chance to get Congressman Traficant's fingerprints on

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1 them.

2 Q. Have you had training yourself in fingerprint
3 evidence?

4 A. Yes.

5 Q. And through your experience and training, what are
6 some of the factors that sometimes make it difficult to
7 obtain fingerprints from paper and documents?

8 A. Well, when dealing with fingerprints, there's three
9 main factors that you look at in looking at fingerprints.
10 And the first one is the person making the fingerprint, the
11 ridges of your fingers perspire, and you need a transfer
12 medium to actually have a fingerprint. So you need the
13 actual perspiration from the fingers, or if you touch the
14 oil on your finger, or some sort of transfer medium to
15 leave that fingerprint.

16 Some people are secretors, that is they sweat more
17 than others. That person's going to have a highly -- a
18 more high likelihood that they're going to leave a
19 fingerprint. If I wipe myself on my arm and then I touch
20 something, I'm going to have less of a chance to actually
21 leave a fingerprint because I just wiped that perspiration
22 off.

23 In the case of money, paper in and of itself is of
24 course material, so unlike touching a glass or something
25 which doesn't absorb any of your perspiration, it's porous,

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1 so you're going to have to have at least a degree of actual
2 fluids there to hold it to the paper item.

3 Money is a highly durable paper, and it's very --
4 it's rare to find fingerprints on money. It's difficult to
5 find fingerprints on money.

6 Q. Does temperature ever affect the ability of someone
7 to leave a fingerprint?

8 A. Besides the perspiration on the surface, the third
9 factor is external forces. One thing, if it's cold, you
10 sweat less. So there's less of a likelihood you are going
11 to leave a fingerprint if it's very cold because you're not
12 perspiring as much.

13 In the case of wind and heat, extreme heat, wind, can
14 actually degrade a fingerprint actually where you can't
15 find it. If you have water, water can actually wash
16 fingerprints out. So the case with the envelopes, which
17 had already been burned and then doused with water, we
18 thought there would be a low likelihood that there would be
19 fingerprints present on the money, for those reasons I just
20 stated.

21 Q. But, did you go ahead and submit it anyway?

22 A. Yes.

23 THE COURT: At this point, we're going to go
24 forward with this line of questioning, and we need to have
25 some inquiry outside the hearing of the jury, so move on to

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1 something else, and then we'll come back do this at the
2 break. Thank you.

3 BY MR. MORFORD:

4 Q. I'd like to ask you some questions, as an
5 investigative matter, whether or not consideration was
6 given to having Allen Sinclair try to secretly record
7 conversations with Congressman Traficant. Okay?

8 Do you recall there being some discussions about the
9 potential of that and whether or not that should be done in
10 this case?

11 A. Yes.

12 Q. And what was decided?

13 A. It was decided do not pursue that as an avenue.

14 Q. And why is that?

15 A. There was a few reasons for that. One thing,
16 Mr. Sinclair had stated that Congressman Traficant was a
17 very touchy-feely sort of person. He often came up, hugged
18 him, slapped him, you know. Because of his touchy-feely,
19 we were concerned about if you put a transmitter or
20 recorder on him where do you place it so you can hear the
21 conversation, but also the Congressman Traficant wouldn't
22 find the device.

23 So then we thought if we don't put the device on
24 Allen Sinclair, where do you put it? They had discussions
25 at the 11 Overhill office in the boiler room, but the

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1 boiler room's not a good place to have a device because the
2 ambient noise, you might get partial conversation, maybe
3 not that much.

4 We thought of Mr. Sinclair's vehicle, but they took
5 different vehicles. They didn't always take his vehicle.
6 Congressman Traficant asked Mr. Sinclair to use Buddy
7 John's vehicle on one occasion, and even when they were in
8 the vehicle, Mr. Sinclair would tell us that Congressman
9 Traficant talked coded. He put his fingers over his mouth,
10 signaling to Mr. Sinclair to not talk about something, if
11 you brought up money, or reach over and put his hand over
12 Mr. Sinclair's mouth. He'd make some sort of a hand
13 signal, if he was pointing to something in a bag, all of
14 which, if you had a tape of that, it would just make things
15 difficult because you'd have to explain, "This is the point
16 where Congressman Traficant made this sort of signal,
17 pointed to this."

18 I remember Assistant Prosecutor Bernie Smith stated
19 that he was adamant against it because he brought up speech
20 and debate issues, saying that, "What if they ever talk
21 about some pending legislative issue, if the Congressman
22 asks, you know, Mr. Sinclair to do some sort of research or
23 anything about impending legislation. We're not entitled to
24 that, we can't listen to that." He had a problem with
25 that.

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1 My main problem with it personally was that I didn't
2 think Mr. Sinclair could pull it off. I know one of the
3 other agents felt the same, I think Agent Denholm, and that
4 was because he was very nervous around Congressman
5 Traficant, and when it comes to -- he doesn't have a good
6 poker face, Mr. Sinclair, to pull something like that off,
7 and you really have to consider the person when you're
8 wiring somebody up. And if he would have been that nervous
9 to give it away, then that wouldn't have been helpful
10 either.

11 Q. Were there any issues regarding how high a level you
12 have to go to even get authorization to record the
13 conversations of a congressman?

14 A. Because it is a congressman, our Special Agent in
15 Charge of the Cleveland office, Special Agent in Charge of
16 Cleveland can actually approve somebody to use a source or
17 anyone who's actually made the recording, because it's a
18 congressman it does fit under a special circumstance that
19 he would need some sort of higher authority.

20 We also have to make liaison with the Assistant U.S.
21 Attorney's office. As far as I know, the Assistant U.S.
22 Attorney can make that call, but I'm not sure if you need
23 to go higher than that.

24 Q. That's the limit of your knowledge; is that correct?

25 A. Yes.

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1 Q. Now, finally, I'd like to ask you a couple questions
2 about how and when the investigation that resulted in this
3 indictment was initiated in the first place.

4 Do you recall when this investigation actually
5 started?

6 A. At approximately September of 1999.

7 Q. And what was the event that caused the FBI and the
8 IRS and the U.S. Attorney's Office to begin an
9 investigation of Congressman Traficant in September of
10 1999?

11 A. Steve Sozio, who was a former Assistant U.S.
12 Attorney, had a case with the IRS and Department of Labor
13 on the Bucci brothers, and Tony Bucci came forward with
14 information concerning Congressman Traficant acting in his
15 official capacity to help Bucci, and Bucci in return did
16 things for Congressman Traficant, such as doing work on his
17 farm.

18 Q. And what was the purpose of the investigation as it
19 was initially opened?

20 A. To look into those allegations by Tony Bucci, to see
21 if there was anything to it, if what he was saying was
22 actually true.

23 Q. And during the course of seeing if there was evidence
24 to verify the allegations of Tony Bucci, were additional
25 allegations uncovered?

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1 A. Yes.

2 MR. MORFORD: Your Honor, that's the last
3 area I have outside the area that you want to speak about,
4 outside the presence of they jury.

5 THE COURT: What we can do is give --

6 MR. TRAFICANT: I would like to proceed on
7 the cross now that it's fresh in my mind, and then give the
8 jury a break. I'll leave it up to you.

9 THE COURT: Okay. Well, it's close to 3:00.
10 It'll be best, I think, if we complete -- we can take a
11 shorter break here, but if we complete direct examination
12 before we start cross-examination, and so in order to do
13 that, we'll give you a 15-minute break now, and we'll
14 handle the issue that I need to handle. Okay?

15 (Proceedings in the absence of the jury:)

16 THE COURT: The reason I stopped on that
17 testimony was only because it sounds like you were going in
18 a direction where we either do or don't need a Daubert
19 hearing on fingerprint evidence. And if we do -- I don't
20 think if you're going forward and you're going to end up
21 with one -- if you are, we need to have one. If you're
22 ending up without one, we don't need it.

23 MR. MORFORD: Your Honor, the next question
24 was going to reveal, as to Government's Exhibit 1 through
25 16, partially burned envelopes, there were no fingerprints

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1 on the envelope.

2 THE COURT: So we don't need a Daubert
3 hearing?

4 MR. MORFORD: Exactly.

5 THE COURT: That's fine.

6 MR. TRAFICANT: Is there going to be --
7 question, is there going to be --

8 THE COURT: Just a minute, Congressman. I'm
9 in the middle of a sentence. Just wait. You have a lot of
10 time here. If we don't need a Daubert hearing, then we can
11 go ahead and finish this.

