

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, MARCH 4, 2002

13 Jury Trial
14 Volume 10
15 - - - - -

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

1 Monday Session, March 4, 2002, at 8:30 A.M.

2 (Proceedings in the absence of the jury:)

3 MR. TRAFICANT: Your Honor?

4 THE COURT: Yes.

5 MR. TRAFICANT: I have a couple of matters I
6 would like to take up with the Court before we begin. I
7 have presented to you a letter. When I returned from
8 Cleveland Tuesday, P.M., I received from ODOT a file on
9 Mr. Williams. In that file, it says -- and it's dated
10 February 25. Do you have the letter before you?

11 THE COURT: I have a copy of a February 25th
12 letter.

13 MR. TRAFICANT: I want you to refer to the
14 first paragraph, where it says in the middle, beginning
15 with, "Not all information in a personnel file is public
16 record. Therefore, information that is not a public record
17 will be redacted before it can be provided to you. A
18 reasonable estimate of time to accomplish this review is at
19 least a couple of weeks."

20 Now, my point is, all I got was when he was hired,
21 when he was promoted, and there was nothing in there that
22 dealt with any of this man's activities at all. And they
23 said it would take two to three weeks to produce it.

24 My motion is that you either compel them to provide
25 it now or that you withhold the video testimony until I, in

1 fact, receive the complete copy of that which has been
2 redacted from Mr. Williams' file since it deals with the
3 aspect of the cross-examination and his department.

4 That's first. I have a couple of other matters.

5 THE COURT: Let's take them one at a time.

6 MR. MORFORD: Yes, your Honor. Thank you.

7 First of all, this letter is dated February 25, 2002.
8 It's a response to Congressman Traficant's request for
9 personnel file information.

10 On February 27th, even though they said it would take
11 two weeks, they did an expedited review, and they gave him
12 all portions of a file except those portions which were
13 redacted because they're privileged. We had an agent call
14 them this morning, and Lisa Conomy, the lawyer who is in
15 charge of this project for ODOT, said they had sent
16 Congressman Traficant everything that they are going to
17 send.

18 They redacted medical records because they're
19 privileged, and they're not going to be providing those
20 because by law, they can't provide those, and that
21 everything that he's entitled to in those records, he has.

22 I would note that when we were in Florida, he had a
23 file about this thick which he wanted to offer into the
24 record as his evidence, which was the records he received
25 from the Ohio Department of Transportation two days after

1 this letter was written.

2 MR. TRAFICANT: Can I respond now?

3 THE COURT: Yes.

4 MR. TRAFICANT: For the record, this is the
5 problem in this case. The Government -- I gave them the
6 courtesy of this letter. They went and got on the phone
7 immediately with the state, and the state gives them an
8 answer.

9 THE COURT: Well, you can call them.

10 MR. TRAFICANT: I know that.

11 THE COURT: In fact, they asked you to.

12 MR. TRAFICANT: Here's what I'm saying to
13 you: I want to read in for the record, and you can go
14 ahead and rule and go ahead and do whatever you're going to
15 do, I understand that -- I want to read this into the
16 record.

17 THE COURT: Okay.

18 MR. TRAFICANT: "Not all information in a
19 personnel file is public record; therefore, information
20 that is not a public record will be redacted before it can
21 be provided to you."

22 THE COURT: Right.

23 MR. TRAFICANT: "A reasonable estimate of
24 time to accomplish this review is at least a couple of
25 weeks."

1 THE COURT: Okay.

2 MR. TRAFICANT: Now we're hearing testimony
3 from Mr. Morford about ODOT records.

4 THE COURT: We're not hearing any testimony
5 right now.

6 MR. TRAFICANT: He said he just talked
7 with --

8 THE COURT: I understand.

9 MR. TRAFICANT: -- the attorney.

10 THE COURT: I understand.

11 MR. TRAFICANT: I want those records.

12 THE COURT: Okay.

13 You have this letter, and you've given me a copy of
14 it, and it's dated February 25th.

15 MR. TRAFICANT: I became aware of this, yes.
16 And I got a generic file Tuesday before I flew to Florida.

17 THE COURT: Okay. It would not -- if
18 something has been redacted before it can be provided for
19 you, they would not -- I mean, the process of redaction is
20 to protect something that state law apparently protects, so
21 you wouldn't get to see it, and then they would redact it.
22 It would simply be removed, because they're apparently
23 taking the position that something has to be redacted in
24 the files.

25 MR. TRAFICANT: Can I respond?

1 THE COURT: Yes.

2 MR. TRAFICANT: They do not state that, and
3 they do not say what is redacted is not going to be made
4 available. They're saying that will be redacted before it
5 can be provided to you.

6 THE COURT: That's correct.

7 MR. TRAFICANT: They never said it couldn't
8 be in the letter.

9 Second of all, they said a reasonable estimate of
10 time would be a couple of weeks. Now, a main issue in this
11 case is --

12 THE COURT: Well, let me find out from you if
13 you would be willing, sir, to call Lisa Conomy, chief legal
14 counsel, at the next break and find out whether what she
15 did, in fact, provide to you is all that they're providing.

16 MR. TRAFICANT: Your Honor, after the
17 Government calls them, prior to the Government -- look,
18 I've been around. Here's what I'm saying to you. Part of
19 this case deals with -- he has colon cancer -- his medical
20 record. Part of this case also deals with accusations of
21 alcohol abuse.

22 THE COURT: I don't believe that his current
23 medical condition has anything to do with parts of this
24 case except that it required you to go to Florida.

25 MR. TRAFICANT: Part of this case dealt with

1 accusations that were made available to the Pro Se
2 Defendant, who asked Mr. Williams down there about
3 alcoholism and whether or not he had discussion with his
4 boss about alcoholism. Now he says he has these different
5 respective medical problems. There are salient points that
6 may or may not be available.

7 What I'm telling you is I don't care what the state
8 told the powerful Government today.

9 MR. MORFORD: You are them.

10 MR. TRAFICANT: No, people are the
11 Government.

12 THE COURT: Right, but Congressman, you need
13 to respond to this legal counsel yourself. I can't try
14 your case for you.

15 MR. TRAFICANT: No. My motion is that any --
16 until I am satisfied or you are satisfied, and you make
17 that decision, it's right on you, that the testimony, video
18 testimony, deposition of Mr. Williams, be withheld until I
19 have that which is and should be made available to me,
20 because she did not say in her letter -- this was from Lisa
21 J. Conomy.

22 THE COURT: Right.

23 MR. TRAFICANT: And she did not say -- she
24 said it would be provided to me, and it would take two or
25 three weeks. Now the Government is saying they called her

1 and said they would redact his medical, and it wouldn't be
2 anything anyway.

3 THE COURT: You need to straighten that out
4 with Ms. Conomy, what it is, in fact, they sent you; they
5 sent you something, and what was that. You need to find
6 out for yourself.

7 MR. TRAFICANT: I will put on the record that
8 what they sent me was a generic, the day he got hired, the
9 day he got promoted, his evaluations. There wasn't one
10 thing about this man or any issue of any meeting with his
11 boss, any talk with his boss about any problems. The only
12 thing he said is he said he heard about a letter written by
13 the Congressman to fire me from his boss.

14 Now, come on, a congressman writes a letter to have a
15 guy fired, it's not in his file? That's medical? I can't
16 have a copy of that? Come on now. Let's be reasonable
17 people here.

18 THE COURT: All I'm asking you to do is to
19 follow up yourself and find out from this person who wrote
20 the letter, who is apparently a chief legal counsel, what
21 the status of your request is, and then we can go from
22 there, but --

23 MR. TRAFICANT: I offer that, though, I want
24 to offer this here, this letter from Lisa Conomy, as
25 evidence.

1 THE COURT: Okay. Just give it a number,
2 and --

3 MR. TRAFICANT: I'm going to give it G-200.

4 THE COURT: Okay.

5 MR. TRAFICANT: I ask it be submitted into
6 evidence.

7 MR. MORFORD: We would object that it be in
8 evidence, but we would not object to it being submitted to
9 the Court for purposes of deciding this issue that he's
10 raised this morning.

11 THE COURT: Very well. It'll be admitted.
12 It isn't something that goes into evidence in the case, but
13 it'll be here, it's marked. We now all know what the
14 document is you're referring to, it's the letter of
15 February 25th, responding to your request for public
16 records for the personnel file.

17 MR. TRAFICANT: G-200.

18 THE COURT: G-200, okay.

19 MR. TRAFICANT: So you're saying you will not
20 admit it as evidence?

21 THE COURT: At this point there's no reason
22 to.

23 MR. TRAFICANT: Or you're not ruling yet?

24 THE COURT: No, but I am letting you identify
25 it for --

1 MR. TRAFICANT: For the purposes, okay, but I
2 did ask for the record that it be admitted.

3 THE COURT: Okay, you did. You made the
4 request -- and stop talking over me so we can get a clear
5 record for you.

6 MR. TRAFICANT: I apologize. I'm completely
7 finished with that --

8 THE COURT: 200.

9 MR. TRAFICANT: -- issue.

10 THE COURT: Thank you.

11 MR. TRAFICANT: I now ask the Court that the
12 Government provide for me Exhibit 2-11, that their agents
13 delivered to an expert for forensic testing on my part.

14 THE COURT: Okay. All right. 2-11. Is that
15 the --

16 MR. TRAFICANT: That's the place mat. I also
17 ask that they make available to me Mr. Bucci's wallet,
18 Mr. Bucci's wallet he held these in. If that takes a
19 subpoena I'll do that. And I'm even tipping them off so he
20 can go ahead and burn his wallets. But I want this for
21 forensic testing now, pursuant to the testimony of
22 Anthony -- of Anthony Bucci. And I want it made available
23 to me through their agents, and they can supervise and be
24 with the individual who evaluates this at all times.

25 MR. MORFORD: Your Honor, can we have some

1 idea of what type of forensic testing he's talking about?

2 MR. TRAFICANT: I think the forensic test
3 speaks for itself.

4 THE COURT: Well, you may be able to define
5 it a little bit more by what you're looking for with the
6 document.

7 MR. TRAFICANT: For the veracity of this
8 statement of Mr. Bucci who maintained he's had it all these
9 years because he knew someday it was going to pop up, so I
10 want to have the document tested for the respective
11 elements of age and time and other aspects significant to
12 that. And I believe within the law, I have a right to ask
13 for a document that's been now admitted into evidence,
14 joint exhibit, to have it now tested.

15 THE COURT: Okay. We'll let the Government
16 respond.

17 MR. SMITH: May we have a moment, your Honor?

18 THE COURT: Yes.

19 MR. MORFORD: Your Honor, we don't have an
20 objection to that. The only problem, this has already been
21 admitted into evidence, so it's in the Court's custody, and
22 if the Court wants to assign an agent to handle it within
23 the custody, we want to make sure that the document
24 obviously isn't altered or destroyed. That's why I wanted
25 to know what kind of testing, what kind of chemicals, that

1 type of thing.

2 THE COURT: We will have to put those kinds
3 of provisions on that say so that it's not altered or
4 destroyed.

5 MR. TRAFICANT: In that regard --

6 THE COURT: But, that's only the -- that's
7 only the place mat. You also raised this issue about
8 wallets.

9 MR. TRAFICANT: Yes. I may subpoena the
10 wallets, unless you --

11 THE COURT: Whatever.

12 MR. TRAFICANT: I'd like to have the wallets
13 that he kept it in, and I'd like to have the wallet he
14 currently uses, but I understand that may be subject to
15 subpoena, and I can subpoena him and bring him back again
16 and put him on the stand. I have that right when I take
17 the Defense. But, I do need time for the forensic
18 analysis.

19 I am not against the federal government being there
20 at all times to ensure that there is no obstruction of this
21 document and that you, in fact, assign a government agent
22 to, in fact, be there at all times.

23 THE COURT: Okay. That doesn't deal with the
24 wallet though, that just deals with the --

25 MR. TRAFICANT: Well, I don't know if I'm

1 allowed to -- at this particular point, do I subpoena the
2 wallet? If he could -- if he has the wallet.

3 THE COURT: It's not in evidence in this
4 case.

5 MR. TRAFICANT: No, it's not. He said he
6 didn't have it. But, if he does have it, I'd like to have
7 it for testing purposes.

8 THE COURT: Do you want to respond to that?

9 MR. MORFORD: I have no response. I mean,
10 the witness' testimony was that he's had several wallets,
11 and the wallet he currently has is not the wallet this was
12 in, and I don't know anything about what wallets he has or
13 doesn't have, so --

14 MR. TRAFICANT: I can subpoena that.

15 THE COURT: Okay. You do what you want to
16 do.

17 MR. TRAFICANT: But for forensic testing,
18 your Honor, I need the document, and I believe --

19 THE COURT: We're going to do something about
20 this document. We'll make some arrangement to get this
21 tested but not destroyed. I'm not sure what it is.

22 MR. TRAFICANT: Do you have any idea of what
23 time frame?

24 THE COURT: No, I don't, no, I don't, but
25 we're not going to delay the trial.

1 MR. TRAFICANT: No.

2 MR. MORFORD: On that point, your Honor, I
3 would note Congressman Traficant has had access to this
4 document since we sent the original discovery to him
5 several months ago, and this is the first he's raised it,
6 but I understand that, and we'll try work with it.

7 What we will need obviously is the name and location
8 of his expert so that we can line up someone from the FBI
9 that can handle the document and get that.

10 MR. TRAFICANT: I will make that available
11 once I, in fact, select that expert. And if the Court
12 wants to qualify the expert --

13 THE COURT: No, I think you should go ahead
14 and select whoever it's going to be so we can go forward
15 with this process.

16 MR. TRAFICANT: I'm going to make that
17 determination.

18 THE COURT: Good.

19 MR. TRAFICANT: I'd like to say this, also,
20 that I did confer with the Government this morning and
21 asked for the Grand Jury testimony of Mr. Bucci, and I was
22 first told that I received it on discovery, and then --
23 I'm not trying to make any problems -- then they remembered
24 they did not have him before the Grand Jury.

25 So for clarification purposes, did Mr. Anthony Bucci

1 come before a Grand Jury?

2 MR. MORFORD: No.

3 MR. TRAFICANT: Was he subpoenaed before a
4 Grand Jury?

5 THE COURT: Okay. Let's let one of you
6 answer it.

7 MR. SMITH: I made the mistake; therefore, I
8 will address it. Mr. Anthony Bucci did not testify before
9 the Grand Jury. The Congressman did ask me that question,
10 I screwed up. I told him he got the Grand Jury transcript.
11 I immediately realized I screwed up, Anthony Bucci did not
12 testify before the Grand Jury. Therefore, no Grand Jury
13 transcript was given for Mr. Anthony Bucci.

14 Thank you, your Honor.

15 MR. TRAFICANT: Question; question, your
16 Honor, and I ask this of the Court for the record. Okay.
17 Was Mr. Bucci ever subpoenaed to testify before a Grand
18 Jury and not taken into a Grand Jury?

19 THE COURT: You see, I was never involved in
20 the Bucci case.

21 MR. TRAFICANT: No, but --

22 THE COURT: So I don't know.

23 MR. TRAFICANT: Your Honor, your Honor, the
24 thing that bothers me, and to be quite honest, he's been
25 very forthright with me, and I appreciate it. And when I

1 asked him, I believe truly Mr. Morford believed that he
2 gave it to me. He has supplied a lot of things. But, then
3 Mr. Smith stood up and says, "No, we didn't give him that
4 because we didn't have that."

5 Now, I want to know if -- there are many witnesses
6 that are subpoenaed to Grand Juries, then they sit in a
7 room with attorneys, and then they don't take them in
8 before a Grand Jury, and I want to know really, for the
9 record, since there is no Grand Jury testimony on this
10 important witness, which is one count of the indictment, if
11 he was, in fact, ever subpoenaed for a Grand Jury
12 appearance.

13 That, for the record, I think is a legitimate
14 question.

15 THE COURT: Okay.

16 MR. TRAFICANT: Because I received no Grand
17 Jury testimony.

18 MR. MORFORD: Your Honor --

19 THE COURT: Well, he didn't testify, I guess
20 is, one thing. So if he didn't testify, there would be no
21 Grand Jury testimony.

22 MR. TRAFICANT: But, was he subpoenaed for a
23 Grand Jury?

24 THE COURT: I have no idea.

25 MR. TRAFICANT: Well, I think that is what

1 I'm asking, I want to know that. Was there a subpoena
2 issued for Anthony Bucci to appear before a Grand Jury?

3 MR. MORFORD: Without going back and looking
4 at subpoena logs, I don't know, but it's totally irrelevant
5 whether he was or was not. I can tell you my best
6 recollection is he never was. I can't imagine that we
7 would have done that. I don't remember doing it. I don't
8 think we did, but it's not relevant anyway. The point is,
9 he never testified to the Grand Jury, period.

10 MR. TRAFICANT: Okay. Then I make this
11 point: Is there any other part of this indictment where
12 any key figure was not before the Grand Jury?

13 MR. MORFORD: There's no requirement that
14 they be.

15 MR. TRAFICANT: No. So he was the only one
16 then that didn't testify before a Grand Jury?

17 THE COURT: That's not the answer. You've
18 been given a lot of discovery material. I don't know what
19 you've been given, although we've been given copies of it.
20 I haven't gone through it all.

21 MR. TRAFICANT: Well, for example --

22 THE COURT: No, wait a minute. So if you're
23 asking the question about whether anyone else didn't go
24 before the Grand Jury, their obligation relates to people
25 who did go before the Grand Jury, and so that's what you

1 should have copies of, that testimony.

2 MR. TRAFICANT: The Buccis are one part of
3 this in the ten-count indictment.

4 THE COURT: Right.

5 MR. TRAFICANT: The Cafaros, the Nemenzes,
6 the Sugars, the Sabatines. All of the other issues,
7 there's only one that didn't go before a Grand Jury.

8 MR. MORFORD: That's not what I said.

9 THE COURT: I don't think anyone has said
10 that, but I think you've been given your discovery
11 materials, and if you go through your discovery materials
12 you'll be able to figure out from them who testified before
13 a Grand Jury. If there is somebody in there you feel did
14 testify, we can raise that issue with the Government if you
15 don't have their testimony.

16 MR. TRAFICANT: Okay. In closing this out
17 then --

18 THE COURT: Yeah.

19 MR. TRAFICANT: For the record, I am asking
20 that if a subpoena was issued to Mr. Bucci to testify
21 before the Grand Jury, that that document be made available
22 to me. That's all. The Court can see they don't need to
23 do it, you do whatever you want, but I am asking for it now
24 in the form of an oral motion.

25 THE COURT: Thank you.

1 MR. MORFORD: My only question would be that
2 he provide the rule or legal basis for doing that, because
3 I'm aware of --

4 MR. TRAFICANT: I will do this in further
5 motion, your Honor.

6 THE COURT: That's fine. Just do it in
7 writing, and provide them a copy of it.

8 MR. TRAFICANT: Okay, thank you.

9 THE COURT: Anything from the Government?

10 MR. MORFORD: No, your Honor.

11 THE COURT: Who's your witness?

12 MR. SMITH: Merrill Whippo, your Honor.

13 MR. TRAFICANT: I would ask for you to rule
14 at this particular point, some point today, that I believe
15 the Government intends or may intend to show the videotape
16 of the Williams deposition. I still have not received a
17 transcript and would not have had time --

18 THE COURT: Right. Until there's a
19 transcript, we won't be seeing the video.

20 MR. TRAFICANT: But when we do get the
21 transcript, will we have time to look at it and read it?

22 THE COURT: We'll have some time.

23 MR. MORFORD: It's our intention as soon as
24 we received the certified transcript to give the Court a
25 copy of the transcript and the tape, and at that point we

1 can take up any objections or anything else with that.

2 THE COURT: Very well.

3 MR. TRAFICANT: The only thing I would ask
4 and request of the Court, since we're dealing with the
5 Bucci matter -- it would not be a great delay -- that I
6 have time to review the transcript insofar as I received
7 this generic statement and have now put on the record the
8 letter from their chief counsel, that it be at least shown
9 tomorrow and I have time to review the transcript tonight.

10 THE COURT: I think you'd better make some
11 contact yourself, since you're representing yourself, with
12 the person who sent you the letter on the 25th of February
13 to ascertain for yourself whether what they sent you is all
14 they're going to send you or not. You need to do that,
15 representing yourself. No one else can do that for you.

16 MR. TRAFICANT: Your Honor, that's why I'm
17 offering this as evidence. She said that it would be
18 available in two to three weeks.

19 THE COURT: I understand, but apparently you
20 then received something; is that correct? Did you? Did you
21 receive something?

22 MR. TRAFICANT: I got a generic file with
23 nothing in it.

24 THE COURT: Okay. It's what you consider a
25 generic file?

1 MR. TRAFICANT: Absolutely.

2 THE COURT: Okay. Make sure that when she
3 sent that, that was the redacted version of the file and
4 not something else, so that we all know particularly, you
5 know, exactly what it is you have, and then we can deal
6 with it.

7 MR. TRAFICANT: Well, your Honor, you have in
8 evidence in this Court a letter for him to be fired, and
9 that's not in his file. Now, would that be subject to
10 medical records?

11 THE COURT: If you're not willing to do what
12 you need to do on your own behalf to contact the Attorney
13 General's representative, I'm certainly not going to do
14 that for you. And until you've done that, you really don't
15 have a basis to go forward. Okay? Thank you.

16 MR. MORFORD: One last thing very quickly.
17 We do have an out-of-town witness whose testimony relates
18 to that of Mr. Williams, and they need to have the two
19 testimonies together. He's here today. We don't expect at
20 this point to get him on today because we don't have the
21 certified transcript, but we would prefer this not go
22 several days and have this witness waiting here for days on
23 end. So if we can put some time --

24 THE COURT: Well, we have a break coming up
25 sometime mid-morning, and we need to get to the jury now,

Whippo - Direct/Smith

1 but during the break you can try and reach --

2 MR. TRAFICANT: Thank you, your Honor.

3 THE COURT: Okay. Bring in the jury.

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

5 MERRILL WHIPPO,

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

7 being first duly sworn, was examined

8 and testified as follows:

9 DIRECT EXAMINATION OF MERRILL WHIPPO

10 BY MR. SMITH:

11 Q. Sir, would you please state your full name, and spell
12 your last name, your first and your last name for the court
13 reporter?

14 A. Merrill, M-E-R-R-I-L-L, George, Whippo, W-H-I-P-P-O.

15 Q. Mr. Whippo, in what city do you reside?

16 A. Canfield, Ohio.

17 Q. And what's the largest city Canfield's near?

18 A. Youngstown.

19 Q. How far from Youngstown is Canfield?

20 A. Around 15 miles.

21 Q. Sir, what do you do for a living now?

22 A. I haul heavy equipment.

23 Q. And what type of equipment do you haul?

24 A. Excavator, dozers, backhoes, dump trucks.

25 Q. And do you use any particular equipment to do that

Whippo - Direct/Smith

1 hauling?

2 A. Use a Trail King low boy.

3 Q. How long have you been doing that kind of work for
4 your current employer?

5 A. Since 1996.

6 Q. And who did you work for before you worked for your
7 current employer?

8 A. I worked for Prime Contracting, Mr. Bucci.

9 Q. Okay. And what was Mr. Bucci's name, first name?

10 A. Well, there was Tony, Robert, and Dan Bucci.

11 Q. And how long did you work for the Buccis?

12 A. I started there in '91.

13 Q. And you worked this until when?

14 A. Until I started at Schimley's Excavating, which is my
15 job I have now.

16 Q. All right. And the job you have now started in which
17 year?

18 A. '96.

19 Q. Now, you mention Prime. Could you explain what Prime
20 was?

21 A. Prime Contractors was one of Buccis's names for his
22 business. It was Prime and Black Rock, Incorporated, State
23 Materials. It changed names frequently.

24 Q. And in what type of business were the Buccis engaged
25 at Prime?

Whippo - Direct/Smith

1 A. Blacktopping, mainly.

2 Q. What was the nature of the services that you provided
3 to the Buccis?

4 A. I haul the heavy equipment and drove a dump truck
5 when needed.

6 Q. During the time that you worked for the Buccis, did
7 you ever go out on company time to a farm located on Route
8 165 and Greenford?

9 A. Yes.

10 Q. All right. And who sent you out to that farm?

11 A. Well, there were actually two farms I was at out
12 there. One was Dan Bucci's farm, which was across the
13 street from what I was told was Mr. Traficant's farm.

14 Q. And with respect to Dan Bucci, would you describe the
15 nature of your relationship with Dan Bucci?

16 A. He was my employer.

17 Q. And is Mr. Bucci still alive?

18 A. No.

19 Q. Dan Bucci?

20 A. No, he's not.

21 Q. How many times did you go to the Congressman's farm
22 to do work?

23 A. Probably around four or five times.

24 Q. And would you please describe all the different types
25 of work that you did out at that farm?

Whippo - Direct/Smith

1 A. Well, I hauled a dozer out there one time, and I
2 hauled a backhoe out there, and I hauled around, for sure,
3 80 tons of 57 stone. Could be more, but I know of three
4 loads, 20-ton loads for sure.

5 Q. Did you do any work out in the fields?

6 A. My sons and I helped him bale hay one time, but that
7 was something that we did, we were helping Dan.

8 Q. Now, with respect to this stone, first of all, where
9 did you get the stone?

10 A. I got it from Black Rock, from the Buccis brothers'
11 place on 422 there.

12 Q. What did you do with the stone once you got it from
13 the Buccis' place?

14 A. We loaded it up and took it out to Mr. Traficant's,
15 and spread it out in one of the driveways. And one load, I
16 recall I did that, and then a couple other loads we just
17 dumped it out there.

18 Q. On occasions that you were spreading stone out at the
19 farm, were any other Buccis employees involved doing that?

20 A. Not that I recollect. I think there might have been
21 a farm hand out there helping us one time, but I'm not sure
22 if that's who he even was.

23 Q. This stone, what kind of stone is it? What was it
24 made out of?

25 A. It's made out of -- actually it's slag, and it's made

Whippo - Direct/Smith

1 out of -- I'm not really sure what it's made out of.

2 Q. What size is it?

3 A. 57.

4 Q. What does that mean?

5 A. Means it's about an inch, an inch stone by an inch,
6 in that area.

7 Q. Now, on this occasion that you baled hay, who was
8 baling hay with you?

9 A. Dan Bucci, my two sons, and Mr. Traficant was there.

10 Q. All right. What was the Congressman doing?

11 A. He was doing all kinds of different things. He was
12 doing stuff around the farm and helped us a little bit,
13 and --

14 Q. Out in the field, did Mr. Traficant participate with
15 your work out in the field at all?

16 A. I can't recall if he did or not.

17 Q. How long did it take to you bale this hay?

18 A. Probably around two or three hours.

19 Q. For this job in the -- these jobs in delivering the
20 stone to Congressman Traficant's farm, how were you paid
21 for that work?

22 A. I was on the Bucci clock. I was on the clock for Dan
23 Bucci, paid me by the hour.

24 Q. How about for the baling of the hay, how were you
25 paid?

Whippo - Cross

1 A. I was on the clock for that.

2 Q. The clock with who?

3 A. With Dan Bucci.

4 Q. Did you receive any pay from Congressman Traficant
5 for delivering that stone or rock to his farm?

6 A. No, I didn't.

7 Q. How about for baling the hay, did he pay you for any
8 of that?

9 A. No, he didn't.

10 Q. How about your sons, did the Congressman pay your
11 sons anything in lieu of paying you for baling hay?

12 A. No, he didn't.

13 MR. SMITH: May I have a moment, your Honor?

14 THE COURT: Yes.

15 MR. SMITH: No further questions.

16 THE COURT: Thank you. Congressman.

17 CROSS-EXAMINATION OF MERRILL WHIPPO

18 BY MR. TRAFICANT:

19 Q. Good morning, Merrill.

20 A. Good morning.

21 Q. A number of questions I have, and maybe some of the
22 things they were talking about.

23 Did you testify before the Grand Jury?

24 A. No, I didn't.

25 THE COURT: Did you show this to them?

Whippo - Cross

1 MR. TRAFICANT: Yes, I have a copy.

2 THE COURT: Show it to them so they know what
3 it is.

4 MR. SMITH: I have a copy.

5 MR. TRAFICANT: You have a copy.

6 MR. SMITH: Yes, sir.

7 BY MR. TRAFICANT:

8 Q. Can you identify what this is, Merrill? Could you
9 read it?

10 A. United States of America, Department of Justice. I
11 can't really -- Organized Crime and Racketeering Section.

12 Q. Is your name on the front page of that anywhere?

13 A. Yes, it is.

14 Q. What's the date of that?

15 A. 1-12.

16 Q. January 12th of what year?

17 A. 2000.

18 Q. So now you do recall you did testify before the Grand
19 Jury, before a lot of people?

20 A. Oh, was that the Grand Jury? Yes, I was called up
21 here to testify before.

22 Q. You weren't sure it was a Grand Jury at that time.
23 That's fine. I just want to clarify that.

24 Now, did the Government explain to you that a Grand
25 Jury proceeding is secret, and that no one in the Grand

Whippo - Cross

1 Jury, like the Grand Jurors or the Government, could make
2 any statements? Did they explain that to you when they
3 talked to you?

4 A. Yes, I believe they did.

5 Q. Did they also say to you, though, that you were not,
6 and you could, in fact, if you wanted to, talk about the
7 case? Did they make that statement? Did they specifically
8 make the statement?

9 A. They said I could not talk about the case.

10 Q. They said you could not talk about the case?

11 A. Right.

12 Q. Fine. Did you have any conversation with any of your
13 fellow employees about that?

14 A. No, I --

15 Q. That you could not talk about the case?

16 A. No.

17 Q. Okay. Now, when the hay was baled, where was it
18 baled, what field? Do you remember?

19 A. Yes, I do. Some of it was baled across the street at
20 the Buccis', and some over on your farm in that field over
21 there.

22 Q. Do you know what tractor was used?

23 A. No, I don't. It was your tractor.

24 Q. It was my tractor?

25 A. I believe it was your tractor -- no, I'm sorry, it

Whippo - Cross

1 was Dan's tractor and Dan's baler.

2 Q. And Dan's baler. And did he come over after baling
3 his, did you say?

4 A. Yes.

5 Q. And "He was my friend," did you say that?

6 A. I did not say.

7 Q. Did you know he was my friend?

8 A. I don't know if he's your friend or not. He just
9 told me we were going to bale hay for the Congressman.

10 Q. And you said you were there for what, two or three
11 hours?

12 A. Two or three hours.

13 Q. Um-hum. You mentioned a company called State
14 Materials. The Buccis own State Materials?

15 A. Yes, they did.

16 Q. They own a company called Jet Asphalt?

17 A. Yes -- yes, they did.

18 Q. Did they own a company called Oak Tree Paving?

19 A. I don't know.

20 Q. Do you know Curtis White?

21 A. Yes, I do.

22 Q. You know who he worked for?

23 A. Yes, I do.

24 Q. Who did he work for?

25 A. He worked for a lot of people, but he did work for

Whippo - Cross

1 the Buccis.

2 Q. Do you know where he worked, at what location and
3 what site?

4 A. No, I don't.

5 Q. Did you know if he ever had the title of president?

6 A. No.

7 Q. Let me ask you something: Was there a time when
8 there was conversation about Bucci being debarred, the
9 Bucci brothers having debarment problems?

10 A. They were always having problems. I never knew what
11 the nature of their problems were.

12 Q. Well, if the Buccis were debarred, would the company
13 shut down?

14 A. I'm not sure.

15 Q. Okay. Now, were you a union member?

16 A. No, I wasn't.

17 Q. Who did you exactly work for?

18 A. I worked for -- Dan was my supervisor, and --

19 Q. What company did you report to?

20 A. I reported to Prime Contractors sometimes.

21 Q. What location?

22 A. On 422 there, by the -- up the street from their
23 blacktop place.

24 Q. Where was Dan Bucci located?

25 A. He was down at the -- he always made the blacktop

Whippo - Cross

1 down at the batch plant.

2 Q. Would you say that Dan Bucci made all the blacktop --

3 A. 90 percent of it.

4 Q. Did you ever see Robert or Anthony make any blacktop?

5 A. Yes, I did.

6 Q. On occasion?

7 A. On occasion.

8 Q. But, your dealings were with Dan Bucci; is that
9 correct?

10 A. Most of the time.

11 Q. Now, did you know that Dan Bucci owned a farm
12 directly across from the Traficant farm?

13 A. Yes, I did.

14 Q. Did you have anything to do with the paving of Dan
15 Bucci's driveway?

16 A. Yes, I did.

17 Q. How long of a driveway is it?

18 A. This is just a guess, but I have to say at least a
19 mile.

20 Q. A mile? Now, if there were any blacktop left over,
21 would you in fact have hauled that blacktop back to Girard
22 and have it recycled?

