



1           Thursday Session, March 21, 2002, at 9:00 A.M.

2           (Proceedings in the absence of the jury:)

3                   THE COURT: Well, this is a working session  
4 for us. I wanted to capture some of the things that are  
5 still sort of open and see if we can get them resolved.  
6 Regarding the nine audio tapes, Congressman, I need  
7 transcripts. We have to have accurate transcripts of those  
8 tapes if you want to ask us to consider the tapes.

9                   And I don't know -- I haven't been given any  
10 transcripts of your tapes. We have -- I don't know how  
11 many of the tapes you are going to propose that we consider  
12 for use -- but you have mentioned nine. And so where are  
13 we with that?

14                   MR. TRAFICANT: I will have a transcript of  
15 those tapes I plan to use.

16                   THE COURT: I'm sorry, I couldn't -- I  
17 couldn't hear you.

18                   MR. TRAFICANT: I will have transcripts  
19 transcribed of those tapes I plan to use.

20                   THE COURT: Okay. Can we have them by  
21 tomorrow so that we'll have a chance to have them --

22                   MR. TRAFICANT: I will doubt that. I don't  
23 know how I can have it transcribed by tomorrow.

24                   THE COURT: Okay. Well, I don't know what --  
25 how you're planning to go forward with your proof, but at

1       some point, we'll need to go into a hearing to look at this  
2       whole series of issues that we've already touched upon.

3               MR. TRAFICANT: I may not -- I may not need  
4       to bring the transcripts. I may be able to bring the  
5       witnesses, where I can't bring the witnesses, and if I  
6       think the tapes are admissible and un --

7               THE COURT: Okay. We need the tapes -- the  
8       transcripts of the tapes. We need to have them as soon as  
9       you can get them available, and you need to make them  
10      available if you expect to use them in time for us not to  
11      have to delay the proceedings and delay the jury.

12              So you need to make your decision on which of these  
13      tapes you're going to propose we use so that we can hold a  
14      hearing on them, but we need the transcripts in advance of  
15      that hearing so that we can look at them. Okay?

16              MR. TRAFICANT: When I get into the evidence  
17      of those individuals that involve those tapes, I will have  
18      the transcripts to you in a timely fashion. I'll give them  
19      to you as soon as I can.

20              THE COURT: And to the Government.

21              MR. TRAFICANT: The Government already has  
22      the tapes, and I assume that they've already transcribed  
23      them with their staff. But it's not their requirement, but  
24      if they do have the transcripts, I'd ask they turn them  
25      over to the court.

1                   THE COURT: No. I was asking you to give  
2                   them a copy of the transcripts that you provide to the  
3                   Court.

4                   MR. TRAFICANT: I naturally will do that,  
5                   your Honor.

6                   THE COURT: Okay. Very well.

7                   MR. TRAFICANT: So is it understood then that  
8                   on or about the time or in as timely fashion that I can,  
9                   that I make available to you those tapes that I plan to  
10                  use?

11                  THE COURT: The transcripts of those tapes.  
12                  We need accurate transcripts of any tape that you're going  
13                  to propose to use, and then we'll have to go through the  
14                  usual things that we have to go through when someone is  
15                  wanting to use an audio tape, but we can't get into that  
16                  until we have an accurate transcript.

17                  MR. TRAFICANT: Thank you.

18                  THE COURT: You're welcome.

19                  We had a couple other issues. One had to do with  
20                  something you wanted to present, your -- the co-conspirator  
21                  statements, issues, whatever they are. Will you just  
22                  present them, please?

23                  MR. SMITH: Your Honor, we make this motion  
24                  out of an abundance of caution.

25                  There was only one instance in this case where

1       Congressman Traficant objected to a proposed co-conspirator  
2       statement. The Court deferred that issue to a break and  
3       did not allow an immediate answer, and the Government then  
4       elected not to pursue it.

5               So to the Government's recollection, there was never  
6       an instance where a co-conspirator statement was admitted  
7       over the Congressman's objection. In all other instances  
8       of where arguably co-conspirator statements were elicited,  
9       the Congressman did not object, and has, therefore, waived  
10      any 801(d)(2)(E) issue, and we wish to preserve it on the  
11      record. By making the motion we're making, we're not  
12      bypassing the fact the Congressman did not object and has  
13      waived the issue that we're about to raise.

14               THE COURT: Okay.

15               MR. SMITH: In the alternative, the  
16      Government does nevertheless request this Court to find  
17      under Vinson and Enright's decision by a preponderance of  
18      the evidence that the various conspiracies alleged in the  
19      indictment existed, that the Defendant was a member of  
20      those conspiracies, and that any co-conspirator statements  
21      were made during the course of and in furtherance of those  
22      conspiracies, those findings being the ones that Vinson, in  
23      particular, asked the Court to make.

24               THE COURT: Well, I think you're going to  
25      have to identify the statements that you're talking about.

1                   MR. SMITH: Yes, your Honor. The ones we're  
2 talking about are with respect to Count 1. There were  
3 certain statements that Mr. Bucci, Anthony Bucci, testified  
4 to, where Mr. O'Nesti, prior to the time that Bucci met  
5 with both the Congressman and O'Nesti, was just a meeting  
6 between Bucci and O'Nesti, that O'Nesti indicated that if  
7 the debt were forgiven, there were things the Congressman  
8 could do for you. And we believe that to be in the  
9 neighborhood of Page 1595 of the transcript.

10                   With respect to Counts 4 and 5, there was testimony  
11 elicited from Raymond Allen Sinclair where Mr. Sinclair met  
12 with Henry DiBlasio and asked Mr. DiBlasio how do you go  
13 about doing these kickbacks, and Mr. DiBlasio explained to  
14 Mr. Sinclair how to go about doing it. You take cash and  
15 put it in an envelope, slide it under the door or leave it  
16 with the Congressman. We believe that testimony to be in  
17 the neighborhood of Page 84 of the transcript.

18                   THE COURT: Wait. Slow down. Wait a minute.  
19 Just slow down.

20                   MR. TRAFICANT: What page is that?

21                   MR. SMITH: 84.

22                   THE COURT: Which transcript, do you know?  
23 You got the volume number?

24                   MR. KALL: We don't have them by volume.

25                   THE COURT: Okay. All right. Give us a

1 chance to get the transcripts.

2 MR. SMITH: Yes, your Honor.

3 MR. TRAFICANT: You guys have your pages over  
4 there. You need some help over there?

5 MR. SMITH: No, sir.

6 THE COURT: Okay. Transcript of February 13,  
7 2002, Volume 1, Page 84 is the one regarding Counts 4 and 5  
8 with Sinclair/DiBlasio.

9 MR. TRAFICANT: Could you repeat those pages,  
10 your Honor?

11 THE COURT: Um-hum. Yes. February 13, 2002,  
12 it's Volume 1 of the jury trial transcript, Page 84.

13 MR. TRAFICANT: And that deals with?

14 THE COURT: Sinclair/DiBlasio. Let me just  
15 find it.

16 MR. TRAFICANT: And the Bucci matter?

17 THE COURT: Yeah, I'm looking for that:  
18 Okay. This would be the testimony on February 26, Volume 9  
19 of the jury trial transcript at Page 1595, and that's the  
20 one with Anthony Bucci regarding O'Nesti.

21 MR. TRAFICANT: 1595?

22 THE COURT: Right. Okay. Thank you. Next?

23 MR. SMITH: Yes, your Honor. I should  
24 mention that is DiBlasio/Sinclair in Counts 4 and 5. Count  
25 7 would also be pertinent to Count 7.

1 THE COURT: Okay.

2 MR. SMITH: The next two and the last two are  
3 with respect to Count 3, which is the Cafaro end of the  
4 case. March the 14th of 2002, Albert Lange testified --  
5 and we believe it to be on Page 3535 of the transcript and  
6 perhaps a page or two thereafter following -- Lange  
7 testified to the effect that he had talked to J.J. Cafaro  
8 and Richard Detore, and that J.J. Cafaro and Richard Detore  
9 told Lange that the Congressman was doing us a favor, and  
10 we need to do a favor for him by buying the boat and then  
11 perhaps in follow-up questions related to that following  
12 that page.

13 THE COURT: Okay. So we'll look to that  
14 transcript. 3-14.

15 MR. SMITH: And I can give you the date.  
16 There's one other one.

17 THE COURT: 3-14, yeah.

18 MR. SMITH: The last is on March 18th during  
19 J.J. Cafaro's testimony. We believe it to be Pages 3958 to  
20 3960 inclusive of the transcript. It's kind of a flip side  
21 of where J.J. Cafaro testified about what Mr. Detore said  
22 about the boat purchase issue.

23 There was an interview of Al Lange, and then Cafaro  
24 went on to testify about what Detore told him about the  
25 boat arrangements, and that -- those would be the four

1 areas we believe are -- that would clearly implicate the  
2 co-conspirator section rule.

3 Thank you, your Honor.

4 THE COURT: Okay. He's just going to get the  
5 transcripts.

6 MR. TRAFICANT: That's all you have?

7 MR. SMITH: Yes.

8 MR. TRAFICANT: And this is your Count 10  
9 motion, Bernard?

10 MR. SMITH: I gave you a response to your --  
11 the thing you filed yesterday, yes.

12 MR. TRAFICANT: This is in reference to that  
13 Count 10?

14 MR. SMITH: Yes. That is the response I  
15 filed -- that does not relate to the issue we're dealing  
16 with today, though, Congressman. That pleading that I gave  
17 you this morning is in response to what you filed  
18 yesterday.

19 MR. TRAFICANT: Yeah. What you've have just  
20 given the Judge is related to your motion relative to Count  
21 10; is that correct?

22 MR. SMITH: No.

23 THE COURT: You gave me one regarding Count  
24 2. That's in Volume 18, March 14th, and it starts on 3535,  
25 goes over to 3536.

1                   MR. SMITH: I believe is it goes to Count 3,  
2                   though, your Honor.

3                   THE COURT: Didn't I say Count 3? I'm sorry.

4                   MR. TRAFICANT: What are the pages on that?

5                   THE COURT: I did say Count 2, didn't I?  
6                   Okay. It's Count 3. It's Volume 18, it's Al Lange  
7                   testifying, and it's Pages 3535 and 3536, and it may  
8                   continue on. I have it -- right now I'm not reading them.  
9                   I'm just trying to discover where they are so we can  
10                  consider them.

11                  And so the last one you gave me, which is March 18th,  
12                  also refers to Count 3; is that right?

13                  MR. SMITH: Yes, your Honor, it does.

14                  THE COURT: Volume 20, Congressman, on March  
15                  18th, Page 3958 through 3960.

16                  MR. TRAFICANT: What count is this, now, and  
17                  which --

18                  THE COURT: That's also Count 3 regarding  
19                  Count 3, and this is Cafaro.

20                  MR. TRAFICANT: And this is what volume and  
21                  page?

22                  THE COURT: Volume 20, Pages 3958 through  
23                  3960 is what they've directed my attention to.

24                  MR. TRAFICANT: They didn't; you did. They  
25                  never mentioned it.

1 THE COURT: 3958?

2 MR. TRAFICANT: No, they mentioned 3535.

3 MR. SMITH: No, I mentioned it.

4 MR. TRAFICANT: Is there any written  
5 documents submitted to the court that I don't have  
6 regarding this motion?

7 MR. SMITH: No.

8 THE COURT: I don't think so. This is a  
9 hearing that's held.

10 MR. TRAFICANT: Okay. Then let me inquire of  
11 the court that Cafaro supposedly had made statements, and  
12 you found the exact volume. Now, they did not, in fact,  
13 produce the volumes, did they?

14 MR. SMITH: I gave the Page Number.

15 THE COURT: He gave me the references so I  
16 can look in my trial transcript.

17 MR. TRAFICANT: Thank you.

18 THE COURT: And I'm giving you the  
19 references. So we all have the same information, I'll give  
20 everybody a five-minute break to consider this unless  
21 there's something else you have before it.

22 MR. TRAFICANT: Before we take that break,  
23 I'd like to know in reference to what the Prosecutor has,  
24 in fact, brought this matter now before the Judge, and what  
25 he's attempting to do.

1 MR. MORFORD: You already explained it.

2 MR. SMITH: As we explained, your Honor,  
3 we're seeking ruling under Vinson and Enright under  
4 co-conspirator exception 801(d)(2)(E), usually a motion  
5 done orally before judges in my experience --

6 THE COURT: Right.

7 MR. SMITH: -- at the end of the Government's  
8 case.

9 We are asking the Court in the alternative to make  
10 that ruling in the alternative to our argument the  
11 Congressman has waived an entire issue because he didn't  
12 object during the trial.

13 THE COURT: Right. And, Congressman,  
14 yesterday I asked him to provide you with the citations to  
15 the two cases they referred to, so you would have -- and we  
16 actually delayed this from yesterday to today so you'd have  
17 time to look at the cases. Okay? So if there's anything  
18 you'd like to say, this would be the time to say it.

19 MR. TRAFICANT: The fact that I did not  
20 object does not necessarily mean I waived my rights.

21 THE COURT: Yeah, that's -- what we're doing  
22 now.

23 MR. TRAFICANT: My rights are preserved under  
24 the constitution, whether I waive or not.

25 THE COURT: We're dealing with waiver right

1 now. They're doing this hearing as an alternative, and  
2 they're entitled to ask the Court to consider what they've  
3 given me in terms of co-conspirator statements, and this is  
4 what this part of this morning is about.

5 This is why we didn't bring the jury in, so we could  
6 listen to them and listen to you, and we can have this  
7 hearing out of the hearing of the jury, which is the way  
8 they're held.

9 MR. TRAFICANT: Question.

10 THE COURT: Yeah?

11 MR. TRAFICANT: Your Honor has allowed  
12 hearsay evidence from Lange about Cafaro, Cafaro about  
13 Lange, and has allowed hearsay by the Prosecution all the  
14 way through this trial. Now, the fact that I waive -- I  
15 don't have to do anything but sit here. I waive no rights,  
16 I need to raise no objections, and this is an irrelevant  
17 motion that's being brought forward here at the last minute  
18 to try and, in fact, preserve their case. I don't have to  
19 open my mouth in this case. In fact --

20 THE COURT: Fine.

21 MR. TRAFICANT: -- in fact, as a Pro Se  
22 Defendant, I don't even have to do nothing but show up here  
23 and wait for you to rule.

24 THE COURT: I wasn't trying to force you to  
25 speak. I was only trying to give you an opportunity to

1 address what it is they're addressing to me here in open  
2 court without the jury present before I rule on it. That's  
3 just the way we run a fair trial.

4 MR. TRAFICANT: I appreciate that, but now  
5 they've come up and talked about waivers. If I'm under no  
6 obligation to present a defense, I'm under no obligation to  
7 object to anything.

8 THE COURT: Okay. Thank you. You can have a  
9 recess for five minutes or so, and I will come back out,  
10 and I'll go consider these things; come back out and give  
11 you a ruling.

12 MR. SMITH: Thank you, your Honor.

13 THE COURT: You're welcome.

14 (Thereupon, a recess was taken.)

15 THE COURT: Congressman, I'll give you a  
16 ruling on this. You want to be seated?

17 MR. TRAFICANT: Are you going to give me a  
18 chance before to speak before you rule?

19 THE COURT: I did give you a chance to speak  
20 before I ruled.

21 MR. TRAFICANT: You gave me five minutes to  
22 look at Enright and Vinson.

23 THE COURT: No. I gave you since yesterday  
24 to look at Enright and Vinson, and I went back and told you  
25 I was going to go back and rule. That's what I did.

1 MR. TRAFICANT: You're not going to allow me  
2 to respond?

3 THE COURT: I gave you an opportunity to  
4 respond.

5 MR. TRAFICANT: No, you did not.

6 THE COURT: Oh, Congressman, come on.

7 MR. TRAFICANT: You really did not give me a  
8 chance to respond. I would have given you the evidence and  
9 material I brought with me. I put none on the record. I  
10 want it on the record.

11 THE COURT: Go ahead and put whatever you  
12 want to on the record, and I will consider it. It's good  
13 we set aside a whole morning for this.

14 MR. TRAFICANT: I knew and I have been here a  
15 long time tracking up evidence you already ruled, but I  
16 want to put this on the record.

17 THE COURT: Put it on the record.

18 MR. TRAFICANT: Number 1, the fact that  
19 Cafaro and Lange were, in fact, associated by Cafaro paying  
20 Lange's legal fees, they should be summarily dismissed, and  
21 in fact, they're -- their whole testimony should be  
22 stricken.

23 Second of all --

24 THE COURT: This isn't the time you have to  
25 make your --

1 MR. TRAFICANT: No. I am not making a  
2 motion. I'm talking about his case.

3 THE COURT: Okay.

4 MR. TRAFICANT: And I want to talk about  
5 Enright.

6 I want to cite Bourjaily versus United States 483.

7 THE COURT: That's a good case.

8 MR. TRAFICANT: 171, 176 -- your Honor --

9 THE COURT: Go ahead.

10 MR. TRAFICANT: You were speaking over me.

11 THE COURT: Excuse me, Congressman.

12 MR. TRAFICANT: And I hope you're taking my  
13 statements seriously rather than just ruling in the absence  
14 of my submitted evidence.

15 THE COURT: You have not begun your case yet.  
16 We're still in the Government's case.

17 MR. TRAFICANT: We're talking about  
18 particular matters that deal with the forthcoming evidence,  
19 and I want to continue.

20 THE COURT: Congressman, we are not talking  
21 about forthcoming evidence in this case.

22 MR. TRAFICANT: I'm talking about their  
23 motion. I'm talking about Enright; I'm talking about  
24 Vinson; I'm talking about what you've already evidently  
25 ruled on, but I want to put it on the record.

1 THE COURT: Okay.

2 MR. TRAFICANT: Cafaro, Lange, DiBlasio, and  
3 Sinclair were all plea bargained down less than a RICO.  
4 They were not conspirators, although named as conspirators.

5 First of all, they do not meet all the requirements  
6 of, in fact, Enright -- Enright, in fact, specifically says  
7 under the testament right, that it's not necessarily that a  
8 conspiracy -- it is not a conspiracy if it has not been  
9 established.

