

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

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

- - - - -
TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON MONDAY, MARCH 11, 2002

Jury Trial

Volume 15

- - - - -

APPEARANCES:

For the Government: CRAIG S. MORFORD,
BERNARD SMITH,
MATTHEW KALL,
Assistant U.S. Attorneys
1800 Bank One Center
600 Superior Avenue, East
Cleveland, Ohio 44114-2600
(216) 622-3600

For the Defendant: Pro Se

Official Court Reporter: Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622

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

Beegle - Cross

1 Monday Session, March 11, 2002, at 8:45 A.M.

2 THE COURT: You're still under oath. Thank
3 you. Congressman.

4 CROSS-EXAMINATION OF SUE BEEGLE

5 BY MR. TRAFICANT:

6 Q. Good morning, Sue.

7 A. Good morning.

8 Q. How are you doing?

9 A. Fine. Thank you.

10 Q. Not a very comfortable thing to be up there, is it?

11 A. No.

12 Q. When did you leave the employ of Dave Sugar?

13 A. I'm really not sure. It was in either -- I think it
14 was around in June.

15 Q. June of?

16 A. 2000.

17 Q. And how long did you work for Dave?

18 A. Four years.

19 Q. Do you consider yourself friends?

20 A. I suppose.

21 Q. Did you leave because of any problems with Dave?

22 A. No.

23 Q. Did you leave because of his investigation?

24 A. No.

25 Q. Why did you leave?

Beegle - Cross

- 1 A. I left because my husband went to Lexington,
2 Kentucky, to work, and I wanted to be with him because for
3 four years, he had lived in Racine, and I had lived in
4 Youngstown, and I commuted every weekend.
- 5 Q. You know Dave's family?
- 6 A. Yes, I do.
- 7 Q. Is he a good family man?
- 8 A. Yes.
- 9 Q. Does he have children?
- 10 A. Yes.
- 11 Q. Does he have horses?
- 12 A. As far as I know, I never seen -- I know he has
13 horses. He talks about them.
- 14 Q. Did you ever discuss his relationship with me?
- 15 A. Not really.
- 16 Q. Did I ever ask you to alter any documents?
- 17 A. No.
- 18 Q. Did I ever ask you to do anything?
- 19 A. No.
- 20 Q. Now, at some point, the FBI came to visit you; is
21 that correct?
- 22 A. Yes.
- 23 Q. How many total times did they visit with you?
- 24 A. When they visited with me or visited -- they visited
25 with me one time.

Beegle - Cross

- 1 Q. One time.
- 2 And when they did, you know how many there were?
- 3 A. Two.
- 4 Q. You know their names?
- 5 A. Deane, and I'm not sure of the other one. It's been
- 6 too long.
- 7 Q. Okay.
- 8 And isn't it a fact that you originally sort of lied
- 9 to them?
- 10 A. Yes.
- 11 Q. Why did you lie to them?
- 12 A. Because Dave told me to.
- 13 Q. Well, why would you lie to them if Dave told you to,
- 14 if you knew it was wrong?
- 15 A. He just said to tell them that I had mailed the
- 16 invoices, and that's what I did at first. And then when
- 17 they started talking to me, I told them, no, I didn't mail
- 18 them.
- 19 Q. And then you finally admitted it?
- 20 A. Yes.
- 21 Q. Did you in some way, though, want to try and protect
- 22 him if you thought you could --
- 23 A. Protect?
- 24 Q. -- David in the beginning?
- 25 A. Yeah. I'd say in the beginning, yes.

Beegle - Cross

- 1 Q. All right.
- 2 Why?
- 3 A. Just because he told me not to do it. I mean, you
- 4 just -- that's just something that I just do what I was
- 5 told.
- 6 Q. Isn't it a fact you liked your boss?
- 7 A. Sure, I liked Dave.
- 8 Q. And you didn't want to see him get in any trouble,
- 9 did you?
- 10 A. No. I didn't know that he would get in any trouble.
- 11 Q. Was Dave a good worker out in the field?
- 12 A. Yes.
- 13 Q. Was Dave known as more a field guy than an office
- 14 guy?
- 15 A. About half and half, but he's out in the field more
- 16 than he is in.
- 17 Q. Did you ever backdate any other invoices while you
- 18 worked for him?
- 19 A. Not that I know of.
- 20 Q. Did you ever remember a project in New Middletown,
- 21 Ohio, where you forgot to bill it?
- 22 A. I can't remember that. I know we've done -- did
- 23 projects for New -- the town of New Middletown.
- 24 Q. The township?
- 25 A. The township, right.

Beegle - Cross

1 Q. Okay.

2 But --

3 A. I'm just not sure. Dave would always just -- any
4 time that anything needed billed, he would write it out on
5 a yellow piece of paper and hand it to me, and I would type
6 up the invoice.

7 Q. So if Dave came in and said here's a bill for New
8 Middletown, would you send it?

9 A. Yes.

10 Q. Okay.

11 A. Normally.

12 Q. Now, I'm asking you specifically about New Middletown
13 Township?

14 A. Okay.

15 Q. Isn't it a fact that he forgot to bill them, and then
16 sent them later a bill that was several months later that
17 was backdated?

18 A. If there was, I do not remember it.

19 Q. Okay.

20 Now, did you tell the FBI that many times, you didn't
21 bill or have knowledge of small jobs?

22 A. Correct.

23 Q. Did Dave have some small jobs?

24 A. Yes, like the township job and small jobs like in New
25 Middletown and things like that, and then he had some for

Beegle - Cross

1 friends.

2 Q. Okay.

3 Was New Middletown a job that was bided?

4 A. No.

5 Q. There was no bid in New Middletown?

6 A. Not that I know of. I was not aware of it anyway.

7 Q. The township didn't run bids. You know what the
8 project was for?

9 A. The only thing that I could think that they would be
10 putting a line in, repairing a line of some kind, putting a
11 culvert in. Other than that, I don't know what they did.
12 It's just been too long.

13 Q. Through your experience in working with Dave, do
14 public Governments normally bid their projects?

15 A. Yes.

16 Q. Is New Middletown a public Government entity?

17 A. Would I say it would be?

18 Q. Do you remember billing New Middletown?

19 A. I would have to look at the invoices. I just don't
20 remember.

21 Q. Okay.

22 Now, was the Traficant job considered a big job?

23 A. Not that I know of. I didn't even know they were
24 doing it until after they were doing it.

25 Q. Did you know of some little jobs that Dave did that

Beegle - Cross

1 you didn't know of either?

2 A. I'm sure there were.

3 Q. Do you know if the Traficant job was a public bid
4 job?

5 A. As far as I know, it wasn't.

6 Q. So you would say it was more of a private contract?

7 A. Yes.

8 Q. To the best of your knowledge?

9 A. To the best of my knowledge.

10 Q. Did the IRS ever meet with you?

11 A. No.

12 Q. Did you meet with the prosecutors before you went
13 into the Grand Jury room?

14 A. Yes.

15 Q. Which Prosecutor or prosecutors were they?

16 A. I'm not sure of the names.

17 Q. Could the gentlemen please look at the witness?

18 MR. TRAFICANT: Let the record reflect she's
19 identified Mr. Bernard Smith.

20 THE COURT: I don't know if she -- if that
21 was an indication. Anyway nobody can contest the fact
22 that's Mr. Bernard Smith.

23 THE WITNESS: Right.

24 BY MR. TRAFICANT:

25 Q. At some point, did you receive the money that came

Beegle - Cross

1 into the company?

2 A. Yes.

3 Q. Did you receive a check written by Jim Traficant?

4 A. Yes.

5 Q. Do you recall the amount of it?

6 A. \$1,142.

7 Q. Is it up there. Do you have a copy of it?

8 A. Yes, it is. I have a copy of it.

9 Q. Can I see it? Thank you. You're familiar with
10 enough -- can you please turn your machine on for me,
11 gentlemen?

12 MR. SMITH: Sure.

13 MR. TRAFICANT: Matt, if I need help, you
14 know, you're my assistant here.

15 Q. Touchy. That's a sensitive piece of equipment, isn't
16 it, Sue?

17 A. I'm sorry. I didn't hear you.

18 Q. Hitachi, is that Japanese?

19 MR. SMITH: Objection, relevance.

20 THE COURT: Sustained.

21 Q. How do we focus to make it bigger, Matthew? Is that
22 the check?

23 A. Yes, it is.

24 Q. What was the date it was written?

25 A. 12-23-99.

Beegle - Cross

1 Q. Do you know if you deposited it?

2 A. Yes. I deposited it, and I deposited before the last
3 of the year.

4 Q. So it was in the '99 taxable year?

5 A. Yes.

6 Q. Who gave you that check?

7 A. It was either in the mail, or Dave gave it to me.
8 One of the two, I can't remember.

9 Q. But did you list it in the account?

10 A. Yes.

11 Q. Did you create a Traficant file?

12 A. Yes.

13 Q. When?

14 A. At that time.

15 Q. When did the FBI meet with you?

16 A. I'm not sure of the date. It was in the Year 2000.

17 Q. Did you become aware at some point that I was under
18 investigation?

19 A. Yes, when they started asking questions because I
20 didn't keep track of any -- anything that was going on
21 really in Youngstown.

22 Q. Now, after that, do you know if Dave Sugar did any
23 more work for me?

24 A. The only thing that I know after this -- and -- was
25 taking back as far as I know equipment to Pennsylvania.

Beegle - Cross

1 Q. Do you know anything about --

2 A. I don't know if it was.

3 THE COURT: Sorry. You're crossing her
4 answers. You're talking right on top of her.

5 MR. TRAFICANT: I'm sorry.

6 THE COURT: Okay. You can't write two things
7 down at once easily, even with two court reporters, so it
8 distorts the record. Thank you.

9 Q. You knew about the hauling of equipment?

10 A. Yes.

11 Q. You know approximately when that was?

12 A. Not -- I can't give a date.

13 Q. Do you know if he did any work at the Traficant
14 residence in Poland?

15 A. No. I don't know about that residence, except a
16 piano was supposedly moved from there. It's the only thing
17 I know.

18 Q. Did you and Dave discuss the piano?

19 A. No.

20 Q. Did you ever see the piano?

21 A. No.

22 Q. Do you know who moved the piano?

23 A. Several gentlemen from work I think and Dave because
24 it was on the radio.

25 Q. Oh.

Beegle - Cross

1 A. Everything they did.

2 MR. SMITH: Objection based on anything on
3 the radio.

4 THE COURT: Sustained. That would be outside
5 of what the witness is testifying to herself.

6 Q. Did you know the gentlemen that went to pick up the
7 piano?

8 A. I'm not sure who picked up the piano of -- whose
9 truck they put it on. I'm not sure.

10 Q. Okay. Now, when all of this stuff started to break,
11 did you ever advise Dave to be careful about his
12 relationship with me?

13 A. No.

14 Q. Did he ever tell you he did anything wrong with me?

15 A. No.

16 Q. Did you ever ask him if he did anything wrong with
17 me?

18 A. No.

19 Q. Did you have accountants?

20 A. Yes.

21 Q. Did the accountants maintain records of your -- all
22 your transactions?

23 A. Anything that I got, I would turn over to the
24 accountants.

25 Q. Did you turn over the Traficant check?

Beegle - Cross

1 A. Yes. It was under miscellaneous account.

2 Q. Miscellaneous accounts? What is an A.R. list?

3 A. An A.R. list? I'm not sure. I'd have to see it.

4 Q. Would that be accounts receivable?

5 A. Yes, but I normally -- all I would do would be to
6 turn it over to the accountants.

7 Q. Do you know if I was on the accounts receivable list?

8 A. Possibly. Dave would always know who the accounts
9 receivable was, and he would be the one that would ask or
10 have anything billed.

11 Q. So you had no knowledge that I was on the accounts
12 receivable list?

13 A. No.

14 MR. TRAFICANT: Page 3. Page 3, your Honor.

15 THE COURT: What is your use of this
16 statement?

17 MR. TRAFICANT: I want to ask her if she can
18 look at this and maybe refresh her memory.

19 THE COURT: Thank you.

20 BY MR. TRAFICANT:

21 Q. I would like for you to read to yourself --

22 THE COURT: Is that a clean copy?

23 MR. TRAFICANT: That's perfectly clean.

24 THE COURT: Good.

25 BY MR. TRAFICANT:

Beegle - Cross

1 Q. Read to yourself the last paragraph.

2 A. Okay.

3 Q. Now, is your memory refreshed?

4 A. All I know is that eventually everything got turned
5 over to the accountants as far as all the money was
6 concerned.

7 Q. As far as the accounts receivable list, did you tell
8 the FBI on May 23rd of 2000 that Traficant was not on the
9 accounts receivable list? Yes or no.

10 A. That he was not -- that you were not, yes.

11 Q. And why did you tell them I was not on the list?

12 A. Because it would have been on a miscellaneous. You
13 would just have been miscellaneous. The only accounts
14 receivable list normally that we had was any of the jobs we
15 had done.

16 Q. Would that be common or uncommon?

17 A. It would be common.

18 Q. It would be common that small jobs in accounts would
19 not be on the accounts receivable list. Is that your
20 testimony?

21 A. Right.

22 MR. TRAFICANT: No further questions at this
23 time.

24 THE COURT: Thank you.

25 MR. SMITH: No questions.

McLane - Direct/Kall

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

2 THE WITNESS: Thank you.

3 DAVID McLANE

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

5 being first duly sworn, was examined

6 and testified as follows:

7 DIRECT EXAMINATION OF DAVID McLANE

8 BY MR. KALL:

9 Q. Could you state your name, and spell your last name,
10 please?

11 A. David McLane, M-C-L-A-N-E.

12 Q. And Mr. McLane, where do you live?

13 A. 129 Statler Court, Boardman, Ohio.

14 Q. And where do you work?

15 A. Honey Creek Contracting.

16 Q. How long have you worked for Honey Creek?

17 A. 13 years.

18 Q. Who's the owner of Honey Creek?

19 A. Dave Sugar.

20 Q. What do you do for Honey Creek?

21 A. Truck driver, laborer.

22 Q. Can you generally describe your duties with Honey
23 Creek.

24 A. I haul all the heavy equipment, that, and I haul dump
25 trucks, materials for the job.

McLane - Direct/Kall

1 Q. Have you visited a farm on State Route in Greenford?

2 A. Yes.

3 Q. When -- when did you go to this farm?

4 A. March or April, sometime in that area, of 2000, I
5 think.

6 Q. Who did you understand owned this farm?

7 A. Jim Traficant.

8 Q. How did you happen to go to this farm, who told to go
9 there?

10 A. My boss, Dave Sugar.

11 Q. Did he tell you why you were supposed to go there?

12 A. Pick up some farm equipment.

13 Q. And did you go there?

14 A. Yes.

15 Q. What happened when you got there?

16 A. I got there, and I called the office and told them it
17 was too wide to haul it down the road. I had to take it
18 apart, and he sent back -- I guess he sent McCane down to
19 the park and loaded it.

20 Q. You say he sent someone down, who are you referring
21 to?

22 A. Dave, Dave Sugar.

23 THE COURT: You need to pick up the
24 microphone and talk a little louder so we can hear.

25 THE WITNESS: Okay.

McLane - Direct/Kall

1 THE COURT: Thank you.

2 Q. After the second person got there, what did you do?

3 A. We took it all apart and loaded it on a trailer.

4 Q. Was there anyone at the farm giving you any
5 instructions on what to do?

6 A. No.

7 Q. And why were you taking this machine there?

8 A. Haul it to Corilla -- I guess he wanted it out. We
9 were going to haul it to the Corilla Construction.

10 Q. Who gave you the instructions on where to take this
11 equipment?

12 A. Dave -- Dave Sugar.

13 Q. Did you take the equipment to Corilla?

14 A. No. I took it there, but we had to move it from
15 there.

16 Q. Could you please -- do you know how to spell Corilla?

17 A. No, I don't.

18 Q. Okay. Did you take it to Corilla in the first place?

19 A. Yes.

20 Q. What happened when you got to Corilla?

21 A. I got there and went in the office, and I told the
22 girl I had some equipment, farm equipment that came from
23 Traficant's farm, and she gave me some kind of -- like a
24 weird look and said hold on a minute and went to the
25 bathroom or -- in the office back there and got somebody

McLane - Direct/Kall

1 else to come out and --

2 Q. What was said when that person came out?

3 A. He came out and basically did the same thing, didn't
4 know what was going on, and he said make a phone call. I
5 went to sit in my truck and somebody would be up there in a
6 little bit so I did.

7 Q. How long did you wait in your truck?

8 A. About ten minutes.

9 Q. Then what happened?

10 A. Someone came up in a pickup truck and said follow me,
11 and --

12 Q. Do you know who that person was?

13 A. No, I don't.

14 Q. Do you recall any writing on the truck?

15 A. I think it was -- had Corilla Contracting on it,
16 Construction or something.

17 Q. And did you follow them?

18 A. Yes.

19 Q. Where did you follow them to?

20 A. Dean's Dairy in Sharpsville I believe it is.

21 Q. Pennsylvania?

22 A. Yes.

23 Q. Across the state line?

24 A. Right.

25 Q. About how far away is that?

McLane - Direct/Kall

- 1 A. I would bet you about eight to ten miles.
- 2 Q. What did you do when you got to Dean's Dairy?
- 3 A. We brought it back -- back to where the cows were and
4 unloaded it, Corilla's men unloaded it.
- 5 Q. You unloaded the machinery?
- 6 A. Right.
- 7 Q. What did you do next?
- 8 A. Left, went to down the street, and stopped and got
9 something to eat for lunch.
- 10 Q. Were you paid for this work?
- 11 A. Yes.
- 12 Q. How were you paid?
- 13 A. I think by the hour. I'm not positive, probably by
14 the hour.
- 15 Q. By whom were you paid?
- 16 A. Dave Sugar.
- 17 Q. Were you ever paid anything by Congressman Traficant
18 for this work?
- 19 A. No, no.
- 20 Q. Have you ever been to a house at 429 North Main
21 Street in Poland, Ohio?
- 22 A. Yes.
- 23 Q. Did you know whose house that was?
- 24 A. At the time, no.
- 25 Q. What brought you to that house?

McLane - Direct/Kall

- 1 A. I had dropped a piece of equipment off. They were
2 doing some work down there in the driveway or the garage
3 area.
- 4 Q. What did you have to deliver?
- 5 A. It's a Bobcat, a little Mustang Bobcat.
- 6 Q. Did you also deliver any other gravel or stone?
- 7 A. Two loads for sure, maybe three loads of pea gravel
8 in there.
- 9 Q. Do you recall when this was?
- 10 A. Sir?
- 11 Q. Do you recall when this was?
- 12 A. This had to be during the summer time because it was
13 warm out to pour concrete.
- 14 Q. What year?
- 15 A. 2000, I believe.
- 16 Q. Were there any other people from Honey Creek there at
17 the time?
- 18 A. I think Mickey, who was the head of boarding
19 equipment -- the boarding guy, his crew.
- 20 Q. Did you see what they were doing?
- 21 A. Yeah. They were like forming up the garage and
22 putting the material in the garage to pour concrete.
- 23 Q. Who told you to make these deliveries?
- 24 A. Dave Sugar.
- 25 Q. Were you paid for this work?

McLane - Cross

1 A. Yes.

2 Q. By who?

3 A. David Sugar.

4 Q. Did you ever receive any payment from Congressman
5 Traficant for this work?

6 A. No, I didn't.

7 Q. Did you later come to learn that was his home?

8 A. Yes.

9 Q. Is it fair to say that Honey Creek Contracting does
10 mostly Government contracting work?

11 A. Yes, most of the time.

12 Q. What percent could you say is Government work as
13 opposed to residential?

14 A. Probably 90 to 95 percent.

15 MR. KALL: Just a moment, please. No further
16 questions at this time, your Honor.

17 THE COURT: Thank you. Just a moment.
18 Congressman.

19 CROSS-EXAMINATION OF DAVID McLane

20 BY MR. TRAFICANT:

21 Q. How are you doing, David?

22 A. Fine, sir. How are you?

23 Q. Did you know me before you picked up the pieces of
24 equipment?

25 A. No.

McLane - Cross

1 Q. Did you have any discussions about those pieces of
2 equipment before you picked them up?

3 A. With Dave, I just asked him how to get to your place,
4 that's all.

5 Q. Did you have any discussion about who owned the
6 equipment?

7 A. No.

8 Q. Could they have been pulled down the road with the
9 pickup truck?

10 A. I think so, yes.

11 Q. Well, if they were too wide to fit on your truck,
12 wouldn't they be awfully wide on a two-lane road?

13 A. Yeah. You still could pull it though.

14 Q. You could pull them with a pickup truck?

15 A. Yes, although it would be wide, but you could still
16 pull them.

17 Q. Why didn't you pull them with the pickup truck?

18 A. We put them on the trailer, that's all. We had our
19 flatbed down there, and we put the flatbed down, took them
20 apart and loaded up.

21 Q. Why did you take them apart?

22 A. Too wide.

23 Q. You wanted to make sure that you were within whatever
24 codes and regulations would be on the highway for public
25 transfer; is that correct?

McLane - Cross

- 1 A. Right.
- 2 Q. You're driving a commercial vehicle?
- 3 A. Right.
- 4 Q. Describe it.
- 5 A. It's a black Peterborough, and I had a black Lowboy,
6 48-foot Lowboy.
- 7 Q. And who owned that?
- 8 A. Dave Sugar, Honey Creek Contracting.
- 9 Q. How many times did you meet with the FBI?
- 10 A. Twice.
- 11 Q. You know who the agent was?
- 12 A. Deane -- I forget his last name, but Deane was one.
13 The other one I forget his name.
- 14 Q. So there was another one?
- 15 A. Yeah. The first time it was two, I believe.
- 16 Q. Now, how many men were working in the barn in Poland?
- 17 A. I think four.
- 18 Q. And what, if anything, did they do to the best of
19 your knowledge?
- 20 A. I guess they were getting ready to pour concrete.
21 That's what I figured because they were filling the garage
22 in, leveling the garage out, and poured concrete in the
23 garage.
- 24 Q. Did you see them pour the concrete?
- 25 A. No, I didn't.

McLane - Cross

1 Q. Did you ever have occasion to come back to the
2 Traficant residence?

3 A. I brought some pea gravel in there, yes.

4 Q. Did you have any other occasion to come back?

5 A. Just the machine I brought down there, the one day
6 and I think one or two loads that same day and one load the
7 following day.

8 Q. And you said that Dave told you where to take the
9 machines, right?

10 A. Right.

11 Q. And when you took the machines there, they were
12 surprised and knew nothing about it, right?

13 A. That's the farm equipment, yes, they knew nothing
14 about the farm equipment. When I brought the Corilla
15 Contracting, they had no idea what I was doing there, what
16 I was there for.

17 Q. They didn't know the equipment was coming, right?

18 A. No, they didn't.

19 Q. Is it possible you delivered it to the wrong place?

20 A. I don't -- I don't know. I was told to bring it
21 there, and I did, and that's what I did.

22 Q. Did anybody there know anything about it?

23 A. Yeah. The two guys, they unloaded me with Corilla's
24 machine at the dairy. They asked me if I -- what was wrong
25 with the equipment, and they told me they finally had to

McLane - Cross

- 1 take the equipment back.
- 2 Q. Okay.
- 3 So you assumed it was their equipment?
- 4 A. Yes.
- 5 Q. Did you ever find out if it was their equipment?
- 6 A. I didn't really bother.
- 7 Q. Did you at any point learn who owned the equipment?
- 8 A. No.
- 9 Q. Now, this was the summer of 2000 when you delivered
- 10 that pea gravel, right?
- 11 A. I think it was, yes.
- 12 Q. Hadn't Dave done work for me some months before the
- 13 previous year?
- 14 A. I guess at your horse farm, I guess. I didn't bring
- 15 anything there to the horse farm.
- 16 Q. You were never at the horse farm?
- 17 A. Except for that time to pick up the equipment.
- 18 Q. But you know that Dave did work? Did he tell you he
- 19 did work at the horse farm?
- 20 A. Not really, no. I think the other driver mentioned
- 21 it, the driver we had at the time.
- 22 Q. Now, did you know if I paid Dave?
- 23 A. I don't know that part of it.
- 24 Q. Would you have asked him?
- 25 A. No, I wouldn't ask him.

McLane - Cross

- 1 Q. Now, you said 90, 95 percent were Government jobs?
- 2 A. Right.
- 3 Q. 5 percent, 10 percent were small jobs?
- 4 A. Yes.
- 5 Q. Did Dave do a lot of things with friends and people
- 6 he knew?
- 7 A. Not too much, you know, somebody -- we were slow,
- 8 somebody needed a septic tank or driveway put in, we'd go
- 9 ahead and do it.
- 10 Q. Would Dave pay you?
- 11 A. Yeah.
- 12 Q. So the agreement was between Dave and the owner,
- 13 right?
- 14 A. That was -- yeah.
- 15 Q. Did you ever ask any owner to pay you?
- 16 A. No.
- 17 Q. So when the Government asked you did Jim Traficant
- 18 ever pay you, you answered what?
- 19 A. No, he didn't pay me.
- 20 Q. Did anybody ever pay you that wasn't a Government
- 21 job?
- 22 A. No.
- 23 Q. So was I any different than anybody else?
- 24 A. I guess not.
- 25 Q. Describe the two pieces of equipment you took over?

McLane - Cross

1 A. I am not too familiar with the farm equipment. I
2 think they were balers, like long steel prongs on the -- on
3 a part of the machine, which I guess rakes up the straw or
4 hay or something like that.

5 Q. So you're not familiar with the horses at all, right?

6 A. No.

7 Q. You ever been to Dave's farm?

8 A. Yes.

9 Q. Does he have horses?

10 A. Yes.

11 Q. Does he make hay?

12 A. I don't believe so.

13 Q. Does he buy his hay?

14 A. I think so.

15 Q. Now, wasn't it a fact when you delivered that pea
16 gravel, it was already public knowledge I was being
17 investigated?

18 A. I couldn't tell you. I don't -- I don't really know.

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

21 THE COURT: Thank you.

22 MR. KALL: No redirect, your Honor.

23 THE COURT: Thank you. You're excused. Sir.
24 Thank you very much.

25 MR. MORFORD: Your Honor, I'm just going to

Sugar - Direct/Morford

1 need a moment to pull some exhibits.

2 THE COURT: Sir, if you would raise your
3 right hand, please

4 DAVID SUGAR

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 DAVID SUGAR

9 BY MR. MORFORD:

10 Q. Good morning.

11 A. Good morning.

12 Q. Could you please state your name, and spell your last
13 name for the Court Reporter?

14 A. Arthur David Sugar, S-U-G-A-R.

15 Q. And, Mr. Sugar, do you go by a nickname?

16 A. Dave. Everyone calls me Dave.

17 Q. Are you familiar with a company called the Honey
18 Creek Contracting Company?

19 A. Yes, I am.

20 Q. And can you tell us what your position is with that
21 company, what's your affiliation is?

22 A. I'm president of the corporation.

23 Q. Are you also the owner of the company?

24 A. Yes.

25 Q. And where is the company located?

Sugar - Direct/Morford

1 A. On State Line Road in Petersburg, Ohio.

2 Q. Where is Petersburg, Ohio, in relation to Youngstown,
3 Ohio?

4 A. About 12 to 15 miles south of Youngstown.

5 Q. And could you just give a general description to the
6 jury of the type of work that Honey Creek Contracting does?

7 A. We're considered underground utility contractors. We
8 do basically sewer and waterline work, and most of it is
9 always state, locally or federally funded bid projects.

10 Q. And how large projects are these?

11 A. They can range anywhere from \$100,000 to \$3 or four
12 million.

13 Q. And you said these are mainly with Government
14 entities; is that correct?

15 A. That's correct.

16 Q. Do you do much of any residential work?

17 A. No, not at all, very little, very little.

18 Q. You say very little. On those rare occasions where
19 you do residential work, what's the nature of that work?

20 A. We've done some private development work, stuff of
21 that nature, but put in a few septic tanks, stuff like
22 that, but basically, our equipment's usually always tide up
23 on major projects so we don't -- we try to steer clear from
24 residential.

25 Q. Being in the business, do you ever find times friends

Sugar - Direct/Morford

1 or acquaintances ask if you can come out and do little jobs
2 for them on the side?

3 A. Yeah. On occasions, yes.

4 Q. And how do you generally view those kinds of requests
5 as a businessman?

6 A. Well, most of the time, I try to avoid doing them by
7 basically saying that the equipment's tied up on the
8 projects.

9 Q. Is it more or less a nuisance, those kinds of jobs?

10 A. For us, yes.

11 Q. In what states did your company do work?

12 A. We worked in Ohio, West Virginia, Pennsylvania, and
13 Maryland.

14 Q. Fair to say your company engages in interstate
15 commerce?

16 A. Yes.

17 Q. I'd like to ask you some questions now about your
18 relationship with the Defendant, Congressman James
19 Traficant. Do you know Congressman Traficant?

20 A. Yes, I do.

21 Q. And how long have you known him?

22 A. Probably 30 years or more.

23 Q. And how is it that you you've known him for 30 years
24 or more?

25 A. His father and my father have worked together, and

Sugar - Direct/Morford

1 they were -- they were friends, and after retirement, they
2 kept in contact with each other.

3 Q. You said your father and his father were friends.
4 How about you and the Congressman himself, were you very
5 close?

6 A. No, not really.

7 Q. How often would you personally get together with the
8 Congressman prior to the last four years? Setting the last
9 four years aside, how long would you -- how often would you
10 get together with the Congressman?

11 A. Never, other than if I would have a ticket maybe to a
12 dinner or a -- a golf outing. I don't golf but maybe going
13 to dinner afterwards something like that.

14 Q. When you say dinner or golf outings, what kind of
15 events were these you're referring to?

16 A. Political fund-raisers.

17 Q. Political for who?

18 A. For Congressman Traficant.

19 Q. Were there times that you would buy fund-raising
20 tickets for fund-raisers for Congressman Traficant?

21 A. Yes.

22 Q. And were there times you actually went to those
23 events?

24 A. Yes. I'd say about 80 percent of them I didn't go
25 to, but there might have been 20 percent of the time I did

Sugar - Direct/Morford

1 go.

2 Q. Apart from seeing Congressman Traficant at those kind
3 of events on occasion, were there other times you actually
4 got together with him, he and you?

5 A. I'm sorry. Prior to the last --

6 Q. Prior to the last four years?

7 A. No. We never got together.

8 Q. On those occasions where you would see him at a fund
9 raiser, would you hang out with him and talk to him for a
10 long time or say hello? How would you describe him on the
11 time he spent even if he's at fund-raisers?

12 A. I would -- yeah, I would always go out of my way to
13 talk to him because I thought he was an important person,
14 and I just wanted to let him know I was there probably. So
15 I'd say, you know, I would spend five or ten minutes, or
16 he'd spent a few minutes, at least, talking to everyone,
17 and I was considered one of the ones he talked to.