23 A. Yes, we would have.

24 Q. You would have?

25 Do you know what you did with that blacktop?

Whippo - Cross

- 1 A. No, I don't.
- 2 Q. Were there occasions when you were a distance away
3 and you had blacktop left over that you, in fact, got rid
4 of that blacktop before you took it back?
- 5 A. Yes.
- 6 Q. Before it hardened up?
- 7 A. Yes, I did.
- 8 Q. How many miles was it from Dan Bucci's farm to the
9 blacktop plant?
- 10 A. If I had to estimate, I would have to say around 25,
11 20 to 25 miles.
- 12 Q. Um-hum. And how many different people hauled
13 blacktop for this one-mile driveway?
- 14 A. There were probably six trucks hauling it.
- 15 Q. Was it a winding driveway?
- 16 A. Yes, it was.
- 17 Q. Did it have different heights and variances to it?
- 18 A. Yes, it did.
- 19 Q. Was it a hard driveway to pave?
- 20 A. Yes, it was.
- 21 Q. Would you in your experience with blacktop say it
22 would be pretty hard to, in fact, actually evaluate how
23 much blacktop would be needed?
- 24 A. I would say it would be hard to hit it right on the
25 nose, yes.

Whippo - Cross

- 1 Q. Let me ask you this: Just hypothetically, let's say
2 that there's enough blacktop for sale, 100 feet, two inches
3 thick. Would that have been a good -- I mean would that
4 have been an overestimate of the driveway need for Dan
5 Bucci's driveway?
- 6 A. No.
- 7 Q. It would have been pretty close, wouldn't it?
- 8 A. Well, if it was -- I'm not sure I understood your
9 question there.
- 10 Q. Okay. Let's say if there was enough to, in fact, do
11 100 feet of a driveway left over after the one-mile Bucci
12 driveway paving, wouldn't you say that the amount of
13 asphalt calculated to do the Bucci driveway was pretty
14 close to what he needed? He had enough, didn't he?
- 15 A. Yes.
- 16 Q. Did he have an overabundance?
- 17 A. I'm not sure, because I left down there.
- 18 Q. Okay. Do you know the length of blacktop that was
19 paved -- put by Bucci, Dan Bucci, on the Traficant farm?
- 20 A. No, I don't.
- 21 Q. Now, you said you hauled heavy equipment, right?
- 22 A. Yes.
- 23 Q. You hauled dozers?
- 24 A. Yes.
- 25 Q. You hauled major and large trucks, but you were

Whippo - Cross

- 1 nonunion?
- 2 A. Right.
- 3 Q. Why was that?
- 4 A. I wasn't in the union, I just didn't have a card.
- 5 You have to go down and pay.
- 6 Q. What were you paid per hour, to the best of your
- 7 knowledge?
- 8 A. Around \$13 an hour.
- 9 Q. Was that the average for nonunion workers?
- 10 A. It was good for me, what I thought was good.
- 11 Q. Do you know if others got more or less, or was that a
- 12 standard pay?
- 13 A. Union drivers got more.
- 14 Q. Some drivers got more?
- 15 A. Union drivers.
- 16 Q. Union?
- 17 A. Right.
- 18 Q. Now, what did laborers get, did they get less?
- 19 A. Union laborers got more.
- 20 Q. Nonunion laborers?
- 21 A. They got whatever Bucci paid them. That could be
- 22 anywhere from \$10 to \$12, whatever it was. There's no set
- 23 pay, whatever you work.
- 24 Q. You had full benefits?
- 25 A. No benefits.

Whippo - Cross

- 1 Q. When you came to the Traficant farm and you went
2 back, did you submit a time slip to them?
- 3 A. No, I just filled my time card out that I fill out
4 every day.
- 5 Q. Okay. Did you submit for them the things that you
6 did?
- 7 A. No.
- 8 Q. Did you ever get cheated by the Buccis on any pay?
- 9 A. A number of times.
- 10 Q. Who did you complain to?
- 11 A. Tony Bucci. I just wouldn't come to work until he
12 paid me.
- 13 Q. And then would he pay you?
- 14 A. Yes.
- 15 Q. Now, you know of a company named Jet Asphalt?
- 16 A. Yes, I do.
- 17 Q. Where was Jet Asphalt located?
- 18 A. State Route 169 and Warren, almost on the corner of
19 169 and 422.
- 20 Q. You know who owned that?
- 21 A. I was under the impression -- I've never seen any
22 papers who owned it, but I had -- I was under the
23 impression the Buccis owned it.
- 24 Q. Okay. Did you know who owned the Traficant farm when
25 you were out there?

Whippo - Cross

- 1 A. No.
- 2 Q. Did you ever submit to me a bill for baling hay?
- 3 A. No.
- 4 Q. Did you ever ask me to reimburse you for pay?
- 5 A. No.
- 6 Q. When you came to bale hay, who asked you to come to
7 bale hay at the Bucci farm?
- 8 A. Dan.
- 9 Q. Did Dan Bucci have any livestock?
- 10 A. Yes, he did.
- 11 Q. What did he have?
- 12 A. Cows.
- 13 Q. How many?
- 14 A. I'm not sure.
- 15 Q. Was it a lot, a few?
- 16 A. I'd say 20 or more.
- 17 Q. Now, you testified that Dan Bucci was your employer.
18 Why did you say that?
- 19 A. He's the one that gave me most of my direction.
- 20 Q. Well, did Tony Bucci tell you to come out and do the
21 work on the farm?
- 22 A. No.
- 23 Q. Who told you to do it?
- 24 A. Dan.
- 25 Q. Oh. Did you ever have conversations with Dan

Whippo - Cross

1 relative to his friendship with me?

2 A. No.

3 Q. From having seen us together -- and was I there at
4 the farm?

5 A. Yes.

6 Q. Having seen us together, were we congenial and
7 friendly?

8 A. Yes.

9 Q. Now, you said that you knew about Prime Contractors?

10 A. Yes, I did.

11 Q. Who owned Prime Contractors?

12 A. Well, I believe it was in Tony's wife's name, is what
13 I heard. I'm not -- the Buccis ran it. I'm not sure who
14 was on the --

15 Q. Who owned Asphalt Specialist?

16 A. The Buccis ran it. I'm not sure who owned it.

17 Q. Who owned Oak Tree Paving?

18 A. Never heard of that one.

19 Q. Who owned Capital Ready Mix?

20 A. The Buccis owned it with Big G and Joe Sattarelle for
21 awhile.

22 Q. Who owned Sun Leasing?

23 A. Again, I don't know who owned it, but the Buccis ran
24 it.

25 Q. Who owned State Material?

Whippo - Cross

- 1 A. The Bucci brothers ran it.
- 2 Q. Who owned Black Rock?
- 3 A. The Bucci brothers.
- 4 Q. Who owned Jet Asphalt?
- 5 A. The Bucci brothers, to my knowledge.
- 6 Q. Do you, in fact, know, or did you submit what you
- 7 thought was a bill for the slag you delivered, or did you
- 8 just submit to them what slag you delivered?
- 9 A. I can't really recall on that case. Usually we would
- 10 get a ticket and have it waived, but I really don't think
- 11 we did.
- 12 Q. Was that at Dan Bucci's place?
- 13 A. That was --
- 14 Q. Where did you get the slag?
- 15 A. That was the -- yeah, at Bucci's place.
- 16 Q. That's where Dan worked, right?
- 17 A. Right.
- 18 Q. Would you describe, was there not an office there --
- 19 A. Yes.
- 20 Q. -- where all the scales and everything were, and Dan
- 21 Bucci worked?
- 22 A. Yes, there was.
- 23 Q. Was Dan Bucci not a silent sort of Dan Bucci partner,
- 24 would you say, of the three brothers, who did most of the
- 25 work?

Whippo - Cross

- 1 A. Dan.
- 2 Q. Dan did most of the work?
- 3 A. (Nodding.)
- 4 Q. And you considered Dan your boss?
- 5 A. Right. I considered all three my boss, but Dan gave
6 me most of my orders.
- 7 Q. Dan gave you orders?
- 8 Do you know if Dan and I did any other baling on each
9 other's farms? Did you have any conversation about that?
- 10 A. No, I don't.
- 11 Q. You know if Dan ever used my equipment? Did you ever
12 have any conversation about that?
- 13 A. No, I didn't.
- 14 Q. Are you familiar with baling hay?
- 15 A. Yes, I am.
- 16 Q. What do you know about it?
- 17 A. Well, I know that you need a tractor and a baler and
18 a nice clover field.
- 19 Q. Well, isn't it a fact that hay must be cured before
20 you put it in a barn?
- 21 A. It should be dry.
- 22 Q. Right. And usually when it is -- when is hay made?
- 23 A. It's usually made three times a year, twice if you're
24 not so lucky. It's made in just a little late spring,
25 middle summer, and at the end of the year.

Whippo - Cross

- 1 Q. Well, are you familiar with the different types of
2 hay fields?
- 3 A. I know clover hay, and there's a couple other kinds
4 of hay.
- 5 Q. Are you familiar with alfalfa?
- 6 A. Not really.
- 7 Q. Okay. Do you know if clover takes longer to cure
8 than grass hay?
- 9 A. No, I don't.
- 10 Q. But, do you know that if you, in fact, bale hay
11 before it's cured, it could be troublesome?
- 12 A. It could catch a barn on fire if you don't throw salt
13 between the layers.
- 14 Q. Even if you throw salt in the layers, if it's too wet
15 what might happen?
- 16 A. Catch your barn on fire.
- 17 Q. So you say it's a reasonable statement that people
18 who make hay are always making it when the proverbial sun
19 shines?
- 20 A. Right.
- 21 Q. And they are trying to get the hay done before it
22 rains?
- 23 A. Correct.
- 24 Q. Would you know if I was billed \$25 per hour for your
25 work?

Whippo - Cross

1 A. No, I wouldn't.

2 Q. What was the charge for the use of a truck? Did they
3 charge for the slag and the truck or just the slag? How
4 was that done?

5 A. I don't know. I'm not in that -- I wasn't involved
6 in that part of the business.

7 Q. And you saw no other Buccci employees out there when
8 you were out there, right?

9 A. No, I didn't, except for Dan. I brought some stone
10 out there a couple of times, and Dan was out showing where
11 to spread it. There was another driver one time, but I'm
12 not sure who it was.

13 Q. Dan was there, right?

14 A. Dan was there, yes.

15 Q. And he lives directly across from the farm?

16 A. Right.

17 Q. Did you know his wife?

18 A. To talk to her, but not personally.

19 Q. You know her name?

20 A. I can't even remember her name.

21 Q. Did there come a time you saw some nonBuccci workers
22 at the farm doing construction work?

23 A. I went by there a couple times and seen people
24 working there.

25 Q. Did you ever identify to the FBI what kind of workers

Whippo - Cross

1 they were?

2 A. Yes, I did.

3 Q. What kind of workers were they?

4 A. They looked like Amish people. They wore that sort
5 of clothing anyway.

6 Q. Did you have any information about Curtis White,
7 other than Oak Tree?

8 A. No.

9 Q. Did you ever tell the FBI that Curtis White may be
10 involved with some fraud with the --

11 MR. SMITH: Objection.

12 Q. -- FBI?

13 THE COURT: Sustained. Don't answer that.

14 Q. Did the Government ever ask you if Bucci used White's
15 name on ownership documents to avoid taxes?

16 A. No.

17 Q. Did Curtis White ever tell you that?

18 MR. SMITH: Objection, hearsay.

19 THE COURT: Sustained.

20 MR. TRAFICANT: Well, since I don't have
21 three copies of this, I want the right to recall this
22 witness later today.

23 THE COURT: Three copies of what, sir?

24 MR. TRAFICANT: For your purposes, without
25 the jury hearing it, would you please --

Whippo - Cross

1 MR. SMITH: I have it.

2 MR. TRAFICANT: -- look at it?

3 THE COURT: Is this something that needs an
4 exhibit number? Would that help?

5 MR. TRAFICANT: I'm not so sure at this
6 point. I want you to read the last paragraph.

7 THE COURT: So you would have to give it a
8 number if you are going to use it. If you're not going to
9 use it, you don't. You did have one paper, the Grand Jury
10 testimony, that you need to give a number to. Okay.

11 MR. TRAFICANT: Yes. Did we give a number to
12 that Grand Jury? Wasn't that G-200 or something?

13 THE COURT: No, that was an earlier one.

14 MR. TRAFICANT: Gee. Let's make this MW 1.

15 BY MR. TRAFICANT:

16 Q. Do you remember meeting with the FBI, Merrill?

17 A. Yes.

18 Q. To the best of your knowledge, did they come out to
19 see you?

20 A. They came to my house one time.

21 Q. Would you recall the date?

22 A. No, sir, I wouldn't.

23 Q. Did they ever track you down on your cell phone?

24 A. I gave them my number where they could get ahold of
25 me at.

Whippo - Redirect/Smith

1 Q. Okay. Do you remember who interviewed you from the
2 FBI?

3 A. No, I don't remember the name.

4 Q. Was there more than one?

5 A. It was two guys, I believe.

6 Q. Okay. Do you know if they recorded your conversation?

7 A. No, I don't.

8 Q. Did you know or were you ever given a list of Bucci's
9 costs for -- cost of his slag? Did they have it posted
10 anywhere?

11 A. No.

12 Q. Did they advertise?

13 A. No.

14 Q. Did they have it on -- did you ever see it on any
15 invoices? Did you leave invoices with people when you
16 delivered slag?

17 A. Just tonnage, nothing to do with how much.

18 MR. TRAFICANT: No further questions at this
19 time.

20 THE COURT: Thank you.

21 MR. SMITH: Just a few, your Honor, if I may.

22 THE COURT: You have to stay.

23 REDIRECT EXAMINATION OF MERRILL WHIPPO

24 BY MR. SMITH:

25 Q. Sir, in your cross-examination you were asked about

Whippo - Redirect

1 Capital Ready Mix. Do you remember that, being asked about
2 Capital Ready Mix by the Congressman?

3 A. Yes.

4 Q. And you mentioned the names Big G and Sattarelle; you
5 remember?

6 A. Yes.

7 Q. Okay. And who was Big G?

8 A. Big G was a guy who -- he was a construction guy, and
9 he owned a construction company.

10 Q. Do you remember his name anymore?

11 A. No, I don't.

12 Q. All right. Now, you were asked a question about who
13 did most of the work, and you mentioned Dan Bucci. Do you
14 recall that question and answer on cross-examination?

15 A. Yes.

16 Q. And when you answered that question, where was Dan
17 Bucci doing his work?

18 A. At the -- at the batch plant, loading and unloading
19 trucks.

20 Q. Do you know what Anthony Bucci's and Robert Bucci's
21 duties were?

22 A. Not -- sometimes Tony would work out on the job, but
23 Bob never worked out on a job, you hardly ever seen.

24 Q. Do you know what his duties were?

25 A. No, I don't.

Whippo - Redirect

1 Q. Now, during your cross-examination, you were asked if
2 you were told in the Grand Jury not to talk about the case.
3 Do you remember being asked that question?

4 A. Yes.

5 Q. All right. The Congressman showed you a copy of your
6 Grand Jury transcript, correct?

7 A. Right.

8 MR. SMITH: Your Honor, I don't know if this
9 has an exhibit number.

10 THE COURT: It doesn't. That's what I've
11 been asking for. Congressman, would you give us an exhibit
12 number for the Grand Jury.

13 MR. TRAFICANT: Make it GW-2.

14 MR. SMITH: Okay. We'll call that GW-2, sir.

15 Q. That Grand Jury transcript consist of 12 pages; is
16 that right?

17 A. Yeah, I believe so. I'm not sure of the pages.

18 Q. Do you still have it in front of you?

19 A. No.

20 Q. I'm sorry.

21 MR. SMITH: May I approach, your Honor?

22 THE COURT: Yes

23 BY MR. SMITH:

24 Q. The last page of that document is Page 12; is that
25 correct?

Whippo - Recross

1 A. Yes.

2 Q. All right. Now, can you point out at what page, if
3 you look through there, what page anyone told you in the
4 Grand Jury that you couldn't talk about the case?

5 A. I didn't see anywhere on here where it said that.

6 Q. Finally, you worked for the Buccis in 1992 until
7 1996; is that correct?

8 A. Say probably sometime in '91.

9 Q. '91 to '96; is that correct?

10 A. Yes.

11 MR. SMITH: No further questions, your Honor.

12 MR. TRAFICANT: I ask that that Grand Jury
13 transcript be made a joint exhibit.

14 MR. SMITH: It's not being offered by us,
15 your Honor. I object.

16 RE-CROSS-EXAMINATION OF MERRILL WHIPPO

17 BY MR. TRAFICANT:

18 Q. Did you work with a fellow worker or know an employee
19 by the name of Tim Walsh?

20 A. Yes.

21 Q. Did you know of an employee that worked for the
22 company by the name of Paul Wilson?

23 MR. SMITH: Objection, scope.

24 THE COURT: Okay. Let's take a side bar on
25 this. Come over to the side.

Whippo - Recross

1 MR. TRAFICANT: If you want to.

2 THE COURT: Well, no, it's only -- I mean,
3 you look like you didn't know what he when he said "scope."

4 MR. TRAFICANT: No. I'm moving towards
5 making a defensive point, that's all.

6 THE COURT: Well, that's fine.

7 MR. TRAFICANT: And I'm asking him if he knew
8 fellow employees: "Did either Mr. Walsh or Mr. Wilson work
9 at the farm with you?"

10 MR. SMITH: Objection. Scope.

11 THE COURT: You can answer.

12 THE WITNESS: No.

13 Q. Did you ever have conversation with them at any time?

14 A. No, I didn't.

15 MR. TRAFICANT: No further questions.

16 THE WITNESS: I mean, I talked to them --

17 THE COURT: No.

18 THE WITNESS: I didn't talk to them about
19 this.

20 Q. You didn't talk to them about what?

21 A. About your trial here, about working there. I
22 just -- I talk to them every day, both of them. They work
23 there.

24 Q. Did they ever mention they went to the Grand Jury to
25 you?

Whippo - Recross

1 MR. SMITH: Objection.

2 A. No, they didn't.

3 MR. SMITH: Hearsay.

4 MR. TRAFICANT: You've been very favorable to
5 hearsay with them. Now, I asked a simple question, he said
6 no.

7 THE COURT: All these comments you're making
8 about court rulings and everything else are completely
9 improper, and you understand that, I think. And so let's
10 get on with the questioning of the witness. Do you have
11 any further questions of this witness?

12 MR. TRAFICANT: I want a specific answer to
13 this.

14 Q. Did anyone you work with at the Bucci company ever
15 converse with you or talk with you about Grand Jury
16 testimony? Yes or no?

17 A. No.

18 MR. TRAFICANT: No further questions.

19 THE COURT: Thank you.

20 MR. SMITH: No questions.

21 THE COURT: Thank you. It's going to take me
22 a minute before I let you down because I can't remember
23 whether there was -- there was originally an objection here
24 I was talked over on, but let me just look.

25 MR. TRAFICANT: Your Honor --

Whippo - Recross

1 THE COURT: Excuse me. You made a statement
2 about offering this as a joint exhibit. The Government
3 objected because they are not offering this at this point.
4 As you know, we do that after the jury has recessed. This
5 is not something that the jury has to be worried about at
6 this point, about whether we're going to offer an exhibit
7 or not. Okay.

8 MR. TRAFICANT: I have one last question of
9 the witness, if I can.

10 MR. SMITH: Objection.

11 THE COURT: The objection is because there
12 was no further questioning by them, and as you know, under
13 the rules, you can't then come back around after we've
14 finished.

15 MR. TRAFICANT: I just asked. That's fine.

16 THE COURT: Okay. Thank you. Sir, you're
17 excused.

18 THE WITNESS: Thank you.

19 MR. SMITH: Government calls James Ragazzine,
20 your Honor.

21 THE COURT: Thank you.

22 JAMES R. RAGAZZINE,
23 of lawful age, a witness called by the Government,
24 being first duly sworn, was examined
25 and testified as follows:

Ragazzine - Direct/Smith

1 DIRECT EXAMINATION OF JAMES R. RAGAZZINE

2 BY MR. SMITH:

3 Q. Sir, if you will please state your full name, and
4 spell your last name for the Court Reporter.

5 A. James R. Ragazzine, R-A-G-A-Z-Z-I-N-E.

6 Q. In what city do you reside, sir?

7 A. Girard.

8 Q. And what county is that?

9 A. Trumbull County.

10 Q. What do you do for a living?

11 A. I drive a truck.

12 Q. And you know a person named Anthony Bucci?

13 A. I worked for Mr. Bucci, yes.

14 Q. And when did you work for Mr. Bucci, approximately?

15 A. Mid 90's.

16 Q. What was the nature of Mr. Bucci's business for which
17 you worked?

18 A. It was a blacktop company.

19 Q. And what did you do for the Buccis?

20 A. I drove a truck.

21 Q. What did you drive in the truck usually?

22 A. Sand, slag, asphalt.

23 Q. What size is this truck?

24 A. Tractor-trailer.

25 Q. During the time that you worked for Anthony Bucci,

Ragazine - Direct/Smith

- 1 did you ever go out on company time to work at a farm
2 located on Route 165 in Greenford, Ohio?
- 3 A. Did I work there?
- 4 Q. Yes.
- 5 A. I delivered materials there, yes.
- 6 Q. And who directed you to do that?
- 7 A. Tony Bucci.
- 8 Q. I can't hear you, sir.
- 9 A. Tony Bucci.
- 10 Q. And how many times did you go out to that farm?
- 11 A. Probably four to five, five times.
- 12 Q. What did you do at the farm, what job did you
13 perform?
- 14 A. I delivered sawdust.
- 15 Q. And what did you use to deliver the sawdust?
- 16 A. One of the tractor-trailers that I drove for Tony
17 Bucci.
- 18 Q. Was there a particular type of tractor-trailer?
- 19 A. It was a Flow Boy, a rear dump. I drove it, would
20 drive the sawdust into the horse arena and dump it there.
- 21 Q. Would you describe the difference between a Flow Boy
22 and a normal tractor-trailer rig, if there is any
23 difference?
- 24 A. Well, the one I was driving, you didn't have to raise
25 it up into the air, and it was more convenient to dump

Ragazine - Direct/Smith

1 inside of a building because the stuff come out the back
2 end on the conveyer belt.

3 Q. Was it any part of the Buccis' normal business to be
4 delivering sawdust?

5 A. No, we didn't do that on a normal basis.

6 Q. Did you need to do anything to prepare this Flow Boy
7 truck to deliver the sawdust?

8 A. Sometimes they'd haul slag first, haul slag first to
9 clean outside the bed if there was blacktop so it didn't
10 get in with the sawdust.

11 Q. From where did you get the sawdust that you delivered
12 to the farm?

13 A. There was like three times I got it from Newton
14 Falls, Foust Hardwoods, and I --

15 Q. Foust?

16 A. Foust.

17 Q. Can you spell --

18 A. I don't know the exact spelling.

19 Q. Sorry. Go ahead?

20 A. And at least twice from Beloit, which is a sawmill
21 down there.

22 Q. Is Beloit spelled B-E-L-O-I-T?

23 A. I believe it's B-O something.

24 Q. Okay. How far of a round trip is it to get to the
25 sawmills and back?

Ragazine - Direct/Smith

1 A. From where our plant is to -- probably an hour,
2 round trip, one way.

3 Q. Do you know how those sawmills were paid for the
4 sawdust that you got from them?

5 A. What I recall was bringing a check to them.

6 Q. A check to the mill?

7 A. Brought a check to the mill, yes.

8 Q. Whose check was it?

9 A. It was from the office down at Prime, Prime
10 Contracting, or State Material, whatever.

11 Q. And who was the proprietor of Prime Contracting?

12 A. It was the Buccis, the Bucci brothers.

13 Q. Did you ever give any paperwork or invoice to anyone
14 at the farm when you delivered the sawdust?

15 A. No, I didn't.

16 Q. Did you receive payment from anybody at the farm for
17 the sawdust that you delivered?

18 A. No, I didn't.

19 Q. Did you ever observe any other Bucci employees
20 delivering sawdust to the farm?

21 A. Not while I was there, no.

22 MR. TRAFICANT: Can you please repeat the
23 question?

24 (Thereupon, the record was read back by the Court
25 Reporter.)

Ragazzine - Cross

1 Q. Did you ever observe any other Bucci employees
2 working at the farm when you were there?

3 A. No, I didn't.

4 Q. How were you paid for the time that you spent
5 delivering sawdust to the farm?

6 A. My hourly rate with the company that I was working.

7 Q. And that company was what?

8 A. Bucci brothers.

9 Q. Did the Congressman pay you any money --

10 A. No.

11 Q. -- for the work that you did delivering the sawdust
12 to the farm?

13 A. No.

14 Q. Did you ever see Congressman Traficant's father at
15 the farm?

16 A. Never.

17 Q. Did you ever receive any payment from him for the
18 sawdust that was delivered to the farm?

19 A. No.

20 MR. SMITH: I have no further questions, your
21 Honor.

22 THE COURT: Thank you. You may inquire.

23 CROSS-EXAMINATION OF JAMES R. RAGAZZINE

24 BY MR. TRAFICANT:

25 Q. How are you doing, Jim?

Ragazine - Cross

- 1 A. Good.
- 2 Q. Did you know my father?
- 3 A. No, sir.
- 4 Q. Could you pick him out if he walked in here?
- 5 A. No, sir.
- 6 Q. Then how would you know my father was out at the
7 farm?
- 8 A. Because I seen two people at the farm, and neither of
9 them would have been old enough to be a father, or your
10 father.
- 11 Q. You didn't know my father, right?
- 12 A. No, sir.
- 13 Q. Did you, in fact, know my father owned the farm?
- 14 A. No, sir.
- 15 Q. Now, are you familiar with sawdust?
- 16 A. Yes.
- 17 Q. Was sawdust ever used by the Buccis to enhance their
18 asphalt?
- 19 A. Not that I know of.
- 20 Q. You have no knowledge of that?
- 21 A. No, sir.
- 22 Q. Okay. Now, where did you put the sawdust?
- 23 A. Inside the horse arena.
- 24 Q. And what was the height of the ceiling, to the best
25 of your knowledge?

Ragazine - Cross

- 1 A. I couldn't answer that.
- 2 Q. Well, let me ask you this: If you brought in a dump
3 truck, would you be able to lift the dump truck up?
- 4 A. I think you would be in the rafters with the dump
5 truck.
- 6 Q. Therefore, you drove what in?
- 7 A. A Flow Boy trailer.
- 8 Q. And describe to the jury how the Flow Boy works.
- 9 A. It has a conveyor belt, and it just comes out the
10 back of the trailer itself, doesn't raise into the air.
- 11 Q. Did you ever pick up sawdust in the dump truck?
- 12 A. Me personally? No.
- 13 Q. Well, if you said you're familiar with sawdust, you
14 dumped it inside a building, right?
- 15 A. Yes.
- 16 Q. Was it protected from rain?
- 17 A. Yes.
- 18 Q. And weather? Now, if the sawdust would have been
19 dumped outside and it would have gotten rained on, would
20 that have been good or bad, if you were using it for
21 bedding of horses?
- 22 A. It would have been wet sawdust.
- 23 Q. Could it in fact even rot?
- 24 A. I don't know that.
- 25 Q. Do you know if Dan Bucci ever used any sawdust?

Ragazine - Cross

- 1 A. No, I don't know that.
- 2 Q. Now, you said Tony Bucci was your boss, right?
- 3 A. One of them, yes.
- 4 Q. Who were your other bosses?
- 5 A. Robert Bucci, Dan Bucci.
- 6 Q. You said you never left an invoice at the farm?
- 7 A. Not that I recall, no.
- 8 Q. Were you instructed to leave an invoice at the farm?
- 9 A. Not that I -- no.
- 10 Q. Who told you not to?
- 11 A. I don't understand the question.
- 12 Q. If you never left an invoice -- let me ask you this:
- 13 When you normally went on a job and provided some material,
- 14 did you leave some documentation or an invoice with the
- 15 people to show what you delivered to them?
- 16 A. I never delivered material to people's houses other
- 17 than the sawdust.
- 18 Q. Well, when you visited -- when you get into a
- 19 business or job site, did you leave an invoice?
- 20 A. We had invoices for what we haul, yes, from the scale
- 21 house at the plant, yes.
- 22 Q. And did you leave them with the people who bought the
- 23 product from you?
- 24 A. Go with the inspector, whoever was on the job.
- 25 Q. I see. Were you union or nonunion?

Ragazine - Cross

- 1 A. I was nonunion at the time.
- 2 Q. Uh-huh. And you say it was the mid 90's?
- 3 A. Early to mid 90's, yes.
- 4 Q. What's the last -- when did you quit Prime
5 Contractors or whoever, whatever company, what company you
6 were employed by?
- 7 A. I believe my checks were coming from Prime
8 Contracting.
- 9 Q. Okay. And when did you quit?
- 10 A. I don't recall that. Late -- somewhere in the mid
11 90's.
- 12 Q. Would that be '95?
- 13 A. Probably a little later.
- 14 Q. '96?
- 15 A. I would say '96 or '97, around there.
- 16 Q. Okay. Now, you were nonunion?
- 17 A. Yes.
- 18 Q. But, you drove a Flow Boy?
- 19 A. Yes.
- 20 Q. And a Flow Boy must be, in fact, registered with the
21 State Department of Transportation; is that a fact?
- 22 A. Absolutely.
- 23 Q. All right. If you're an employee of Prime
24 Contractors, were there not employees of Prime Contractors
25 that were union employees?

Ragazine - Cross

- 1 A. Not that I was aware of, no.
- 2 Q. Do you know if there was two separate divisions of
3 employees at the Bucci company?
- 4 A. Not that I know of.
- 5 Q. Do you know if there were any union employees that
6 worked for the Buccis?
- 7 A. I believe labors on the road crews, yes.
- 8 Q. So you were nonunion?
- 9 A. Yes, sir.
- 10 Q. But, you worked at Prime Contractors, right?
- 11 A. That's where my checks were coming from.
- 12 Q. Do you know if the -- did the Buccis have a plant in
13 Pennsylvania?
- 14 A. There was -- there was a closed-down asphalt plant
15 that I --
- 16 Q. At one time they had a plant in Pennsylvania?
- 17 A. Yes.
- 18 Q. And do you know if the batch plant in Girard was
19 owned by the Buccis?
- 20 A. To my knowledge, yeah.
- 21 Q. Who ran that plant where the slag and everything was
22 housed?
- 23 A. The one in Girard?
- 24 Q. Yeah.
- 25 A. Who ran the plant?

Ragazine - Cross

- 1 Q. Yes.
- 2 A. As far as making the --
- 3 Q. The boss?
- 4 A. Dan was there most of the time.
- 5 Q. Dan? Do you know who the president of the company
- 6 was, by any chance?
- 7 A. No, I don't.
- 8 Q. Now, as a nonunion worker, how much were you paid?
- 9 A. I believe ten bucks an hour.
- 10 Q. You were making ten?
- 11 Do you know if all the nonunion workers made the same
- 12 pay or was there a different pay scale for nonunion
- 13 workers?
- 14 A. Nonunion, the drivers, there might have been a dollar
- 15 scale difference, two dollars, between us for seniority
- 16 purposes or whatever.
- 17 Q. Are you familiar with Merrill Whippo?
- 18 A. Yes.
- 19 Q. Did he haul heavy equipment?
- 20 A. He was -- yeah, he was the equipment mover for us.
- 21 Q. Um-hum. Do you know he was union or nonunion?
- 22 A. I couldn't answer that.
- 23 Q. Okay. Do you remember being interviewed by the FBI?
- 24 A. Yes.
- 25 Q. Did the FBI ever question you relative to State

Ragazzine - Cross

- 1 Material?
- 2 A. I don't recall the reference.
- 3 Q. Do you know who owned State Material?
- 4 A. Well, no.
- 5 Q. Did you ever receive paychecks with the stamp
6 signature other than the Buccis?
- 7 A. Payroll checks with the signature, you mean?
- 8 Q. Yes.
- 9 A. I believe there was a Frank, I don't recall the last
10 name, begins with an A, there was on some of my paychecks.
- 11 Q. If you were to hear the name do you think you could
12 recall it?
- 13 A. Probably so, yes.
- 14 Q. Would Frank Aquilla ring a bell?
- 15 A. That sounds -- sounds like it.
- 16 Q. Did the FBI ask you relative to a relationship
17 between Mr. Aquilla and the Bucci brothers?
- 18 A. No, sir.
- 19 Q. Now, when you got these paychecks with Aquilla's name
20 on it, did it raise any concerns?
- 21 A. To me?
- 22 Q. Yeah.
- 23 A. As long as it cashed, I didn't care whose name was on
24 it.
- 25 Q. Okay. Did you ever state to the Government that --

Ragazine - Cross

1 the best of your knowledge -- that you thought Frank
2 Aquilla was a silent partner because of the signed
3 paychecks?