10 How can a conspiracy have been established when a  
11 conspiracy can only be established in a final verdict of a  
12 jury? The jury did not rule that there was a conspiracy  
13 between Traficant and anybody. They are now trying to, in  
14 fact, become Judge, Prosecution, and jury.

15 Second of all, that jury is the only body responsible  
16 to decide if there was a conspiracy that existed so their  
17 motion is premature.

18 Now, this is a double face problem. If they say  
19 that, in fact, DiBlasio is, in fact, a co-conspirator and  
20 DiBlasio has already taken the Fifth and did not make  
21 himself available for the Government, then DiBlasio's tapes  
22 must be admitted into evidence.

23 Third of all, Cafaro and Lange saying out of the same  
24 hymn book, the fact that Cafaro paid Lange's legal fees no  
25 matter how many times Lange called Cafaro a liar is

1 insignificant. That certainly - there was association  
2 between two witnesses that are now being asked by the  
3 Prosecution for you to consider special exceptions and to  
4 force special problems on the Defense.

5 Now, as the Defendant, I have no requirement at all  
6 to object, when to object. I could sit there and pass gas,  
7 quite frankly, and not even make a final argument.

8 For the Court to rule that they have met any  
9 standards to establish that the Judge should rule that a  
10 conspiracy has existed so that then they can bring in their  
11 Count 10 ridiculous motion to make it a 21-count indictment  
12 is unheard of. This is the most unfair thing I've ever  
13 heard of.

14 Now, finally, if someone can show me how, in fact, a  
15 conspiracy existed before a jury has ruled, then I say new  
16 precedent must be set. There shall be no law that I know  
17 of that establishes a person's conspiracy without a final  
18 decision made by a body of jurisdiction having authority.

19 Now, I'm not being tried by the Judge; I'm being  
20 tried in front a jury. Having said that, I am under no  
21 obligation to object, and if I do object, it is just my  
22 choice, and I have not waived my objection. I let Bucci  
23 run his mouth to hang himself. Cafaro and Lange, Cafaro  
24 paid for Lange's defense.

25 Now, if Cafaro paid for Lange's defense and Lange

1        says he doesn't like Cafaro but Cafaro says he does like  
2        Lange, I'm not foolish about the ploy here. In fact, they  
3        admitted that the Government was told that Lange's defense  
4        was paid for by Cafaro. Now, if, in fact, the Government  
5        has in their possession tapes that deal with Cafaro or  
6        DiBlasio that they're now asking and they, in fact, are  
7        moving to involve DiBlasio in the conspiracy and prove a  
8        conspiracy, then the Government then waives their rights to  
9        keep the DiBlasio tapes out.

10                Now, finally, in waiving their rights to keep  
11        DiBlasio tapes out, they waive their rights to keep all  
12        tapes out.

13                Furthermore, I want to read Bourjaily. The 1997  
14        amendment to the Federal Rules of Evidence 801 codifies the  
15        holding in Bourjaily. The advisory committee note also  
16        explains -- I will slow down for the reporters. The  
17        contents of the declarant's statements do not alone suffice  
18        to establish a conspiracy in which a declarant and the  
19        Defendant participated.

20                The Court must consider, in addition, the  
21        circumstances surrounding the statement such as the  
22        identity of the speaker, the context in which the statement  
23        was made, or evidence corroborating the contents of the  
24        statement in making its determination as to each  
25        preliminary question. Every court of appeals that resolved

1 this issue required some evidence in addition to the  
2 contents of the statement.

3 Bourjaily is now talking about appeals. Bourjaily is  
4 now talking about corroboration. Here we have a case of,  
5 first of all, two witnesses whose testimony should be, in  
6 fact, vacated by the court's order, and I now move that  
7 they are. That Cafaro admitted paying, don't even know  
8 what the vision to the Cafaro umbrella paid for Lange's  
9 defense. Lange and Cafaro, in my opinion, were never named  
10 as conspirators. They were named as part of an ongoing  
11 enterprise not charged with conspiracy, plea bargained down  
12 to some misdemeanor, in fact, and these cases are moot.

13 If they do, it's a double edge sword, and now the  
14 Defendant claims if the Judge rules to allow this in, then  
15 the Judge rules the right for them to keep the tapes out  
16 because now they maintain that a conspiracy existed with  
17 DiBlasio, and if a conspiracy existed with DiBlasio and if  
18 he was unavailable on their subpoena, then my tape is  
19 admissible period, whether or not the Congressman takes the  
20 stand or not.

21 Second of all, Cafaro's payment of Lange's testimony  
22 in a federal court as soon as that was heard, his testimony  
23 should have been thrown out. And the Judge allowed it and  
24 allowed hearsay, and the Congressman let it on the record  
25 because he knows what's going on here in Cleveland.

1           You have ruled with them on every motion that was of  
2           significance. You've given me a couple of tokens, and  
3           quite frankly, I think you've already made your decision,  
4           and that's why you took a half hour that's only supposed to  
5           be a five-minute break.

6           Having made my piece, I am asking and moving that the  
7           Court vacate the testimony of Cafaro, vacate all counts  
8           concerning Cafaro, vacate the testimony of Lange, vacate  
9           all parts of the indictment concerning Lange, and, in fact,  
10          admit into evidence immediately, if they rule with the  
11          Prosecution, the -- the admissibility of the DiBlasio tapes  
12          and they be played to the jury period.

13          Now, finally, the Court reflects that if they were  
14          charged with being a co-conspirator and were plea bargained  
15          down, then they did not plea bargain down to a  
16          co-conspirator charge.

17          Cafaro was an information charge; Sugar was a --  
18          subject to some misdemeanor, and I think Sabatine showed no  
19          relationship at all with the Congressman. Sabatine's  
20          relationship was with Chuck O'Nesti. And Chuck O'Nesti's  
21          statements have already been declared unavailable, and he's  
22          open for the Defense as well.

23          Now, you can't have it both ways. Bourjaily is to  
24          the point, and they did not meet the Number 1 specificity  
25          of the Enright case. The Enright case says that a

1 conspiracy must be established. A conspiracy has not been  
2 established because no judge can establish a conspiracy.  
3 You are not -- you are not the judge of facts here. The  
4 jury has yet to order.

5 Now, the Prosecution, if they should happen to be  
6 defeated again then could appeal on the grounds of the  
7 matter they are presenting to you. However, it is not now  
8 the timeliness for such action. And I think it's a  
9 last-minute attempt to make a ten-count indictment a  
10 21-count indictment with a mountain so high that it cannot  
11 be climbed by any Defendant.

12 Now, my final comments are this: Whether I was  
13 Johnny Cochran, Mr. Spencer, or Mr. Bailey, attorneys of  
14 acclaimed esteem, if I were representing -- one of those  
15 men were representing me, they had no requirement to even  
16 stand up and make a statement.

17 The Defense need not open their mouth. When the  
18 Defense opens their mouth, it does not necessarily mean  
19 because they waive, they make an objection to one issue,  
20 that they waive any and all other issues.

21 Therefore, under the items that I have given, I think  
22 the arguments by the Government is moot, and I am going to  
23 suggest to the Court that before you rule I state that you  
24 have amended the constitution of the Sixth Amendment. You  
25 have amended the United States constitution in the First

1 Amendment, and you will now be making further  
2 constitutional amendments with this judgment after knowing  
3 that Cafaro paid for the testimony of Al Lange and Cafaro  
4 and Al Lange are now listed as a part of a conspiracy with  
5 Jim Traficant. There's only one conspirator that's been  
6 identified in this trial. His name is Richard Detore. He  
7 may or may not take the stand, and quite frankly, I think  
8 he may. Having said that, the Court can now rule.

9 THE COURT: Well, first, I'll rule on these  
10 motions to strike the testimony of Lange and Cafaro. The  
11 motions are denied. If you'll be seated.

12 MR. TRAFICANT: I'm trying to find --

13 THE COURT: I'll deal with the other issue  
14 that we have been working on --

15 MR. TRAFICANT: I would ask for a minute or  
16 two to get my pen out.

17 THE COURT: Are you ready?

18 MR. TRAFICANT: Yes, I am.

19 THE COURT: Good. I'll be referring to four  
20 sections. Transcript, Volume 1, Page 84, Volume 9, Page  
21 1595, Volume 18, Pages 3535 to 3636, and Volume 20, Pages  
22 3958 and 3960.

23 These sections contain statements relating to the  
24 conspiracies that were charged in Counts 1, 3, 5 and 7.

25 Rule 801(d)(2)(E) states, in part, Congressman, that

1 "a statement is not hearsay, and if the statement is  
2 offered against a party and it's a statement by a  
3 co-conspirator of a party during the course of and in  
4 furtherance of a conspiracy, for a statement to qualify  
5 under this rule, the Court must find by a preponderance of  
6 the evidence that, one, there was a conspiracy.

7 "2. The declarant, which is to say the person who  
8 made the statement was a member of the conspiracy.

9 "3. The Defendant against whom the statement is  
10 offered was a member of the conspiracy.

11 "4. The statement was made in furtherance of the  
12 conspiracy.

13 "5. The statement was made during the course of the  
14 conspiracy."

15 And then for a statement to fall under the exception,  
16 the Court has to find by a preponderance of the evidence  
17 that each of those elements has been met as stated in the  
18 Enright case, which apparently you have read. The Sixth  
19 Circuit stated that standard in a more useful form that is  
20 often stated. The standard means, quote, "that it is more  
21 likely than not the elements are met."

22 This Court will find by a preponderance of the  
23 evidence that for the first statement by DiBlasio all the  
24 elements are met. There was a conspiracy. DiBlasio was a  
25 member of the conspiracy. The Defendant was a member of

1 the conspiracy. DiBlasio's statement to Sinclair about  
2 kickbacks was made in furtherance of a conspiracy and  
3 during the course of the conspiracy.

4 The Government has established all of the necessary  
5 requirements for the exception to apply to the  
6 co-conspirator statement by DiBlasio.

7 And in addition, this statement was admitted without  
8 objection by the Defendant.

9 Next, the O'Nesti statement testified to by Anthony  
10 Bucci, this Court finds by a preponderance of the evidence  
11 that for the statement by O'Nesti, all the elements are  
12 met. There was a conspiracy. O'Nesti was a member of the  
13 conspiracy. Defendant Traficant was a member of the  
14 conspiracy. O'Nesti's statement to Bucci was made in  
15 furtherance of the conspiracy and during the course of the  
16 conspiracy.

17 The Government has established all of the necessary  
18 requirements for the exception to apply to the  
19 co-conspirator statement by O'Nesti, and on review of the  
20 transcript, the statement was admitted without objection by  
21 the Defendant.

22 Now, the statements of J.J. Cafaro and Richard Detore  
23 to Al Lange regarding the boat, this Court finds by a  
24 preponderance of the evidence that for these statements,  
25 all the elements are met. There was a conspiracy. Cafaro



1 and Detore were members of the conspiracy. Defendant  
2 Traficant was a member of the conspiracy. Statements to  
3 Lange about the boat were made in furtherance of the  
4 conspiracy and during its course.

5 So as to those -- the Government has established all  
6 the necessary requirements for the exception to apply to  
7 the co-conspirator statements by Cafaro to Detore.  
8 Moreover, these statements were admitted without objection  
9 by the Defendant.

10 Finally, the two statements by Detore to J.J. Cafaro  
11 regarding the boat repairs, this Court finds by a  
12 preponderance of the evidence that for the statements by  
13 Detore, all the elements are met. There was a conspiracy.  
14 Detore was a member of the conspiracy. Defendant Traficant  
15 was a member of the conspiracy. Detore's statements to  
16 Cafaro about boat repairs were made in furtherance of the  
17 conspiracy and during the course of the conspiracy.

18 The Government has established all the necessary  
19 requirements for the exception to apply to the  
20 co-conspirator statements by Detore. And these statements,  
21 moreover, were admitted without objection by the Defendant.

22 So having sat through the presentation of evidence  
23 regarding all of these matters and also on the view of the  
24 specific surrounding transcript areas and listening to the  
25 parties here today, the Court determines that the

1 Prosecution has shown by a preponderance of the evidence  
2 all the requirements for the application of Rule  
3 801(d) (2) (E) to each of these co-conspirator statements.

4 Now, we have other work to do here this morning.

5 MR. TRAFICANT: I want to -- I have a  
6 question on the ruling.

7 THE COURT: Okay. But just a moment.

8 Among the things we have to accomplish before we have  
9 the jury before us again is a motion, which you have asked  
10 to make this morning, and the Government will need to have  
11 time to respond to that.

12 So --

13 MR. TRAFICANT: May I -- when may I make it?

14 THE COURT: Now.

15 MR. TRAFICANT: I want to respond to the  
16 ruling you just made. Did you take into consideration  
17 Cafaro's payment of Lange's legal fees?

18 THE COURT: I took into consideration the  
19 evidence that to date has been developed in this case.  
20 I've been sitting here through all -- I didn't use just one  
21 piece of evidence anywhere.

22 MR. TRAFICANT: Did you hear the testimony  
23 where Cafaro admitted paying Lange's legal fees?

24 THE COURT: That's testimony.

25 MR. TRAFICANT: Did you hear the testimony of

1 Lange saying Cafaro paid his legal fees?

2 THE COURT: I heard that.

3 MR. TRAFICANT: Fine.

4 THE COURT: Now, you have a motion that you  
5 asked for time to make, and this will give you time to make  
6 it.

7 MR. TRAFICANT: Yes.

8 I made a motion in handwriting. This motion  
9 basically states that the Government has asked for a  
10 special form as to Count 10 of the jury's --

11 THE COURT: Congressman, I have that motion  
12 in writing. I'm talking about the motion that you asked to  
13 make at the conclusion of the Government's --

14 MR. TRAFICANT: Oh, I thought you -- I guess  
15 I do have a motion to make.

16 THE COURT: Okay. This will be a good time.

17 MR. TRAFICANT: Can I make that motion now,  
18 your Honor, from the podium?

19 THE COURT: Yes.

20 MR. TRAFICANT: Thank you.

21 THE COURT: You're welcome.

22 MR. TRAFICANT: I move that the case of the  
23 Prosecution be removed and a judgment of acquittal shall be  
24 used in their place.

25 The Court on motion of a defendant or of its own

1 information, if the other side has closed the evidence,  
2 finds it is insufficient to sustain a conviction for such  
3 offense, that, in fact, the case shall be dismissed.

4 If, in fact, the defendant's motion for judgment of  
5 acquittal at the close of the evidence offered by the  
6 Government is not granted, naturally, I can offer evidence.

7 I ask that this case now be dismissed and acquitted  
8 on the following grounds:

9 The Judge clearly has known of violations between  
10 Cafaro and Lange to both of their testimony. Further, that  
11 the Government knew and was in consultation with both of  
12 those attorneys and knew of their legal transactions as far  
13 as payment for legal fees.

14 Third, they offered no corroborative evidence of any  
15 sort regarding Bucheit, regarding Sinclair, regarding  
16 Lange, regarding DiBlasio, regarding Detore, or any and all  
17 others named in the indictment. What you have is what the  
18 Judge has previously ruled to allow the Government further  
19 advantage. You have preponderance of the evidence and  
20 circumstantial evidence.

21 There has not been one investigator of the federal  
22 government to come in to state that Al Lange did, in fact,  
23 pay for those. All you have is paper receipts, not one FBI  
24 agent, not one IRS agent come in and said that Al Lange and  
25 deGroot did not take the money, and that Al Lange did not,

1 in fact, pay \$20,000 to pay for the boat, that Al Lange had  
2 put some of the money in his pocket.

3 All we know is the Government put facts and figures  
4 on the board, and you've accepted their paperwork as  
5 evidence.

6 Second of all, this is the FBI, your Honor. Not one  
7 bit of physical evidence; not one person to wear a body  
8 mike; not one person to gather an admission of a defendant  
9 himself, who by the testimony of Mr. Hess, has been under  
10 criminal investigation since 1993. Where's the  
11 corroboration?

12 Why did they not show and have someone come in and  
13 say that Mr. DeGroot did not give Mr. Lange X amount of  
14 money, and they bill Mr. Cafaro \$20,000 and, yet, did  
15 \$5,000 work of boat work on Congressman Traficant's boat.

16 The Defendant sitting out with a boat that has been  
17 deemed nearly worthless because of its having been sunk,  
18 and there has been no evidence brought forward by the  
19 Prosecution to show that even though they have checks, and  
20 even though they have money, that there was any proof that  
21 that money was paid on that boat. Nor was there any money,  
22 other than the words of the witnesses, of the deeds of this  
23 act. There is no physical evidence. By their own words,  
24 they say they have no tapes. By their own words, they say  
25 they have no prints. By their own words, they have no

1       corroboration. By their own admission, they knew that  
2       Cafaro and Lange were related by Cafaro paying Lange's  
3       legal defense. This is unheard of in American  
4       jurisprudence. And as a member of Congress, I've never  
5       heard of this.

6               Now, if Mr. Lange was still an employee of U.S.  
7       Aerospace, this may be relevant. But the fact that Mr.  
8       Lange was no longer in the employ of Mr. Cafaro and entered  
9       a plea agreement when he was not in the employ of  
10       Mr. Cafaro and Cafaro paid for Mr. Lange's plea agreement  
11       negotiations, this is a precedent in the United States  
12       jurisprudence history.

13              You handle a lot of cases, a paper case to be  
14       developed, and you've allowed the Prosecution to bring in a  
15       man who was given a form, 1998, 1999 -- and I'll now move  
16       over here -- maybe he was nervous. Maybe he didn't know  
17       what was going on. But, I offer this as evidence now for  
18       the record in my motion for acquittal. Can you see the  
19       display, your Honor? Can the Prosecution see the display?

20                       THE COURT: Yes.

21                       MR. TRAFICANT: I asked him to look at the  
22       form of the years 1998 to 1999. There were \$11,000 --  
23       \$11,700, and I asked how much a month did the Congressman  
24       deposit in his account, and I let it on the record. And he  
25       said \$908, and I wrote it down. That was his testimony.