12 MR. MORFORD: I can tell you the testimony,
13 and then --

14 THE COURT: Okay. The Congressman was going
15 to say something.

16 MR. TRAFICANT: I was just going to say if
17 there's any testimony on fingerprints, we should have the
18 hearing on Daubert versus Dowd.

19 THE COURT: Right.

20 MR. TRAFICANT: And Kumho versus Carmichael.

21 THE COURT: That's right.

22 MR. TRAFICANT: And U.S. Supreme Court
23 rulings.

24 THE COURT: That's right. And so that's why
25 I stopped it. And he didn't go forward with it, but if

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1 they're not going to have any fingerprint evidence in the
2 case as it turns out, then we don't have to have that
3 hearing. I just need to know.

4 MR. MORFORD: The fingerprint testimony will
5 be that there were no fingerprints on the partially burned
6 envelopes. There were no fingerprints on any of the bills.
7 There were no fingerprints on the place mat that was
8 received from Mr. Bucci.

9 There was one fingerprint on the envelope that
10 contained the \$6,000 that's not Congressman Traficant's
11 fingerprint, and there were some Bucci personal records or
12 company records that Congressman Traficant would never have
13 touched that the FBI lab mistakenly tried to bring prints
14 up because they were in the file with the rest of the
15 stuff.

16 MR. TRAFICANT: Oh, spare me here.

17 MR. MORFORD: These are documents he never
18 touched, so -- but that's what I'm going to explain, it's
19 on the record, and he can argue it.

20 MR. TRAFICANT: Look, do you have
21 fingerprints on any of your evidence, or not?

22 MR. MORFORD: We have no fingerprints of --

23 MR. TRAFICANT: Then why are we proceeding?
24 I have to go to the bathroom.

25 THE COURT: We're proceeding because we're

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1 having them explain to me where they are with fingerprints.

2 MR. TRAFICANT: God almighty.

3 MR. MORFORD: The only purpose of the
4 evidence is to show that was an investigative technique the
5 FBI did, and that there are no fingerprints of Congressman
6 Traficant on any of these items, period.

7 THE COURT: Fine. Thank you very much.
8 We're now in recess for about ten minutes.

9 MR. TRAFICANT: Make that an additional
10 couple minutes, your Honor.

11 THE COURT: Okay.

12 MR. TRAFICANT: Thank you.

13 THE COURT: 15 minutes.

14 (Thereupon, a recess was taken.)

15 BY MR. MORFORD:

16 Q. Special Agent Bushner, I'd like to go back and ask
17 you the remaining questions regarding the fingerprinting
18 questions. Were any fingerprints found on any of the
19 bills, the 50 and \$100 bills in Government's Exhibit
20 1-2 (1), which is the \$18,500?

21 A. No.

22 Q. Were any fingerprints at all found on the \$6,000
23 that's contained and marked Government's Exhibit 1-2.2?

24 A. No.

25 Q. Now, when the FBI attempts to bring up fingerprints

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1 on paper, is there some kind of a substance that's put on
2 the paper?

3 A. They use a series and chemicals, four different
4 chemicals they use in the series.

5 Q. And if there are discernible prints, do they show up
6 so that you can see them?

7 A. Yes.

8 Q. And you're testifying that there were no prints that
9 came up on the bills, the \$6,000 and the \$18,500, correct?

10 A. That's correct.

11 Q. Were there any prints found on the letter with the
12 little stick'em note labeled Exhibit 1-5(1) and 1-5(2)?

13 A. Fingerprints and palm prints.

14 Q. On the letter?

15 A. Yes.

16 Q. How about the envelope 1-1(17)?

17 A. Which envelope?

18 Q. That would be the envelope that contained the \$6,000.

19 A. There was one fingerprint.

20 Q. Did you also look on the exhibit that's been marked
21 Government's Exhibit 2-11, which is the menu from the
22 restaurant that had some notes on it?

23 A. Yes.

24 Q. Were there any fingerprints found on that document?

25 A. No.

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1 Q. Of the fingerprints that were found, the one
2 fingerprint that was found on the envelope that contained
3 the \$6,000, was that matched with Congressman Traficant in
4 any way?

5 A. No.

6 Q. Whatever prints were found on the letter with the
7 little Post-it note, were any of those fingerprints or palm
8 prints matching Congressman Traficant?

9 A. They were either negative for Congressman Traficant
10 or they were considered inconclusive, being which means if
11 you had a palm print or the tip of a finger, if you don't
12 have a set of prints to compare those to, then they were
13 made inconclusive unless they had that.

14 Q. But there was no match there, correct?

15 A. There was no match.

16 Q. Now, in addition to the documents we've talked about,
17 were there some business records from the Buccis' personal
18 business files that were also checked for prints?

19 A. Yes.

20 Q. Why was that done?

21 A. When the Buccis provided us with records, they
22 provided us with several records, one of the documents that
23 they provided to us was part of a place mat, a piece of a
24 place mat from a restaurant, which was believed to be a
25 note from Congressman Traficant having to do with his to-do

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1 list, things to do with reform.

2 So we sent that down, all the Bucci documents, to
3 have that document checked for prints, and in the course,
4 the lab checked all the Bucci documents.

5 Q. What were the other business records that came out of
6 the actual business files?

7 MR. TRAFICANT: I didn't hear the answer to
8 the last question -- excuse me, your Honor -- on the Bucci
9 restaurant business. Were there prints?

10 THE WITNESS: No.

11 Q. Apart from that Bucci place mat with the handwritten
12 notes, why were records that were in the Buccis' business
13 records sent with that place mat?

14 A. The records as far as evidence goes, the records were
15 all together, and they were sent down to the lab as one set
16 of documents.

17 Q. They were in one pile together?

18 A. Yes.

19 Q. And the entire file was sent? Were there any
20 explicit instructions that only the place mat should be
21 fingerprinted and not the business records that were in the
22 business files?

23 A. No.

24 Q. Is that why the other business records were also
25 checked?

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1 A. Yes.

2 MR. MORFORD: May I have a moment, your
3 Honor?

4 THE COURT: Yes.

5 BY MR. MORFORD:

6 Q. Special Agent Bushner, did you bring the \$18,500 and
7 \$6,000 cash that you received from Allen Sinclair with you
8 here today?

9 A. Yes.

10 Q. And has the \$18,500 been marked as Government's
11 Exhibit 1-2.1?

12 A. Yes.

13 Q. And has the \$6,000 that you received from Allen
14 Sinclair been marked Government's Exhibit 1-2.2?

15 A. Yes.

16 MR. MORFORD: Your Honor, at this time, I
17 would offer Government's Exhibit 1-1.21 and 1-1.22.

18 MR. TRAFICANT: Your Honor, I ask that they
19 be made Joint Exhibits, as also being defense exhibits.

20 THE COURT: Okay. This is something that the
21 two of you are supposed to work out somewhere, so --

22 MR. TRAFICANT: We can work it out.

23 THE COURT: Wait -- so I'll let you talk to
24 each other over there quietly, and see if you can work it
25 out.

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1 MR. MORFORD: Your Honor, at this time I
2 would like to hand the witness -- it's in here; is that
3 correct?

4 THE WITNESS: Yes.

5 Q. If you'd take a look at 1-2.1 and 1-2.2, and tell us
6 if you recognize those exhibits.

7 A. Yes.

8 Q. And are those the two sets of money that you received
9 from Allen Sinclair, as you testified to on direct
10 examination?

11 A. Yes.

12 MR. MORFORD: Your Honor, at this time I
13 would offer these as Government's Exhibit/Joint Defense
14 Exhibit 1-2.1 and 1-2.2.

15 MR. TRAFICANT: I want to stipulate for the
16 record, I want them made a Defense Exhibit, as well.

17 THE COURT: They are being offered as an
18 exhibit from both sides of the case, so the jury
19 understands that. They'll be called Joint Exhibit. Okay?
20 Very well. So they'll be admitted.