18 Q. Now, during those earlier years prior to the last
19 four years, were there ever times when you asked
20 Congressman Traficant or anyone in his office to help you
21 in any way with your business?

22 A. Prior to those four years?

23 Q. Yes.

24 A. I could have in the past. And I have called his
25 office on -- when federal projects that I had were maybe

Sugar - Direct/Morford

1 lagging, due to funding problems or municipalities maybe
2 not getting the project started on time.

3 Q. Again, focusing on the time prior to the last four
4 years, were there ever times when Congressman Traficant
5 asked you to do anything for him?

6 A. I believe that he had asked me one time at one of the
7 fund-raisers, he had asked me about wanting to maybe come
8 out and look at a lake he wanted to build out at his farm,
9 but that was the only thing I believe that was ever
10 discussed.

11 Q. When you say build a lake, what would that entail?

12 A. I -- we never got into that. I imagine when -- it
13 would amount to moving a bunch of dirt and, you know,
14 making a head wall, put in the piping to drain it, you
15 know, an overflow pipe and to grade it and landscape it
16 afterwards.

17 Q. And why did you not pursue that job? Why didn't you
18 go ahead and take that job?

19 A. Well, you know, like I told you in the beginning, you
20 know, most of our equipment is tied up out of town all the
21 time, and I didn't see any reason that I'd want to get
22 involved in it.

23 Q. Now, had you ever personally been out to Congressman
24 Traficant's farm, again during the time prior to the last
25 four years?

Sugar - Direct/Morford

1 A. No, sir.

2 Q. Now, did there ever come a time when you did agree to
3 do some work out at the farm for Congressman Traficant?

4 A. Yes, sir.

5 Q. And could you describe for the jury the circumstances
6 under which you finally came to agree to go out to the farm
7 and do some work?

8 A. Well, I -- we -- I contacted Congressman Traficant
9 because my son had a DUI, and he was in Licking County
10 jail, going or going to Licking County jail, and I had
11 called the Congressman and asked him if there was any way
12 he could -- if we could meet with him, wanted to talk to
13 him about it, and we met with him out at the Perkins
14 Restaurant in Canfield, Ohio, to discuss the DUI.

15 And after we discussed the DUI, then he requested we
16 take a ride out to the farm, and he was going to look at
17 some work that he needed to have done.

18 Q. Now, did he make that request that you go out to the
19 farm so he could show you some work that needed to be done
20 on that same day that you met with him at Perkins to ask
21 him to help your son in the DUI matter?

22 A. Yes, sir.

23 Q. Approximately when did this occur, do you recall the
24 year?

25 A. I believe -- going bad on dates -- maybe late '99,

Sugar - Direct/Morford

1 early 2000.

2 Q. Okay.

3 Where is Licking County?

4 A. At the time we were doing a project, it's right
5 outside the Columbus Ohio, south of Columbus, we were doing
6 a project in Fairfield County. Fairfield and Licking
7 County joined each other.

8 Q. And why did you call Congressman Traficant to try to
9 get his assistance in a matter involved in Licking County?

10 A. Well, I'm -- I guess because I'm a family man, my
11 family always comes first to me in life, and, you know, I
12 was concerned about my son. I knew he was going to have to
13 spend quite a bit of time in jail, and he also works for
14 the company. I needed his assistance. He was one of the
15 foremen.

16 So I figured that this would be the best place for me
17 to go, and hopefully, you know, Congressman Traficant would
18 have some influence to help me get my son, you know, either
19 a lighter sentence or moved to this area.

20 Q. Now, what do you recall particularly to the extent
21 you can recall several years later of your conversation
22 with Congressman Traficant at the Perkins Restaurant about
23 the DUI, what you told him, what you recall him saying to
24 you?

25 Let me start by asking the question: What did you

Sugar - Direct/Morford

1 tell him about the situation your son was in. Do you
2 recall that generally?

3 A. Well, basically, the problem was that, you know, he
4 was going to be spending some time in jail. I was
5 concerned about that, and that I wanted to make sure it was
6 the least amount of time possible or he got a work release
7 so he could get out and work because, like I say, we needed
8 him for the company at that time.

9 Q. Where was he supposed to, as it stood at that time,
10 do his jail time?

11 A. In Licking County.

12 Q. And what, if anything, were you trying to accomplish
13 regarding the location if he had to spend time in jail as
14 to where he would spend it?

15 A. Well, naturally, we wanted him to spend it here in
16 Mahoning County because that way he could get out on work
17 release and go to work during the day.

18 Q. Was there any particular place in Mahoning County
19 that you wanted him to serve his time?

20 A. Not necessarily, just so he was in Mahoning County.

21 Q. And what do you recall Congressman Traficant telling
22 you that he could or couldn't do?

23 A. He didn't really discuss it in detail with me. He --
24 I let him and my son discuss it by themselves. I went to
25 the restroom, and then when I came back, we all decided to

Sugar - Direct/Morford

1 come back from the restroom. That's when we decided we
2 were going to go out to the farm and look at stuff that
3 needed to be done.

4 Q. Prior to the time that you left for the restroom, was
5 there any discussion regarding the judge in the case?

6 A. Yes. They -- my son had said that the judge was real
7 hard nosed on him, and I believe there was some things that
8 needed to be looked into he felt from contacting a prior
9 attorney.

10 Q. He who?

11 A. My son.

12 Q. Okay.

13 A. That he -- he thought that there was some
14 justification for having the case maybe thrown out or
15 something, I believe. I don't know all the ramifications,
16 but he was concerned about getting an attorney to look into
17 that for him.

18 Q. Was there any discussion of having the Congressman
19 contact the judge on behalf of your son?

20 A. Yes.

21 Q. And tell us about that.

22 A. Well, we just requested that maybe he give the judge
23 a phone call to see if he couldn't help us out, maybe talk
24 to the judge, and you know, help see about getting David
25 moved.

Sugar - Direct/Morford

1 Q. And what was his response to that. Was that
2 something Congressman Traficant said he would be able to
3 do?

4 A. Yes.

5 Q. Now, had your son had any prior DUI offenses prior to
6 this particular offense?

7 A. Yes, he did.

8 Q. And did you discuss that fact with Congressman
9 Traficant?

10 A. I believe it was mentioned.

11 Q. Had you yourself ever had any DUI offenses?

12 A. Yes, I have.

13 Q. And did you discuss that with Congressman Traficant?

14 A. I don't know -- not at that time, I don't believe.

15 Q. Now, how and when did the topic of you doing work on
16 Congressman's farm then first arise, how did you -- after
17 you talked about the case and you asked him if he called
18 the judge and he indicated he would be able to do that,
19 then what happened?

20 A. We all -- we took a ride out to his farm, and he
21 showed us some stuff that needed to be done out there. At
22 the time, there was some drainage repairs needed doing in
23 the field. He was concerned about getting his hay off the
24 field because he thought it would be a wet year. So he was
25 concerned about some drainage repairs and cutting the swell

Sugar - Direct/Morford

1 around one hay field so it would stay dry.

2 Q. And so there was -- he -- did he make a request that
3 you come out and put in some drains to help drain the
4 fields?

5 A. Yes. It was agreed upon that we would come out and
6 do the repair work. My son was with us, and he said that
7 he would make sure that it got done.

8 Q. Was there any other work that the Congressman asked
9 you to do besides putting in some drains to drain the
10 fields?

11 A. That particular day, I believe the only other thing
12 -- there were some trees on the tree line and a ditch that
13 needed cleaned out, and he showed us that also, and we took
14 care that have for him.

15 Q. Did you agree to do the work?

16 A. Yes.

17 Q. And did you send out some of your workers to do that
18 work?

19 A. Yes.

20 Q. Did you send out any heavy machinery or equipment to
21 do the work?

22 A. Yes, we did.

23 Q. What type of equipment?

24 A. Track excavator, I believe, and a rubber tire loader
25 and a dozer.

Sugar - Direct/Morford

1 Q. When you send that kind of equipment out, how do you
2 get it out to the farm?

3 A. It has to be hauled by -- on a Lowboy, what we call a
4 Lowboy, carry all by tractor-trailer truck.

5 Q. You have to send a truck driver out to deliver the
6 machines; is that correct?

7 A. Yes.

8 Q. And then you have to send machine operators out to
9 work the machines?

10 A. Correct.

11 Q. And did you do that in this case?

12 A. Yes.

13 Q. Now, after you got out there and started doing the
14 jobs you just described, did there come a time where you
15 were asked to do more work?

16 A. Yes.

17 Q. And explain to the jury how that came about?

18 A. Well, after that point in time, Congressman Traficant
19 would call me on a pretty frequent basis to meet with him,
20 have breakfast, and just discuss local politics, things
21 that were going on, so forth, and I would go with him and
22 meet him for breakfast, and then sometimes I would discuss
23 other jobs that he needed done out at the farm, and
24 sometimes he would go out and take a look at those.

25 Q. As these breakfast meetings started up, again prior

Sugar - Direct/Morford

1 to the time that you met him at Perkins to discuss the DUI
2 and then discuss doing some work out at the farm, had you
3 met him for breakfast prior to that time?

4 A. No, I did not.

5 Q. So this was a relatively new relationship that was
6 developing?

7 A. Yes.

8 Q. What were some of the additional things that he asked
9 you to do that you ended up doing for him out at the farm?

10 A. I did the things that we -- I mentioned earlier, then
11 he needed a road cut in between his -- between a field in
12 the woods, some trees removed, road cut in. We did that
13 for him, and he needed some roads, stone hauled in. We
14 hauled stone, and I have a stone quarry down in Negley,
15 Ohio. We haul stone from the stone quarry up there and put
16 some drainage pipes in across some culvert pipes and some
17 driveways and fixed a bunch of roads.

18 And the next time that we got together, he needed a
19 road put in around his barn and some grading done in front
20 of the barn there. We did that and also prepared an area
21 for a manure pit that he was going to have put in.

22 Q. On the -- you talked about bringing out some stone to
23 put on the roads, and you said you had a gravel pit. How
24 far was the gravel pit from Congressman Traficant's farm
25 approximately?

Sugar - Direct/Morford

1 A. It was in Negley, Ohio, so I would say probably in
2 the neighborhood of 18 to 22 miles, probably.

3 Q. And how would you get the stone from the quarry out
4 to the farm?

5 A. Our trucks hauled it.

6 Q. And once the stone got there, who would spread it
7 around and move it around the different roads and things?

8 A. My equipment, my people.

9 Q. Now, you mentioned putting in some culvert pipe. Can
10 you explain to the jury -- describe to the jury what all
11 that involves.

12 A. Well, he had some ditch lines or ditches across the
13 road not draining good, and when we built the new road, he
14 needed to establish some drainage. So there's different
15 size culvert pipes. We put in some 12 inch, 15 in CVC
16 culvert pipes. He could drive across as the water goes
17 through.

18 Q. What do you have to do when you do that?

19 A. You take an excavator and dig out across the
20 driveway, make sure everything's swelled out and so
21 everything drains to it and the water run across.

22 Q. Once you dig it out, do you drop a pipe and have to
23 refill it?

24 A. Yes, you do.

25 Q. During the time that Congressman Traficant was

Sugar - Direct/Morford

1 showing you these things that he wanted you to do for him
2 at the farm, did he at any time ask you what you would
3 charge him to do this work?

4 A. No.

5 Q. Was there ever a request by him that you give him an
6 estimate for the cost of doing this work?

7 A. No.

8 Q. Based on your dealings and conversations with him,
9 what was your understanding of the nature of this work?

10 A. My understanding was that I was doing it for free.

11 Q. And what was the basis that you have that
12 understanding?

13 A. Well, he had helped me with my son, which was --
14 which actually didn't really -- no longer didn't help him
15 at all, but he was helping me with my son, and then I got
16 into a position where he was asking for the favors, and I
17 just felt obligated to do it.

18 Q. And was this work that otherwise you would consider
19 as you described it nuisance work?

20 A. Absolutely, yeah. Like I say, we don't do this kind
21 of work for a living.

22 Q. Now, you mentioned the tree -- was there a tree stand
23 at some point that came up in the discussions?

24 A. He has a tree stand, very large tree stand back in
25 the back of his property, and he took us back and showed it

Sugar - Direct/Morford

1 us where he deer hunts, and my son's a deer hunter, too, so
2 they discussed a bit about deer hunting.

3 Q. There ever come a time he asked to you do anything
4 with regard to the deer stand?

5 A. He had talked about adding onto the deer stand on
6 each side of it, putting like a shed on each side of it,
7 and, you know, I just explained to him that, you know, I'm
8 not a carpenter. I don't have carpenters, and we don't do
9 that kind of work.

10 Q. So you declined to do that?

11 A. Correct.

12 Q. Was there other work that he began to ask you to do
13 that you also declined to do?

14 A. Yes.

15 Q. Can you describe for the jury what some of that work
16 would have been?

17 A. He wanted to run a gas line back to the -- to the
18 stand back there. He was talking about running a gas
19 lining or electric line back to the stand, and we never
20 done that, and he wanted concrete floor poured into the
21 barn, and I never did that, either.

22 Q. This is the barn at the farm?

23 A. Yes.

24 Q. Okay. Was there ever any talk of asking you to
25 remove any buildings?

Sugar - Direct/Morford

1 A. Yeah. He -- he had a normal dilapidated shed, I
2 think, one. I know he wanted one removed for sure, and
3 there might have been a second one, but there was a couple
4 of buildings, yeah, one odd building for sure he said he
5 would like to get removed, but he had to get everything out
6 of it before he would want us to tear it down and haul it
7 out.

8 Q. I'd like to show you what's marked in front of you as
9 a photograph Exhibit 4-3. Do you see that?

10 A. Yes, sir.

11 Q. Do you recognize that building that's pictured in
12 that picture?

13 A. Yes, sir.

14 Q. And can you tell the jury what, if anything, you were
15 asked to do with respect to that building?

16 A. That building was going to be removed.

17 MR. MORFORD: Your Honor, may I put this on
18 the overhead?

19 THE COURT: Yes.

20 BY MR. MORFORD:

21 Q. So the Congressman asked you to tear down or remove
22 that building; is that correct?

23 A. Yeah, I believe so. This is the one that sits right
24 next to the driveway. If it is, that's the one he asked me
25 to remove. Looks like it.

Sugar - Direct/Morford

1 Q. Did you, in fact, remove the building?

2 A. No, I did not.

3 Q. Did there come a time where you stopped doing some of
4 the things that Congressman Traficant was asking you to do
5 such as removing a building, running a gas line out to the
6 tree stand, those types of things?

7 A. Well, it was getting expensive for me, and I knew I
8 wasn't going to get paid. So it wasn't much -- I tried to
9 minimize my losses, and you know, we had other jobs going
10 on at the time. So it was hard to pull equipment up. I
11 figured there was no sense doing any more out there
12 because, you know, I wasn't getting paid for it.

13 Q. Are you able to estimate or approximate the value of
14 the work you actually did do out at the farm, rough ball
15 park?

16 A. Rough ball park, I'd say with the material that we
17 bought and delivered out there, I'd say probably \$10 to
18 \$12,000.

19 Q. And was all of that work done for and because of the
20 things Congressman Traficant was telling you he was going
21 to do to help your son with his DUI case?

22 A. Yes.

23 Q. Was there any other reason that you did that work?

24 A. No.

25 Q. I'd like to ask you if you'd take a look at what's

Sugar - Direct/Morford

1 been marked Government's Exhibit 5-1 in front of you on the
2 stand. Do you see that?

3 A. Yes, sir.

4 Q. And can you tell the jury what this item is? Is this
5 something you recognize? Have you seen this before?

6 A. Why, this is a -- this is a letter from the attorney
7 that my son hired to represent him on the Licking County
8 case.

9 Q. Okay. And --

10 MR. MORFORD: Your Honor, may I put this on
11 the overhead, please?

12 THE COURT: Yes.

13 BY MR. MORFORD:

14 Q. Now, the letter is addressed to an attorney named
15 Gregory Carter, and it is endorsed by someone named Marcus
16 Colucci. Do you see that?

17 A. Yes.

18 Q. Can you tell the jury who is Gregory Carter and who
19 is Mark S. Colucci?

20 A. Gregory Carter was -- Gregory Carter was my son's
21 original attorney, and Mr. Colucci was an attorney that was
22 recommended by Congressman Traficant to handle the case.

23 Q. Explain that to us. When you went to meet with
24 Congressman Traficant at Perkins that very first day, who
25 was the attorney who was representing your son on the DUI

Sugar - Direct/Morford

1 matter in Licking County?

2 A. Mr. Carter.

3 Q. And what, if anything, did Congressman Traficant
4 suggest to you regarding attorneys in the case?

5 A. That's when -- my son and him had a -- was talking,
6 and they had a conversation that, you know, there may be
7 something amiss with the case. I'm not sure what it was,
8 but he had -- he said that he would recommend that we use
9 Mark Colucci.

10 Q. You said he would recommend. Who said he would
11 recommend Mark Colucci?

12 A. Sorry. Congressman Traficant said he would recommend
13 we use Mark Colucci because he owed him some favors anyhow
14 so give him a call.

15 Q. You say he owed him some favors. Who owed who some
16 favors according to Congressman Traficant?

17 A. Mr. Colucci had owed Traficant some favors.

18 Q. Okay. And what, if anything, did Congressman
19 Traficant tell you or lead you to believe regarding what,
20 if any, fees Mr. Colucci would charge you and your son to
21 represent your son?

22 A. The day I -- the day we had spoken to Congressman
23 Traficant, we were under the assumption that there wouldn't
24 be any fees from Mr. Colucci.

25 Q. Now, the date of the letter is May 14, 1999, and

Sugar - Direct/Morford

1 could you just read the first line of the letter, please.

2 A. "Please be informed that I have been instructed to
3 notify you that Dave Sugar, Junior is discharging you as
4 his attorney of record relative to the above-referenced
5 matter."

6 Q. And at whose direction did your son replace
7 Mr. Colucci in place of Mr. Carter?

8 A. It was through -- it was David's decision through
9 Congressman Traficant.

10 Q. And with respect to the date of the letter, which is
11 May 14, 1999, when in relation to this approximately was
12 the work that you described out at the farm taking place?

13 A. Approximately the same time.

14 Q. Now, you said that it was your expectation, based on
15 your conversation with Congressman Traficant, that you
16 would not be charged fees for Mr. Colucci's services; is
17 that correct?

18 A. Yeah. I didn't expect to be -- we didn't expect to
19 receive a bill from Mr. Colucci.

20 Q. Did there come a time the issue of fees became a
21 problem?

22 A. Yeah. My son took a company check and paid
23 Mr. Colucci \$7,000 for representation when he went to a
24 meeting with him without my knowledge.

25 Q. And then did there come a time after that where the

Sugar - Direct/Morford

1 issue of fees arose again?

2 A. Yeah, yes, I'm sorry. Yes, sir. It was when several
3 months later when he was supposed to represent him in
4 court, he sent another letter requesting \$25,000 more
5 dollars before he would represent him.

6 Q. Now, when you learned of that, did you have any
7 conversations with Congressman Traficant?

8 A. With respect to the first \$7,000, yes, I called the
9 Congressman or had spoken to him about it, and, you know,
10 was very upset about the first \$7,000 because, like I say,
11 I was under the assumption that Mr. Colucci was going to be
12 fair with my son, and that there was no fees going to be
13 paid from what I gathered from Mr. Traficant.

14 So I was upset about that. And then when the \$25,000
15 one came, I told my son just find another attorney. Do
16 whatever you got to do because you're not paying this man
17 anymore money, and I told Congressman Traficant about it
18 also, and he said not to pay him anymore money, either.

19 Q. Did he indicate to you whether or not he himself
20 would contact Mr. Colucci and find out what was going on?

21 A. I believe he did, I believe he did. I'm not positive
22 on that.

23 Q. I'd like to have you take a look at Government's
24 Exhibit 5-4(1) in front of you. Do you see that?

25 A. Yes.

Sugar - Direct/Morford

1 Q. And can you tell the jury generally what that is,
2 just in general terms?

3 A. This is a letter from Congressman Traficant's office
4 on behalf of my son.

5 Q. Okay. And it's a letter to whom?

6 A. To the -- to Judge Spahr.

7 Q. That's the Judge in -- who is he?

8 A. Common Pleas judge in Licking County.

9 Q. The date of the letter?

10 A. July 6, 1999.

11 Q. And were you given a copy of this letter at or about
12 the time or shown a copy at or about the time it was sent
13 out?

14 A. Yes.

15 MR. MORFORD: Your Honor, may I put this on
16 the overhead?

17 THE COURT: Yes.

18 BY MR. MORFORD:

19 Q. I'd like to ask you, if you would, if you could go
20 ahead, sir, and go ahead and read the letter, if you would,
21 starting with emphatically?

22 A. "Emphatically and with great conviction, I write in
23 support to the above-mentioned individual of this 17th
24 Congressional District on behalf of the recent motion for
25 reconsideration on request for appellate bond motion filed

Sugar - Direct/Morford

1 by attorney Mark S. Colucci."

2 Q. Could you continues please?

3 A. "Though it is not common practice for me to write
4 letters of support for legal matters such as this.
5 However, by knowing the entire Sugar family as hard working
6 and honest people, I felt my input and concern was
7 necessitated. Moreover, Mr. Dave Sugar, Senior and his
8 son, Dave, Junior have always arisen to the occasion in our
9 community by donating either equipment and/or materials for
10 all sorts of charitable causes."

11 Q. Could you continue, please?

12 A. Continue? Okay.

13 "I have personally spoken to Mr. Dave Sugar, Senior
14 concerning the importance of his son's role both as a
15 worker and future owner of his business in keeping the
16 company running smoothly. Mr. Sugar's son is needed more
17 than ever due to the recent death of their life long
18 foreman. Moreover, Dave Sugar, Junior is willing to pay
19 for house arrest and will agree to work privileges only as
20 a condition of bond. I truly believe Dave Sugar, Junior
21 will be able to comply with any and all conditions the
22 Court finds necessary if said appellate bond motion is
23 agreed to."

24 Q. And if you could read the last paragraph, please?

25 A. "Therefore, I respectfully request your utmost

Sugar - Direct/Morford

1 consideration to approve said reconsideration motion filed
2 by attorney Colucci on behalf of this individual.

3 Moreover, I am more than willing to discuss this matter
4 with you at your convenience if you feel that it is
5 necessary for me to further characterize young man.

6 "Your time and consideration are greatly appreciated,
7 and I thank you. Respectfully, James A. Traficant,
8 Junior."

9 MR. TRAFICANT: I ask this be a joint
10 exhibit.

11 MR. MORFORD: No objection.

12 THE COURT: Fine.

13 BY MR. MORFORD:

14 Q. How important and significant was it to you to have a
15 United States Congressman writing a letter to the judge
16 that was going to determine the conditions of your son's
17 sentence to you and your business?

18 A. Well, I was hoping it was going to be very persuasive
19 because, like I told you earlier, my son was a foreman, and
20 we had several big projects going on, and I needed his
21 assistance on the job.

22 Q. If you'd take a look at what's in front of you marked
23 Government's Exhibit 5-5, do you see that?

24 A. Yes.

25 Q. And again, just generally, can you describe to the

Sugar - Direct/Morford

1 jury what that document is?

2 A. This is a letter to the Community Corrections
3 Association with respect to my son, Dave, Junior, from
4 Congressman Traficant.

5 Q. And is this a document that you saw at or about the
6 time it was prepared and sent?

7 A. Yes.

8 MR. MORFORD: May I put this on the overhead,
9 your Honor?

10 THE COURT: Yes.

11 MR. TRAFICANT: I ask it be a joint exhibit.

12 MR. MORFORD: It's already in evidence, your
13 Honor.

14 BY MR. MORFORD:

15 Q. And if you could go ahead and read the body of this
16 letter, please?

17 A. "I am addressing this letter on behalf of
18 above-mentioned individual of the 17th Congressional
19 District per your conversation with Mr. Anthony Traficanti
20 of my staff."

21 THE COURT: I need you to slow down a little.
22 Everyone's tendency when they read is to go very fast, and
23 our court reporters have to take down every word.

24 THE WITNESS: Oh, okay. I'm sorry. Not a
25 very good reader so I thought maybe I was going too slow.

Sugar - Direct/Morford

1 THE COURT: You're going very fast.

2 THE WITNESS: I apologize.

3 Q. Before you go on, let me ask you something: You read
4 in that first line "per your conversation with Mr. Anthony
5 Traficanti of my staff on July 15, 1999." Who was Anthony
6 Traficanti as you understood it, and what was his role in
7 this matter as you understood it?

8 A. Anthony Traficanti was an individual in the
9 Congressman's office in Youngstown that I -- I would
10 contact when we needed assistance for this matter.

11 Q. And who had told you that he was the point of contact
12 within the office of Congressman Traficant that you should
13 use and go through when dealing on this matter?

14 A. The Congressman.

15 Q. Okay. If you could continue with the second
16 paragraph there?

17 A. "I personally want to thank you for all your help and
18 input in assisting Mr. Sugar's arrest, to continue his
19 daily duties with his father's construction company. By
20 allowing this individual to continue to work as a condition
21 of probation will not only prove to be therapeutic for
22 David Sugar, Junior but will also be advantageous for the
23 overall continued success/operation of their company."

24 Q. I'm going to have you stop there, and I want to ask
25 you a couple questions about that.

Sugar - Direct/Morford

1 Did your son ultimately -- was he ultimately able to
2 get into the Youngstown halfway house facility referenced
3 in that letter?

4 A. Yes.

5 Q. And what value was that to your company? What
6 advantages or benefits did you attain from that?

7 A. Well, he was able to get work release and come out
8 and work during the day and then go back in at night. So
9 he was -- it was advantageous for me to have him on the job
10 site, like I say, because he was one of our foremen.

11 Q. And next I'm going to turn your attention to Exhibit
12 5-8 --

13 MR. MORFORD: And your Honor, that is a check
14 that's been displayed prior to this. May I put that on the
15 screen?

16 THE COURT: Yes.

17 MR. TRAFICANT: I ask it be a joint exhibit.

18 BY MR. MORFORD:

19 Q. Now, sir, do you recognize this document?

20 A. Yes, I do.

21 Q. And can you tell the jury what is this document?

22 A. This is a payment made by Congressman Traficant to
23 Honey Creek Contracting for work done at his farm.

24 Q. And can you explain to the jury the circumstances
25 under which you received a check from Congressman James

Sugar - Direct/Morford

1 Traficant, payable to Honey Creek in the amount of \$1,142
2 on -- or dated December 23, 1999?

3 A. Yes. We had met for breakfast at Perkins in
4 Canfield, again, I believe. And when I walked in,
5 Congressman Traficant opened his check book, said I'm going
6 to give you a check, and he started to write it out for the
7 \$1,142, and he said I'm going to give you every penny I got
8 in my account, and I guess that's how he come up with that
9 amount. But he handed me the check at that time.

10 Q. Who asked to set up this meeting at Perkins on this
11 occasion, which you received a check? Did you or did
12 Congressman Traficant?

13 A. He called -- he called me to come to breakfast.

14 Q. Now, when was the very first time that Congressman
15 Traficant had ever mentioned anything to you about paying
16 you for any of the work that you had done on the farm back
17 in the spring of 1999?

18 A. This was the first time that he had ever mentioned
19 anything about a payment. I was sort of shocked because I
20 wasn't expecting it.

21 Q. Had you ever discussed price, what it was he owed you
22 for the job?

23 A. No.

24 Q. How was it the figure \$1,142 was determined, who
25 determined that?

Sugar - Direct/Morford

1 A. He said that that was every penny he had in his
2 checkbook at the time he was going to give it to me.

3 Q. Prior to December 23rd, 1999, had Congressman
4 Traficant ever given you any indication whatsoever that he
5 intended to pay you anything for this job?

6 A. No.

7 Q. What did Congressman Traficant tell you had caused
8 him to decide suddenly eight months after the work had been
9 done to write you a check in the amount of \$1,142?

10 A. He had said that the -- the FBI was watching him, and
11 that he better give me something. He said the bastards are
12 watching me real close and said I better give you this, and
13 I'm going to give you every penny I got in my checkbook.

14 Q. What did he tell you to do with this check?

15 A. He told me to put it in my account.

16 Q. And did he tell you to do anything else with the
17 check besides deposit it in your account?

18 A. I told -- I told him I was going to make a copy of
19 it. I'd keep it on record.

20 Q. Was there any discussion that day of whether or not
21 the FBI might come out and visit you?

22 A. Yes. He did mention if they did, that I'd have to a
23 receipt showing amounts paid.

24 Q. What did you do with the check?

25 A. Made a copy of it and then deposited it.

Sugar - Direct/Morford

1 Q. Next, I'd like to turn your attention to Exhibit 5-9.

2 Can you take a look at that, please? Do you see that?

3 A. I'm sorry. I don't have a 5-9. Mine goes --

4 Q. It may be buried in the pile a little down?

5 A. Oh, okay.

6 Q. Probably is.

7 A. Oh, yes, I'm sorry.

8 Q. Do you see that?

9 A. Yes.

10 MR. MORFORD: Your Honor, may I put this on
11 the overhead?

12 THE COURT: Yes.

13 BY MR. MORFORD:

14 Q. And do you recognize this document?

15 A. Yes, I do.

16 Q. And what is this document?

17 A. This was the bill that I made up reflecting that
18 there was money paid by Congressman Traficant and a balance
19 due.

20 Q. Okay. And how long -- approximately how long after
21 you received the check for \$1,142 in December of 1999 was
22 it before you created this invoice listing out these
23 amounts due and subtracting out that check?

24 A. I believe it was months later.

25 Q. Was there any specific event that happened that

Sugar - Direct/Morford

1 caused you to create this invoice?

2 A. A call from the FBI.

3 Q. Okay. Before we get to that, let me ask you this.

4 Did there come a time after you received the \$1,142 check
5 from Congressman Traficant where Congressman Traficant
6 asked to you do some additional work for him?

7 A. Yes.

8 Q. And do you recall the type of work that he was asking
9 to you do at that time?

10 A. I believe at that time he needed the floor poured in
11 his barn or garage/barn and at his house in Poland.

12 Q. Okay. And did you actually have your company do that
13 work?

14 A. Yes, I did.

15 Q. And do you recall approximately when that work was
16 done?

17 A. I believe that was done in April of that year.

18 Q. Did that additional job have any effect on your
19 decision to create this particular invoice?

20 A. Yes, it did.

21 Q. And can you explain to the jury the relation there
22 and how that impacted your decision to make this invoice?

23 A. Well, I was reluctant to do the work at the house
24 because at that point in time, I found out that, you know,
25 the investigation was fairly serious, and that he had

Sugar - Direct/Morford

1 some -- you know, there could be some problems there and
2 some repercussions for me.

3 And so rather than to have any problems, I thought
4 that I would create this invoice, and that way, there
5 wouldn't be any questions asked if the FBI did come in and
6 check my records.

7 Q. Let me ask you some questions about this invoice.
8 The invoice lists a total due of \$2,364 for work that was
9 done out at the farm in April of 1999. How accurate is
10 that figure, \$2,364?