1 It was a Government exhibit. 24 months divided into 11,7  
2 is \$462. This guy didn't even know what the hell he was  
3 doing here.

4 Now, you had Charles Perkins, the investigator --  
5 now, maybe Mr. Hess was under great pressure because he was  
6 probably told he was coming in to testify against a schmuck  
7 that isn't even an attorney. Maybe he found himself  
8 confronted by a cross-examiner with some tenacity, but you  
9 divide 24 into 11,7 and tell me it's \$ 908, and I'll admit  
10 it for the record. It's evident Mr. Hess knew nothing  
11 about this case. The Government had every opportunity to  
12 corroborate the words, the words, and the checks of Lange,  
13 Cafaro, Sinclair, Sabatine, Bucheit.

14 They failed to call Peter Bucheit, whose daughter  
15 said kept the records. And the Government failed to bring  
16 in any investigator of this case to say that Mr. Lange did  
17 not put money in his pocket. Mr. Lange gave the money to  
18 Mr. DeGroot, and Mr. DeGroot and Mr. Lange were in concert,  
19 stealing the money from Mr. Cafaro. Mr. Cafaro clearly  
20 admitted that he, in fact, didn't know anything. He just  
21 signed the checks. They said it was for the boat.

22 Now, I'm looking for some evidence. The only guy  
23 they bring in was an IRS guy that has two years, '98, '99,  
24 24 months, \$11,700 -- can I please have your exhibit,  
25 gentlemen? I don't have it with me.

1                   MR. KALL: What exhibit number would you  
2                   like?

3                   MR. TRAFICANT: I want the exhibit that shows  
4                   the Traficant statement of personal accounts, '98 and '99.

5                   THE COURT: Congressman, you need to provide  
6                   those things. You have had all the exhibits for a long  
7                   time in this case. You need to provide them.

8                   MR. TRAFICANT: I forgot them. I slept all  
9                   night. In fact, your Honor, I'll admit for the record I  
10                  never even looked at their evidence because I knew they had  
11                  no evidence. But I am saying this also for the record: If  
12                  the Judge with her experience believes that the powerful  
13                  FBI doesn't have a tape on Jim Traficant, then the Judge is  
14                  either naive or inexperienced.

15                  They have probably taped me 50 times. They tried  
16                  every possible way I can guarantee you that. They had no  
17                  evidence. They could acquire no evidence. But when they  
18                  had a chance to corroborate evidence, they bring a guy from  
19                  Philadelphia that can't divide 24 into \$11,700.

20                  Let's go back to the record since I do not have it  
21                  here before my motion is acquitted. Did I not, in fact,  
22                  identify the exhibit number? Did I, in fact, not circle  
23                  and mark the years 1998 and '99? Was, in fact, \$11,700 the  
24                  amount of money he said accounted to, and did he not say it  
25                  was \$908 a month.

1           And the Congressman then asked him, is it exorbitant  
2           for a Congressman to, in fact, deposit \$908 a month into  
3           his account? Cash.

4           And the Prosecution objected, and then they smiled,  
5           not knowing the Congressman, who just had a witness that  
6           don't even know what the case is about, made a very serious  
7           mistake. And if he has been a 33-year investigator,  
8           criminal as well, he don't know his assets from his larynx.

9           Now, having said that, this Prosecution should have  
10          been compelled to bring in somebody to prove that Al Lange  
11          and deGroot didn't conspire to steal money from Cafaro.  
12          Cafaro admitted he knew nowhere where the money was going,  
13          knew nothing about it. Where's the evidence? Why didn't  
14          Sabatine wear a mike to me? Why didn't DiBlasio wear a  
15          mike, get out of all his troubles? Why didn't Sinclair  
16          wear a mike? Why didn't Cafaro wear a mike? Was it all  
17          touchy-touchy, feely-feely?

18          The bottom line, in U.S. versus Traficant, a new  
19          precedence is being set. On the preponderance of the  
20          evidence, you are going to allow a criminal investigation  
21          of a targeted member of Congress since 1993 by Hess' own  
22          words and by documents supported by the Congressman, his  
23          own tax returns, you are going to make a decision on a  
24          criminal trial on the -- I am going to use your words --  
25          preponderance of the evidence.

1           But I'll give you this: At best, circumstantial  
2 evidence, noncorroborated by physical examination, that the  
3 Prosecution failed to meet the requirements of.

4           Now, I'm an old sheriff. If I have a guy that says  
5 he bribed an official, I'd take that guy right to court and  
6 put him on the stand and have him say he bribed that public  
7 official. That's, in fact, what we have here. As a  
8 sheriff, I would first try to establish proof.  
9 Mr. Cafaro's secretary said he took \$15 or \$20,000 out a  
10 week by cash. That was her own testimony.

11           It was also testified Mr. Cafaro struck his father by  
12 one of the Cafaro witnesses. Mr. Cafaro denied it. That's  
13 neither here nor there. But the bottom line is, I would  
14 have had before I took as a sheriff the local municipal  
15 judge, before I put the local municipal judge on trial for  
16 a \$2,500 bribe, I would have had attempted to have that  
17 person recorded and memorialized by his voice on tape, or I  
18 would have had someone use a ploy to catch him in the  
19 commission of a crime.

20           For example, for the record, Mr. Sinclair.  
21 Mr. Sinclair says he received a manila envelope. He called  
22 the FBI. He didn't touch it. The FBI opened it. They  
23 counted the money. They sent it to the lab. It came back.

24           Now, as a sheriff, let's say it's a municipal judge,  
25 and let's reverse it --

1                   THE COURT: Well, you aren't a sheriff here;  
2                   you're a congressman.

3                   MR. TRAFICANT: I'm making my motion for  
4                   acquittal, and I'm giving you an example.

5                   THE COURT: I'd like you to make a motion for  
6                   acquittal based on the sufficiency of the evidence that's  
7                   before us.

8                   MR. TRAFICANT: I am.

9                   THE COURT: Thank you.

10                  MR. TRAFICANT: I'm showing you the lack of  
11                  evidence.

12                  Since they had no physical evidence and they had  
13                  supposedly money in plastic bags of hard surfaces, not  
14                  toilet tissue, plastic bags of hard surfaces, they could  
15                  have told Mr. Sinclair, look, tell Traficant you don't want  
16                  the money, mark the money, tell Traficant you're concerned,  
17                  things are getting out of hand, take him to some  
18                  restaurant, take him to Alliance, New Castle, Pennsylvania,  
19                  just make sure when you leave the restaurant he has the  
20                  marked money.

21                  Your Honor, they could have me in a fake automobile  
22                  accident. They could put a mike underneath the cross brace  
23                  on his back. God all mighty, there's no physical evidence  
24                  to corroborate the truthfulness of this other than the  
25                  words of their witnesses, and you allowed them to get away

1 with it and bring a man in, spend tax dollars for 37 days  
2 in Cleveland, seven trips by planes, who couldn't divide 24  
3 into 11,7. They have no evidence. They have their  
4 responsibility to prove that deGroot and Lange did not  
5 steal money from Cafaro.

6 How do you know and where is the proof that went into  
7 my boat? Because they said it did? Were they not all  
8 charged with a crime? Did they not all make a plea  
9 agreement?

10 This case should be thrown out on Superior Avenue for  
11 one reason: There is no classification of American  
12 citizens. And whether you're a homeless person or a judge,  
13 the constitution Bill of Rights stands by your side  
14 equally, equally. If they offer this evidence against a  
15 nontarget political target that also has been clearly  
16 identified by the 1993 returns and this Court before they  
17 rule, they should ask for every tax return on the Defendant  
18 since 1983.

19 And I have witnesses that said when I walked out of  
20 the courtroom in 1983, that I was a target. Now, let's get  
21 off it. You've ruled I can't have a vendetta. You've  
22 ruled I can't talk about obsession. Now you've allowed  
23 them to bring a case noncorroborated by the investigators  
24 who did the investigating. All you brought in is a summary  
25 guy to tell you what the numbers are.

1 I submit this to you right now I am going to, in  
2 fact, subpoena a tenth grader from some high school to see  
3 if they can divide 24 into 11,7.

4 Now, come on. I want to know what their evidence is.  
5 They have not met the standards beyond reasonable doubt.  
6 They have met preponderance of the facts. They have  
7 brought circumstantial evidence, but they did not bring any  
8 relevant investigator to, in fact, show that what these  
9 purported crimes were actually committed.

10 Who proved, under any circumstances, that Lange and  
11 deGroot didn't conspire and rob Mr. Cafaro? We have a  
12 survey of -- a boat survey that says the boat was worth \$32  
13 to \$38,000. It was going to cost \$11,000 to do, and it  
14 ended up being \$20,000 and only 60 percent done.

15 Now, where does that leave us to suggest? The  
16 surveyor wasn't licensed? Wasn't certified? Did the  
17 Government look at that? Did I not get from this jury  
18 discovery, the survey? Why did they not bring in the  
19 investigator from the IRS and the FBI? They're not  
20 required by law, but what you are ruling on is exactly what  
21 you ruled on the last motion as we received now from a slip  
22 from your assistant.

23 You have no record of proof beyond a reasonable doubt  
24 at this point to even continue this case, and you know it.

25 THE COURT: Thank you. My assistant just

1 told me how long you've been talking. Thank you.

2 MR. TRAFICANT: Are you interrupting me?

3 THE COURT: No. I was putting on the record  
4 something so that you wouldn't confuse the record.

5 MR. TRAFICANT: Am I limited by time?

6 THE COURT: You're limited not by time in  
7 terms of us, but you're limited by time in terms of all the  
8 things that we have to accomplish before the jury gets here  
9 today. So --

10 MR. TRAFICANT: Your Honor --

11 THE COURT: Sir --

12 MR. TRAFICANT: -- this case should be thrown  
13 out on its face. If you allow this case to go forward of  
14 this magnitude, with this lack of evidence, you have not  
15 only amended the Sixth Amendment of the constitution, the  
16 First Amendment of the constitution, you will amend the  
17 basic document of the foundation of our founders.

18 You will have stood in judgment up to this point.  
19 You are the jury now, and having had presented to you the  
20 fact that the Prosecution had every and all opportunity to  
21 bring in Bucheit, they didn't, to bring in Nemenz. They  
22 showed pictures of the farm and the barn and the work at  
23 the farm. They don't bring in Nemenz.

24 They bring in one worker under immunity who was a  
25 gentleman. I'm thinking of bringing him back now and

1 expose why he had immunity, which I didn't want to do.  
2 What evidence do they have? To say a check was cashed by a  
3 bank?

4 One other thing: What did they show us on Sinclair?  
5 They showed us a U.S. Treasury check and what he did with  
6 it. Did they show his accounts? Did they have an FBI  
7 analyst or summarist summarize his accounts? Wasn't it a  
8 fact that Mr. Sinclair had between \$116,000 and \$143,000 of  
9 debt between he and Mr. DiBlasio? Was Mr. Sinclair used in  
10 the taping of Attorney Alan Manevich?

11 Was it established Attorney Alan Manevich was seated  
12 across the desk? The Government in their case is saying  
13 they made no attempt, because of the boiler room ambience,  
14 because of touchy-touchy Traficant. There's been evidence  
15 in the case from Cafaro himself, his attorney advised him  
16 not to meet with him, with Traficant. The attorney was  
17 meeting with the U.S. Attorneys, thinking he could suggest  
18 he could meet with Traficant to talk about this so-called  
19 money. Did they do that? No.

20 This isn't a case of what the evidence shows. This  
21 is a case about what the evidence does not show. And  
22 you're now judging on a paper case as one of those tapes  
23 will say. If I were on the jury and I saw the paper trail,  
24 I'd find you are guilty if I wasn't one of the principals.  
25 And by what you did, I firmly believe you allowed the tapes

1 in. And if you do not, I believe you will be denying me  
2 the best evidence of my defense. And under the  
3 constitution, I'm allowed the best evidence of my defense.

4 Now, having shown a failure of the Prosecution to, at  
5 least, do everything possible to gather evidence, a failure  
6 of the Prosecution to, in fact, corroborate the statements  
7 of convicted people, the only one I don't believe was  
8 convicted of anything was Lange, or he had the use of  
9 immunity, and his chief fees were being paid for by Cafaro.  
10 Cafaro's indicted, DiBlasio's indicted, Detore's indicted.  
11 Did they call Detore? No. They didn't call Detore because  
12 they know its flimsy. They know that's a phony charge.  
13 There is no conspiracy that existed between Jim Traficant  
14 and anyone in this trial, none whatsoever.

15 And if it did, they had the responsibility to  
16 corroborate the evidence. Not one of those checks of  
17 Lange's was corroborated. He signed them. He cashed them.  
18 He gave the money to deGroot. Did they call deGroot? How  
19 do we know if the surveyor says it's going to cost \$11,000  
20 and it cost 20,000. Why didn't Lange stop? You mean Lange  
21 didn't talk to his boss? Come on now.

22 That boat was worth \$32,000, a wooden boat. It  
23 didn't need \$26,000 of repairs. Any seaman will tell you  
24 that by the way the surveyor made it out to captain Alan  
25 Lange. He took special courses to operate that boat. He

1 wanted to buy that boat, and Al Lange perjured himself when  
2 he said he didn't check with the committee to find out if  
3 it would be right.

4 If I was going to pull a scheme, it wouldn't have  
5 been with someone on the payroll of U.S. Aerospace. Did I  
6 do the things that were said? Did I write the letters?  
7 Did I fight for those companies? Each and every one of  
8 them admitted it, will stipulate to it, but -- and I have  
9 done that for thousands of individuals and companies, and I  
10 didn't bring them in here, and I am not bringing them in  
11 here.

12 And finally, let me say this: When the federal  
13 government sent a treasury agent, an IRS agent, and an FBI  
14 agent, to a fellow in Southern Ohio that I bought a horse  
15 from -- are you listening to me?

16 THE COURT: Yes, fellow in Southern Ohio you  
17 bought a horse from. I'm listening to you.

18 MR. TRAFICANT: Three agents went to see him.  
19 The transaction was over ten years ago, and what they  
20 wanted to know was did Traficant give you any cash over and  
21 above the purchase of the horse? The Government has  
22 offered no evidence of any cash transactions of this  
23 Congressman. They show supposed income but no expense.  
24 And when they do, their expert divides 24 into -- into 11,7  
25 as 908. The reason he did that is because he was so damn

1 confused he counted up the numbers of deposits, 12, and  
2 divided it by the number of deposits.

3 And I just let him go because he made an absolute  
4 fool of himself now. And he's one of the nicest guys I  
5 met. He gives IRS a good image, in fact. I liked Hess.  
6 That's how screwed up this case is. They knew if they  
7 brought in one of these investigators, I'd leave him out a  
8 new asset.

9 And they're scared to death to expose me to their  
10 so-called investigators. So what is it? Did Pikunas  
11 intimidate one of my workers? Was Detore threatened? And  
12 did Detore not say on tape -- and you took it lightly, as  
13 self serving for the Defendant -- that if he didn't have  
14 two kids, he'd shoot himself in the brains, blow his head  
15 off from the pressure's getting from the Government. Did  
16 DiBlasio not send a letter and say Jim, they're after you  
17 so bad my health is failing me?

18 Mrs. Ferrante, they take her --

19 THE COURT: Congressman, we've been over this  
20 issue.

21 MR. TRAFICANT: No. We haven't been over  
22 this issue. I want this on the record.

23 THE COURT: This is a motion you're making.

24 MR. TRAFICANT: And I want it as part of my  
25 motion for acquittal on the record. Now, I have that

1 right.

2 THE COURT: You have the right under certain  
3 circumstances. You can't just say anything you feel like  
4 saying --

5 MR. TRAFICANT: I'm not saying what I feel  
6 like saying.

7 THE COURT: -- and take hours of our time.

8 MR. TRAFICANT: I'm not taking hours of time.  
9 I am making a statement for acquittal.

10 Now, did they take -- and they did take Mrs.  
11 Ferrante, they put a protective custody --

12 MR. MORFORD: Your Honor, objection. None of  
13 this is evidence in the case that has anything to do with  
14 this motion.

15 THE COURT: The thing I have to look at is  
16 whether or not the evidence is insufficient to sustain a  
17 conviction in this case.

18 MR. TRAFICANT: I want to go forward. I'm  
19 talking --

20 THE COURT: You need to talk about what I  
21 need to decide. Otherwise, you're taking up space.

22 MR. TRAFICANT: I am, I am, I am further  
23 embellishing what the Government failed to do and what  
24 their intentions were.

25 THE COURT: Further embellishment isn't going

1 to help. I won't be able to consider your further  
2 embellishment.

3 MR. TRAFICANT: Yes. I mean, yes, you can.

4 THE COURT: Congressman, come on. It's been  
5 over a half hour. Let's get going.

6 MR. TRAFICANT: Hear me. Are you a judge?

7 THE COURT: I am.

8 MR. TRAFICANT: If you had a charge in the  
9 paper of murder, will it affect you to run for office?

10 THE COURT: I'm not going to get into that  
11 kind of discussion with you. This is your opportunity at  
12 the end of the Government's case to move.

13 MR. TRAFICANT: Then let me make it.

14 THE COURT: Well, then do it.

15 MR. TRAFICANT: I'm doing it. And I have the  
16 right to say what I can say here on my motion for  
17 acquittal.

18 The Government took one of my constituents, took her  
19 to Kentucky.

20 MR. MORFORD: Objection, objection. This is  
21 not evidence in the case.

22 THE COURT: There is no evidence of that. If  
23 you put that evidence on, fine, but there is no evidence.

24 MR. TRAFICANT: Her husband had a stroke.

25 THE COURT: Congressman, there is no evidence

1 of that in this case. You may --

2 MR. TRAFICANT: Poisoned the jury, and  
3 finally, on my motion for acquittal, they did that to  
4 poison the jury since they knew that nobody that knows me  
5 would be on this jury. And you violated my rights when you  
6 said a jury, when I was indicted before the -- before this  
7 Court ruled that a defendant like me in my case, jurors  
8 could not be from their area.

9 I was indicted before you made that decision, was  
10 reached by this Court up here under Judge Matia.

11 You have, in fact, violated every damn right I've had  
12 so far. You have given them everything they've asked for.  
13 You've gone so far as suggesting contempt.