21 MR. MORFORD: Okay. And at this time I would
22 also ask your Honor if we can publish those to the jury.

23 THE COURT: Yes, that's fine.

24 Q. Could you cut those open in the two groups?

25 THE COURT: Just do one at a time.

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1 BY MR. MORFORD:

2 Q. One last question. The blackish substance on there,
3 do you know what that is?

4 A. It's a type of chemical used to bring chemicals out.

5 Q. Thank you.

6 MR. MORFORD: Your Honor, at this time, can I
7 start the other --

8 THE COURT: Okay.

9 MR. MORFORD: Your Honor, in terms of custody
10 of the \$24,500, does the Court want the FBI to maintain
11 that in the vault or keep it in court until the end of the
12 day?

13 THE COURT: I think it would be a good idea
14 to maintain it in the vault.

15 MR. MORFORD: That's what I thought. I would
16 ask permission from the Court to have Agent Bushner
17 maintain custody and return it to the FBI evidence vault.
18 Just one moment.

19 MR. TRAFICANT: I object, just for the
20 record.

21 THE COURT: Oh. Okay.

22 MR. MORFORD: I have nothing further.

23 THE COURT: Thank you.

24

25

Bushner - Cross

1 CROSS-EXAMINATION OF JOSEPH A. BUSHNER

2 BY MR. TRAFICANT:

3 Q. You're a Marine for six and a half years?

4 A. Yes.

5 Q. You served in the Gulf?

6 A. No, I did not, just enlisted.

7 Q. By the way, thank you for your service.

8 A. Thank you.

9 Q. You've been an agent since '98?

10 A. Yes.

11 Q. Pretty new, huh?

12 A. Yes.

13 Q. Are you familiar with the counts of all the
14 indictment here?

15 A. What was the first thing you said, sir?

16 Q. Are you familiar with the ten counts of the
17 indictment?

18 A. Yes.

19 Q. Would you say that there were some witnesses that
20 were more important than others because of evidentiary
21 matters?

22 A. Yes.

23 Q. Would you say Allen Sinclair was your star witness,
24 sir? Yes or no?

25 MR. MORFORD: Objection as to his opinion,

Bushner - Cross

1 your Honor.

2 THE COURT: The objection is sustained.

3 Q. Would you consider Allen Sinclair to be a very
4 important witness for the prosecution?

5 A. In my opinion?

6 THE COURT: Well, we can't use his opinion.

7 Q. Now, you are not a senior agent, are you?

8 A. No, I'm not.

9 Q. But, you had this fingerprint experience, correct?

10 A. Just what was taught me at the academy, yes.

11 Q. But then you send it to some real experts, didn't
12 you?

13 A. That's correct.

14 Q. It's your testimony that on nothing that you have
15 that was given to you by Mr. Sinclair has any of my prints
16 on it?

17 A. That's correct.

18 Q. Are you familiar with my prints?

19 A. Personally, no.

20 Q. Did you know that I was fingerprinted in a criminal
21 trial in 1983?

22 A. No.

23 Q. Were you familiar that I was fingerprinted when I was
24 arraigned in this case?

25 A. No.

Bushner - Cross

- 1 Q. Did Mr. Sinclair have a code name or code number?
- 2 A. Yes.
- 3 Q. When Mr. Sinclair had something he wanted to report,
4 did he call?
- 5 A. Yes.
- 6 Q. Who did he ask for?
- 7 A. Primarily John Stoll.
- 8 Q. Um-hum. Now, when you found out you had no
9 fingerprints on anything, whom did you report that to?
- 10 A. Within the bureau?
- 11 Q. Yes.
- 12 A. Supervisors are informed what the developments are in
13 the case.
- 14 Q. And what, if anything, then is done with it as far as
15 the prosecution of the case is concerned?
- 16 A. We let them know what the lab found.
- 17 Q. So when, in fact, did you let the U.S. Attorneys know
18 of your lab report findings?
- 19 A. I do not know when because I didn't handle the actual
20 evidence coming back into the Youngstown resident agency,
21 but I'm sure it was shortly thereafter.
- 22 Q. Do you know who it was given to?
- 23 A. Agent Pikunas sent out the documents to the lab. I
24 would think they were returned to Agent Pikunas.
- 25 Q. How long has Agent Pikunas been with the FBI?

Bushner - Cross

1 A. I know he spent nine or ten years in Detroit,
2 probably about 14 or 15 years.

3 Q. How long was Agent Kroner with the FBI?

4 A. About 30.

5 Q. But your testimony is they assigned a rookie to
6 Mr. Sinclair; is that your testimony?

7 A. I don't see myself as a rookie. I'm a junior agent.
8 I don't see myself as a rookie.

9 Q. Well, if you took offense to that, I apologize. But,
10 wouldn't you say you were pretty new?

11 A. Yes.

12 Q. Now, since what you got was the most damaging
13 evidence in the world --

14 MR. MORFORD: Objection. That's not what --

15 THE COURT: There's no testimony to that
16 effect.

17 BY MR. TRAFICANT:

18 Q. Okay. Do you consider this evidence to be damaging?

19 MR. MORFORD: Which evidence? And again,
20 he's asking an opinion, your Honor.

21 BY MR. TRAFICANT:

22 Q. Do you consider the evidence that Mr. Sinclair had
23 given to you cash envelopes to be very damaging?

24 THE COURT: The jury is here to make all
25 kinds of decisions about the witnesses and about the

Bushner - Cross

1 evidence in the case.

2 MR. TRAFICANT: Your Honor, they brought up
3 the issue. I'm just asking.

4 THE COURT: I don't know about that, but he
5 can't testify what you're asking him to testify to.

6 MR. TRAFICANT: Okay.

7 Q. Let me ask you this: Did you converse with your
8 fellow team agents about this case?

9 A. Yes.

10 Q. Did you confer with your fellow teammates about
11 Mr. Sinclair?

12 A. Yes.

13 Q. Were you there when they made the decisions not to
14 tape?

15 A. I was there for some of the conversations concerning
16 why we should not. As far as the final decision --

17 Q. All right. Now, you said that Congressman Traficant
18 was touchy-feely. Were you saying I'm a little different
19 than a guy or I'm just the kind of guy that comes around
20 and knocks people over? I mean, how would -- I want to
21 know what you mean by that.

22 A. It means you're somebody who's prone to coming up,
23 giving somebody a hug, and later on giving somebody a slap
24 on the back.

25 Q. Would that be a mean aspect or a personable aspect,

Bushner - Cross

1 to the best of your assessment?

2 A. It's neither positive or negative, just that you are.

3 Q. So there was talk about a tape, right?

4 A. Talk about taping you?

5 Q. Yes.

6 A. Yes.

7 Q. But, that was nixed?

8 A. Yes.

9 Q. Too much noise in the boiler room?

10 A. Yes, for conversation.

11 Q. How did I get eight tapes with a standard
12 three-by-five Radio Shack on all your damned witnesses?

13 MR. MORFORD: Objection.

14 THE COURT: You really want to put this
15 question to him? He has no knowledge of this, I think.

16 BY MR. TRAFICANT:

17 Q. Do you have any knowledge that I have taped witnesses
18 inside this case?

19 MR. MORFORD: Objection.

20 THE COURT: Sustained.

21 Q. Do you know if witnesses in this case were touchy or
22 feely?

23 A. Outside of yourself, no.

24 Q. Now, you said you were afraid that I might discover
25 the device?

Bushner - Cross

1 A. Yes.

2 Q. Mr. Sinclair was afraid of me?

3 A. Yes.

4 Q. He said he was really afraid of me, right?

5 A. Yes.

6 Q. So, at that point, did you ever call Mr. Sinclair in,
7 and did you videotape the interviews you had with him?

8 A. No.

9 Q. Did anyone suggest you do that?

10 A. No.

11 Q. Are you familiar with the fact that Mr. Sinclair was
12 used to tape an attorney, Alan Manevich?

13 A. Yes.

14 Q. Do you know who approved that?

15 A. It would have been the same channel as discussed
16 earlier.

17 Q. Do you know if Attorney Manevich was touchy or feely?

18 A. No.

19 Q. Do you know my former background?

20 A. Somewhat, yes.

21 Q. What do you know about my former background?

22 MR. MORFORD: Objection as to the basis of
23 his knowledge and relevance.

24 THE COURT: What do you know about his former
25 background? Do you know anything about his former

Bushner - Cross

1 background?

2 THE WITNESS: I know he's a Pitt grad
3 because my in-laws are from Pittsburgh, my wife went to
4 Pitt. I know you played football for Pitt.