4 A. Did I say that?

5 Q. Do you recall saying that?

6 A. No.

7 Q. Were you afraid of the Buccis?

8 A. Afraid how? As how?

9 Q. For example, were you concerned if the Buccis found
10 out that you were talking with the FBI that it would be
11 trouble for you?

12 A. I still don't understand the question.

13 Q. Did you ever state to the FBI that you wanted your
14 business kept confidential because you were concerned about
15 retaliation from the Buccis? Did you ever say that to
16 them?

17 A. Well, working -- yeah, I probably mentioned that in,
18 you know, even to be up here in Cleveland right now.

19 Q. Did you ever use the term "fear of the Buccis," you
20 and other employees?

21 A. I never feared them.

22 Q. Did you work with a Tim Walsh?

23 A. Yes, I did.

24 Q. Did you work with a fellow by the name of Paul
25 Wilson?

Ragazine - Cross

- 1 A. Yes, I did.
- 2 Q. Could you describe their status with the company,
3 what their jobs were?
- 4 A. You said Tim Walsh first?
- 5 Q. Yes.
- 6 A. He was a driver.
- 7 Q. Did he drive a Flow Boy?
- 8 A. Yes, and he drove up, you know, other trucks. We all
9 drove out there.
- 10 Q. Do you know if he was union or nonunion?
- 11 A. I couldn't answer that.
- 12 Q. What division did he work with?
- 13 A. The paving, paving end.
- 14 Q. And who handled the paving end?
- 15 A. On what, on what scale? On the job site?
- 16 Q. Job sites.
- 17 A. Usually Paul Wilson would be out on the job sites
18 with us.
- 19 Q. Now, did you ever work on any Government job, any
20 state highway project?
- 21 A. Yes, sir.
- 22 Q. What highway projects did you work on?
- 23 A. Route 11, Route 45, Route 62, Mosquito Lake Park is
24 the state, state park.
- 25 Q. Was that job shut down at some point?

Ragazine - Cross

- 1 A. I couldn't answer that.
- 2 Q. Okay. Now, when you worked on the state jobs, how
3 much did you get paid?
- 4 A. We got paid our regular scale.
- 5 Q. What was that?
- 6 A. I was making \$10 at the time.
- 7 Q. When you worked State Route 11 under a state
8 contract, you got paid \$10 an hour?
- 9 A. Yes.
- 10 Q. And you were nonunion?
- 11 A. Yes.
- 12 Q. Did you know if there were union members working on
13 State Route 11?
- 14 A. Union drivers? Is that what you're asking?
- 15 Q. For the Buccis, Bucci employees.
- 16 A. There might have been some laborers that were union.
- 17 Q. Um-hum.
- 18 A. I don't know for sure.
- 19 Q. Now, do you know if Paul Wilson worked on state
20 contracts?
- 21 A. Yes.
- 22 Q. Do you know if Tim Walsh worked on state contracts?
- 23 A. Yes, because --
- 24 Q. Do you know a man named Curtis White?
- 25 A. Yes, I did.

Ragazine - Cross

1 Q. What did you know about Mr. White? Would you
2 describe him to the jury?

3 A. He worked on the road crews, running the paving
4 equipment.

5 Q. Was he a black man or white man?

6 A. He was a black man.

7 Q. Did you know of a company called Oak Tree?

8 A. No, sir.

9 Q. Do you know if Mr. White had any titles?

10 A. Not that I know of.

11 Q. Do you know if Mr. Curtis White was at the Traficant
12 farm?

13 A. I never seen him there.

14 Q. Now, we talked about Oak Tree. You never heard of
15 Oak Tree, right?

16 A. No, I haven't.

17 Q. You ever hear of Sun Leasing?

18 A. Sounds familiar from one of the truck registrations,
19 or something like that.

20 Q. Did you ever hear of Jet Asphalt?

21 A. Yes.

22 Q. Who owned Jet Asphalt?

23 A. To my knowledge, Bucci brothers.

24 Q. When Mr. Aquilla stamped a check or paid a check for
25 you, was it in regard to what duty you performed? Do you

Ragazine - Cross

- 1 remember?
- 2 A. I don't -- I don't understand the question.
- 3 Q. Were any of the sawdust checks stamped by
- 4 Mr. Aquilla's signature?
- 5 A. No.
- 6 Q. Was then, to the best of your knowledge, any checks
- 7 stamped by Mr. Aquilla?
- 8 A. Other than my payroll?
- 9 Q. Yeah.
- 10 A. That's all that I'm aware of.
- 11 Q. So he in fact stamped payroll, and you were able to
- 12 negotiate and cash a check with the name of Frank Aquilla?
- 13 A. Yes.
- 14 Q. Did the bank ever deny you the opportunity to
- 15 negotiate that check? Did they cash your check?
- 16 A. Not for the signature; for nonsufficient funds a
- 17 couple times, yes.
- 18 Q. For Buccis or Aquilla?
- 19 A. That's where my paychecks were coming from.
- 20 Q. I'm talking now about Mr. Aquilla. Was he an owner
- 21 of any of the companies that Mr. Bucci owned?
- 22 A. I have no knowledge of that.
- 23 Q. Okay. When he stamped one of your checks and you took
- 24 it to the bank, did they accept the check?
- 25 A. Yes, they did.

Walsh - Direct/Smith

1 Q. Did you ever hear of Jet Asphalt?

2 A. Yes.

3 Q. Did you ever hear of Capital Ready Mix?

4 A. Yes.

5 Q. Did you ever hear of Black Rock?

6 A. Yes.

7 Q. Did you know if Big G had any other construction
8 companies or business establishments?

9 A. I don't know about Big G's business.

10 Q. Did the Government ever ask you to keep your Grand
11 Jury to yourself and keep silent about it?

12 A. I don't recall.

13 Q. Okay.

14 MR. TRAFICANT: No further questions.

15 THE COURT: Thank you.

16 MR. SMITH: No questions.

17 THE COURT: Sir, you can step down. Thank
18 you very much.

19 MR. SMITH: Call Timothy Walsh, your Honor.

20 TIMOTHY WALSH,

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

22 being first duly sworn, was examined

23 and testified as follows:

24 DIRECT EXAMINATION OF TIMOTHY WALSH

25 BY MR. SMITH:

Walsh - Direct

1 Q. Sir, would you please state your full name and spell
2 your last name for the court reporter?

3 A. Timothy Don Walsh, last name W-A-L-S-H.

4 Q. Mr. Walsh, in what city do you reside?

5 A. Youngstown, Ohio.

6 Q. What do you do for a living now?

7 A. Truck driver.

8 Q. Who's your present employer?

9 A. Gold Star.

10 MR. TRAFICANT: Pardon? I didn't get that
11 answer.

12 THE WITNESS: You mean with the Buccis?

13 THE COURT: No.

14 Q. What kind of business does Gold Star engage?

15 A. Mostly aluminum. We haul a lot of aluminum.

16 Q. Between the years 1989 and 1998, who did you work
17 for?

18 A. Tony Bucci.

19 Q. What was the nature of Tony Bucci's business?

20 A. Blacktop, hauling materials.

21 Q. What duties did you perform for the Buccis when you
22 worked there?

23 A. We blacktop roads, hauled material in.

24 Q. What kind -- were you a driver?

25 A. Yes, I was.

Walsh - Direct

- 1 Q. Okay. And what kind of vehicle did you drive?
- 2 A. I drove dump, and then I started to drive a Flow Boy.
- 3 Q. Okay. How big is a Flow Boy?
- 4 A. I'd say probably about a 40-foot trailer.
- 5 Q. During the time that you worked for the Buccis, did
6 you ever go out on company time to work on a farm located
7 at Route 165 in Greenford, Ohio?
- 8 A. Yes, I did.
- 9 Q. And approximately what year did that occur?
- 10 A. I want to say in the 90's. I'm not sure what year.
- 11 Q. All right. Are we talking early, mid, or late 90's?
- 12 A. I want to say early 90's.
- 13 Q. And who sent you out to the farm?
- 14 A. Tony Bucci.
- 15 Q. Did he indicate what you were to do?
- 16 A. He told me to go out there, and I was supposed to
17 haul some stuff out of there that he didn't want to clean
18 up and told me to do a good job.
- 19 Q. You referred to "he." Who's the "he" that you just
20 referred to?
- 21 A. Tony Bucci.
- 22 Q. All right. And you said "something he wanted cleaned
23 up," or something to that effect, who's that "he"?
- 24 A. Jim Traficant.
- 25 Q. How many days did you go out to work at the farm?

Walsh - Direct

- 1 A. I'd say about three or four times.
- 2 Q. And what duties did you perform when you went out to
3 the farm?
- 4 A. We loaded the dump truck up with a lot of wood,
5 weeds, whatever, that he didn't want, and tree stumps.
- 6 Q. Who's the "he" that didn't want them?
- 7 A. Jim Traficant.
- 8 Q. Who actually gave you the directions as to what you
9 were to clean up when you were out at the farm?
- 10 A. Jim Traficant.
- 11 Q. Did you ever use a Flow Boy at any point out at the
12 farm for any purpose?
- 13 A. Yes, I hauled some sawdust, I guess you could call
14 it.
- 15 Q. How many times did you haul sawdust out to the farm?
- 16 A. I'd say I made about three or four trips of that out
17 there.
- 18 Q. All right. Do you know where you got the sawdust
19 from that you delivered to the farm?
- 20 A. I can't remember the name of the place. I believe it
21 was up off the Leetonia exit in Columbiana.
- 22 Q. Leetonia exit from what road?
- 23 A. Route 11.
- 24 Q. Did you give a bill or invoice to anybody at the farm
25 for the sawdust you brought out?

Walsh - Direct

- 1 A. No.
- 2 Q. What did you do with this sawdust when you got it to
3 the farm?
- 4 A. He had us pull it in a barn, big barn, and we let it
5 out in there.
- 6 Q. Now, this clean-up work that you did, how extensive
7 was that?
- 8 A. How much -- what was that?
- 9 Q. The clean-up of stumps and weeds, I think you
10 referred to, did you refer to those kinds of things that
11 you were removing from the farm?
- 12 A. Yes.
- 13 Q. How much of that stuff did you take away?
- 14 A. We loaded the dump up a couple times.
- 15 Q. Now, how were you paid for the work that you did out
16 at the farm?
- 17 A. By Tony Bucci.
- 18 Q. Did Congressman Traficant pay you any money for the
19 work you did at the farm on any occasion?
- 20 A. No.
- 21 Q. Did Congressman Traficant's father pay you for any
22 work that you did out at the farm?
- 23 A. No.
- 24 Q. Did you ever see Congressman Traficant's father out
25 at the farm?

Walsh - Cross

1 A. Did I what?

2 Q. Did you ever see Congressman Traficant's father out
3 at the farm?

4 A. No.

5 MR. SMITH: May I have a moment, your Honor?

6 THE COURT: Yes.

7 MR. SMITH: No further questions, your Honor.

8 THE COURT: Thank you. You can inquire

9 CROSS-EXAMINATION OF TIMOTHY WALSH

10 BY MR. TRAFICANT:

11 Q. How are you doing, Tim?

12 A. Pretty good, Jim.

13 Q. Have you known of me for a long time?

14 A. Well, I'll seen you on television, but I didn't know
15 you until I went to the farm.

16 Q. How tall was my father?

17 A. I never seen your father.

18 Q. If my father walked in this room would you know if he
19 was my father or not?

20 A. No, I never seen him.

21 Q. Did you ever see a picture of my father?

22 A. No.

23 Q. Do you know who owned the farm?

24 A. I assumed you did.

25 Q. Now, did you work for Tony Bucci or one of the

Walsh - Cross

- 1 companies that Tony Bucci was a principal in?
- 2 A. I worked with Tony Bucci.
- 3 Q. You were his employee?
- 4 A. Right.
- 5 Q. You were not an employee of Dan Bucci or Robert
- 6 Bucci?
- 7 A. Well, all three of them.
- 8 Q. So, what company paid you?
- 9 A. I think it was Black Rock, I believe, it was under
- 10 them.
- 11 Q. Did they have a lot of companies?
- 12 A. The only ones I knew of was Prime Contracting and
- 13 Black Rock.
- 14 Q. Did you ever hear of Jet Asphalt?
- 15 A. Yeah.
- 16 Q. Oak Tree?
- 17 A. No, I don't know Oak Tree.
- 18 Q. Do you know they had a plant in Pennsylvania?
- 19 A. Yeah, I knew they had one over there, but they sold
- 20 that.
- 21 Q. Okay. Were you union or nonunion?
- 22 A. We was nonunion.
- 23 Q. Who signed your checks?
- 24 A. The drivers are nonunion.
- 25 Q. Okay. Now, did you have occasion to work on road

Walsh - Cross

- 1 projects?
- 2 A. Yeah, mostly blacktop, grinding the roads up.
- 3 Q. What road projects do you remember, any state
- 4 projects?
- 5 A. Yeah, like we did Route 11, Route 80.
- 6 Q. Were those major thoroughfares in that area?
- 7 A. Yeah.
- 8 Q. Did the Buccis have a contract with the state to do
- 9 that work?
- 10 A. Yes, that was the state route.
- 11 Q. How much were you paid per hour, Tim?
- 12 A. I was making \$10 an hour.
- 13 Q. Do you know Curtis White?
- 14 A. Yes, I do.
- 15 Q. Did you ever see him out at the farm?
- 16 A. No, I haven't.
- 17 Q. Do you know if he had any title with the company?
- 18 A. No, I don't.
- 19 Q. What was he?
- 20 A. He more or less ran blacktop, shovel blacktop.
- 21 Q. Did he work state projects, as well?
- 22 A. Yes.
- 23 Q. Was he union or nonunion?
- 24 A. He was union.
- 25 Q. Okay. Was he a white man, black man?

Walsh - Cross

1 A. He was black.

2 Q. Black. Did you ever hear of Oak Tree Paving?

3 A. No.

4 Q. Now, when you met with the Grand Jury, did they go
5 over some general rules with you, like, you know, it's a
6 secret proceedings? Did they tell you that?

7 A. No.

8 Q. Did they ever tell you that you're not bound by that
9 though, and you can go and disclose to the public, if you
10 wish, whatever you want to say?

11 A. No.

12 MR. TRAFICANT: Page 3 and 4 from the
13 beginning, look at Page 3 and 4, I'll ask the questions.

14 THE COURT: Okay. Tell us a number for this.

15 MR. TRAFICANT: I don't know, let's make it
16 TW 5.

17 THE COURT: Fine, TW 5.

18 BY MR. TRAFICANT:

19 Q. Do you remember testifying before the Grand Jury?

20 A. Yes.

21 Q. Do you know who, in fact, asked you the questions?

22 MR. TRAFICANT: Could the prosecutors look
23 towards the witness, please?

24 MR. SMITH: Certainly.

25 A. I think it's him.

Walsh - Cross

1 Q. Would you point to the person -- do you know his
2 name?

3 A. No. No, I don't.

4 MR. SMITH: I'll stipulate it was me, your
5 Honor.

6 THE COURT: Mr. Smith.

7 Q. Now, I want you to read from Page 3, Line 25, through
8 Page 4, Line 12. Will you do that? Will you read it very
9 slowly for me?

10 A. You want me to start at --

11 Q. Right at the bottom of Page 3, the last line.

12 A. Oh. "Under Rule 6(e)" --

13 Q. Will you please slow down and read loud?

14 A. "Under the Rule 6(e) of the Federal Rules of" --

15 THE COURT: Hold on just a minute. I believe
16 that copy is marked up. You're not to give a witness
17 copies that are marked up.

18 MR. TRAFICANT: Can I give him that one?

19 THE COURT: Yeah.

20 MR. TRAFICANT: Thank you.

21 THE COURT: You can have mine. Don't make
22 that mistake.

23 MR. TRAFICANT: I try not to.

24 Q. Now, where were we. Start reading from Page 3, the
25 bottom line.

Walsh - Cross

1 THE COURT: He already read that one.

2 Q. Rule 6(e) of the federal rules. Will you go now to
3 Page 4, and begin reading at the top of Page 4?

4 A. Okay. "Criminal Procedure, Grand Jury proceedings are
5 secret in that all the members of the Grand Jury, myself
6 and the Court reporter, are prohibited by law" --

7 THE COURT: They can't hear you.

8 Q. I want you to read louder, Tim.

9 A. "Criminal procedure, Grand Jury proceedings are
10 secret in that all the members of the Grand Jury, myself,
11 and the court reporter, are prohibited by the law from
12 disclosing what happened in this room today absent a court
13 order or some provision of law that would permit us to make
14 a disclosure."

15 Q. Read the next paragraph.

16 A. "You, however, are bound by that" --

17 Q. Wait a minute. You said "are bound" or "are not
18 bound"?

19 A. "You are not bound by that restriction. So when you
20 leave here today, you are perfectly free to discuss what
21 happened in here or not discuss it with whomever you choose
22 to." Do you understand?

23 Q. And what was 12(a) indicating?

24 A. (Nodding.)

25 Q. And then reading line 13 through 15. It was a

Walsh - Cross

1 question, wasn't it? Read the question.

2 A. "All right. You will have to say yes or no. She
3 can't take a nod of the head."

4 Q. And then what did you say?

5 A. "Okay."

6 MR. TRAFICANT: This is the Judge's, your
7 Honor.

8 THE COURT: Thank you.

9 Q. Does that refresh your memory now that you were
10 basically told Grand Juries are secret business, and if
11 anybody from the Grand Jury or Mr. Bernard Smith or
12 somebody would say something, that would be against the
13 law, it was prohibited, right?

14 A. Right.

15 Q. From what you read, you were actually told that you
16 were not bound by that, right?

17 A. Right.

18 Q. And if you wanted to go outside and tell the
19 reporter, you could do it, couldn't you?

20 A. Yes.

21 Q. Now, had they not have told you that, would you have
22 known you would be able to go out and do that?

23 A. No.

24 Q. Did you ever talk to reporters?

25 A. No.

Walsh - Cross

1 Q. Did you ever talk with other fellow workers who met
2 with the FBI?

3 A. No.

4 Q. Did you meet with the IRS?

5 A. No.

6 MR. TRAFICANT: I want to show this.

7 THE COURT: Let me ask the Government, on
8 this document, both the one that I have and the one that he
9 has are marked. Is there a clean copy?

10 MR. SMITH: Your Honor, I don't have a clean
11 copy anywhere in the file that I know of, for some reason.

12 THE COURT: Okay. Well, I think your
13 markings are the same as mine, so you can use it. We need
14 a number on it.

15 MR. TRAFICANT: Let's make it TW 15.

16 THE COURT: Okay.

17 MR. TRAFICANT: I'm going to write these
18 down. Can I show this to the witness, your Honor, or can I
19 just use it for questioning?

20 THE COURT: It's up to you. You can show it
21 to him if he -- let me -- hold on a minute. Let me just
22 see what it is before you do that.

23 MR. TRAFICANT: Go ahead and look, and see if
24 we have the same thing.

25 THE COURT: I believe so. But before you

Walsh - Cross

1 show it to him, let me see what it says.

2 You would have to establish somehow while you're
3 asking the question there was a reason why he would need to
4 see this document.

5 MR. TRAFICANT: Thank you, your Honor.

6 BY MR. TRAFICANT:

7 Q. Do you recall a meeting in March of 2000 at
8 approximately 3:00 in the afternoon where you went to the
9 FBI office in Youngstown, Ohio, in Boardman, on Sahara
10 Trail? Do you remember going there?

11 A. Yes.

12 Q. Were you interviewed there?

13 A. Yes.

14 Q. Do you remember the fellow's name?

15 A. No.

16 Q. If the name was repeated, would you remember it?

17 A. I'm not sure.

18 Q. Would Charles Perkins ring a bell, Charles --

19 A. Yes.

20 Q. Charles Perkins?

21 A. Yes.

22 Q. Do you know who Charles Perkins worked for?

23 A. Yes, I do.

24 Q. Who did he work for?

25 A. The FBI.

Walsh - Cross

- 1 Q. So at the time you met with Mr. Perkins, you believed
2 he was an FBI agent. Did he tell you that?
- 3 A. No, I can't remember. I don't know if he did or not.
- 4 Q. Did he identify himself?
- 5 A. Yes, "Charles Perkins."
- 6 Q. And did he show you or give you any credentials of
7 any kind?
- 8 A. I can't remember.
- 9 Q. Was anybody else in the room when you met with him?
- 10 A. No.
- 11 Q. Did you see a tape recorder?
- 12 A. No, I didn't.
- 13 Q. Did you see a video machine?
- 14 A. No.
- 15 Q. Are you familiar with sawdust?
- 16 A. Sawdust, yes.
- 17 Q. Do you have any knowledge of any understanding of
18 livestock or farming?
- 19 A. Yes.
- 20 Q. Did you ever own any livestock?
- 21 A. No.
- 22 Q. Did you know people that owned livestock?
- 23 A. Yes, I did.
- 24 Q. Do you know if any of the Buccis owned livestock?
- 25 A. Yes, I know Tony owned horses.

Walsh - Cross

- 1 Q. Do you know what he bedded his horses with?
- 2 A. No.
- 3 Q. Do you know if Dan Bucci owned livestock?
- 4 A. I believe he owned cows.
- 5 Q. Do you know how many cows he had?
- 6 A. No.
- 7 Q. Do you know where Dan Bucci lived in relationship to
- 8 the Traficant farm?
- 9 A. Yes, I did know.
- 10 Q. Did you work on paving his driveway?
- 11 A. No.
- 12 Q. Now, you were paid \$10 an hour, right?
- 13 A. Yes.
- 14 Q. Did you have any insurance or other benefits?
- 15 A. No.
- 16 Q. Who were your checks signed by, your paychecks?
- 17 A. Dan Bucci.
- 18 Q. Pardon?
- 19 A. Danny Bucci.
- 20 Q. Do you know if Dan Bucci had a title?
- 21 A. No.
- 22 Q. But, you said you worked for Tony Bucci earlier?
- 23 A. Yes.
- 24 Q. Did --
- 25 A. That's who told us what to do.

Walsh - Cross

1 Q. Okay. So it would be fair to ask then, the Buccis
2 all had different responsibilities, right?

3 A. I would say so.

4 Q. Are you familiar with the time when they were going
5 through a legal process that would debar them and shut
6 their plant down? Are you familiar with that?

7 A. No. I knew something about one in Pennsylvania, but
8 I think it was with taxes.

9 Q. If the Bucci brothers were stopped from doing work,
10 would you have lost your job?

11 A. Yes.

12 Q. Did you ever have any personal conversations with Mr.
13 White?

14 A. No. I don't know who Mr. White is.

15 Q. You said Curtis White?

16 A. Oh, Curtis?

17 Q. Yes.

18 A. No.

19 Q. Did you ever hear of Oak Tree Paving?

20 A. No.

21 Q. Now, you said you had some understanding of farm -- a
22 little bit of farming, right?

23 A. Yes.

24 Q. Where did you put the sawdust?

25 A. In your barn.

Walsh - Cross

- 1 Q. Was it protected by a roof?
- 2 A. Yes.
- 3 Q. Why did you use the Flow Boy and not a dump truck?
- 4 A. Because I was with the Flow Boys.
- 5 Q. Had you used a dump truck, would you have been able
- 6 to dump the load?
- 7 A. Probably, I think it was high enough.
- 8 Q. You know how high the ceiling was?
- 9 A. I can't remember.
- 10 Q. You know what kind of building it was?
- 11 A. Looked like a barn to me.
- 12 Q. Was it a free span barn?
- 13 A. Yes. I didn't see no stalls or anything in it.
- 14 Q. Did you see trusses, free span? Did it have trusses
- 15 to support the roof?
- 16 A. I believe it did.
- 17 Q. Now, if you hit one of the trusses with the dump
- 18 truck would you damage the roof and it would have fallen
- 19 in?
- 20 A. Probably would have broke a board or two.
- 21 Q. Could you probably have hit the truss with the Flow
- 22 Boy?
- 23 A. No.
- 24 Q. Now, wouldn't it have been a lot easier to bring the
- 25 dump truck and dump the sawdust outside?

Walsh - Cross

- 1 A. Probably, but it probably would have blew away.
- 2 Q. Would it be protected from the weather?
- 3 A. I doubt it, it got wet.
- 4 Q. And if it got wet, what in fact could happen to it?
- 5 A. Probably wouldn't be no good.
- 6 Q. Do you know if Mr. Dan Bucci ever used any of the
- 7 sawdust at the Traficant farm?
- 8 A. Not that I know of.
- 9 Q. Do you know of any other nonunion workers that worked
- 10 on state projects like 11 or 80?
- 11 A. All the drivers.
- 12 Q. Name the drivers?
- 13 A. Butch, Rags.
- 14 Q. What's Butch's last name?
- 15 A. I don't know.
- 16 Q. You're talking about Ragazzine whether you say Rags?
- 17 A. Yeah, I know Ragazzine.
- 18 Q. Any other drivers? Who were the drivers, just name
- 19 them, that worked on state projects?
- 20 A. James Graft, Opek, Clarence. I can't remember all of
- 21 them because there was always new drivers coming in.
- 22 Q. Were they union or nonunion?
- 23 A. Nonunion.
- 24 Q. Do you know if you all got the same pay?
- 25 A. No, I don't.

Walsh - Cross

1 Q. Do you know if any of them got benefits?

2 A. No, I don't.

3 Q. Did you ever have complaints over your paychecks?

4 A. No.

5 Q. Did you have any -- did you always get your paycheck
6 on time?

7 A. Yes.

8 Q. Did you ever leave a bill at the farm?

9 A. A bill?

10 Q. An invoice or bill?

11 A. No.

12 Q. Now, when you drove on other jobs, did you leave a
13 bill or invoice?

14 A. Yes.

15 Q. Pardon?

16 A. Yes.

17 Q. Were you instructed not to leave a bill?

18 A. I was told to bring everything back to Tony.

19 Q. Did you ever ask me to pay you?

20 A. No.

21 MR. TRAFICANT: No further questions of this
22 witness.

23 MR. SMITH: No questions.

24 THE COURT: Thank you, sir. You can step
25 down. You're excused.

Walsh - Cross

1 We're going to take our break now.

2 (Proceedings in the absence of the jury:)

3 MR. TRAFICANT: TW 15.

4 THE COURT: Any objection?

5 MR. SMITH: Yes, your Honor. He read in --
6 as I understand it, that's the Grand Jury transcript of
7 Mr. Walsh.

8 MR. TRAFICANT: No, that was the Perkins
9 inquiry.

10 MR. SMITH: I'm sorry.

11 THE COURT: Let's identify it better so we
12 know which one it is. TW --

13 MR. TRAFICANT: TW 5. TW 15 --

14 THE COURT: Okay.

15 MR. TRAFICANT: -- is the Internal Revenue
16 Service, when Mr. Perkins of the Internal Revenue Service
17 met with Mr. Walsh at the FBI office. I want to introduce
18 it as evidence.

19 MR. SMITH: I'll object. The document is
20 hearsay completely.

21 THE COURT: And the objection is sustained.

22 MR. TRAFICANT: I ask that the Grand Jury
23 testimony of Timothy Walsh, TW 5, be admitted into
24 evidence.

25 MR. SMITH: Your Honor, that's hearsay as

Walsh - Cross

1 well. Now, he did read a portion into the record to
2 impeach the witness on whether or not he recalled being
3 told it was a secret proceeding. I didn't object because
4 that was proper, but to put the whole document in is just
5 hearsay.

6 THE COURT: Right. That's the problem.

7 MR. TRAFICANT: Okay. Well, then let me ask
8 you this. Since he read it in, is that not in fact part
9 of --

10 THE COURT: They've heard him read it.

11 MR. TRAFICANT: Will that go to the jury?

12 THE COURT: Well, it is in their minds. I
13 mean, he's read it.

14 MR. TRAFICANT: Okay. Then let me change my
15 attempt at evidence, that only that which was read from the
16 desk, those specific lines that were read, be labeled TW 5
17 and be admitted as evidence.

18 MR. SMITH: Your Honor, we object to that on
19 this basis: The Congressman properly used the document to
20 impeach the witness' recall as to whether or not he was
21 told what he was told. As I heard the testimony, maybe I'm
22 wrong, the witness agreed, "Yeah, that's what happened."
23 Under those circumstances, the witness was impeached, that
24 part was read into the record, and that's all that's
25 necessary. The document doesn't come in as evidence, I

Walsh - Cross

1 don't think, so we object.

2 MR. TRAFICANT: Your Honor, in response,
3 knowing that one of their witnesses was going to say he was
4 never told the Grand Jury proceedings were secret and he
5 was allowed to speak to the public, I asked that question,
6 and Mr. Bernard Smith got up and made them read and look at
7 the document and say, "I was never told by anybody."
8 That's why I used it, in fact, to trick them. Now,
9 Mr. Walsh said -- hear me.

10 THE COURT: I'm listening.

11 MR. TRAFICANT: Mr. Walsh said he was not
12 told that it was a secret proceeding, and he could in fact
13 not -- they could not disclose anything to public, but he
14 was free to do so, and he says, no, they never told me
15 that. Then I refreshed his memory, and he read it.

16 THE COURT: Then you impeached him.

17 MR. TRAFICANT: Yes. I want -- but the
18 question now goes to more than just Mr. Walsh. The
19 question goes to the behavior of the prosecution at this
20 point, and that's what I want on the record.

21 THE COURT: I don't understand that part of
22 your argument. But in any event, this is not something
23 that can be admitted into evidence any further than what
24 has already happened, which is that you successfully
25 impeached a witness, and you had him read back to the jury,

Walsh - Cross

1 so they can hear the words that he read back to them. So
2 that's in, that doesn't go away.

3 MR. TRAFICANT: That's in the record, but
4 will the jury get that in the jury room when they
5 deliberate?

6 THE COURT: They just heard that. This is
7 evidence to them when they hear it. You've impeached his
8 original statements successfully, so that's it. That's
9 what goes in. But there's no justification for putting the
10 rest of this in.

11 MR. TRAFICANT: Do you deny the motion, you
12 Honor, deny the exhibit?

13 THE COURT: I deny -- you can't admit this at
14 this point for the reasons you stated. Now, the jury is in
15 the back room waiting to come out.

16 MR. TRAFICANT: Okay.

17 THE COURT: So we're going let those of them
18 who take a break come out. I'll stay here with you, and
19 we'll talk some more if we need to.

20 MR. TRAFICANT: What time are we required to
21 be back, your Honor?

22 THE COURT: The same time. We'll break until
23 11:15. At some point, because you have a motion pending
24 before me, you need to give to me something that will
25 allow -- excuse me, you're talking over me. You have a

Walsh - Cross

1 motion pending in front of me, you need to clarify for us
2 what it is that you have received. All right? If you want
3 to withdraw your motion, you're welcome to do that.
4 Otherwise you need to represent yourself by contacting the
5 person who sent whatever it was to you and clearing this
6 up. We can't deal with it in the situation that we're now
7 faced with.

8 MR. TRAFICANT: I know. What I will decide
9 as Pro Se Defendant is whether or not I want to call her on
10 the phone or call her as a witness.

11 THE COURT: Okay.

12 MR. TRAFICANT: Do I have that right?

13 THE COURT: To call her as a witness? I
14 don't know, you'd better figure that out before you do it.

15 MR. MORFORD: Your Honor, the transcript is
16 here, and it's our intention to move forward with the
17 deposition and not wait for Congressman Traficant to decide
18 to call a witness.