14 THE COURT: Sir, you are the one who has  
15 suggested that. Now, move on with your rule. You have  
16 anything further to say on your motion for acquittal, I'd  
17 like to hear it. Otherwise, we have a lot of other things  
18 to do and a jury to deal with.

19 MR. TRAFICANT: I move that you now, for  
20 once, sit back and think very carefully of the decisions  
21 you've already made in this case, and think about the  
22 evidence, nonevidence without corroboration, but with the  
23 words of convicted felons only, make a decision because you  
24 should throw this case out, and I am telling you this: You  
25 are setting a precedence in the United States of America.

1           First, it was set in '83 on the admissibility of a  
2 sixth-generation copy of a tape to help these people. Now  
3 you're letting them go forward without an acquittal on the  
4 circumstantial evidence presented in a RICO criminal trial  
5 where the Government did not even attempt to take that  
6 circumstantial evidence and make it beyond a reasonable  
7 doubt.

8           You are, in fact, now, in my opinion, a part of a  
9 RICO -- a continuing enterprise to, in fact, screw a  
10 targeted member of Congress, whether Congress or not, I've  
11 been targeted since 1983 because I'm the only American in  
12 the history of the United States to beat them pro se in a  
13 RICO case, and they've wanted me ever since, and you are  
14 part of the continuing enterprise.

15           I, in my closing comments, charge a continuing  
16 enterprise exists with the Justice Department, and you have  
17 known about it. Mr. Hess testified to it. You've seen the  
18 1993 returns, and you have even failed to intervene.

19           And with that, I ask that you acquit, that the  
20 indictment be dismissed, and if there's any words that I  
21 failed to use that are proper, I want it to be construed as  
22 a motion that the trial be ceased now for lack of adequate  
23 evidence regarding the purported seriousness of offenses  
24 and that the Judge do so.

25           Thank you.

1 THE COURT: You can respond.

2 MR. SMITH: Your Honor, rather than a closing  
3 argument, I'll give a response to a Rule 29 motion.

4 THE COURT: Thank you.

5 MR. SMITH: Under Rule 29, your Honor, of  
6 course, there is a legal standard that applies, and that is  
7 that the evidence must be considered in the light most  
8 favorable to the Government under the Sixth Circuit's  
9 various decisions, U.S. versus O'Donnell. The Government  
10 is entitled to the benefit of all inferences, which can  
11 reasonably be drawn from that evidence, even if the  
12 evidence is circumstantial says O'Donnell.

13 MR. TRAFICANT: Objection.

14 THE COURT: Overruled. You can continue.

15 MR. SMITH: And further, the Rule 29 stage  
16 does not waive conflicting evidence nor does it waive  
17 considering the credibility of witnesses, also from  
18 O'Donnell.

19 In this case, your Honor, Rule 29 stage, at the Rule  
20 29 stage, witness testimony in and of itself is sufficient  
21 to get the Government over the hurdle. As a matter of law,  
22 under a Rule 29 motion, there is no requirement that there  
23 be physical evidence, corroborating evidence, or anything  
24 else. There need only be sufficient evidence, and that can  
25 be supplied by the witnesses themselves.

1           The Congressman certainly is free in closing argument  
2           to argue matters of corroboration, matters of credibility,  
3           but those are not the proper subject under a Rule 29  
4           motion. Those matters of credibility and quality of  
5           evidence are up to the jury. The issue here is only  
6           quantity of evidence.

7           The Government has established in this case as to  
8           each and every count where there's a conspiracy alleged of  
9           the Congressman conspired with one or more people. In  
10          Count 1, there's at least the Congressman, Anthony Bucci,  
11          Robert Bucci, and Charles O'Nesti.

12          In Count 2, there's at least the Congressman and Dave  
13          Sugar, Junior.

14          In Count 3, there's at least the Congressman, J.J.  
15          Cafaro, Al Lange, and Richard Detore.

16          In Count 4, there's at least the Congressman, Allen  
17          Sinclair, and Henry DiBlasio.

18          And in Count 7, you've got at least the Congressman,  
19          Sinclair, DiBlasio, O'Nesti, Rovnak, Traficanti and  
20          Buccella in all the conspiracy counts. The evidence has  
21          shown an agreement among all those people to violate the  
22          law.

23          The Congressman did not argue specific points about  
24          particular counts, and therefore, I won't either. But  
25          there is one other thing that should be said, and it's been

1 implied throughout the case, and that is that there is no  
2 corroborating evidence in this case, although a Rule 29  
3 stage we're not required to do that.

4 Nonetheless, it should be mentioned that with respect  
5 to Counts 4, 5, and 6, there are reams. There is \$24,000  
6 in cash. There is Sinclair's deposit slips and some  
7 account statements that were put into evidence. There are  
8 the handwritten notes of Congressman Traficant that he  
9 wrote to Mr. Sinclair to get him to perjure himself before  
10 the jury.

11 There are Mr. DiBlasio's checks which bank records  
12 custodians came in and said were cashed for cash.

13 In connection with the Bucci/Tyson count, which is  
14 Count 1, in addition to corroborating testimony of Bucci  
15 and Tyson workers, in addition to the corroborating  
16 testimony of agents, who represented they were told about  
17 being pressured and contacted by the Congressman, there is  
18 Exhibit 2-11, the handwritten note.

19 There are letters to the warden and to Mr. Billak  
20 where it is requested Anthony Bucci get out of jail sooner  
21 than he's supposed to. There are Mr. Dreger's  
22 contemporaneous notes of ODOT. There is a letter to Bank  
23 One concerning the Tyson loan and other evidence.

24 With respect to Count 2, Sugar, there are photos of  
25 equipment, numerous false invoices, a check which is



1 Exhibit 5.8, which was not paid until the Congressman knew  
2 that he was under investigation. There's a letter of the  
3 Community Improvement Corporation asking to save the  
4 terra-cotta facade at a time when doing so would have been  
5 favorable to Mr. Sugar's bid.

6 There are letters to Judge Spahr on behalf of Sugar's  
7 son.

8 MR. TRAFICANT: Objection.

9 MR. SMITH: Relates to the CIC on behalf of  
10 Sugar's son.

11 MR. TRAFICANT: This is speculation.

12 THE COURT: The objection is overruled.

13 MR. SMITH: With respect to the Cafaro count,  
14 even though we're not required to produce corroborating  
15 evidence under a Rule 29 motion, there are the various  
16 letters to Jane Garvey. There are all the checks to Lange,  
17 to cash for the boat expenses. There are all the Lange  
18 receipts in -- for which those cash and checks were paid  
19 for. There are the welder and generator receipts.

20 With respect to Bucheit, a picture is worth a  
21 thousand words. Exhibit 7-34 which is the picture,  
22 physical evidence, of the addition over \$26,000 in value  
23 that Mr. Manevich put on the back of the Congressman's  
24 house, paid for as Manevich testified, by Bucheit, not by  
25 the Congressman.

1           There is the checks that went to Mr. Manevich from  
2           Bucheit. There are the checks that went to Aey Electric,  
3           over \$3,000 in value for the electrical work that Aey  
4           Electric did, paid for not by the Congressman but by  
5           Mr. Bucheit and his companies.

6           There's a boat load of documentation in the Bucheit  
7           case showing the Congressman going to bat for the Bucheits  
8           in Saudi Arabia disputes. Witnesses Bliton and Iannandrea  
9           put all that in. So there is much corroborating evidence  
10          in this case.

11          With respect to Henry Nemenz, the only person who's  
12          raised Henry Nemenz in this trial is the Congressman. It  
13          wasn't mentioned in the Government's opening statement.  
14          And, in fact, a close reading of the indictment would  
15          reveal that the Nemenz allegation is not pleading in the  
16          indictment. The Government proposed at one time to put in  
17          the Nemenz transactions as further patterned evidence with  
18          respect to the RICO count, but before that, there is no  
19          Nemenz predicate before you or Nemenz count before you,  
20          your Honor, and therefore, no ruling is necessary by you --

21                   MR. TRAFICANT: After they heard the tape.

22                   MR. SMITH: That has to do with Nemenz.

23                   MR. TRAFICANT: After they heard the tape for  
24          the record.

25                   MR. SMITH: Finally, even though it's

1           incredibly irrelevant to a Rule 29 motion, let's deal with  
2           1-27.1, \$11,700 divided. We'll look at the transcript, but  
3           I believe the transcript will show the Congressman asked  
4           the witness to divide by 12 and not by 24.

5                     Your Honor, that's the sum and substance of my reply.  
6           Unless you have further questions of me, we ask you to deny  
7           Rule 29 motion.

8                     Thank you.

9                             THE COURT: Thank you.

10                            MR. TRAFICANT: I'd like to respond.

11                            THE COURT: We've had lots and lots of  
12           discussion from you today, and it is not necessary.

13                            MR. TRAFICANT: Just in the form of an  
14           objection.

15                            THE COURT: You can make an objection.

16                            MR. TRAFICANT: The words that I read at the  
17           beginning of my acquittal were, in fact, from Rule 29  
18           itself.

19                            THE COURT: Thank you.

20                            Viewing the evidence as I must, in the light most  
21           favorable to the Government, the evidence is clearly  
22           sufficient, and the Congressman's Rule 29 motion is denied.

23                            We need to go forward now.

24                            MR. TRAFICANT: I object.

25                            THE COURT: Yes.

1                   MR. TRAFICANT: I object on constitutional  
2 grounds.

3                   THE COURT: Okay.

4                   We need to go forward now with our arrangements.  
5 It's almost noon. We should take a break probably if  
6 there's nothing else to do before the jury comes back.  
7 They're to be here ready to come down at 1:30.

8                   And so we can take the usual lunch break unless  
9 there's something, and I have not been made aware of that  
10 has to be done.

11                  MR. MORFORD: Just if we can find out who the  
12 next couple of witnesses are to save delay.

13                  THE COURT: Okay. At 1:30.

14                  MR. TRAFICANT: I don't know who's here.

15                  THE COURT: It's up to you.

16                  MR. TRAFICANT: It's up to me. I'll decide  
17 when they get here.

18                  THE COURT: Well, anyway, we need to know at  
19 least who your first witness is.

20                  MR. TRAFICANT: I don't know who that's going  
21 to be.

22                  THE COURT: Well, tell us who you plan it to  
23 be among the people who are supposed --

24                  MR. TRAFICANT: I plan it to be a man named  
25 Bill Coleman, who was a plaintiff, who was a Bailiff for

1 the Seventh District Court of Appeals of Ohio.

2 THE COURT: Okay. His name is Bill Coleman?

3 MR. TRAFICANT: Yeah. I don't have the exact  
4 spelling of it, and I don't know who's here. I haven't  
5 been out there.

6 THE COURT: Well --

7 MR. TRAFICANT: I told them not to be here.  
8 They won't be testifying until 1:30.

9 MR. MORFORD: There's Mr. Beef Terlecky, and  
10 I don't know about this Mr. Coleman, but I know that Beef  
11 Terlecky has nothing to do with this case whatsoever than  
12 his own beef with his treatment by the FBI when he was  
13 convicted --

14 MR. TRAFICANT: Hear me.

15 MR. MORFORD: -- as a deputy sheriff of a  
16 RICO bribery in claims after he pled guilty that he's not  
17 guilty. What that has to do with this trial, I don't know.

18 THE COURT: I don't know either, but he can  
19 get his witnesses organized and bring them in. The jury's  
20 going to be here at 1:30.

21 Now, one other question before you talk. Usually you  
22 would rest your case if you're going to rest it before --  
23 just as we began. That's the first thing that happens. It  
24 takes a second.

25 MR. TRAFICANT: In front of the jury?

1                   THE COURT: Yeah. And then -- and you'll be  
2                   able to rest your case if you put one on in front of the  
3                   jury. That happens. Okay?

4                   That's the first thing we do. There's nothing else  
5                   we do until we go to your witness. I am telling you this  
6                   so you'll have whoever your witness is going to be ready.

7                   MR. TRAFICANT: I'll have them ready.

8                   THE COURT: But it will be one of these two  
9                   people, I take it, because they've got -- they have to have  
10                  some idea how you're going to call them.

11                  MR. TRAFICANT: I plan to call Bill Coleman.  
12                  His sister's real sick. He's been here two days, stayed  
13                  here two days. But if it's not Bill Coleman, it will be  
14                  one other witness I've deemed to be best as my first  
15                  witness.

16                  THE COURT: Okay.

17                  MR. TRAFICANT: Now, let me say this: He  
18                  made a comment about one of my witnesses. I want to object  
19                  to it on the record. He has no knowledge, if he has  
20                  knowledge in this case at all, and he's already attempting  
21                  to utilize his remarks to demean my witnesses.

22                  THE COURT: Okay.

23                  MR. TRAFICANT: And he should be sat down,  
24                  and he should let my witnesses alone as I've let his alone.

25                  THE COURT: Okay. We don't need to get into

1 this discussion right now.

2 MR. TRAFICANT: And I need some time.

3 THE COURT: I'm giving you the full hour and  
4 a half that we have left, whatever of that is remaining.  
5 We'll be back here at 1:30, but we have to go forward in an  
6 orderly way, and if we get into any areas that require us  
7 to have a break and discuss whether or not testimony is  
8 relevant, we will then take a break and discuss that.  
9 Okay?

10 MR. MORFORD: The only point I want to raise,  
11 your Honor, we had moved prior to trial that the  
12 Congressman would not be permitted without making a prior  
13 showing to the court to ask those kinds of questions and  
14 what I want to make sure --

15 THE COURT: Right. Well, he knows that. I  
16 think the Congressman knows. You remember the order in  
17 limine?

18 MR. TRAFICANT: Listen. No, no.

19 THE COURT: Remember the order in limine  
20 because if you remember, you're not --

21 MR. TRAFICANT: Let me respond for myself. I  
22 don't want the Judge or Prosecutor to tell me what I know.  
23 If you have a motion and an order, then that's your motion  
24 and order. You enforce it. I'm representing myself.

25 THE COURT: I understand. I think we're all

1 fine. Why don't we have lunch, huh?

2 MR. SMITH: Your Honor, before you do, under  
3 Rule 26.2, the Government asks for any Jencks material and  
4 any witnesses he's going to call today. Thank you.

5 THE COURT: Okay. If there is any Jencks  
6 material.

7 MR. MORFORD: Affidavits, statements anything  
8 like that.

9 MR. TRAFICANT: Jencks, this.

10 THE COURT: It's reciprocal.

11 MR. TRAFICANT: I know it is.

12 THE COURT: Okay.

13 MR. TRAFICANT: Your Honor, before you leave,  
14 I want to ask if the witness room --

15 THE COURT: We have to go on the record.

16 MR. TRAFICANT: On the record. The witness  
17 room that was previously used by the Government now being  
18 used by me has any video or audio devices?

19 THE COURT: We have no video or audio devices  
20 in our witness room.

21 MR. TRAFICANT: Thank you.

22 (Thereupon, a luncheon recess was had.)

23

24

25

1 Thursday Session, March 21, 2002, at 1:30 P.M.

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

3 THE COURT: Yes.

4 MR. KALL: Your Honor, the Government rests.

5 THE COURT: Thank you sir.

6 MR. TRAFICANT: Your Honor, I object to the  
7 Government resting on the fact they have not corroborated  
8 with physical forensic evidence, anything they have proven.

9 THE COURT: Congressman, that's an improper  
10 objection. The Government can rest. They're indicating to  
11 all of us they have now concluded the evidence in their  
12 case. You can proceed, Congressman.

13 MR. TRAFICANT: I call Mr. William Coleman.

14 (Pause.)

15 THE COURT: Congressman, your witness?

16 MR. TRAFICANT: Do I have to go get the  
17 witness?

18 THE COURT: Yes, sir.

19 MR. TRAFICANT: I didn't know that.

20 THE COURT: Somebody has to go get the  
21 witness.

22 MR. TRAFICANT: I didn't see the Prosecutor  
23 do it.

24 THE COURT: You can have anyone get the  
25 witness.

Coleman - Direct

1 MR. TRAFICANT: You want me to get the  
2 Marshal to go get him?

3 THE COURT: No, not the Marshal. Someone  
4 with you can get the witness.

5 THE COURT: Raise your right hand, sir.

6 WILLIAM COLEMAN

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

8 being first duly sworn, was examined

9 and testified as follows:

10 DIRECT EXAMINATION OF WILLIAM COLEMAN

11 BY MR. TRAFICANT:

12 Q. Would you please state your full name for the record,  
13 and spell your last name.

14 A. William Coleman.

15 Q. Would you spell your last name.

16 A. C-O-L-E-M-A-N.

17 Q. Are you currently employed?

18 A. No, I'm retired.

19 Q. And what was your last job?

20 A. I was a Bailiff with the Seventh District Court of  
21 Appeals in Mahoning County.

22 Q. Did that Seventh District Court of Appeals cover a  
23 number of counties?

24 A. Covered eight counties south of Mahoning County.

25 Q. And as you worked as a Bailiff in those counties, did

Coleman - Direct

1 you meet with a -- come to know a Mr. Dennis Johnson?

2 A. Yes.

3 Q. And how did you come to know Mr. Johnson?

4 A. Well, I knew him really before I worked -- I used to  
5 work in Lisbon, and he used to be a barber. But I met him  
6 in politics, Columbiana County Democrat Party Chairman,  
7 which that's his title now.