5 Q. Quarterback.

6 A. Right.

7 Q. That's right, proud of it. What else.

8 A. I know you were sheriff of Mahoning County. I know
9 you were tried and won in federal court before, and I know
10 that you were subsequently found guilty of tax charges, and
11 you served 16, 17 years as a congressman.

12 Q. Um-hum. Do you know if that tax charge was a civil
13 or a criminal charge?

14 A. I believe that was civil.

15 Q. I was acquitted of criminal, wasn't I?

16 A. Correct.

17 Q. Would you happen to know if that law has changed now?

18 A. What law has changed?

19 Q. Relative to civil tax law, IRS?

20 A. No, I wouldn't.

21 Q. Fine. Now, he had a code name, code source, they had
22 you working with him. Isn't it a fact that he had other
23 agents working with him?

24 A. I was just a backup. Agent Stoll was the primary
25 contact for Mr. Sinclair.

Bushner - Cross

1 Q. Let's go to the -- when he called, what did he say?

2 "I'm C 2" or "JAG 5" or --

3 THE COURT: Let's him answer.

4 Q. What was the source name?

5 A. If he called in, he said, "This is Allen."

6 Q. Okay. Now, if you referred to him in writings, how
7 would you refer to him?

8 A. It would say, "Source provided the following
9 information."

10 Q. And when I'm talking about writing, when an FBI agent
11 interviews a subject relative to investigation, do they
12 have certain requirements?

13 A. It has to be documented.

14 Q. And how do they document it?

15 A. On a 302, FD 302.

16 Q. And did you perform a 302?

17 A. Yes.

18 Q. Okay. Now, when the source called you and said,
19 "Traficant's going to give me an envelope," explain that,
20 how that developed, the initialization.

21 A. Well, we had already known that you had provided
22 him --

23 Q. I didn't ask you that. I said, when he called you
24 and said he had this envelope unsealed from Traficant,
25 what, if anything, did you say to him?

Bushner - Cross

1 A. Well, we would make arrangements to pick up the
2 envelope, to meet with him.

3 Q. And what did he say? He said he had the envelope?

4 A. Yes.

5 Q. Fine. Did you ever put surveillance on 11 Overhill
6 Avenue?

7 A. The only time we had a surveillance per se was when
8 Alan Manevich met with Allen Sinclair, and that
9 conversation was taped. That was the only time.

10 Q. Do you know of any request for authorization for
11 surveillance in this case?

12 A. I know there was one -- I know there was one that
13 came out, because it was -- it was found out, I think, by
14 somebody that we had a surveillance request and that
15 Richard Denholm had filled it out, and I don't know what
16 the particulars were, as far as what was requested to be
17 surveilled, no.

18 Q. So it was made available. Do you know if it allowed
19 for use of planes?

20 A. I know that the -- there was a block on there, put
21 down if you use planes or not. Do I know the specific one
22 you're talking about, no.

23 Q. Is there also a spot on there where you could request
24 overnight travel?

25 A. Yes.

Bushner - Cross

1 Q. Request audio and video materials?

2 A. Camera support by the surveillance group, yes.

3 Q. Now, as a law enforcement officer, what would be a
4 dead-bang conviction here in this courtroom?

5 THE COURT: He can't answer that question.

6 Q. Let me ask you this: Would you say my confession
7 would not even require this?

8 MR. MORFORD: Objection.

9 THE COURT: Well, if he were to say that,
10 that would be completely incorrect, and I think you'd
11 better stop asking that question in any way. These folks
12 are here in order to take on the difficult task of bringing
13 this case to a conclusion with a verdict. They're the ones
14 who do that.

15 BY MR. TRAFICANT:

16 Q. Agent Bushner, did we put a man on the moon years
17 ago?

18 A. I believe so.

19 Q. From out of space, can we read the small print on a
20 pack of cigarettes?

21 A. I heard that.

22 Q. And it's your testimony that the boiler room is just
23 so noisy that technology just couldn't handle the
24 conversation? Is that your testimony to this jury?

25 A. The technology we have on the criminal side of the

Bushner - Cross

1 house of the FBI, yes.

2 Q. Now, knowing that you had no proof other than Allen
3 Sinclair's word, did you attempt to photograph us together?

4 A. Not that I'm aware of.

5 Q. Did anybody follow us around with cars or have video
6 cameras showing that at least we were together?

7 A. I'm not aware of that, no.

8 Q. Now, when you met with Mr. Sinclair, did you fill out
9 a required 302 form?

10 A. For a specific occasion or --

11 Q. When you met with Mr. Sinclair, whenever you met with
12 him?

13 A. I met with him on several occasions. Sometimes I
14 would be the one being the author of the FD 302. More
15 likely than not, it was by other agents.

16 Q. Well, you met with Mr. Sinclair, you testified under
17 direct, on January 24th in the Youngstown office; is that
18 correct, sir?

19 A. Yes.

20 MR. TRAFICANT: Your Honor.

21 (Handing the exhibit.)

22 THE COURT: Thank you. Okay.

23 MR. TRAFICANT: Thank you. I think that's the
24 first "okay" I got.

25 BY MR. TRAFICANT:

Bushner - Cross

1 Q. Will you describe to the jury what this document is?

2 A. This is an FD 302, which is a report based upon an
3 interview.

4 Q. And does your name appear on here?

5 A. Yes, it does.

6 Q. Is it the first name to appear on here?

7 A. Yes.

8 Q. Are those your initials?

9 A. Yes.

10 Q. And is this, in fact, your recollection of that
11 interview?

12 A. Yes.

13 Q. Now, you gave us some of that, and would you read,
14 starting from the second paragraph, would you read the 302
15 to this jury?

16 A. Certainly.

17 "Sinclair had been previously interviewed and stated
18 he had been making rent payments to Henry DiBlasio for
19 offices at 11 Overhill, Youngstown, Ohio.

20 "He stated he had documentation he could provide.
21 Sinclair now voluntarily appeared in the FBI, Youngstown
22 Resident Agency. Sinclair provided one envelope which was
23 found to contain a letter from Sinclair to interviewing
24 agent, a cognovit note from November 19, 1998, showing a
25 \$20,000 debt from Sinclair to DiBlasio, one check, dated

Bushner - Cross

1 February 5, 1992, from Sinclair to DiBlasio for \$361 for,
2 quote, rent and long distance phone calls, period, unquote.

3 "Also included was a document titled: Statement, --
4 quote, statement from R. Allen Sinclair, DiBlasio, Flask,
5 and Associates, 11 Overhill Road, Youngstown, Ohio, 44512
6 law offices," end quote.

7 "Sinclair had previously advised he paid rent to
8 DiBlasio for office space at 11 Overhill for the first few
9 years he worked with DiBlasio. And after that, they used
10 simply recorded rent on the books of the firm. The
11 documents Sinclair provided showed notations regarding rent
12 payments to DiBlasio for 1994. Sinclair did not provide
13 documentation for later years. A copy of this
14 documentation is attached to this report. Note, the
15 documents provided by Sinclair listed hours he had worked
16 for clients, and it was noted that he had done work for,
17 quote, Bucheit," unquote.

18 "Sinclair advised he represented Bucheit in a dispute
19 Bucheit had with a Saudi Arabian Prince regarding a letter
20 of credit. Sinclair was not aware of Congressman James A.
21 Traficant, Junior, assisting Bucheit."

22 Next paragraph.

23 Q. Next paragraph?

24 A. "Sinclair was asked why DiBlasio did not have the
25 building at 11 Overhill in his own name, and why Sinclair,

Bushner - Cross

1 as the current owner of that building, and staff member, in
2 parentheses, staff member of Congressman James A.
3 Traficant, Junior, also did not have this building in his
4 own name. Sinclair advised it would have been a, quote,
5 conflict, end quote, for DiBlasio to have the building in
6 his name when he worked for Traficant. This same issue
7 came up when Sinclair was going to buy the building from
8 DiBlasio, and he," in parentheses, "Sinclair, was also
9 working as a congressional staff member. Sinclair advised
10 this was cleared through the United States House of
11 Representatives Ethics Committee, and it was acceptable for
12 DiBlasio and Sinclair to own the building as long as they
13 charged the Government a reasonable rent."

14 Q. Stop right there now.

15 Now, I want you to take your time and read the
16 remainder of that paragraph, slowly.

17 A. "Sinclair was asked why then the building had to be
18 in the names of other people. Sinclair did not answer this
19 question."