11 A. It's not accurate at all. That was just a wild guess
12 to keep the price.

13 Q. Why did you put an inaccurate figure down on this
14 document? What were you trying to accomplish?

15 A. Well, assuming that no one knew what we did down
16 there and I didn't keep any records to actually know how
17 much was done, but I -- I just picked a low number so it
18 wouldn't look like he owed me that much money.

19 Q. Now, was there a real invoice that was prepared for
20 the purpose of sending Congressman Traficant a bill, or was
21 this an invoice that was just created to try to make it
22 look like it was a legitimate arm's length transaction?

23 A. It was just created. I don't believe I ever gave a
24 copy to Congressman Traficant.

25 Q. Why -- why did you prepare this phony invoice then?

Sugar - Direct/Morford

1 What were you trying to accomplish?

2 A. Like I say, I -- I knew that I did something wrong,
3 and that the FBI was investigating it, and so I thought
4 that if I had the invoice, that would cover what I'd done
5 wrong.

6 Q. Whose idea was it to create this false invoice?

7 A. It was mine.

8 Q. Was Congressman Traficant involved in any way in the
9 creation of this false invoice?

10 A. No.

11 Q. This is something you did entirely on your own?

12 A. Yes.

13 Q. Now, I'd like to ask you some questions about a
14 potential job involving the demolition of the Higbee
15 building in downtown Youngstown?

16 MR. MORFORD: And, your Honor, I don't know
17 schedule wise what you want to do, but this is going to go
18 into a whole new area. I don't know if you want to --

19 THE COURT: Well, then, it's time for a
20 break, morning break. 30 minutes, and we'll see you at 5
21 of 11:00. Okay. You get a break, too.

22 THE WITNESS: Thank you.

23 (Thereupon, a recess was taken.)

24 THE COURT: You're still under oath.

25 BY MR. MORFORD:

Sugar - Direct/Morford

1 Q. Now, Mr. Sugar, I'd like to ask you some questions
2 about a potential job involving the demolition of the
3 Higbee building in downtown Youngstown. Do you remember
4 that project?

5 A. Yes, I do.

6 Q. And can you explain to the jury just in real brief
7 terms the general background of that demolition project?

8 A. The demolition project came out to bid twice. First
9 time it come out for bid, it had several alternates with
10 it, and one of the alternates was to save the terra-cotta
11 tile on the building, and second alternate was to put in a
12 parking lot after the building was demolished, and the
13 second time it came out for bids, the terra-cotta tile was
14 not an issue. There was no bid item to save it, and the
15 parking lot was combined with the building.

16 Q. How big of a job are we talking about, dollar wise?
17 Do you recall approximately?

18 A. It was probably around -- originally was around a
19 million three, and the second time it was bid, I it come in
20 for a little bit under a million.

21 Q. Were you one of the companies that was bidding on
22 this job?

23 A. Yes, I was.

24 Q. And how large was this project in relation to other
25 projects that you were doing at that time?

Sugar - Direct/Morford

1 A. With respect to demolition, it was the largest
2 demolition project we ever bid on.

3 Q. How important was this project to you as you bid on
4 it?

5 A. Well, we were -- you know, we were concerned about
6 getting it. It was the biggest demolition project in the
7 City of Youngstown for quite some time, and we definitely
8 wanted it.

9 Q. Are you familiar with something called the CIC?

10 A. Yes.

11 Q. What is the CIC?

12 A. They're a funding institution that funds these
13 projects, such as this urban renewal projects,
14 revitalization, project, demolition, stuff like that.

15 Q. And what does CIC stand for, do you remember the
16 formal name?

17 A. I was hoping you wouldn't ask me that.

18 Q. Are you familiar with something called the Youngstown
19 Central Area Community Improvement Corporation?

20 A. That's it. Community Improvements Corporation, yes.

21 Q. But in the industry it's referred to as what?

22 A. CIC.

23 Q. Okay. Are you familiar with something called MS
24 Consultants?

25 A. Yes, I am.

Sugar - Direct/Morford

1 Q. And what is MS Consultants?

2 A. They're a consulting and engineer and architectural
3 firm located in downtown Youngstown.

4 MR. MORFORD: Your Honor, at this time I
5 would like to, if I could, put Government's Exhibit 5-10 up
6 on the board. It has been placed on the board prior to
7 this during the course of the trial.

8 THE COURT: Yes.

9 MR. MORFORD: Thank you.

10 MR. TRAFICANT: I ask it be made a joint
11 exhibit.

12 MR. MORFORD: I believe it's already
13 admitted, your Honor.

14 THE COURT: It's admitted.

15 BY MR. MORFORD:

16 Q. Now, Mr. Sugar, do you recognize this document?

17 A. Yes, I do.

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

19 A. March 8, 2000.

20 Q. And what exactly is this?

21 A. This was a breakdown of the bid results from the
22 first time that the project was on -- out for bid.

23 Q. Okay.

24 And with respect to the first three companies here,
25 was the Daniel Tererri and Sons, Richard Boccia

Sugar - Direct/Morford

1 Construction and Honey Creek Contracting, do you see that?

2 A. Yes, I do.

3 Q. And explain to the jury where you fell in two
4 scenarios. The first would be if the CIC decided to go
5 ahead and save the terra-cotta tile that was on the Higbee
6 building, and the second would be if they decided not to
7 save the terra-cotta that was on the building.

8 A. The base bid, Number 1, was for demolition only,
9 which put us as low bidder. Base bid Number 2 was
10 demolition with the parking lot, and base bid Number 3 was
11 in addition to the bid to save the terra-cotta tile. So --

12 Q. Okay.

13 A. -- you had to Base Bid 1 which was the demolition and
14 then Base Bid 2 would be an add on and, Base Bid 3 would be
15 an add on.

16 Q. Let's talk about bid 1 and 2. If the project was
17 accepted, were they going to do Base Bid Number 2, the
18 garage or the parking lot construction?

19 A. Correct, yes. They definitely said that they wanted
20 the parking lot built --

21 Q. Okay.

22 A. -- as part that have project.

23 Q. And where did that leave you as it stood in terms of
24 your bid with respect to Boccia and respect to Tererri?

25 A. I believe that left us third.

Sugar - Direct/Morford

1 Q. Okay. For Base Bid 3, what is Base Bid 3 again?

2 A. Base Bid 3 was an addition, additional labor to save
3 the terra-cotta tile.

4 Q. Okay.

5 If they decided to save the terra-cotta tile, what
6 would that do with respect to the range of Tererri, Boccia,
7 Honey Creek Contracting, in 1, 2, 3?

8 A. That would put Richard Boccia as low bidder and Honey
9 Creek as second bidder.

10 Q. Now, what was your understanding of Richard -- I call
11 it Boccia. It's Boccia I guess -- Richard Boccia's
12 standing with respect to these bids?

13 A. Mr. Boccia was -- had demolished the building just
14 prior to this and had been in a lawsuit with the City. He
15 was suing the city for certain amount of money, and I don't
16 believe that they would award the job to Mr. Boccia in any
17 way, shape, or form at the time.

18 Q. What was your understanding of the rules and
19 regulations that the CIC had to apply in deciding who would
20 actually get the contract on a demolition project like
21 this?

22 A. Well, they look for the not only the lowest bidder
23 but the most responsible bidder, someone that they know
24 will go in and do the project and get it completed on time.

25 Q. If the terra-cotta tile was not saved, Base Bid 3 was

Sugar - Direct/Morford

1 rejected, who, in your opinion, was going to be the lowest
2 responsible bidder?

3 A. Daniel Tererri and Sons.

4 Q. And did you believe that there was any way you were
5 going to beat them out under that scenario?

6 A. Not under that scenario, no, sir.

7 Q. Okay.

8 Now, if you could get the CIC to save the
9 terra-cotta, what did you believe that could do for your
10 bid?

11 A. If -- if the terra-cotta was going to be saved, which
12 no one knew whether it was or wasn't at the time, but if
13 the terra-cotta could have been saved, that would put me as
14 second bidder, and knowing that Boccia had a lawsuit
15 against the city and the chances of him getting awarded the
16 job were nil, I assumed that I would probably get awarded
17 the job.

18 Q. Did you put together any kind of plan of attack in
19 March, after the bids were announced in March 8, 2000?

20 A. Naturally, what I needed to know or wanted to know
21 was if they were going to save the terra-cotta tile or not
22 because if they were going to, that would put us in first
23 place we felt so we were trying to find out what the --
24 what the status was on the terra-cotta tile.

25 Q. And now did there come a time when you spoke with

Sugar - Direct/Morford

1 anyone, any public officials to try to get them to assist
2 you in getting the CIC to save the terra-cotta tiles?

3 A. Yes. I -- I had breakfast with Congressman Traficant
4 several days after the bid, maybe a week after the bid, and
5 explained to him the situation, and that I -- I asked him
6 to look into saving the terra-cotta tile, if it was going
7 to be saved, and at that time, he said that he would like
8 to have it saved for the new courthouse.

9 Q. When you talked to him about the potential to saving
10 the terra-cotta tile, what, if anything, did you explain to
11 him the significance to you personally of that issue?

12 A. I explained the bid scenario and explained that I
13 felt that, you know, we would probably get the bid if the
14 terra-cotta tile was saved, and I really wanted the
15 project.

16 Q. Now, prior to telling Congressman Traficant that you
17 believed if you could get the CIC to save the terra-cotta
18 that you believed you could get this one, over \$1 million
19 contract, had he ever indicated to you in any way that he
20 was seeking to save the terra-cotta?

21 A. That discussion had never been brought up prior to
22 the bid or prior to the -- yeah, the outcome of the bids.

23 Q. When is the very first time he expressed interest to
24 you in saving the terra-cotta?

25 A. When I had brought it to his attention that if the

Sugar - Direct/Morford

1 terra-cotta was saved, then I would be low bid.

2 Q. You said you don't know the exact date of this
3 meeting, but it would have been sometime a couple days or a
4 week after this March 8, 2000, letter?

5 A. It was -- I don't know if they list the day the bids
6 were open. It was right after the bids were opened so it
7 would be around this time, around March, sometime early
8 March.

9 Q. Okay. Turning your attention to March 17th, 2000,
10 which is about nine days after the date of this letter,
11 were you asked to do anything for Congressman Traficant on
12 that day, March 17th, 2000?

13 A. I believe that would have been around the time that
14 he had made a request that we pour the floor on his garage
15 or barn in Poland at his house.

16 Q. Okay.

17 In addition to the pouring of the floor, was there a
18 time that you were asked to manufacture some equipment?

19 A. Yes.

20 Q. Can you explain to the jury the background of that,
21 how that came about, and how you came to decide to go ahead
22 and do that?

23 A. The Congressman had called me about moving it and
24 mentioned it to me several times, and I basically put it on
25 the back burner because we were in business which there

Sugar - Direct/Morford

1 were other things at the time, and then he --

2 Q. Before you go any further, you testified earlier
3 before the break that there were times where the
4 Congressman asked you to do work, and you put it off
5 because you didn't want to do any work; is that correct?

6 A. That's correct.

7 Q. Was this one of those situations?

8 A. Yes.

9 Q. Okay.

10 Did there come a time then where you agreed to move
11 the equipment?

12 A. Yes, there did.

13 Q. What was it that caused you to change your position
14 and go ahead and agree to move the equipment?

15 A. Well, there was numerous phone calls made. He called
16 me probably 12, 14 times about getting the equipment moved,
17 and finally, I agreed to do it, hoping that that would help
18 my situation with the Higbee bid to save the terra-cotta
19 tile and keep things moving.

20 Q. And what exactly -- what did you do with respect to
21 moving this equipment?

22 A. Well, we went to move it. First time we went to move
23 it, he had a loader or something there at the site, at the
24 farm, and it wouldn't pick the equipment up. So I had to
25 go back another time, and I actually sent one of my

Sugar - Direct/Morford

1 mechanics with a boom truck, and he picked the hay machines
2 up and set them on the Lowboy.

3 Q. What's a boom truck, and what's a Lowboy?

4 A. Boom truck is -- big mechanic truck, and a half ton
5 truck, large boom for picking heavy weight up, and he was
6 able to pick these machines up and set them on the back.
7 We call a Lowboy -- it's a tractor trailer with a flat
8 deck. You haul equipment on it.

9 Q. Is the Lowboy and the boom truck two separate pieces
10 of equipment?

11 A. Yes, sir.

12 Q. If you'd take a look at what has been marked
13 Government's Exhibit 5-16, do you see that?

14 A. Yes, sir.

15 MR. MORFORD: Your Honor, may I put this on
16 the overhead?

17 THE COURT: Yes.

18 Q. Again, can you describe what this document is to the
19 jury?

20 A. This is a letter from Congressman Traficant to a
21 Mr. Alden Sheldon at Community Investment Corp.

22 Q. What's the date of this letter?

23 A. March 27, 2000.

24 Q. And what was Mr. Alden Sheldon's position?

25 A. I don't know.

Sugar - Direct/Morford

1 Q. Okay. Could you go ahead and just read the body of
2 this letter, please?

3 A. " As you know, earlier this month, the General
4 Services Administration broke ground on a new Federal
5 Building/U.S. Courthouse in downtown Youngstown."

6 Q. If you could read the next two paragraphs as well?
7 I'm sorry.

8 A. "My vision is to have the Battisti/Jones building
9 reflect the grandeur of the federal government as well as
10 the proud history of the City of Youngstown. As such, I
11 believe it would be fitting and proper to have the design
12 of the Battisti/Jones building incorporate the impressive
13 terra-cotta from the old Higbee building. It is my
14 understanding that the Higbee building will be demolished.
15 If the building is, in fact, demolished, I would urge that
16 the CIC work closely with GSA to arrange to have the
17 terra-cotta donated by the CIC as an in kind contribution
18 to GSA for the Battisti/Jones building.

19 "I would deeply appreciate if you and your staff
20 could keep in close contact with me and my chief of staff,
21 Paul Marccone, to facilitate this proposal. Paul can be
22 reached at 202-225-5261. Thank you in advance for your
23 time and cooperation."

24 Q. Again, how important was it to you to have a United
25 States Congressman from Youngstown asking Mr. Sheldon to

Sugar - Direct/Morford

1 have the tiles saved?

2 A. It was crucial to me being able to get the project.

3 Q. And in terms of monetary, what did you have at stake
4 in the outcome of what Congressman Traficant was asking the
5 CIC to do?

6 A. Well, I had the stake of a \$1.1 million project.

7 Q. What was your understanding of the primary reason
8 Congressman Traficant was writing to Alden Sheldon asking
9 the CIC to save the terra-cotta?

10 A. It was at my request.

11 MR. TRAFICANT: Could you repeat that
12 question?

13 MR. TRAFICANT: Object only for the record.

14 THE COURT: Objection's overruled.

15 BY MR. MORFORD:

16 Q. Now, focusing on the date of this letter, March 27th,
17 2000, and the four-day period that followed the period from
18 March 27, 2000, to March 31, 2000, did you perform any work
19 for Congressman Traficant during that four-day period?

20 A. I believe that was the time we poured the garage for
21 him at his house.

22 Q. And can you describe for the jury how that project
23 came up and why you decided to go ahead and do that work?

24 A. He had called me several times. The Congressman had
25 called me several times with respect to pouring the floor

Sugar - Direct/Morford

1 in the garage, and again, I put it on the back burner,
2 didn't really want to do it, and then he called me to have
3 breakfast with him one Sunday morning, and we went to
4 breakfast, I believe.

5 And then we met at his house, or we might have just
6 met at his house, and he showed me what he wanted done at
7 that time. And I explained to him that I couldn't buy the
8 concrete. But I would supply the labor if he had someone
9 to supply the concrete.

10 Q. What was it that caused you to agree to supply the
11 labor to prepare and pour and smooth out the concrete in
12 the barn at this time?

13 A. Well, this was -- there was an ongoing situation with
14 the Higbee building, and, you know, I was hoping he was
15 helping me with the terra-cotta tile so far as I was going
16 to help him with the barn.

17 Q. Did you have any concerns, given the fact that in
18 December of 1999 you testified that he had told you he was
19 under investigation by the FBI by this time?

20 A. Not until around that time, and that was one of the
21 reasons, basically, I was doing a lot of hesitating with
22 respect to moving the equipment and to doing this work, was
23 because I really didn't want to get involved, and, you
24 know, I knew the FBI was watching, and I was concerned
25 because, you know, I've always been an honest contractor,

Sugar - Direct/Morford

1 and I just didn't feel comfortable with some of the stuff
2 that was going on.

3 Q. What, if anything, did you do to try to cover the
4 fact that you were doing a favor for favor?

5 A. That -- I believe that -- at that time, I -- is when
6 I made up these bills, showing that there was a -- an
7 amount paid, which I had the check for, and that there was
8 a balance due, which were not correct, but I figured if I
9 kept those in my file, you know, if the FBI or anyone came,
10 at least, I had something to show.

11 Q. I'd like to show you what has been put into evidence
12 as Government's Exhibit 5-12. Do you recognize that
13 structure?

14 A. Yes, sir.

15 Q. And what is that?

16 A. That is the barn/garage behind the house, down in
17 Poland.

18 Q. Okay. Turning to the other side there, do you
19 recognize some -- a truck in some equipment in that
20 picture?

21 A. Yes, sir.

22 Q. Whose truck and equipment is that out at the barn or
23 garage, whatever that is?

24 A. Honey Creek Contracting.

25 Q. And are these pictures, pictures of the work that you

Sugar - Direct/Morford

1 did out at the Congressman's house during that period,
2 March 27th to March 31st?

3 A. Yes.

4 Q. Now, I'd like to ask you some questions about a
5 piano. Do you recall any time where discussion arose about
6 a piano?

7 A. Yes, sir.

8 Q. And can you describe for the jury how the discussions
9 about a piano first arose?

10 A. When I went to his -- to Congressman Traficant's
11 house to look at the barn floor, he showed me the piano,
12 and we had a cup of coffee, and then he asked me if I'd
13 like to have a piano. And at that time, I really didn't
14 have a use for a piano, but he said that I could take the
15 piano, and that would be considered as partial payment for
16 the work at the house there.

17 Q. Let me ask you a couple questions based on what you
18 just said. First, you said when you went out to look at
19 the garage, was this before the work had been done or after
20 the work had been completed?

21 A. This was before the work was done.

22 Q. And at the time that you went out there, were you
23 aware from what you said that the FBI was investigating the
24 Congressman?

25 A. Yes.

Sugar - Direct/Morford

1 Q. Who originally brought up the idea of you taking the
2 piano, you or Congressman Traficant?

3 A. Congressman Traficant.

4 Q. At that time, did you have an interest in the piano?

5 A. No, not at that time.

6 Q. What happened once it was suggested? What made you
7 decide to take the piano?

8 A. Actually, it stayed there for probably a week or two,
9 after we finished the work. He requested I get it
10 immediately, but I didn't have no use for it, didn't have
11 no place to put it, and I sort of put off taking it. And
12 finally, after a couple of weeks, I sent some guys out
13 there, and we had to disassemble it and haul it out of the
14 house.

15 Q. When you say initially you kind of put off taking the
16 piano, what happened during the period of time that you
17 were putting off take the piano and the time you finally
18 got guys out there to move the piano? Did you have any
19 further conversations with the Congressman?

20 A. He was just calling. He was making repeated calls
21 for me to come pick up the piano. He called maybe seven or
22 eight times to come get it.

23 Q. Did you have any concerns about the piano at that
24 time?

25 A. Only that I couldn't understand why he needed it out

Sugar - Direct/Morford

1 of the house so quick.

2 Q. Now, was there ever any discussion of you taking
3 anything else besides the piano?

4 A. Yes. I also took -- he'd taken me out to the barn,
5 and up above the barn there was some antiques, and he
6 pointed to a bunch of different antiques. He said I could
7 go ahead and take them if I wanted them, and I did take a
8 bed, and a humidior.

9 Q. What did you do with the bed and the humidior?

10 A. They're still in my garage at home.

11 Q. Were these things that you wanted?

12 A. No.

13 Q. Why did you take them?

14 A. Well, he requested I take them, and he was pretty
15 emphatic about, you know, taking something from the garage,
16 not only the piano but something from the garage, too, so I
17 took them.

18 Q. What was your understanding of why Congressman
19 Traficant was trying to give you the piano, the bed and the
20 humidior?

21 A. It was my assumption that it was for partial payment
22 on the work that I'd done at the house there.

23 Q. Were you looking to be paid with a piano and a bed
24 and a humidior?

25 A. No.

Sugar - Direct/Morford

1 Q. Do you still have the piano today?

2 A. Yes.

3 Q. And what did you find out regarding the value of the
4 piano?

5 A. I had it appraised by two piano experts. One was at
6 \$5,000, and the other one was at \$5500.

7 Q. And what did you ultimately end up doing with the
8 piano?

9 A. It's in my house.

10 Q. Now, at the time that Congressman Traficant asked you
11 to do this work, did you give him an estimate?

12 A. No, I did not.

13 Q. Did you ever discuss with him the value of the work
14 done and the value of the piano and whether one would set
15 off the other?

16 A. No, we did not.

17 Q. I'd like to turn your attention to Government's
18 Exhibit 5-13(5).

19 MR. MORFORD: And I believe that's also been
20 put into evidence, your Honor.

21 THE COURT: All right. It's not.

22 MR. MORFORD: I'm sorry. It is a been
23 marked, I believe, and put on the overhead before. May I
24 put it on the overhead?

25 THE COURT: Yes.

Sugar - Direct/Morford

1 BY MR. MORFORD:

2 Q. Now, do you recognize this document?

3 A. Yes, I do.

4 Q. And can you explain to the jury what this document is
5 and why it was created?

6 A. This was a bill that was created or invoice that was
7 created to show that we'd hauled the two hay machines and
8 done the work in the garage on my land drive in Poland.

9 Q. Look at the top right-hand corner. Says 3-31-00, do
10 you see that?

11 A. That's correct.

12 Q. And was this actually mailed to Congressman
13 Traficant?

14 A. No, it wasn't.

15 Q. Why was that handwriting mailed 3-31-00 put up there
16 on this document?

17 A. That was put up there at my request.

18 Q. For what purpose?

19 A. Well, since we didn't have invoices, I wanted to make
20 it look in the file like we had mailed out invoices to try
21 to collect the money on the projects that we were doing.

22 Q. Now, there's some information on this invoice. There
23 is an address that says Island Drive, Poland, Ohio, and
24 there's a couple dates, May 8th, 2000, March 27, 2000, and
25 then some amounts, do you see that?

Sugar - Direct/Morford

- 1 A. Correct.
- 2 Q. How accurate are those figures?
- 3 A. The -- the May -- the March 8 figure I would say
4 would be very inaccurate. The March 27th figure is
5 probably fairly close.
- 6 Q. And how about the dollar amounts, are those real
7 figures or plug figures?
- 8 A. Like I say, the March 27th figures are fairly close,
9 they're livable, but the -- the March 8 figures, we had
10 quite a bit more than that involved in it.
- 11 Q. Now, this was based on the notation at the top, March
12 31, 2000, work done March 27, 2000. Would this have been
13 prepared before or after Congressman Traficant had offered
14 to have you take the piano?
- 15 A. This was probably -- I prepared this. If it says
16 March 31st, I'm pretty sure we prepared it after we had
17 done the work because I knew the amount of time that the
18 people worked there.
- 19 Q. Why didn't you list piano on here as payment for the
20 services rendered? Did you ever consider it to be services
21 rendered payment?
- 22 A. No, not at that time.
- 23 Q. Next I'd like to have you take a look at what's been
24 marked Government's Exhibit 5-18. Do you see that?
- 25 A. Yes, sir.

Sugar - Direct/Morford

1 THE COURT: It's in evidence.

2 MR. MORFORD: That's what I wanted to check.
3 Thank you, your Honor. Can I put this on the overhead?

4 THE COURT: Yes.

5 BY MR. MORFORD:

6 Q. Can you explain to the jury what this document is?

7 A. This is the bid tabulation and recommendation of
8 award by MS Consultants for the second bid on the Higbee
9 project.

10 Q. And what happened that caused them to rebid this job?

11 A. They took the terra-cotta tile out altogether. They
12 planned on not saving it at all, and they wanted to make a
13 rebid.

14 Q. And when the rebid was done, who came out as the low
15 bidder, and who came out as the second low bidder?

16 A. Mainline Contracting Corporation was low bid, and
17 Honey Creek Contracting, which was me, was second.

18 Q. And when you described before the process, you said
19 that the lowest responsible bidder gets the job; is that
20 correct?

21 A. That's correct.

22 Q. And what was your understanding of whether Mainline
23 Contracting, which was the low bidder, would hold up as a
24 responsible bidder, based on their reputation within the
25 industry?

Sugar - Direct/Morford

1 A. They were very responsible contractor at the time.

2 Q. Did you yourself believe once the second bid came out
3 that you had much of any chance of getting this contract?

4 A. None whatsoever.

5 Q. Now, did there come a time you discussed the second
6 bid tabulation with Congressman Traficant?

7 A. Yes.

8 Q. And can you describe for the jury what happened with
9 respect to those conversations, but before you do that, let
10 me do one more thing. I'd like to turn your attention to
11 Exhibit 5-22.

12 MR. MORFORD: Your Honor, may I put this on
13 the overhead?

14 THE COURT: Yes.

15 BY MR. MORFORD:

16 Q. With respect to number of entries there dated
17 4-19-2000, do you see those?

18 A. Yes, I do.

19 Q. And do you see at the top where it says calls from
20 A. David Sugar, Senior's AT&T Wireless cellular phone
21 740-591-5656, do you see that? It's in the middle there,
22 right above.

23 A. Oh, yes. Yes, sir.

24 Q. Do you recognize that number, 740-591-5656?

25 A. Yes. That was my old cell number, one of them.

Sugar - Direct/Morford

1 Q. Okay. And do you see a series of calls on April 19,
2 2000. Do you see those calls?

3 A. Yes, sir.

4 MR. TRAFICANT: I ask that it be a joint
5 exhibit.

6 THE COURT: Fine.

7 BY MR. MORFORD:

8 Q. Do you recall this series of calls on April 19, 2000?

9 A. I believe that was the day that we were at the
10 restaurant and Congressman Traficant asked to use my cell
11 phone.

12 Q. Okay.

13 Going back to Exhibit 5-18, which is the bid
14 tabulation, dated April 17, 2000, let me ask you some
15 questions about that. Could you describe for the jury the
16 conversation you had with Congressman Traficant then on
17 April 19, 2000, about this bidding situation?

18 A. Yes, sir. What happened was I believe I met him for
19 breakfast or late breakfast, and I told him what happened,
20 that we come in second, and I just sort of laughed it off
21 and said we came in second. Mainline Contracting from
22 Buffalo, New York, got the job, and I said it was a close
23 bid. We only got \$14,000 on the table, but we didn't get
24 the job. And he got a little upset about it because he --
25 he said that out of state contractors shouldn't be taking

Sugar - Direct/Morford

1 all the work out of the Valley, and I said, well, you know,
2 the bids were opened. They're done, I guess. I have to
3 move on. And he was still pretty irate about it and
4 decided to make a couple telephone calls.

5 Q. Okay. And can you tell us what did Congressman
6 Traficant tell you he was going to try to do for you with
7 respect to that contract?

8 A. Actually, he didn't -- he didn't -- he just said to
9 me that he felt that it should go to someone from the
10 Valley or local people to work, and he was going to get to
11 the bottom of it. He was like I say very upset at the
12 time.

13 Q. Now, during the time of your meeting with him, did he
14 place any calls?

15 A. Yes.

16 Q. And can you tell us who you recall him calling in
17 your presence?

18 A. I believe he called the MS Consultants and might have
19 talked -- I'm not sure who he talked to there, but like I
20 say, he was very upset at the time when he called them, and
21 I believe I went -- got up and went to the restroom while
22 he was talking to someone from MS Consultants.

23 Q. On what telephone did he place that call as you
24 recall?

25 A. That was on my phone, probably been the 5656 number.

Sugar - Direct/Morford

1 Q. And do you recall overhearing any portions of his
2 call to MS Consultants?

3 A. Just that basically what I -- to reiterate what I
4 said, he was very upset local contractors weren't getting
5 the job, and that he was going to look into making sure
6 that local contractors had preference on these projects.

7 Q. What was his tone like as he discussed the
8 conversation you overheard with him calling MS Consultants?

9 A. He was mad, he was upset.

10 Q. Was he yelling at him?

11 A. Yelling and cussing, yeah.

12 Q. What was the ultimate result of that particular
13 effort to try to get you this bid after Mainline had been
14 given -- had been the lowest responsible bidder?

15 A. The ultimate result?

16 Q. Yes.

17 A. I'm not quite sure what you mean.

18 Q. Who ended up with the contract?

19 A. Oh, Mainline did, and I was satisfied that Mainline
20 was going to get the contract before I ever talked to him.

21 Q. Okay.

22 Now, turning your attention to the following week
23 after April 19 when that meeting took place to the week --
24 to the day of April 26th, 2000, do you recall being
25 interviewed by Special Agents of the FBI on that date?

Sugar - Direct/Morford

1 A. Yes.

2 Q. And do you recall any of the -- anyone from the FBI
3 who came out and talked to you that day?

4 A. Yes, sir.

5 Q. And who do you recall coming out?

6 A. I believe it was Mr. Dean Hassman -- Hassman.

7 Q. Okay.

8 Did he come out alone, or did he come out with
9 someone else?

10 A. First time I can't recall. I believe he did have
11 someone with him, but I couldn't recall who it would be.

12 Q. And what did the FBI agents tell you their purpose
13 was in coming out to speak with you?

14 A. They wanted to talk to me with respect to Congressman
15 Traficant and the work that I'd done on his farm.

16 Q. And what, if any, evidence or materials did you give
17 the agents on that occasion?

18 A. On that particular day, I gave them the invoices that
19 I had made up and put into the file along with a copy of
20 the check that I had received for payment.

21 Q. And again, were those legitimate invoices or false
22 invoices?

23 A. Those were invoices I had made up.

24 Q. Were they legitimate, true invoices, or fake
25 invoices?

Sugar - Direct/Morford

1 A. Fake invoices.

2 Q. Now, to what extent were you expecting that the FBI
3 would come out to visit you at that time?

4 A. I wasn't sure if they were going to come or when they
5 were going to come. I didn't know the severity I guess
6 would you call it. I didn't know how serious this case was
7 or what was happening or anything else.

8 I'd just known from talking with the Congressman that
9 they were looking into him, so I took it fairly lightly,
10 expecting that, you know, those bills would satisfy whoever
11 was looking into it.

12 Q. Did any of their questions on that day surprise you
13 at all?

14 A. Yes, yeah. They knew quite a bit about what was
15 going on and about us moving the machine -- hay machines
16 and they knew where the hay machines were moved before I
17 even knew.

18 Q. Why did you give the FBI two phony invoices that day
19 when they came out to interview you? What was your
20 purpose?