8 Q. Is he still a Democrat Party Chairman?

9 A. Yes.

10 Q. You know if he's employed?

11 A. He's employed, yes. He's on Traficant staff.

12 Q. Well, who's Traficant?

13 A. Congressman Traficant, which is you.

14 Q. Have you and Mr. Johnson been friends a long time?

15 A. 30 years or more.

16 Q. Did you have on occasion to be with Mr. Johnson when  
17 a Mr. Charles O'Nesti visited him?

18 A. Yes, I was with him. We were out having dinner at a  
19 restaurant on Still Street, Youngstown.

20 Q. You remember the name of the restaurant?

21 A. O.H. Grill they call it on Still Street.

22 Q. Did Mr. Johnson seek out Mr. O'Nesti, or did  
23 Mr. O'Nesti seek out Mr. Johnson?

24 A. We were in there when Mr. O'Nesti come in and come up  
25 to where we were sitting, and he asked if he could talk to

Coleman - Direct

1 Mr. Johnson. So I'm sure O'Nesti sought out, wanted to  
2 talk to Mr. Johnson.

3 Q. And did you -- did they talk right there?

4 A. No. They left the area where we were at, and I  
5 didn't see him for awhile then.

6 Q. Did you know where they went?

7 A. Another part of the room or the restaurant, another  
8 area of the bar.

9 Q. Could you see them from where you were seated?

10 A. No.

11 Q. Do you know a man by the name of John J., nickname  
12 J.J. Cafaro?

13 A. Yes.

14 Q. And how do you know Mr. Cafaro?

15 A. Well, I used to work for him before I was a Bailiff.  
16 I run one of his shopping centers.

17 Q. How long were you a Bailiff?

18 A. I was with the shopping center about 15 years.

19 Q. No, Bailiff.

20 A. Oh, Bailiff. I was about six or seven years.

21 Q. And how long have you worked for Mr. Cafaro, the  
22 Cafaro Company?

23 A. 15 years or so.

24 Q. Did you have occasion to see Mr. Cafaro?

25 A. I seen Mr. Cafaro at lunch time on occasions. His

Coleman - Direct

1 office is right near where I have lunch, and he has lunch.

2 So I see him on a few occasions.

3 Q. Did you happen to see him on occasion on a day you  
4 were having lunch with Mr. Johnson?

5 A. Yes, I did.

6 Q. You recall that specific time approximately?

7 A. I don't know the date. It was at a lunch time. We'd  
8 go up there. He'd come in and ask to speak to Johnson.

9 Q. Did you have lunch with Mr. Johnson often?

10 A. Yes.

11 Q. Did Mr. Cafaro come to Mr. Johnson, or did  
12 Mr. Johnson go to Mr. Cafaro?

13 A. We were sitting there. Mr. Cafaro come over and said  
14 hi to us and asked if he could talk to Mr. Johnson  
15 privately.

16 Q. Did you -- did they talk privately there?

17 A. No. They left that part of the room.

18 Q. Where, in fact, did they go?

19 A. Some other area of the restaurant. I don't know  
20 whether it was the outside or in the back room.

21 Q. Could you see them?

22 A. No.

23 Q. What restaurant was it?

24 A. This was Crystal's Restaurant on Belmont Avenue in  
25 Youngstown.

Coleman - Cross/Morford

1 Q. Do you have immunity for your testimony?

2 A. No. I have no immunity.

3 Q. Do you know what immunity means?

4 A. I should, but I guess it's -- you have immunity, you  
5 don't have to worry about what you have to say or --

6 Q. Did you have any conversations with Mr. Johnson after  
7 he had met with Mr. O'Nesti?

8 A. Not really, just casual talking.

9 Q. Did you have any conversations with Mr. Johnson after  
10 you met with Mr. Cafaro?

11 A. No.

12 MR. TRAFICANT: No further questions.

13 THE COURT: Thank you.

14 CROSS-EXAMINATION OF WILLIAM COLEMAN

15 BY MR. MORFORD:

16 Q. You were asked about this man Chuck O'Nesti. Was  
17 Chuck O'Nesti someone you knew fairly well?

18 A. I know him not fairly well. I met him a few times.

19 Q. Well, you said you were involved in politics to some  
20 extent, is that true?

21 A. Some extent, yes.

22 Q. In fact, the job that you got at the Seventh Circuit  
23 Court of Appeals was a political appointment; is that  
24 correct?

25 A. Basically, I would say so, yeah.

Coleman - Cross/Morford

1 Q. In order to get that political appointment, you've  
2 been fairly involved in Mahoning County politics; isn't  
3 that true?

4 A. On occasions. I knew most of the politicians, yes.

5 Q. And isn't it true, sir, that Mr. O'Nesti was very  
6 active in Mahoning County politics?

7 A. I seen him around in a lot of places, yeah.

8 Q. What did you know of his reputation?

9 A. Just what I read in the paper. I didn't know him  
10 that well.

11 Q. Did you know he had a reputation for being the mob's  
12 bag man in Youngstown? You heard that?

13 A. That's what I read in the paper. I know nothing else  
14 about it.

15 Q. At the time that this conversation or this -- not  
16 part of the conversation -- this meeting took place, you --  
17 I don't believe you put a year on it. Can you tell us when  
18 that was approximately?

19 A. When Johnson and O'Nesti met?

20 Q. Yes.

21 A. I'd say it's a couple years. I don't know the exact  
22 date.

23 Q. Can you tell me this: Was it before or after Chuck  
24 O'Nesti had been indicted on RICO charges?

25 A. This was when he was ill. He didn't look well. So

Coleman - Cross/Morford

1 I --

2 Q. That's not my question.

3 A. I don't know. I don't know when he was indicted.

4 Q. Well, do you ever read the papers down in Youngstown?

5 A. Yes. I read it everyday.

6 Q. Wasn't it widely covered in Youngstown when Chuck  
7 O'Nesti was indicted on RICO charges?

8 A. You asked me what date. I don't know what date he  
9 had --

10 Q. No. I'm asking what --

11 MR. TRAFICANT: Objection. It's been asked  
12 and answered.

13 THE COURT: You can answer.

14 BY MR. MORFORD:

15 Q. Did you read and learn that Chuck O'Nesti had been  
16 charged with RICO charges?

17 A. Yes.

18 Q. And had you read that prior to the time that this  
19 incident occurred where you saw Mr. O'Nesti come over and  
20 tell Mr. Johnson that he would like to talk with him  
21 privately outside of your ear shot?

22 A. I'd have to say he was indicted at the time he come  
23 in. I really don't know.

24 Q. Do you know if he pled guilty to those charges at  
25 that time when he said he needed to talk to Mr. Johnson?

Coleman - Cross/Morford

1 A. I really don't know, only what I read. I think he  
2 did. I really don't know, only what --

3 Q. You remember reading that he pled guilty to RICO  
4 bribery charges?

5 A. I read that he was indicted. I don't know if he pled  
6 guilty or not. I don't remember that.

7 Q. Do you know if he was still working for Congressman  
8 Traficant that day when he came up to you at the table --

9 A. He wasn't working for Traficant at that time, no.

10 Q. Okay. So the best of your recollection as you sit  
11 here today is that he had already been indicted for RICO  
12 bribery, but he was not still working for Congressman  
13 Traficant, is that your testimony?

14 A. I'd have to say that. I don't know if he was  
15 indicted. I know he wasn't working for Traficant. So I --

16 Q. And that day, as you're sitting there, were you aware  
17 at that time that Mr. Johnson was working for Congressman  
18 Traficant?

19 A. Yes, I was aware he was.

20 Q. And isn't it true that Mr. Johnson had more or less  
21 taken the place of Chuck O'Nesti in Congressman Traficant's  
22 office by that time?

23 A. He was on the staff. What his duties were, I don't  
24 know what either one of their duties were.

25 Q. And so basically, all you can say is that on some day

Coleman - Cross/Morford

1 a couple years ago Chuck O'Nesti walked up to the table  
2 where you were sitting with Mr. Johnson at a time when  
3 Mr. O'Nesti was under indictment for RICO bribery and said  
4 he wanted to talk to Mr. Johnson. That's all you know?

5 A. That's all I know.

6 MR. MORFORD: Nothing further.

7 MR. TRAFICANT: Nothing further.

8 THE COURT: Thank you, sir. You may step  
9 down. Careful of the steps.

10 THE WITNESS: All right.

11 THE COURT: Who is your next witness,  
12 Congressman?

13 MR. TRAFICANT: I've notified Mr. Coleman to  
14 notify the staff to send the next witness in.

15 THE COURT: Which witness will it be?

16 MR. TRAFICANT: Dennis Johnson.

17 THE COURT: Thank you.

18 MR. TRAFICANT: I previously informed the  
19 Prosecution of that.

20

21

22

23

24

25

Johnson - Direct

1 DENNIS JOHNSON,  
2 of lawful age, a witness called by the DEFENSE,  
3 being first duly sworn, was examined  
4 and testified as follows:

5 DIRECT EXAMINATION OF DENNIS JOHNSON

6 BY MR. TRAFICANT:

7 Q. Would you please state your name, and spell your last  
8 name for the jury.

9 A. Dennis Carl Johnson, J-O-H-N-S-O-N.

10 Q. And where are you currently employed?

11 A. Congressman Traficant's office.

12 Q. And what was your previous employment?

13 A. General Motors, supervisor at General Motors,  
14 Lordstown.

15 Q. For how many years?

16 A. Twenty years.

17 Q. You still have an official relationship at General  
18 Motors?

19 A. Yes, I do. I'm on split political leave of absence.

20 Q. How long have you worked for me?

21 A. Approximately this will be the third year, 25th of  
22 this month.

23 Q. And what is your position?

24 A. I am a regional rep for 17th District, liaison rep.

25 Q. 17th District changed?

Johnson - Direct

- 1 A. Yes, it has.
- 2 Q. Is your residence going to be in the new 17th  
3 District?
- 4 A. No, it isn't.
- 5 Q. Do you hold any political offices?
- 6 A. Yes. I'm the Democratic Chairman of Columbiana  
7 County.
- 8 Q. Do you know a man by the name of Chuck O'Nesti?
- 9 A. Yes, I do.
- 10 Q. Have you known him for many years?
- 11 A. Approximately nine to ten years.
- 12 Q. And what relationship did you know Chuck O'Nesti?
- 13 A. When I was Democratic Chairman Columbiana County, I  
14 used to have to call him on occasions for help for  
15 constituents.
- 16 Q. Did your constituents get help?
- 17 A. Yes, I did.
- 18 Q. Did you like Chuck O'Nesti?
- 19 A. Yes, I did.
- 20 Q. Consider him your friend?
- 21 A. Yes, I did.
- 22 Q. You consider him your friend today?
- 23 A. Yes, I do.
- 24 Q. Did you have occasions to meet with Mr. O'Nesti  
25 shortly before he died?

Johnson - Direct

1 A. Yes, I did.

2 Q. Where did you see Mr. O'Nesti?

3 A. At the Open Hearths on Still Street, Youngstown.

4 Q. What time of day was it?

5 A. Approximately around between 5:00 and 6:00 in the  
6 evening.

7 Q. Did you arrange for this meeting?

8 A. No, I did not.

9 Q. Did you approach Mr. O'Nesti?

10 A. No, I did not.

11 Q. Did Mr. O'Nesti approach you?

12 A. Yes, he did.

13 Q. Was it an accidental meeting?

14 A. He told me he found out where I was at. I didn't  
15 know who told him, but he came to see me.

16 Q. And who were you with?

17 A. I was with Billy Coleman.

18 Q. And what, if anything, did you and Mr. O'Nesti say to  
19 each other?

20 MR. MORFORD: Objection, hearsay.

21 THE COURT: That's right.

22 MR. TRAFICANT: Your Honor, you've allowed  
23 hearsay evidence --

24 MR. MORFORD: Objection to the speech in  
25 front of the jury.

Johnson - Direct

1 THE COURT: There's no speech in front of the  
2 jury. We can handle this at the break. We're going to  
3 have a break in afternoon. We'll do it at the break.

4 MR. TRAFICANT: I want a side bar.

5 THE COURT: Well, we'll do it at the break.  
6 You have other questions of this witness, I assume. Go  
7 forward.

8 BY MR. TRAFICANT:

9 Q. Did you have occasion to have a private meeting with  
10 Mr. O'Nesti?

11 A. Yes, I did.

12 Q. As a result of that meeting, did you acquire any  
13 knowledge relative to Mr. O'Nesti?

14 A. Yes, I did.

15 Q. And what was that?

16 MR. MORFORD: Objection. This is just a  
17 round about way to get in hearsay.

18 THE COURT: Right. Maybe you can move to  
19 another topic or rephrase the question so it's not --

20 MR. TRAFICANT: You've allowed Grace  
21 Kavulic --

22 MR. MORFORD: Objection.

23 THE COURT: Congressman, don't do this. This  
24 is your opportunity to present evidence.

25 MR. TRAFICANT: This is illegal.

Johnson - Direct

1 MR. MORFORD: And so is that.

2 THE COURT: Congressman, Congressman, this is  
3 your chance to present evidence in the case. We'll talk  
4 about your concerns about hearsay evidence at the next  
5 break.

6 BY MR. TRAFICANT:

7 Q. Did Mr. O'Nesti tell you he never --

8 MR. MORFORD: Objection.

9 THE COURT: Whoa, whoa. I am going to recess  
10 the jury now for a break, and I'll ask you, sir, to stand  
11 down and go back to the witness room, and we will discuss  
12 this further.

13 (Proceedings in the absence of the jury:)

14 THE COURT: We're not going to take a full  
15 30-minute break right now. We're going discuss this issue.

16 MR. TRAFICANT: Your Honor, I want to address  
17 the bench. You've allowed Prosecution witnesses, Grace  
18 Kavulic and Jackie Bobby to discuss conversations with both  
19 DiBlasio and, in fact, Charles O'Nesti, which were perjured  
20 to be quite honest, and you have now disallowed me to  
21 discuss the same dead person's conversation with another  
22 fellow employee.

23 Can you give me any rational reason why you have  
24 allowed them the permission to get testimony and not me?

25 THE COURT: The Rules of Evidence will give

1       you an immediate answer. The second thing is this answer  
2       about perjured testimony doesn't have anything to do with  
3       what we're talking about here if that's the concern you  
4       have. We'll address that separately.

5               I'll let the Government respond and state their  
6       objection.

7                       MR. MORFORD: Yes, your Honor.

8               As the Court is well aware, as is the Congressman,  
9       prior to putting any of that evidence in front of the jury,  
10       we brought the issue to the court's attention. We briefed  
11       it. We gave the Congressman a chance to read our brief and  
12       respond. Under Rule 801, the Court ruled that that -- or  
13       804 -- I'm sorry -- the Court ruled that that evidence was  
14       admissible.

15               In this particular instance, the Court ruled that  
16       Congressman Traficant's request for hearsay information was  
17       inadmissible. He has yet to cite a rule or theory under  
18       which it would be admissible, and after the Court three  
19       times told him it was inadmissible, he went ahead and asked  
20       the questions so the jury will hear his voice saying what  
21       he wants to get in front of this jury. It's improper, and  
22       it should not be tolerated.

23                       MR. TRAFICANT: I cite the same rules that  
24       they cite. Mr. O'Nesti is dead. I am not, in fact, an  
25       expert in that, and I cannot communicate with Mr. O'Nesti.

1       You have allowed because of the unavailability of  
2       Mr. O'Nesti to make his statements available to the  
3       Prosecution, but under unavailability, you've disallowed it  
4       to the Defendant.

5               Now, if I were represented by Johnny Cochran, F. Lee  
6       Bailey or Mr. Spencer and the Defendant was sitting there,  
7       you would have to treat that attorney the same under the  
8       same Rules of Evidence, and it is not a requirement of the  
9       attorney to know the Rules of Evidence.

10              The Court decides on the Rules of Evidence, and I  
11       must make sure that they are distributed equally. You know  
12       the Rules of Evidence. You've clearly allowed testimony on  
13       a dead man, and you've allowed the Prosecution to take  
14       advantage of it.

15              Now, to impeach their testimony and their witnesses,  
16       you've now disallowed my witnesses.

17              THE COURT: Congressman, we've been over this  
18       so many times.

19              MR. TRAFICANT: For the record, we'll go over  
20       it again.

21              THE COURT: The unavailability of a witness  
22       is one thing. It does not then make all hearsay admissible  
23       in the case.

24              MR. TRAFICANT: How did it make theirs  
25       admissible, your Honor?



1                   THE COURT: Because they went through all the  
2 other steps that you have to go through that I have had  
3 numerous -- given you numerous opportunities to do and will  
4 again today at 3:30 when this jury is ready to go home. We  
5 will once more give you an opportunity to see if you can  
6 lay a foundation for the evidence that you want to come in  
7 here.

8                   The Rules of Evidence apply to you. They've been  
9 explained to you. They're available to you, and we will  
10 follow them in this court. They're the same for you as  
11 they are for the Government.

12                   The fact that you continuously misrepresent what the  
13 situation is does not further it at all for you.

14                   MR. TRAFICANT: That is your opinion,  
15 misrepresentation. You're saying I'm lying on the record.

16                   THE COURT: I'm not accusing you of lying. I  
17 didn't --

18                   MR. TRAFICANT: The misrepresentation means a  
19 lie. Don't call me a liar again.

20                   THE COURT: You're the one who's using that  
21 word, Congressman.

22                   MR. TRAFICANT: You used the word.

23                   THE COURT: I did not.

24                   MR. TRAFICANT: Misrepresent means lie.

25                   THE COURT: You're misrepresenting the

1 situation that you presented.

2 MR. TRAFICANT: Well, I am citing the same  
3 rules I have taken the same steps that these prosecutors  
4 have taken.

5 THE COURT: No, you have not.

6 MR. TRAFICANT: Yes, I have. Where have I  
7 not?

8 THE COURT: You have not in regard to this  
9 witness.

10 MR. TRAFICANT: How did I not?

11 THE COURT: Because you simply assume since  
12 O'Nesti is no longer alive that you can submit any hearsay  
13 you want to, and that is not the rule we've applied. It's  
14 not the rule we will apply.

15 MR. TRAFICANT: I cite the same rule that  
16 they cite for getting his testimony in.

17 MR. MORFORD: He should explain under  
18 804(b) -- no, under 804(b) which of the exceptions he  
19 believes this hearsay falls under because he has yet to do  
20 it.

21 THE COURT: You can do that at 3:30 today so  
22 we can go forward with the evidence in the case. The jury  
23 is here, and they're ready to hear evidence. You can move  
24 on to other areas with this witness.

25 MR. TRAFICANT: And I have no more witnesses

1           today because they all have evidence about Mr. O'Nesti or  
2           Mr. Sugar and tapes. We might as well call it off today.  
3           I have four witnesses, and three of them have information  
4           about Mr. O'Nesti, and one has information about Mr. Sugar  
5           and Mr. O'Nesti.