20 Q. Stop there.

21 On that date of January 24th, the first line of
22 questioning to Mr. Sinclair was about the building, wasn't
23 it?

24 A. Yes.

25 Q. And when you asked him about the building, what was

Bushner - Cross

1 his answer?

2 A. When it came down to having it in the names of
3 somebody else, he didn't answer it.

4 Q. Did you know that Mr. Sinclair had a probation
5 standing against him for possible debarment for violations
6 of further law?

7 A. No.

8 Q. Read the next paragraph, and read it very slowly.

9 A. "Sinclair advised he made between 50 to \$60,000 a
10 year as a private attorney in 1999, and at the same time
11 made about \$60,000 as," quote, "administrative counsel,"
12 end quote, "to Traficant. Sinclair's job for Traficant was
13 to research legislation. He was not Traficant's private
14 attorney. Sinclair advised he had researched the rules,
15 and it was legal for him to receive outside income while
16 working for Congress because he was not," quote, "senior
17 staff."

18 Q. Okay. Now --

19 A. End quote.

20 Q. Continue, and read it slowly.

21 A. "Sinclair advised he did not kick back any of his
22 salary to Traficant. Sinclair stated he did not want to be
23 a part of," quote, "getting Traficant," end quote, "and
24 ended the interview.

25 "Sinclair was advised that he may have to testify

Bushner - Cross

1 before the Federal Grand Jury in Cleveland."

2 Next paragraph?

3 Q. Yes.

4 A. "On January 26, 2000, Sinclair telephonically advised
5 interviewing agent he had received the Federal Grand Jury
6 subpoena at his office. He had been advised of this by his
7 secretary, but he had not been to his office yet."

8 Q. Now, when you were asking questions about the
9 building, you said that Mr. Sinclair was the owner in your
10 report. What brought you to that conclusion?

11 A. Agent Denholm had already gone over the documents
12 concerning ownership. I personally hadn't.

13 Q. Well, did Mr. Sinclair's name appear on any
14 documents?

15 A. I believe his wife's name did.

16 Q. Um-hum. You know if he and his wife were still
17 married?

18 A. Yes, they were.

19 Q. Did they live together?

20 Did you talk to Mr. Sinclair about his wife possibly
21 being involved in this case?

22 A. Outside of her name being on the ownership?

23 Q. My question is very clear: Did you at any time tell
24 Mr. Sinclair that his wife may have to be interviewed
25 relative to this document?

Bushner - Cross

1 A. No.

2 Q. Did you advise Mr. Sinclair that his wife's name was
3 on there and could possibly be a part of the investigation?

4 A. No.

5 Q. So the report went after DiBlasio, but really when
6 you start talking about KAS, Mr. Sinclair refused to
7 answer, didn't he?

8 A. Started talking about what?

9 Q. KAS Enterprises, why his name wasn't on the lease?

10 A. I'm not aware of KAS Enterprises.

11 Q. Then how did you know his name wasn't on the lease?

12 A. Because when we had the interview, Richard Denholm
13 said he's bringing --

14 MR. TRAFICANT: Objection as to hearsay here
15 now.

16 THE COURT: Okay.

17 Q. Tell me what you know; I'll ask Mr. Denholm myself.

18 A. That's how I know that.

19 Q. The agent slipped that in. I slipped a few in
20 myself.

21 (Laughter.)

22 But, now Sinclair at some point says he did not give
23 any kickback of his salary to Traficant, didn't he?

24 A. Yes, he did.

25 Q. But, then he made it, quote, "He made a statement,"

Bushner - Cross

1 and you put it in quotes. Read the two words you put in
2 quotes.

3 A. "Getting Traficant."

4 Q. Why would Sinclair make that statement unless he felt
5 pressured that you were after, trying to get Traficant?

6 MR. MORFORD: Objection as to how this
7 witness would know why Mr. Sinclair said something.

8 THE COURT: Mr. Sinclair can testify to that.

9 BY MR. TRAFICANT:

10 Q. Isn't it a fact, sir, you had no prints, no photos,
11 no video, and all you need was to memorialize my voice, and
12 all these people here would say I'm a crook and just put me
13 in jail?

14 MR. MORFORD: Objection.

15 THE COURT: Okay. The first part of it I
16 think you can answer.

17 THE WITNESS: What was the first part?

18 MR. TRAFICANT: Would the Court Reporter read
19 it? I got carried away.

20 THE COURT: "Isn't it a fact" --

21 THE WITNESS: Specifically considering the
22 prints and the evidence we discussed, we do not have your
23 prints, no. Concerning photos, I believe there were photos
24 taken in this case --

25 Q. Of me and Mr. Sinclair together?

Bushner - Cross

1 A. No, I don't believe so, but I don't know that for
2 sure either.

3 Q. Was that with a Playboy bunny? Would you recall if
4 it would be something unusual?

5 A. I wouldn't be aware of that either.

6 Q. So then this is the 24th. Now, on the 31st you enter
7 a proffer agreement with Mr. Sinclair, don't you?

8 A. Yes.

9 Q. And that proffer agreement basically says, you know,
10 "You just tell the truth up there and you have nothing to
11 worry about." Is that about it?

12 A. No, it's more specific than that.

13 Q. All right. Well, tell us the specificities of it.

14 A. A proffered agreement, when it's extended to someone,
15 says the Government says that if you are completely
16 truthful, the Government can use your testimony to
17 pursue -- to pursue the investigation further, that is
18 third-party persons, that if you hedge or if you go back on
19 your testimony, for instance, in a Grand Juror in a court
20 of law, we can resurrect the statements you gave in the
21 proffered letter and subsequently refresh your memory, and
22 that you would not be prosecuted for those statements that
23 you made.

24 Q. So you didn't know the building was in his wife's
25 name, right?

Bushner - Cross

- 1 A. I did not know JAS --
- 2 Q. Yeah, before he left -- was that on the Sahara Trail
3 where I showed up some day? Is that where this 24th
4 meeting took place?
- 5 A. It was at Sahara Trail, yes.
- 6 Q. Yeah. And before I walked out, did you say he could
7 expect a subpoena?
- 8 A. Agent Denholm did, said there's a good chance he
9 would be receiving a subpoena.
- 10 Q. And you do not think that Mr. Sinclair was in a what
11 he considered may be a little bit of a frightening
12 situation?
- 13 A. He wanted to leave.
- 14 Q. He left, didn't he?
- 15 A. Absolutely.
- 16 Q. At some point, when they come back after the prints
17 didn't do you any good, was someone else reassigned to
18 Sinclair as the main contact?
- 19 A. It had always been John Stoll throughout.
- 20 Q. So Stoll then had significant relationships more than
21 you did, right?
- 22 A. The majority of the relationships, yes.
- 23 Q. Was he there when you did the 24th statement?
- 24 A. On the 24th, no.
- 25 Q. Who was there?

Bushner - Cross

1 A. Myself and Agent Denholm.

2 Q. Who's the boss of the place at the time?

3 A. Angelo Marina.

4 Q. You said Bernard Smith. Is he in the room?

5 A. Yes.

6 Q. Point to him.

7 MR. TRAFICANT: Let the record reflect he
8 knows Mr. Smith, Attorney Smith.

9 THE COURT: Yes.

10 Q. He was against the taping, right?

11 A. Correct.

12 Q. Everybody's against the taping, right?

13 A. For various reasons, yes.

14 Q. Were they for any type of corroboration other than
15 Sinclair's word?

16 A. Yes.

17 Q. What was it?

18 A. Well, the instance came up with Manevich coming to
19 DiBlasio, we agreed to tape that conversation.

20 Q. All right. And are you familiar with the Manevich
21 testimony or Manevich tape?

22 A. I'm not familiar with what's on the tape, but I know
23 that he was taped.

24 Q. Was he taped for the purpose of seeing what they
25 could get on Jim Traficant? Do you have any knowledge of

Bushner - Cross

1 that?

2 A. The reason he was taped was that Alan Manevich was
3 very close to Henry DiBlasio, and when Alan Manevich,
4 Attorney Manevich came to Allen, Allen felt it was
5 peculiar, especially given what was going on at the time.
6 So when he called and told us this, we believed that Henry
7 DiBlasio could be using Manevich as an intermediary
8 essentially to feel Allen out to see if he's still on
9 board, sticking with his story; if he's hedging a little,
10 if he's --

11 Q. I let you go a little further than I should, but
12 that's okay, really.

13 But, didn't you say in your January 24th that
14 Sinclair and DiBlasio and Flask and Associates was a group?
15 Didn't you say that?