21 A. Well, first of all, I thought I was covering my own
22 butt because I knew that what I'd done was wrong, so I
23 thought that if I, at least, have an invoice, it would show
24 that I was billing for what I did.

25 Q. And why did you feel you needed to have a cover

Sugar - Direct/Morford

1 story?

2 A. Well, due to the fact that Congressman Traficant was
3 being investigated, I'd done a lot of free labor, and I
4 thought that if I made these invoices up, showed a copy of
5 the cancelled check, that it would all seem fairly
6 explainable and legitimate, and they would move on, leave
7 me alone.

8 Q. As the FBI left that day, did it seem like it had
9 worked to you?

10 A. Yeah. I mean, they were -- they were very nice to
11 me. And when they left, he just said that thanks for --
12 you know, thank you for the time, and he may come back
13 again some time or may need to talk to me in the near
14 future and gave me a card. So I thought that, you know,
15 everything was okay.

16 Q. Turning your attention to May 18, 2000, were you
17 interviewed by the FBI again on that date?

18 A. Yes, sir.

19 Q. And did they call you before they came out?

20 A. Yes, they did.

21 Q. And did they tell you how long it would probably take
22 them to get out to Honey Creek's offices?

23 A. I didn't personally talk to them, but I believe the
24 secretary Sue talked to him, and he said he was coming out,
25 and take him, I thought he said around -- she said around

Sugar - Direct/Morford

1 20 minutes or half an hour, and he would be there.

2 Q. What, if any, action did you take from the time that
3 you received the call that the FBI agents were going to
4 come out to talk to you again and the time that they
5 actually arrived at the office?

6 A. At that time, I started thinking that if I created
7 these invoices, I've only got one, and we should have been
8 mailing out an invoice every month. So I better create
9 more invoices to look like the Congressman had been getting
10 billed by the month, and so I had her go back and create
11 invoices and mark the date at the top that they were mailed
12 when in actuality they weren't.

13 Q. And what did you do with those invoices?

14 A. I put them in a file, and I gave them to Mr. Hassman.

15 Q. Did there come a time you received a subpoena to
16 testify before a Federal Grand Jury?

17 A. Yes.

18 Q. And did you testify before the Grand Jury?

19 A. Yes.

20 Q. And what did you tell the Grand Jury regarding the
21 nature of the work that you had done for Congressman
22 Traficant?

23 A. At the time, I told them that he was billed, and he
24 was paid for everything -- I mean, excuse me -- he was
25 billed. He made a partial payment, and the balance due was

Sugar - Direct/Morford

1 what was on the invoices, and the invoices were mailed out.

2 Q. And was it true that he had been billed, and that the
3 invoices were mailed out?

4 A. No.

5 Q. And was it true that the balance due that was listed
6 on the invoice was, in fact, accurate?

7 A. No, it was not, sir.

8 Q. What was the true nature of the work you had done for
9 Congressman Traficant?

10 A. I'm sorry, sir.

11 Q. What was the true nature of the work you had done for
12 Congressman Traficant? Was it work for pay or favor for a
13 favor?

14 A. My interpretation was favor for a favor.

15 Q. Whose idea was it for you to go in and provide this
16 false story to the Grand Jury?

17 A. It was mine.

18 Q. Did you discuss with Congressman Traficant before you
19 went to the Grand Jury that you were planning to go in and
20 lie about the true nature of the work?

21 A. I believe we may have discussed it. I may have just
22 mentioned to him that I was called to go in front of the
23 Grand Jury. I don't believe we discussed the details of it
24 because at the time I didn't -- I'd never been in front of
25 a Grand Jury. I didn't know what a Grand Jury was, and I

Sugar - Direct/Morford

1 didn't realize how serious of a situation it was.

2 Q. So my question is though, this is something you came
3 up with on your own. This is not something the Congressman
4 told to you do; is that correct?

5 A. Correct. I had already made the false documents and
6 false accusations to the FBI, and I didn't feel that it
7 would be appropriate at the time to back down and tell the
8 truth.

9 Q. Now, did there come a time after you appeared before
10 the Grand Jury where you, yourself, were charged with
11 criminal offenses?

12 A. Yes, sir.

13 Q. And do you recall what those offenses were?

14 A. One was lying to the Grand Jury, one was witness
15 tampering, and falsification of documents, I believe.

16 Q. Now, you say witness tampering. Was there ever a
17 time where you instructed another potential witness to
18 provide false information?

19 A. Not to my knowledge.

20 Q. Did you have any discussions with your secretary, Sue
21 Beegle, as to what she should or shouldn't say if the FBI
22 questioned her?

23 A. Oh, yes, yes, just Sue. I -- I thought you meant
24 someone other than Sue.

25 Q. Tell the jury what you recall telling Sue Beegle.

Sugar - Direct/Morford

- 1 A. I just told Sue that if they come in, just tell them,
2 you know, if anyone comes in or asks you about the
3 documents, just tell them that they were mailed every
4 month, and that you have copies of them in the file,
5 showing that they're mailed.
- 6 Q. Now, were you, in fact, guilty of lying to the Grand
7 Jury?
- 8 A. Yes, sir.
- 9 Q. Were you, in fact, guilty of obstructing justice by
10 making up false invoices?
- 11 A. Yes, sir.
- 12 Q. And were you, in fact, guilty of witness tampering by
13 instructing Sue Beegle to give a false information to the
14 FBI?
- 15 A. Yes, sir.
- 16 Q. How was your case resolved?
- 17 A. I've got -- I went and got an attorney, and we
18 decided that the best thing for me to do, since I had no
19 case, was to plead guilty.
- 20 Q. And are you, in fact, guilty as you've pled?
- 21 A. Yes, sir.
- 22 Q. Now, did you plead guilty pursuant to a plea
23 agreement?
- 24 A. Yes, sir.
- 25 Q. And what is your understanding of the terms of that

Sugar - Direct/Morford

1 plea agreement?

2 A. The terms are I fall into the Sentencing Guidelines,
3 and I have not been sentenced yet, and sentence is still to
4 be carried out after court.

5 Q. As part of your plea agreement, did it require to you
6 provide truthful information to the Government about these
7 offenses?

8 A. Yes, sir.

9 Q. And did it also require you to testify in this case
10 here?

11 A. Yes, sir.

12 Q. And what was your understanding of what your sentence
13 would be under the Guidelines if you had pled guilty but
14 had not cooperated and testified in this case? Do you
15 recall?

16 A. I don't recall offhand. I believe that if I'm
17 correct, my attorney handled that, but I believe it was
18 probation to 22 months, I believe, is what I fell under in
19 the Guidelines.

20 Q. Okay. What is your understanding that the Government
21 has told you it will do in return for your testimony here
22 today?

23 A. Nothing. I'm still under probation, the 22-month
24 Guidelines.

25 Q. You understand the Government will bring your

Sugar - Cross

1 cooperation to the attention of the court?

2 A. Yes, sir.

3 Q. And do you understand that the Court will make the --
4 the Government will make a recommendation for a lesser
5 sentence?

6 A. Yes, sir -- well, I hope so. I'm not sure.

7 MR. MORFORD: May I have a moment, your
8 Honor?

9 THE COURT: Yes.

10 MR. MORFORD: I have no further questions.

11 THE COURT: Thank you.

12 CROSS-EXAMINATION OF DAVID SUGAR

13 BY MR. TRAFICANT:

14 Q. Good morning, David. How are you?

15 A. Good, Congressman. Good morning.

16 Q. Can you hear me from here?

17 A. Yes, sir.

18 Q. I do have a little bit of a sore throat. And if f
19 you can't, I will go to the podium, but I want to use the
20 easel.

21 A. I can hear you fine.

22 Q. Can you see that?

23 A. Yes, sir.

24 MR. TRAFICANT: And can the jury see that?

25 Q. Do you have your plea agreement with you?

Sugar - Cross

1 A. No, sir.

2 Q. Did you plead to an indictment? Were you indicted?

3 A. Yes, sir.

4 Q. You did not plead to an information count, did you?

5 A. I don't know the difference.

6 Q. Were you indicted?

7 A. Yes.

8 Q. Now, I want to ask you some questions. On Page 4, it
9 says sentencing. I want you to read the first line.

10 A. "Arthur David Sugar understands and agrees that the
11 maximum penalty for violating Title 18, United States Code
12 Section 1623(a) perjury, as charged in Count 1 of the
13 subject indictment, is five years imprisonment, a \$250,000
14 fine, and three years of supervised release, and that the
15 maximum penalty for violation Title 18 United States Code,
16 Section 1503, obstruction of justice, as charged in Count 2
17 of the subject indictment is ten years imprisonment, a
18 \$250,000 fine, and three years of supervised release and
19 that the maximum penalty for violation of Title 18, United
20 States Code, Section 1512(b)(3), witness tampering, as
21 charged in court of the subject indictment is ten years
22 imprisonment, a \$250,000 fine, and three years of
23 supervised release."

24 Q. Now, you tried your case and been convicted. Isn't
25 it a fact you were subject to 25 years in jail?

Sugar - Cross

1 THE COURT: We've been over this,
2 Congressman.

3 MR. MORFORD: Yeah, that's not the fact, your
4 Honor.

5 THE COURT: It's not a fact.

6 BY MR. TRAFICANT:

7 Q. But was that what you plead guilty to?

8 A. Yes. I pled guilty to those three offenses.

9 Q. To these three offenses?

10 A. Yes, sir.

11 Q. Now, let's call this Sugar 1.

12 You and your attorney met with the Government, and
13 you made a deal, didn't you?

14 A. Yes, sir.

15 Q. And what was the deal?

16 A. The deal was that I would tell the truth.

17 Q. What else?

18 A. That's it.

19 Q. How much time did you get?

20 A. They didn't specify a time.

21 Q. When did they specify a time, David?

22 A. There was no time specified. My attorney went to the
23 Guidelines and gave me the times that he thought would be
24 relevant to my case.

25 Q. And what were those Guidelines, to the best of your

Sugar - Cross

1 knowledge?

2 A. I believe they were anywhere from probation to 22
3 months.

4 Q. Probation?

5 A. Could be 28 months, I'm not sure. It was either 22
6 or 28 months.

7 Q. Do you know what probation means?

8 A. Probation?

9 Q. Yes.

10 A. Well, you'd be under some kind of supervised
11 assistance.

12 Q. Would you be in jail?

13 A. Under -- on probation?

14 Q. Yeah.

15 A. No. I don't believe so.

16 Q. Now, you said the Government recommended even a lower
17 amount if you cooperated and testified in this trial. Was
18 that your testimony?

19 A. No, sir.

20 Q. Was this the final number, 28 months?

21 A. No, sir. It's somewhere between probation and 28
22 months. I have not been sentenced yet.

23 Q. Okay.

24 Did they say they were going to make a recommendation
25 of something less?

Sugar - Cross

- 1 A. Yes, sir.
- 2 Q. Okay. What was the recommendation they were going to
3 make, David?
- 4 A. They've never given me that recommendation. I don't
5 know to this day.
- 6 Q. That they were going to make a recommendation to who?
- 7 A. I would assume to the court.
- 8 Q. Who's the Judge in the court? Who's the Judge that's
9 sentencing you?
- 10 A. Judge Wells.
- 11 Q. Now, I have number of questions for you.
12 How long have we known each other?
- 13 A. Approximately 30 years or more.
- 14 Q. Why did we know each other so long?
- 15 A. Well, our fathers were very good friends, and I
16 became close friend of your father's -- excuse me -- of
17 your father, yes.
- 18 Q. And were you at times with your father?
- 19 A. Yes, and spent most all of my spare time with my
20 father, and we spent quite a bit of time with your father.
- 21 Q. Were you at times with your father when I was with my
22 father?
- 23 A. Yes.
- 24 Q. Now, you backdated bills, and you lied about it,
25 right?

Sugar - Cross

- 1 A. Yes, sir.
- 2 Q. You got caught?
- 3 A. Yes, sir.
- 4 Q. And you lied to the Grand Jury?
- 5 A. Yes, sir.
- 6 Q. And you tampered with a witness?
- 7 A. Yes, sir.
- 8 Q. Sue Beegle?
- 9 A. My secretary, correct.
- 10 Q. And you lied to the Grand Jury?
- 11 A. I've already said that, yes.
- 12 Q. Yes.
- 13 You mailed to Congressman Traficant on these
- 14 invoices?
- 15 A. We put a mail date. We didn't put it to anyone's
- 16 attention.
- 17 Q. Well, if it was an invoice regarding Jim Traficant
- 18 and you put mailed on a certain date, who were you going to
- 19 mail it to, the local rotary or me?
- 20 A. It was supposed to be mailed to you, yes.
- 21 Q. Did you ever mail me an invoice?
- 22 A. No, sir.
- 23 Q. Did you ever give me a bill?
- 24 A. No, sir.
- 25 Q. Did you ever ask me for payment?

Sugar - Cross

- 1 A. No, sir.
- 2 Q. Now, when you got that \$1,142, did you give it back
3 to me in cash?
- 4 A. Absolutely not.
- 5 Q. Who was the first to call whom in this new found
6 relationship?
- 7 A. I contacted you, your office I believe, and talked to
8 Anthony Traficanti about setting up a meeting with you for
9 my son so it was --
- 10 Q. You saw a number of letters on the board, didn't you?
- 11 A. Yes, sir.
- 12 Q. Do you know if I signed those letters?
- 13 A. No, I do not.
- 14 Q. What kind of trouble was your son in?
- 15 A. He was in -- he had a felony DUI because I believe it
16 was his third or fourth one in eight years, and he was to
17 spend considerable amount of time in jail.
- 18 Q. Isn't it a fact that I told your son needed
19 treatment?
- 20 A. Yes, sir.
- 21 Q. And isn't it a fact we talked about prison not being
22 a place for treatment?
- 23 A. That's correct.
- 24 Q. And did you make a request of me?
- 25 A. Yes, sir.

Sugar - Cross

- 1 Q. Or did I suggest to you?
- 2 A. I believe that -- I made a request to you, what my
3 wishes were, and that was to get my son transferred to a
4 location where he could have work privileges.
- 5 Q. Work privileges where?
- 6 A. For Honey Creek Contracting Company I owned.
- 7 Q. Now, your son, if he was put on work release, would,
8 in fact, he already had a job, wouldn't he, waiting for
9 him?
- 10 A. I'm sorry. Repeat that.
- 11 Q. If your son got a work release, did he not have a job
12 waiting for him the very next morning?
- 13 A. Yes, sir.
- 14 Q. What was that job?
- 15 A. He was a foreman on one of the crews.
- 16 Q. He was a foreman, an important part of his duties?
- 17 A. Yes, sir.
- 18 Q. Would you consider your son your key man?
- 19 A. He's one of them, yes.
- 20 Q. Do you love your son?
- 21 A. Very much. I love my whole family.
- 22 Q. Now, you said I called you a number, number, number
23 of times, and I was a pain in the butt, is that your
24 testimony?
- 25 A. I didn't say pain in the butt, but since you brought

Sugar - Cross

1 it up --

2 Q. And even after I was under investigation, I called
3 you a number, a number, a number of times, didn't I?

4 A. Continuously, yes.

5 Q. Now, that chart that was put on the board were all
6 those calls were made. You said I used your phone that
7 day?

8 A. Yes, sir.

9 Q. You have a recording of those?

10 A. No.

11 Q. You have a record of those?

12 A. Just a phone record, that's all I have.

13 Q. Where were those calls made to? You have the
14 document there?

15 A. I could pull it up. I don't know what exhibit it is.

16 Q. I want you to hand it to me.

17 A. Right here. It's 5-22.

18 MR. TRAFICANT: Your Honor, this is
19 Government's Exhibit 5-22. Matthew, can you help me?
20 You're so good at this. Let's blow it up so we can see it
21 all, if we can.

22 Q. Take a look at the first one. What time of day was
23 it?

24 A. 9:40 A.M.

25 Q. And the call was made on March 17th?

Sugar - Cross

- 1 A. Yes, sir.
- 2 Q. You know if the House of Representatives was in
3 session that day?
- 4 A. I would have no idea.
- 5 Q. What number was called?
- 6 A. D.C.
- 7 Q. Whose office is in D.C.?
- 8 A. I have no idea. I don't know that number -- I don't
9 know the numbers well enough to be able to tell you.
- 10 Q. Well, where it says 225-5261, what does it say above
11 it?
- 12 A. It says number called.
- 13 Q. And what does it say after it?
- 14 A. Subscriber.
- 15 Q. Who is the
16 subscriber?
- 17 A. James Traficant, Junior.
- 18 Q. Where was that call placed to?
- 19 A. D.C.
- 20 Q. And isn't it a fact 202 is an Area Code for D.C.?
- 21 A. Evidently.
- 22 Q. Second call, where was it made?
- 23 A. Where did it originate from, I don't know, but it was
24 12:22 P.M.
- 25 Q. On the same date and where was it made?

Sugar - Cross

- 1 A. It says it was made to the farm.
- 2 Q. And so one was made to D.C., and one was made to the
3 farm?
- 4 A. Yes, sir.
- 5 Q. You're saying I made those calls, right?
- 6 A. Yes, sir.
- 7 Q. Okay. Now, the third one was when?
- 8 A. Same day at 1:20 P.M.
- 9 Q. And how long was that?
- 10 A. What -- how long, one minute.
- 11 Q. Yeah, where was it made to?
- 12 A. One minute. Also made to your farm.
- 13 Q. Now, there's 3-18, what time was it?
- 14 A. Must have been 12:29 A.M.
- 15 Q. Is that a 12, or is that a 00?
- 16 A. I'm assuming it would be military time. 00 would be
17 12, wouldn't it, midnight?
- 18 Q. All right. We'll say that. Where was the call made
19 to?
- 20 A. Call was made to your home.
- 21 Q. Now, on the 18th, 20 minutes later, where was the
22 call made?
- 23 A. To your farm.
- 24 Q. On the 18th --
- 25 MR. MORFORD: Your Honor, I'm going to --

Sugar - Cross

1 THE COURT: Yeah, go ahead.

2 MR. MORFORD: I'm going to object just to the
3 extent that if it's not based on this firsthand knowledge,
4 as opposed to him reading what's on this chart in evidence,
5 he said he doesn't know.

6 THE COURT: The prior inquiries were down
7 further. They were dates at the bottom. So I don't know
8 whether you have firsthand knowledge, or you're just
9 reading the documents. If you're just reading the
10 document, it doesn't help us any.

11 MR. TRAFICANT: Your Honor, it's about time
12 for a break. But I'd like to say this, that I object to
13 the objection of the Prosecutor because I'm trying to make
14 a point, that I certainly wouldn't have called myself three
15 times in a row.

16 THE COURT: Okay. Now that you've --

17 MR. TRAFICANT: Within three minutes.

18 THE COURT: Now that you're made your point,
19 I will ask the jury to disregard it since there will be
20 time for argument in this case, and we aren't there yet
21 today.

22 What I want to do is go ahead and give you your
23 lunch, and I'll ask the lawyers to stay. We'll see if we
24 can straighten out what the difference is between the two
25 sides here on the use of this document. So we'll give you

1 a break. We'll see you at 1:30.

2 (Proceedings in the absence of the jury:)

3 THE COURT: We're going sit down and relax
4 until the jury leaves the room, and then we'll go back in
5 session. Those of you in the back are not trapped in the
6 room. You also can go to lunch if you wish. This is not
7 going to be long though.

8 I think that the prior questioning was limited to the
9 date of April 19th on this exhibit, and so, Congressman,
10 there needs to be something established regarding all these
11 other dates and this witness's firsthand knowledge
12 regarding the other dates, if there is a way to establish
13 that.

14 And I -- I didn't know when you were going to ask
15 those questions, and maybe you were about to ask them. But
16 unless you can show why he would know something about
17 these, we'll have to do, regarding the other dates,
18 something that will show his first hand knowledge of the
19 use --

20 MR. TRAFICANT: Your Honor, can I respond?

21 THE COURT: Yes.

22 MR. TRAFICANT: The witness testified that I
23 used his phone to make a call 29 minutes after midnight.

24 THE COURT: I believe he testified
25 regarding --

1 MR. TRAFICANT: This is a Government exhibit.

2 THE COURT: No, no. But he testified
3 regarding the calls on 4-19.

4 MR. TRAFICANT: Hear me. This was a
5 Government exhibit put on the screen by the Government, and
6 he testified that the Congressman used his cell phone to
7 make these calls. If you want to look back, go and look
8 back. You look in the record.

9 THE COURT: Okay.

10 MR. TRAFICANT: What is the Exhibit Number on
11 this?

12 MR. MORFORD: It's up on the screen where you
13 put it.

14 MR. TRAFICANT: Let me have it.

15 MR. KALL: 5-22.

16 MR. TRAFICANT: 5-22.

17 THE COURT: The question was put to him, you
18 have been talking about I called you a number of times,
19 didn't I? And he answered continuously, yes. And then the
20 question was: Now, that chart that was put on the board
21 were all those calls were made you, said I used your phone
22 that day? Yes, sir. You --

23 MR. TRAFICANT: I'm not asking.

24 THE COURT: -- you have a recording of those,
25 and the answer was no. You have a record of those? And he

1 says just a phone record, that's all I have. And then you
2 asked where would -- where were those calls made to? You
3 have the document there. And he said I could pull it up.
4 I don't know what the exhibit is.

5 And then you say I want you to hand it to me. And he
6 says right here, it's 5-22.

7 And then you ask --

8 MR. TRAFICANT: Can I interject your Honor?

9 THE COURT: Yeah. Well, we're trying to get
10 this.

11 Take a look at the first one. What time of day was
12 it.

13 MR. TRAFICANT: No, no. I'm not talking
14 about my cross-examination. You're reading my
15 cross-examination.

16 THE COURT: Right.

17 MR. TRAFICANT: The -- the Prosecutor brought
18 this on and put it on the screen.

19 THE COURT: He did.

20 MR. TRAFICANT: Look at the Prosecutor's
21 questioning of the witness and see if the witness testified
22 that Jim Traficant used his cell phones to make these
23 calls. Why are you reading my testimony -- my questioning?

24 THE COURT: Because I was looking to see
25 whether you had established it, but I think you -- we'll

1 find -- and I'll go back to it now. The inquiry covered
2 the four telephone calls on 4-19.

3 MR. TRAFICANT: Well, let's look back and see
4 since they had Government's Exhibit 22 and if Mr. Sugar
5 testified that Traficant used his phones.

6 THE COURT: That's what we'll do right now.
7 You'll have to do that search. I can't do it up here.

8 (Portions of the record reread by the Court
9 Reporter.)

10 MR. TRAFICANT: He made -- I made the calls.

11 THE COURT: Right, just those, he didn't say
12 you made all the calls on the paper, and that's -- he may
13 have -- he -- he may testify that way. I don't know how
14 he's going to testify. But I think you were operating
15 under a different assumption.

16 MR. TRAFICANT: Okay. I want to ask a
17 question now of the court. I'm on cross-examination.

18 THE COURT: Right.

19 MR. TRAFICANT: The Government brought up a
20 document.

21 THE COURT: Right.

22 MR. TRAFICANT: Are you telling me just
23 because they talked about 4-19 I can't talk about the
24 document?

25 THE COURT: No. You can talk about it, but

1 you need to establish that this witness also has firsthand
2 knowledge of the ones up in other areas on other dates.

3 MR. TRAFICANT: Well, that's what I'm
4 attempting to do. Why did you stop me?

5 THE COURT: Well, because you had never asked
6 him that, and they -- they made an objection based on the
7 fact that they didn't believe he had firsthand knowledge of
8 the other calls.

9 MR. TRAFICANT: Well, now that he heard that
10 I'm sure he won't have firsthand knowledge, will he? The
11 bottom line is, again, for the record, you're limiting my
12 cross-examination. I was moving down to 4-19. I'm allowed
13 to establish a pattern of methodology of how I
14 cross-examine a witness. I don't need the Court nor the
15 Prosecutor to tell me how to cross-examine the witness.

16 THE COURT: When an objection is posed, I
17 either -- I respond to it one of two ways, and this one I
18 responded to by saying that we had to let the jury go so
19 that we can find out whether or not you had established
20 what you need to establish here. It's a simple question,
21 you can ask him.

22 MR. TRAFICANT: Your Honor, I want it exactly
23 what you just said on the record.

24 THE COURT: It is on the record.

25 MR. TRAFICANT: And I'm finished for the

1 break. When do we have to be back?

2 THE COURT: 1:30.

3 MR. TRAFICANT: Pardon?

4 THE COURT: At 1:30. Everything we all --

5 MR. TRAFICANT: Thank you very much.

6 THE COURT: -- everything we all say is on
7 the record, Congressman.

8 (Thereupon, a luncheon recess was had.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Sugar - Cross

1 Monday Session, March 11, 2002, at 1:30 P.M.

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

3 THE WITNESS: Yes, your Honor.

4 BY MR. TRAFICANT:

5 Q. Good afternoon, David.

6 A. Good afternoon.

7 Q. Can you hear me well?

8 A. Yes, sir.

9 Q. I have a little bit of a sore throat, and I've got a
10 cough drop here. If you don't hear me, let me know.

11 I'd like to pick up on some of the testimony you had
12 given relative to some of the questioning of Prosecutor
13 Morford. And you said that you had some nuisance jobs; is
14 that correct?

15 A. Excuse me. What do you mean by nuisance jobs? I'm
16 sorry.

17 Q. Now, jobs like you really didn't like to do. 90
18 percent of your work was Government, but you had about 10
19 percent of your work you did for friends and other people?

20 A. About 99 percent Government. I did very little,
21 about 1 percent, yeah.

22 Q. And how did you refer to them? Isn't it a fact you
23 referred to them as accounts receivable?

24 THE COURT: Okay. Wait a minute.

25 Congressman, again, you talk right over the end of his

Sugar - Cross

1 answer, and I couldn't hear the end of his answer. We need
2 to have you go back and ask the question again.

3 Q. Isn't it a fact that you referred to these matters as
4 accounts receivable?

5 THE COURT: That wasn't the question. Can
6 you read just the question

7 (Thereupon, the record was read back by the Court
8 Reporter.)

9 THE COURT: Can you answer that question.

10 THE WITNESS: Yes, your Honor.

11 THE COURT: Thank you.

12 THE WITNESS: About 99 percent of our work is
13 Government work or large contracts, and about 1 percent is
14 small -- small jobs for local people.

15 Q. Would your secretary have known basically those same
16 type of statistics?

17 A. That I don't know. I don't know if she was aware of
18 the relevance of what I do or not.

19 Q. When we first met, who called whom?

20 A. I believe that I called you with respect to my son.

21 Q. Now, you had testified that you had some DUI's
22 yourself; is that correct?

23 A. That's correct.

24 Q. How many did you have?

25 A. I had three over an eight-year period.

Sugar - Cross

- 1 Q. Did you ever call me?
- 2 A. Not to my knowledge, no.
- 3 Q. But your son being younger in a Licking County jail
4 really bothered you, didn't it, David?
- 5 A. Yes, it did.
- 6 Q. Were you worried for his safety?
- 7 A. Well, I wasn't worried so much for his safety as just
8 the fact that he was spending that amount of time in jail,
9 and it bothered me that he was going to be incarcerated for
10 that long a period of time.
- 11 Q. So when we first met, wasn't it a fact that you were
12 honest with me and told me how extensive and bad a problem
13 he had at such an early age?
- 14 A. Yes.
- 15 Q. Was that not of great concern to you?
- 16 A. Yes.
- 17 Q. So there was a lot of discussions, were there not, a
18 lot of discussions about not just helping him get out of
19 jail but maybe helping him with his drinking problem?
- 20 A. Yes.
- 21 Q. Did you ask me to help do that?
- 22 A. Yes, I did.
- 23 Q. Did I do that?
- 24 A. I believe you and my son, I let you two talk the
25 situation over, and then to the best of my knowledge, I

Sugar - Cross

1 know you called the judge, and I believe you might have
2 called the Prosecutor down in Licking County.

3 Q. Now, at some point, you said your son confided in me
4 that there was some justification for me to look into his
5 case. Do you remember that testimony?

6 A. Yes, sir.

7 Q. You know what the justification was?

8 A. I don't recall.

9 Q. Did you at some point come to find out that the first
10 judge that handled your son's case ended up being an
11 attorney?

12 A. Yes, sir.

13 Q. And was that not a conflict?

14 A. Yes, it was.

15 Q. Is your memory a little better now?

16 A. Yes, it is.

17 Q. And what, if anything, did you ask for me to do?

18 A. I don't believe I asked anything. I asked you to
19 look into it, and I believe you and my son discussed it at
20 length.

21 Q. Was your son taken out of jail? Was he removed from
22 Licking County jail?

23 A. After he served his three-month period.

24 Q. And then where did he go?

25 A. He went to Community Corrections Association in

Sugar - Cross

- 1 Youngstown, Ohio.
- 2 Q. Are they known for an excellent program?
- 3 A. Yes, they are.
- 4 Q. And did he have any problems there?
- 5 A. No, sir.
- 6 Q. Did he receive treatment for substance abuse?
- 7 A. Yes. He -- he took classes.
- 8 Q. How long has it been since your son has left the CCA
- 9 program?
- 10 A. I can't recall. I would say a year and a half to two
- 11 years.
- 12 Q. Has he been arrested since?
- 13 A. Not to my knowledge, no.
- 14 Q. Has he improved?
- 15 A. No.
- 16 Q. Is he still drinking?
- 17 A. Yes.
- 18 Q. Did you call anybody and ask for help for your son?
- 19 A. Not -- not this last time.
- 20 Q. You said at some point you did work at the farm?
- 21 A. Yes.
- 22 Q. Is that correct?
- 23 A. Correct, sir.
- 24 Q. And you put in some drainage ditches?
- 25 A. Yes, sir.

Sugar - Cross

- 1 Q. You put in some swell?
- 2 A. Yes, sir.
- 3 Q. You said you put a road around the barn?
- 4 A. Yes, sir.
- 5 Q. Was it more of a gravel lane, or was it a paved road,
6 David?
- 7 A. No, sir. It was a gravel lane. It was just a -- we
8 graded it down and put gravel down and made a gravel
9 driveway around the --
- 10 Q. Wasn't it a fact -- wasn't it a fact that the slope
11 of that hill was so dangerous that it had to be changed or
12 someone would get hurt mowing?
- 13 A. Yes. We graded -- we regraded the slope along the
14 east side of the barn.
- 15 Q. Why?
- 16 A. Because you requested we do it.
- 17 Q. Was it dangerous?
- 18 A. I wouldn't want to mow it. It needed to be graded to
19 be able to be mowed.
- 20 Q. And did you do it?
- 21 A. Yes, sir.
- 22 Q. Now, at some particular work, you said you hauled
23 some trees and stuff out of there. Was that your
24 testimony?
- 25 A. My testimony was we removed some trees from the ditch

Sugar - Cross

- 1 lines.
- 2 Q. Yes.
- 3 A. Yes.
- 4 Q. So the water would not back up?
- 5 A. Correct.
- 6 Q. Okay.
- 7 And you said you -- that I asked you to put in a gas
- 8 line that was -- what? -- 2000 feet?
- 9 A. I don't know the footage. It was back to the -- to
- 10 the deer stand or whatever you call it.
- 11 Q. Do you work with making bids and making rough guess
- 12 estimates on projects?
- 13 A. Yes, sir.
- 14 Q. And what would you consider the distance to be, ample
- 15 distance?
- 16 A. Yeah. I would say it's at least a couple thousand
- 17 feet.
- 18 Q. You would have to cross what? Would you have to
- 19 cross a body of water?
- 20 A. There's a creek there in back that would have to have
- 21 been crossed.
- 22 Q. Isn't it a fact that there's a gas well 75 yards east
- 23 of this hut?
- 24 A. I have no knowledge of that.
- 25 Q. Well, you said you put a drain back there.