19 THE COURT: Well, you don't have to wait
20 indefinitely, but, give him a copy of the -- give us a copy
21 of it.

22 MR. TRAFICANT: I don't have a transcript. I
23 haven't seen one yet.

24 MR. MORFORD: It just came in. You will see
25 it as soon as we are.

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1 MR. TRAFICANT: You think at least after the
2 lunch break we'll read it?

3 (Thereupon, a recess was taken.)

4 GLEN ROSE,
5 of lawful age, a witness called by the Government,
6 being first duly sworn, was examined
7 and testified as follows:

8 DIRECT EXAMINATION OF GLEN ROSE

9 BY MR. SMITH:

10 Q. Sir, would you please state your full name and spell
11 both your first and last names for the court reporter?

12 A. Glen Rose, G-L-E-N, R-O-S-E.

13 Q. What city do you live in, Mr. Rose?

14 A. Lisbon.

15 Q. And how far is Lisbon from Youngstown?

16 A. Approximately 36 miles.

17 Q. What county is Lisbon in?

18 A. Columbiana County.

19 Q. Sir, what do you do for a living now?

20 A. I am retired.

21 Q. Did you ever work for an entity called Big G
22 Construction?

23 A. Yes.

24 Q. All right. And approximately when did you work for
25 Big G Construction?

- 1 A. Roughly 12 years, I guess.
- 2 Q. Okay. From what year did you begin and what year did
3 you quit?
- 4 A. I worked for him approximately eight years, and I
5 think it was '87 to the middle 90's, I believe.
- 6 Q. Who was the proprietor of Big G Construction?
- 7 A. Mr. Greg Tyson.
- 8 Q. And what work did you do for Big G Construction?
- 9 A. I run heavy equipment for him.
- 10 Q. Such as what kind of equipment?
- 11 A. Backhoes, dozer, high lift.
- 12 Q. What's the last one?
- 13 A. The high lift.
- 14 Q. Why don't you describe what a high lift is?
- 15 A. It's rubber-tired machine with a bucket on it.
- 16 Q. What does it do? What do you use it for?
- 17 A. Load material.
- 18 Q. Did you ever go out on company time to a farm located
19 on Route 165 in Greenford?
- 20 A. To a farm?
- 21 Q. Yeah.
- 22 A. Yes.
- 23 Q. All right. Who told you to go out there?
- 24 A. My boss, Mr. Tyson.
- 25 Q. And did Mr. Tyson indicate to you where you were

1 going?

2 A. Yes.

3 Q. Where?

4 A. James Traficant farm.

5 Q. How many days did you go out to that farm?

6 A. To the best of my knowledge, I don't know, three or
7 four days.

8 Q. And what work did you do out at the farm?

9 A. I installed -- or I helped install a waterline,
10 one-inch waterline.

11 Q. And where did that waterline run from, to and from?

12 A. It went from the main supply at the house, out to his
13 barn at around some stalls in the back of the barn.

14 Q. What kind of stalls were those?

15 A. Pens, like a corral. I'm sorry, it was a corral, a
16 couple corrals.

17 Q. As part of that installing that waterline was there a
18 hydrant involved?

19 A. Yes, I believe there was two possibly or three
20 frost-free hydrants.

21 Q. And did you install those hydrants?

22 A. I helped install them, yes.

23 Q. And would you describe what a frost-free hydrant is?

24 A. Well, this would be a hydrant outside where there's
25 no heat. You attach it onto the waterline, and when you

1 run water, you open a handle, and the water comes out.
2 When you shut the handle, the water goes down into like a
3 gravel base, then the hydrant won't freeze, your water
4 won't freeze then.

5 Q. Did you observe any other kinds of working done out
6 at the farm when you worked there that three or four days?

7 A. The work I seen done?

8 Q. Yes.

9 A. They were going to do some concrete work inside the
10 barn.

11 Q. All right. Who was going to do that concrete work?

12 A. Our company, the people that worked, a guy that
13 worked with me.

14 Q. Do you remember his name?

15 A. No, not right offhand. No, I don't.

16 Q. Was this a --

17 THE COURT: You have a soft voice, and you
18 need to speak up a little.

19 THE WITNESS: I'm sorry.

20 Q. Was this another Big G employee you're referring to?

21 A. Yes, yes.

22 Q. Was there any work done on any ditches or anything
23 like that out there?

24 A. We might have put in a catch basin, if I remember,
25 and I think I cleaned out a ditch.

1 Q. What?

2 A. I loaded the barn, either with the backhoe or
3 bulldozer. I don't recall that, it's one or the other.

4 Q. What's a catch basin?

5 A. Where they pick up -- runoff water, like in -- you had
6 a towel under your driveway, and you just put a catch basin
7 and catch the runoff.

8 Q. Did you have any accident or mishap while working on
9 Congressman Traficant's farm?

10 A. No.

11 Q. Did you encounter a gas line at the Congressman's
12 farm?

13 A. I went across two level lines, yes.

14 Q. All right. And you said you went across. Describe
15 what happened?

16 A. I severed it, but they weren't -- they were not
17 active.

18 Q. When you severed the gas line, did you talk to
19 anybody about that?

20 A. Yeah, I talked to Mr. Traficant about it.

21 Q. And?

22 A. Later that evening or the next day, whatever, and I
23 asked him what they were, and he told me, and I told him
24 that I severed them, and I asked if it was any good because
25 they weren't active.

Rose - Cross

1 Q. What I was going to ask you was to describe the
2 conversation you had with the Congressman about those
3 severed gas lines. Is there anything else other than what
4 you just said?

5 A. I asked him what they were, and he said they were gas
6 lines. And I asked where they went, and he said to the
7 shed. And I said, "You don't have them hooked up, do you,"
8 and he says -- I told him why, he shouldn't have those
9 going to the barns which I believed it was a garage at one
10 time, but there was a horse stall or two or three horse
11 stalls in there, and I said you shouldn't fix them, and he
12 said, you're right, don't worry about it.

13 Q. Now, for the work that you did at Congressman
14 Traficant's farm, how were you paid?

15 A. Regular weekly pay through my boss, Mr. Tyson.

16 Q. Did Congressman Traficant pay you any money for your
17 services for the work you did at the farm?

18 A. No, sir.

19 MR. SMITH: I have no additional questions,
20 your Honor.

21 THE COURT: Thank you. You may inquire.

22 CROSS-EXAMINATION OF GLEN ROSE

23 BY MR. TRAFICANT:

24 Q. Good morning, Glen. How are you doing?

25 A. Good.

Rose - Cross

- 1 Q. You remember meeting with the Grand Jury?
- 2 A. Yes.
- 3 Q. Do you know whom, if anyone, in this room asked you
4 questions?
- 5 A. Mr. Craig Morford, I believe it was.
- 6 Q. Okay. Did he ever discuss any of the rules of the
7 Grand Jury?
- 8 A. No, not for my knowledge.
- 9 Q. Thank you. Now, you testified that you went out to
10 the farm with Mr. Tyson's orders; is that right?
- 11 A. Yes.
- 12 Q. Were you a friend of Greg?
- 13 A. I was an employee of his, yes. He's a good
14 gentleman.
- 15 Q. Would you describe him to the jury?
- 16 A. Pardon?
- 17 Q. Would you describe him to the jury?
- 18 A. He was probably one of the best men I ever worked
19 for. I worked for him for approximately eight years.
- 20 Q. Was he a black man?
- 21 A. He was a black male, yes, treated me --
- 22 Q. Did you ever see me and Mr. Tyson together?
- 23 A. Did I ever see you together?
- 24 Q. Yeah.
- 25 A. Not together, other than possibly out at the farm.

Rose - Cross

- 1 Q. Was it friendly?
- 2 A. Not together, in front of me.
- 3 Q. Yeah?
- 4 A. With me there, nothing --
- 5 Q. No. Did you know if Mr. Tyson and I were friends?
- 6 A. I don't know if you were friends or not.
- 7 Q. Did you have any conversation with Mr. Tyson about
- 8 me?
- 9 A. No, sir.
- 10 Q. How long have you been retired?
- 11 A. It'll be a year the 15th of this month.
- 12 Q. To the best of your knowledge, when was the last time
- 13 you were at the Traficant farm?
- 14 A. To the best of my knowledge, roughly 12 years ago, 10
- 15 or 12 years ago.
- 16 Q. Now, did you ever know -- did you ever leave a bill
- 17 for me?
- 18 A. No, sir.
- 19 Q. Were you told to leave a bill?
- 20 A. No, sir.
- 21 Q. And you said there was another Tyson employee there
- 22 inside the barn looking at some concrete work? Was that
- 23 your testimony?
- 24 A. There was another gentleman there that was going to
- 25 do some concrete work, yes.

Rose - Cross

- 1 Q. Okay. Do you know if Mr. Tyson was a minority
2 contractor?
- 3 A. He was a minority contractor, yes.
- 4 Q. Do you believe he was a legitimate minority
5 contractor?
- 6 A. As far as I know, yes.
- 7 Q. Do you believe he was a front man for anybody?
- 8 A. No.
- 9 Q. Did you have any knowledge of any other minority
10 contractors who were just front men?
- 11 A. No.
- 12 Q. Did you know Curtis White?
- 13 A. No.
- 14 Q. Now, you said to the mid 90's, could it have been
15 1994 when you worked for Greg Tyson up to '94?
- 16 A. To the best of my knowledge, yes, I believe -- I'm
17 going by where I worked after that and what year it was I
18 worked for him. I don't keep a log.
- 19 Q. Were you a union member?
- 20 A. Yes.
- 21 Q. How much did Mr. Tyson pay you?
- 22 A. Pay me?
- 23 Q. Yeah.
- 24 A. The top going rate.
- 25 Q. Was he always straight up and honest with you?

Rose - Cross

1 A. Honest, always.

2 Q. Did there ever come a conversation about a horse, a
3 black horse?

4 A. Yes.

5 Q. Were those with me or with Mr. Tyson?

6 A. With you.

7 Q. And what do you recall being said?

8 MR. SMITH: Objection, hearsay.

9 BY MR. TRAFICANT:

10 Q. Did you ever see the black horse?

11 A. Yes.

12 Q. Would you say it was a beautiful horse?

13 A. Yes.

14 Q. Are you familiar with horses, Mr. Rose?

15 A. I've owned a couple. We went out, we had ponies on
16 our farm, and I owned a horse after -- through my daughter,
17 yeah, I have a horse, yeah.

18 Q. Isn't it a fact he was a beautiful black horse?

19 A. He was.

20 Q. Do you know whether or not I paid Mr. Tyson?

21 A. Whether you paid Mr. Tyson?

22 Q. Yes.

23 A. I have no knowledge of that.

24 Q. Your knowledge of Mr. Tyson, would his employees push
25 him around?

Rose - Cross

- 1 A. Did his employees push him around?
- 2 Q. Yes.
- 3 A. No.
- 4 Q. Would he tolerate anybody pushing him around?
- 5 A. I never seen anything about pushing him around, no.
- 6 He was a very easygoing gentleman.
- 7 Q. Did you know who owned the farm at the time you were
- 8 there?
- 9 A. I was told it was Jim Traficant's farm.
- 10 Q. That's what you were told?
- 11 A. That I recall, yes.
- 12 Q. And you said when we were there we did have
- 13 conversations about the plastic lines?
- 14 A. Yes.
- 15 Q. And you personally talked with me?
- 16 A. Yes.
- 17 Q. So it was not uncommon to see me at the farm, was it?
- 18 A. I think I seen you once or twice at the farm.
- 19 Q. And you were there four or five times?
- 20 A. Three or four times.
- 21 Q. Three or four?
- 22 A. That I recall.
- 23 Q. And some days you were there longer than others?
- 24 A. I don't recall that. I think we did it to get --
- 25 Q. Do you know what my position was when I was out

Rose - Cross

1 there?

2 A. Landowner.

3 Q. Well, that's what -- I'm asking you if you knew if I
4 had an elected position.

5 A. Yes.

6 Q. What was it?

7 A. Congressman.

8 Q. Could you describe the condition of the shed the gas
9 lines were purportedly going to go to?

10 A. Describe the condition?

11 Q. The condition of the shed, when the plastic lines
12 were severed.

13 A. Just a nice building with three or four horse stalls
14 in it.

15 Q. Was it a step-down shed?

16 A. No.

17 Q. It had corrals outside?

18 A. No, it was the first shed from the house. It was the
19 first building before you get to the barn.

20 Q. So you went from the house to that first building?

21 A. Yes.

22 Q. Well, then, how did you get back to where the corrals
23 were and put in the one-inch plastic line?

24 A. I had the ditch all the way around.

25 Q. When you dug the ditch, where did you hit the gas

Rose - Cross

- 1 line?
- 2 A. I hit the gas line going into that first ship.
- 3 Q. Into the first ship?
- 4 A. Yes.
- 5 Q. Do you know if there were gas wells on the property?
- 6 A. No, sir.
- 7 Q. Okay. Did I raise a fuss with you about that?
- 8 A. Pardon?
- 9 Q. Did I raise a fuss with you over that?
- 10 A. You said -- not a fuss. You just said, "Did you
- 11 break them," I said, "Yes, that's why I'm asking you what
- 12 they were."
- 13 Q. And were you honest with me?
- 14 A. Yes, I was honest with you.
- 15 Q. To the best of your knowledge, was I honest with you?
- 16 A. Yes, you were.
- 17 Q. Did you ever see my father out there?
- 18 A. No.
- 19 Q. Would you recognize my father if he were to walk in
- 20 this room?
- 21 A. No.
- 22 Q. Did you tell Mr. Tyson about the gas lines?
- 23 A. Not that I recall. I might have, but not that I
- 24 recall.
- 25 Q. Did you work on any government projects?

Rose - Cross

1 A. Over the years, I probably did.

2 Q. For Mr. Tyson?

3 A. I'm sorry, I just -- I don't know if it would be
4 government job or -- I worked on several jobs for
5 Mr. Tyson, but if you would --

6 Q. Are you familiar with prevailing rate, prevailing
7 wages?

8 A. Yes.

9 Q. Did he always pay you?

10 A. He always paid prevailing wage.

11 Q. If Mr. Tyson would have a rough time, would he talk
12 to you and converse with you about that?

13 A. Yeah.

14 Q. Did any of his checks ever fail to be negotiated
15 or --

16 A. One time, I had a problem with a check with him.

17 Q. And did you --

18 A. I called the office, and he made it right right then.

19 MR. TRAFICANT: No further questions at this
20 time.

21 THE COURT: Okay.

22 MR. SMITH: No questions.

23 THE COURT: Thank you, sir. You can step
24 down.

25 MR. SMITH: The Government calls Bruce

Pierce - Direct

1 Pierce.

2 BRUCE PIERCE,

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

4 being first duly sworn, was examined

5 and testified as follows:

6 DIRECT EXAMINATION OF BRUCE PIERCE

7 BY MR. SMITH:

8 Q. Sir, would you please state your full name and spell
9 your last name for the court reporter?

10 A. Bruce Pierce, P-I-E-R-C-E.

11 Q. In what city do you live, sir?

12 A. East Liverpool, Ohio.

13 Q. In what county is East Liverpool located?

14 A. Columbiana County.

15 Q. What do you do for a living, sir?

16 A. I work asphalt.

17 Q. Specifically, what do you do in the asphalt business?

18 A. I'm a prep foreman.

19 Q. Why don't you describe what that entails?

20 A. I go out and do asphalt grinding, get jobs ready for
21 the paving to be performed.

22 Q. And for what company do you now work?

23 A. McCord Construction.

24 Q. Briefly describe the nature of McCord Construction's
25 business.

Pierce - Direct

1 A. They're an asphalt company. They do construction
2 work, grinding, lay asphalt, some concrete work.

3 Q. Before you worked for McCord Construction, who did
4 you work for?

5 A. I worked for Prime Contractors.

6 Q. And who was the proprietor of the Prime Contractors?

7 A. Tony Bucci.

8 Q. Is there any relationship which you are aware of
9 between Prime Contractors and McCord Construction?

10 A. No.

11 Q. Did you work for anyone else before Prime --
12 withdrawn.

13 Did you work for anyone else after you left Prime and
14 in between the time you worked for McCord, did you go
15 straight from one to the other?

16 A. I went straight from one to the other.

17 Q. When did you start work with McCord?

18 A. I believe it was in '98.

19 Q. And how long had you worked for the Buccis before you
20 went to work for McCord?

21 A. I believe it was the late 80's when I started working
22 for the Buccis.

23 Q. What kind of work did you do for the Buccis?

24 A. I did asphalt paving, prep work, get jobs ready, and
25 also I lived on their farm a while, Tony Bucci's farm. I

Pierce - Direct

1 took care of horses there for him.

2 Q. Now, did you ever work on a highway construction
3 project?

4 A. Yes, sir.

5 Q. And you refer to prep work in your prior answer; is
6 that correct?

7 A. Correct.

8 Q. All right. Tell the jury briefly what kind of prep
9 work needs to be done in your typical highway construction
10 project?

11 A. Well, when you go out and do this grinding, you take
12 off excess asphalt, inch, inch and a half, and if you mill
13 out along the curb you have to go in and remove the
14 remainder of the asphalt that's up along the curb. There
15 might be like an inch and a half, two inches there.

16 Then there's butt joints that have to be cut, that's
17 at the end of the project, to work on your paving, so you
18 can butt into it. That's what the asphalt goes into, that
19 way it holds it in place. There's AC bands that's got to
20 be put down after the asphalt, that falls in prep work,
21 which is a seal. It seals along the curb area, at the ends
22 of the job.

23 Q. During the time you worked for prime, did you ever go
24 out to a farm on company time at a farm located on Route
25 165 and Greenford?

Pierce - Direct

- 1 A. Yes, I did.
- 2 Q. And who told you to go out there?
- 3 A. Tony Bucci.
- 4 Q. And during the time that you were working for Tony
5 Bucci, approximately what year was this in that you went
6 out to work at the farm?
- 7 A. It was the early 90's.
- 8 Q. And how many days did you go out and work at the
9 Congressman's farm?
- 10 A. I believe it was three days.
- 11 Q. Were any other Bucci employees working out at the
12 farm when you did?
- 13 A. Yes, there was.
- 14 Q. Who?
- 15 A. Red Wilson, Curtis White, and that's all I can
16 recall, the three of us.
- 17 Q. You mentioned Red Wilson. Is "Red" a nickname?
- 18 A. Yes, it is.
- 19 Q. Do you know Red Wilson's real first name?
- 20 A. It's Paul.
- 21 Q. And would you describe what you did out at the farm,
22 the types of work that you performed?
- 23 A. We did some lineal grading out there, and some
24 clean-up.
- 25 Q. Okay. What does lineal grading involve?

Pierce - Direct

1 A. Lineal grading is when you go in and you got high
2 spots, you want to take them out, possibly for drainage, or
3 you could use a Gradall for such things as putting some
4 pipe in, you know. There's two different buckets that go
5 on it.

6 Q. Was there any pipe work done during the time that you
7 were working out there?

8 A. I can't recall.

9 Q. Can you better describe for the jury what a Gradall
10 is?

11 A. A Gradall is a machine that swivels, and it's got an
12 arm on it with a bucket at the end of it. You do a lot
13 of -- lineal grading is where -- where you've got to cut
14 like -- say you got to cut an inch and a half down, and
15 it's good for keeping grade, or it's good for doing ditch
16 work, cleaning out ditches.

17 Q. What work was Mr. Paul Wilson performing on the days
18 you were out at the farm?

19 A. He was running the Gradall.

20 Q. What was he doing specifically?

21 A. He was -- we were up against the barn, and there was
22 some, like, high weeds. I think there might have been
23 maybe some gravel mixed in with it. But what we were doing
24 is we were cutting -- cutting that down so the water would
25 run down to like a swell that we put in, and we went to the

Pierce - Direct

1 end of the building and cut like a swell that went into a
2 catch basin. I believe there was one there.

3 Q. What work did Curtis White perform on the days you
4 were out at the farm?

5 A. Curtis was mainly a laborer.

6 Q. And what labor was he performing?

7 A. Well, when you're working with that Gradall and you
8 cut, you leave like wind rows, and you'll take what you
9 call a rake, a lute, and knock that down, level that out.

10 Q. And is that what Mr. White was doing?

11 A. Yes, I believe so.

12 Q. Now, how were you paying for the work that you did
13 out at the farm?

14 A. I was paid right in with my check that I got every
15 week.

16 Q. And you got your check every week from whom?

17 A. Prime Contractors.

18 Q. Did the Congressman pay you any money for the work
19 you did at the farm?

20 A. No.

21 Q. Did you ever travel outside of Mahoning County to
22 perform any service for either the farm or for the
23 Congressman?

24 A. I went to Columbus.

25 Q. Okay. And who told you to go to Columbus?

Pierce - Direct

1 A. Tony Bucci.

2 Q. All right. And did you go to Columbus before or
3 after this other work that you described that you did at
4 the farm?

5 A. I believe it was after.

6 Q. When you went to Columbus, what did you do?

7 A. I picked a horse up.

8 Q. All right. In what kind of a vehicle?

9 A. It was Tony's Bronco, with a trailer on the back.

10 Q. All right. Tony who? Tony?

11 A. Bucci.

12 Q. All right. Okay. And what did you do with this
13 horse after you picked it up?

14 A. I took it to Mr. Traficant's house, or the farm.

15 Q. Was transporting horses any part of the regular
16 business of the Buccis' company for which you worked?

17 A. No.

18 Q. How were you paid for this trip that you had to go to
19 Columbus to bring the horse back, how were you paid?

20 A. Through my weekly paycheck.

21 Q. Did Congressman Traficant pay you any money for
22 bringing this horse from Columbus up to the farm?

23 A. No.

24 MR. SMITH: May I have a moment, your Honor?

25 THE COURT: Yes.

Pierce - Cross

1 MR. SMITH: No further questions, your Honor.

2 THE COURT: Thank you. You may inquire.

3 CROSS-EXAMINATION OF BRUCE PIERCE

4 BY MR. TRAFICANT:

5 Q. How are you doing, Bruce?

6 A. Good, thank you.

7 Q. Do you remember who interviewed you in front of the
8 Grand Jury?

9 A. No, sir.

10 Q. Are any of them in the room here?

11 A. I think it might have been the gentleman sitting
12 right in front of me here. I'm not for sure.

13 Q. Could you look at the rest of the people at the table
14 and see if you recognize any of them?

15 A. Yeah. I believe I was interviewed, the one on the
16 left, I believe, when I had to go to Boardman.

17 Q. You say the one on the left, would you point to and
18 identify who you say interviewed you?

19 A. I think it was the one on the left there, but I'm not
20 sure.

21 Q. Okay. Did they ever talk to you about Grand Jury
22 rules at all?

23 A. Not really. I was -- I was told when I come in here,
24 you know, I'd be asked some questions, like my position
25 that I did when I come up for the Grand Jury.

Pierce - Cross

1 Q. Okay. So Mr. Morford did the questioning of you,
2 then, right?

3 A. I can't say -- because I don't know his name.

4 Q. But, that fellow seated there, that you pointed to,
5 was that the fellow that asked you your questions?

6 A. I believe.

7 Q. Okay.

8 A. But he looks a little bit like the other guy, too. I
9 mean it's --

10 (Laughter.)

11 THE WITNESS: I'm sorry.

12 Q. Do you know if Mr. Bucci, Tony Bucci, was into
13 horses?

14 A. Yes, I'm -- I'm pretty sure he did.

15 Q. Whose trailer did he use?

16 A. I believe it was Anthony Bucci's trailer.

17 Q. Well, did Anthony Bucci do highway jobs with horse
18 trailers?

19 A. No, sir.

20 Q. Did you ever go to Anthony Bucci's farm -- you said
21 you lived there?

22 A. Yes.

23 Q. Was there ever a fire at the barn?

24 A. Not when I lived there.

25 Q. Did you ever hear of a fire at the barn?

Pierce - Cross

- 1 A. I heard that there was a barn there that had burned
2 down.
- 3 Q. Do you know if horses were stabled in that barn?
- 4 A. I don't know.
- 5 Q. Did you work on any state highway projects?
- 6 A. Yes.
- 7 Q. Which ones?
- 8 A. Quite a few, there's been so many.
- 9 Q. How about Route 11? Did you work on Route 11?
- 10 A. Route 11, yes, I did.
- 11 Q. Did you work on Route 80?
- 12 A. Yes, I did.
- 13 Q. Are they not main arteries in that region?
- 14 A. What do you mean by main arteries?
- 15 Q. Key roads, important roads?
- 16 A. Yes, they are.
- 17 Q. Were you a member of the Teamsters local?
- 18 A. Yes.
- 19 Q. And how much did you get paid an hour?
- 20 A. I was paid prevailing wage.
- 21 Q. And --
- 22 A. At that time, at that time, it might have been 16
23 something an hour, or 17 maybe.
- 24 Q. Now, did Mr. White work on that job with you, Curtis
25 White?

Pierce - Cross

- 1 A. Yes, he did.
- 2 Q. Was he a member of the Teamsters local?
- 3 A. Not that I know of.
- 4 Q. Could you describe Mr. Curtis White to the jury?
- 5 A. Yeah. He's about six foot, six-one. I would have to
6 say he probably goes about 165, 175.
- 7 Q. Is he a black man or white man?
- 8 A. Yes, he is black.
- 9 Q. Do you know if he had a title with the company?
- 10 A. I don't believe so.
- 11 Q. Do you know what he was paid for?
- 12 A. The only thing I can say would be union scale.
- 13 Q. So you believe he was a member of the union?
- 14 A. Yes.
- 15 Q. Are you familiar with a company called Jet Asphalt?
- 16 A. Yes.
- 17 Q. Who owned that?
- 18 A. The Buccis, as far as I know.
- 19 Q. Now, when you say Buccis, you're referring to whom?
- 20 A. The brothers.
- 21 Q. Yes. Who are the three brothers?
- 22 A. There was Robert Bucci, Tony Bucci, Dan Bucci.
- 23 Q. Did there come a time when they had a problem with
24 the Government?
- 25 A. I remember there being issues, said that there was,

Pierce - Cross

1 you know, problems.

2 Q. Was there any talk of them being shut down and
3 debarred from doing any government work?

4 A. As far as I know, Tony was -- wasn't allowed on any
5 jobs for awhile there.

6 Q. If Tony and Bob were debarred, do you think you would
7 have lost your job?

8 MR. SMITH: Objection, speculation.

9 THE COURT: It is speculation

10 BY MR. TRAFICANT:

11 Q. Do you know who the chief executive officer or
12 president of the company was?

13 A. No, I can't say that I do.

14 Q. Who signed your checks?

15 A. Cheryl Bucci.

16 Q. And that was for Prime Contractors?

17 A. Correct.

18 Q. And you know who Cheryl Bucci was?

19 A. That was Tony Bucci's wife.

20 Q. Now, you were talking about the Gradall, and this
21 lineal grading, you implied drainage. Why would there be a
22 need for lineal grading?

23 A. The way that I understood it, that there was water
24 that was going into the barn, and the water needed to be --
25 to get away from the barn so it wouldn't go into the barn.

Pierce - Cross

- 1 Q. Now, do you know that when you finished that if water
2 went into the barn or didn't go into the barn?
- 3 A. I don't know. I was only there three days.
- 4 Q. And you were there with Red, who is Paul, you don't
5 know his last name, and Curtis White?
- 6 A. Correct.
- 7 Q. How much were you paid when you went to the Traficant
8 farm?
- 9 A. I was paid union rate, but I don't know what the rate
10 was then. It could have been 16 something or 17 something.
- 11 Q. Did you know if the Buccis had a plant in
12 Pennsylvania?
- 13 A. Yes.
- 14 Q. You know what kind of plant it was?
- 15 A. Asphalt plant.
- 16 Q. You were a member of the Teamsters local?
- 17 A. Yes.
- 18 Q. What local number was that?
- 19 A. 377.
- 20 Q. Did they, the Bucci brothers, have a contract with
21 377?
- 22 A. As far as I know.
- 23 Q. Do you know if it was a two-tiered contract?
- 24 A. I don't know.
- 25 Q. Well, do you know of any workers that worked for the

Pierce - Cross

1 Buccis that were not a member of the Teamsters?

2 A. I don't know if all his drivers were or not.

3 Q. Did his drivers work on the state government
4 projects?

5 A. Yes.

6 Q. You must have been pretty good with the horses. Do
7 you have any background with the horses?

8 A. A little bit.

9 Q. Did you ever own a horse?

10 A. When I was a kid.

11 Q. Is that perhaps why you were asked to go pick up that
12 horse?

13 MR. SMITH: Objection, knowledge.

14 THE COURT: Sustained.

15 Q. What kind of horse was it?

16 A. I don't know.

17 Q. Was it big or small?

18 A. Maybe a two-year-old.

19 Q. Well, to your knowledge, if a horse is a
20 two-year-old, is a two-year-old a big horse or small horse?

21 A. It depends on what breed it is.

22 Q. Was it a pony?

23 A. No.

24 Q. Are you familiar with a thoroughbred breed?

25 A. No.

Pierce - Cross

- 1 Q. Are you familiar with the Kentucky Derby?
- 2 A. The breeding?
- 3 Q. Yeah, the horses they race in the Kentucky Derby?
- 4 A. No, just that they're thoroughbred.
- 5 Q. Do you know if they're two-year-old racing events?
- 6 A. I don't know offhand.
- 7 Q. Now, where did you pick the horse up?
- 8 A. I picked the horse up at Ohio State Medical Clinic,
9 down in Columbus.
- 10 Q. And you paid the medical clinic for the horse?
- 11 A. I don't believe I paid anything at all.
- 12 Q. Well, they had you sign papers. Didn't you take
13 papers back with you?
- 14 A. It's been so long ago, I can't -- I can't recall.
- 15 Q. Were you ever interviewed by the Internal Revenue
16 Service?
- 17 A. I don't think so.
- 18 Q. Did you ever drop any equipment off at the Traficant
19 farm?
- 20 A. I dropped off a lawn tractor there one time.
- 21 Q. Do you remember meeting with the government agents of
22 the FBI at 16970 Annesley Road in East Liverpool, Ohio?
- 23 A. Yes, I remember them coming to my home.
- 24 Q. That's your home?
- 25 A. Correct.

Pierce - Cross

1 Q. How many total people came to your home?

2 A. Two.

3 Q. Did you ever tell the Government that you did not
4 drop off any equipment at the Traficant farm?

5 A. No, I don't believe.

6 THE COURT: Can you give this a number?

7 MR. TRAFICANT: How about BS 200.

8 THE COURT: Okay, this one has a mark on it,
9 so I'll give you mine.

10 MR. TRAFICANT: Can I give this to him?

11 THE COURT: No, not yet. Maybe you'll get to
12 a place where you can, if you do, give him the unmarked
13 one.

14 MR. TRAFICANT: Okay.

15 BY MR. TRAFICANT:

16 Q. So you were interviewed at your home, and people came
17 to your house?

18 A. Yes.

19 Q. To the best of your knowledge, there were only two?
20 Could there have been a third?

21 A. There could have been.

22 Q. Did they identify themselves?

23 A. Yes.

24 Q. Did they show you their credentials?

25 A. I believe so.

Pierce - Cross

1 Q. Were any of them IRS agents?

2 A. There may have been one. I think I was told just the
3 other day that --

4 Q. No, not what you were told. How many people were at
5 your house that day in East Liverpool?

6 A. Two that I -- two, I think, there might have been a
7 third. The first time -- it's been so long ago.

8 Q. Okay. Well, /(- would February 8th of the Year 2000,
9 two years ago, be that long of a time span for you,
10 Mr. Pierce?

11 A. A lot of things happened through my life, and yeah, I
12 would -- yeah, it is a while.

13 MR. TRAFICANT: Can I now show him the
14 document, your Honor?

15 THE COURT: Why don't you just point to me
16 the part of it that you think justifies your showing it.

17 MR. TRAFICANT: The second from the bottom,
18 and this.

19 THE COURT: Okay, but that's the witness.

20 MR. TRAFICANT: Yeah, okay.

21 THE COURT: Okay. So --

22 MR. TRAFICANT: That's fine, but --

23 THE COURT: So this wouldn't --

24 MR. TRAFICANT: But there, I want to get into
25 that question there.

Pierce - Cross

1 THE COURT: We'll do this over lunch while
2 these folks have a chance to have lunch, since it's noon.

3 MR. TRAFICANT: Will we resume with this
4 witness?

5 THE COURT: Yes, but first we have to figure
6 out what it is here. Okay? We don't have to do it with
7 the jury here.

8 You're in recess for lunch until 1:30. Enjoy
9 yourselves. It's very cold out.

10 (Proceedings in the absence of the jury:)

11 THE COURT: Congressman.

12 MR. TRAFICANT: Yes.

13 THE COURT: Regarding your request to use
14 this document, his testimony was that there were two people
15 present, and that's what this document shows, that there
16 were two people present, so there's nothing inconsistent
17 there.