16 A. A law firm? Yes.

17 Q. And did you not say there was -- you said "cognovit."
18 Wasn't it a cognovit note that still existed?

19 A. Yes.

20 Q. And who owed whom the money?

21 A. The money was owed to DiBlasio from Allen Sinclair.

22 Q. Wasn't it a fact that these were discussions relative
23 to attorneys discussing possible civil lawsuits, sir?

24 A. Concerning Manevich?

25 Q. Manevich and Sinclair?

Bushner - Cross

1 A. No.

2 Q. What were they about?

3 A. About possibly Manevich coming to Sinclair to see
4 where he stood on the issue of whether he was on board with
5 you or not.

6 Q. So you felt comfortable that behind the desk in the
7 11 Overhill office he would be able to talk with Attorney
8 Manevich, right?

9 A. Yes.

10 Q. But, you thought if I would walk into that office,
11 and he'd be behind the desk, I might come around the desk
12 and give him a bear hug? Is that what your testimony is?

13 A. Well, there's a few factors there. One, you and he
14 never discussed anything in his office, from what he said.
15 You always went somewhere, you went down to the boiler room
16 or out in the car, left to go somewhere, so he thought it
17 would be highly unlikely you would come in and sit on his
18 side of the desk to take any sort of statement.

19 Q. With that being the case, wasn't it a good ploy to go
20 anywhere with the guy if he asked me? Had you advised him?

21 A. Well, usually it was, as Allen presented it, it was
22 usually you requesting for him to come along with you, not
23 the other way around.

24 Q. Well, naturally, you never interviewed me, did you?

25 A. No.

Bushner - Cross

1 Q. Then there were comments made, well, the prosecutor
2 asked you about perhaps following them because they were
3 known to travel, and Traficant was so unusual, he would
4 talk in pig Latin or something, and it wouldn't be
5 worthwhile to even photograph him. Is that a positive
6 statement?

7 A. It -- no, because if you're quoting my testimony, I
8 didn't say anything about pig Latin or anything like that.

9 Q. Yeah, I know. I did.

10 But, you said you couldn't try that ploy because
11 Traficant used a lot of hand signals?

12 A. And coded language, yes.

13 Q. Yeah, coded language. Now, at some point Sinclair,
14 on January 31st, he became an important witness. Would you
15 say that's correct?

16 A. Yes. He became a witness.

17 Q. Sir, you hesitated with that. Don't you think he's
18 an important witness?

19 MR. MORFORD: Again, objection to this what
20 this witness thinks, your Honor.

21 THE COURT: Right. We've already been over
22 that, Congressman. They decide.

23 MR. TRAFICANT: All right.

24 BY MR. TRAFICANT:

25 Q. Did anyone from any FBI agency or U.S. Attorney sit

Bushner - Cross

1 down and discuss possible ploys to trap Traficant into an
2 admission?

3 A. No.

4 Q. Was there a meeting called about it?

5 A. Not that I was a part of, no.

6 Q. How do you know Mr. Smith said not to do it?

7 A. What Mr. Smith talked about was whether to actually
8 tape you or not. You talk about some grand entrapment
9 scenario, we never had a discussion like that.

10 Q. Well, as a law enforcement officer, as a fellow law
11 enforcement officer, would you want to seek, if you could,
12 possibly a confession?

13 A. Yes.

14 Q. Would you then want to memorialize it with some
15 physical documented proof?

16 A. Yes, but a tape-recorded conversation isn't
17 necessarily a confession.

18 Q. I didn't ask you that. But, then I will ask you
19 because you made the statement, if you had Jim Traficant on
20 tape saying, "Now look here, Allen, watch what you say up
21 there to that Grand Jury, and tell them I gave you this and
22 I didn't give you that," you're trying to tell me that
23 wouldn't be an admission to have this jury send me away?

24 A. No, that would be a good piece of evidence, yes.

25 Q. Well, having nothing else but his word, did anybody

Bushner - Cross

1 ever say, "Look, this guy's no walk in the park here, what
2 are we going to do with him?" Did you ever sit in on one
3 of those meetings?

4 A. I don't even understand that question. What about
5 walk in the park?

6 Q. Did anybody ever sit down and say, "Look, we don't
7 have prints on the guy, we've got Sinclair, we've got other
8 witnesses; don't you think we need to boil this thing up,
9 with this Sinclair thing?" Was there any meetings at all
10 that you attended about that?

11 A. No.

12 Q. Do you think you worked for an FBI agency that's
13 competent?

14 A. Yes.

15 Q. Was anybody in the office familiar with my prints?

16 A. By familiar, do you mean to look at them and know
17 they're yours?

18 Q. Yes.

19 A. I don't know anybody who would be able to do that.

20 Q. Did anyone ever mention Traficant had a distinguished
21 fingerprint?

22 A. No.

23 Q. Do you know if I'm right or left-handed?

24 A. No, I don't.

25 Q. You've been watching me here for an hour. But, you

Bushner - Cross

1 said Sinclair was afraid, but he said he didn't want to be,
2 quote, unquote, a part of, quote, unquote, getting
3 Traficant. Was that fear or was that loyalty?

4 A. I don't know.

5 Q. Well, he certainly got out of there, didn't he?

6 A. Yes, he did.

7 Q. And he wouldn't answer any questions about the
8 Overhill office, would he?

9 A. No.

10 Q. Did you bring up the kickbacks before or after you
11 brought up the building?

12 A. The kickbacks was the last thing we asked.

13 Q. Now, what day was the 302 typed, sir?

14 A. January 27 of 2000.

15 Q. Do you know -- do you happen to know what day the
16 subpoena was issued?

17 A. The 26th.

18 Q. Now, the first interview you guys had with him, did
19 Sinclair state he gave me any of his money?

20 A. The first interview that I was a part of?

21 Q. Were you a part of the first interview when he met
22 with -- when he met on, I think, the 21st?

23 A. No, I was not. That was Agent Perkins and Agent
24 Denholm.

25 Q. How long has Perkins worked -- who is Agent Perkins?

Bushner - Cross

- 1 A. He's an IRS agent.
- 2 Q. How long has he worked for the IRS?
- 3 A. How long has he worked with IRS?
- 4 Q. Best of your knowledge?
- 5 A. Probably about 30 years.
- 6 Q. How long has Agent Denholm worked for the FBI?
- 7 A. About seven.
- 8 Q. When did you come to learn that it was Sinclair's
- 9 wife whose name was on the lease?
- 10 A. Agent Denholm told me that either before we were
- 11 going in to meet with you or shortly thereafter, somewhere
- 12 in that time frame.
- 13 Q. Meet with who?
- 14 A. To meet with Allen Sinclair.
- 15 Q. Oh. So Mr. Sinclair was never worried about his wife
- 16 becoming involved in a criminal investigation? Is that
- 17 your testimony?
- 18 A. I don't know if he was worried about it or not. I
- 19 know we didn't bring it up.
- 20 MR. MORFORD: Your Honor, I object. This has
- 21 been asked and answered.
- 22 MR. TRAFICANT: I don't think so.
- 23 THE COURT: It has.
- 24 MR. TRAFICANT: It has?
- 25 THE COURT: Yes, sir.

Bushner - Cross

1 Q. You knew his occupation, did you not?

2 A. As an attorney, yes.

3 Q. Was it a violation of law, to the best of your
4 knowledge, for him to lie to an FBI agent?

5 A. It is a violation to lie to an FBI agent, yes.

6 Q. So then you're saying on January 24th he lied to the
7 FBI?

8 A. Yes, he did.

9 Q. And then he just caught his senses and confessed and
10 went forward, right?

11 A. Then he provided the truth, yes.

12 Q. Do you have knowledge that he bought a \$300,000 home
13 after I left his office?

14 A. No.

15 Q. Do you have information that he purchased 50-some
16 thousand dollars worth of advertising for his law firm
17 after I left his office?