Sugar - Cross

1 A. Well, I didn't personally put it back there. I just
2 looked at the areas that needed drainage with you, and we
3 had other people put them in. You never pointed out where
4 the gas well was.

5 Q. Now, you said we never met before we had that
6 breakfast when we made all these deals. Isn't it a fact
7 over the years we met on many occasions at fund-raisers?

8 A. Yes, we did.

9 Q. Was there ever a fund raiser where you and I didn't
10 converse and discuss or talk?

11 A. No, there wasn't -- that I went to. There was a lot
12 I didn't go to, but when I went to them, you always took
13 time out to talk to me.

14 Q. Isn't it a fact that you went to a golf outing of
15 mine after you were indicted?

16 A. No, I did not.

17 Q. You're sure of that?

18 A. I'm positive.

19 Q. Okay. Now, when you hauled the stone in, you said
20 you brought it in from Negley?

21 A. Yes, sir.

22 Q. Who owns that Negley plant?

23 A. I do.

24 Q. Who owned the field?

25 A. I did.

Sugar - Cross

1 Q. Now, did you ever backdate any other invoices ever,
2 David?

3 A. No, sir.

4 Q. Do you recall an incident where you forgot to bill a
5 township and backdated an order to a township?

6 A. I never backdated any orders, no, sir.

7 Q. Did you ever forget to bill a township?

8 A. New Middletown, the village, had a bill that was
9 about 60 or 90 days old that I didn't bill them, but I
10 didn't backdate the bill. I just made it out and sent it.
11 We were always a little bit lax on our bills, private bills
12 because all had to be wrote up by me.

13 Q. Okay. Do you realize when the FBI first met with
14 your secretary that she basically took your side?

15 A. No, I don't know what she told them the first time.

16 Q. Well, had your secretary -- in fact, if the FBI
17 didn't get these documents that they're using now, would
18 you be sitting up there?

19 A. I don't know how far their investigation would have
20 went.

21 Q. Now, you said at the time that I wrote you that
22 check -- and what was the date on that check?

23 A. I don't recall looking.

24 Q. Was it 12-23-99? Does that ring a bell?

25 A. That sounds fairly close, yes, sir.

Sugar - Cross

- 1 Q. And you didn't say okay, Jim, here's the cash back,
2 did you?
- 3 A. No, sir.
- 4 Q. What did you do with it?
- 5 A. Deposited it in Honey Creek Contracting.
- 6 Q. Why did you never send me an invoice, David?
- 7 A. Because I assumed that since you were helping my son
8 and doing those favors for him, I was doing this work for
9 you as a favor.
- 10 Q. What does assume mean?
- 11 A. What does assume mean?
- 12 Q. Yes.
- 13 A. Assume means that this is what I thought, this is
14 what was translated between me and you.
- 15 Q. You said you assumed. You said you didn't know.
- 16 A. It was --
- 17 Q. Your testimony was assume, was it not?
- 18 A. Correct.
- 19 Q. Now, after this, you knew in mid December of '99,
20 that I was a hot item, wasn't I?
- 21 A. I didn't know that for a fact. You had told me the
22 FBI was watching you, and that's why you wanted to give me
23 the check. So you didn't seem to think that it was a big
24 deal, so I definitely think it was a big deal.
- 25 Q. David, isn't it a fact that you were concerned, and

Sugar - Cross

1 you asked me for the check?

2 A. No, that's not true.

3 Q. You're under oath.

4 A. I swear on my mother's grave that is not the truth.

5 Q. Did you get a check for \$1,142?

6 A. Yes, I did.

7 Q. Now, wasn't it a fact that I was really a hot item on
8 or about the time of the Higbee project?

9 A. I don't know. Like I say, I wasn't aware of the --
10 the ongoing investigation, how far it had gone, and how --
11 how serious it was, or what kind of impact it was going to
12 have.

13 Q. When was the serious -- when was the Higbee project
14 let, when were the bids awarded?

15 A. I believe that was in March.

16 Q. Of what year?

17 A. 2000. I'd have to look at the documents. I don't
18 have them here.

19 Q. Who called whom about the Higbee project?

20 A. I believe that we met for breakfast, and I discussed
21 it with you because I was concerned about getting the
22 project.

23 Q. And isn't it a fact you told me that you felt you
24 were being screwed, right to the point?

25 A. Right to the point, I felt that I had a chance to get

Sugar - Cross

1 the project if the terra-cotta tile was used.

2 Q. All right.

3 When the bid was let, was the terra-cotta a part of
4 the bid?

5 A. Yes, it was one of the alternates.

6 Q. Did I make it a part of the bid?

7 A. No, sir.

8 Q. Did I know anything about the terra-cotta?

9 A. Not until I brought it to your attention.

10 Q. But wasn't there a community group that didn't even
11 want the Higbee building torn down?

12 A. Yes, there was.

13 Q. And wasn't there a group that said they wanted that
14 fancy stone saved?

15 A. Yes, there was.

16 Q. Was that not the reason it was in the first bid?

17 A. That's correct.

18 Q. Now, when you put it altogether, you were the low
19 bidder, weren't you?

20 A. Actually, I -- if they saved the terra-cotta file, I
21 would have been second bid, but Boccia had a lawsuit
22 against the city at the time, and I didn't feel that Boccia
23 would have been awarded the job because he wasn't the
24 lowest responsible bidder, so that would make me low.

25 Q. Did you explain that Boccia or Boccia business to me,

Sugar - Cross

- 1 or did you tell me that you were the low bidder?
- 2 A. I believe I explained it to you.
- 3 Q. Did I try and help you get the Higbee project?
- 4 A. Yes -- yes, you did.
- 5 Q. Now, for all the years I've been in office, have I
- 6 not tried to help local contractors whenever they were
- 7 close to bids, get the work instead of out of town
- 8 contractors, David?
- 9 A. Yes, you did.
- 10 Q. Was I outspoken about that?
- 11 A. Yes.
- 12 Q. Now, in your -- in your final bid with Mainline, what
- 13 was the difference in dollars?
- 14 A. I believe it was \$14,000 difference between my bid
- 15 and Mainline's.
- 16 Q. What's the total amount of the bid awarded?
- 17 A. It was in excess of \$900,000. I believe it was like
- 18 \$960,000.
- 19 Q. Where is Mainline located?
- 20 A. Buffalo, New York.
- 21 Q. Now, did you bill profits into your bid?
- 22 A. Yes.
- 23 Q. Did they bill profits into your bid, into their bid?
- 24 A. I would assume.
- 25 Q. Where would those profits go?

Sugar - Cross

- 1 A. To that company.
- 2 Q. And where was the company?
- 3 A. Buffalo, New York.
- 4 Q. Where was your company?
- 5 A. Petersburg, Ohio.
- 6 Q. You know if Mainline pays real estate taxes in
7 Mahoning County?
- 8 A. I don't know.
- 9 Q. Do they own land in Mahoning County?
- 10 A. I don't believe so.
- 11 Q. Well, if they don't own land, would they pay real
12 estate taxes?
- 13 A. I don't believe so, but I don't know if they own land
14 or not. I would assume they don't.
- 15 Q. Did you own land in Mahoning County?
- 16 A. Yes, sir.
- 17 Q. How much taxes a year do you pay?
- 18 A. Probably \$5 or \$6,000 worth, property tax.
- 19 Q. What about other taxes, on your equipment and other
20 taxes on your business?
- 21 A. Yes.
- 22 Q. How much a year?
- 23 A. I can't tell you offhand. Substantial for personal
24 property tax.
- 25 Q. Give me a guesstimate.

Sugar - Cross

1 A. I'm not the accountant. I -- I'm not really good
2 with the books, but I would guess probably in the
3 neighborhood of \$20 to \$25,000.

4 Q. So you were given \$25,000 on your business taxes,
5 \$6,000 on your real estate taxes. You're contributing
6 \$31,000 to Mahoning County in a \$14,000 bid separation was
7 given to a Buffalo firm, and were you not upset, David?

8 A. Actually, no, not -- I was more upset about the first
9 bid. Second time it was let, I knew we didn't have a
10 chance to get it because once they open a bid and publicly
11 open bid and the low bidder -- if they're a reputable
12 company, they're going to get the project no matter where
13 they're from.

14 Q. But the first bid was a typographical error, wasn't
15 it? Isn't that what they said, there was a typographical
16 error? That's why they had to be rebid.

17 A. I believe that was the reason they used for
18 rebidding.

19 Q. And when it was rebid, was the terra-cotta in it?

20 A. No, sir.

21 Q. Did I keep the terra-cotta in the bid?

22 A. No, sir. No one did. It wasn't in the second bid at
23 all.

24 Q. Was that historic beautiful stone work on the front
25 of Higbee, David?

Sugar - Cross

1 A. Yes, it was.

2 Q. Was it maybe one of the finest workmanship of an old
3 historic building in our Valley's history?

4 A. It was very unique, very nice.

5 Q. Now, going back to the phone here, you told the FBI
6 that I had your phone for approximately four days; is that
7 correct?

8 A. I don't know the exact time. You had one of my cell
9 phones I think for about a week, maybe a little longer.

10 Q. Were those the times I had it down there from 4-19
11 through 4-21?

12 A. I would assume you had it somewhere from 4-17
13 probably up until 4-21 or 4 -- yeah, from 3-17 up until
14 3-29 I would say you had it.

15 Q. Okay. So if I had your cell phone like you said,
16 from 3 what?

17 A. From 3-17 to 3-29.

18 Q. To 3-29. We're right in here, right?

19 A. Yes.

20 Q. The call originated 202 was the caller -- it
21 originated on your cell phone to D.C., right at 9:41 A.M.?

22 A. That's correct.

23 Q. And over here, 29 minutes after midnight, a call to
24 the home?

25 A. That's correct.

Sugar - Cross

- 1 Q. 20 minutes later a call to the farm?
- 2 A. That's correct.
- 3 Q. Is that your testimony?
- 4 A. You're correct, yes.
- 5 Q. Did you talk with anybody about your testimony after
6 you left here on the break? Yes or no.
- 7 A. No.
- 8 Q. Now, you said your son wasn't helped when Prosecutor
9 Morford was asking you questions. How can you say your son
10 wasn't helped? How can you make that statement?
- 11 A. With respect to his -- his time, his sentence, he
12 still spent his three months in Licking County and his
13 three months in detention, CCA.
- 14 Q. Couldn't they have put him in a halfway house in
15 Licking County?
- 16 A. No. According to them, they wanted him to go -- they
17 wouldn't take the responsibility for housing him. They
18 wanted him to go back to the county that he lives in.
19 That's what they do. They send them back to the county
20 they live in for their --
- 21 Q. And didn't you request I get him into CCA?
- 22 A. I requested that you help me get him a work
23 release -- get him on a work release program in this
24 county.
- 25 Q. How can I get him on a work release program if he

Sugar - Cross

1 still had three months to go without getting him in a
2 halfway house, David?

3 A. Maybe you misunderstood me. He spent his full three
4 months in Licking County jail.

5 Q. Yes.

6 A. Then he had three months to spend here in Mahoning
7 County, and it could have been in Mahoning County jail,
8 could have been CCA, could have been anywhere. He got in
9 CCA, and he got a work release, and that's what I requested
10 was the work release.

11 Q. You requested the work release, but did you ask me to
12 try and get him in a halfway house instead of having him
13 put in jail?

14 A. I don't believe so.

15 Q. Now, you said at some point I sent your son to
16 Colucci, Attorney Colucci?

17 A. Yes, sir.

18 Q. And at some point, you complained to me about
19 Attorney Colucci?

20 A. Yes, sir.

21 Q. Did Attorney Colucci charge you any more money after
22 you talked to me?

23 A. He -- after I talked to you, he sent us the bill for
24 \$25,000. We refused to pay it. Then he sent a bill saying
25 give me \$7500, and we refused to pay it. He finally sent

Sugar - Cross

1 me a bill said if you give me \$500, I'll show up in court
2 with you, and I think my son refused to pay that, too, but
3 he still showed up.

4 Q. Did he show up in court?

5 A. I believe he did. I'm not positive about that.

6 Q. Do you know if I had talked to him?

7 A. I don't have any firsthand knowledge of that, no.

8 Q. Did you ask me to talk to him?

9 A. Did I?

10 Q. Yes.

11 A. No.

12 Q. Who asked me to talk to him?

13 A. I don't know. No one knew Mark Colucci until you
14 mentioned his name. I may have asked you to talk to him
15 about the bill. I probably did because when he sent the
16 \$25,000 bill, I about went through the ceiling.

17 Q. What, if anything, did I say?

18 A. Don't panic.

19 Q. Isn't it a fact I told you I would talk with him?

20 A. Yes.

21 Q. How much did you end up spending or paying legal
22 services to Attorney Colucci?

23 A. \$7,000.

24 Q. Was that a justifiable problem with the judge then
25 becoming the attorney? Did that cause that case to be

Sugar - Cross

- 1 mitigated?
- 2 A. No. The case was dropped.
- 3 Q. Completely, wasn't it?
- 4 A. Yes. Colucci was wrong about that.
- 5 Q. The case was completely dropped?
- 6 A. Correct.
- 7 Q. Now, you seen a lot of letters that were put up on
- 8 the board. How did you know I signed those letters?
- 9 A. I don't have firsthand knowledge of it.
- 10 Q. Do people back home fear me, David?
- 11 A. I've never asked anyone that.
- 12 Q. Do you fear me?
- 13 A. No.
- 14 Q. Did anyone ever tell you they feared me?
- 15 A. No.
- 16 Q. Right now the FBI comes to you and got you cold,
- 17 right?
- 18 A. What do you mean they got me cold? Explain.
- 19 Q. I mean, you made a plea agreement because you felt
- 20 you had no chance of trial. Isn't that a correct
- 21 statement?
- 22 A. That's correct.
- 23 Q. They had you dead to facts, didn't they?
- 24 A. Well, I realized I made a mistake, and I wanted to
- 25 rectify it.

Sugar - Cross

1 Q. What did they have you on, backdating? Did you
2 backdate?

3 A. We dated those invoices. We made a copy of the same
4 invoice, and dated it.

5 Q. Did I ask you to backdate any invoices?

6 A. No.

7 Q. Were you also indicted for lying to the Grand Jury?

8 A. Yes.

9 Q. Did I ask you to lie to the Grand Jury?

10 A. No.

11 Q. Were you also indicted for tampering with the witness
12 of your secretary?

13 A. Yes.

14 Q. And was that not what the indictment was?

15 A. Excuse me. I didn't hear that, sorry.

16 Q. Would that not be what the indictment was for, that
17 last count, tampering with your secretary as a witness?

18 A. Yes.

19 Q. Did I ask to you do that?

20 A. No.

21 Q. Now, after the Higbee building and during the period
22 of time from December 23, '99, did you have knowledge that
23 the FBI was investigating me?

24 A. You had made mention of it when you gave me the check
25 that the -- that the FBI was watching you when you gave me

Sugar - Cross

1 the check on December 23rd of '99.

2 Q. Okay.

3 So then, you then later called me, knowing they're
4 watching me, but asked me to intervene in the Higbee
5 project for you, isn't that a fact?

6 A. Yes.

7 Q. Now, the FBI's watching me, you know about it since
8 early 2000, but you asked me to intervene and help you with
9 the problem you were having with the City because you
10 thought you were getting screwed in March; is that correct?

11 A. That's correct.

12 Q. And then you poured a concrete slab in the barn,
13 don't you?

14 A. Yes, we did.

15 Q. Did you fulfill all of the agreement we had on that
16 barn?

17 A. I don't recall what the agreement was. I know that
18 we poured the concrete, pulled you had out the barn, put
19 the pea gravel, and graded it up, and I don't know if there
20 was any agreement we had other than that.

21 Q. Wasn't it a fact that all the drains and everything
22 had already been in that barn?

23 A. Yes.

24 Q. You put pea gravel down. Where did the concrete come
25 from?

Sugar - Cross

- 1 A. TC Ready Mix.
- 2 Q. Did you pay for it?
- 3 A. No, sir.
- 4 Q. Did you know if it was paid for?
- 5 A. I have no idea.
- 6 Q. You never called and checked, did you?
- 7 A. I have no reason to. It wasn't billed --
- 8 Q. Where did you put all the trash that was inside the
9 barn, do you know?
- 10 A. I believe you -- you told my people to put it out
11 back behind the building.
- 12 Q. And were they not supposed to remove it?
- 13 A. Not to my knowledge.
- 14 Q. Now, the Government at some point said look, was this
15 a job for pay or favor for favor? Do you remember what
16 your answer was?
- 17 A. Which project are you talking about?
- 18 Q. Farm work, any work.
- 19 A. It was favor for favor.
- 20 Q. Um-hum. Well, if you knew these were favors for
21 favors and you knew in early 2000 or late '99 by my own
22 admission the Government was hot on my tail, why did you
23 continue dealing with me?
- 24 A. Well, you know you made numerous calls, and there
25 were many times I tried to avoid you, but as the

Sugar - Cross

1 circumstances went, I was still looking for favors, so I
2 kept coming back to you.

3 Q. Do you recall the first time you saw the piano?

4 A. I believe it was the Sunday that we went to your
5 house. I know it was, the time we went to your house to
6 look at the barn.

7 Q. Isn't it a fact that it caught your attention?

8 A. Yes. As soon as we walked in the door, I saw it. It
9 was right by the front door.

10 Q. Isn't it a fact that I was honest with you about that
11 piano?

12 A. Yeah -- well, I don't know. I mean, you told me that
13 it was your piano, and you wanted to give it to me because
14 your wife wanted it out of the house.

15 Q. Isn't it a fact we confirmed with my wife whether or
16 not she wanted to get rid of the piano or not, David?

17 A. Yes.

18 Q. What did my wife say?

19 A. Please?

20 Q. She said go ahead.

21 A. Yes.

22 Q. Okay.

23 Are you familiar with pianos?

24 A. No.

25 Q. Was I honest with you about the piano?

Sugar - Cross

- 1 A. Absolutely.
- 2 Q. What did I tell you about the piano?
- 3 A. You told me the year of the piano, which I can't
4 remember. I think it was a 1865. It's a Steinway, and you
5 said it's probably worth about \$5,000 because it does --
6 the keys were altered on it, and they were ivory, and
7 that's what you told me about it.
- 8 Q. Would you have known that those keys were not ivory
9 if I had not told you?
- 10 A. I don't know anything about pianos.
- 11 Q. I told you, didn't I?
- 12 A. Yes, you did.
- 13 Q. How many guys did it take for you to carry that piano
14 out of the house?
- 15 A. I think there was four or five.
- 16 Q. Did you have to disassemble it?
- 17 A. Yes.
- 18 Q. Why?
- 19 A. It was too big to get through the door.
- 20 Q. Wasn't it a fact it was one of only two made in 1856
21 and registered in the book, Mr. Sugar?
- 22 A. You told me that, and the piano dealer also told me
23 that it was -- there wasn't many made, but he didn't say
24 how many when he --
- 25 Q. It was registered in the book?

Sugar - Cross

1 A. They're all registered, every Steinway is registered.

2 Q. And there were two made in 1856?

3 A. I don't -- like I say, you told me that, I don't
4 know.

5 MR. MORFORD: Objection. He doesn't know,
6 and now he's asking him -- Congressman Traficant is asking
7 him what Congressman Traficant told him, which is hearsay.

8 THE COURT: Right.

9 BY MR. TRAFICANT:

10 Q. When you looked at the piano, some of you get the
11 idea maybe we're talking an old honky-tonk in some little
12 bar. Was it that type of piano, sir?

13 A. No, sir.

14 Q. Was it -- when you looked at it, not having any
15 knowledge of pianos, did you realize it was a rare piano.
16 Yes or no.

17 THE COURT: Please don't answer that
18 question. This witness is not in a position to talk about
19 whether or not that was a rare piano, and he's tried to
20 tell you that.

21 BY MR. TRAFICANT:

22 Q. Well, why did you have it appraised?

23 A. Well, because I wanted to turn it in on my taxes as
24 an income.

25 Q. Wasn't it a fact that you and I agreed that it should

Sugar - Cross

1 be appraised, and you would get back to me with the
2 appraisal value, David?

3 A. I don't believe we ever discussed that.

4 Q. Did you call me and inform me what the appraisal was
5 on it?

6 A. No, sir.

7 Q. So you said -- one said \$5; one said \$5,500, right?

8 A. Yes, sir.

9 Q. Without the ivory keys?

10 A. That's correct, without the ivory.

11 Q. You have \$1,142, and now you have \$5,500. That's
12 \$6,642, right, of value?

13 A. Yes, sir.

14 Q. Is it value?

15 A. That's what it adds up to, yeah.

16 Q. You said you took a bed. Did you have that
17 appraised?

18 A. No. It -- it wouldn't be worth too much because the
19 veneer was all coming off of it.

20 Q. Did you have the humidior appraised?

21 A. No, sir.

22 Q. Was it, in fact, not copper lined, the humidior?

23 A. It's in my garage. I don't know. I didn't look at
24 it that close.

25 Q. Did you take a chair out of the -- out of that barn

Sugar - Cross

- 1 floor?
- 2 A. Not to my knowledge.
- 3 Q. A cane back chair?
- 4 A. Not to my knowledge.
- 5 Q. So the best you know is you got \$6,642 from me,
6 right?
- 7 A. I got \$1,142 and a piano.
- 8 Q. And the piano was valued at what?
- 9 A. It was appraised at \$5,500.
- 10 Q. Did we ever have a conversation about the horse? Do
11 you have horses, Mr. Sugar?
- 12 A. Yes, sir.
- 13 Q. Did we ever have a conversation about a horse?
- 14 A. About a horse?
- 15 Q. About horses.
- 16 A. Yeah, we talked about horses.
- 17 Q. Did I ever offer you a horse also as payment?
- 18 A. No, sir.
- 19 Q. Did you remember conversations we had relative to
20 Mr. Greg Tyson about a horse?
- 21 A. Yes, sir.
- 22 Q. Isn't it a fact you said you raised a different breed
23 of horses?
- 24 A. Yes, I raised Quarter horses.
- 25 Q. So you never sent me an invoice?

Sugar - Cross

- 1 A. No, sir.
- 2 Q. Why didn't you?
- 3 A. I didn't think that there was any reason to.
- 4 Q. Yeah. But you said you wanted to cover your butt.
- 5 A. Well, I figured by putting it -- the documents in the
6 file, that our butts would be covered.
- 7 Q. You were trying to cover my butt, too?
- 8 A. I would say so.
- 9 Q. Then we must have been friends, weren't we?
- 10 A. Yes. We were friends; still are.
- 11 Q. I agree. Did I ever ask you for any money, David?
- 12 A. Money? No, sir.
- 13 Q. Did you ever give me any money?
- 14 A. No, sir.
- 15 Q. From living in that area, did I help local companies?
- 16 A. I believe so, yes.
- 17 Q. Did I help them with any problem they had including
18 strikes?
- 19 A. From what I've read in the newspapers and so forth,
20 yes.
- 21 MR. MORFORD: Again, your Honor, I object
22 unless he can establish a firsthand basis, knowledge, that
23 this witness is going to know anything about this line of
24 questioning.
- 25 THE COURT: Thank you.

Sugar - Cross

1 BY MR. TRAFICANT:

2 Q. Now, you said Mainline was a responsible company; is
3 that right?

4 A. Yes, sir. At the time they were.

5 Q. Did you attend the auction sale of their bankruptcy,
6 Mr. Sugar?

7 A. No, I did not.

8 Q. Do you know that they had one?

9 A. Yes, I do.

10 Q. When did Mainline go bankrupt?

11 A. Their bankruptcy auction was, I believe, around two
12 months ago.

13 Q. Did you send anybody to that bankruptcy for you to
14 look to see if they had any equipment?

15 A. Yes, I did.

16 Q. And who did you send?

17 A. Harry Manganaro.

18 Q. What did Mr. Harry Manganaro report to you?

19 A. That most of the equipment was junk.

20 Q. But you said they were very responsible company.
21 When did they get the Higbee bid, 2000?

22 A. Yes, sir.

23 Q. When did they go bankrupt?

24 A. Several months ago.

25 Q. Have you ever gone bankrupt?

Sugar - Cross

- 1 A. Yes, sir.
- 2 Q. Are you still operating?
- 3 A. Yes, sir.
- 4 Q. Are they?
- 5 A. I believe they've picked up a different name. Yeah,
6 they're back in business under a different name.
- 7 Q. Well, can we say that our local company was at least
8 as responsible as the Buffalo company?
- 9 A. Yes. We would have been low bid. We were
10 responsible or more responsible.
- 11 Q. You think you were a better company than Mainline and
12 would have done a better job, right to the point?
- 13 A. I would hope so.
- 14 Q. And I am not asking you what you hope; I'm asking
15 you, do you think you would have done a better job than
16 Mainline? Yes or no.
- 17 A. Yes.
- 18 Q. Did it bother you that you're paying \$33,000 worth of
19 taxes to the county, and they give the job to a Buffalo
20 firm for a \$14,000 bid?
- 21 A. No, because I go to West Virginia and Maryland and
22 all over, and I might be within a thousand or \$2000 on a
23 bid.
- 24 Q. And might get it?
- 25 A. I might get it.

Sugar - Cross

1 THE COURT: Let him finish.

2 MR. TRAFICANT: Okay.

3 THE COURT: Let him finish. Just stop for a
4 minute, and let him finish.

5 THE WITNESS: And I may get that contract,
6 and there's definitely local people that will get disturbed
7 with me because I'm an out-of-towner, so that's the way the
8 system is set up. The system is set up as the lowest most
9 responsible bidder. It's up to the engineers to determine
10 who the lowest and most responsible bidder is and to award
11 the contract under those criteria. So I'm used to this,
12 and if I lose a bid, I understand it.

13 Q. But you complained about this one, didn't you?

14 A. Only the first time.

15 Q. Did I do anything after the first time?

16 A. The second time when I told you about it, you -- you
17 borrowed my cell phone and called -- I think it was CIC or
18 MS Consultants, and you were raising a lot of hell because
19 an out of town contractor was going to get the bid, and you
20 weren't going to stand for it.

21 Q. Would I have done that for any other company, to the
22 best of your knowledge?

23 MR. MORFORD: Objection, unless he has
24 firsthand knowledge.

25 THE COURT: Sustained

Sugar - Cross

1 BY MR. TRAFICANT:

2 Q. Isn't there terms in a contract called lowest and/or
3 best? So lowest doesn't necessarily get you the bid, does
4 it?

5 A. No, it does not. That's the first criteria; the
6 second is the responsibility of the contractor to do the
7 project.

8 Q. But the discretion rested with whom?

9 A. It was up to MS Consultants, who was the engineer on
10 the Higbee project to make recommendation for award, and
11 then it was up to CIC. They could either take their
12 recommendation or reject the recommendation.

13 Q. So the -- the board of CIC ultimately had to award
14 the contract, right?

15 A. That's correct. They're the owners.

16 Q. Excuse me. And if they had determined that you
17 weren't the lowest but felt that you were the best, could
18 they have justified awarding you the contract?

19 A. Yes, sir.

20 Q. You didn't buy any of that Mainline equipment?

21 A. No, sir.

22 Q. Describe the condition of that equipment.

23 A. Well, they had three auctions. We only went to the
24 one in Pittsburgh. They had an office in Buffalo, New
25 York, an office in Pittsburgh, and an office in Cincinnati,

Sugar - Cross

1 and they had auctions at all three locations.

2 So we only saw the Pittsburgh equipment, and any --
3 there was nothing there that we could use that was of any
4 value to us. I didn't personally see it. I sent it to Mr.
5 Manganaro.

6 Q. Okay. Did you make a report?

7 A. Yeah. He reported that there was nothing there of
8 value for us that we could use, other than some minor small
9 items.

10 MR. MORFORD: Your Honor, I object to this
11 line of questioning. He said he wasn't there. He doesn't
12 know the value of the equipment, and now, Congressman
13 Traficant's asking him what Mr. Manganaro told him, and I
14 would ask that be stricken.

15 MR. TRAFICANT: I object to his answer. I'd
16 ask that he got a report, he's the boss.

17 THE COURT: That doesn't really affect the
18 Rules of Evidence so move on to the next question.

19 Q. Now, you were charged with an awful lot of years,
20 weren't you, originally?

21 A. Yes, sir.

22 Q. Did the Government ever ask you to wear a body
23 recorder to me?

24 A. No, sir.

25 Q. Did the Government ever sit down with you and devise

Sugar - Cross

1 some ploy to get me into some conversation or some further
2 answer of an act that could prove your case?

3 A. Absolutely not.

4 Q. If you would have called me, David, wouldn't I met
5 with you at any time, any place?

6 MR. MORFORD: Objection. That's speculation.

7 THE COURT: We don't know what he would have
8 done. It's speculation.

9 BY MR. TRAFICANT:

10 Q. When you called me, did I fail to meet with you?

11 A. Yeah. You've always met with me when I requested a
12 meeting.

13 Q. Did you not say I was a pain in the butt calling you
14 all the time?

15 A. Towards the end there, yes.

16 Q. Towards the end of what?

17 A. The last three -- about the last three months.

18 Q. Was that about the time of the Higbee deal?

19 A. Yeah. It would be just before Higbee's, I'd say, and
20 during and after.

21 Q. When did the -- did you tell the FBI that Tyson had
22 done work at the farm?

23 A. No. I wouldn't know if Tyson did work at the farm or
24 not.

25 Q. Did you tell the FBI that Tyson was paid with a horse

Sugar - Cross

1 from the farm?

2 MR. MORFORD: Objection. This is again
3 getting into hearsay and in a triple way.

4 THE COURT: Well, he can say what he said.

5 THE WITNESS: Answer.

6 MR. TRAFICANT: Are you going to allow the
7 question or not?

8 THE COURT: I'm going to allow the answer.

9 MR. TRAFICANT: Would you repeat the
10 question?

11 THE COURT: Actually, I'll ask the Court
12 Reporter to read the question back.

13 Oh, that objection is sustained to that question.

14 MR. MORFORD: The objection is sustained she
15 said.

16 MR. TRAFICANT: Yes. I want to show the
17 Judge something. 302, 10-13-2000, Page 10. Mine is not a
18 clean copy.

19 THE COURT: Okay. Let me just see it.

20 MR. TRAFICANT: Last paragraph, if I could
21 use yours.

22 THE COURT: Just a minute.

23 MR. TRAFICANT: I want a side bar.

24 THE COURT: Okay.

25 MR. TRAFICANT: I want a side bar.

Sugar - Cross

1 THE COURT: I heard you say that. This part
2 that you're pointing to, which is -- about the last
3 paragraph on Page 10 of this 302 does not relate to the
4 question that you had just put to him, and so we can't have
5 something that wouldn't refresh his recollection if that's
6 what you intended to do.