18 MR. TRAFICANT: No, but he said they
19 identified themselves, and he does not remember if it was
20 the IRS at all. In fact, this is an IRS memorandum, not an
21 FBI 302.

22 THE COURT: Well, I will have to go back and
23 see if there's any contradiction in what he said. I don't
24 think he said that it wasn't an IRS agent.

25 MR. TRAFICANT: Second of all, he said --

Pierce - Cross

1 THE COURT: He said -- I think he then
2 hesitated and came back and said that a little bit --

3 MR. TRAFICANT: Yeah, a little hesitation.

4 THE COURT: But, the other thing is, on the
5 equipment at the farm, is that what you're talking about?

6 MR. TRAFICANT: He testified he dropped off a
7 mower.

8 THE COURT: Right. But the problem is this
9 isn't his statement. This is an interview statement.

10 MR. SMITH: Your Honor --

11 MR. TRAFICANT: You mean I can't ask him
12 whether or not he was asked if he ever dropped off any
13 equipment? Am I hearing that? I can't --

14 THE COURT: No. You're wanting to give him
15 this document to read from, and this is somebody else's
16 statement.

17 MR. TRAFICANT: I don't need to give him the
18 document to read from.

19 THE COURT: Okay.

20 MR. TRAFICANT: I just want to impeach his
21 testimony. Can I use the document to impeach his
22 testimony, yes or no?

23 MR. SMITH: Your Honor, this is one we have
24 been through before. The Congressman is correct that the
25 witness stated he dropped off a mower at the farm; the

Pierce - Cross

1 Congressman is also correct that in the interview statement
2 it says Bruce Pierce never dropped off any equipment at
3 JAT's farm, which would be inconsistent with what he said
4 on the stand here under oath.

5 The Government certainly has no objection to the
6 Congressman inquiring of this witness, "Did you ever tell
7 the agents when they interviewed you that you didn't drop
8 off any equipment," but to impeach him with someone else's
9 document is another matter. So it's just a matter of
10 technique.

11 THE COURT: All right. Now that you've
12 instructed him in the technique, if he wishes to use that
13 after the lunch break he can use that, but so far you
14 haven't done that, so you can't use it yet.

15 MR. TRAFICANT: I'm a quick learner. I
16 appreciate his advice and counsel.

17 THE COURT: Well, in any event, we have a
18 witness now who's being held until after lunch on the
19 theory that you have more questions.

20 MR. TRAFICANT: I do have more questions.

21 THE COURT: Very well. Then we will hold
22 that witness and resume at 1:30. Thank you.

23 MR. SMITH: Thank you, your Honor.

24 (Thereupon, a luncheon recess was had.)

25

Pierce - Cross

1 Monday Session, March 4, 2002, at 1:30 P.M.

2 THE COURT: Sir, you're still under oath.

3 BY MR. TRAFICANT:

4 Q. How are you doing, Bruce?

5 A. Good, thank you.

6 Q. Did anybody meet with you over the break and discuss
7 any of your testimony this morning?

8 A. No, sir.

9 Q. Did you know of a Bucci employee that's supposedly
10 worked six weeks continuous, 16 hours a day, at the
11 Traficant farm?

12 A. No, sir.

13 Q. When the agents came to your house, were you a little
14 bit uncomfortable?

15 A. Yes.

16 Q. Were you scared, Bruce?

17 A. Yeah. It'll put fear into you.

18 Q. Well, they didn't threaten you, did they?

19 A. No.

20 Q. This was something you felt, right?

21 A. Yes.

22 Q. Did you ever tell the Grand Jury that Tony Bucci was
23 doing things for me for free?

24 A. Not that I know of, no.

25 Q. Did you ever tell the Grand Jury that you got a job

Pierce - Cross

1 shutdown, at Mosquito Lake?

2 A. I recall saying that there was a job shutdown at
3 Mosquito Lake.

4 Q. Isn't it a fact you told the Grand Jury you told the
5 agents that you never dropped off any equipment at Jim
6 Traficant's farm?

7 MR. SMITH: Objection. That is two parts,
8 your Honor.

9 Q. Did you tell the agents that interviewed you in East
10 Liverpool that you never dropped off any equipment at Jim
11 Traficant's farm?

12 A. I don't remember.

13 MR. TRAFICANT: Second paragraph at the
14 bottom.

15 THE COURT: Okay.

16 MR. TRAFICANT: Can I show it to him?

17 THE COURT: Yes.

18 BY MR. TRAFICANT:

19 Q. Would you please read the paragraph starting with
20 Bruce Pierce, second paragraph from the bottom?

21 MR. SMITH: Object to it being read aloud at
22 this point.

23 THE COURT: He's only reading it to himself.
24 Could you read it to yourself?

25 Q. Now, I'm going to ask you again. Did you tell the

Pierce - Cross

1 agents that you never dropped off any equipment at the
2 Traficant farm?

3 A. I still don't remember because there's two different
4 types of equipment the way I see it.

5 Q. I didn't ask you that.

6 THE COURT: He answered it. You have another
7 question, you can ask him another question.

8 MR. TRAFICANT: Yes.

9 THE COURT: Thank you.

10 Q. Now, when you picked this horse up in Columbus, who
11 handed physically the horse over to you?

12 A. I would have to say the caretakers down there.

13 Q. To the best of your knowledge, did they have you sign
14 something so they had a receipt, that they no longer had
15 custody, control, or responsibility for the horse?

16 A. I can't remember if I signed anything or not.

17 Q. Did you get any copies of anything?

18 A. I can't remember.

19 Q. Well, did the Buccis give you money to pay for the
20 horse to get the horse out of the vet clinic?

21 A. I don't remember taking any money with me.

22 Q. What was the approximate date that you went and
23 picked up that horse to the best of your knowledge?

24 A. Sometime in the '90s.

25 Q. Early '90s?

Pierce - Cross

- 1 A. Yes, I was there early '90s.
- 2 Q. Well, that would be ten years ago, wouldn't it?
- 3 A. Yes.
- 4 Q. Now, isn't it a fact that you participated in the
5 pavement -- well, before I go there, did you read that
6 paragraph of that memorandum that I handed to you?
- 7 A. Yes.
- 8 Q. Okay. Now, you were one of the drivers that paved
9 Dan's driveway, wasn't it?
- 10 A. No, sir.
- 11 Q. You had nothing to do the with the paving at Dan's
12 driveway?
- 13 A. I had nothing to do with the driving.
- 14 Q. Did you drive?
- 15 A. No, sir.
- 16 Q. Did you pave?
- 17 A. Yes, sir.
- 18 Q. Okay. Tell me exactly what you did on Dan's
19 driveway.
- 20 A. We went in and did an overlay on Dan's driveway,
21 started up where his barn was, and took it clear down to
22 the -- to the end of his driveway, which was State Route
23 165.
- 24 Q. How long a driveway would you estimate that was?
- 25 A. I would have to say 17, 1800 feet.

Pierce - Cross

- 1 Q. Isn't it a fact that there was a deep dropoff that
2 was very dangerous on the Bucci farm?
- 3 A. Possibly.
- 4 Q. Was it a winding driveway?
- 5 A. I believe there was bends in it.
- 6 Q. Now, do you recall how long that job took you?
- 7 A. I would have to say all day.
- 8 Q. Was it almost night when you were finished with that
9 job?
- 10 A. I'm pretty sure it was.
- 11 Q. Now, you gave the Grand Jury an estimate of the size
12 and dimensions of the blacktop that was put across the
13 street at the Traficant farm, did you not?
- 14 A. I believe there was something said there.
- 15 Q. And to the best of your knowledge, how many feet was
16 it, if you recall?
- 17 A. Maybe about a 20 by 15 or 18 deep.
- 18 Q. Wasn't a whole lot of blacktop, was it?
- 19 A. No.
- 20 Q. Now, being late at night, how far away for you from
21 the asphalt plant in Girard?
- 22 A. Oh, I'd have to say a good 35, 40 minutes with the
23 truck.
- 24 Q. Now, would a -- what size did you say it was?
- 25 A. I'd have to say about a 20 by 18.

Pierce - Cross

- 1 Q. Now, do you think, when you're doing what you call a
2 1700-foot driveway with turns in it, that it would be a
3 pretty good guess that they had enough equipment to do it
4 and enough material to finish it? Did they have enough
5 material to finish it?
- 6 A. Yeah, we finished it.
- 7 Q. Well, would 10 by 20 be an awful lot of blacktop,
8 sir?
- 9 A. All depends on how deep you put it in, but, no.
- 10 Q. Isn't it a fact that you had such a little bit of
11 blacktop, Dan Bucci said go put it across the street at
12 Traficant's farm? Yes or no.
- 13 A. I believe it was Tony that said go put it over there.
- 14 Q. Was Tony out at Dan's farm when the job was being
15 done?
- 16 A. Yes.
- 17 Q. Now, did Tony wear a suit and tie to work?
- 18 A. At the company or at the farm out there when we was
19 paid?
- 20 Q. When you were on a work job and Anthony Bucci was
21 there, what was his capacity?
- 22 A. I would say that he was like a coordinator, ran the
23 job.
- 24 Q. Did he ever run equipment?
- 25 A. I've seen him run equipment, yes.

Pierce - Cross

- 1 Q. Did you ever see him pitch in and help the guys to
2 get the job done?
- 3 A. Yes, I have.
- 4 Q. Um-hum. Did he have a suit and tie on when he did
5 that?
- 6 A. I can't say for sure because I've known a few times
7 he stopped out that he has been dressed and get right out
8 there and help.
- 9 Q. Well, if he -- did you ever notice him driving any
10 paving equipment with a tie and a jacket? Let me put it
11 that way.
- 12 A. No.
- 13 Q. Did you see him driving paving equipment?
- 14 A. I have.
- 15 Q. Did you know that -- did you know Curtis White?
- 16 A. Yes, I worked with Curtis.
- 17 Q. Did he work on the projects with you?
- 18 A. Yes.
- 19 Q. Now, you're a member of Teamsters 377. Did you sign
20 the contract agreement with -- between 377 and the Buccis?
- 21 A. I was in the Teamsters at one time.
- 22 Q. Were you asked to attend a meeting to vote on
23 ratification of a contract?
- 24 A. I remember there being where we voted at the plant
25 the drivers and everybody was there.

Pierce - Cross

1 Q. Did somebody stand up and say look, here's the deal,
2 Bill, here's the --

3 THE COURT: Wait a minute, wait a minute,
4 Congressman. You need to -- you need to have some basis
5 before you make a statement. It has to be a question to
6 the witness.

7 MR. TRAFICANT: Yeah, okay.

8 THE COURT: Okay.

9 MR. TRAFICANT: Sorry, your Honor.

10 THE COURT: Thank you.

11 BY MR. TRAFICANT:

12 Q. You testified someone came before you and -- at the
13 plant, you discussed the contract. Is that right?

14 A. There was -- there was a booth set up there because
15 the drivers was wanting the Teamsters to come in there,
16 they wanted to be Teamsters. All we did was vote yes or no
17 whether, you know, we wanted the Teamsters to be in there.

18 Q. To the best of your knowledge, did anyone ever ask
19 that the contract be explained to the workers?

20 A. I don't know myself.

21 Q. Did anyone ever explain it to you?

22 A. Not that I can recall.

23 Q. Did you officially sign the agreement? Were you one
24 of the signators to the agreement?

25 A. No. I never signed an agreement.

Pierce - Redirect/Smith

1 Q. Did you get a copy of the agreement?

2 A. Not that I recall.

3 Q. Did you know if the truck drivers were paid the
4 prevailing rate on State jobs?

5 A. I don't know.

6 MR. TRAFICANT: No further questions at this
7 time.

8 THE COURT: Thank you.

9 MR. SMITH: Briefly, your Honor.

10 REDIRECT EXAMINATION OF BRUCE PIERCE

11 BY MR. SMITH:

12 Q. Do you recall being asked on cross-examination
13 several questions about blacktop, extra blacktop from the
14 Dan Bucci driveway job being used on Congressman
15 Traficant's property? You recall that series of questions
16 and answers?

17 A. Yes.

18 Q. All right.

19 How much preparatory work would have to be done to
20 put the blacktop on Congressman Traficant's farm?

21 A. When the asphalt that we laid --

22 Q. Right.

23 A. I think we probably prepped it in there. I don't
24 know, ten, 15 minutes, with a back blade.

25 Q. And how actually -- how do you actually physically go

Pierce - Recross

1 about laying the blacktop? What equipment do you use, or
2 what do you have to do?

3 A. We use an asphalt paver and a roller and power broom
4 was there.

5 Q. Okay.

6 So about how long would that have taken to do the
7 whole process from start to finish, the portion of the
8 blacktop that was used in Congressman Traficant's farm, I
9 mean?

10 A. The asphalt I put down -- probably I'd have to say an
11 hour.

12 Q. Okay.

13 MR. SMITH: No further questions.

14 RE-CROSS-EXAMINATION OF BRUCE PIERCE

15 BY MR. TRAFICANT:

16 Q. Now, Bruce, when you left, was the asphalt that was
17 placed on the Traficant farm completed? Did you finish the
18 job?

19 A. What I put down?

20 Q. Yeah.

21 A. What I put down was completed.

22 Q. What time -- what month were you approximately
23 talking about?

24 A. It was warm out.

25 Q. It was almost dark, wasn't it?

Pierce - Recross

1 A. Yes.

2 Q. Did you use lights?

3 A. Possible.

4 Q. Did you ask permission to put asphalt down on the
5 Traficant farm?

6 A. I never did.

7 Q. Well, then, who selected where the blacktop was to
8 go?

9 A. I would imagine Tony.

10 Q. You mean you wouldn't check with the owner or someone
11 at the property?

12 A. My employer said he wanted it put there, so I put it
13 there.

14 Q. Isn't it a fact you had blacktop left over? You
15 didn't have enough to freeze it up in your truck and take
16 all the time to go to Girard, and you just went across the
17 street and dropped that blacktop off because you had no
18 place else to put it on Dan's farm. Yes or no.

19 A. Possible.

20 MR. TRAFICANT: No further questions.

21 MR. SMITH: No questions.

22 THE COURT: Thank you. You may step down.

23 MR. SMITH: We'll call Donald Burkey, your
24 Honor.

25

Burkey - Direct/Smith

- 1 DONALD BURKEY
- 2 of lawful age, a witness called by the Government,
- 3 being first duly sworn, was examined
- 4 and testified as follows:
- 5 DIRECT EXAMINATION OF DONALD BURKEY
- 6 BY MR. SMITH:
- 7 Q. Sir, would you please state your full name, and spell
- 8 your last name for the court reporter?
- 9 A. Donald Francis Burkey, B-U-R-K-E-Y.
- 10 Q. Sir, in what city do you reside?
- 11 A. Warren, Ohio.
- 12 Q. And are you working now?
- 13 A. No. I'm retired.
- 14 Q. Where did you work from 1985 until 1998?
- 15 A. For State Materials.
- 16 Q. And who was --
- 17 A. In Girard.
- 18 Q. Okay. And who was the proprietor of State Materials?
- 19 A. The Bucci brothers.
- 20 Q. And give me the first names of the Bucci brothers, if
- 21 you will?
- 22 A. There was Robert, Tony, and Dan.
- 23 Q. And what work did you do at State Materials?
- 24 A. I run a highlift, front-end loader, and a dozer.
- 25 Q. And at what location did you work?

Burkey - Direct/Smith

1 A. At the Girard plant.

2 Q. And what specific function did that Girard plant
3 perform?

4 A. It was an asphalt plant. We made asphalt.

5 Q. And what role did you play in the making of the
6 asphalt?

7 A. I loaded the bins up with gravel.

8 Q. Okay. Tell you what. Why don't you explain to the
9 Grand Jury briefly how asphalt gets --

10 A. Well, it starts up on the gins. You put gravel and
11 sand in it and different kinds of gravel, whatever it calls
12 for, and it goes through the conveyor, into a screening,
13 and then into a drum, and it's drum mixes it with AC, and
14 then it comes out. It's blacktop then and goes up on the
15 conveyor into silos.

16 Q. And from the silos, what's done?

17 A. It's loaded in the trucks and out on the road.

18 Q. Was there any part of your duties to actually go out
19 and labor in the field or labor on the roads?

20 A. Once in a while, yes. If there was no blacktop being
21 made.

22 Q. Okay. The bulk of your time, however, was spent
23 where?

24 A. It was at the plant most of the time.

25 Q. Okay.

Burkey - Direct/Smith

1 Directing your attention to the early 1990's, did you
2 ever go out on company time to work at a farm located on
3 Route 165 in Greenford?

4 A. Yes, sir.

5 Q. And who told you to go out to that farm?

6 A. Tony Bucci.

7 Q. Did he indicate whose farm it was?

8 A. Yes.

9 Q. What did he say?

10 A. Jim Traficant's.

11 Q. How many days did you work out at that farm?

12 A. A day and a half.

13 Q. And were there any other Bucci workers out there when
14 you were out there for that day and a half?

15 A. Tony was there for awhile, yeah.

16 Q. Tony?

17 A. Bucci.

18 Q. Would you please describe what work you performed out
19 at the farm?

20 A. I run the dozer, leveled off the gravel on the road.

21 Q. All right. Where were you leveling off this gravel
22 at?

23 A. On the roadway down by the end and up towards the
24 house.

25 Q. Was there any work done out near the road when you

Burkey - Direct/Smith

- 1 were there?
- 2 A. By the road?
- 3 Q. Right.
- 4 A. Yeah. I pushed off some top soil and levelled that
5 off there, too, for arenas, horse arenas just about 100 by
6 100 round circle.
- 7 Q. Okay. And how far from the barns was this area that
8 you were leveling off?
- 9 A. It was probably 50 or 60 yards.
- 10 Q. And how close to the road was this particular area
11 that you were leveling off?
- 12 A. It's probably 20 yards, 25 yards.
- 13 Q. Do you know -- you referred to leveling off gravel as
14 part of your job out there?
- 15 A. Yes.
- 16 Q. All right. Where did that gravel come from, if you
17 know?
- 18 A. I don't know where it came from.
- 19 Q. Was there any particular -- withdrawn.
20 How did you get paid for the work that you did out at
21 the farm?
- 22 A. Through my regular payroll.
- 23 Q. And regular payroll was what company?
- 24 A. State Materials.
- 25 Q. Did Congressman Traficant pay you any money for the

Burkey - Cross

1 work that you did out at his farm?

2 A. No, sir.

3 Q. Did you ever speak to the Congressman while you were
4 working out at the farm?

5 A. I met him there, yes, there was no conversation. We
6 just -- just introduce today him.

7 Q. Okay. So how long did that little interchange take
8 between you and the Congressman?

9 A. We just said hello and --

10 Q. Pleasantries, that was it?

11 A. That was it.

12 MR. SMITH: May I have a moment, your Honor?

13 THE COURT: Yes.

14 MR. SMITH: No further questions, your Honor.

15 CROSS-EXAMINATION OF DONALD BURKEY

16 BY MR. TRAFICANT:

17 Q. How are you doing, Donald?

18 A. Okay, sir.

19 Q. At the farm, did you ever think you'd be talking to
20 me in the courtroom?

21 A. Please?

22 Q. When you met with me at the farm, did you ever think
23 you'd be talking to me in the courtroom like this?

24 A. No, I didn't.

25 Q. Now, you said you worked where they made the asphalt?

Burkey - Cross

- 1 A. Yes, that's right.
- 2 Q. Who, in fact, was in charge of making the asphalt
3 that went into the silo?
- 4 A. Dan Bucci.
- 5 Q. Do you know who the chief executive officer was of
6 that company?
- 7 A. No. No, sir.
- 8 Q. Did you know where Dan Bucci lived?
- 9 A. Yes.
- 10 Q. Where did he live?
- 11 A. He lived out on 165 there, across the street from
12 where your farm is.
- 13 Q. Did you personally know Dan and I were friends?
- 14 A. No, I didn't.
- 15 Q. When Tony came to the farm, how was he dressed, do
16 you remember?
- 17 A. Just overalls like he always wore, you know.
- 18 Q. What did he always wear?
- 19 A. Just regular shirt, pullover shirt with overalls.
- 20 Q. Um-hum.
21 How many times you see him in a suit and tie?
- 22 A. How many times what?
- 23 Q. Did you see Tony in a suite and tie?
- 24 A. Not very many.
- 25 Q. Did you ask me if I was to pay you --

Burkey - Cross

- 1 A. No, no, sir, I didn't.
- 2 Q. Now, we met at the farm, right?
- 3 A. Um-hum.
- 4 Q. Hello and good-bye. Did you and he shake hands?
- 5 A. What, please?
- 6 Q. Did we shake hands?
- 7 A. Yes, we did.
- 8 Q. Did I hug or feel you?
- 9 A. No.
- 10 Q. To the best of your knowledge, are people afraid of
- 11 me back home?
- 12 A. Not that I know of, no.
- 13 Q. Who was your supervisor at work?
- 14 A. Dan Bucci.
- 15 Q. Were there days you had slow times?
- 16 A. Yes, sir.
- 17 Q. Did you go out on other type of job duties?
- 18 A. Yes, sir.
- 19 Q. What would you do?
- 20 A. Well, we go into something like that I went out -- if
- 21 they weren't hauled into the plant, they would dump it out
- 22 in a field or something on the road. I would push it up if
- 23 we weren't making asphalt, but when we was making asphalt,
- 24 that was my prime job to do.
- 25 Q. Were you a part of the quality control of that

Burkey - Cross

- 1 asphalt plant?
- 2 A. No, sir.
- 3 Q. Who was responsible ultimately?
- 4 A. John Sherman, he was the foreman there.
- 5 Q. Who did he report to?
- 6 A. Dan Bucci.
- 7 Q. Did you ever have blacktop returned back to the plant
- 8 to be recycled?
- 9 A. Yes, sir.
- 10 Q. Would you ever have small amounts of blacktop brought
- 11 back to be recycled?
- 12 A. Yes.
- 13 Q. If it was late at night, would they bring it back
- 14 after the plant was closed?
- 15 A. After the plant was closed, I was gone. I don't
- 16 know. I couldn't tell you.
- 17 Q. What time did the plant close?
- 18 A. Well, whenever they had a job finished, there was no
- 19 quitting time.
- 20 Q. What time did you leave work?
- 21 A. Well, whenever the plant shut down, that's when I
- 22 left.
- 23 Q. Were you familiar with the paving of the driveway of
- 24 Dan Bucci?
- 25 A. No, sir.

Burkey - Cross

1 Q. Now, when you had a job, who estimated the amount of
2 product that would be needed to fulfill and complete the
3 job?

4 A. Well, they had Paul Wilson that did that.

5 Q. And was he pretty close to estimating?

6 A. Yes. He was, yeah.

7 Q. To your knowledge, did he ever underestimate?

8 A. Yes.

9 Q. There are times when he overestimated?

10 A. Yes.

11 Q. You said you saw no workers out there, but you saw
12 Tony out there one time?

13 A. Yeah. He was there that day I was there, not the
14 whole -- just out there for a brief period of time, and
15 that was it, he left.

16 Q. Do you know if he had been at his brother's place
17 across the street?

18 A. No, I don't know.

19 MR. TRAFICANT: No further questions.

20 MR. SMITH: No questions.

21 THE COURT: Thank you, sir. You're excused.

22 You can stand down.

23 THE WITNESS: Thank you.

24 THE COURT: Thank you.

25 MR. SMITH: We'll call Joseph Ritzler, your

Ritzler - Direct/Smith

1 Honor.

2 JOE E. RITZLER

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

4 being first duly sworn, was examined

5 and testified as follows:

6 DIRECT EXAMINATION OF JOE E. RITZLER

7 BY MR. SMITH:

8 Q. Sir, could you please state your full name, and spell

9 your last name for the court reporter?

10 A. Joe E. Ritzler , R-I-T-Z-L-E-R.

11 Q. What city do you reside, sir?

12 A. Springfield Township, south of Youngstown.

13 Q. And what do you do for a living?

14 A. I'm a construction laborer.

15 Q. And for what now?

16 A. Maruchi and Gavney at the moment, but that's --

17 MR. TRAFICANT: Could you I didn't hear the

18 employers.

19 THE WITNESS: Maruchi and Gavney.

20 MR. SMITH: Keep your voice up, sir.

21 Q. Have you ever heard of an entity called Big G

22 Construction?

23 A. Yes.

24 Q. Did you ever work there?

25 A. Yes.

Ritzler - Direct/Smith

- 1 Q. Approximately when did you work there from start to
2 finish?
- 3 A. I can't -- I don't remember exactly I worked for them
4 for four or five years, probably in the '80s.
- 5 Q. We're talking early?
- 6 A. Late '80s.
- 7 Q. Late '80s until when?
- 8 A. In the early '90s.
- 9 Q. What was the nature of the business of Big G
10 Construction?
- 11 A. Mostly heavy highway construction.
- 12 Q. Who was the proprietor of Big G Construction?
- 13 A. Greg Tyson.
- 14 Q. And what work did you do at Big G Construction?
- 15 A. I was a laborer.
- 16 Q. And what did that entail?
- 17 A. Just layout work, you know, building the jobs.
- 18 Q. All right.
- 19 Did you ever go out on company time to a farm located
20 on Route 165 and Greenford?
- 21 A. Yes.
- 22 Q. And was this while you were working for Big G?
- 23 A. Yes.
- 24 Q. Who told you to go out there?
- 25 A. Greg Tyson.

Ritzler - Direct/Smith

1 Q. And who -- whose farm was this?

2 A. Jim Traficant's.

3 Q. And approximately when, in your -- in your tenure
4 with Big G, did this happen, beginning middle, late?

5 A. Late.

6 Q. How many days did you spend out at that farm?

7 A. I'd say roughly four, you know, could have been
8 three, could have been five, been a long time ago.

9 Q. Okay.

10 Were there any other Big G employees working out
11 there when you were working out there?

12 A. Yes.

13 Q. Could you name as many as you can recall?

14 A. Vince Carter, Glen Rose, that's about it.

15 Q. What work did you perform when you were out at the
16 farm?

17 A. Did some drainage work, set a couple of pit basins
18 and pipe, little waterline, poured a little bit of
19 concrete.

20 Q. Where was the concrete work done?

21 A. In an old barn there.

22 Q. All right. And how many of those three or four days,
23 whatever it was, how many of those work days did it take to
24 do that concrete portion?

25 A. One.

Ritzler - Direct/Smith

1 Q. Where did you get the concrete to do this work in the
2 barn?

3 A. I don't remember.

4 Q. Where was the catch basin installed?

5 A. I was in close proximity to the barn, I think,
6 between the house and the barn, on the south side of the
7 barn, if I remember right.

8 Q. What was Vince Carter doing on the days you were out
9 there?

10 A. He ran equipment, an operator.

11 Q. Specifically what was he doing with the equipment at
12 the farm in those days?

13 A. Running the backhoe, digging ditches.

14 Q. How about Glen Rose, what was he doing?

15 A. Same.

16 Q. How were you paid for your services on those days
17 that you worked out at the farm?

18 A. Just regular payroll check.

19 Q. And on what company was that payroll check drawn?

20 A. Big G.

21 Q. Did you receive any pay from Congressman Traficant
22 himself for work you did on the farm?

23 A. No.

24 MR. SMITH: May I have a moment, your Honor?

25 THE COURT: Yes.

Ritzler - Cross

1 MR. SMITH: Nothing further, your Honor.

2 THE COURT: Congressman

3 CROSS-EXAMINATION OF JOE E. RITZLER

4 BY MR. TRAFICANT:

5 Q. How are you doing, Joe?

6 A. Fine.

7 Q. It doesn't look like you're too happy testifying
8 here.

9 A. Does it show?

10 Q. Yeah, it looks like -- let me ask you this.

11 You don't like testifying against me, do you?

12 A. Not particularly.

13 Q. And why is that, Joe?

14 A. No particular reason.

15 Q. To the best of your knowledge, was Greg and I good
16 friends?

17 A. Yeah.

18 Q. Did he, in fact, have conversations he and I were
19 good friends?

20 A. Not really, no. We didn't talk about it much.

21 Q. How did you know we were good friends?

22 A. You know, he just never said nothing bad about you.

23 Q. Did you see us together?

24 A. No. I don't think I ever saw you there.

25 Q. Did you ever meet me out at the farm?

Ritzler - Cross

- 1 A. No.
- 2 Q. Did you ever meet my father at the farm?
- 3 A. No.
- 4 Q. Would you know my father if he were in this room?
- 5 A. No.
- 6 Q. Did you know if Dan Bucci lived near the farm?
- 7 A. No.
- 8 Q. Did you know if -- whether or not Mr. Tyson and I had
- 9 a private contract agreement for settlement or payment of
- 10 these issues?
- 11 A. No.
- 12 Q. Now, you said a little concrete. How big was this
- 13 building?
- 14 A. This building?
- 15 Q. No, that -- when you put the concrete up, how big was
- 16 that?
- 17 A. Oh, I guess we probably poured, I'd say, 30, 40 feet
- 18 long, eight feet wide, in a T. Does that sound about
- 19 right? It was in the stall area. It was in a stall area
- 20 in the barn.
- 21 Q. Was it small, Joseph?
- 22 A. Yes.
- 23 Q. Well, isn't it a fact when you lay concrete, it has
- 24 to be in a timely manner so that it's fluid enough to be
- 25 worked?

Ritzler - Cross

- 1 A. Yes.
- 2 Q. So if it becomes dry, you can't really use it, can
3 you?
- 4 A. Right.
- 5 Q. And you didn't see any truck bring any product?
- 6 A. Oh, I saw the truck, I just never paid attention to
7 who they were.
- 8 Q. Now, Maruchi and Gavney Company, are they the -- a
9 new company?
- 10 A. I mean, they've been in business for quite a few
11 years.
- 12 Q. Do you know if they bought any other company out in
13 the last five years?
- 14 A. No.
- 15 Q. Do you know if Greg's dad ever came to the Traficant
16 farm?
- 17 A. Yes.
- 18 Q. And what did Greg's dad do?
- 19 A. Supervisory capacity.
- 20 Q. That seem unusual to you?
- 21 A. No.
- 22 Q. He helped Greg a lot?
- 23 A. Yes.
- 24 Q. Did you see any horses when you were out there?
- 25 A. Yes.

Ritzler - Cross

- 1 Q. But Greg was never there when you were there?
- 2 A. No.
- 3 Q. Now, how did you, in fact, know or believe it was my
4 farm?
- 5 A. Greg told me it was when he sent me out there.
- 6 Q. That's what Greg told you?
- 7 A. Yes.
- 8 Q. You know for sure who owned the farm?
- 9 A. No. I never saw a deed.
- 10 Q. Was Greg a minority contractor?
- 11 A. Yes.
- 12 Q. Was he a legitimate minority contractor?
- 13 A. Very much so.
- 14 Q. Was he rare?
- 15 A. Yes.
- 16 Q. Were there not, in fact, many minority contractors
17 that were used?
- 18 A. Most were.
- 19 Q. Were you familiar with a man named Curtis White?
- 20 A. No.
- 21 Q. Was Greg Tyson the kind of man that could be pushed
22 around, Mr. Ritzler?
- 23 A. No.
- 24 Q. Do you know if he owned a cement company in the City
25 of Youngstown?