18 A. No.

19 Q. Do you know that he purchased a brand new car and
20 rented a new car after I left his office?

21 A. I'm not aware of that, no.

22 Q. You are not an attorney then, right, sir?

23 A. I am not.

24 Q. Thank God.

25 As you're here today, does Mr. Sinclair have a

Bushner - Cross

1 license to practice law?

2 A. I believe so.

3 Q. Do you know if there's been any Bar association
4 complaints filed against him?

5 A. I am not aware of any.

6 MR. TRAFICANT: If you will give me one
7 second, your Honor.

8 BY MR. TRAFICANT:

9 Q. You then met further with Mr. Sinclair in February,
10 right?

11 A. That's correct.

12 Q. And he maintained his new pattern of testimony
13 relative to his proffer on January 31st, right?

14 A. Yes.

15 Q. Did he sign the proffer before or after the Grand
16 Jury testimony?

17 A. Prior to.

18 Q. Did you talk to Mr. Sinclair about me owning horses?

19 A. I believe we might have, yes. I'm not sure.

20 THE COURT: Thank you. Okay.

21 BY MR. TRAFICANT:

22 Q. Will you take a look at that and tell us what it is?

23 A. It's an FD 302.

24 Q. And the date?

25 A. Investigation was on January -- excuse me -- February

Bushner - Cross

1 4th of 2000.

2 Q. Would you read the second paragraph?

3 A. "Congressman James A. Traficant sold one of his
4 horses within the past month."

5 Q. Did you investigate that?

6 A. No, I did not personally.

7 Q. Do you know if Mr. Perkins or Mr. Denholm did?

8 A. They may have.

9 Q. Now, would you read on the second page, second to the
10 last paragraph?

11 A. "Traficant was observed by the source riding with
12 Sinclair in Sinclair's red Chrysler, southbound on Market
13 Street on the afternoon of February 3, 2000. Source
14 observed them going into the Idle Hour Restaurant in North
15 Lima, Ohio."

16 Q. This could be confusing, because the source is whom?

17 A. Allen Sinclair.

18 Q. Okay. Did Allen Sinclair call the Sahara Trail
19 Youngstown office and notify you that he went for a ride
20 with Congressman Traficant?

21 A. Not that I'm aware of.

22 Q. Wasn't it a common practice for him to notify the
23 agents when and if he would have any activity with
24 Traficant? Wasn't that your earlier testimony?

25 A. That was not my earlier testimony, no.

Bushner - Cross

1 Q. You said he called you about the envelope, right?

2 A. Yes.

3 Q. And now he and Traficant are going to take a ride in
4 the car, and you have no knowledge if he called?

5 A. Correct.

6 Q. But, you signed the report, right?

7 A. Correct.

8 Q. Read the last paragraph.

9 A. "They were both observed again in Sinclair's car
10 heading southbound on Market Street on February 4, 2000.
11 The source saw Sinclair's car parked outside of a truck
12 stop at Route 7 and Route 14 in Columbiana. Upon
13 Sinclair's return to his office on Overhill, the source
14 observed Sinclair with a thick, cash sized brown envelope."

15 Q. Now, let's go to the last paragraph, and let's read
16 the very first sentence.

17 MR. MORFORD: Your Honor, he just did that.

18 MR. TRAFICANT: No, I'm asking for a specific
19 reason, your Honor, in context with the questioning of this
20 witness.

21 THE COURT: Okay. You can read it again.

22 Q. Read it slowly.

23 A. "They were both observed again in Sinclair's car
24 heading southbound on Market Street on February 4, 2000."

25 Q. "They were both observed"?

Bushner - Cross

1 THE COURT: There needs to be a question.

2 Q. Were they both observed? Is that what you wrote?

3 A. Yes -- well, I didn't write this, but, yes.

4 Q. Well, the source didn't say they headed southbound on
5 Market Street, the report says they were both headed south
6 on Market Street.

7 Now --

8 MR. MORFORD: Is that a question, your Honor?

9 MR. TRAFICANT: My question is, the question
10 is was there surveillance of Jim Traficant or not.

11 THE WITNESS: In that situation, no.

12 Q. Did Mr. Ed see me? Why would it be in the report?

13 A. Because they were observed, same as that paragraph
14 above, using the technique whereby not to put our source on
15 Front Street, we put the language such that the source is a
16 third party so you can't figure out who the source is by
17 readily reading it. So then "both being observed" would be
18 by Allen Sinclair, who was the source in this case.

19 Q. Who other than the FBI was going to see these
20 reports, sir? Jim Traficant?

21 A. Jim Traficant, other defense attorneys, if you would
22 have hired them, other people who could have gotten them
23 prior to trial, yes.

24 Q. That answer doesn't quite ring the bell. It says,
25 "They were both observed." It implies there was a third

Bushner - Cross

1 party observer; don't you agree?

2 A. No, I do not.

3 Q. After you found out you had no physical evidence
4 other than the words and the money that you spread around
5 to the jury, did anyone recommend to have Mr. Sinclair come
6 in and sit at a table and then be videotaped and asked
7 questions?

8 A. I answered this already, sir. No.

9 Q. After all of this had transpired, and Sinclair had
10 these so-called fears, and I was touchy-feely, did anyone
11 advise that maybe they leave a coffee mug or something on
12 my desk to bring me in coffee, one of the secretaries, and
13 then take the coffee mug and try to take a print from it?

14 A. No.

15 Q. Did you ever do an analysis or have any knowledge
16 after analysis of a computer accounting system of the
17 Sinclair office?

18 A. I'm not aware of that, no.

19 Q. So, Mr. Sinclair lied to you and told the truth to
20 the Grand Jury? That is your testimony, right?

21 A. Concerning the kickback, yes.

22 Q. Did you ever ask Mr. Sinclair to meet with Mr.
23 DiBlasio?

24 A. Not that I recall, no.

25 Q. Did in any of the meetings you attended anyone

Bushner - Cross

1 suggest that?

2 A. No.

3 Q. Did anyone suggest that maybe Mr. Sinclair might have
4 a little meeting with Chuck O'Nesti?

5 A. No.

6 Q. Jackie Bobby?

7 A. No.

8 Q. Grace Yavorsky?

9 A. No.

10 Q. Did the FBI hire the Mahoning County Sheriff's
11 Department to, in fact, provide photo surveillance on the
12 Traficant farm, to the best of your knowledge?

13 A. No.

14 Q. Did they, in fact, hire anybody to provide
15 surveillance and video to the family Traficant residence in
16 Poland, Ohio, to the best of your knowledge?

17 A. No.

18 Q. Isn't it a fact that Mr. Sinclair was more afraid of
19 you than he was of Jim Traficant, Mr. Bushner?

20 A. I don't know that.

21 Q. That answer is not good enough for me.

22 MR. MORFORD: Objection.

23 THE COURT: You have to ask Mr. Sinclair.

24 MR. TRAFICANT: No further questions.

25 MR. MORFORD: I have nothing, your Honor.

1 THE COURT: Thank you. You may step down.
2 We're going to adjourn until tomorrow morning at 9:00.
3 Remember your admonitions. Enjoy your trip home, and hope
4 the snow doesn't start tomorrow.

5 (Proceedings in the absence of the jury:)

6 THE COURT: Congressman, you asked whether or
7 not the file was available from the earlier case, and I had
8 the Clerk's Office get the file, which is in fact here, and
9 it's available for you to look at. You also can file a
10 copy request for anything in it that you want to see, and
11 the person to see about that is Lynn Campbell, who just
12 walked in.

13 MR. TRAFICANT: I have a question for the
14 Court.

15 THE COURT: Okay.

16 MR. TRAFICANT: Is that unusual? Because
17 the people in Chicago seemed to be quite surprised that
18 that case was not in Chicago.

19 THE COURT: Oh, well, I expect because it's
20 happened a long time ago that -- no, because issues were
21 raised in this case before we got to the trial about
22 whether or not the prior case would be the subject of
23 anything that would come up in this trial, and so I ordered
24 the file because it sometimes takes weeks to get the file
25 out of the Chicago archives, because they have hundreds of

1 thousands of files. So I wanted it to be able to be here
2 in case something came up regarding something specific in
3 that file. So it is here, and you can see it.

4 Ms. Campbell, where is it now?

5 THE CLERK: It's in my office.

6 THE COURT: Okay. So it's up here, and you
7 can look at it. If you're going make any copy request, you
8 can make it through Ms. Campbell.