7 BY MR. TRAFICANT:

8 Q. Mr. Sugar, wasn't it your testimony that you did not
9 recall telling the FBI that Tyson had done work at the
10 farm?

11 MR. MORFORD: Objection, hearsay and
12 relevance.

13 THE COURT: Sustained, sustained. Just move
14 to something else, and we'll deal with this at the next
15 break.

16 MR. TRAFICANT: No. I want to deal with it
17 now, and I request a side bar.

18 THE COURT: We will deal with this at the
19 next break. Move on in your line of questioning to
20 something else. The jury's here, and they're available to
21 hear testimony and need to get evidence in front of the
22 jury now.

23 BY MR. TRAFICANT:

24 Q. Did you and I ever have a conversation about Greg
25 Tyson?

Sugar - Cross

1 A. Yes.

2 Q. Did you tell the FBI about that conversation?

3 A. I could have. I don't recall.

4 MR. MORFORD: Objection as to the relevance
5 of what he may or may not have told the FBI about what
6 Congressman Traficant told him because it's back door
7 hearsay.

8 THE COURT: Sustained. Would you please move
9 on?

10 Q. Did you have conversation with me about the Buccis?

11 A. No.

12 Q. Did you ever have conversation with the FBI about the
13 Abduces?

14 A. No.

15 Q. Did you have any knowledge that they damaged the barn
16 at the Traficant farm?

17 A. No.

18 Q. 302, 10-13-2000, Page 11.

19 MR. MORFORD: Objection for the same basis as
20 the last objection, your Honor.

21 THE COURT: The objection's sustained.

22 Q. Have you tried to sell the piano?

23 A. No, sir.

24 Q. Have you decided to keep the piano?

25 A. My daughter's taking piano lessons now.

Sugar - Cross

1 Q. Isn't it a fact that you discussed attempting to
2 purchase ivory keys for that piano?

3 A. Yeah. I -- I mentioned to you that it would be nice
4 if I could find ivory keys that belong to it.

5 Q. Would that enhance the value tremendously, Mr. Sugar?

6 A. I believe so.

7 Q. What did your appraiser say it would enhance it to?

8 MR. MORFORD: Objection, hearsay.

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

10 Q. Do you have any knowledge what it would be worth with
11 ivory keys, Mr. Sugar?

12 A. No, sir.

13 Q. Would it be much more than what it is now?

14 MR. MORFORD: Objection. He just said he has
15 no idea.

16 THE COURT: Sustained.

17 Q. So you never got back to me with the appraisal
18 figures, did you?

19 A. You never requested them.

20 Q. Isn't it a fact you said you did have it appraised
21 and see what it was worth, and then we'll see what the
22 difference is? Yes or no.

23 A. No.

24 Q. Who else did you deal with in my office?

25 A. At different times, I talked to Anthony Traficanti

Sugar - Cross

1 and to Paul Marccone or Marccone. Not sure how you say his
2 name.

3 Q. And you said on one of your statements that one of
4 them is correct, but one of them was a lie. Let's look at
5 5-13(2). Can you see that.

6 Which one of these not true?

7 A. That should be fairly correct.

8 Q. That's \$2,300, correct?

9 A. I don't know the date. I couldn't really see that
10 too well, I don't know what date that was -- was that for
11 work at your house? What's the date on it?

12 Q. The date on it was you put mail -- mailed June 3rd.

13 A. No, that's --

14 Q. It's an invoice for grading roads in Greenford, Ohio?

15 A. No. That's the false invoice I made up.

16 Q. That was the false one?

17 A. Yes.

18 Q. What was false about it?

19 A. Everything.

20 Q. The amount of costs was wrong?

21 A. The amount of material delivered, the hours were
22 wrong, the -- the rates were wrong, everything was --
23 everything was wrong. It was just a quick fix.

24 Q. Well, if you wanted to cover your butt, why didn't
25 you put the correct figures down?

Sugar - Cross

1 A. Because I just thought that picking some quick
2 numbers would be the easiest way to do it, first of all,
3 because I knew I would never get paid, and second of all,
4 if I made it too high, then it would even make it harder to
5 get paid.

6 Q. Well, how about this one? This one shows some
7 oversized stone and some gravel, and it adds on another
8 \$1200?

9 MR. MORFORD: Could we have an exhibit
10 number, your Honor?

11 MR. TRAFICANT: I can't see it.

12 THE COURT: Do you know the number?

13 MR. MORFORD: They're looking to find it, but
14 my request would be for purposes of the record that if it's
15 going to be put on the overhead, we identify the Exhibit
16 Number, that's all.

17 THE COURT: Where did this document come from
18 that's now on the overhead?

19 MR. TRAFICANT: I guess it came from the
20 Government. It's one of their Government's Exhibits, and
21 now I move to make it a joint exhibit.

22 THE COURT: First of all, let's find out what
23 its number is.

24 MR. TRAFICANT: They would know.

25 THE COURT: Congressman, you're using it.

Sugar - Cross

1 You could assist a little here.

2 MR. TRAFICANT: I'm trying my best, your
3 Honor.

4 THE COURT: Good.

5 MR. MORFORD: Your Honor, it appears to be
6 Government's Exhibit 5-9.

7 MR. TRAFICANT: Well, let's put 5-9 on, and
8 let's take a look at that. And let's take a look at what
9 the Government's Exhibit is.

10 Q. Read above Government's Exhibit 5-9. Read the
11 sentence above 5-9. You see a date above the first
12 sentence, above Government's Exhibit to the far left?

13 A. Are you talking about April 30, 1999?

14 Q. Yes. Can you read that?

15 A. Yeah.

16 Q. All right.

17 A. Dig and set barriers for manure pit.

18 Q. All right.

19 Now, where is the Government's Exhibit on this one?

20 MR. MORFORD: Objection, your Honor. That's
21 not the Government's Exhibit out of his book that we gave
22 him. I don't know what --

23 THE COURT: Yeah. We don't know what this
24 is, and until we -- until we get it identified, nobody can
25 use it, you or the Government.

Sugar - Cross

1 MR. TRAFICANT: Mr. Morford just said the
2 same exhibit. Is there any difference between this? Look
3 at the numbers.

4 THE COURT: Well, the witness isn't going to
5 identify exhibits, Congressman.

6 MR. TRAFICANT: I'm just asking if there's
7 any difference.

8 THE COURT: Sir, it is your responsibility to
9 give a number to something that you're trying to use.
10 You're the person who has the floor here. Would you please
11 give us a number of what you said?

12 MR. TRAFICANT: I said 5-9. I put it on the
13 board.

14 THE COURT: But is that what it is?

15 MR. TRAFICANT: Yes. But this is the exact
16 same thing, but the Exhibit Number's on the other side.
17 How many exhibits -- and what is going on here?

18 THE COURT: I think -- I think the jury
19 should just relax and sit back here for a minute while we
20 get this done.

21 Mr. Morford, would you go and work with the
22 Congressman and see if we can get this straight.

23 MR. TRAFICANT: No. I think I have it
24 straight, and I will not use the exhibit.

25 THE COURT: Well, that's certainly your

Sugar - Cross

1 choice.

2 MR. MORFORD: Your Honor, if he has his
3 exhibit book here and he turns to his exhibit 5-9, that
4 might help alleviate this problem. Do you have that here,
5 sir?

6 THE COURT: You know maybe --

7 MR. TRAFICANT: You're talking to me?

8 THE COURT: Maybe it's getting too late in
9 the day.

10 MR. TRAFICANT: Let me ask a question.

11 THE COURT: No, not right now.

12 MR. TRAFICANT: Is Mr. Morford talking to me?

13 THE COURT: No, he's talking.

14 MR. TRAFICANT: I hope to God he isn't.

15 THE COURT: No.

16 MR. TRAFICANT: I would expect to talk to
17 you, your Honor.

18 THE COURT: You are talking to me.

19 MR. TRAFICANT: Fine.

20 THE COURT: You also have to listen for just
21 a moment. Before you can go any further with this, I'd
22 like you to get the document that has the number on it so
23 when it goes on the overhead, it shows the number. I don't
24 know what paper you have or where you got it from.

25 MR. TRAFICANT: I choose not to put it on

Sugar - Cross

1 because I have the same document that came from the
2 Government with exhibit marks on both sides, the exact same
3 documents with exhibit marks on different sides of the
4 paper. So I'm not going to say anything about it.

5 Q. Now, I want to ask this question: Did you tell the
6 Government that your work with Traficant started out as a
7 thank you and was not a bribe?

8 A. I'm sorry. Could you repeat that?

9 Q. Did you tell the FBI that your work for Traficant was
10 a thank you and not a bribe?

11 A. I told them that I was trading work for work for
12 favors.

13 Q. Did you consider these bribes, David?

14 A. Did I consider them a bribe?

15 Q. Yes?

16 A. I really never gave it much thought. I just assumed
17 that what I was doing was helping my son any way he could
18 when it first started.

19 Q. Well, did you bribe me?

20 MR. MORFORD: Objection. This calls for a
21 legal conclusion as to the significance between a bribe and
22 a gratuity.

23 THE COURT: Right. He can't answer that
24 question. The jury's going to have to decide these issues.

25 Q. Did you tell the Government you never invoiced me at

Sugar - Cross

1 one time for any of this work?

2 A. Yes.

3 Q. Did you know who that farm machinery belonged to when
4 it was hauled off the Traficant farm?

5 A. No.

6 Q. Do you know who owned the Traficant farm?

7 A. I assume you did.

8 Q. I asked you if you knew.

9 A. No.

10 Q. So you didn't pay for the concrete; you didn't pay
11 for the concrete barriers for the manure pit, right?

12 A. Correct.

13 Q. You did grading; you hauled gravel; you dug some
14 ditches, and you did a barn. How big was the barn you did
15 in Poland?

16 A. Oh, you mean the concrete floor in Poland?

17 Q. Yes.

18 A. I would say probably -- I'd have to give you a
19 guesstimate, probably 30 by 60, maybe a little bigger. I'm
20 guessing. It's been a long time.

21 Q. Pretty good bidder.

22 And everything was already installed, and all you did
23 was put pea gravel down and put the concrete, didn't you?

24 A. Correct.

25 MR. TRAFICANT: Your Honor, I don't know what

Sugar - Cross

1 time you want to take a break because I have more questions
2 of this witness, so I'm going to let you go since we've had
3 some heated exchange here and leave it up to you if you
4 want me to continue.

5 THE COURT: You can continue.

6 MR. TRAFICANT: I have more questions.

7 THE COURT: You can continue.

8 MR. TRAFICANT: Okay.

9 BY MR. TRAFICANT:

10 Q. Now, you said there were things that I had asked you
11 to do, and you turned them down; is that correct?

12 A. No. I don't believe I testified to that.

13 Q. Didn't I tell you that I wanted a building torn down,
14 and you didn't -- you wouldn't do it?

15 A. You had requested -- you had made different -- you
16 made different requests. We talked about the gas line. We
17 talked about running electric lines back to that -- to the
18 building in the back there, the tree stand I call it. You
19 had talked to me about tearing the building down, but we
20 never got to that, and you had taken me up in the back
21 fields there and wanted some additional culverts put in
22 that I never put in.

23 Yes, there was probably four or five different items
24 that you had mentioned to me during -- through the time
25 period that we either didn't have time to get to, or I just

Sugar - Cross

1 didn't do.

2 Q. Did your secretary ever ask you why you didn't send
3 Traficant an invoice?

4 A. Did she ever ask me?

5 Q. Yes.

6 A. No.

7 Q. Who sends the invoices out?

8 A. I make them up, and then she sends them out.

9 Q. Well, didn't you, in fact, make out invoices for
10 Traficant?

11 A. I made out false invoices and had her type them and
12 put them in the file.

13 Q. Did you specifically instruct her not to send them to
14 Traficant?

15 A. No. I didn't instruct her not to send them, no.

16 Q. Well, didn't you just say that your procedure was
17 that you would give your invoices to your secretary, and
18 she would mail them out?

19 A. That's correct, but I gave her the invoice in March
20 and told her to show that they were set in November and
21 December and January and February.

22 Q. So Harry Manganaro worked for you?

23 A. Off and on, he does on demolition projects.

24 Q. How was he?

25 A. Harry's fine.

Sugar - Cross

- 1 Q. Is he a good worker?
- 2 A. Yes.
- 3 Q. He do responsible work?
- 4 A. Under my guidance.
- 5 Q. Did you supervise him?
- 6 A. I do supervise him, yes, when we have projects.
- 7 Q. Would you consider him to be your friend?
- 8 A. Everybody's my friend.
- 9 Q. I didn't ask you that. Did you consider him to be
10 your friend?
- 11 A. I would assume so, yes.
- 12 Q. Now, when that first bid was thrown out, you
13 complained about the flaw in the bid being a technicality,
14 and that everybody knew that it was what it really meant.
15 Isn't that what you said?
- 16 A. No, sir. I wasn't complaining about the first bid at
17 all. I was hoping that they would keep the terra-cotta
18 tile and I get awarded the project.
- 19 Q. But had the first bid simply been adjusted, who would
20 have got it, David?
- 21 A. I was hoping it was me.
- 22 Q. Well, who would have been the lowest bidder?
- 23 A. Boccia would have been the lowest bidder if they
24 saved the terra-cotta, too; Tererri the lowest if they
25 didn't save the top.

Sugar - Cross

1 Q. When they come back the second time, there's no
2 terra-cotta involved, and that's when you missed it, right?

3 A. Yes, I was second then.

4 Q. Do you know what the technicality was?

5 A. No, I do not.

6 Q. So the new bids were on sale on April 14th. Isn't
7 that correct?

8 A. I'm sorry. I don't have the documents in front of
9 me.

10 Q. Did the FBI ask you why you had the Higbee demolition
11 listed on an account receivable listing, dated March 9 of
12 2000 before it was awarded?

13 A. No, sir.

14 MR. TRAFICANT: Page 6, 10-13-2000.

15 THE COURT: We're going to take the break
16 now. We'll deal with this question. We'll take the
17 afternoon break for half an hour. See you.

18 (Proceedings in the absence of the jury:)

19 MR. TRAFICANT: Your Honor, has the witness
20 and his attorney been removed? His attorney's in here.
21 I'd like his attorney removed as well. He sat through the
22 entire last side bar and learned everything we talked
23 about.

24 THE COURT: His attorney?

25 MR. TRAFICANT: The witness. He let the

1 witness sit through the whole side bar, and I object to
2 that and make a point of it for the record.

3 THE COURT: Okay. Everybody can be seated
4 back there.

5 MR. MORFORD: First of all, your Honor, he
6 does not have an attorney with him today.

7 THE COURT: I didn't think so. At least, I
8 am not aware.

9 MR. MORFORD: Unless there's been someone
10 here that I don't know of.

11 THE COURT: Anybody in this room representing
12 Mr. Sugar? No, okay. All right.

13 We have -- we have at least two different things
14 here, coming up here. And I'm going to let the Government
15 state their objections, and then we will deal with them.
16 I -- all of these involve 302s, and they're at least two
17 different things that are happening here that we can't
18 allow the -- this particular witness to respond to it.

19 MR. MORFORD: Yes, your Honor.

20 I'm not sure which the order was, but there was a
21 point where Congressman Traficant is trying to get this
22 witness to testify to what Congressman Traficant told him
23 about the Bucci brothers and about --

24 THE COURT: Tyson.

25 MR. MORFORD: Mr. Tyson and the horse. If

1 Congressman Traficant wants to state what his deal was with
2 Mr. Tyson and the horse or the Bucci brothers, he can take
3 the stand and testify under oath subject to
4 cross-examination. We've been through this before. What
5 he can't do is have this witness testify about what
6 Congressman Traficant told this witness.

7 And the fact that this witness told the FBI what
8 Congressman Traficant told him does not give him the right
9 then to have him testify as to what he told the FBI that
10 Congressman Traficant told him because he's getting in a
11 back doorway the same hearsay he's not allowed to get in,
12 unless he can show some independent relevance apart from
13 proving the truth of the matter asserted as to why he
14 should be able to ask this witness what the witness said to
15 the FBI about that.

16 MR. TRAFICANT: I think I can respond much
17 quicker.

18 THE COURT: Okay. But the 302s remember are
19 not written by the witnesses. They're written by someone
20 who's not on the stand, and that's a fundamental issue
21 across all --

22 MR. TRAFICANT: Your Honor, is a 302 allowed
23 in a criminal case, a RICO case allowed to impeach the
24 testimony of a witness? Yes or no.

25 THE COURT: If the witness -- if the witness

1 who wrote the 302 is on the stand, you may. There may be
2 something about what the witness wrote, which there may be
3 something that you may be able to elicit from him that
4 would impeach him. Regarding that, I don't know. But, you
5 certainly cannot with somebody else do this. Let me
6 just -- let's just talk about 302s for a minute, or do you
7 want to talk right now?

8 MR. TRAFICANT: I'd like to talk.

9 THE COURT: Okay. I know you do.

10 MR. TRAFICANT: You let the 302 be read into
11 the record here in the trial.

12 THE COURT: Well, sometimes it's possible to
13 do that. Depends on who's on the stand.

14 MR. TRAFICANT: Hear me. Is a 302 not a
15 legal document, subject to the law of truthfulness of an
16 FBI agent's summary report? Yes or no.

17 THE COURT: Well, I never heard it
18 characterized in that way, no.

19 MR. TRAFICANT: Well, then, you're saying
20 it's not? They can just do -- put anything they want down?
21 For example --

22 THE COURT: Well, no. But you don't have the
23 agent who authored the 302 on the stand right now. There
24 have been agents, an agent anyway on the stand, but there
25 isn't one on the stand now.

1 MR. TRAFICANT: Is a 302 allowed to be used
2 to impeach the testimony of a witness? Yes or no. That's
3 all I am asking.

4 THE COURT: It depends on who the witness is;
5 and probably, no, and it's hard --

6 MR. TRAFICANT: But this is the subject of
7 the 302, who had made statements to the FBI. Are you now
8 saying --

9 THE COURT: No. The 302 doesn't make any
10 statements. It's a form Number 302. It's just a
11 Government form.

12 MR. TRAFICANT: Then why did you let me read
13 the one in the last time?

14 THE COURT: I don't remember that. I don't
15 remember doing that, but if you read one in, hey --

16 MR. TRAFICANT: Let me ask this question.

17 If I ask a question, isn't it a fact -- and I am not
18 making a statement -- that you told the FBI that the
19 Abduces damaged Traficant's barn, now, is that a statement,
20 that you take the stand for? I'm asking the Judge.

21 MR. MORFORD: May I respond, your Honor?

22 THE COURT: You certainly can respond, but
23 that wasn't the statement that's in this -- in the 302 that
24 you were referring to when you were doing it.

25 MR. MORFORD: But it would also be eliciting

1 hearsay because his only basis of knowledge of that fact is
2 that Congressman Traficant told him. So Congressman
3 Traficant has to show that the witness has a basis of
4 knowledge apart from what Congressman Traficant told him,
5 or it's just hearsay, and you can't get into it in the
6 first place.

7 MR. TRAFICANT: Let me respond real quick.

8 THE COURT: Okay.

9 MR. TRAFICANT: You have allowed hearsay from
10 a man who's dead.

11 THE COURT: Well, that's an exception to the
12 hearsay rule.

13 MR. TRAFICANT: Yes. You've given them a lot
14 of exceptions.

15 THE COURT: Hey, we didn't make it up in this
16 case. The Rules of Evidence are not brand new, and you're
17 a congressman, and you know that. Congressman, you know
18 that. I don't know who you're trying to persuade with
19 this, but you're a United States Congressman. You know
20 much more about the law than you are acting as if you know
21 right now. But you certainly know this is not the first
22 time.

23 MR. TRAFICANT: Is that why Judge Ann Aldrich
24 was interviewed by the FBI?

25 THE COURT: I have no idea that Judge Ann

1 Aldrich --

2 MR. TRAFICANT: Why do you have my file of
3 the '83 trial?

4 THE COURT: Because you said that there were
5 things about that case that you might want to challenge
6 something on.

7 MR. TRAFICANT: When did I say that?

8 THE COURT: In the middle of the proceedings
9 before trial that led up to this.

10 MR. TRAFICANT: Your Honor, when I sent for
11 the archives for the Traficant trial, they said it was most
12 unusual. It's in Cleveland, Ohio, and Judge Lesley
13 Wells --

14 THE COURT: Well, whatever -- whatever they
15 said.

16 MR. TRAFICANT: The point I'm making is, I
17 know enough to know that you have given them complete
18 latitude on direct on hearsay, and on cross-examination
19 where I should have the latitude, you restrict my questions
20 before I even ask them thinking that it might be hearsay.

21 THE COURT: Are you yelling so that the
22 people who we are putting in the back --

23 MR. TRAFICANT: No, I'm not. I apologize, I
24 apologize.

25 THE COURT: Briefly.

1 MR. TRAFICANT: I'm just about fed up.

2 THE COURT: Remember that there are people
3 back there who are part of the court in this case, and
4 they're not involved in discussions of law. The yelling
5 has got to stop when the jury is out of this room.

6 MR. TRAFICANT: I'll try my best.

7 THE COURT: You're going to have to do better
8 than that. You have to stop yelling because it's hard for
9 us to keep the jury from hearing what you're yelling.

10 MR. TRAFICANT: Your Honor, I'm try my best.

11 THE COURT: Good.

12 MR. TRAFICANT: But you have the right to put
13 me in jail, and if you do, you bring the jury down there
14 because I'm going try my case. Now, here's what I'm
15 saying.

16 THE COURT: But you're going to follow the
17 Rules of Evidence.

18 MR. TRAFICANT: I'm going make this
19 statement.

20 THE COURT: Why don't you --

21 MR. TRAFICANT: I am following the Rules of
22 Evidence. I believe you are holding me to a stricter
23 standard on cross-examination than you should be. I again
24 make it for the record. You do not let me make vendetta an
25 issue, as a motive, when we now have discovered 35 agents

1 involved in the Traficant case, and we haven't mentioned
2 one IRS agent yet and one treasury agent.

3 THE COURT: But do you know what? If you
4 would go back and read the orders that relate to what it is
5 you have to do in order to establish the grounds for making
6 those part of your defense, you'll see it was all there.
7 It's been there all along.

8 It's just like -- it's just like you giving the
9 impression that you're into some kind of gag order. I
10 never put you under a gag order in this case.

11 MR. TRAFICANT: You can't put me under gag
12 order.

13 THE COURT: Well, I wouldn't do it, and I
14 haven't done it.

15 MR. TRAFICANT: You can't do it.

16 In any event, I am not an attorney, and I am not
17 bound by the oath of the court. I have a First Amendment
18 right, and you know that, don't you?

19 THE COURT: Whether I could or couldn't is
20 not the issue.

21 MR. TRAFICANT: No one's going to gag me in
22 this case.

23 THE COURT: Nobody has tried, Congressman.

24 MR. TRAFICANT: I am not going to be limited
25 on cross-examination impeaching witnesses, and I will

1 continue to challenge this Court.

2 THE COURT: Okay.

3 MR. TRAFICANT: And I am not going to let
4 them get away with this stuff.

5 THE COURT: Would you like to have a break
6 before we go back?

7 MR. TRAFICANT: I'd like if you extend it a
8 couple more minutes so maybe I have a sore throat. Maybe I
9 could go get some cough drops, and could you please extend
10 it to 3:15? I'd appreciate it.

11 MR. MORFORD: Your Honor, only thing I would
12 object to, this is becoming a daily pattern where the
13 Congressman is asked to address a specific issue, he
14 addresses issues that has nothing to do with the specific
15 issue that he's put on the record 20 times and then asks
16 for a longer break that delays the case when he's just
17 taken up to ten or 15 minutes of the jury's time while
18 they're waiting in the back room.

19 And if he wants to raise these points that do not
20 address the issues that this Court raised and asked him to
21 raise, then I respectfully request the jury not be
22 penalized. They all have lives and jobs to go to while he
23 makes these speeches to I don't know who.

24 MR. TRAFICANT: Very self-serving. Quite
25 frankly, I'm here defending myself. I understand there is

1 a jury. They have a duty to perform. Their life and their
2 future is not on the line. Mine is. And listen to me say
3 this. These three guys, grand prosecutors are not going to
4 intimidate me or scare me like they have every attorney in
5 this case. And when it's over --

6 THE COURT: Congressman, really we don't have
7 to get into this. We'll see you at 3:15 being okay.

8 MR. TRAFICANT: Oh, you will? Thank you.

9 (Thereupon, a recess was taken.)

10 (Proceedings in the absence of the jury:)

11 THE COURT: There's the matter of the
12 deposition of Manevich pending, and I've been given a copy,
13 and I've had time to go through it now. There were just
14 two pages on which there were objections stated, and I
15 think we can -- they're fairly straight forward. The
16 objections are very straight forward.

17 MR. SMITH: Your Honor, having considered it
18 over the weekend, there were -- the objection or Government
19 objections, we are prepared to withdraw them, not bother
20 with them and play the tape from beginning to end.

21 THE COURT: Okay. Very well.

22 MR. SMITH: That would be probably tomorrow,
23 your Honor.

24 THE COURT: Okay.

25 MR. TRAFICANT: Your Honor, I'd just like to

Sugar - Cross

1 state that was back at 3:13, two minutes before your
2 deadline.

3 THE COURT: Thank you very much. Let's bring
4 in the jury.

5 (Proceedings held in the presence of the jury:)

6 THE COURT: You're still under oath.

7 THE WITNESS: Yes, your Honor.

8 BY MR. TRAFICANT:

9 Q. David, are you familiar with the indictment that
10 you're facing, that you had been charged with?

11 A. Yes, sir.

12 Q. You're charged with bribing me?

13 A. No, sir.

14 Q. Were you charged with being in a conspiracy with me?

15 A. No, sir. I don't believe so.

16 Q. Did you report the \$1,142 on your 1999 tax return?

17 A. Yes, sir.

18 Q. Did you report the items of value appraised at \$5,500
19 on your 2000 tax return?

20 A. Yes, sir.

21 Q. Then you were paid, weren't you?

22 A. That's what I was -- yes, I reported what I was paid,
23 exactly.

24 Q. Did the Government threaten at any time to indict
25 your wife or your son in this matter if you did not

Sugar - Cross

1 cooperate?

2 A. No, sir.

3 Q. Do you have any physical evidence to support the
4 testimony you've given this jury today?

5 A. Just the evidence that I'm telling the truth. I have
6 no reason not to tell the truth.

7 Q. Other than these documents that you have, in fact,
8 manipulated, do you have any physical evidence to support
9 your statements to this jury?

10 A. Yes, sir.

11 Q. What?

12 A. The work that I did out at the farm, you can see what
13 we did. You can see the manure set. You can see the pipes
14 that are in, the swells that were made and so forth and so
15 on.

16 Q. Well, we can appraise that, couldn't we?

17 A. You just asked if there was physical evidence. I
18 said that's the physical evidence I guess I would have.

19 Q. But, you didn't bill me for it.

20 A. No, sir.

21 Q. But you still made sure you didn't violate your IRS
22 reforms, didn't you?

23 A. Correct.

24 Q. And why was that, David?

25 A. Well, the Government told me that they would

Sugar - Redirect/Morford

1 naturally be looking into any improprieties if I had any,
2 and in -- in their investigation so they just wanted to
3 make sure everything is above board and legal because
4 that's the way I usually do business.

5 Q. David, isn't it a fact that you backdated some notes
6 to try to cover yourself and cover a friend, and you ended
7 up with something that could have been 25 years? Yes or
8 no.

9 A. Yes.

10 MR. TRAFICANT: No further questions at this
11 time

12 THE COURT: You may inquire.

13 REDIRECT EXAMINATION OF DAVID SUGAR

14 BY MR. MORFORD:

15 Q. Mr. Sugar, I'd like to follow-up on that last
16 question you just got asked.

17 Would you have had any need to cover up your conduct
18 by creating false documents and telling your secretary to
19 lie and lying to a Grand Jury if this had been an up and up
20 transaction instead of a favor or for favor as you
21 testified to here today?

22 A. No. I wouldn't have had any reason to cover it up
23 then or to lie.

24 Q. And you sit here today as someone who's going to be a
25 convicted felon for the rest of their life because you did

Sugar - Redirect/Morford

1 what, sir?

2 A. Because I tried to do a favor for a friend.

3 Q. You were asked some questions by Congressman
4 Traficant about whether or not you were asked to wear a
5 wire and whether or not you did this or whether or not you
6 did that. Let me ask you this:

7 Were you publicly indicted before or after you came
8 to agreement to cooperate with the Government?

9 A. I was indicted after.

10 Q. I'm sorry. You were indicted --

11 A. Wait, I was indicted before.

12 Q. Okay. Just in terms of the sequence, what happened
13 first, indictment or cooperation?

14 A. (No response.)

15 Q. Let me ask this. After you were indicted, did you
16 file any motions in the case to try to put the
17 indictment --

18 MR. TRAFICANT: Objection.

19 THE COURT: You can answer.

20 THE WITNESS: I'm sorry. Could you repeat
21 that?

22 Q. Did you file any motions challenging the validity of
23 the indictment?

24 A. No, sir.

25 Q. Did your attorney file any on your behalf, to the

Sugar - Redirect/Morford

1 best of your knowledge?

2 A. No, sir.

3 Q. By the time you and your attorney approached the
4 Government about cooperation, was it public knowledge that
5 you had been charged with these offenses?

6 A. Yes, sir.

7 Q. At one point, Congressman Traficant was asking you
8 about the case in Licking County, and he said so the case
9 was completely dropped. Do you recall that question?

10 A. Yes, sir.

11 Q. Could you explain to the jury the background of what
12 you mean by that? What actually happened with that case?

13 A. That was a case that attorney Mark Colucci was going
14 to -- going to pursue on my son's behalf with respect to my
15 son's attorney also being a judge in that county. They
16 took it to the Court of Appeals, and it was stricken down.

17 Q. Okay.

18 Ultimately, did your son end up pleading guilty to
19 those charges anyway?

20 A. Yes, he did.

21 Q. And so in the end, did you feel that you'd gotten
22 anything out of that representation. Did anything change
23 in the end?

24 A. No, nothing at all.

25 Q. Now, you were asked some questions by Congressman

Sugar - Recross

1 Traficant regarding whether or not you knew who held legal
2 title to the farm. Let me ask you this. Regardless of who
3 held legal title to the farm, who was it that requested
4 that you go out and perform work at the farm?