Crump - Direct/Smith

1 A. I believe it was in Warren he owned one, in
2 Youngstown. I couldn't tell you.

3 Q. At some point then you come to learn that he bought a
4 plant in Warren, right?

5 A. Yes.

6 Q. But you know nothing about a Youngstown plant that he
7 owned. Is that correct?

8 A. Correct.

9 MR. TRAFICANT: No further questions, Joe.

10 MR. SMITH: No questions.

11 THE COURT: Thank you, sir.

12 MR. SMITH: Your Honor, we call John Crump.

13 THE COURT: All right.

14 JOHN C. CRUMP

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

16 being first duly sworn, was examined

17 and testified as follows:

18 DIRECT EXAMINATION OF JOHN C. CRUMP

19 BY MR. SMITH:

20 Q. Sir, would you please state your full name, and spell
21 your last name for the court reporter.

22 A. John C. Crump.

23 Q. What -- could you spell it, please?

24 A. C-R-U-M-P.

25 Q. What city do you reside in?

Crump - Direct/Smith

- 1 A. Berlin Center.
- 2 Q. Sir, I can't hear you.
- 3 A. Berlin Center.
- 4 Q. And what county is Berlin Center in?
- 5 A. Mahoning.
- 6 Q. What do you do for a living now, sir?
- 7 A. Concrete cement truck driver.
- 8 Q. For what company?
- 9 A. City Concrete.
- 10 Q. And where is City Concrete located?
- 11 A. In Youngstown.
- 12 Q. Have you ever heard of a company called Capital Ready
- 13 Mix?
- 14 A. Yes.
- 15 Q. Did you ever work there?
- 16 A. Yes.
- 17 Q. Could you give us the approximate dates that you
- 18 worked there from beginning to end?
- 19 A. Around March of '94 through '96 some time.
- 20 Q. And what did you do at Capital Ready Mix?
- 21 A. I ran the office, dispatched the trucks and the
- 22 drivers.
- 23 Q. What kind of duties did your office work entail?
- 24 A. I took orders and wrote the orders that had to go
- 25 out, and I lined them up for the whole day, what jobs we

Crump - Direct/Smith

1 had to do that day, dispatched the drivers.

2 Q. How about billings on behalf of Capital Ready Mix,
3 who prepared those?

4 A. The secretary prepared those. I didn't have anything
5 to do with the billing.

6 Q. The secretary that worked where?

7 A. In the same office in Warren.

8 Q. Who was her supervisor?

9 A. Pardon me?

10 Q. Who was her supervisor?

11 A. Her supervisor was Joe Sattarelle.

12 Q. And who hired you at Capital Ready Mix?

13 A. Joe Sattarelle.

14 Q. All right. Tell us who Joe Sattarelle was.

15 A. Joe Sattarelle owned the -- he has a scrap business
16 in Warren, and he ran another business aside from this one.

17 Q. Were there any other principals at Capital Ready Mix
18 other than Mr. Sattarelle?

19 A. Yes. There was Greg Tyson and Tony Bucci.

20 Q. Could you describe the nature of the business in
21 which Capital Ready Mix was engaged?

22 A. Supply ready mix concrete to contractors.

23 Q. Now, does the term batch man mean anything to you in
24 terms of the concrete production facility?

25 A. Yeah.

Crump - Direct/Smith

1 Q. What is a batch man?

2 A. They -- they put the ingredients in the cement truck,
3 they wear them out, and put them inside the truck from the
4 batch room.

5 Q. Typically what ingredients are you talking about?

6 A. Sand, limestone, cement, water.

7 Q. About how many cubic yards of concrete are in a full
8 concrete truck?

9 A. Ten usually.

10 Q. And in the mid 1990s when you were working at Capital
11 Ready Mix, what was the value of a yard of concrete,
12 approximately?

13 A. \$55.

14 Q. So what would be the value of a full load of concrete
15 on a concrete truck?

16 A. \$500.

17 Q. Would you please again explain the procedure by which
18 customers got invoiced for concrete that came from Capital
19 Ready Mix?

20 A. I had a log every morning. Usually the customers
21 call the night before, and we put them down on the log, and
22 then we dispatch the trucks. And if I fill out the bill
23 for the customer, the driver would take the load out, and
24 they sign the bill and bring it back in.

25 Q. Did you ever dispatch concrete trucks to a farm

Crump - Direct/Smith

1 located on Route 165 and Greenford while you were working
2 for Capital?

3 A. Yes.

4 Q. At whose direction did you send those concrete trucks
5 to that location?

6 A. Greg Tyson.

7 Q. And did Mr. Tyson indicate what was at that location?

8 A. He said it was Traficant's farm.

9 Q. What was this concrete being -- to be used for?

10 A. I -- I believe it was mostly for footers and walls.

11 Q. How many loads of concrete on trucks did you send out
12 to that farm?

13 A. I'd say approximately five.

14 Q. And how many men on a typical concrete truck crew?

15 A. One driver.

16 Q. All right. And do any other people typically work
17 with the driver once the concrete reaches its destination?

18 A. No. Not at our end, no.

19 Q. Okay. Okay. For how many days were Capital Ready
20 Mix's employees out at the farm to do this concrete job if
21 you recall?

22 A. I would say maybe three days that I can remember.

23 Q. Do you know where the bill or invoice for this
24 concrete was sent to?

25 A. Where they were sent to or who they were made out to?

Crump - Direct/Smith

1 Q. Well, why don't you tell us what you know?

2 A. I don't really know where they were sent to, but I
3 didn't actually do the billing. As far as --

4 Q. Who was it made out to?

5 A. Who they were made out to was Big G Construction.

6 Q. All right. And what was Big G Construction?

7 A. That was Greg Tyson's contracting company.

8 Q. So the invoices for the concrete going out to the
9 farm was made out to the Big G Construction?

10 A. Yes.

11 Q. Did you bill Congressman Traficant for any of that
12 concrete?

13 A. Not that I remember.

14 Q. Did you receive any payment from Congressman
15 Traficant for that concrete?

16 A. No.

17 Q. Did you ever attend a meeting at which Congressman
18 Traficant was also present?

19 A. Yes.

20 Q. And where was that meeting with Congressman
21 Traficant?

22 A. It was at Canfield, small restaurant.

23 Q. And who was present at this meeting?

24 A. Greg Tyson, Jim Traficant, and myself.

25 Q. What time of day are we talking about here?

Crump - Direct/Smith

1 A. Early morning, 9:00, 9:00 A.M., somewhere around
2 there, about 9:00 A.M.

3 Q. If you please, your voice trails off. Okay?

4 And was this meeting before or after this concrete
5 work about which you've already testified?

6 A. I really don't remember. I think it was before.

7 Q. What did Congressman Traficant and Mr. Tyson discuss
8 at that meeting in your presence?

9 A. They talked about certain jobs coming up in the area,
10 certain jobs in the area were coming up, federal work --
11 federal prison, east side of Youngstown and Center Street
12 Bridge in Struthers, Ohio. They just talked about the
13 jobs.

14 Q. What specifically did the Congressman say about those
15 jobs?

16 A. Since Greg was a minority supplier of concrete, he
17 stood a good chance of supplying the concrete to him.

18 Q. Was there any other subject matter discussed at that
19 breakfast meeting?

20 A. Yeah. We were going to Traficant's farm after
21 breakfast to -- he wanted a pump installed in the well, and
22 that's about all.

23 Q. Who wanted this pump thing installed?

24 A. Jim Traficant.

25 Q. After the breakfast meeting, where did you go?

Crump - Direct/Smith

1 A. To his farm in Greenford.

2 Q. Whose farm?

3 A. Jim Traficant's.

4 Q. Who was present at that farm once you arrived?

5 A. Greg Tyson and Jim Traficant and myself.

6 Q. And would you describe what Congressman Traficant and
7 Mr. Tyson and yourself said out at the farm to each other?

8 A. Jim Traficant kind of walked us around and showed us
9 the farm, and they talked about some work he wanted done on
10 the barns and about installing a water pump in the well.

11 Q. What was the work that the Congressman showed you
12 that he wanted done in the barns?

13 A. I believe it was shoring up some of the walls that
14 were holding up the roof.

15 Q. Now, about this pump, what happened with respect to
16 that discussion?

17 A. Well, that day --

18 Q. Let's start with that day, yeah.

19 A. He'd ask if we could install a pump, and I told him
20 yeah, we could, and I told him we'd be over in a few days
21 and put the pump in, and that's pretty much what happened.

22 MR. SMITH: May I have a moment? Your Honor,
23 I'm having a hard time hearing. Can I have the last answer
24 read back.

25 (Thereupon, the record was read back by the Court

Crump - Direct/Smith

1 Reporter.)

2 Q. Was the pump ever put in?

3 A. Yes.

4 Q. Who was responsible for that? Who was responsible
5 for putting in the pump?

6 A. I was responsible for putting it in.

7 Q. How did you go about doing that?

8 A. He'd buy a pump and put it in the well casing and
9 make certain connections and turn it on.

10 Q. Did you do it yourself?

11 A. No, I didn't.

12 Q. All right. Who did you get to do it?

13 A. Gil Lungsford.

14 MR. TRAFICANT: Would you repeat that name
15 please.

16 THE WITNESS: Gill Lungsford.

17 BY MR. SMITH:

18 Q. And where was this pump located on the property?

19 A. Probably 25 feet from the back of the house.

20 Q. Was the pump connected to any structure on the farm?

21 A. Yes, to the house.

22 Q. How did it go about -- how did it get connected to
23 the house?

24 A. I don't know. I wasn't there for that.

25 Q. How long a job was this to put this pump in at the

Crump - Direct/Smith

1 farm?

2 A. Oh, about four hours.

3 MR. TRAFICANT: Pardon?

4 THE WITNESS: Four hours.

5 Q. What was the approximate value of that job putting
6 that pump in?

7 A. The labor was probably I would say \$300.

8 Q. How much for parts and materials?

9 A. \$350.

10 Q. And was that pump project invoiced to any person or
11 entity?

12 A. To Capital Ready Mix.

13 Q. Did you bill Congressman Traficant for that pump?

14 A. No, not that I remember.

15 Q. Going back to the restaurant meeting, the discussion
16 about the Center Street bridge, what was the other thing?

17 A. Federal prison.

18 Q. When was the time frame on those projects, as you
19 understood it from the meeting?

20 A. I don't believe we discussed the time.

21 Q. Well, what -- who brought up those two issues, the
22 Center Street bridge and the prison?

23 A. I believe Greg Tyson brought them up.

24 Q. And when he brought them up, what did he say?

25 A. Well, he was curious who the main contractors on the

Crump - Direct/Smith

1 job were and seeing about bidding them.

2 Q. And what was the Congressman's response?

3 A. Like I said before, they told him they thought he'd
4 have a fairly good chance to get them because he was a
5 minority contractor.

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

7 Q. Did Mr. Tyson seek any assistance in obtaining those
8 bids or those jobs?

9 A. Assistance from?

10 Q. At the breakfast meeting.

11 A. He had told him I believe the contractor's name -- I
12 can't remember -- from the Canton area that had the job.
13 That's about the only assistance I can remember.

14 Q. Okay. What did Mr. Tyson say about that Canton
15 contractor?

16 A. He asked whether he should get a hold of him as far
17 as bidding the contract work.

18 Q. Asked who?

19 A. The -- asked Jim Traficant about asking the fellow
20 from Canton when, you know, the job was happening or who he
21 could get in touch with as far as bidding.

22 Q. Did the Congressman make any response to that?

23 A. He said just that he thought he had a very good
24 chance of getting it because he was a minority contractor.

25 MR. SMITH: No further questions, your Honor.

Crump - Cross

1 THE COURT: Thank you.

2 CROSS-EXAMINATION OF JOHN CRUMP

3 BY MR. TRAFICANT:

4 Q. How are you doing, John?

5 A. Okay.

6 Q. Did you get a chance to meet me through all this
7 process?

8 A. Yes, I did.

9 Q. To the best of your knowledge, did I ever hug you?

10 A. No. I don't remember anything like that.

11 Q. Did you ever have conversation with Greg Tyson
12 relative to his friendship with me?

13 A. No.

14 Q. From the dealings that we had, do you believe that
15 Greg and I were friends?

16 A. I wouldn't say you were tight friends, no. It was
17 acquaintance, knew each other.

18 Q. Do you know how federal and state projects are
19 awarded?

20 A. No, I don't.

21 Q. Are you familiar with bidding?

22 A. Yes.

23 Q. Was Mr. Tyson a legitimate minority contractor?

24 A. Yes.

25 Q. Are you very familiar with the construction industry

Crump - Cross

1 in the Youngstown metropolitan area?

2 A. Yes.

3 Q. Isn't it a fact that many of the minorities are front
4 people for others?

5 A. Yes.

6 Q. He was a little bit rare, wasn't he?

7 A. As far as?

8 Q. Being a real minority contractor?

9 A. He wasn't a good one, if that's what you mean.

10 Q. But he was a minority contractor?

11 A. As far as I understood he was, yeah.

12 Q. Did I ever tell Greg Tyson that I was going to get
13 him a job on anything?

14 A. No.

15 Q. If I had the power, do you believe I would have had
16 Greg Tyson do those jobs?

17 MR. SMITH: Objection. Speculation.

18 THE COURT: It is. Another question.

19 BY MR. TRAFICANT:

20 Q. Did it appear to you that I wanted to help Greg
21 Tyson?

22 A. Yes.

23 Q. Now, were you aware of the fact that water lines had
24 been damaged at the farm?

25 A. No.

Crump - Cross

- 1 Q. Were you aware of the fact that the pump was needed
2 to provide water for the barns?
- 3 A. No.
- 4 Q. Were there horses in the barn?
- 5 A. Yes.
- 6 Q. To the best of your knowledge, how many horses?
- 7 A. Six.
- 8 Q. Were they in the field or in the stalls?
- 9 A. In the stalls.
- 10 Q. Are you familiar at all with horses, John?
- 11 A. Not a lot. I've ridden them. I've never taken care
12 of them, no.
- 13 Q. Does the stall horse require water?
- 14 A. Yes.
- 15 Q. Did you, in fact, know who actually owned that farm
16 when you performed work there?
- 17 A. I assume Jim Traficant did.
- 18 Q. Do you know what my father's name was?
- 19 A. No.
- 20 Q. If my father walked in this room, would you recognize
21 him?
- 22 A. No.
- 23 Q. Do you know if there's a private agreement between
24 Greg Tyson and myself relative to work done at that farm?
- 25 A. No.

Crump - Cross

- 1 Q. Now, did you do the bidding on jobs?
- 2 A. No.
- 3 Q. You say your secretary did the billing?
- 4 A. Yes.
- 5 Q. Now, you said the federal prison was where?
- 6 A. The east side of Youngstown.
- 7 Q. And the Center Street bridge.
- 8 A. In Struthers.
- 9 Q. Do you know who got the funding for these projects?
- 10 A. No, I don't.
- 11 Q. So you can't say for sure, can you, that Greg Tyson
- 12 was not paid, can you?
- 13 A. No.
- 14 Q. Did you ever have occasion to talk with me other than
- 15 that meeting at the restaurant on other occasions?
- 16 A. Yes.
- 17 Q. Did I ever make contact with you at any other times?
- 18 A. Yes.
- 19 Q. Did I ever ask you to give me a hand with things?
- 20 A. Yes.
- 21 Q. Did you, in fact, do that?
- 22 A. Yes.
- 23 Q. Did you submit a bill to me, John?
- 24 A. No, not that I can remember.
- 25 Q. Why didn't you, John?

Crump - Cross

1 A. Well, because it wasn't that big of a deal at the
2 time or any other time. It was a matter of flipping a
3 switch up and down because I remember the pump would go
4 out, and you'd call and ask me how to get it going again,
5 and you said I don't know if I can do that. I said I'll
6 take a ride out and show you.

7 Q. You didn't live too far away, did you?

8 A. No.

9 Q. Even though we weren't close though, we had a fairly
10 friendly relationship, would you say that?

11 A. Yes. I never had any trouble with you.

12 Q. Did people back home fear me, John?

13 A. No one I knew.

14 Q. Now, did you come to read in the paper that I was
15 purportedly involved with a --

16 THE COURT: Please don't answer this
17 question.

18 Q. Did you gain any knowledge or have any conversation
19 with anyone relative to charges that I conspired to have
20 someone killed?

21 MR. SMITH: Objection.

22 THE COURT: Sustained. You'll have to
23 disregard that question.

24 Q. Did you at any time -- or were you told at any time
25 by anybody that there were supposedly fingerprints all over

Crump - Cross

1 Jim Traficant's evidence?

2 MR. SMITH: Objection.

3 THE COURT: Sustained. You may want a break
4 or something to see if you can --

5 MR. TRAFICANT: I don't want a break.

6 THE COURT: If you can lay a foundation for
7 this.

8 MR. TRAFICANT: I don't want a break. I'm
9 trying to maybe put my words in order here.

10 THE COURT: Okay.

11 BY MR. TRAFICANT:

12 Q. Did you have any knowledge of Jim Traficant
13 participating in a murder?

14 MR. SMITH: Objection.

15 THE COURT: Sustained.

16 Q. Did you come to gain any knowledge that Jim Traficant
17 was supposedly involved with a murder plot?

18 MR. SMITH: Same objection.

19 THE COURT: We're going to take a break.

20 (Proceedings in the absence of the jury:)

21 THE COURT: We're going to take the afternoon
22 break, which means that we won't come back until 3:15 with
23 the jury. But I want you back about five minutes before
24 that. So 3:10 you come in the room. And Congressman, I
25 want you to think about this last line of questioning

Crump - Cross

1 because that will be the first thing that we spend some
2 time on when I come back.

3 MR. SMITH: Your Honor, could I put
4 something --

5 MR. TRAFICANT: Question.

6 MR. SMITH: -- could I put something on the
7 record with you that does not relate to his line of
8 questioning?

9 THE COURT: Yes.

10 MR. SMITH: I was going to wait until the
11 break to do this.

12 This witness, as I understand it, may have a criminal
13 adjudication of some kind in the last couple of years. I
14 have not been able to sort it out.

15 MR. TRAFICANT: I object to this.

16 MR. SMITH: Whether or not --

17 THE COURT: Let him state --

18 MR. SMITH: -- whether or not it's a
19 misdemeanor or a felony. If it's a felony, the Congressman
20 would be entitled to inquire into it. If it's a
21 misdemeanor, it isn't anything, but I'm not in a position
22 to tell the Court definitively it's not a felony. I didn't
23 bring it out on direct, but I do want the Congressman to be
24 aware of it in case he wants to ask about it on cross while
25 he's still on cross.

Crump - Cross

1 THE COURT: Okay. But I would suggest you
2 spend the first part of this break trying to see if that
3 can't be tracked down by somebody.

4 MR. SMITH: We have tried to do that and have
5 not been able to get a definitive answer from the local
6 courts as to whether it was a felony or a misdemeanor.

7 MR. TRAFICANT: Your Honor, quite frankly, I
8 really don't care if you're going ask that question. But
9 here's the point I want to make.

10 THE COURT: Okay. Well it's something that
11 would affect what you could do as well, not just what they
12 do.

13 MR. TRAFICANT: No. But I think you're
14 limiting me now here very severely. I asked, did he have
15 any knowledge from any source that I had been accused of
16 plotting to commit murder.

17 THE COURT: Right.

18 MR. TRAFICANT: And you sustained an
19 objection.

20 THE COURT: Right. And --

21 MR. TRAFICANT: Without even listening to an
22 answer.

23 THE COURT: Well, the objection was well
24 taken based on what we have before us here. If there's
25 something else that you need to present to the Court so

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1 that there is some basis on which you might be asking this
2 line of questions that would be a valid basis, I'm going to
3 give you the opportunity to do that.

4 We'll come back at ten after so you will have a
5 chance to do it. But we can't just keep continuing with
6 you raising this line of questions and their objecting.

7 MR. TRAFICANT: Are you advising me to move
8 away from that question?

9 THE COURT: No. I want to give you an
10 opportunity to come in and justify this line of questioning
11 so that we can decide out of the hearing of the jury
12 whether actually there is a reason why it would be
13 appropriate.

14 Okay? So we'll be back.

15 MR. TRAFICANT: Thank you.

16 (Thereupon, a recess was taken.)

17 (Proceedings in the absence of the jury:)

18 THE COURT: We have a witness who's on the
19 stand, and there has been a series of questions put to the
20 witness. I sustained the objection, at least to the first
21 one, but now I want to give you an opportunity,
22 Congressman, if you have some way of showing how this
23 witness on the stand would have firsthand knowledge
24 about --

25 MR. TRAFICANT: I asked him --

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1 THE COURT: Excuse me. -- about the contents
2 of the questions so that he'd be in a position to respond.

3 MR. TRAFICANT: Well, I think it would be a
4 fair statement to ask if he follows the news.

5 THE COURT: Well, it wouldn't be a sufficient
6 question to overcome an objection. You have to ask people
7 questions.

8 MR. TRAFICANT: Well, how would I get to the
9 specific questions? What if he said he didn't listen to
10 the news? There would be no further reason for me to
11 question, would there? You're again in my opinion -- I
12 don't want to offend you -- but I think you're limiting my
13 defense by not allowing me to bring in the allegations made
14 in this trial before the prejudice of voir dire in this
15 trial in my opinion.

16 THE COURT: I don't know about that part of
17 it, but what I know, you have a witness on the stand, and
18 you're trying to put questions to him without having
19 established that this witness would have any knowledge or
20 information because of the character of the questions that
21 you're putting to him.

22 I'm going to continue to sustain the objections
23 unless there's something you can show me that would make it
24 a legitimate question to ask of the witness. Now, wait a
25 minute, and let the Government say in response whatever

Crump - Cross

1 they want to say. The other one is posing the objection.

2 MR. MORFORD: Your Honor, response is
3 two-fold: First, there's no good faith basis shown at this
4 point that this witness has personal knowledge of any such
5 allegation or the facts underlying it.

6 THE COURT: All right.

7 MR. SMITH: The fact that we're talking about
8 his knowledge of newspaper articles or TV articles is
9 evidence of that.

10 Secondly, your Honor, we believe this type of inquiry
11 is completely irrelevant. The Congressman has not been
12 charged with setting a witness up to get murdered, conspire
13 to go murder somebody. It's not part of the charges in
14 this case. There's no other charging document that charges
15 him with such conduct.

16 And so that sort of inquiry in front of the jury as
17 to whether or not this witness knows whether or not he was
18 involved in some sort of murder plot is totally irrelevant
19 because he hasn't been charged with it anywhere, and it
20 just has no place in this trial.

21 THE COURT: Well, I think that the first
22 part, the first part of that objection is at least the part
23 I was responding to, which is you can't just take a stream
24 of people who happen to turn up on the witness stand and
25 establish something by asking them about something that

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1 there's no foundation you've shown for it. On the other
2 hand, if you have something to show, I'm giving you the
3 opportunity to do it out of the hearing of the jury, and it
4 has to be something that relates to this witness and the
5 line of questioning you're giving him.

6 MR. TRAFICANT: Okay. First of all, I want
7 to object for the record to again limiting my defense on
8 cross-examination.

9 Number two, for the record, I want to state that very
10 serious allegations were made in this case that became
11 national news, that damaged me severely during an election,
12 and you were once a candidate for office, and you know --

13 THE COURT: But where were these serious
14 allegations coming from, this witness?

15 MR. TRAFICANT: They were made by witnesses
16 who testified before Grand Juries.

17 THE COURT: In this case?

18 MR. TRAFICANT: And they made the news.

19 THE COURT: In this case?

20 MR. TRAFICANT: Yes, yes.

21 THE COURT: Okay. Well, if you bring some of
22 that forward and relate it to this witness, I'll be able
23 to --

24 MR. TRAFICANT: What I was going to ask was
25 if he had come to learn of any of these allegations, if, in

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1 fact, he may have known the person who was supposedly the
2 target of this conspiracy to commit murder.

3 MR. SMITH: But again, your Honor, there's
4 no -- even arguable relevance that's been laid for this,
5 none at all. I mean, what -- we have a situation where if
6 people talked to the media about this case prior to the
7 time that it was indicted, your Honor, voir dired this jury
8 thoroughly as to their knowledge of media. People were not
9 bringing any murder plot they had in the media up in the
10 voir dire. You've instructed them to disregard media
11 accounts, so I just don't know where this is going.

12 It has nothing to do with the charges.

13 THE COURT: The only time it's come up at all
14 is when you put a question in cross-examination to a
15 witness, and you asked the witness whether there was any --
16 whether the witness was afraid.

17 MR. TRAFICANT: Yeah.

18 THE COURT: And he said he was, and then you
19 asked why, and so he gave an answer. Now, that witness
20 would be fair game for you to talk to on that issue, but
21 you can't just ask that -- this question included -- put it
22 out here in this trial when that's the only way in which it
23 touched the case at all.

24 MR. TRAFICANT: Unless --

25 THE COURT: You can certainly bring that

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1 person back and find out more about it if you want to.

2 MR. TRAFICANT: Unless it speaks to motive.

3 THE COURT: Well, it has to still be
4 evidence.

5 MR. TRAFICANT: I believe you don't establish
6 evidence sometimes until you have proper cross-examination,
7 and --

8 THE COURT: Well --

9 MR. TRAFICANT: Here's what I'm saying.

10 THE COURT: Okay.

11 MR. TRAFICANT: I know you never played
12 football, and I don't know if you're a Browns fan, but
13 there's such a thing called piling on, and you are limiting
14 my opportunity with people from the Youngstown area that,
15 first, you did not allow to serve or be --

16 THE COURT: That's an old issue.

17 MR. TRAFICANT: Yes, it is, but now here I
18 am --

19 THE COURT: Yeah.

20 MR. TRAFICANT: -- talking and asking
21 questions relative to these important issues that have
22 damaged my reputation, that have hurt my case, and they
23 just didn't hit in Youngstown, they were national news.

24 THE COURT: I'm not aware of that, and I
25 don't think we've had anyone talk about any of that until

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1 you asked a question of a witness who was, I guess, in
2 Florida or something. But in any event --

3 MR. TRAFICANT: Heard it in Florida.

4 THE COURT: You could have asked him more
5 questions. You can call him back.

6 MR. TRAFICANT: Heard it in Florida.

7 THE COURT: Whatever, but it's not part of
8 this case. This case is not all cases or all things.

9 MR. TRAFICANT: I believe it is a part of
10 this case. It shows --

11 THE COURT: I don't know about that.

12 MR. TRAFICANT: -- it shows the behavior. It
13 shows the intent and the willful misconduct of the
14 Prosecution in attempting to gain a verdict before they
15 even have gone to trial.

16 THE COURT: Congressman, you're the person
17 who brought this testimony forward from somebody in this
18 trial.

19 MR. TRAFICANT: Yes, I did.

20 THE COURT: It is not part of the charges in
21 the case. It has no nothing to do with the charges in his
22 case.

23 MR. TRAFICANT: I'm referring to the
24 sensational pre-trial publicity that has tainted voir dire.

25 THE COURT: We're in trial and have a bunch

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1 of jurors here who put aside all these other things to do
2 today to come down to give you a trial. You may not
3 continue this line of questioning.

4 If at some point there's some reason you think you
5 can establish why you could continue that line of
6 questioning with the witness, you have every right to ask
7 me to give you time to do that, and we made provisions for
8 that. We can do it after 4:30. We can do it all Friday
9 afternoon. We can do it on breaks, at lunch, and in
10 between but not in front of this jury.

11 You can't just put those things out in front of them
12 without having a witness who has some knowledge, some
13 reason to be able to answer it.

14 MR. TRAFICANT: Now, let me just offer my
15 little humble opinion here.

16 THE COURT: You can do that to the Court of
17 Appeals, but now we have a jury, and we're going to bring
18 them in.

19 MR. TRAFICANT: But on this matter, before we
20 close, as soon as I brought up that issue, the first thing
21 out of Mr. Smith's mouth, he starts talking about
22 misdemeanor and felonies. Now --

23 THE COURT: As he pointed out, that was an
24 issue.

25 MR. TRAFICANT: That's his right to take up.

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1 THE COURT: But that's an issue about the
2 witness apparently on the stand.

3 MR. SMITH: You asked me to amplify, your
4 Honor, if I could, on that, we believe -- if the
5 Congressman wants to go into this, he can, but we believe
6 it to be some sort of assault adjudication. We think it's
7 a misdemeanor, but we are not so convinced of that that I
8 want to take a chance. It could be a felony. So if the
9 Congressman wants to ask this gentleman if he has some sort
10 of adjudication for all the assault in the last couple
11 years, I won't object to it.

12 MR. TRAFICANT: I don't make allegations
13 unless I have facts, Mr. Smith.

14 MR. SMITH: I'm making the information
15 available to you.

16 MR. TRAFICANT: Thank you.

17 THE COURT: Okay. You have any further
18 cross-examination of this witness?

19 MR. TRAFICANT: No, but -- yes, I do. I want
20 to attempt appropriate language if I can, and if it's not,
21 I will not waste the Judge's time.

22 THE COURT: Thank you.

23 MR. SMITH: Is he referring to the murder
24 again?

25 THE COURT: I don't think so. You're not

Crump - Cross

1 going to go back and reopen the last three questions, are
2 you, Congressman? Congressman, you're going to another
3 question. Am I right?

4 MR. TRAFICANT: Quite frankly, I was going to
5 ask him specifically if he followed the news in this case.

6 THE COURT: Okay. Well, he's a witness in
7 the case.

8 MR. TRAFICANT: What's wrong with that?

9 THE COURT: You can't elicit from this
10 witness then what the news was that he found. That doesn't
11 give these folks the kind of information that they should
12 get from the witness stand.

13 MR. TRAFICANT: Well, I do have another
14 question for him.

15 THE COURT: Okay. Thank you.

16 MR. TRAFICANT: Thank you.

17 THE COURT: We can bring in the jurors.

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

19 THE COURT: You're still under oath, sir.

20 BY MR. TRAFICANT:

21 Q. John, do you recall on March 16, the Year 2000, that
22 you met with agents from the federal government?

23 A. Yes.

24 Q. You met in Boardman, Ohio, at their -- was it the
25 Samara Trail FBI office? Where did you meet?

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1 A. Off the corner of Western Reserve and South Avenue, I
2 believe.

3 Q. Was it their office, to the best of your knowledge,
4 in that building there, behind McDonald's?

5 A. Yes.

6 Q. Did you see a tape recorder?

7 A. No.

8 Q. Did you see a video recorder?

9 A. Not that I can recall.

10 Q. Did they intimidate you?

11 A. No.

12 MR. TRAFICANT: No further questions, your
13 Honor.

14 THE COURT: Thank you.

15 MR. SMITH: No questions.

16 THE COURT: Thank you, sir. You can step
17 down.

18 MR. SMITH: The Government next calls Walter
19 Diehl.

20

21

22

23

24

25

Diehl - Direct/Smith

- 1 WALTER T. DIEHL
- 2 of lawful age, a witness called by the Government,
- 3 being first duly sworn, was examined
- 4 and testified as follows:
- 5 DIRECT EXAMINATION OF WALTER T. DIEHL
- 6 BY MR. SMITH:
- 7 Q. Sir, could you please state your full name, and spell
- 8 your last name for the court reporter?
- 9 A. My name is Walter T. Deal, D-I-E-H-L.
- 10 Q. In what city do you reside, sir?
- 11 A. In Struthers, Ohio.
- 12 Q. And what county is that in?
- 13 A. Mahoning County.
- 14 Q. What do you presently do for a living, sir?
- 15 A. I am a contractor, small contractor. I do
- 16 remodeling, I build garages.
- 17 Q. Okay. Commercial or residential?
- 18 A. Residential.
- 19 Q. What did you do for a living from approximately 1990
- 20 until approximately 1995?
- 21 A. I was a bookkeeper for Big G Construction.
- 22 Q. And what was Big G Construction?
- 23 A. We did underground piping, water lines, basically --
- 24 that's basically what we did.
- 25 Q. Okay. Who operated Big G Construction?

Diehl - Direct/Smith

1 A. Greg Tyson.

2 Q. Did Greg Tyson have any other companies besides Big
3 G?

4 A. He formed a company called Capital Ready Mix just
5 before I resigned from the company.

6 Q. What kind of business was Capital Ready Mix?

7 A. It was a cement company.

8 Q. Okay. And where was it located?

9 A. Warren, Ohio.

10 Q. Were there any other principals or operators of
11 Capital Ready Mix besides Mr. Tyson?

12 A. Mr. Bucci, I think he was one of them, and there was
13 another one. I didn't know the other one. I knew he was
14 from Warren. There were two other partners in the business
15 with him.

16 Q. Do you know the first name of the Bucci that you've
17 referred to?

18 A. No, I never knew his first name.

19 Q. As part of your -- withdraw it.

20 Would you please describe your bookkeeping
21 responsibilities at Big G Construction?

22 A. I made out the ledgers. Any time your cancelled
23 checks came in, I posted all the cancelled checks in the
24 ledger and I would gather up all his tax material and take
25 it to the accountant for the quarter.

Diehl - Direct/Smith

1 Q. Did you have any responsibility for computers or
2 anything like that?

3 A. I did computers. I made out the checks for all
4 employees at Bucci Construction.

5 Q. Would you describe the computer system that was in
6 place for bookkeeping purposes at Big G Construction?

7 A. For just payroll?

8 Q. Well, describe the whole system.

9 A. For payroll, it was all computed on all the taxes
10 that were -- all the deductions that were taken out of the
11 check for employees. We had our Operating Engineers, our
12 Laborers, our Teamsters, and all these -- all the
13 deductions were deducted and were posted on a ledger in the
14 computer.