9 MR. TRAFICANT: Thank you very much, your
10 Honor.

11 THE COURT: You're welcome. Anything
12 further, gentlemen?

13 MR. MORFORD: Your Honor, I have two matters
14 to take up, if you want me to wait.

15 THE COURT: Let's let the jury go.

16 (Proceedings in the absence of the jury:)

17 MR. MORFORD: The first matter, the first
18 witness tomorrow morning would be Anthony Bucci. He is
19 going to assert his Fifth Amendment against
20 self-incrimination. I have a motion and proposed order to
21 ask the Court to compel the testimony under 18 U.S.C.
22 Section 6001, which is the statutory use of immunity
23 provision.

24 I'd like to give that to the clerk now to hand the
25 Court.

1 MR. TRAFICANT: Question.

2 THE COURT: Sir --

3 MR. TRAFICANT: Has this man been granted
4 immunity before?

5 THE COURT: I really don't know anything
6 about this.

7 MR. TRAFICANT: I have to ask that question.

8 MR. MORFORD: My understanding is he has not,
9 your Honor.

10 MR. TRAFICANT: Has this man been convicted
11 of a felony before?

12 MR. MORFORD: You have a whole Jencks packet
13 we gave you that has all that information in it,
14 Congressman.

15 MR. TRAFICANT: But no immunity ever before
16 this.

17 MR. MORFORD: That's correct.

18 MR. TRAFICANT: Thank you.

19 THE COURT: Okay.

20 MR. MORFORD: The second matter, your Honor,
21 and I did not at this time, but in the future, as far as
22 putting 302 statements into evidence, it's my understanding
23 of the rules that those kind of statements can come in
24 under limited circumstances: One, showing that the author
25 of the 302, which would be Mr. Bucci, has said something

1 inconsistent with what was in the 302. And the only reason
2 I raise it now, I want to make sure we don't get in the
3 pattern of raising 302's without laying proper foundation
4 for such.

5 THE COURT: Right.

6 MR. TRAFICANT: Your Honor, I think what
7 they're concerned about pattern is the case is starting to
8 unravel. I think that was valid. He wrote a 302, they
9 brought up the Overhill property first, scared the hell out
10 of this guy; next thing you know, he walks out of the
11 place. I thought that was relevant, you allowed it in. I
12 think you did the right thing. I thank you for being
13 judicial in that matter.

14 THE COURT: Thank you so much, but he's
15 talking about the Rules of Evidence, and we do use them.
16 There was no objection posed at the time so I didn't go
17 anywhere with it, but you're familiar with this. You can't
18 just simply hand somebody something and have them read it
19 out. The 302 is something that you can use under certain
20 circumstances if you want to try and challenge the
21 testimony that someone's given that's inconsistent with
22 what was in the 302, and I really thought that's what you
23 were going to do with your 302.

24 MR. TRAFICANT: But --

25 THE COURT: That's a good use of it.

1 MR. TRAFICANT: The inconsistency was what
2 was in the 302 and what's in the indictment. That's more
3 important to me.

4 THE COURT: Well, that's --

5 MR. TRAFICANT: And the 302 serves a purpose
6 in that regard, unless I'm such a layman, I don't even
7 watch Perry Mason.

8 MR. MORFORD: Your Honor, my point is the
9 proper thing to do it he can ask the witness, "What did
10 Mr. Sinclair say about this." If the witness doesn't
11 recall, he can hand him the 302 to refresh his
12 recollection, say, "Does that refresh your recollection?
13 Now would you tell us what he told you?" If he says it
14 still doesn't, then he can offer that portion of the 302 as
15 prior report recorded statement of the witness, but he
16 can't just start reading the 302.

17 And I did not object to it, I'm not objecting to what
18 went on earlier because I didn't want to hold up the jury
19 any further. I'm saying for future proceedings in this
20 case that I would want to make sure that Congressman
21 Traficant understands that what he did today is not
22 something he can just do each time, and we will object to
23 it in the future.

24 MR. TRAFICANT: In future proceedings in this
25 case, I will do that which I think I am entitled to under

1 law. You have the right to object, and we can certainly
2 have our side bars. I don't want to tie up the jury
3 either. But, I'll tell you what, I'm not going to be
4 pushed around, and I'm telling you the way it is. And that
5 302 was relevant, relevant to the veracity of a claim where
6 there's not a damned bit of evidence other than a guy who
7 has gone to jail, and his wife would have been charged now.
8 I don't want to hear any more about it.

9 THE COURT: Congressman, Congressman.

10 MR. TRAFICANT: Yes, but this keeps coming
11 up, trying to limit my defense.

12 THE COURT: Well --

13 MR. TRAFICANT: There are motives for
14 people's behavior, and I believe I'm entitled to anything
15 they gave to me. Did you give me the 302?

16 THE COURT: Now it's how you use it in the
17 courtroom, not --

18 MR. TRAFICANT: Did you give me the 302?

19 THE COURT: Congressman, you're not entitled
20 to do whatever you want to do in the courtroom.

21 MR. TRAFICANT: I'm not doing that.

22 THE COURT: All right. What you're getting
23 here is a warning from them, they're not going to sit back
24 and let you do whatever you want to do with the 302's.
25 There are proper uses of 302's. We've been over it before,

1 you know what they are. And you're going to get an
2 objection, and we'll handle the objection at noon or at the
3 next whatever, if it comes.

4 MR. TRAFICANT: Your Honor --

5 THE COURT: But there may be some other way
6 you want to use this.

7 MR. TRAFICANT: Your Honor, I understand
8 that, but what I'm saying to you is do they not have the
9 right to object to something I do or say? Do they?

10 THE COURT: Yes.

11 MR. TRAFICANT: Do I have the right to object
12 to what they do or say?

13 THE COURT: Yes, and today they didn't
14 object, so it came in.

15 MR. TRAFICANT: And they sat down, didn't
16 they?

17 THE COURT: Yep.

18 MR. MORFORD: Your Honor --

19 MR. TRAFICANT: Then that's their fault.

20 THE COURT: Okay.

21 MR. MORFORD: Your Honor, my understanding is
22 the Court asked us to take these things up outside the
23 presence of the jury.

24 THE COURT: That's right.

25 MR. MORFORD: I made a decision not to have

1 the inquiry moved or stop Congressman Traficant from his
2 testimony. I am complying with the Court's order to bring
3 up the fact that under the Rules of Evidence, there's a way
4 to do this, and I'm bringing it up now outside the jury's
5 presence so we don't have to get into it at side bar
6 tomorrow if he does it again. That's my only point.

7 THE COURT: If you do the same thing again,
8 then you can expect he'll object, and if he objects, you
9 can expect the objection will be sustained, and we will go
10 forward with another kind of question.

11 MR. TRAFICANT: I understand that. This is
12 what I'm trying to get at. An objection doesn't mean we
13 have to throw the jury out of the room, it can simply be
14 sustained or overruled. Isn't that the way it should work?

15 THE COURT: They can work that way.

16 MR. TRAFICANT: Yes.

17 THE COURT: Okay.

18 MR. TRAFICANT: We don't have to have
19 commentary on each one either, but the point is, and the
20 truth of the matter is, you're very uncomfortable this
21 afternoon.

22 THE COURT: Well, no.

23 MR. TRAFICANT: You didn't want to look
24 defensive in front of this jury, or you would have.

25 THE COURT: Congressman, you can do it

1 somewhere else. Don't do it here.

2 MR. TRAFICANT: I'm doing it right here.

3 THE COURT: No, you're not doing it right
4 here.

5 MR. TRAFICANT: I thought --

6 THE COURT: This Court is in recess. You're
7 not doing this right here.

8 MR. TRAFICANT: Well, then we don't do it
9 right here.

10 (Proceedings adjourned.)

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Bushner - Cross

1 CROSS-EXAMINATION OF PAUL MARCONE (Resumed)..... 1327

2 REDIRECT EXAMINATION OF PAUL MARCONE..... 1450

3 RECROSS-EXAMINATION OF PAUL MARCONE..... 1466

4 DIRECT EXAMINATION OF JOSEPH BUSHNER..... 1485

5 CROSS-EXAMINATION OF JOSEPH A. BUSHNER..... 1509

C E R T I F I C A T E

7 I certify that the foregoing is a correct

8 transcript from the record of proceedings in the

9 above-entitled matter.

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