6                         THE COURT: Well, you're the one presenting  
7           your case. We've been over and over the tapes, and you  
8           have yet to even present the transcripts of the tapes.

9                         MR. TRAFICANT: That is not true. I've given  
10          them transcripts of two tapes, I believe.

11                        THE COURT: Well, I don't have transcripts of  
12          any. As recently as this morning, you told us you didn't  
13          know which tapes, if any, you were going to try to use in  
14          the case.

15                        Bring on this witness with different kinds of  
16          questions if you have any more or bring on some of your  
17          other witnesses. You've got a jury here, sir, and they are  
18          here to hear your evidence.

19                        MR. TRAFICANT: You are denying me the right  
20          not only to cross-examination when the Prosecution was on,  
21          you limited it. Now you apply a different standard under  
22          hearsay on the O'Nesti matter. I don't care what law is  
23          cited, I maintain for the record, even if an attorney is  
24          incompetent or has a bad day or his memory skips him, it is  
25          the Court who is the determinative of the law, and you know

1       what the law is.

2                   THE COURT:  I do.

3                   MR. TRAFICANT:  And that should be fairly  
4       applied to both sides, and you're not doing that.

5                   THE COURT:  Well, you have an obligation to  
6       do what everyone else has to do.

7                   MR. TRAFICANT:  I cite 804(b)(3).  This man  
8       is dead.  He's unavailable.  The statements he made is, in  
9       fact, relevant.

10                  MR. MORFORD:  Are they against his penal or  
11       pecuniary interest?  And, your Honor, I would note because  
12       we keep hearing this day in and day out --

13                  MR. TRAFICANT:  They were.

14                  MR. MORFORD:  -- this is why we have courts  
15       of appeals.

16                  MR. TRAFICANT:  You've interrupted me.

17                  MR. MORFORD:  And if the Congressman --

18                  MR. TRAFICANT:  You've interrupted me.  I'd  
19       like to finish.

20                  MR. MORFORD:  He can appeal.

21                  THE COURT:  You know this is not a sandbox.

22                  MR. TRAFICANT:  I am not going to take it on  
23       appeal.  I plan to win here.

24                  THE COURT:  Well, you've got --

25                  MR. TRAFICANT:  I want to finish my

1 statement.

2 THE COURT: Put evidence on if you have it.

3 MR. TRAFICANT: Under 804(b)(3), you're  
4 trying to keep my evidence out.

5 THE COURT: I'm telling you I'm giving you an  
6 opportunity to --

7 MR. TRAFICANT: I'm going to explain it.

8 THE COURT: Wait a minute, wait a minute.  
9 You have an opportunity again today to show what you need  
10 to show under the rule you're citing --

11 MR. TRAFICANT: Are you going to let me  
12 subpoena Pikunas, Agent Pikunas?

13 THE COURT: -- that will allow you to go  
14 forward with this witness.

15 MR. TRAFICANT: How can I do that if I don't  
16 subpoena Agent Pikunas to show this was in fact --

17 THE COURT: Was in fact what?

18 MR. TRAFICANT: -- a truthful statement that  
19 would come from my witness?

20 THE COURT: Well, that -- you need to reread  
21 the rule. Reread the rule.

22 MR. TRAFICANT: I've read the rules.

23 THE COURT: Okay.

24 MR. TRAFICANT: You're treating us  
25 differently.

1 THE COURT: No. You have to follow the --

2 MR. TRAFICANT: I want you to cite the  
3 difference between my 804(b)(3) argument and theirs.

4 THE COURT: They laid a foundation of --

5 MR. TRAFICANT: What was that foundation?

6 THE COURT: -- for us to make the findings  
7 that we made.

8 MR. TRAFICANT: When did they make them?

9 THE COURT: Quite a long time ago, long time  
10 ago in this case. Okay. Now --

11 MR. TRAFICANT: Is it not a fact that the  
12 same foundation they laid would apply to the Defendant as  
13 well?

14 THE COURT: Yes, if you would ever take  
15 advantage of the many opportunities you've had in order to  
16 do that. But you haven't done it.

17 MR. TRAFICANT: I now offer a motion of all  
18 the motions they made relative to 804.

19 THE COURT: Well --

20 MR. MORFORD: Make a factual showing to meet  
21 the rule.

22 THE COURT: That's all you have to do, and  
23 you can do it today at 3:30, and we'll continue on with  
24 this jury. But --

25 MR. TRAFICANT: I thought we were going to

1 4:30.

2 THE COURT: 4:30, you're right, you're right.

3 Would you, Congressman -- would you please use this  
4 witness for any other questions you have of this witness,  
5 and then go to your next --

6 MR. TRAFICANT: I have no other questions for  
7 this witness.

8 THE COURT: Okay. Well, then --

9 MR. TRAFICANT: He has knowledge of what  
10 happened truthfully with Cafaro and O'Nesti.

11 THE COURT: Okay. Call your next witness.  
12 Congressman.

13 MR. TRAFICANT: They will be the same.

14 THE COURT: Well, we don't know until you  
15 call them and bring them in and ask them questions. You  
16 mean you have no other --

17 MR. TRAFICANT: I have four witnesses here,  
18 and they all started with O'Nesti and Cafaro.

19 THE COURT: Okay. Well, is there anything  
20 else you're going to use those witnesses for because if  
21 they're here, this is your chance to present them. You can  
22 put them on the stand, and we'll go forward. The jury  
23 needs to be able to come back here and work.

24 MR. TRAFICANT: Look, I object to this  
25 carnival, and I say this: You are, in fact, denying me my

1 rights of cross-examination on many occasions, and now  
2 you're holding me to a different standard.

3 THE COURT: This is your --

4 MR. TRAFICANT: You have let my staff testify  
5 against me, and now you will not let people who are not  
6 even on my staff, even though this one is, testify to  
7 untruthfulness of the testimony prior.

8 THE COURT: Do you have another witness,  
9 Congressman?

10 MR. TRAFICANT: You're not going to have any  
11 witnesses for me? You're want the defense with me. You  
12 keep talking about record of appeal, and I am not convicted  
13 yet, and don't be surprised if I'm not.

14 THE COURT: Do you have another witness,  
15 Congressman?

16 MR. TRAFICANT: Yeah, and I will bring one  
17 in.

18 THE COURT: Thank you.

19 MR. TRAFICANT: I might call Janet Reno.

20 THE COURT: You can bring in the jury

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

22 MR. TRAFICANT: I might ask for the record if  
23 Cafaro is paying --

24 MR. MORFORD: Objection, sir. There's a jury  
25 coming in. Just be quiet.

Manganaro - Direct

1 THE COURT: There's a jury, sir.

2 HARRY R. MANGANARO,

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

4 being first duly sworn, was examined

5 and testified as follows:

6 DIRECT EXAMINATION OF HARRY R. MANGANARO

7 BY MR. TRAFICANT:

8 Q. Harry, would you give us your full name, and spell  
9 your last name for the jury.

10 A. Harry R. Manganaro, M-A-N-G-A-N-A-R-O.

11 Q. And, Harry, where are you employed?

12 A. I do a little bit of work every now and then for  
13 Mr. Sugar.

14 Q. How long have you known Dave Sugar?

15 A. Oh, 20 plus some years.

16 Q. What kind of work did you do with Dave Sugar?

17 A. I do a little bit of consulting. I bid on demolition  
18 jobs, and I do a lot of miscellaneous stuff, go to auctions  
19 and bring stuff back and buy different things.

20 Q. Do you do anything more than demolition work?

21 A. One time I did. I don't do it anymore. I used to do  
22 sewer work and general contracting.

23 Q. Did you have an occasion to meet with me in the early  
24 '90s?

25 A. Yeah. He was -- I'm not sure when it was, but I did,

Manganaro - Direct

- 1 I met with you --
- 2 Q. Late '80s, early '90s, best you recall?
- 3 A. Have to be around early '90s I have to say.
- 4 Q. You know when the meeting took place?
- 5 A. Yes, I do.
- 6 Q. Where?
- 7 A. It was off of 165 out there at a farmhouse.
- 8 Q. Harry, do you have immunity for your testimony?
- 9 A. No, I don't.
- 10 Q. You know what immunity means?
- 11 A. Yes, I do.
- 12 Q. What does it immunity mean?
- 13 A. Basically, you say something, they can't hold you to
- 14 it.
- 15 Q. How can they hold you to it?
- 16 A. I don't know.
- 17 Q. What was the purpose of our meeting in the early
- 18 '90s?
- 19 A. I got a call from somebody down in my office that I
- 20 had to go out there and look at a building, and I went out
- 21 to the farm out there, and I ended up looking at an old
- 22 beat up barn. That's when I went with you.
- 23 Q. Was there anything peculiar about that old beat up
- 24 barn?
- 25 A. Yeah, there was. When we went to the barn, we went

Manganaro - Direct

1 down to the cellar, and the sandstone, old sandstone was  
2 along the walls and had fallen out, probably oh, I'd say  
3 35, maybe to 50 foot of it, was loose, and a couple corners  
4 were falling out.

5 Q. What -- what was that, was that the wall where you  
6 drove in or was it the other end?

7 A. There was a wall like on old farm barn. They have a  
8 dirt ramp, and tractors would go up the dirt ramp and go  
9 in. It was that side of the barn, but it was like  
10 underneath. It was the basement area of the barn.

11 Q. Did the corner of the barn also lose its foundation,  
12 lose sandstone?

13 A. If you were looking at the straight wall, the front  
14 portion of it was buckled out where it had come -- it was  
15 like buckled out. The sand buckled out. The furthest  
16 corner which would have been -- I don't know, maybe the  
17 south corner, I am not exactly sure of the corner. I can  
18 draw it for you, but I can't know the directions out there.  
19 That corner was completely gone. That would be the  
20 furthest corner where the ramp would come up. It would be  
21 the south direction.

22 Q. Was it extensive damage or just a small little  
23 problem?

24 A. No, the corner was down. The whole corner was down,  
25 and if you're looking at the barn, when -- I talked to you,

Manganaro - Direct

1 and I took the liberty of walking around there.

2 The building was an old, old barn that -- in those  
3 days, they used trees for the supports on the bottom to  
4 hold the barn up, and up in that particular corner where  
5 the sandstone had gone, the trees themselves, two of them  
6 were cracked and the furthest extremity of the building,  
7 and it was sagging to some degree, not -- maybe four or  
8 five inches. It was hanging down, and by it hanging down,  
9 if you would look to the right corner, opposite the one  
10 that was down, the top was lifting up just a little bit.

11 The other corner was lifting up, maybe two or three  
12 inches off the foundation.

13 Q. Did the corner crack?

14 A. The --

15 Q. That far off corner that was not damaged, did it have  
16 a crack in it?

17 A. The sandstone was loose. If you want to call it a  
18 crack, I would call it loose.

19 Q. Now, in the far section with the concrete, was there  
20 a crack in the concrete?

21 A. No. All I saw was the sandstone walls on it. I  
22 didn't see a crack in any concrete.

23 Q. Was the barn in danger of falling?

24 A. Oh, yeah. If you -- there was nothing holding the  
25 one corner up. In the event that it would have rained or

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1 something, in my opinion, I don't believe it would have  
2 held up because it was already down four to five inches in  
3 that one particular corner, and the other part was buckled  
4 down. So a heavy rain with the one corner possibly  
5 falling, it would have fallen suit on the next wall.

6 Q. Would the barn have collapsed?

7 A. It -- yes, it would have. It would have fallen in  
8 the corner.

9 Q. Now, what, if anything, did you discuss with me?

10 MR. MORFORD: Objection, hearsay.

11 Q. What, if anything, did you recommend?

12 A. Well, when I was out there and I looked at it, what I  
13 suggested was that we put some type of a wall in place of  
14 the sandstone that's there, jack the building up, jack the  
15 barn up, rather, and put a block wall around it in the area  
16 where it was falling.

17 Q. Do you know if we took any actions that day?

18 A. Yes, we did. The corner, as I said, the timbers were  
19 cracked, and I was afraid it was going to fall, and I  
20 suggested that we put a board or something underneath,  
21 like, you know, tie or a four-by-six or something that we  
22 can support it, just temporary brace there until you got  
23 the permit.

24 Q. How did you travel to the farm?

25 A. I drove my car.

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1 Q. Did you have any equipment in your car?

2 A. No, I didn't.

3 Q. What, if anything, did you do to try and secure some  
4 support for the barn?

5 A. Well, I had my -- only thing I had in the car was my  
6 stepfather, and with his help and your assistance, we found  
7 an old -- I think it was a four by six if I'm not mistaken,  
8 and you had some old jack posts, a little bit stronger than  
9 what they use in houses, the older fashioned ones, which  
10 are real heavy.

11 At that particular corner, we sat the four by six at  
12 an angle, and like the two jack posts, they screw, and we  
13 put them underneath there and jacked it up. We didn't  
14 raise the barn; we just gave it a little bit of support.

15 Q. Now, how big were those jacks? How tall were they?

16 A. I don't believe they're as tall as me if I remember  
17 correctly. I think they may be five foot because we had to  
18 put sandstone -- sandbox underneath it, regular concrete  
19 block.

20 Q. Was it a one-piece jack, or did it come in pieces?

21 A. It was just like the type that you have from the  
22 hardware store. We had to put a middle plate on the  
23 bottom. There was an old plate that went on the top,  
24 except the only thing with this, it was much heavier,  
25 thicker and the crank itself was a little bit different.

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1           You had a four-unit crank you can turn on top, and  
2           you turn it with a bigger pipe than normal.

3           Q.     So it had no fix top on it; is that correct?

4           A.     No.  It just had an added piece of steel that we put  
5           in place under the crank.  It would be a pipe, a part of a  
6           crank, and steal plate on top of it.  He put the plate up  
7           here, the crank in the middle, and you have the pipe and  
8           crank the top.

9           Q.     Did the barn fall down?

10          A.     No, it didn't.

11          Q.     Did we have -- were you asked to fix the barn?

12          A.     Yes, I was.

13          Q.     What, if anything, did you say to me?

14          A.     Well, as I say before, I believe we suggested that a  
15          retaining wall or a new foundation would be better than a  
16          sandstone.  At that given time, I gave you a price on doing  
17          the labor work only, with my father, my stepfather because  
18          he's a block layer, and at that time, I gave you a price  
19          and pretty much left it at that time.

20          Q.     What was the price you gave me?

21          A.     I believe it was like \$1,500 to \$2,000 just for the  
22          wall itself.  But I wasn't buying any material.

23          Q.     Now, if you had to buy all the material and do the  
24          job, what would it cost you?

25          A.     We figured ten-inch block on that because eight-inch

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1 wouldn't be good enough and 12 is too heavy to lay. We  
2 figured roughly with all the mortar and the block, a little  
3 bit of retainage and durable on it, I figured anywhere  
4 between \$9,500 to \$10,000.

5 Q. Did you do the work at that farm?

6 A. No, I didn't.

7 Q. Did you have -- receive any calls from me relative to  
8 that work?

9 A. I gave you a price verbally on it, and you said you'd  
10 get back with me in two or three days. I finally got a  
11 call, and I got a call from somebody down in my shop, and  
12 at that time there, the -- I'm not sure if my partner or my  
13 ex-partner gave you a call back.

14 But at that time, we got busy. We finally got our  
15 job through to tear down the building, and I couldn't do  
16 the work.

17 Q. Did I ask you if I had to check with anybody first?

18 A. Yes, you did.

19 Q. Who did I ask --

20 MR. MORFORD: Objection, hearsay.

21 Q. Did you have any knowledge of who had to make the  
22 final decision?

23 MR. MORFORD: Objection, hearsay.

24 THE COURT: Yes.

25 BY MR. TRAFICANT:

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1 Q. Did my father ever call you?

2 A. I don't know your father.

3 Q. My father walk through the door, would you know him?

4 A. No, sir.

5 Q. Was my father's name ever mentioned to you?

6 MR. MORFORD: Objection. Would be hearsay if  
7 it was.

8 THE COURT: Yes.

9 MR. TRAFICANT: Any mention to him is  
10 hearsay?

11 THE COURT: If it was mentioned to you.

12 MR. TRAFICANT: Pardon?

13 THE COURT: If it was mentioned to him, it  
14 would be hearsay.

15 Q. Was my father's name ever mentioned to you?

16 A. No.

17 Q. Did I call you?

18 A. I assume somebody called me because it was down in my  
19 office.

20 Q. Were there any conditions when we talked at the farm  
21 relative to your working on the farm?

22 A. Yes. You had to ask permission about --

23 MR. MORFORD: Objection.

24 THE COURT: You can answer it.

25 THE WITNESS: About the price that I had

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1 given you and get the okay to go ahead and do the work.

2 Q. From whom who would I have to get permission from?

3 A. That would be your father.

4 Q. When was the last time you saw Chuck O'Nesti?

5 A. Well, I saw Chuck probably January of 2000. Maybe it  
6 was right after Christmas.

7 Q. Was it shortly before he was bedridden?

8 A. That it was.

9 Q. How was his looks, and how did he talk?

10 A. Well, Chuck didn't look so good. I mean, he had lost  
11 a lot of weight, and in order to listen to him or talk to  
12 him, you had to get almost on top of him because you  
13 couldn't really hear him.

14 Q. How well have you known Chuck?

15 A. He started me in business in '82.

16 Q. How did he start you in business?

17 A. The City of Youngstown, you had to have a track  
18 record for any kind of demolition. At that time, we were  
19 clearing down private houses, and we didn't have a track  
20 record with the City.

21 And my understanding is if you had to get a track  
22 record, you can do emergency demolition or fire emergencies  
23 to get yourself a little bit of track record. I went down  
24 and approached the fire chief, at that time was Chuck  
25 O'Nesti. And maybe it was just by luck or whatever, but he

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1 says come on, follow me. We did. My partner and I went  
2 out and went on Rigby Street.

3 And he said look at this house, this house, and this  
4 house for a total of seven houses. He said give him a  
5 price, and tear it down, and that's what we did that gave  
6 us the track record and started us in business.