15 Q. Was there any other computerized bookkeeping system
16 other than the payroll system?

17 A. That was the only one, all the other ones were done
18 by hand.

19 Q. What types of financial information were -- did you
20 give to the accountant for tax purposes?

21 A. Let me see. For payroll, all the deductions were
22 from his personal account, all the checks that were written
23 for that particular quarter and from his business account
24 all the checks that were written for that particular
25 quarter.

Diehl - Direct/Smith

- 1 Q. Did you have any responsibility for Mr. Tyson's
2 personal financial records?
- 3 A. His personal account, I posted them on the ledger,
4 too, and I would take them to an accountant also.
- 5 Q. Posted?
- 6 A. Into the ledger. .
- 7 Q. In what ledger did you post and what?
- 8 A. All the cancelled checks that came from the bank.
- 9 Q. As to payroll, in what form were Big G employees
10 paid? How did they get their money?
- 11 A. By check, on the top of it, of the construction.
- 12 Q. How did Big G employees physically get the pay
13 checks?
- 14 A. I would deliver those checks, wherever they were
15 working that particular day, Big G would tell me to make
16 out the checks, and he would sign them, and I would take
17 them out to the site wherever they were working.
- 18 Q. How often did employees get paid?
- 19 A. Once -- once a week.
- 20 Q. What date did you take the checks out?
- 21 A. Friday.
- 22 Q. Did you have any responsibilities for Big G's
23 corporate taxes or information that went into the corporate
24 taxes?
- 25 A. I think that was -- that was all that was included

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1 in -- on all the statements that I would take out to the
2 accountant, and we'd figure out whatever corporate taxes he
3 had to pay, federal taxes, whatever taxes, whatever he had
4 to pay to the Operating Engineers Retirement Fund or the
5 Laborers' Retirement Fund or the Teamsters' Retirement
6 Fund.

7 Q. When Big G Construction bid on a job, did you create
8 any paperwork with respect to such bids?

9 A. Every job had a bid. I had to make out a file, and I
10 would go to wherever -- wherever he would tell the job he
11 wanted to bid on, I would go wherever the specs and the
12 plans were, would be issued. I would pick them up, bring
13 them back, and create a -- start creating a file for that
14 particular job.

15 Q. What types of paperwork would go into that file as
16 the job progressed?

17 A. Whatever he bid on the job, plans where they would go
18 into the file, but specs went into the file. Any material
19 that he ordered for that particular job would go into that
20 file. Any information that would pertain to that
21 particular job, I would put it into the file.

22 Q. Who maintained that file on a given job?

23 A. I would maintain it. Then he had -- he had a sister.
24 She eventually came on and helped maintain the files, too.

25 Q. Was it a -- was it a regular practice of Big G

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1 Construction to create this type of a file on all jobs?

2 A. It was -- yes, it was, it was -- it was a regular
3 practice.

4 Q. During the time that you were the bookkeeper for Big
5 G Construction, did the company ever experience any
6 financial problems?

7 A. Yes.

8 Q. Would you please describe the nature of those
9 financial problems?

10 A. Paying his suppliers for materials that -- he had
11 ordered on the jobs that he had, making sure that he had a
12 hard time paying payroll.

13 Q. All right.

14 Going back to the first, you mentioned supplier.
15 What was the specific problem that -- financial problem
16 with respect to suppliers?

17 A. Paying for materials that was already on the job,
18 like we ordered materials or if we needed more materials
19 for a job.

20 Q. Are we talking late payments here?

21 A. Late payments.

22 Q. What was the problem with payroll then?

23 A. Payroll -- we always had -- he didn't get -- always
24 get deposits in the payroll account late. Sometimes guys
25 would have to hold on to their checks until maybe Monday or

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1 Tuesday of the following week.

2 Q. On company time, Big G Construction company time, did
3 you ever go out to a farm located at -- on Route 165 in
4 Greenford?

5 A. Yes.

6 Q. And who told you go out there?

7 A. Greg to took me out the first time.

8 Q. Greg?

9 A. Tyson, Mr. Tyson.

10 Q. All right.

11 A. And then he told me what I should do after that, to
12 bring material out there, you know. They call the office,
13 I was supposed to, you know, get the material and take it
14 out and give it to them.

15 Q. All right. Backtrack to go that first time you went
16 out to the farm, when you went out to the farm, who, if
17 anyone, did you and Greg Tyson meet?

18 A. Mr. Traficant was at the farm first day I was there.

19 Q. All right.

20 Which Mr. Traficant?

21 A. Mr. Traficant sitting at the desk there.

22 Q. What happened when you were at the farm on that day,
23 that first day?

24 A. Mr. Traficant, he was working, my boss, they were
25 talking. I was just basically standing back, you know, and

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1 I guess he introduced me to Mr. Traficant and to let him
2 know that I would be the person coming out there, being
3 coordinator from the office and bringing the guys
4 materials.

5 Q. Was there any work being done at the farm that day?

6 A. Not that particular -- that first day, it wasn't any
7 working done.

8 Q. Did you ever return to the farm after that first
9 visit?

10 A. Yes, I returned to the farm.

11 Q. How often?

12 A. Sometimes I would go out there twice a week,
13 sometimes maybe once a week, and I think it was in a period
14 of about two and a half, three months. You know, it seemed
15 that long during that time. It's been -- I don't know --
16 maybe ten years now, but I think it's -- it took us that
17 long.

18 Q. A couple months?

19 A. It seemed that way as I think back on it. It seems
20 about two, three months.

21 Q. What was -- did -- what was your purpose in going out
22 to the farm on those subsequent visits?

23 A. Well, sometimes the guys would call me and tell me
24 that they needed some pipe or some -- maybe some cement or
25 something, a bag of cement, or you know, would I go out to

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1 the guys on Friday, take their checks out to them.

2 Q. These guys, who are these guys employed by?

3 A. Big G Construction employees, Operating Engineers,
4 Laborers, you know, depending who was out at the site that
5 particular day.

6 Q. Did you open any kind of -- withdrawn.

7 You described these types of files that you created
8 when a job was started?

9 A. Um-hum.

10 Q. You described that earlier; is that correct?

11 A. Yeah.

12 Q. Did you create such a file for the work that was
13 being done at the farm?

14 A. No, never created a file.

15 Q. To what account were the materials that you were
16 transporting out to the farm, to what account were those
17 materials billed?

18 A. It would be hard for me to remember, but we were
19 doing other jobs during that time, and I know when I
20 ordered that material, I ordered it -- whatever jobs we
21 were doing at that particular time, I asked for materials.
22 I always asked for material for that particular job that we
23 were doing besides the job we were doing out at
24 Mr. Traficant's farm.

25 Q. So where would the materials be -- the materials that

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1 were being taken to Congressman Traficant's farm, where
2 were they being billed to by your company?

3 A. They were being billed to -- see, that's the thing I
4 can't remember precisely what particular job we were
5 working -- I knew we were working another job during that
6 time. And they weren't billed to Traficant's business.
7 They were always billed to another job we were doing
8 because when I would go out to pick up the material, I'd
9 say put it on the job I was doing at that particular time,
10 but it never was Mr. Traficant's farm.

11 Q. Okay.

12 When you went out to the farm on these periodic
13 occasions?

14 A. Um-hum.

15 Q. What, if any, work did you observe being done by Big
16 G employees?

17 A. One time I went out, they were digging a hole back
18 with a backhoe. So I guess they were going to run pipe in
19 that particular hole, and another time I went out to the
20 farm they were pouring concrete in the one of the horse
21 barns.

22 Q. Anything else, or is that it?

23 A. That's about it, you know.

24 Q. Do you recall the names of any Big G employees that
25 you saw working on the farm other than yourself?

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1 A. Vince Carter. Joe, I know his first name. Then
2 there was another -- he was a Laborer. Vince Carter was
3 Operating Engineers, and Glenn was -- he was operating
4 engineering.

5 Q. You remember Glen's last name?

6 A. He was in Lisbon, Ohio. That's all I remember. Joe
7 was from Springfield, and Vince was from the east side of
8 Youngstown.

9 Q. You mentioned some concrete or cement being poured in
10 a barn?

11 A. Yeah.

12 Q. You know where that concrete or cement came from?

13 A. Come from Capital Ready Mix.

14 Q. Was there any equipment that was needed to get that
15 concrete or cement out to the farm?

16 A. He had cement trucks deliver it.

17 Q. Who had cement trucks deliver it?

18 A. Greg, I suppose. He would order it. Whatever they
19 needed out there, he would order it from the cement plant,
20 and they would come off on that particular truck.

21 Q. Did you observe any other Big G Construction or
22 Capital Ready Mix equipment out at the farm other than the
23 concrete trucks?

24 A. Backhoes and, oh, some they call "towns." They're
25 trucks to haul dirt, move dirt around and bring slag in.

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1 Q. These workers who were working out at the farm, how
2 were they paid for their services?

3 A. Greg would call me and tell me, you know, how many
4 hours employees would -- you know, they had during the
5 week, and I would just make the check out for the hours
6 that they, you know, were working for us. They were
7 laborers. They would get paid according to their working
8 wage and how many hours they worked that week, if they were
9 operating engineer, vice versa.

10 Q. How did you get paid for the time you spent?

11 A. I got paid by the hour.

12 Q. By what company or entity?

13 A. Big G.

14 Q. To your knowledge -- withdrawn.

15 To your knowledge, did Big G bill by invoice for any
16 of the labor or materials that were used by Big G
17 Construction out at the farm?

18 A. I never seen an invoice, and I never seen a file.

19 Q. To your knowledge, did Big G ever receive any check
20 from Congressman Traficant in payment for the labor and
21 materials that the company expended out on the farm?

22 A. I never seen a check. Like I said, I had this
23 personal file, I mean, personal checks, company check, Big
24 G. Now, it might have come through Capital Ready Mix.
25 See, I never handled that particular part of the business.

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1 But Big G and his personal checks, I never seen a check
2 through Traficant.

3 Q. And Capital Ready Mix, you have no personal knowledge
4 about. Is that correct?

5 A. No, I never worked -- with their accounts.

6 Q. To your knowledge, did Big G ever record on its books
7 and records any kind of in-kind payment for the work that
8 was done out at the farm, such as an animal or a horse or
9 anything like that?

10 A. No, I never even heard of that.

11 Q. And you were the bookkeeper?

12 A. Right.

13 Q. To your knowledge, were any billing records or
14 receipt of payment records created at Big G Construction as
15 part of its business records relating to the work that was
16 done at the farm?

17 A. No. And I've asked Greg about, you know, whether we
18 were getting payments from, Mr. Traficant, and he never
19 really said that we was and that we weren't. And I never
20 did see anything from Mr. Traficant because at the time we
21 needed money to pay the bills, and I knew we had been
22 working out at Mr. Traficant's farm for awhile, and I
23 figure it would be about time for him to pay, but he, you
24 know, shoved it off on to me.

25 So I never did ask him anymore about it, and like I

Diehl - Cross

1 said, I never seen any checks. I never seen any billing,
2 never -- I never seen a file.

3 Q. You said -- you said he shoved it off. Who shoved it
4 off?

5 A. Right, Mr. Tyson, you know, like I asked him, you
6 know, were we going to get paid, and he just shrugged his
7 shoulders like --

8 Q. All right.

9 MR. SMITH: May I have a moment, your Honor?

10 No further questions, your Honor.

11 THE COURT: Thank you.

12 CROSS-EXAMINATION OF WALTER T. DIEHL

13 BY MR. TRAFICANT:

14 Q. How are you doing, Mr. Diehl?

15 A. Good, and you?

16 Q. I could be doing better.

17 How many times did the Congressman meet with you,
18 Walter?

19 A. Pardon?

20 Q. How many times did the Government meet with you,
21 Walter?

22 A. Two times.

23 Q. Do you remember where that was?

24 A. They met with me when they interviewed me or when
25 they --

Diehl - Cross

- 1 Q. When they interviewed you?
- 2 A. Okay. One time they come out to my home, and they
3 asked me questions, and then they came back again and told
4 me that I had to report it to the Grand Jury.
- 5 Q. Now, when they came out to your home, was that, you
6 know, you have a little bit of a scary feeling to that?
- 7 A. Yeah.
- 8 Q. How many came, Walter?
- 9 A. One.
- 10 Q. You know if he was from the FBI?
- 11 A. Yeah. He showed me a badge. He was carrying a gun.
- 12 Q. Did you see his gun?
- 13 A. Um-hum.
- 14 Q. Where was his gun located?
- 15 A. In his leg, down by his leg.
- 16 Q. Well, how could you see his gun if it's --
- 17 A. We were sitting on the front porch, and I seen it --
- 18 Q. Pants leg sort of went up?
- 19 A. Huh? Right, his pant leg went up.
- 20 Q. And you noticed the gun?
- 21 A. Right, um-hum.
- 22 Q. Are guns a frightening experience?
- 23 A. No. I was in the service.
- 24 Q. You weren't worried about that gun?
- 25 A. No, um-um.

Diehl - Cross

- 1 Q. Did you wonder maybe why he would use that leg to let
2 you see the gun, did that?
- 3 A. I think he didn't really think I would notice it.
- 4 Q. Oh?
- 5 A. Um-um.
- 6 Q. Now, worked with Mr. Tyson, when did you resign
7 roughly?
- 8 A. About the middle of 19 -- early '90s.
- 9 Q. Early '90s --
- 10 A. About the middle '90s.
- 11 Q. Say '94?
- 12 A. Yeah, somewhere around there, in there, '94, '93, or
13 something like that, yeah.
- 14 Q. Yeah.
- 15 Is it tough for a minority contractor to get business
16 in our Valley?
- 17 A. Yeah, it's very hard.
- 18 Q. Are you having it tough?
- 19 A. Not residential. I don't have problems that Big G
20 had. Big G was only interested in big jobs, you know, and
21 Government jobs, state jobs, federal jobs.
- 22 Q. Now, when you handled his books, Walter, did he not
23 at some point have a plant in Youngstown, Ohio, as well?
- 24 A. You mean like a cement plant?
- 25 Q. Yeah.

Diehl - Cross

1 A. Only company he had in Youngstown was Big G
2 Construction as far as to my knowledge. I've gone out to
3 Capital Ready Mix in Warren, Ohio, when they first, you
4 know, were talking about owning -- getting Capital Ready
5 Mix. He took me out to Capital Ready Mix, but he never
6 took me to any cement company in the inner city of
7 Youngstown.

8 Q. Did you have conversations about Mr. Tyson's interest
9 in bidding on Trumbull contracts?

10 A. We've had some contracts in Trumbull County, and
11 Warren. We worked on some -- we had some road work, like
12 sewer lines in Warren, Ohio.

13 Q. Was there ever a black minority cement company in the
14 history of our Valley?

15 A. Yeah -- no, no. There's never been one. I know
16 there have never been one.

17 Q. To the best of your knowledge, did Mr. Tyson try to
18 do that?

19 A. Yeah, he tried -- he was -- he was a go-getter. He
20 wanted -- really wanted to open up that cement plant. I
21 knew that.

22 Q. Now, when you first met me at the farm, had you known
23 of me before you met me?

24 A. I met you once when you was a sheriff.

25 Q. You did?

Diehl - Cross

- 1 A. Yeah, yeah. I met you when you were a sheriff.
- 2 Q. When I met you, did I embrace you or hug you?
- 3 A. No, un-un, no. I was impressed that I was working at
4 a congressman's house, you know. It was impressive.
- 5 Q. How did you know it was my place?
- 6 A. Because Mr. Tyson told me it was your place.
- 7 Q. Did you ever do a title search?
- 8 A. No.
- 9 Q. You know what my father's name is?
- 10 A. No. But I knew that it had to be your -- somebody
11 had told me one time it was your father's farm.
- 12 Q. Would you know my father if he walked in the door,
13 Walter?
- 14 A. No, I wouldn't, um-um.
- 15 Q. Okay. Was it your impression that Mr. Tyson wanted
16 to help me?
- 17 A. Yeah, help you or -- I don't know. It's hard to say.
18 I just thought it was another job that we were doing, and I
19 didn't know if he was trying to help you personally or
20 what. I just know that, you know, I worked for Mr. Tyson.
21 Any time we went out on a job it was to make money.
- 22 Q. Did you know if Mr. Tyson and I had a private
23 agreement?
- 24 A. Pardon?
- 25 Q. Would you know if Mr. Tyson and I would have had a

Diehl - Cross

1 private agreement?

2 A. Private what?

3 Q. A private agreement.

4 A. No, I wouldn't know that. He would never -- he might
5 have told me, but I don't think -- if he did, it was -- it
6 would be a surprise to me.

7 Q. Okay.

8 You know if his dad ever went out there to the farm?

9 A. Before he -- yeah, I think he might have went out
10 there a couple times.

11 Q. And it was not unusual for him to go to job sites,
12 was it?

13 A. His father?

14 Q. Yeah.

15 A. No, um-hum.

16 Q. He tried to help his son, didn't he?

17 A. Right, all the time.

18 Q. Now, as his bookkeeper, were you aware of the
19 projects he bid on?

20 A. Which one?

21 Q. Any one?

22 A. Yes, on -- mostly all the ones he bid on, I was aware
23 of. Most of the times I picked up the specs in the plan,
24 mostly all his jobs.

25 Q. Did you help participate, Walter, in advising him on

Diehl - Cross

1 specs and things that you --

2 A. No. I didn't have any part of that part of the
3 business.

4 Q. You know if he was successful in gaining some
5 contracts?

6 A. We did -- we got a lot of contracts.

7 Q. Did you think at some point there was a shot he might
8 make it?

9 A. Right, because that's the reason I tried to hang in
10 with him during the time I worked for him.

11 Q. Walter, isn't it a fact that in our Valley minority
12 contractors in big jobs really don't have much of a chance?

13 A. That's the impression I got, during the time I was
14 working for him.

15 Q. Did Greg Tyson have connection was big politicians?

16 A. Local politics. When it got to you, that was on a
17 different level altogether, you know, that's the first time
18 during the time that I worked for him that he, you know,
19 actually -- to me the first time he ever talked to you, but
20 local politicians like the councilmen, the mayor, you know,
21 I've always been down at City Hall almost everyday.

22 Q. Be like sort of lobbying, wouldn't you?

23 A. No, not really. You know, I was doing my job, trying
24 to help the man out.

25 Q. Help him get business?

Diehl - Cross

1 A. Right.

2 Q. Are you familiar with the federal system of bidding
3 on projects?

4 A. As far as specs and plans? I know that -- you know,
5 there's lots -- specs are tight. I believe the federal
6 courthouse in Youngstown, Ohio, we were subcontractor.

7 Q. Are you somewhat familiar with the process of how
8 these bids are awarded?

9 A. Low man. They have the bid. They get the job.

10 Q. Wasn't it a fact that Greg couldn't take on the --
11 and bid on the big job itself?

12 A. Bidding capacity wasn't big enough.

13 Q. So he would bid as a subcontractor, wouldn't he?

14 A. Right.

15 Q. But even subcontractors had to meet the same federal
16 specs, didn't they?

17 A. Sure.

18 Q. And there were many he didn't get, wasn't there,
19 Walter?

20 A. Yep.

21 Q. Did you ever feel maybe there were times he should
22 have got some of those contracts?

23 A. No. I never felt that he should have. I felt, you
24 know, you got what you deserved.

25 Q. If he wasn't the low bidder, he didn't get it, right?

Diehl - Cross

1 A. Right. If you're low bidder, you get the job.
2 Because I would stay -- when -- see, I would take the jobs,
3 the bids, all specs, and I would go when they would open up
4 the bids, and they would name off every contractor that bid
5 on that job. And they would post them their bids, and if
6 Greg was the low man, he would get the job. If he wasn't,
7 he just didn't get it. It wasn't -- I don't think there
8 was any favoritism.

9 Q. Did you ever see anyone step in for Mr. Tyson?

10 A. Not on any jobs that he bid on -- maybe have helped
11 him in situations, but I don't -- I felt like Greg, he
12 asked for what he got. He got what he got, everything he
13 got, he earned it, but I never heard anything that he had
14 to call you to ask for help or anything.

15 Q. Did you ever have conversations relative to Mr. Tyson
16 whether or not he and I were personal friends?

17 A. No.

18 Q. Never discussed that?

19 A. Um-um.

20 Q. You know if Mr. Tyson and I met more than just the
21 times that I met with you and Mr. Tyson?

22 A. No. I was never told that, no.

23 Q. So how many total times did you meet with me and
24 Mr. Tyson where we were both together?

25 A. One time.

Diehl - Cross

1 Q. Did you ever send me a bill?

2 A. No. And I never was told for you to -- to send you a
3 bill, either.

4 Q. Let me ask you this:

5 Was there not, what you testified to earlier, as a
6 regular procedure?

7 A. Regular procedure?

8 Q. Yes, on the billing process?

9 A. When there's a file made up, you know, when there's a
10 file made up on anybody that we do the work for, you know,
11 when that -- I would know if the billings were supposed to
12 be made or how we're supposed to bill that person, but Greg
13 never asked me to make a bill out to Traficant's farm. He
14 never did.

15 Q. Had Greg asked to you do that, would you have done
16 it?

17 A. Oh, yeah, I would have done it.

18 Q. But in any regard, did I ever get a bill?

19 A. No. He never told me to bill you either, so I
20 didn't -- I didn't -- but I knew that we had worked out
21 there enough to know that we should have billed you where
22 we should have been getting paid.

23 Q. Okay. Now, was Mr. Tyson your supervisor?

24 A. Right. He was my boss.

25 Q. Did you report to Mr. Tyson?

Diehl - Cross

- 1 A. Yes, I did.
- 2 Q. Now, would his sister come in and help, she assisted
3 you?
- 4 A. Yes, we assisted each other.
- 5 Q. Sometimes you said checks were late?
- 6 A. Yeah, some of the bids, jobs that he had, they were
7 late, yeah.
- 8 Q. And does that cause the company some problems?
- 9 A. Right.
- 10 Q. But isn't it a fact that Mr. Tyson made those checks
11 good?
- 12 A. Sometimes.
- 13 Q. Did he pay his workers?
- 14 A. Right. He paid his workers, um-hum.
- 15 Q. Did you have a union contract?
- 16 A. Right, um-hum.
- 17 Q. Was there a two-tier union contract?
- 18 A. No.
- 19 Q. Did you see the union contract?
- 20 A. Yes, I talked -- um-hum.
- 21 Q. Were you aware of the provisions in the union
22 contract?
- 23 A. Right.
- 24 Q. Was there a difference between the Laborers' pay and
25 say an Operating Engineer's pay?

Diehl - Cross

1 A. Right, um-hum.

2 Q. Was it pursuant to the agreement of the contract?

3 A. Between.

4 Q. The company and the union?

5 A. Right, um-hum.

6 Q. And was everybody covered under that contract?

7 A. If they were operating engineers, yeah.

8 Q. How about all the employees at Big G, were they
9 covered under the union contract?

10 A. I wasn't, but like people that worked on a particular
11 job, like the Laborers, there was a union laborer in
12 Youngstown. They had the Teamsters. They were the truck
13 drivers and operators. They operated the heavy equipment,
14 like the backhoes and excavators.

15 Q. Now, you were manager, Walter?

16 A. Yeah.

17 Q. Right.

18 Now, in most union contracts, isn't it a fact that
19 the laborers and the employees develop a contract for
20 basically management really on their own?

21 A. Right.

22 Q. And didn't the management people in the steel
23 industry get pretty much the shaft?

24 A. Management?

25 MR. SMITH: Objection.

Diehl - Cross

1 THE COURT: Sustained. This is not the steel
2 industry.

3 Q. The point I'm making, it was not unusual for
4 management not to be covered by the union, management and
5 union. I don't know. We're not in the same, how would we
6 say, party?

7 A. Right.

8 Q. But, you dealt well with the union, didn't you?

9 A. Yeah.

10 Q. And Greg tried to work well with the union, didn't
11 he?

12 A. Yeah, um-hum.

13 Q. Did you ever have occasion to call me?

14 A. Who me?

15 Q. Yeah.

16 A. No. No I never called you.

17 Q. You know if Mr. Tyson called me?

18 A. He probably did, you know. He had to know what you
19 wanted to have him do out there on the farm.

20 Q. In addition to that, did you ever have conversation
21 with Mr. Tyson relative to some of his goals and some of
22 his plans with his business?

23 A. Yeah, I talked to him about it.

24 Q. And did he state that he had conversations with me
25 relative to that?

Diehl - Cross

1 MR. SMITH: Object to any content of hearsay,
2 your Honor.

3 THE COURT: You can answer yes or no if you
4 know.

5 THE WITNESS: No, um-um.

6 Q. Now, you say you're in the residential construction
7 business, right?

8 A. Right, um-hum.

9 Q. Why have you stayed away from the commercial section?

10 A. I just, just did. I mean, there's no particular
11 reason. I just did.

12 Q. Is it not a fact that it's more profitable for you as
13 a minority businessman to get residential work?

14 A. And I did is a take some.

15 Q. Isn't it a fact that a minority businessman,
16 contractor in Youngstown, has a tough time on commercial
17 work?

18 A. I think so.

19 Q. You know at some point where Mr. Tyson asked me to
20 step in and intervene and help him on certain issues?

21 A. No. I never knew that. No, I couldn't tell you for
22 sure that I knew that. I probably felt it but didn't know
23 for sure. Mr. Tyson never talked to me about your
24 dealings, you know. He never did.

25 Q. Mr. Tyson basically kept his dealings to himself?

Diehl - Cross

1 A. When it came to the farm, he did.

2 Q. It was personal, wasn't it?

3 A. Yeah.

4 Q. And you asked him about that, didn't you?

5 A. Right. I asked him once, and he didn't tell me, so I
6 never asked it again.

7 Q. Now, you did have knowledge, though, that there were
8 certain things that were purchased and sent to the farm,
9 and when you went to the farm, you went to deliver checks?

10 A. Right, um-hum.

11 Q. Okay. And what day of the week would that have been?

12 A. It was -- it always was on Friday.

13 Q. Unless --

14 A. It was always on Friday. There was no unless because
15 he always sent me out there on Friday to pay -- everybody
16 wanted their check on Friday so that's --

17 Q. No matter where they were working. Is that right?

18 A. No matter where they were working.

19 MR. TRAFICANT: No further questions at this
20 time.

21 MR. SMITH: No questions.

22 THE COURT: Very well. You can step down.

23 MR. SMITH: Government calls Richard Billak.

24

25

Billak - Direct/Smith

1 RICHARD J. BILLAK
2 of lawful age, a witness called by the Government,
3 being first duly sworn, was examined
4 and testified as follows:

5 DIRECT EXAMINATION OF RICHARD BILLAK

6 BY MR. SMITH:

7 Q. Sir, if you could please state your full name and
8 spell your last name for the Court Reporter?

9 A. Richard J. Billak, B-I-L-L-A-K.

10 Q. What -- what city do you reside, sir?

11 A. Austintown, Ohio.

12 Q. And what is your occupation?

13 A. I'm the chief executive officer of a private agency
14 called Community Corrections Association located in
15 Youngstown, Ohio.

16 Q. And for how long have you been the CEO of the
17 Community Corrections Association?

18 A. The agency was incorporated in 1974, and I was the
19 director at that time.

20 Q. And what does the Community Corrections Association
21 do?

22 A. As a nonprofit agency, we have a variety of contracts
23 with the criminal justice system. That includes the
24 Federal Bureau of Prisons, the Ohio Department of
25 Rehabilitation and Corrections, and the local court system

Billak - Direct/Smith

1 as well as the Sheriff's Department.

2 Q. What specific types of services do you provide at
3 your facility?

4 A. Simply -- to simplify it, we have basically 150
5 residential beds in several facilities. Those are for
6 individuals coming out of federal and state prisons, prior
7 to their final release. We also have beds for those that
8 come to us rather than going to prison, and while they're
9 there, they go through various program activities,
10 including education, substance abuse, counseling and work
11 release.

12 Q. Is there any common parlance type of a name that's
13 often used to describe the type of facility you're talking
14 about?

15 A. In days gone by, halfway house was a jargon.

16 Q. For a prisoner actually in the federal prison system,
17 how is a transfer of such a prisoner initiated to get to
18 your facility?

19 A. Usually within 120 days of their final release, the
20 case manager in the institution will contact the federal
21 regional office in Cincinnati, who will contact our staff
22 to determine whether or not a bed is available for
23 placement on a given date.

24 Q. And this Cincinnati office you referred to, with --
25 with whom is that affiliated?

Billak - Direct/Smith

1 A. That's the Federal Bureau of Prisons regional office
2 out of Cincinnati.

3 Q. Does the Community Corrections Association receive
4 any federal funds for housing a federal prisoner in their
5 transition from prison life back to the public?

6 A. There's a way it's paid. There's a per diem amount
7 minus so much that the offender himself pays or herself.
8 It amounts to about \$55 a day currently. Annually, we
9 derive about \$3 to \$350,000 on that contract.

10 Q. \$350,000, for what time period basis?

11 A. Annual.

12 Q. Does the Community Corrections Association have any
13 work release or earned leave programs for federal prisoners
14 who have been transferred to your facility?

15 A. Yes, we do. Once they're with us, they have -- as a
16 matter of fact, Federal Bureau of Prisons enforces, if
17 they're able to work, that they're placed in a paid
18 position within 14 days of placement with us.

19 Q. How about an earned leave program?

20 A. Yes, as -- once they're employed, then they begin
21 earning so many hours of social time or free time.

22 Q. And are there any circumstances under which a federal
23 prisoner who's been transferred to your facility can earn a
24 pass to actually leave the halfway house and go somewhere
25 else?

Billak - Direct/Smith

1 A. Certainly, they develop a plan within that 14-day
2 time frame. In that plan, not only do they verify where
3 the place of employment will be, but when they leave us,
4 they have to have a place to go to, and usually, the
5 federal USPO will make sure that place or that location is
6 a verifiable one.

7 Q. You use the word USPO, what does that mean?

8 A. United States Probation Officer.

9 Q. In the early 1990s, were there any federal
10 regulations governing the treatment of federal prisoners at
11 your facility?

12 A. Yeah, there are numerous rules and regulations not
13 only federal but as well as state offenders have to abide
14 by. Those include not drinking, not using drugs, not doing
15 illegal things naturally, and when they do leave us, they
16 have a time they are to report back, and we do help find
17 calls for verification that they're at the place of
18 residence or where they say they're supposed to be going.

19 Q. Did the Community Corrections Association, again with
20 respect to federal prisoners, have any reporting
21 requirements with respect to disciplinary infractions
22 committed by federal inmates in the early 1990s?

23 A. Well, if I understand the question, if they had to
24 report back to the facility at a certain time, when I say
25 8:00 at night, and if they did not do that, then there were

Billak - Direct/Smith

1 sanctions involved.

2 Q. And was the Community Corrections Association
3 required to report inmate infractions to the Federal Bureau
4 of Prisons?

5 A. There are levels. They're minor, intermediate, and
6 level of sanctions and internal sanctions. We have some
7 discretion or we don't have to report. Major infractions
8 we do have to report.

9 Q. During the early 1990s, if an inmate violated the
10 condition of a pass to leave, what were the range of
11 sanctions that that prisoner might face?

12 A. The internal sanction would be an automatic
13 restriction to the facility. If he had hours earned, they
14 would be removed, and he would be restricted to the
15 facility for a certain period of time. You know, it could
16 escalate all the way up to being returned to the prison, of
17 course, if there were continued violations or if there were
18 major violations.

19 Q. During the early 1990s, did the Community Corrections
20 Association typically take prisoners on transfer who for
21 health reasons would not be able to work?

22 A. No, not usually. The -- our facility is not a
23 medical facility. And so again, the Bureau requires us to
24 have them working within 14 days.

25 Q. Again, in the early 1990s, would the Community

Billak - Direct/Smith

1 Correction Association typically take a transfer of a
2 federal prisoner who was sentenced to six months and who
3 had started serving that sentence at a federal prison?

4 A. That would be rare. Usually, there are two ways to
5 get to us from the federal system. One is by direct court
6 commitment by a federal judge, and in those cases, it's not
7 unusual to have that federal offender with us for a
8 six-month period.