5 A. The Congressman, Congressman Traficant.

6 Q. And what was your understanding of who was
7 benefitting from the work that you were doing out at the
8 farm?

9 MR. TRAFICANT: I object to the speculation.

10 THE COURT: Sustained.

11 MR. MORFORD: Your Honor, I'm asking his
12 understanding as to why he made the payments.

13 THE COURT: Objection sustained.

14 MR. MORFORD: Okay.

15 MR. MORFORD: Just one moment. Nothing
16 further.

17 THE COURT: Thank you.

18 REXCROSS-EXAMINATION OF DAVID SUGAR

19 BY MR. TRAFICANT:

20 Q. Are you a convicted felon now?

21 A. Yes.

22 Q. How much time are you looking at?

23 A. According to the Sentencing Guidelines, I believe a
24 maximum of -- like I said, I wasn't sure how it was read,
25 but I think my attorney said 22 months.

Sugar - Recross

1 Q. Um-hum. Did you and your attorney get any
2 affirmation from the prosecutors that they were going to
3 recommend even a reduced sentence below that?

4 A. They said if I cooperated, they would recommend a
5 reduced sentence, yes.

6 Q. Down to what?

7 A. They didn't say.

8 Q. Did you ever do other favors for friends, David?

9 A. Sure.

10 Q. Did you charge them?

11 A. If it's a favor, I don't charge. If it's work, I
12 charge them.

13 Q. Oh. What's the difference between the favor and the
14 work with a friend?

15 A. Excuse me?

16 Q. What's the difference between a favor and work for a
17 friend?

18 A. Well, if someone asked you for a favor or something
19 that's -- a favor is a favor. Someone says can you do me a
20 favor, you do them a favor. If it's -- if someone says
21 come and look at this work I got, then you charge them for
22 the work.

23 Q. Have you done favors for your friends that was, in
24 fact, work?

25 A. I wouldn't say that. Maybe my relations I've done

Sugar - Recross

1 work for but no friends.

2 Q. So you have immunity; is that right?

3 A. No, sir.

4 Q. You have no immunity?

5 A. No, sir.

6 Q. You just have a deal, plea agreement, right?

7 A. My -- my agreement is to tell the truth, which I
8 should have done in the beginning.

9 Q. And had you told the truth in the beginning, would
10 either of us be sitting here?

11 A. Yes. I would think so.

12 Q. Then why didn't they charge us together?

13 MR. MORFORD: Objection as to his basis and
14 knowledge on that speculative question.

15 THE COURT: Sustained.

16 BY MR. TRAFICANT:

17 Q. Then why did you report on your IRS return the
18 payments that Traficant made to you?

19 A. Why did I?

20 Q. Yes.

21 A. Because that's part of -- part of my business.
22 That's my --

23 Q. Did you ever, David, say look, I think it's this
24 much. You gave me this much. Now I want this much. Did
25 you ever do that?

Sugar - Recross

1 A. No, sir.

2 Q. Did you ever once ask me what the balance was or tell
3 me what a balance was?

4 A. No, sir.

5 Q. Well, then, how can you make the statement you
6 weren't paid if you don't tell me what I owe you?

7 A. Because actually, I wasn't expecting any money when
8 you gave me that check. I was shocked. I was assuming
9 that I was doing the work for free because you helped my
10 son.

11 Q. You assumed again, didn't you?

12 A. Yes.

13 Q. You weren't told, were you?

14 A. No. I was never told either way.

15 Q. That's fine. You answered the question? With the
16 appraisals made and what you reported on your income tax to
17 avoid prosecution under IRS statute, you would receive
18 close to \$7,000 of value from Jim Traficant; is that
19 correct?

20 A. Correct.

21 MR. TRAFICANT: No further questions.

22 MR. MORFORD: I have no further questions,
23 your Honor.

24 THE COURT: Thank you. You may step down,
25 sir.

Buckley - Direct/Morford

1 THE WITNESS: Thank you, ma'am.

2 THE COURT: Sir, would you raise your right
3 hand.

4 THOMAS BUCKLEY

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 THOMAS BUCKLEY

9 BY MR. MORFORD:

10 Q. Good afternoon, sir.

11 A. Good afternoon.

12 Q. Sir, could you please state your full name, and spell
13 your last name for the Court Reporter?

14 A. My name is Thomas Buckley, B-U-C-K-L-E-Y.

15 Q. And Mr. Buckley, as I understand it, you've been sick
16 with the flu; is that correct?

17 A. Yes, for the last two weeks.

18 Q. Actually, you were supposed to testify several days
19 ago and called us and said you could not, correct?

20 A. Yes, yes, yes.

21 THE COURT: I think you're going to have to
22 speak louder. Maybe if you pick up the mike and hold it
23 up. It will come right out. There you go. That may be
24 better.

25 THE WITNESS: Okay.

Buckley - Direct/Morford

1 THE COURT: There we go.

2 Q. Are you still feeling the effects of the flu?

3 A. Yes, I am. I'm still under prescription medication.

4 Q. And I see you have the water there, and if at any
5 point you need to stop or anything, you can address the
6 Court. Okay?

7 A. Thanks.

8 Q. Could you tell the jury how you're employed, sir?

9 A. I work as an investigator for the U.S. Department of
10 Labor Wage and Hour Division. I'm in the federal building
11 in Akron, Ohio.

12 Q. How long have you been an investigator with the U.S.
13 Department of Labor, Wage and Hour Division?

14 A. Since 1983, so it'll be 19 years.

15 Q. And can you tell us what type of violations you
16 investigate?

17 A. The main law that we enforce is called the Fair Labor
18 Standards Act. It's commonly known as a federal minimum
19 wage overtime record keeping and child labor laws. And we
20 also enforce other laws, such as Davis Bacon related acts,
21 which is labor standards established for companies that do
22 business with the federal government, construction and
23 reconstruction work. That law requires prevailing wages be
24 paid and fringe benefits and overtime pay for laborers and
25 mechanics working on federal government project.

Buckley - Direct/Morford

1 Q. Now, sir, in the investigations that you've conducted
2 of violations of federal labor laws as you just described,
3 Fair Labor Standards Act, the Davis-Bacon Act, who are the
4 primary people who are subject to your investigations, just
5 in general?

6 A. Under the Fair Labor Standards Act, there's a rule
7 that an employer has to gross \$500,000 a year in gross
8 sales to be covered by the federal labor laws. It can be
9 less than that if they're directly engaged in the --
10 involved in commerce. Under the Davis-Bacon law, a
11 contract is bid on federal government contracts, and if
12 they are awarded the bid, then they get to work on that
13 contract.

14 Q. But these would be then employers that you
15 investigate, correct?

16 A. Right, employers.

17 Q. And whose interests do you serve to protect in these
18 investigations?

19 A. The employees who work for those employers.

20 Q. Now, are you familiar with two companies called --
21 first one is called Asphalt Specialist, Incorporated and
22 the second one is called Prime Contractors?

23 A. Yes, I am.

24 Q. And how did you first become familiar with these two
25 companies, Asphalt Specialist and Prime Contractors?

Buckley - Direct/Morford

1 A. There was another investigator in our office who was.

2 MR. TRAFICANT: Excuse me. But I cannot hear
3 your testimony.

4 THE WITNESS: I'm sorry. There was another
5 investigator in our office who was assigned to do an
6 investigation of Asphalt Specialist, Incorporated.

7 Q. And how did you then become familiar with these two
8 companies?

9 A. Back in 1996, the owners of Asphalt Specialist,
10 Incorporated, Anthony and Robert Bucci, came to the U.S.
11 Department of Labor with a request to be removed early from
12 the debarred bidders list, and they had been found guilty
13 of violating federal labor laws under Davis-Bacon and had
14 been put on what's called a debarred bidders list,
15 debarring them from bidding on federal government contracts
16 for up to three years.

17 Q. And when you say they had been convicted of violating
18 the Davis-Bacon law, in laymen's terms that the jury can
19 understand, what types of things would that mean?

20 A. That would usually mean that they failed to pay the
21 prevailing hourly wage rate to the appropriate job
22 classification for work done on the project. Failure to
23 pay fringe benefits and bona fide payments for benefit
24 plans and failure to pay properly all the time over --
25 overtime hours worked over a 40-hour work week.

Buckley - Direct/Morford

1 Q. What's the significance to a company like the Buccis,
2 a company being placed on this debarred bidders list? What
3 does that mean in practical terms?

4 A. They would not be allowed to work on federal
5 government projects as long as they were on the list.

6 Q. I'd like to ask if you could turn and take a look at
7 a document placed before you, Government's Exhibit 2-37.
8 Do you see that?

9 A. Yes, I do.

10 Q. And can you tell us what that document is just in
11 general?

12 A. This is a notice from the U.S. Department of Labor
13 from the national office in Washington, D.C. to Anthony --
14 Robert Bucci and notifying him about being put on the
15 debarred bidders list.

16 Q. Okay.

17 MR. MORFORD: And, your Honor, may I put this
18 on the overhead?

19 THE COURT: Yes.

20 Q. I'd like to ask you if you could to just read the
21 middle paragraph there that starts -- well, before we do
22 that, let me ask you this: Is this a document, this
23 letter, that was made and maintained in the ordinary course
24 of business for the U.S. Department of Labor and maintained
25 in the files of the Department of Labor?

Buckley - Direct/Morford

1 A. Yes, that's correct.

2 Q. Could you go ahead and read that middle paragraph,
3 please, starting with pursuant to Section?

4 A. "Pursuant to Section 5.12(a) of regulations 29 CFR,
5 Part 5, this matter was referred to the controller general
6 of the United States with the request that your individual
7 and company names be placed on an ineligible bidders list
8 for having committed willful and aggravated violations of
9 labor standards provisions of the Contract Work Hours and
10 Safety Standards Act, and the Federal Aid Highway Act.
11 This letter is to notify you that on March 2, 1994, the
12 controller general forwarded the aforementioned names to
13 the General Services Administration for placement on the
14 monthly list of parties excluded from the federal
15 procurement or nonprocurement programs."

16 MR. TRAFICANT: What is the date of that?

17 THE WITNESS: The date is April 15, 1994.

18 Q. Now, if you would turn to what is in front of you and
19 marked Government's Exhibit 2-41, do you see that?

20 A. Yes, I do.

21 Q. Do you recognize that document?

22 A. Yes, I do.

23 Q. And can you tell the jury what this document is?

24 A. This is a document, a letter that was sent in by
25 Anthony Bucci to the Department of Labor requesting that he

Buckley - Direct/Morford

1 be removed from the debarred bidders list.

2 MR. MORFORD: Your Honor, may I put this on
3 the overhead?

4 THE WITNESS: It's dated March 22, 1996.

5 Q. What, if any, responsibilities did you receive or did
6 you have regarding this matter once Mr. Bucci sent a letter
7 to the Department of Labor on March 22, 1996, asking to be
8 taken off of the debarred bidders list?

9 A. What happened right after that is the request was
10 reviewed at our national office in Washington, D.C., and
11 Ethel Miller, who's a Government contracts team member
12 there, sent a letter out to both Anthony Bucci and Robert
13 Bucci in early April of 1996, notifying them that there
14 were procedures that have to be followed to determine
15 whether a person or a firm could be removed early from the
16 debarred bidder's list, and that requires an investigation
17 by the Department of Labor Wage and Hour. She was sending
18 the request through the Chicago Regional Office, which
19 covers the Ohio area that the Bucci brothers worked in,
20 requesting that the Department of Labor conduct this
21 investigation to determine whether it be appropriate to
22 remove them early from the list.

23 That investigation was assigned to me around mid
24 April of 1996.

25 Q. Now, could you describe for the jury the type of

Buckley - Direct/Morford

1 investigation that the Department of Labor generally
2 performs when a debarred contractor requests early removal
3 from the debarred bidders list?

4 A. Well, what's required is that a review be done of the
5 activities that the parties have been involved in. It's
6 just put on the debarred list, primarily what kind of work
7 they've done and the work that they've done, whether they
8 had complied with labor standards since being put on the
9 debarred bidders list, what their current attitude towards
10 compliance is, what their current level of compliance with
11 the Fair Labor Standards Act would be, again depending on
12 what activities they would be engaged in.

13 This usually requires meeting directly with the
14 parties, questioning them, and then going out and reviewing
15 appropriate records for places where they have worked, that
16 sort of thing.

17 Q. Whose interests are you attempting to protect when
18 you conduct an investigation that you've just described to
19 determine whether or not based on the factors you just
20 described, the debarred bidder could be taken off the
21 debarred bidders' list?

22 A. This would be any employees who might be currently
23 working for these parties who may still be operating a
24 business or any future business they may operate through an
25 agent once coming off the debarred bidders list, because

Buckley - Direct/Morford

1 that usually means when they request early removal, that
2 they would like the opportunity to bid again on federal
3 government contracts and engage in the federal government
4 contract work again.

5 Q. Now, you said that typically you would actually meet
6 with the employers or the head of the company. Did you, in
7 fact, meet with Robert and Tony Bucci regarding this
8 investigation?

9 A. Yes, I did.

10 Q. And did you have discussion with Robert Bucci
11 regarding how he was employed?

12 A. What I did was I -- shortly after being assigned the
13 case in late April of 1996, I sent out an employment letter
14 to both Anthony Bucci and Robert Bucci, setting a date -- I
15 believe it was April 30, 1996 -- what I would call a desk
16 audit in my office in the Federal Building in Akron, asking
17 them to attend that meeting and bring with them appropriate
18 documents relating to their employment situation since
19 being on debarred bidders list, including things like tax
20 returns, things like that.

21 Q. Now, did there come a time during the course of the
22 investigation where Bob Bucci withdrew his request to have
23 you investigate whether he should be removed from the
24 debarred bidders list?

25 A. Well, right after sending out those appointment

Buckley - Direct/Morford

1 letters, I believe, in fact, it was the next day I received
2 a call from Jim Welfley who was the legislative aide for
3 Congressman Traficant, inquiring as to what the status of
4 their request for early removal was.

5 I told him that I had just sent out the appointment
6 letters, and the meeting was set up for about a week later,
7 and that I would meet with Anthony and Robert Bucci on that
8 day; discuss their situation with them, review any
9 documents they could provide me, and then, you know,
10 continue down the road to making a determination as to
11 whether they should be removed early from the debarred
12 bidders list.

13 I did meet with them on that day. Anthony explained
14 that he had gone to prison for about six months. When he
15 came out, he was put on probation. He had done very little
16 work, some consulting work in the paving business. Since
17 then because his wife was working full-time, and she was
18 able to support him. He brought in a tax return. I
19 believe it was 1994, showing just a few thousand dollars in
20 earnings. His 1995 tax return hadn't been received, an
21 extension from the IRS.

22 I spoke with Robert Bucci. He said that he had also
23 worked as a paving consultant and salesman for two
24 different companies since being put on debarred bidders
25 list. He showed tax returns for 1993 and 1994, making

Buckley - Direct/Morford

1 about \$25, \$30,000 a year. He hadn't filed his 1995 tax
2 return yet and had received an extension from the IRS on
3 that.

4 He had indicated to me that he was concerned about my
5 conducting any further investigation because I explained to
6 him and to Anthony -- well, with Anthony, said I would have
7 to check with his probation officer. I believe it was
8 Debbie White in the Youngstown area, to get copies of his
9 probation report to see what his report showed.

10 For Robert, I would have to make contacts with his
11 prior employer, which was a company called Black Rock,
12 Incorporated or his current employer at the time, a company
13 called State Materials, to determine his involvement with
14 those companies.

15 Both Anthony and Robert seemed concerned about my
16 doing any further investigation of them, looking into their
17 activities in the Youngstown area. Both had asked that I
18 not take any further action on their request for early
19 removal until they had a chance to talk about it between
20 themselves and decide whether or not they wanted to go
21 forward.

22 Q. And that came after you advised them that you would
23 first have to investigate these matters you described
24 before you could make any decision on their request to be
25 removed from the debarred bidders list?

Buckley - Direct/Morford

1 A. Yes, that's correct. I told them I would like a
2 reply either by the end of that day or the next day because
3 we had given a very high priority to their request since it
4 was being inquired into by a U.S. Congressman, and I told
5 them the sooner they'd get back to me and let me know
6 whether they wanted me to continue my investigation, the
7 sooner I could finish my work and make a decision to
8 hopefully, you know, get them off the debarred bidders list
9 early.

10 Q. Why would you, the Department of Labor, give a higher
11 level of attention to this case because it had an inquiry
12 from a congressional office?

13 A. Well, that's just standard operating procedure within
14 the Department of Labor, Wage and Hour. Whenever we get
15 inquiry from the U.S. Congressman, we always give it a high
16 level of priority.

17 Q. Now, to what extent, if any, did the issue of
18 restitution affect your investigation and your
19 consideration of their request to be taken off the bidders'
20 list?

21 A. In the course of doing my investigation, I made a
22 contact to William Smith, who's a Department of Labor
23 federal government contract specialist in our regional
24 office in Chicago, Illinois, and he had pointed out to me
25 that his records showed that there was still an outstanding

Buckley - Direct/Morford

1 back wage liability of approximately \$8 to \$9,000 of unpaid
2 fringe benefits.

3 Q. Unpaid to whom?

4 A. To the employees on the case that resulted in them
5 being put on the debarred bidders list.

6 Q. Who owed who what?

7 A. The initial liability was approximately \$44,000 in
8 unpaid wages. At the time that the investigation --

9 Q. Unpaid wages by whom? Who owes who?

10 A. By Asphalt Specialist, by the Bucci brothers to the
11 employees who worked on the federal government project that
12 they had violated Federal Labor Standards on.

13 Q. Okay.

14 A. They had paid approximately \$35,000 of the \$44,000
15 that was due, but the record showed that there was still an
16 outstanding liability of about \$8 to \$9,000.

17 Q. And who is it that's out this \$8 to \$9,000?

18 A. The employees who worked on that project. It
19 involved fringe benefit payments that were supposed to be
20 paid into two fringe benefit plans. One was a plan in
21 Pennsylvania. One was a plan in Texas. Approximately
22 three or four days after that meeting I received a call
23 again from Mr. Jim Welfley, Congressman Traficant's aide,
24 inquiring as to the status of my investigation.

25 I pointed out to him during that telephone

Buckley - Direct/Morford

1 conversation that I was still waiting to hear from Anthony
2 and Robert Bucci as to whether or not they wanted me, you
3 know, to continue my investigation and to go over to the
4 Youngstown area and start, you know, questioning some of
5 the people I needed to question and check additional
6 records I needed to look at.

7 At that time, I was waiting to get a call back from
8 Anthony or Robert to bring up the issue of the unpaid back
9 wage liability, which we didn't touch on at the next
10 meeting we had in Akron. I didn't find out about that
11 until after I spoke with Mr. Smith after that meeting.

12 Since I had Mr. Welfley on the phone, he said he had
13 met with Anthony and Robert Bucci after the meeting with me
14 and was calling on their behalf. I pointed out to him in
15 addition to the issue of doing further investigation into
16 their activities that there was this other issue of unpaid
17 back wages that would have to be addressed.

18 And that recommendation for early removal could not
19 be made until that issue had been resolved, either by them
20 providing evidence to me that these additional fringe
21 benefits hadn't been made to these plans or by providing a
22 certified check to the Department of Labor, Wage and Hour
23 for the amount of the back wages due.

24 Just a few minutes after having had that telephone
25 conversation with Mr. Welfley, I received a call from

Buckley - Direct/Morford

1 Anthony Bucci, questioning this unpaid back wage liability.
2 Mr. Bucci alleged that they had paid all the back wages
3 that they were required to pay by making additional
4 payments into these benefit payment plans, and I told him
5 that there was no evidence in the file that I had been
6 provided to show that. Mr. Smith in Chicago indicated his
7 records did not show these additional payments had been
8 made, and until some evidence was forthcoming, we could not
9 take his word that the -- that the payments were made, that
10 if he had actually made the payments, most employers would
11 have evidence of that, and if they went through the trouble
12 of actually paying back wages to people, they would
13 essentially have kept a record of that to be able to prove
14 to us they had done that.

15 Q. What happened next after you had that conversation
16 with Anthony Bucci?

17 A. Well, I -- I gave him the name of Mr. Smith and his
18 phone number in Chicago because he said that he wanted to
19 discuss it at a higher level than myself. And he indicated
20 that he would be calling Mr. Smith to discuss it with him.
21 Shortly after having my conversation with Anthony Bucci, I
22 called up my district director in the district office in
23 Cleveland. Since this was a congressional case, I was
24 asked to keep him up to date on everything I was doing.

25 When I explained to him that I had just received a

Buckley - Direct/Morford

1 call from Mr. Welfley and discussed what I had spoken with
2 him about and then received an immediate follow-up call
3 from Anthony Bucci -- and I referred him to Mr. Smith in
4 Chicago -- my district director called for a four-way
5 conference call between himself, his name is Barry Hager,
6 myself, Mr. William Smith in Chicago, and Deputy Regional
7 Administrator Richard Mickman who is the second in command
8 in our regional office in Chicago, who was also keeping an
9 eye on this case since there was congressional
10 involvement.

11 We had this four-way conference call, and beginning
12 of the call, Mr. Smith acknowledged that he had just
13 received a call himself directly from the Congressman
14 Traficant --

15 Q. Without getting into what he told you, did there come
16 a time where you yourself spoke with Congressman Traficant?

17 A. Right.

18 After -- after having this conference call, I was
19 directed by -- during this conference call, I was directed
20 by the deputy administrator --

21 Q. Without telling me why you did it or who told you,
22 because that would be hearsay, did there come a time where
23 you spoke with Congressman Traficant?

24 A. It was about five days later -- I believe the date
25 was May 8th -- I received a direct call from Congressman

Buckley - Direct/Morford

1 Traficant in my office in Akron.

2 Q. Was that a call that you had requested, or was that
3 an unsolicited call from your standpoint?

4 A. It was an unsolicited call.

5 Q. And it was you and speaking personally with
6 Congressman Traficant?

7 A. Yes.

8 Q. Had you ever personally received a call directly from
9 a U.S. Congressman in any case, at any point during your 19
10 years as a U.S. Department of Labor investigator?

11 A. I have never received a direct call from a U.S.
12 Congressman prior to that time, and I have not received one
13 since that time. It was the only call I've ever received
14 directly from a U.S. Congressman.

15 Q. You testified generally about a number of things that
16 were done differently with a number of high-level people
17 you spoke with, in your words, because this was a
18 congressional case.

19 What, if any, time pressures did you experience in
20 this case involving Tony Bucci?

21 A. Well, the direction I had received was that I should
22 work the case as quickly as possible but still do a federal
23 investigations required under the law.

24 Q. Are these kinds of investigations and investigation
25 of an employer who have been removed from the debarred

Buckley - Direct/Morford

1 bidders list generally considered top priority cases?

2 A. Yes. Any -- any type of case that involves a
3 congressional inquiry --

4 Q. I'm saying in general, not congressional inquiries,
5 but just investigations of debarred bidders who want to get
6 off the list apart from having a congressman call?

7 A. Okay.

8 We very seldom receive this type of request to come
9 off the debarred bidders list early. In my 19 years with
10 the Department of Labor, it's the only investigation of
11 that kind that I've been asked to conduct.

12 I'm not aware personally of any other investigating
13 officer being asked to conduct that type of investigation.
14 Normally, when employers are put on that list, they remain
15 on the list for the three-year period, and then when it
16 expires, they come off the list.

17 Q. Were you asked to make any special reports in this
18 case because it involved an inquiry from a congressional
19 office?

20 A. What I was required to do, which I normally don't do,
21 is make a weekly report to my district director in
22 Cleveland.

23 Q. And what was the purpose of these weekly reports?

24 A. That was to keep him up to date on how the case was
25 progressing because of the sensitive nature of being a

Buckley - Direct/Morford

1 congressional case, and it was my understanding that he
2 then was keeping our regional office management people up
3 to date on where I was at on the case, and they were
4 keeping our national office people up to date.

5 Q. Were these written reports or oral reports that you
6 were required to make each week?

7 A. These were written reports.

8 Q. Had you ever had another case where you received as
9 much scrutiny as you did in this case?

10 A. No. Normally when I conduct an investigation, I
11 handle it entirely on my own from beginning to end, and the
12 only report I have to file is at the very end of the case
13 when we turn the case in.

14 Q. How did you ultimately resolve this matter involving
15 Tony Bucci's request to be removed from the debarred
16 bidders list?

17 A. Well, when I received the direct call from
18 Congressman Traficant on May 8 of 1996, he wanted to know
19 what was holding up, you know, the work on getting the
20 removal from the debarred bidders list.

21 And I had explained to him that there were
22 investigations, procedures I had to follow, primarily
23 looking into the background of their activities over the
24 prior three-year period, and I was still waiting to hear
25 from his constituents as to whether they wanted me to do

Buckley - Direct/Morford

1 that. I also pointed out the issue of the unpaid wage tax
2 liability.

3 Q. You pointed that out to Congressman Traficant?

4 A. Yes, I did, and I told him at that point in time I
5 was just waiting to hear from his constituents as to
6 whether they wanted me to pursue it.

7 In that telephone conversation, Congressman Traficant
8 told me that it was his understanding that Ron Bucci had
9 already decided to rescind his request to be removed early
10 from the debarred bidders list. Apparently, he did not
11 want me to look further into his activities over the last
12 prior years.

13 Congressman Traficant said it was his understanding
14 that Anthony Bucci was still interested in being removed
15 early from the debarred bidders list.

16 So I told him that each one of them should contact me
17 as soon as possible to let me know what their position was
18 so I would know how to continue.

19 The very next day, May 9, 1996, I received a letter
20 in my office in Akron, signed by Robert Bucci rescinding
21 his request to be removed early from the debarred bidders
22 list. So at that point, Robert Bucci was out of the
23 investigation.

24 I had not heard from him -- from Anthony as to
25 whether he wanted me to continue. The previous day, he

Buckley - Direct/Morford

1 called after I spoke with Congressman Traficant, and that's
2 when I referred him to Mr. Smith in Chicago, and that
3 Congressman Traficant called on his behalf to Mr. Smith.
4 At that point, I was still waiting, you know, to hear what
5 I should do. When I got on the four-way telephone call to
6 my management people, the deputy regional administrator --
7 Q. Sir, I want to stop you there. Without getting into
8 all the details of who told you what and what you told
9 them, in the end, how did you ultimately resolve the matter
10 as to Tony Bucci?

11 A. I was asked to make direct contacts with those two
12 payment plans, the one in Pennsylvania and the one in Texas
13 to see what I could find out as to what their records
14 showed, were there any additional unpaid wages paid into
15 the plans. And if I had found that and could show that the
16 liability had been taken care of, I was instructed that I
17 could make a recommendation that no further investigation
18 be conducted. And Anthony Bucci could be removed early from
19 the debarred bidders list.

20 I made contacts over the next two weeks with these
21 plan administrators, to have them send me documents through
22 the mail. I reviewed those documents. I made a
23 determination that there was no substantial evidence that
24 additional payments had been made into the plans to cover
25 that \$8 to \$9,000 liability, so the liability still stood

Buckley - Direct/Morford

1 unless Anthony Bucci could provide direct evidence to me
2 that the payments had been or choose to make the certified
3 check payment to the Department of Labor for the amount
4 found due, that hadn't been paid yet in order to allow for
5 recommendation for early removal from the debarred bidders
6 list.

7 I never did receive a contact back from Anthony
8 Bucci. So once I had completed my review of the benefit
9 plan records, I sent a report to my supervisor, the
10 district director in Cleveland, telling him that my finding
11 was that these back wages were still due, and until that
12 issue was resolved, either by Anthony Bucci providing
13 additional information to show that the payments were made
14 or by making the back-wage payment, that it could not make
15 a recommendation for early removal.

16 Q. So in the end, what did you recommend to your
17 superiors that they do to resolve this matter?

18 A. I recommended -- I recommended that Anthony Bucci be
19 allowed to be removed early from the debarred bidders list,
20 if he could show that there were additional payments made
21 that there was no record of, that I could find of, or if he
22 could not do that, because the payments were not made, that
23 if he made the payment that was due, that that's all it
24 would take to remove him early from debarred list, I would
25 not do any further investigation of his background. Once

Buckley - Direct/Morford

1 the back wages were paid, then I would recommend that he be
2 removed early from the debarred bidders list.

3 Q. Who had the ultimate responsibility for making a
4 final determination on your recommendation? Who made the
5 call in the end as to whether Tony Bucci would be taken off
6 or not off?

7 A. The district director sent a memo to Ray Waguski, who
8 is a regional wage specialist in Chicago, I believe early
9 June.

10 Q. Without getting into all the things that happened,
11 who had the ultimate authority? Who makes that decision?

12 A. Well, it goes -- it goes to Chicago, and then the
13 regional administrator sends the recommendation to the
14 national office. That recommendation was sent to Ethel
15 Miller, a Government contracts team member, who was
16 overseeing this case at the national office level. It's my
17 understanding that it was her ultimate decision as a
18 national office person.

19 Q. Do you know what was ultimately decided as to the
20 resolution of this matter?

21 A. I think it was ultimately decided that Anthony Bucci
22 would not be considered for early removal from the debarred
23 bidders list because of his still outstanding liability of
24 unpaid back wages on the case.

25 Q. That was the position the department took?

Buckley - Direct/Morford

1 A. That's correct.

2 Q. And if Anthony Bucci either could show evidence that
3 he made those payments or went ahead and paid the \$9,000,
4 what would happen?

5 A. Then the action actually would be taken to remove him
6 from the debarred bidders list at that point.

7 Q. With no further investigation?

8 A. With no further investigation.

9 Q. Why would you recommend not to conduct further
10 investigation? What was it about this case, this matter
11 that led you to do that?

12 A. It was my feeling that it was primarily because of
13 the pressure we were receiving from Congressman Traficant's
14 office.

15 Q. Now, turning your attention to Government's Exhibit
16 2-49 and 2-50 in front of you, do you see those?

17 A. Yes, I do.

18 Q. And starting with 2-49, just very briefly in a
19 nutshell, can you tell me without getting into the details
20 what is in this generally?

21 A. This is one of the weekly reports that I referred to
22 earlier, that I make to my district director in Cleveland.

23 Q. What's the date of this weekly report?

24 A. Exhibit 2-49 is dated May 2, 1996.

25 Q. And is this a report that you prepared in the

Buckley - Direct/Morford

1 ordinary course of your business with the Department of
2 Labor, and was it maintained in the files of the Department
3 of Labor as part of the business affairs of the Department
4 of Labor?

5 A. Yes. Well, it wasn't done in the ordinary course of
6 business. Like I said earlier, I never had to make reports
7 like this, you know, on a normal routine investigation, but
8 once these reports were prepared, then they did become part
9 of the case file, yes.

10 Q. Okay.

11 And this particular report, does it relate to -- or
12 summarize a telephone call that you testified to earlier,
13 that you received from Jim Welfley?