7 Q. Was Chuck O'Nesti a friend of yours?

8 A. I would consider him a friend, yes.

9 Q. If he were alive today, would you still consider him  
10 a friend?

11 A. Yes, I would.

12 Q. Even with his reputation?

13 A. It had no bearing on our friendship.

14 Q. Did he ever confide in you?

15 A. Well, we talked about a lot of different things, but  
16 I don't know if he confided or not.

17 Q. You ever make a statement relative to me?

18 A. I talked to you the other day, the 19th, when we were  
19 talking about this ordeal right here.

20 MR. MORFORD: Objection to any hearsay, your  
21 Honor.

22 THE COURT: Yes. Go ahead.

23 BY MR. TRAFICANT:

24 Q. Did Mr. O'Nesti deny kickbacks? Yes or no.

25 MR. MORFORD: Objection.

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- 1 THE COURT: Sustained.
- 2 BY MR. TRAFICANT:
- 3 Q. Do you know Mr. Dave Sugar?
- 4 A. Yes, I do.
- 5 Q. How long have you known Dave Sugar?
- 6 A. Oh, more than 20 years.
- 7 Q. When was the last time you saw him?
- 8 A. I saw him yesterday morning.
- 9 Q. Did you ask to meet with him or he ask to meet with  
10 you?
- 11 A. He called me, and I met with him.
- 12 Q. What was the purpose of your meeting?
- 13 A. He asked me since I was going up to Cleveland to  
14 bring up some papers.
- 15 Q. What did you bring up?
- 16 A. A box and a big envelope or folder with stuff in it.
- 17 Q. Did he tell who to give them to?
- 18 A. He said to give them to you.
- 19 Q. You, meaning?
- 20 A. Jim Traficant.
- 21 Q. Were you friends?
- 22 A. Yes, we are.
- 23 Q. Did you bring up the boxes?
- 24 A. Yes, I did.
- 25 Q. Did you give them to me?

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1 A. Yes, I did.

2 Q. Did you ask him why he wanted you to give them to me?

3 A. No, I didn't.

4 MR. MORFORD: Your Honor, I object, among  
5 other things under discovery. This is just all new. I  
6 have no idea what's in the boxes.

7 THE COURT: Right. Well, that's all right.  
8 He can ask him about the boxes.

9 BY MR. TRAFICANT:

10 Q. Are you subpoenaed to be here?

11 A. Please?

12 Q. Were you subpoenaed to be here?

13 A. I have no formal paper.

14 Q. Did you have discussions with the FBI -- did you have  
15 discussions with Mr. Sugar relative to the charges about  
16 Jim Traficant?

17 A. We talked prior to Dave getting indicted.

18 Q. So when you talked to Dave, he was not indicted?

19 A. No.

20 MR. MORFORD: Your Honor, I just want to have  
21 a standing objection to any questions that would be about  
22 things said to him, just so it doesn't come blurting out.

23 THE COURT: Right. I know, I know. It's  
24 okay. Congressman, go ahead.

25 MR. TRAFICANT: He was not indicted, your

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1 Honor.

2 THE COURT: No, but you know -- you know the  
3 rules. Ask questions of the witness. Okay?

4 Q. Did you gain any knowledge from that conversation?

5 A. Dave was all worried about --

6 MR. MORFORD: Objection as to anything Dave  
7 would have told him.

8 THE COURT: Right.

9 BY MR. TRAFICANT:

10 Q. Was his son and wife threatened to be involved in the  
11 case?

12 MR. MORFORD: Objection, unless he has  
13 firsthand knowledge.

14 THE COURT: Yeah. If you were present, you  
15 have firsthand knowledge, you can testify. It's subject to  
16 cross-examination. But other people who you talk about who  
17 are not subject to oath, not subject to cross-examination,  
18 they can come in and say those things, but you can't say it  
19 for them.

20 THE WITNESS: Even if an individual would  
21 have said in talking to you and you say something right  
22 now, I can't say --

23 THE COURT: If we're both -- well, there are  
24 all kinds of rules.

25 MR. TRAFICANT: Wait a minute. He asked a

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1 question of the court.

2 THE COURT: Yes, he did, and he's a witness,  
3 and so --

4 MR. TRAFICANT: What was that question? I  
5 want to hear it. I didn't quite hear it.

6 THE WITNESS: I wanted to know if I can -- if  
7 she's talking to me and I can say something.

8 THE COURT: Okay. He answered that question.  
9 Now, you examine the witness and ask him whatever questions  
10 you have for him, sir. But don't get into hearsay because  
11 we've been through that a couple times this morning, and  
12 we'll give you an opportunity at 3:30 to get into that if  
13 you want to.

14 MR. TRAFICANT: At 3:30. My witness won't be  
15 here, and it's 4:30 I thought.

16 THE COURT: Right, it is 4:30. I keep saying  
17 that wrong. It's the break. Go ahead.

18 BY MR. TRAFICANT:

19 Q. After you met with Mr. Sugar before he was indicted  
20 and after having been interviewed twice by the FBI, did you  
21 have any knowledge of Mr. Sugar's problems?

22 MR. MORFORD: Objection unless he had  
23 firsthand knowledge as opposed to something Mr. Sugar may  
24 have or may not have told him.

25 THE WITNESS: I was in the office when the

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1 FBI came there. I was also there when Mr. Sugar decided to  
2 tell the girl, hey, change the date on a paper. I was  
3 there in his office with Dave.

4 Q. So you do have firsthand knowledge of what Dave Sugar  
5 did to the contract?

6 A. Yes, I do.

7 Q. Did Dave Sugar at that time admit to you --

8 MR. MORFORD: Objection. It would go to  
9 hearsay, to something Sugar said.

10 THE COURT: That's right.

11 Q. Did Sugar lie to protect his wife and son in this  
12 trial? Yes or no, Harry.

13 THE COURT: No. Don't answer that question,  
14 and you know what else? You know how to do this. Just  
15 rephrase questions. Okay? You've done it very  
16 successfully. You just can't phrase them as hearsay.

17 Q. How much more can you say, but have you gained  
18 personal knowledge from Mr. Sugar after having met with  
19 him?

20 MR. TRAFICANT: How much more specific can  
21 any attorney in America be, your Honor?

22 THE COURT: Well, it still can't come in  
23 unless you can show some reason it can come in, and we'll  
24 let you do that this afternoon, later, but not now. You  
25 can't put hearsay evidence in front of the jury unless you

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1 can show why it comes in.

2 BY MR. TRAFICANT:

3 Q. Was Mr. Sugar very nervous?

4 A. Yes, he was.

5 Q. Was he scared and frightened?

6 A. Yes, he was.

7 Q. Was he threatened?

8 A. I -- I was told by Mr. Sugar --

9 MR. MORFORD: Objection to what he was told.

10 We keep going over this.

11 THE COURT: Right.

12 Q. Did he share his fear with you?

13 MR. MORFORD: Objection. This is all just  
14 gateways to get to hearsay, your Honor.

15 Q. When you looked at Mr. Sugar, was he in a normal  
16 condition?

17 A. Normally, he's grumpy, and this time he was extremely  
18 nervous. And he confided in me because I'm his friend.

19 Q. Was he worried about something?

20 A. Yes, he was.

21 Q. Was he worried about his family?

22 A. Yes, he was.

23 MR. MORFORD: Objection as to how he knows  
24 unless it's hearsay.

25 THE COURT: When he was standing there. He



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1 said he was nervous. The Congressman's getting some  
2 information here.

3 Q. Did he mention his family as being the cause of his  
4 frightening worried look?

5 THE COURT: That doesn't --

6 THE WITNESS: No, he didn't.

7 BY MR. TRAFICANT:

8 Q. When he was frightened, did he mention his family?

9 A. Yes, he did.

10 MR. MORFORD: Objection. We're getting into  
11 hearsay again, your Honor, as to what he said.

12 THE COURT: No, no. You can answer.

13 Q. Go ahead. When he was frightened, did he mention his  
14 family to you?

15 A. Yes, he did.

16 Q. Are you worried for Dave Sugar?

17 A. Yes, he's my friend. He's a friend of mine that  
18 supports over 30 people, and I'm definitely afraid for him.

19 Q. What was the last job assignment he gave you?

20 A. I go to auctions like I stated before, and I had gone  
21 to an auction in Glassport, PA, probably one of the last  
22 auctions I went to.

23 Q. And what was the auction of?

24 A. It was a bankruptcy auction.

25 Q. Of what company?

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- 1 A. Mainline Contracting.
- 2 Q. Could you explain who Mainline Contracting was?
- 3 A. Mainline Contracting is a company that has three  
4 companies: One in Buffalo, Cincinnati, and one in  
5 Glassport; considered a big demolition company.
- 6 Q. Did they get a contract in the City of Youngstown?
- 7 A. Yes, they did.
- 8 Q. For what building?
- 9 A. The Higbee building.
- 10 Q. Who was second?
- 11 A. Dave Sugar was second.
- 12 Q. Do you know if I tried to help Dave Sugar in that  
13 process?
- 14 A. You talked about how, that was the extent of it.
- 15 Q. Do you know the difference between the bids?
- 16 A. Yes, I did.
- 17 Q. How much were they?
- 18 A. Are you talking the first time it was bid out or  
19 the second time?
- 20 Q. Well, the first bid, who was the high bidder?
- 21 A. On the first time, it was Terreri because he had  
22 \$100,000 on the removal of tile.
- 23 Q. And on the second time?
- 24 A. On the second time, Mainline was the low bidder. We  
25 came in second at a \$14,000 difference.

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1 Q. Do you know if Mainline pays property taxes in  
2 Youngstown or Mahoning County?

3 A. I don't believe they do.

4 Q. Do they have offices in Mahoning County?

5 A. No, they don't.

6 Q. Did they employ workers from the Mahoning Valley?

7 A. The only people I seen working down there were the  
8 some truck drivers and a blacktop company.

9 Q. Did I ever intervene about an employment problem that  
10 was presented to me?

11 A. Yes, you did.

12 Q. What was it in reference to?

13 A. Out of town people.

14 Q. Was it on another one dealing with complying with  
15 federal law on certain other matters?

16 A. Well, you had to -- you talked about hiring  
17 minorities for the jobs down there or anybody that comes  
18 out of town that's supposed to be hiring minorities and  
19 local people.

20 Q. Were they?

21 A. No. The only local people down there were truck  
22 drivers and blacktop people.

23 Q. Did Sugar ever lie to you?

24 A. If he did, I can't say, you know. As far as I know  
25 he's always told me the truth. If he lied, you'd have to

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- 1 ask him.
- 2 Q. When he was frightened, and you had that  
3 conversation, do you believe he lied to you?
- 4 A. No. I'd have to say I thought he told me the truth.
- 5 Q. Do you fear me?
- 6 A. No.
- 7 Q. You know anybody who fears me?
- 8 A. I don't know. Put your pants on like I do. I'm not  
9 afraid of you.
- 10 Q. You know anybody back in the Valley that fears me?
- 11 A. Not that I know of.
- 12 Q. Am I a big threatening type of guy to people?
- 13 A. No, not that I know of.
- 14 Q. Am I well liked?
- 15 A. There's pros and cons.
- 16 Q. Politics is pros and cons, is that your statement?
- 17 A. I would say so.
- 18 Q. In your conversations with Dave Sugar, did you ask  
19 for the information he gave you, or did he offer it?
- 20 A. He offered it. As I said, I'm his friend and he  
21 invited me quite a bit, and as I say, he was extremely  
22 nervous and very upset about this, and he already knew he  
23 basically was in trouble and didn't know which way to turn.
- 24 Q. Did he look like a man under extreme pressure?
- 25 A. I would say so.

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1 Q. He didn't fear me?

2 A. No, he didn't fear you because you were friends with  
3 him.

4 Q. What was your impression of whom he feared?

5 A. Well, the people that came in the office. He was  
6 afraid for them. He -- first time people came in really  
7 made him upset. I think he was afraid with them.

8 Q. Was I pressuring Dave Sugar?

9 A. What was that, please?

10 Q. Was I pressuring Dave Sugar?

11 A. Not that I know of.

12 Q. Did I ever pressure Dave Sugar?

13 A. Not that I know of.

14 Q. Who pressured Dave Sugar?

15 A. I imagine it was the second time that the gentleman  
16 who came in the office.

17 Q. Who was that man that come in the office?

18 A. It was the FBI people.

19 Q. And is that when he confided in you?

20 A. He confided in me the first time they were there.

21 Q. And he mentioned the son and daughter the first time?

22 A. Please?

23 Q. When did he mention the son and daughter?

24 MR. MORFORD: Objection. That's hearsay.

25 We're right back to --

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1 THE COURT: We're back where we were a little  
2 while ago.

3 Q. Harry, do you believe you're being offered an honest  
4 opportunity to tell the whole truth here today?

5 MR. MORFORD: Objection.

6 THE COURT: Well, you can answer. Do you  
7 believe?

8 THE WITNESS: I'm not a lawyer. I don't know  
9 what the law is. You keep saying no, I can't say anything.  
10 I don't know. I don't think it's fair to me or you.

11 MR. TRAFICANT: No further questions.

12 THE COURT: Thank you. Mr. Morford.

13 CROSS-EXAMINATION OF HARRY R. MANGANARO

14 BY MR. MORFORD:

15 Q. Sir, now that you've offered that last opinion about  
16 fairness, do you understand that the witness who actually  
17 talked with you can come in here and be asked those  
18 questions under oath?

19 A. What's that, sir?

20 Q. Do you understand that the witness who allegedly had  
21 this conversation with you can come in under oath and be  
22 questioned about that conversation?

23 MR. TRAFICANT: Objection. He was not  
24 allowed to testify.

25 MR. MORFORD: He asked opinion about the

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1 fairness of this. I want to know if he knows the rules.

2 THE COURT: Congressman, your objection's  
3 overruled. We'll go forward with the questioning now with  
4 them. Thank you.

5 BY MR. MORFORD:

6 Q. Have you ever testified in court before, sir?

7 A. Yes, but nothing on this caliber. Thank you.

8 Q. Well, are you real familiar with the Rules of  
9 Evidence?

10 A. No, sir.

11 Q. Do you know if they apply to every --

12 MR. TRAFICANT: Objection.

13 Q. -- single Defendant in every single case?

14 MR. TRAFICANT: Asked and answered, he has no  
15 knowledge.

16 THE COURT: That objection is well taken.  
17 This isn't the time to teach the witness about the rules.  
18 It's time to go forward and try and cross-examine and get  
19 some evidence in front of this jury.

20 BY MR. MORFORD:

21 Q. Sir, you have known Congressman Traficant for how  
22 many years now?

23 A. I've probably known Mr. Traficant for well over 20  
24 years or so.

25 Q. And would it be fair to say that you're very fond of

## Manganaro - Cross/Morford

- 1 Congressman Traficant?
- 2 A. He's my friend.
- 3 Q. I understand that, but you're also very fond of him;
- 4 is that correct?
- 5 A. He's my friend. I have to leave it at that.
- 6 Fondness isn't much different than what your role and mine
- 7 is. I do things for him. I do things for anybody that's
- 8 my friend.
- 9 Q. What are some of the things you've done for him? You
- 10 said one thing about a wall. Have you ever done anything
- 11 for him besides the wall?
- 12 A. When he was running for sheriff, helped, used my
- 13 building, and they made signs up.
- 14 Q. What else?
- 15 A. That's probably about it.
- 16 Q. Have you ever gone out to the farm other than that
- 17 one occasion in the early 1990s?
- 18 A. No, I've driven by.
- 19 Q. When was that that you were out there exactly as
- 20 close as you can tell us?
- 21 A. Either a Saturday or Sunday that I was out there.
- 22 Q. How about a year?
- 23 A. Oh, '90, '91. I can't really recall because I was
- 24 doing some jobs right after that, and I can't remember the
- 25 -- I was on one job for almost a year so I'm not sure. It

## Manganaro - Cross/Morford

- 1 was '90 or '91.
- 2 Q. What job was that?
- 3 A. It was off a bridge.
- 4 Q. Where was that bridge?
- 5 A. City of Youngstown.
- 6 Q. And what year was that?
- 7 A. '91.
- 8 Q. When did you start it, and when did you end it?
- 9 A. It was actually like broken up through the whole year
- 10 because the City didn't have a lease on certain property.
- 11 It would come and go.
- 12 Q. All during the year 1991?
- 13 A. Yeah, I think -- might have extended to '92, but I
- 14 can't be certain.
- 15 Q. So the work you did at the farm would necessarily
- 16 have been sometime in either 1991 or 1992, correct, during
- 17 the time you were doing bridge work?
- 18 A. I didn't do any work at the farm.
- 19 Q. How about shoring up the one wall like you told us?
- 20 A. Oh, that was just -- that was just a helping hand
- 21 there.
- 22 Q. That was during the bridge project you just said,
- 23 right?
- 24 A. I said either '90 or '91 I was out at his farm.
- 25 Q. I thought you said it was during the time you were

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1 working on the bridge?

2 A. I said I wasn't that sure. I said it could have  
3 been.

4 Q. Now, you talked about the condition of the barn a  
5 little bit, and -- I wrote down words here. You said old  
6 beat up barn; is that right?

7 A. Yeah. It's an old barn, an old barn. I mean, it's  
8 not like today's barns with the beautiful metal on it and  
9 so forth. It was an old barn that had old wood on it,  
10 weather beaten wood. The condition of the barn was like  
11 most farmers out there. I mean, it's still sturdy, viable  
12 barn but an old barn.

13 Q. What's the wall made out of?

14 A. Which wall, sir?

15 Q. The wall that you said was starting to bow and have  
16 the problems?

17 A. Fill stone and sandstone.

18 Q. Basically just fill stones stacked on top of each  
19 other sort of?

20 A. That's the way they used to stack it, on top of it.  
21 It was uniform.

22 Q. I don't know anything about barns. I'm asking you  
23 the --

24 A. It was a uniform barn. It was sandstone such as  
25 maybe an old house. They're sandstone in the cellars.

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1 It's stacked uniform right on up. But in a farm barn  
2 house, a barn, a lot of times they would use sandstone and  
3 fill stone to build up the walls. This was a combination  
4 of both, but it was uniform. It was a uniform wall going  
5 straight up.