9 As far as --

10 Q. If I can stop you there --

11 A. Pardon?

12 Q. If I can stop you there, would that be a case where
13 the person is sentenced and then goes straight to the
14 Community Corrections Association facility without going
15 through a federal prison first?

16 A. Exactly. In some cases, Judge Wells, for example,
17 would have the ability to directly place that individual
18 with us for a term of six months to a year.

19 Q. And what is the other situation where prisoners
20 typically came to the prison?

21 A. Those who done significant time, you know, 12 months,
22 18 months, two years and on the last 90 to 120 days of
23 their prison term, again, they would be referred to us
24 prior to final release.

25 Q. What was the reason for the practice of not typically

Billak - Direct/Smith

1 taking the transfer of a prisoner who had been sentenced
2 to six months and who had started doing his time in federal
3 prison?

4 A. Just simply logistically all the paperwork in terms
5 of taking that individual into the prison. By the time
6 that was done, he was placed in classified. His term would
7 be nearly up within that six-month period.

8 Q. Now, are -- are you familiar with a prisoner by the
9 name of Anthony Bucci?

10 A. Yeah, I am.

11 Q. And who was Anthony Bucci?

12 A. He was a resident of our facility in the early 1990s.
13 Again, I think it's around '92, '93. And he was placed
14 with us for a period of time by the Bureau of Prisons.

15 Q. And do you recall what sentence Mr. Anthony Bucci had
16 originally been sentenced to serve?

17 A. Six months sentence to an institution, I believe, in
18 North Carolina.

19 Q. Did he start serving his sentence at -- withdrawn
20 when Mr. Bucci initially started serving his sentence, did
21 he start it with your facility?

22 A. No, he did not.

23 Q. So would it have been a normal or a routine thing for
24 somebody like Mr. Bucci to be transferred to your facility
25 given that he had a six-month sentence that started serving

Billak - Direct/Smith

1 it at a federal prison?

2 A. It would be unique. As a matter of fact, in the
3 federal contract for nearly 30 years, I can't recall
4 another inmate arriving on a six-month term.

5 Q. Do you recall how the transfer of Mr. Bucci to the
6 Community Corrections Association facility was initiated?

7 A. I believe I received a call from the Congressman,
8 Congressman Traficant's office, not from him personally as
9 I recall, but a call as to whether or not we would accept
10 him to the facility if arrangements could be made. My
11 response was yes, we could. A bed was available, but it
12 was the Bureau of Prisons' decision to make that transfer,
13 not ours.

14 Q. Do you recall the name of the person of the
15 Congressman's office with whom you talked about the Anthony
16 Bucci transfer?

17 A. I am fairly sure it was Chuck O'Nesti, his aide. I
18 state that because usually if I did get a call from the
19 Congressman's office it would be from Mr. O'Nesti at that
20 time.

21 Q. After Anthony Bucci was at the Community Corrections
22 Association facility, did you have any further contact with
23 Congressman Traficant's office about him?

24 A. Within the first week or two that he was with us, he
25 failed to report or return back to the facility as

Billak - Direct/Smith

1 required. At that point, being as we discussed earlier, we
2 automatically restricted him to the facility for that
3 violation, and subsequently, that same evening or the
4 following day, he complained of medical chest pains. Our
5 response is to, you know, not take the position that we
6 immediately transfer him to a medical facility, and shortly
7 thereafter, I received a call direct from the Congressman
8 asking us to understand and appreciate his medical
9 condition and not to enforce the restrictions on him and to
10 allow him to continue to leave the facility for work and
11 other privileges.

12 Q. Did you ever receive any correspondence from the
13 Congressman's office concerning that disciplinary
14 infraction by Anthony Bucci?

15 A. Shortly thereafter, I did.

16 Q. Would you direct your attention to Government's
17 Exhibit 2-30 on the counter before you? And if you would
18 turn that over to Page -- the back half of the page,
19 Exhibit 2-30. Do you have that, sir?

20 A. Yes, I do.

21 Q. If you'd turn it over on the back?

22 A. Yes, sir.

23 Q. Do you recognize that item?

24 A. Yes, I do.

25 Q. All right. And what is that item?

Billak - Direct/Smith

1 A. It's a letter addressed to myself, dated March 22,
2 1993, from the Congressman, James Traficant.

3 Q. And to what incident does this letter relate?

4 A. It was the copy -- print and copy to Anthony Bucci.
5 It referred to the phone call we had regarding his medical
6 conditions and asking us to approve it.

7 MR. SMITH: May I put this up?

8 THE COURT: Yes.

9 Q. Please just read the content of the letter, sir.

10 A. "Pursuant to our conversation today, thank you for
11 the information and your willingness to mitigate the
12 problem.

13 "Be advised that the enclosed pass request and
14 approval does not require" --

15 THE COURT: Going too fast.

16 THE WITNESS: "Be advised that the enclosed
17 pass request and approval does not require a specific time
18 for a resident to telephone the Center.

19 "This is an unusual case, and I appreciate your
20 willingness to resolve all the problems occurred.
21 Respectfully James. A. Traficant, member of Congress."

22 Q. The body of this letter refers to enclosed pass
23 request and approval. You see that language in the letter,
24 sir?

25 A. Yes.

Billak - Direct/Smith

1 Q. What is a pass request and approval?

2 A. Each resident would receive a copy, eight and a half
3 11 sheet showing approval for a pass. That is a leave from
4 our facility to a designated place in the community for a
5 certain period of time. It would be signed by a member of
6 the staff as well as residents themselves showing where
7 they had to be, and again, we would make the telephone
8 calls to make sure either to them or from them, from us to
9 them, to assure they're at that place of residence.

10 Q. When a pass request and approval is issued, how many
11 copies are made?

12 A. I'm trying to think. At least two copies. One goes
13 to the resident, one goes to the case file, and one to the
14 unit monitor's office, so at least two, at times three.

15 Q. But the inmate gets one?

16 A. The inmate gets one, correct.

17 Q. What -- during the early 1990s at the time of this
18 incident, what was the Community Corrections Association
19 policy about publicly distributing these sorts of pass
20 requests and approval documents?

21 A. Being in violation of policy as confidential.

22 Q. Do you have any explanation of how the Congressman's
23 letter could have enclosed a copy of the pass request and
24 approval?

25 A. I could only assume it came from Mr. Blizzard.

Billak - Direct/Smith

1 Q. After the Congressman's call that he made to you
2 about Mr. Bucci's situation, what, if any, decision was
3 made with respect to Mr. Anthony Bucci's disciplinary
4 infraction?

5 A. Based on the Congressman's call, I called my
6 assistant director, James Corfman, C-O-R-F-M-A-N, and told
7 him to rescind the restriction and allow Mr. Bucci to have
8 these privileges.

9 Q. Do you recall ever receiving any other letter like
10 this one from Congressman Traficant concerning a
11 disciplinary infraction by any other federal inmate or
12 prisoner?

13 A. No, I do not.

14 Q. Sir, in your professional capacity at the Community
15 Corrections Association, have you ever encountered a person
16 by the name of David Sugar, Junior?

17 A. Yes, I have.

18 Q. All right. And who was David Sugar, Junior?

19 A. He was a resident again of our facility in the late
20 1990s, I believe, 1999. He was convicted in Licking County
21 of a felony DUI, sentenced out at the Licking County Court
22 to a six-month term there. We received a call from
23 Mr. Traficant's office, specifically from Anthony
24 Traficanti, who asked whether or not we would be able to
25 again accept the individual into our facility.

Billak - Direct/Smith

1 In this case, it was a state case, so we didn't have
2 to go through the federal system. My response was on the
3 condition that the judge revise the sentencing journal
4 entry and had him complete his term with us. We would
5 naturally accept him through our facility. That was done
6 through his counsel at the time, Mr. Colucci, and we
7 received him sometime July of '99.

8 Q. All right.

9 Do you know whether or not this was Mr. David Sugar,
10 Junior's first offense for the type of violation that he
11 was sentenced on?

12 A. Well, again, felony DUI, so he had multiple DUI's
13 prior to that, and it's -- under Ohio statute, it's a
14 mandatory term of incarceration.

15 Q. Now, at the time in 1999, did David Sugar, Junior,
16 was he transferred to your CCA facility?

17 A. Correct.

18 Q. Was there any such facility, similar facility
19 available in Licking County?

20 A. Yes, there was. These facilities under statute are
21 called community based correctional facilities. Currently,
22 there are about 17 of them in the State of Ohio, one of
23 which is in Licking County.

24 Q. In a typical case, to what -- apologize for calling
25 it a halfway house -- but to what halfway house would a

Billak - Direct/Smith

1 Licking County inmate had been assigned on a DUI matter in
2 1999?

3 A. It would be in the jurisdiction of the sentencing
4 court, in that case Licking County.

5 Q. So was there anything unusual about David Sugar,
6 Junior being transferred to the CCA up in Mahoning County
7 under the circumstances where there was a similar facility
8 in Licking County?

9 A. Unusual in the sense that the attorney intervened
10 after the sentence to have him transferred from Licking
11 County to Mahoning County.

12 Q. And the person you talked to at Congressman
13 Traficant's office about that transfer was whom?

14 A. Anthony Traficanti.

15 Q. Do you recall how many conversations on the phone you
16 had with Mr. Traficant about that transfer?

17 A. At least two. One was on whether or not we'd accept
18 him should the judge revise the journal, and then secondly,
19 we have an internal policy, statewide internal policy, that
20 the first 30 days of placement in that kind of facility,
21 it's total restriction, that is to say, even work
22 privileges are not permitted, and we were asked whether or
23 not that could be amended, that is, to remove the 30-day
24 restriction, and that I personally accommodated. He was
25 allowed to go to work upon his arrival.

Billak - Direct/Smith

1 Q. And who made that request of you that this normal
2 restriction be lifted?

3 A. Mr. Traficanti.

4 Q. Did you receive any correspondence in connection --
5 from the Congressman's office in connection with the David
6 Sugar, Junior, matter?

7 A. I did.

8 Q. And if you would look at Exhibit Number 5-5 on the
9 counter before you, sir, do you recognize Exhibit 5-5?

10 A. I do.

11 Q. What is that document?

12 A. Again, it's a letter from the Congressman James A.
13 Traficant's office directly to myself dated July 15, 1999.

14 Q. When correspondence is received about an inmate at
15 this Community Corrections Association facility, does your
16 facility maintain a copy of that correspondence?

17 A. We do.

18 Q. And is it the regular practice of your facility to
19 maintain such correspondence?

20 A. It is.

21 Q. Is the correspondence thereafter maintained in the
22 ordinary course of the Community Corrections Association
23 business?

24 A. It is.

25 Q. And when is that correspondence placed in the file?

Billak - Direct/Smith

1 A. Upon receipt.

2 Q. And is there any marking on Exhibit 5-5 that
3 indicates to you when this document was received by your
4 facility?

5 A. At the bottom right corner, July 19, 1999.

6 Q. All right. And is that a circle with a marked
7 receipt in it and a date?

8 A. Yeah, that's our agency.

9 MR. SMITH: Your Honor, could I put this up
10 on the screen?

11 THE COURT: Yes.

12 BY MR. SMITH:

13 Q. And I'd ask you, if you could, start at the top where
14 it -- where it says Dear Mr. Billak, and read the content
15 of the body of the letter.

16 A. "I'm addressing this letter on behalf of the above
17 mentioned individual of this 17th Congressional District,
18 per your conversation with Mr. Anthony Traficanti of my
19 staff on 7-15-99.

20 "I personally want to thank you for all the help and
21 input in assisting Mr. Sugar to continue his daily duties
22 with his father's construction company.

23 "By allowing this individual to continue to work as a
24 condition of probation will not only prove to be
25 therapeutic for Dave Sugar, Junior, but also be

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1 advantageous for the overall continued success/operation of
2 their company.

3 "Per your request, Dave Sugar, Senior, will be
4 forwarding you a letter explaining his son's position in
5 the company and will also outline his son's work schedule
6 and other need factors.

7 "If I can be of further assistance concerning this
8 individual, please do not hesitate to contact me
9 personally, and I thank you in advance. Respectfully,
10 James A. Traficant, Junior."

11 Q. Sir, in connection with this work release question of
12 Dave Sugar, Junior, did you also receive correspondence
13 from his attorney?

14 A. Yes, I did.

15 Q. And his attorney was who again?

16 A. Colucci, I think it's Mark.

17 Q. And directing your attention to Government's Exhibit
18 5-6 on the counter before you, do you recognize that
19 document?

20 A. Yes, I do.

21 Q. And what is that document?

22 A. It's a letter directed to myself from Attorney Mark
23 Colucci, dated July 16th, 1999.

24 Q. And does this concern the David Sugar, Junior,
25 matter?

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1 A. Yes, it does.

2 Q. Was this document filed and received and maintained
3 in accordance with the procedures you already described?

4 A. Yes, it was.

5 MR. SMITH: May I put this up, your Honor?

6 THE COURT: Yes. And I want to remind you
7 it's almost 4:30.

8 MR. SMITH: You wish me to stop here, your
9 Honor?

10 THE COURT: Wherever you wish to stop, either
11 before you put it up or after you put it up, but the jury
12 needs to be dismissed.

13 MR. SMITH: Okay. I'll put it up, your
14 Honor, and then I'll stop, your Honor. Thank you.

15 BY MR. SMITH:

16 Q. Would you please read the contents of this item, sir.

17 A. "Dear Mr. Billak: Please allow this letter to
18 confirm that I represent Dave Sugar, Junior, who was
19 recently released from the Licking County Jail, and as part
20 of his sentence for a DUI conviction, was ordered to report
21 to CCA for the balance of his community control sentence.
22 Mr. Sugar is a high level and needed employee of Sugar
23 Construction Company. The company is a family owned
24 company.

25 "Recently, one of the main foreman for the company

Billak - Direct/Smith

1 passed away, making it all the more urgent for Mr. Sugar to
2 return to his employment on a work release program. Mr.
3 Sugar is a recovering alcoholic, who, prior to his
4 incarceration, was and is an active member of Alcoholic
5 Anonymous. He is well on his way to recovery and getting
6 him into the work release program would further his
7 recovery.

8 "Based on the above, I'm requesting CCA waive its
9 30-day waiting period for work release eligibility and
10 allow Mr. Sugar to begin work Monday on a work release
11 program. He will, of course, abide by any further
12 restrictions imposed by CCA. Thank you for your
13 consideration. Sincerely, Mark S. Colucci."

14 Q. How long did David Sugar, Junior, stay at your CCA
15 facility?

16 A. Approximately four months.

17 MR. SMITH: Your Honor, my direct examination
18 is concluded. Thank you.

19 THE COURT: Thank you. We'll be in recess
20 until tomorrow morning at 9:00. And so remember all those
21 admonitions that you were given. Enjoy tonight. I guess
22 we haven't had a bad winter yet, so I hope it stays as calm
23 as it is now. Good night.

24 (Proceedings in the absence of the jury:)

25 THE COURT: I think we have a couple of

1 things to discuss before tomorrow. I don't know what --
2 whether you've gone forward with your discussion with the
3 ODOT -- the Attorney General's office and ODOT.

4 MR. TRAFICANT: I have not, your Honor, and
5 I've decided I will subpoena them.

6 THE COURT: Okay.

7 MR. TRAFICANT: I am not going to call them,
8 and I will have several motions tomorrow.

9 THE COURT: Okay.

10 You're going -- I'm talking about your contact with
11 the attorney.

12 MR. TRAFICANT: I've decided not to do that.

13 THE COURT: You're not doing that?

14 MR. TRAFICANT: I'm just going to subpoena
15 that person to bring with her, or whomever the custodian of
16 records, those files.

17 THE COURT: Okay. Let me ask you a question.

18 What is it that you have received from the Attorney
19 General's office? I know you referred to it as --

20 MR. TRAFICANT: I do not have --

21 THE COURT: -- generic files. What I need to
22 know is what does it consist of? We still don't have an
23 answer to that question.

24 MR. TRAFICANT: Consists of his employment
25 date, his job application, when he got promoted, who was

1 his supervisor, all of his promotions, and there's nothing
2 that deals with any issue of which I had been informed over
3 the years relative to his behavior. And he may be the most
4 honest man in the world, but this file -- and I will bring
5 it tomorrow with my motion -- and I say generic, it's
6 basically a, you know, his age, his date, when he got
7 promoted, et cetera, et cetera, et cetera, and that's it.

8 THE COURT: Okay. Do you have it here with
9 you? I mean --

10 MR. TRAFICANT: I do not have it here with
11 me, no. I did not think we were getting to it today, and I
12 appreciate Mr. Morford and the prosecutors; they could have
13 probably pushed this thing this afternoon. I appreciate
14 they didn't, to give me a chance to at least look at it,
15 but I will have a motion to deal with it in the morning,
16 and you can decide in the morning. Whatever you decide is
17 fine with me.

18 THE COURT: Okay. But, you have not
19 contacted the lawyer who sent you the letter that you
20 wanted to put into evidence in the case this morning,
21 right?

22 MR. TRAFICANT: Let me put all this on
23 record.

24 We first contacted ODOT and made a request for
25 records. They agreed to send them to us. Then we got a

1 call from someone that said we can't send them to you,
2 you'll have to subpoena them. Then we got a call from one
3 of their attorneys and said that they will not be able to
4 satisfy this subpoena.

5 THE COURT: So you did subpoena them?

6 MR. TRAFICANT: Then I did subpoena them, and
7 they sent me what I showed you today as stating --

8 THE COURT: I haven't seen anything. That's
9 what -- that's -- you keep.

10 MR. TRAFICANT: No. I showed you the letter
11 they sent two to three weeks --

12 THE COURT: Okay.

13 MR. TRAFICANT: To give the unredacted file.

14 THE COURT: So have you received nothing from
15 them, or have you received something you referred to as --

16 MR. TRAFICANT: I received a useless document
17 that doesn't tell me anything about any situation he had,
18 including a letter that was brought in to, I believe as
19 evidence, relative that I wrote to get him fired. Nothing
20 is in his file of significance.

21 THE COURT: Okay. Where is the file that
22 they sent you?

23 MR. TRAFICANT: It is in my possession but
24 not in the courthouse, your Honor. I didn't bring it
25 today; didn't think we were get to it that quick.

1 THE COURT: Well, I'm about to tell you that
2 you will need to bring it with you.

3 MR. TRAFICANT: I will have it tomorrow.

4 THE COURT: Okay. Thank you. Mr. Kall?

5 MR. KALL: In response to this, there are
6 different issues. First, the issue regarding a letter sent
7 to have him fired, there was no testimony from Mr. Williams
8 on direct during his deposition about such a letter.

9 That was an issue that was raised by Congressman
10 Traficant on cross-examination, and the witness stated he
11 really didn't know if there was any such letter. So that
12 may be an issue that is a bit of a red herring because
13 there was no testimony on direct as to that.

14 Secondly, as to the issue of certain things not
15 appearing in his file, we really aren't sure how to respond
16 to that because we don't know what should or should not be
17 in this person's file.

18 THE COURT: I'm just trying to determine
19 whether they've responded to the subpoena or not. And
20 apparently, he got both a letter, and he got -- and he also
21 got some document, which he doesn't have here, so I can't
22 see what they are. So you need to bring them tomorrow
23 morning.

24 MR. TRAFICANT: I will.

25 MR. KALL: At the deposition, your Honor,

1 Congressman Traficant said he was going to admit into
2 evidence Defense Exhibit TW-1, the personnel file. So he
3 obviously had some documents. We noted in the deposition
4 that we had not received a copy of those documents from
5 Congressman Traficant, and standing here today, we still
6 have not. So we don't know what documents he did or did
7 not receive.

8 THE COURT: Okay.

9 MR. KALL: What was in them.

10 THE COURT: Okay.

11 MR. TRAFICANT: May I respond?

12 THE COURT: Please bring that packet with you
13 with a copy for them tomorrow.

14 MR. TRAFICANT: I will do that, but I now
15 want to respond. That was not a truthful response from Mr.
16 Kall.

17 On cross-examination, I brought up the letter, and if
18 he was aware of the letter, he said he had discussed it
19 with his boss. His boss told him something about it, but
20 he never even saw the letter.

21 THE COURT: Well, we have a transcript so
22 that --

23 MR. TRAFICANT: Certainly, we should be able
24 to find that, right? So Mr. Kall, you want to change your
25 statement?

1 THE COURT: He was talking about an exhibit.
2 Mr. Kall was talking about an exhibit that was not in the
3 deposition.

4 MR. TRAFICANT: No, he wasn't. He was
5 talking about the letter, your Honor, that being fired, and
6 that he had no knowledge of it at all.

7 MR. KALL: Your Honor, may I inquire of the
8 page and line to which he's referring?

9 THE COURT: That would be helpful.

10 MR. TRAFICANT: I'm looking at it for you.

11 THE COURT: Thank you.

12 MR. TRAFICANT: I just received this at 11:05
13 whenever it was, and I'm looking for my cross. Where it
14 starts.

15 MR. KALL: It begins on Page 20 and goes
16 through the end.

17 MR. TRAFICANT: Thank you. Someone might
18 find it for me.

19 THE COURT: Look at Page 25. There's inquiry
20 by you: "Did I ever send a letter that you should be
21 fired?" And the answer was "no, you didn't say that. I
22 never said you said that at all." Is that what you're
23 talking about?

24 MR. TRAFICANT: Yes, never sent the letter
25 that you should be fired.

1 THE COURT: Right.

2 MR. TRAFICANT: He said "no, you didn't say
3 that. I never said you said that at all." I said, "do you
4 know where that came from then?"

5 "It wasn't from me. No, I don't know where it came
6 from. It certainly wasn't my testimony.

7 "Mr. Kall: Objection.

8 "Okay. Are you familiar with the letter that I might
9 have sent dealing with your termination because of
10 complaints I had from individuals within the are.

11 "No, I'm not familiar with it at all.

12 "When you retired, did you get your personnel file?
13 No, retired personnel file?

14 "No.

15 "Did you ever see your personnel file?

16 "I looked at it. There's nothing in it particularly
17 I was interested in. No, I wasn't.

18 "Are you familiar with the fact that I subpoenaed
19 your personnel file for today's deposition?"

20 THE COURT: Okay. Well, that says -- that
21 says pretty much what Mr. Kall said, that he said he
22 didn't -- he wasn't familiar with it. He doesn't know what
23 letter you're talking about.

24 MR. TRAFICANT: I think I'd like to continue
25 to read here.

1 THE COURT: Okay.

2 MR. TRAFICANT: 28. "Do you have in your
3 possession, then, the letter that I wrote, that I recommend
4 that he be fired?

5 Mr. Kall said, "Congressman, I'm not under oath. I'm
6 not the person being questioned. If you have further
7 questions for the witness --

8 Mr. Traficant: "Do you know if there was a letter
9 sent for you to be fired?

10 He said, "I've already answered that. No, I don't.

11 "Question: If there was a letter for you to be
12 fired, would it be in your personnel record?

13 "Objection.

14 "Witness: I don't know, I don't have a clue what was
15 in my personnel file or what --

16 "To the best of your knowledge, what was maintained
17 in the personnel files?

18 "The -- any disciplinary action that was taken -- the
19 forms that they fill ou out evaluating," et cetera.

20 THE COURT: Well, that's consistent.

21 MR. TRAFICANT: Let me just go here.

22 THE COURT: Okay. Well, that's a long
23 transcript. We'll continue this tomorrow morning at 8:30
24 in the morning. Congressman, it's a serious thing when you
25 say that a lawyer for the Government is not making a

1 truthful response. So I'm going to give you overnight to
2 go through this and see whether or not you can support that
3 statement.

4 We'll be here at 8:30 in the morning.

5 MR. TRAFICANT: Thank you.

6 MR. KALL: Your Honor, do you want to rule on
7 objections now as to --

8 THE COURT: I want to know what the status of
9 your -- I mean, the only objections that were made during
10 the deposition are from the Government, and I do want to
11 know -- I've had an opportunity to go through the
12 transcript. And I would like to know whether you're going
13 to pursue all of those objections, two of them, 20 of them,
14 what's going to happen because that would make it easier to
15 get this tape in shape for a jury.

16 MR. KALL: I can't give you an exact number.
17 I would say approximately ten.

18 THE COURT: That you are going to pursue or
19 aren't.

20 MR. KALL: That we are going to pursue.

21 THE COURT: Then it's worth spending a little
22 time over it now. Let's go through the ten.

23 MR. KALL: Okay. The first would be on Page
24 25, beginning Line 18, going through Page 26, Line 6.

25 THE COURT: Okay. Next?

1 MR. KALL: Next would be at the bottom of
2 Page 26, beginning on Line 23.

3 THE COURT: Okay.

4 MR. KALL: Going through Page 28, Line 7.

5 THE COURT: Next?

6 MR. KALL: Page 32, Line 2 through Line 23.

7 THE COURT: Okay. Next?

8 MR. KALL: Next would be on Page 47.

9 MR. TRAFICANT: Page what?

10 MR. KALL: 47, Lines 1 through 11.

11 THE COURT: Okay.

12 MR. KALL: Next would be page 348, Line 17
13 through Page 49, Line 7.

14 MR. TRAFICANT: To what page? 49, line 7?

15 MR. KALL: Yes.

16 THE COURT: Okay.

17 MR. KALL: Next would be on Page 51, Line 25
18 through Page 52, Line 4.

19 THE COURT: Okay.

20 MR. KALL: Also on Page 52, Lines -- excuse
21 me, Page 52, Line 18 through Page 53.

22 MR. TRAFICANT: Could we go back? You were
23 at 52, 1 through 4. Now where are you going?

24 MR. KALL: Next would be Page 52, Line 18
25 through Page 53, Line 5.

1 Then would be the exchange between Congressman
2 Traficant and myself on Page 53, regarding this exhibit,
3 which is Page 53 Line 6 through 20.

4 And then on Page 60, Line 17 through the end of the
5 deposition.

6 MR. TRAFICANT: What is that now?

7 MR. KALL: Page 60, Line 17 through the end
8 of the deposition, which is Page 61, Line 21.

9 THE COURT: Any response, Congressman?

10 MR. TRAFICANT: Yeah. I object to everyone
11 of them. I think they're all legitimate questions. He has
12 a health problem. I think, number one, I'd like to explore
13 more of the health problems. I think there were
14 allegations that have been made to me. I just didn't write
15 a letter to fire a guy because of one guy talking to me. I
16 had many people talk to me and had surmised this fellow
17 through allegations of his drinking, drinking while he was
18 on the job, and the questions that I asked in a very nice
19 way, by the way, were directed to those points.

20 Now, if you remove them, you remove -- and make an
21 order that any examination be moot. This is a -- this is
22 an exercise of wasted taxpayers' dollars.

23 THE COURT: Okay.

24 MR. TRAFICANT: I should have the right to
25 impeach over a period of time when I take the Defense on

1 Tom Williams, and if you strike these objections, once
2 they're stricken, I cannot bring those back up. And I say
3 that to you that that would be highly unusual, and I can't
4 for the life of me understand that to be done.

5 THE COURT: Thank you for your response.
6 Anything from you?

7 MR. KALL: Your Honor, I would state it
8 wouldn't be unusual. Under Civil Rule 30, at a deposition,
9 when an objection is made, it is made and the witness is
10 instructed to answer so that those objections can be ruled
11 upon at a later date.

12 So that is the normal procedure, and that is exactly
13 what's being followed. As to the issue of alcoholism,
14 there's no allegation that, A, the alcoholism that is
15 alleged is in any way impacting on this witness' ability to
16 recollect the events that are called for here; and, B, that
17 it in any way impeaches his truthfulness. There is not an
18 alcohol issue here, no evidence to it, and therefore, since
19 it doesn't go to, A, his ability to recall the events that
20 he testified about, and B, doesn't go to his truthfulness,
21 it is improper impeachment. We allowed the witness to
22 answer those questions at the deposition under Rule 30, but
23 we do object to them here.

24 MR. TRAFICANT: Okay. Now, I'd like to
25 respond.

1 THE COURT: Okay.

2 MR. TRAFICANT: First of all, I'd like to
3 direct your attention to Page 55, starting with Line 13,
4 "and you took an early buy out. Is that right?

5 "Both, yeah.

6 "Did -- when you became aware of that --did you
7 become aware of that I had gone over your head on the Bucci
8 matter?

9 "Not particular on that matter, no.

10 "What matter did I go over your head on?

11 "Just general matters that you had with David Dreger,
12 is what I was told about having me fired."

13 Mr. Kall misrepresented what I had said. He
14 misrepresented the response of this -- this person who was
15 deposed. Here's the answer. "Just general matters that
16 you had met with Mr. David Dreger, is what I was told about
17 having me fired.

18 "Yes.

19 "Now, so then you knew, then? Did Mr. Dreger state
20 to you what accusations I had made?

21 "Mr. Dreger never told that he met with you, just was
22 Mr. Wild told me this, and he didn't tell me anything more
23 than what I just said.

24 "And what was that again?

25 "That apparently Mr. Dreger had had a meeting with

1 you, and it was my job performance was discussed, and it
2 had been recommended that I be fired."

3 Now, I am getting on in age, but when I start
4 remembering something, I remember it.

5 THE COURT: This is not --

6 MR. TRAFICANT: This is exactly what Mr. Kall
7 was talking about, the letter of him being fired.

8 THE COURT: Okay. Well, the record will
9 speak for itself. And so I now understand what it is
10 you're objecting to and also what your response to my
11 concern was with your characterization of Mr. Kall's
12 statement. So we will now try and figure out whether
13 there's anything else that needs to be said on this issue,
14 so we'll have an opportunity to actually rule.

15 MR. TRAFICANT: Your Honor, I would like to
16 look at this document tonight. We've been in steady
17 session. I had it time marked when I got it, and I
18 appreciate them for not bringing it forward. They could
19 have pushed it. I got at 10:55 A.M. today. I would like
20 to read it tonight and look for what I might consider to be
21 some objections at this point.

22 THE COURT: Well the deposition has
23 concluded. And that time for making objections is in
24 the --

25 MR. TRAFICANT: Relative to their objections.

1 THE COURT: Okay. You want to make a
2 response to their objections?

3 MR. TRAFICANT: Yes.

4 THE COURT: Further response. I'll see you
5 here at 8:00 tomorrow morning. We'll have an hour then in
6 order before the jury comes back to not only listen to you
7 but then to have a ruling from the Court.

8 So you have an overnight. I will then rule. What
9 that means is that any editing that's necessary, the video
10 won't be ready to be done until sometime after 8:00 A.M.
11 tomorrow morning, but that gives you the time and will give
12 you the overnight to review this, and I'll see you at 8:00.
13 We're in recess until 8:00.

14 (Proceedings adjourned.)

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1	DIRECT EXAMINATION OF MERRILL WHIPPO.....	1811
2	CROSS-EXAMINATION OF MERRILL WHIPPO.....	1816
3	REDIRECT EXAMINATION OF MERRILL WHIPPO.....	1834
4	RECROSS-EXAMINATION OF MERRILL WHIPPO.....	1837
5	DIRECT EXAMINATION OF JAMES R. RAGAZZINE.....	1841
6	CROSS-EXAMINATION OF JAMES R. RAGAZZINE.....	1845
7	DIRECT EXAMINATION OF TIMOTHY WALSH.....	1858
8	CROSS-EXAMINATION OF TIMOTHY WALSH.....	1863
9	DIRECT EXAMINATION OF GLEN ROSE.....	1883
10	CROSS-EXAMINATION OF GLEN ROSE.....	1888
11	DIRECT EXAMINATION OF BRUCE PIERCE.....	1897
12	CROSS-EXAMINATION OF BRUCE PIERCE.....	1904
13	REDIRECT EXAMINATION OF BRUCE PIERCE	1925
14	RECROSS-EXAMINATION OF BRUCE PIERCE.....	1926
15	DIRECT EXAMINATION OF DONALD BURKEY.....	1928
16	CROSS-EXAMINATION OF DONALD BURKEY.....	1932
17	DIRECT EXAMINATION OF JOE E. RITZLER.....	1937
18	CROSS-EXAMINATION OF JOE E. RITZLER.....	1941
19	DIRECT EXAMINATION OF JOHN C. CRUMP.....	1945
20	CROSS-EXAMINATION OF JOHN CRUMP.....	1956
21	DIRECT EXAMINATION OF WALTER T. DIEHL.....	1975
22	CROSS-EXAMINATION OF WALTER T. DIEHL.....	1988
23	DIRECT EXAMINATION OF RICHARD BILLAK.....	2003
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C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622