14 A. Yes, it does.

15 Q. And does it give a date on when that telephone call
16 took place?

17 A. Yes, it's May 3, 1996.

18 Q. Turning your attention to Government's Exhibit 2-50,
19 again, can you just generically describe what this document
20 is?

21 A. This is another report that I had prepared with my
22 supervisor.

23 Q. And is this also a document that was made and
24 maintained as part of the business of the United States
25 Department of Labor in this case?

Buckley - Cross

1 A. Yes, it is.

2 Q. And what's the date of this report?

3 A. This report is dated May 9, 1996.

4 Q. And does -- in the very first line, do you see there
5 is this reference to a telephone call and a date of that
6 call?

7 A. Yes. This reference is the direct call I had
8 received from Congressman Traficant on May 8 of 1996.

9 MR. MORFORD: May I have a moment, your
10 Honor?

11 THE COURT: Yes.

12 MR. MORFORD: I have no further questions.

13 THE COURT: Congressman?

14 CROSS-EXAMINATION OF THOMAS BUCKLEY

15 BY MR. TRAFICANT:

16 Q. How are you doing, Mr. Buckley?

17 A. Pretty good.

18 Q. You made me sound like I'm the most powerful man on
19 Capitol Hill.

20 A. Yes, sir.

21 Q. Was I known by the Department of Labor?

22 A. Pardon me?

23 Q. Was I known by the Department of Labor?

24 A. I don't know what extent the Department of Labor knew
25 you, but I assumed they had because they dealt directly

Buckley - Cross

1 with congressmen in the course of the work that we do.

2 Q. You've been there 19 years, and no Congressman or
3 senator called you about one of their constituents?

4 A. No, Congressman, directly. I have received contacts
5 from congressional district offices from time to time, a
6 staff person representing a congressman. Usually someone
7 from Congressman Tom Sawyer's office in Akron, which covers
8 the Summit County or Congressman Ralph Regula Office, the
9 Canton area which is the main areas I cover in the Akron
10 federal building, but I never received a direct contact
11 ever from either Congressman Sawyer or Congressman Regula.

12 Q. You think all congressmen are the same? Maybe there
13 are some more active than others, is that possible?

14 A. Yes, sir.

15 Q. Did I seem to be more active than most congressmen?

16 A. Only in the sense that you contacted me directly,
17 which I never received a contact like that before.

18 Q. Normally, that's just the staff, isn't it?

19 A. Pardon me?

20 Q. Normally that would be a staff responsibility?

21 A. Yes.

22 Q. Congressmen wouldn't get on the phone, right?

23 A. That's correct.

24 Q. Do you know if I did that only in the Bucci case?

25 A. That's the only experience I had.

Buckley - Cross

1 Q. Would you know of any experience I had with any other
2 agencies?

3 A. No.

4 Q. Now, you said the ultimate protection of Davis-Bacon
5 and Fair Labor laws was to protect employees, right?

6 A. Yes, sir.

7 Q. Isn't it a fact to protect the public because if the
8 employees are getting screwed, who's going to get hurt?

9 A. Well, question: It covers -- employees are a part of
10 the public.

11 Q. What do these employees do?

12 A. They work on these projects. In the case of Asphalt
13 Specialist, they do paving work.

14 Q. Now, you said that Robert Bucci at some particular
15 point told you he didn't want to go further and didn't want
16 to be taken off the debarment list; is that right?

17 A. You said it was your understanding, apparently having
18 spoken with him previously.

19 Q. Did you investigate that?

20 A. I have -- I was waiting for him to let me know one
21 way or the other.

22 Q. Did you call him?

23 A. I met with him in Akron.

24 Q. And what, if anything, did he say?

25 A. He said he wanted some time to decide whether he

Buckley - Cross

1 wanted me to continue. I was waiting for a call back from
2 him.

3 Q. All right.

4 Isn't it a fact that this whole debarment issue
5 revolved around the fact that you wanted physical evidence
6 that the \$9,000 liability owed had been resolved?

7 A. That's correct.

8 Q. Why did you want physical evidence?

9 A. Because we can't just take an employer's word that
10 paid back wages that are due have been paid.

11 Q. What would physical evidence be in the form of --

12 A. Documents from the fringe benefit plans showing
13 whether the payments were made, the amount of the payments,
14 and what projects, payments were for employees, the
15 payments were made for.

16 Q. And isn't it a fact you said if you can't prove that,
17 send us a certified check?

18 A. That's correct.

19 Q. And then the certified check would serve as what?

20 A. That would pay the back wages that were still
21 unresolved. We would then distribute the money from that
22 certified check to the employees, who would be due those
23 back wages, and it would be resolved.

24 Q. But as far as the Abduces were concerned, that would
25 settle the matter of physical evidence, wouldn't it?

Buckley - Cross

1 A. Yes.

2 Q. And without physical evidence, you couldn't do
3 anything to them, could you?

4 A. I could not make a recommendation of early removal
5 without that issue being resolved. It's written into
6 Regulation 512.

7 Q. Now, who was the woman that made the decision out of
8 Chicago?

9 A. There was no woman involved in Chicago. The woman
10 was at the national office, Ethel Miller.

11 Q. Yes, the national office?

12 A. Ethel Miller.

13 Q. And Ethel Miller said look, no physical evidence. No
14 diminution in debarment; is that correct?

15 A. That's my understanding, yes.

16 Q. But did she say if you did attain the physical
17 evidence, that she urged you to expedite the investigation?

18 A. I never spoke directly with her. I only spoke with
19 my deputy regional administrator in Chicago. What I was
20 told is that since Anthony Bucci was not forthcoming with
21 evidence without paying into the benefit plans, that I
22 should take the extraordinary effort to contact the plans
23 myself and see what documentation they could provide to me
24 as to whether or not additional payments were made.

25 So I spent about a two-week period doing that,

Buckley - Cross

1 involved quite a bit of work, contacting these plans,
2 explaining to them, you know, what information I needed,
3 and then these plan administrators did research, went back
4 into their records, sent me whatever documents they had,
5 and then I reviewed those documents.

6 I made reports about this again to my district
7 director in writing as to my findings, having looked at the
8 documents supplied by these plans, and the evidence I
9 received from the plans did not substantiate that these
10 additional payments were made to cover this back wage
11 liability.

12 So on that basis, having contacted the plans directly
13 myself, I took the position that the back wages were still
14 due, and until back wage payment was made, Anthony Bucci
15 could not be considered for early removal from the debarred
16 bidders list.

17 Q. After receiving my call personally, did you then hold
18 the Buccis to a different standard than you held other
19 debarred people?

20 A. No. I didn't hold them to any different standard.
21 Like I said, this was the only case of this nature that I
22 have ever handled, but I was following specific criteria
23 set in the regulations. Handling another case like this
24 again, I would handle it exactly the same I handled this
25 case.

Buckley - Cross

1 Q. Even if Senator Glenn would have called you?

2 A. Yes, sir.

3 Q. Were the Buccis my constituents?

4 A. Yes, sir.

5 Q. Did I call you first about them?

6 A. Well, my first contact with the office was with
7 Mr. Welfley, your aide, and then I received a contact from
8 you.

9 Q. Fine. How many times did Mr. Welfley call you?

10 A. I received two telephone contacts with him prior to
11 the telephone contact from you.

12 Q. And to the best of your knowledge, was there a
13 satisfactory understanding between you and Mr. Welfley?

14 A. Yes. He seemed to understand that there were
15 procedures that had to be followed. He had indicated that
16 he had hoped I could do my work as quickly as possible
17 because the construction season was starting up that
18 summer, and he had hoped that Anthony and Robert Bucci
19 would have the opportunity to work on federal projects that
20 summer should they be removed early from the list.

21 Q. Having worked for 19 years for the U.S. Department of
22 Labor, did you become somewhat familiar with how a
23 congressional office sort of functions?

24 A. Yes, sir.

25 Q. And isn't it a fact that if a staffer runs into a

Buckley - Cross

1 roadblock, the Congressman or senator steps in?

2 A. I never had that experience. As I said earlier, I
3 dealt with staff workers for both Congressman Sawyer's
4 office and Congressman Regula's office on a regular basis,
5 and even though there were sometimes things that had to be
6 checked further or resolved, I never received a direct call
7 from either one of those Congressman. I always -- only
8 worked, you know, with one of their staff members.

9 Q. So I was the only Congressman to pick up the phone
10 and call you, is that your testimony?

11 A. Yes, sir.

12 Q. Took the time to do that?

13 A. Yes, sir.

14 Q. Now, did you ever send me a list of contractors in my
15 district that were debarred?

16 A. I wouldn't do that. The --

17 Q. Let's stop there, not to interrupt you, because we're
18 getting late in the day. How would a congressman know if
19 someone was debarred in his district unless the person came
20 and said I was debarred? Tell me.

21 A. Well, the persons that are put on the debarred
22 bidders list receive a notice of that. And the General
23 Services Administration also publishes a list so that when
24 companies bid on a Government project, they can check to
25 see whether that company's been debarred or not.

Buckley - Cross

1 Q. Yeah. But you don't send them -- for example, if in
2 Congressman Regula's district right up here, not far away,
3 if he had three contractors who were debarred in this
4 district, would he know about them unless they told him?

5 MR. MORFORD: Objection as to the speculation
6 of how this witness would know what Congressman Regula
7 would know.

8 THE COURT: Sustained.

9 Q. Did you notify the congressmen and the senators when
10 a person in their district or state was debarred? Would
11 you have a policy to do that? Yes or no.

12 A. And I am not aware of a policy like that.

13 Q. Don't you think that would be a good suggestion?

14 A. Well, I believe a policy is that this debarred
15 bidders list is a published list available to anybody who
16 would want to know that. And if a congressman would want
17 to know whether there were any businesses in his district
18 that were on that list, the Congressman would be able to
19 secure a copy of that list and review it.

20 Q. So is a list printed?

21 A. It is published by the General Services
22 Administration.

23 Q. Do you know how many lists they publish?

24 A. No, sir.

25 Q. Would you say it's a lot?

Buckley - Cross

1 MR. MORFORD: Objection. He doesn't know.

2 THE COURT: Right.

3 BY MR. TRAFICANT:

4 Q. In most cases, would you not agree unless the
5 constituent went to the particular congressional office or
6 notified the office, most congressmen or senators wouldn't
7 know about a debarment?

8 THE COURT: Don't answer that question.

9 Thank you.

10 Q. Now, when you talked to me, did you tell me about the
11 \$9,000?

12 A. Yes, sir.

13 Q. And what, if anything, did we discuss?

14 A. I just indicated to you what the remaining issues
15 were, which was whether I should look further into their
16 background and this issue of the unresolved back wages, and
17 I was wanting to hear from Anthony or Robert as soon as
18 possible to discuss it further with them.

19 And then our conversation ended. I was under the
20 assumption that since you called on their behalf, since you
21 said you had spoken with them, since I had my meeting with
22 them, that you would be getting back to them to discuss
23 what came out of your conversation with me, and that they
24 would be contacting me.

25 Q. You assumed that?

Buckley - Cross

1 A. Yes.

2 Q. Okay.

3 Did I ask you to waive the \$9,000 or do anything
4 special for them?

5 A. No. You wouldn't have the authority to do that.

6 Q. That's exactly right, isn't it? That's the decision
7 of the United States Department of Labor, isn't it?

8 A. Yes, sir.

9 Q. But is it not a fact that members of Congress do call
10 not only the heads of departments, but even the
11 vice-president and the president themselves on issues that
12 are important? Do you have knowledge of that?

13 A. No, sir.

14 Q. But you're Cleveland supervisor wanted a weekly
15 report, didn't he?

16 A. Yes, sir.

17 Q. Did your Cleveland supervisor know who I was?

18 A. I have no way of knowing that.

19 Q. You said a second time when asked by Mr. Morford that
20 when you were asked to review this matter --

21 MR. TRAFICANT: In fact, I'd asked for a
22 document 2-41 to be put on the screen if I can again? Can
23 we put 2-41 on, Matthew? Which one do I hit?

24 MR. KALL: The very last one.

25 Q. Read the second paragraph.

Buckley - Cross

- 1 A. Which one is this now?
- 2 Q. That's Exhibit 2-41(a), Government's Exhibit exhibit?
- 3 A. Yes, I have it.
- 4 Q. Could you read it real quick?
- 5 A. Second paragraph? "I have served six months in jail.
6 I have also contributed over \$85,000 to my community and
7 have donated over 1,000 hours in community service. I have
8 been disbarred and ineligible for work for three years."
- 9 Q. Let me ask you this: You investigate to see if he
10 had, in fact, served six months in jail?
- 11 A. No, I hadn't. That was one of the things I was about
12 to do to visit his probation.
- 13 Q. Fine. We're about out of time. I don't mean to
14 interrupt you. I just want some quick answers here.
- 15 A. Okay.
- 16 Q. Did you investigate to see if he contributed \$85,000
17 to the community?
- 18 A. I was waiting for a decision from Anthony or Robert
19 Bucci as to whether they wanted me to continue my
20 investigation.
- 21 Q. Did you investigate and see if he had complied with
22 or had provided a thousand hours of community service?
- 23 A. Again, I was waiting for their decision as to whether
24 they wanted me to continue my investigation to establish
25 those things.

Buckley - Cross

1 Q. Wasn't it a fact that you said that Robert Bucci said
2 he didn't, but Anthony Bucci did?

3 A. Robert Bucci decided he did not want me to continue
4 my investigation of him. Anthony indicated that he was
5 still considering that, but he had -- had not given me
6 permission to go forward.

7 Q. Did he ever give you permission to go forward?

8 A. No, he did not.

9 Q. And did you debar him?

10 A. He remained on the debarred bidders list because he
11 did not give me permission to go forward with the
12 investigation.

13 Q. Did you ever take him off the debarred list?

14 A. No.

15 Q. When you told me that they had an outstanding
16 liability and that you had no physical evidence, did I ask
17 you to change the rules and give him a break?

18 A. The impression I got in my conversation with you is
19 that you had wanted me to do whatever I could to help these
20 people, if there's any way I could possibly move things
21 along, to make a recommendation favorable to them, that it
22 was something you would appreciate.

23 Q. Did I ask to assist you if you needed help?

24 A. I don't recall you asking or offering to assist me in
25 any way. You just wanted me to do my job as quickly as

Buckley - Cross

1 possible, hopefully with a favorable result to the
2 constituents.

3 Q. And what, if anything, did the people in Chicago say
4 to you?

5 A. They told me to take the extraordinary effort to
6 contact those benefit plans directly myself and see what I
7 could find since Anthony Bucci was not forthcoming with any
8 records of his own, showing any payments that he made.
9 They just wanted to make sure that this unresolved
10 liability was still valid.

11 Q. Now, when they never showed any physical evidence,
12 other than what their spoken words were --

13 MR. MORFORD: Objection. Asked and answered.

14 THE COURT: I don't really know because I
15 haven't heard the whole question. Why don't you go ahead?

16 BY MR. TRAFICANT:

17 Q. When you finally realized that they never came up
18 with any physical evidence, did you get any further calls
19 from me?

20 A. No, I did not.

21 MR. TRAFICANT: No further questions.

22 THE COURT: Okay.

23 MR. MORFORD: Nothing.

24 THE COURT: Sir, you can step down. We're
25 going to recess the jury for today. See you tomorrow

Buckley - Cross

1 morning at 9:00. Remember the admonitions, enjoy the
2 evening.

3 MR. TRAFICANT: Your Honor, I'd like to make
4 that a joint exhibit before I forget.

5 THE COURT: Well, you stay here. We'll do
6 some --

7 MR. TRAFICANT: Your Honor, I'd ask for a
8 real brief explanation. I may not object to many of their
9 exhibits.

10 THE COURT: Wait, because we have a jury
11 that's going to come out. Okay.

12 MR. TRAFICANT: Okay.

13 MR. TRAFICANT: So, Bernard, if you could
14 briefly, I'd appreciate it.

15 MR. SMITH: Yes, sir.

16 THE COURT: You want to just show them to the
17 Congressman first so as we go through --

18 MR. SMITH: All right. I'll need to pull
19 them, your Honor. Let me get the ones from up here.

20 MR. SMITH: I'll stand over here and do it so
21 you can see it at the same time.

22 MR. TRAFICANT: Thank you, Bernard.

23 MR. SMITH: Your Honor, starting with the
24 last witness we just had on, Exhibit 2-41.

25 MR. TRAFICANT: I ask it be made a joint

Buckley - Cross

1 exhibit.

2 THE COURT: All right. Without objection,
3 it'll be admitted.

4 MR. SMITH: Exhibit 2-49, which was a memo
5 from one of the weekly memos from Mr. Buckley to his
6 superior up in Cleveland.

7 MR. TRAFICANT: Ask it be made a joint
8 exhibit.

9 THE COURT: Without objection, it'll be
10 admitted as a joint exhibit.

11 MR. SMITH: 2-50, which is another one of
12 those memorandum from Buckley to his supervisor.

13 MR. TRAFICANT: Ask it be made a joint
14 exhibit.

15 THE COURT: Without objection, it'll be
16 admitted as a joint exhibit.

17 MR. SMITH: Moving then to five series of
18 exhibits, which would be the Sugar area, we start with
19 Exhibit 5-1, which is the letter from Mark Colucci to
20 Attorney Carter discharging Carter from representation of
21 David Sugar, Junior, and replaced representation forthwith
22 by Mr. Colucci.

23 MR. TRAFICANT: Ask it be made a joint
24 exhibit.

25 THE COURT: That will be admitted as a joint

Buckley - Cross

1 exhibit, without objection.

2 MR. SMITH: Next, your Honor, would be
3 Government's Exhibit 5-4(1), which was the letter from
4 Congressman Traficant to Judge Spahr down in Licking County
5 Court of Appeals concerning Dave Sugar.

6 MR. TRAFICANT: Ask it be made a joint
7 exhibit.

8 THE COURT: It'll be admitted as a joint
9 exhibit without objection.

10 MR. SMITH: Next, your Honor, would be
11 Exhibit 5-8, which is the check from Congressman Traficant
12 to Honey Creek in the amount \$1,142.

13 MR. TRAFICANT: Ask it be made a joint
14 exhibit.

15 THE COURT: It'll be a joint -- admitted as a
16 joint exhibit, without objection.

17 MR. SMITH: Exhibit 5-9, your Honor, we
18 offer, which is one of the bills that both Beegle and Sugar
19 testified about, having to do with the work done on the
20 farm in April of 1999.

21 MR. TRAFICANT: Ask it be made a joint
22 exhibit.

23 THE COURT: Joint exhibit admitted as such.
24 No objections.

25 MR. SMITH: Exhibit 5-11, your Honor, is a

Buckley - Cross

1 series of pictures shown -- six pictures showing the farm
2 equipment being moved from the farm to the Dean's Dairy in
3 Pennsylvania.

4 MR. TRAFICANT: Ask it be made a joint
5 exhibit.

6 THE COURT: Okay. That's 5-11?

7 MR. SMITH: 5-11, your Honor.

8 THE COURT: Is it ten pictures?

9 MR. SMITH: Six pictures, your Honor, just
10 six.

11 THE COURT: They'll be admitted as a joint
12 exhibit.

13 MR. TRAFICANT: Your Honor, I would like it
14 to be known that they be, thus, then listed as joint
15 exhibits on them from now on.

16 THE COURT: When they go to the jury, they
17 should be listed as a joint exhibit.

18 MR. TRAFICANT: Thank you.

19 THE COURT: And that means you and the
20 Government will have to do that together because it's also
21 your exhibit, so you'll have to assist in that.

22 MR. TRAFICANT: Thank you.

23 MR. SMITH: All right. Your Honor, next is
24 Exhibit 5-12, which is a series of three pictures of
25 Congressman Traficant's barn, garage type facility located

Buckley - Cross

1 at his house in Poland, Ohio.

2 MR. TRAFICANT: I ask it be a joint exhibit.

3 THE COURT: All right. Joint exhibit.

4 MR. SMITH: Your Honor, we next have the next
5 series of bills of invoices that Ms. Beegle testified about
6 preparing -- that's 5-13(1) through 5-13(7) inclusive,
7 that's seven documents.

8 MR. TRAFICANT: Let me see each one.

9 MR. SMITH: Okay. All right. Sub 2 is the
10 one that she put -- mailed June 30th. Sub 3 is the one
11 that she wrote mailed August 27th. Sub 4 is the one that
12 she wrote mailed October 29th.

13 MR. TRAFICANT: I ask that they all be made
14 joint exhibits.

15 THE COURT: Okay.

16 MR. SMITH: Sub 5, 5-13(5) and 5-13(6) both
17 have to do with the March 2000 work done for the
18 Congressman, and then those are ones that Ms. Beegle wrote
19 mailed March 31, 2000, that exhibit.

20 MR. TRAFICANT: I ask they both be joint
21 exhibits.

22 THE COURT: Very well.

23 THE COURT: But you just talked across him
24 when he was giving the number, and the record needs to show
25 the number.

Buckley - Cross

1 MR. TRAFICANT: I apologize.

2 THE COURT: The second one.

3 MR. SMITH: 5-13(5) and 5-13(6) are the two
4 that are involved.

5 THE COURT: Okay.

6 MR. SMITH: The next 5-13(7), which is a copy
7 that Dean Hassman from the FBI testified he was given first
8 time that he went out to Honey Creek on April the 26th of
9 2000.

10 MR. TRAFICANT: I ask it be a joint exhibit.

11 THE COURT: It'll be admitted as a joint
12 exhibit.

13 MR. SMITH: Exhibits 5-14(1) and (2) kind of
14 go together. Those are the two computer screen printouts
15 Agent Hassman testified that he printed out at Honey Creek
16 Contracting when he visited there on May the 23rd in the
17 presence of Sue Beegle.

18 MR. TRAFICANT: I ask they both be made joint
19 exhibits.

20 THE COURT: Yes. They'll be admitted as
21 joint exhibits.

22 MR. SMITH: And for today, I think finally,
23 Exhibit 5-22, which I believe the Congressman earlier said
24 he wanted as a joint exhibit, which is the summary chart
25 having to do with the phone calls.

Buckley - Cross

1 MR. TRAFICANT: I ask it be made a joint
2 exhibit.

3 THE COURT: Yes, that will be a joint exhibit
4 and admitted.

5 MR. SMITH: That's all I have today, your
6 Honor.

7 THE COURT: Congressman, anything for today?

8 MR. TRAFICANT: No. But this -- let me ask
9 your Honor a question. I do have the right to offer
10 exhibits on any witness at any time, even though that
11 witness may not -- may have been questioned maybe several
12 weeks ago; isn't that correct.

13 THE COURT: The -- you can't do it with the
14 jury present. As you can see, we do it when the jury's not
15 here. The other thing is there are steps you have to take
16 in order to show that it's proper to be admitted if the
17 witness is not here to identify a photograph.

18 MR. TRAFICANT: I understand that.

19 THE COURT: There has to be somebody who has
20 identified the photograph properly.

21 MR. TRAFICANT: I understand that.

22 THE COURT: Okay.

23 MR. TRAFICANT: If I would have an exhibit,
24 for example, in the Bucci matter and it met the
25 qualifications of what you just discussed, I would not be,

Buckley - Cross

1 in fact, disallowed from bringing that, would I?

2 THE COURT: I don't know how to decide it
3 unless I see what you have in mind. So I would suggest to
4 you when you know you have something you want to offer into
5 evidence, that you bring it, and when the jury's not here,
6 we'll discuss it and see whether it's possible.

7 MR. TRAFICANT: That's good enough.

8 THE COURT: Okay.

9 MR. SMITH: Your Honor, there is one other
10 house-cleaning matter, which I identified to your law clerk
11 this morning is his presence.

12 Earlier in the case the Government offered Exhibit
13 7-41, and I believe your law clerk's notes also reflect
14 7-41. We looked at the transcript, the written transcript
15 on the daily copy, which stated that Exhibit 7-21 had been
16 admitted.

17 7-21 to the Government's knowledge has not been
18 identified by any witness yet, so we wanted to correct the
19 record that it's Exhibit 7-41 that has been admitted and
20 not Exhibit 7-21.

21 MR. TRAFICANT: I would object to this until
22 I see the difference between 7-21 and 7-41.

23 THE COURT: 7-21 has never been identified,
24 but let's show you 7-41 so we can see what it was.

25 MR. TRAFICANT: Which one are you attempting

Buckley - Cross

1 to get admitted?

2 MR. SMITH: We believe that we already had
3 admitted 7-41, which we're handing you now.

4 THE COURT: Just show it to him so he can
5 see.

6 MR. TRAFICANT: We haven't even gotten into
7 this matter how could you put into evidence, 7-21. Did you
8 put it in?

9 MR. SMITH: No. It's never been offered by
10 the Government, your Honor.

11 MR. TRAFICANT: How did it get into evidence?

12 THE COURT: It's not really into evidence.
13 They're pointing out to something that might be a typo in
14 the transcript, and they're doing what everybody should do,
15 which is to check the transcript, to make sure it's
16 accurate. So 7-21 has never come in, but now you have 71
17 in your hand.

18 MR. TRAFICANT: 7-41 and these are notes.

19 MR. SMITH: Paul Marccone's notes.

20 MR. TRAFICANT: And these were testified to?

21 MR. SMITH: Yes. We offered this, your
22 Honor, on February 22, 2002.

23 MR. TRAFICANT: I ask it be made a joint
24 exhibit.

25 THE COURT: Okay. We'll make it a joint

Buckley - Cross

1 exhibit. I have the transcript here from that date if you
2 want to check.

3 MR. TRAFICANT: I don't need to check it.

4 THE COURT: Okay. Very well. So the Court
5 Reporter can take care of the record now. Very well.

6 MR. MORFORD: I'm thinking based on something
7 the Court said awhile ago in terms of how we're going to
8 handle knowing what Congressman Traficant wants to make a
9 joint exhibit and what he does not, I would suggest that we
10 provide him a list of all the exhibits that have been
11 admitted, and he can write on it which ones he wants to be
12 joint, and then we can go right on those which ones are
13 joint and periodically update that, but that's the only way
14 we'll be able to keep track what he wants to be joint and
15 what he does not.

16 THE COURT: I think we have a record, don't
17 we?

18 THE CLERK: Yes.

19 THE COURT: He doesn't -- I mean, if you want
20 him to -- Congressman?

21 MR. TRAFICANT: I want the documents to be
22 listed as joint exhibits of both the Defense and the
23 Government.

24 THE COURT: Well, it is going to be. This
25 particular document, but he's now suggesting is that we ask

Buckley - Cross

1 you to designate which ones you want joint. You've already
2 done that in open court. It's a matter of record, and we
3 also have a record. So maybe the easier thing for us to do
4 is to read that at various times to you or make it
5 available to you.

6 MR. MORFORD: I was just thinking in light of
7 there could be an error on anybody's part, I want to make
8 sure the Congressman has a clear record, that he can go
9 through something in writing and check off yes, these are
10 the ones I want joint, and if there's additional ones he
11 wants joint, he can note that as well.

12 THE COURT: It needs to be on the record in
13 the proceedings that he's requested it. We have a record
14 of that. There's a transcript of that, so what I suggest
15 we do is make our record available. You have copies of the
16 transcript, right?

17 MR. MORFORD: Yes.

18 THE COURT: You can check our record against
19 the transcript, and that way the Congressman doesn't have
20 to start from scratch. He's already been making these
21 motions.

22 MR. MORFORD: Yes.

23 MR. TRAFICANT: Your Honor, I think we've
24 gone on pretty smoothly on the exhibits, and I don't see
25 why we would now start with numbers. I like the idea of

Buckley - Cross

1 what we've done. It's expeditious, and we both have an
2 understanding of what they are, and I would object to
3 Mr. Morford --

4 THE COURT: All we need is a new color, small
5 thing that says joint, and it just needs to be attached to
6 each of these exhibits, and that can be done at any time.

7 MR. MORFORD: My only point: I would get the
8 list from Jeff and just as a fail safe to make sure we
9 don't mark anything as joint that he didn't want, that
10 we'll give him that list to make sure.

11 THE COURT: That's fine. Jeff will give the
12 list to both sides.

13 MR. TRAFICANT: I'd like to respond. I
14 understand how concerned the Prosecutor is for my welfare,
15 and I appreciate it. I'd like to continue on the way we
16 are.

17 THE COURT: Okay. We will.

18 MR. TRAFICANT: Expeditious, and it's been
19 friendly.

20 THE COURT: Okay. And we will simply give
21 you each a copy of our list, and then you each can do
22 whatever you want to with it. Okay? Anything further?

23 MR. TRAFICANT: Not from me.

24 MR. SMITH: Your Honor, is it okay if the FBI
25 comes in this evening to set the sound. We had bad sound

Buckley - Cross

1 obviously for the videotape. We're going to --

2 THE COURT: It would be terrific if they
3 would fix the sound. It was terrible.

4 MR. SMITH: Thank you.

5 MR. TRAFICANT: Will they do that for my
6 tapes?

7 THE COURT: I don't know. You have to make
8 arrangements with our clerk in order to -- so we know when
9 they're coming, or they have to make arrangements. Someone
10 has to make arrangements. We are not open after 6:00
11 normally.

12 MR. MORFORD: One last thing, your Honor:
13 Based on the comment, if there are any tapes that
14 Congressman Traficant intends to offer under discovery, we
15 need to have copies of those. We have some copies. I
16 don't know if he has more than the ones he's given us, but
17 if he does on discovery, we need to have those.

18 THE COURT: Right.

19 MR. TRAFICANT: Your Honor, I am under the
20 impression I am presenting it, it should be a timely
21 fashion when the tapes are gathered, and if I come into
22 possession of at particular tape, I should make it
23 available to the Government in a timely fashion. I have
24 not yet conducted my defense.

25 THE COURT: That's right. Very well. Okay.

Buckley - Cross

1 Have a good evening, everybody.

2 MR. MORFORD: Thank you.

3 MR. TRAFICANT: Thank you.

4 (Proceedings adjourned.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Buckley - Cross

1 CROSS-EXAMINATION OF SUE BEEGLE..... 2787

2 DIRECT EXAMINATION OF DAVID McLANE..... 2800

3 CROSS-EXAMINATION OF DAVID McLANE..... 2806

4 DIRECT EXAMINATION OF DAVID SUGAR..... 2813

5 CROSS-EXAMINATION OF DAVID SUGAR..... 2881

6 REDIRECT EXAMINATION OF DAVID SUGAR..... 2961

7 RECROSS-EXAMINATION OF DAVID SUGAR..... 2964

8 DIRECT EXAMINATION OF THOMAS BUCKLEY 2968

9 CROSS-EXAMINATION OF THOMAS BUCKLEY..... 2993

C E R T I F I C A T E

11 I certify that the foregoing is a correct

12 transcript from the record of proceedings in the

13 above-entitled matter.

14

15

16

17

18

19

20

21

22

23

24

25

Shirle M. Perkins, RDR, CRR
 U.S. District Court - Room 539
 201 Superior Avenue
 Cleveland, Ohio 44114-1201
 (216) 241-5622