6 Q. Isn't it also a common issue for barns that are  
7 constructed in that old manner and barns that are that age  
8 and barns that are in the condition as you described it,  
9 old beat up barn, that you will from time to time start to  
10 have some of those old walls give out? That's not unusual,  
11 is it, sir?

12 A. No, but I've seen barns stand for over 200 years old,  
13 and they haven't collapsed. The walls haven't collapsed in  
14 yet.

15 Q. But you've also seen barns that have, correct?

16 A. Yes, I have, for different reasons.

17 Q. And that happens with old barns, correct?

18 A. I would say, yes.

19 Q. Now, when you have an old barn that's in that kind  
20 of -- as you put it, old beat up condition, isn't there  
21 some danger if you start doing some construction work  
22 inside the barn, that maybe some of the -- that will cause  
23 some of those things to start to give out?

24 A. If it's related to that particular area, yes.

25 Q. How about smacking up a concrete floor inside the

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1 barn? Would that be something that could cause some of  
2 those problems?

3 A. It would be good if you had a concrete floor, but  
4 most of it is dirt.

5 Q. Let me ask you this: If you were a -- you're in the  
6 demolition business, correct?

7 A. Yes, I am.

8 Q. Having seen the state of that barn, if Congressman  
9 Traficant had asked you to come up and come out, start  
10 digging up that barn to lay a cement floor and start  
11 digging up around that foundation, as a man in the  
12 construction business, would you have given him any  
13 warnings that that might be a dangerous thing to do given  
14 the shape of the barn?

15 A. First of all, I wasn't out there to give him a price  
16 on digging up the floor.

17 Q. No, I know that. I'm asking you, somebody was  
18 actually out there and saw the condition of the barn, if  
19 you were going to start digging up that floor, would that  
20 be a concern to you structurally?

21 A. I would have to look. If I looked at the building, I  
22 would have to look on the outside to see how much dirt is  
23 against the outside walls, the structure of the wood, and  
24 going across the timbers and so forth like that, then make  
25 that decision. If I were to make that decision, I would

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1 jack the building up first, put a wall, and then dig up the  
2 floor.

3 Q. Would you, at least, warn him that's a danger with an  
4 old barn?

5 A. If I wasn't capable of doing that, I probably would  
6 have been able to. Unless the wood was rotted, then I  
7 would have told him it's unfeasible and going to be more to  
8 it than just that.

9 Q. Now, you said that you talked a little bit about  
10 Mr. Sugar. Were you working for Mr. Sugar in 1999 and  
11 2000?

12 A. I was doing miscellaneous work, miscellaneous. I do  
13 some demolition estimating for him because I've got the  
14 experience on doing that, and I pretty much knew the -- the  
15 consulting, if you want to call it or the estimating of it,  
16 plus I go to auctions for him and move stuff around.

17 Q. Isn't it true, sir, there came a time you couldn't  
18 get demolition jobs unless you were with someone like Dave  
19 Sugar because of the reputation you had in the Youngstown  
20 community?

21 A. No, I had riding jobs.

22 Q. Didn't there come a time you couldn't get jobs in  
23 Youngstown because people were complaining about the work  
24 that you were doing?

25 A. The only person that complained was the city.

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- 1 Q. The City of Youngstown, correct?
- 2 A. There's a difference between the city and private,  
3 sir.
- 4 Q. Well, let's talk about the City of Youngstown. There  
5 come a time you couldn't get Youngstown jobs because of  
6 their complaints regarding the way you conducted your  
7 business?
- 8 A. At one time, yes, but there was a reason behind it,  
9 sir.
- 10 Q. Let me ask you this: When you first started getting  
11 jobs in Youngstown, you started getting those jobs through  
12 the City of Youngstown, correct?
- 13 A. Yes, I did, sir.
- 14 Q. And you said you got those through Chuck O'Nesti,  
15 correct?
- 16 A. Yes, I did.
- 17 Q. And I believe you testified they used -- he was a  
18 very dear friend of yours?
- 19 A. He was a good friend, yes.
- 20 Q. Someone who often confided in you?
- 21 A. I don't know if he often confided in me, but we  
22 talked.
- 23 Q. Were you aware of his reputation in the Youngstown  
24 community?
- 25 A. Yes, I was.

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1 Q. What was his reputation?

2 A. He was fire chief.

3 Q. What was his reputation?

4 A. His reputation I never knew about until at the time  
5 that it was in the paper.

6 Q. You mean to say that up until the time that Chuck  
7 O'Nesti was indicted on RICO bribery charges, you never  
8 heard of his reputation being the mob's bag man, sir?

9 A. No, I didn't sir.

10 MR. TRAFICANT: Objection. Asked and  
11 answered two or three times now.

12 MR. MORFORD: Not of this witness, your  
13 Honor.

14 THE WITNESS: What's that, sir?

15 THE COURT: You can proceed.

16 BY MR. MORFORD:

17 Q. You're saying you never -- as close as you were to  
18 Chuck O'Nesti, you never, ever, heard that was his  
19 reputation?

20 A. No, I haven't. Sir, I told you he was my friend. I  
21 never asked him anything like that.

22 Q. Now, Congressman Traficant asked you when you last  
23 saw Mr. O'Nesti. When did you say you last saw him?

24 A. It was January of 2000, probably end of January. I  
25 went to a sale up in Home Depot in Boardman.

## Manganaro - Cross/Morford

1 Q. During the time that you were at least affiliated  
2 with Mr. Sugar, not necessarily working for Mr. Sugar, were  
3 you aware that there were times when Congressman Traficant  
4 was going to bat to help Dave Sugar with his company?

5 A. The only time that I knew that Dave approached  
6 Mr. Sugar was on two different occasions.

7 Q. You said Dave. You mean Congressman Traficant?

8 A. Dave Sugar approached Mr. Traficant.

9 Q. Okay. And what were --

10 A. I don't know if he, you know --

11 Q. What were the two occasions you were personally aware  
12 of?

13 A. The one time was the -- with his son, Junior, and he  
14 wanted to get him transferred from one jailhouse to a local  
15 establishment in our town so he could come back to work.

16 Q. Okay. And what was the second occasion?

17 A. The second occasion was for the Higbee's building  
18 that we had bidden on for the demolition of it.

19 Q. And you were actually a part of that bid, correct?

20 A. Yes, I was.

21 Q. And as I understand it, when the original bids came  
22 out, Terreri was the low bidder, correct?

23 A. The -- the bids where there was three of us in the  
24 lowest intention, there was Terreri, there was Boccia, and  
25 Honey Creek.

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1 Q. And was it your position that Terreri would be a  
2 problem, but Boccia wasn't because of their reputation?

3 A. Boccia had dropped the building off its foundation  
4 and basically collapsed the building in the City of  
5 Youngstown, and we didn't think that he would be capable or  
6 accepted for a bid.

7 Q. And as you understood it then, once the bid came out  
8 and Terreri was low bidder, Boccia was second, and Honey  
9 Creek was third, what did you think would have to happen in  
10 order for Honey Creek still to get that demolition bid?

11 A. Well, there really wasn't anything in it. If you  
12 would read the spec book, the spec book said that he was  
13 going to have tile removal. They were going take the tile  
14 out.

15 Q. That was one of the specs, correct?

16 A. Right.

17 Q. But they didn't award that spec, correct, initially?

18 A. They didn't award that because of the fact if they  
19 would have let the tile come out, if the tile would have  
20 come off the building, Terreri wouldn't have been low.

21 Q. Who did you feel would get it?

22 A. Either Boccia or Honey Creek.

23 Q. And who did you believe would get it if they let the  
24 tile come out?

25 A. That part, I can't answer. That was just like

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1       throwing coins in the air.

2       Q.     If they -- if they did not take the tile out, did  
3       Honey Creek have any chance whatsoever of getting that  
4       contract?

5       A.     If they didn't take it out?

6       Q.     Yes, if they did not.

7       A.     I'm trying to figure the subtraction on it. Dave  
8       would have been in second place. Boccia would have been  
9       first.

10      Q.     Right. And from what you testified about Boccia's  
11      problem in Youngstown, isn't it true that you and Dave felt  
12      that if you could get the city to save the tile, that Honey  
13      Creek would get that contract?

14      A.     No.

15      Q.     You never felt that way?

16      A.     No. Can I explain why?

17      Q.     Why don't you.

18      A.     Because the spec said that the tile was going to be  
19      given to Dave Asphalt Municipalities. They asked the  
20      Government, they asked all the potential areas if they  
21      can -- if anybody wanted the tile.

22             And when Dave called Mr. Traficant to find out if he  
23      was asked about the tile because the Historical Society  
24      from Poland was hoping to save the building if they  
25      couldn't save the building, because the building was a

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1 historical building, George McKelvey's parents, which is  
2 the mayor of Youngstown, it was his parents' building. The  
3 Historical Society from Poland, like I said, was involved  
4 with trying to save the complete building --

5 Q. That's not my question, sir.

6 A. I'm explaining to you why.

7 Q. I want you to get to the point.

8 A. The point is if they would have saved the tile, as I  
9 say, the price would have been Honey Creek would have it.

10 Q. Right. If they didn't save the tile?

11 A. Boccia would have had it.

12 Q. Or Terreri, correct, if they did not save the tile?

13 A. No.

14 Q. I thought Terreri was the low bidder?

15 A. Terreri was the low bidder.

16 Q. Without saving the tile, correct?

17 A. I am trying to remember. I don't have my papers,  
18 sir.

19 Q. I tell you what I'll do. Let me show you what's  
20 marked Government's Exhibit 5-10. See if that refreshes  
21 your recollection.

22 A. All right.

23 Q. Sir, I want to ask you a question, a simple question.

24 Isn't it true it was your belief and understanding  
25 if the tile was saved, Honey Creek could still get that

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1 contract, but if the tile was not saved, Terreri would get  
2 the contract?

3 A. Well, it says right here, Boccia's lower; you threw  
4 the paper at me, and Boccia is still lower.

5 Q. And you just testified, sir, Boccia collapsed a  
6 building in Youngstown, and you felt they couldn't get the  
7 contract, correct?

8 A. That's what I felt, but I'm not the judge who says  
9 okay with this here.

10 Q. I'm asking you your opinion, sir.

11 A. My opinion is I thought maybe we had a chance to --

12 MR. TRAFICANT: Objection. It's been asked  
13 and answered now.

14 THE COURT: This is cross-examination. You  
15 can answer.

16 Q. I'm asking for a very simple --

17 A. I'm giving it to you, sir.

18 Q. Let me ask it again.

19 A. All right.

20 Q. Isn't it true that for your understanding, as the  
21 person who was bidding on this demolition bid, that it was  
22 your understanding that if the tile was saved, Honey Creek,  
23 which is you and Dave Sugar, would have a good chance of  
24 getting this contract, but if the tile was not saved, it  
25 would go to Terreri, your understanding?

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1 A. Terreri would have been lower. It says right here on  
2 your paper.

3 Q. So the answer to that question is yes?

4 A. The next Base Bid is without the tile. The Base Bid  
5 is, Number 1, without the tile. Is that what you're saying  
6 to me?

7 Q. Sir, you're in the business, are you not?

8 A. Yeah, but I can't remember this. This is a couple  
9 years ago.

10 Q. Well, this was a contract you bid on, correct?

11 A. I'm sorry about that. Once it wasn't awarded to us,  
12 why should I remember it? But it says Base Bidder require  
13 \$850,000, Boccia, \$787,000, Honey Creek, \$698,000.

14 Q. Sir, let me try to make this maybe simpler.

15 When I asked you the question, were there any times  
16 that Congressman Traficant went to bat to help your  
17 company, Honey Creek that you were affiliated with at that  
18 time, you said yes, two things. One, Dave Sugar's son, and  
19 two, the tiles. How did you see it that it was helpful to  
20 your company that Congressman Traficant was trying to get  
21 the tiles saved?

22 A. That's what I was answering you before, before you  
23 said, hey, look at this.

24 Q. Go ahead. Explain it then.

25 A. I was telling you about it. All Dave wanted to do,

## Manganaro - Cross/Morford

1       you know, was Jim Traficant's office was going to save the  
2       tile.

3       Q.     How was that going?

4       A.     That's all I'm aware of.

5       Q.     How would that help the company?

6       A.     In the contract book, it said the tile was going to  
7       be -- the tile was going to be saved.  And as soon as Jim  
8       Traficant was aware of the tile being saved, that's when he  
9       called down there and talked to him, which I am not aware  
10      of what he said.

11      Q.     Sir, if the tile --

12      A.     Then the book was thrown out and rebid because Jim  
13      Traficant intervened and asked about the tile.

14      Q.     If the tile --

15      A.     That's all I know.

16      Q.     If the tile was going to be saved anyway, why did you  
17      need Jim Traficant's help in the first place?

18      A.     The tile was the issue in the book.  They were going  
19      to throw the job out prior to Jim Traficant even talking.

20      Q.     Did you -- you just said a minute ago --

21      A.     Then they got a hold of Jim Traficant and asked about  
22      saving the tile.  If he would have saved the tile, then it  
23      was a chance for Honey Creek to get the job if they didn't  
24      use Boccia.

25      Q.     That's all I wanted to know.

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1 A. That's what I'm trying to explain to you, but you  
2 wouldn't give me an opportunity.

3 Q. Your understanding is that you guys were asking  
4 Congressman Traficant to help you save the tiles, that  
5 you'd have a chance to get this million dollar demolition  
6 contract, correct?

7 A. No. We were asking him if he was aware that the tile  
8 was going to be used for something or if he was going to  
9 use it for something. He wasn't even aware of the  
10 Government -- or I should say his area wasn't even  
11 contacted if he wanted to use the tile or not.

12 Q. Prior to the time you guys contacted him, he wasn't  
13 even trying to save the tile or aware of it. Is that what  
14 you're saying?

15 A. Right. The first time it was bid out, no.

16 Q. Okay.

17 A. And he brought it in at the end before they rebid  
18 it because he made waves, and they just threw it out, and  
19 an architect is always right. They say oh, there was an  
20 error in the book. They threw the book out and rebid  
21 it.

22 Q. So it's your testimony that the first Congressman  
23 Traficant ever became aware or involved in the tile was  
24 after you guys called him?

25 A. I would assume so, yes.

## Manganaro - Redirect

1 Q. Okay.

2 Now --

3 MR. MORFORD: Just a moment. I have nothing  
4 further, your Honor.

5 THE WITNESS: All right, sir. Thank you.  
6 Here's your paper back.

7 MR. MORFORD: He may want to ask you about  
8 that.

9 THE WITNESS: Okay.

10 REDIRECT EXAMINATION OF HARRY R. MANGANARO

11 BY MR. TRAFICANT:

12 Q. You think these people tried to intimidate you,  
13 Harry?

14 A. Pardon me?

15 Q. You think these people tried to intimidate you?

16 A. Depends on how you look at it. He's got a job to do,  
17 too.

18 Q. Was David a good bookkeeper?

19 A. No. He was a lousy bookkeeper.

20 Q. Did you have knowledge of him backdating other forms?

21 A. He's done it a couple different times. A lot of  
22 times what he'll do is, especially on small jobs, yeah,  
23 Dave's --

24 MR. MORFORD: Your Honor, I object unless  
25 there's a foundation to show his basic knowledge. Maybe he

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1 can explain how he knows these things.

2 THE COURT: Why don't you explain?

3 MR. TRAFICANT: Let him explain himself, will  
4 you.

5 THE WITNESS: He did a small job in New  
6 Middletown. It was a small job. I can't remember exactly  
7 what the amount was. It wasn't my doing with the amount,  
8 but it was a small job. He had the job sit on his desk  
9 for, oh, maybe one or two months.

10 And New Middletown called and asked when are you  
11 going to submit a bill for it. He said, I have it on a  
12 desk somewhere. He had it on there but didn't have the  
13 date so he changed the date on that, and he put a date on  
14 it for when the job was done, and he sent it in.

15 BY MR. TRAFICANT:

16 Q. Now, they asked you a number of questions about  
17 friends and fondness. How often did we see ourselves,  
18 Harry?

19 A. We run into each other maybe three or four times a  
20 year, different occasions. Like you'd be downtown, I would  
21 say hi, different things like that.

22 Q. Now, when you met with your concerns about Dave  
23 Sugar, did you contact me, or did I contact you?

24 A. No. I came to your house because I was worried about  
25 Dave, because he's my friend.



## Manganaro - Redirect

1 Q. Was there an arrangement for a meeting?

2 A. Well, when I came to your house and everything, I  
3 talked to you a little bit, and you said that you'd like to  
4 talk to me the next day, and it was between 8:30. You said  
5 meet me on 224 and Raccoon Road.

6 Q. What was on 224 and Raccoon Road?

7 A. Your office in the back.

8 Q. Did we agree to do something that day?

9 A. Yes, we did.

10 Q. What was it?

11 A. We were talking about Dave Sugar.

12 MR. MORFORD: Objection.

13 THE COURT: Overruled. You can lay a  
14 foundation.

15 Q. Did you consent to having a tape made?

16 A. Yes. I came in your office, sat down, and you says  
17 are you aware that I'm going to be taping you, and I said,  
18 yes, that's okay.

19 Q. And did I give you a copy of that tape?

20 A. I've got a copy of the paper. It's not the tape  
21 itself, but it's all typed out, what was said.

22 Q. Does it contain all of the things that were said on  
23 the tape?

24 A. I believe it does.

25 Q. Were you truthful on that tape?

## Manganaro - Redirect

- 1 A. Yes, I was.
- 2 Q. Were you forced to make that tape?
- 3 A. No.
- 4 Q. Did you do it to hurt Dave Sugar?
- 5 A. No. I thought if anything it might help him because
- 6 Dave has 30 people, like I said, he supplies 30 people
- 7 jobs.
- 8 Q. Now, back to the barn work, that was a long time ago,
- 9 wasn't it?
- 10 A. Yes, it was.
- 11 Q. It was really hard to remember the exact dates,
- 12 wouldn't you say?
- 13 A. I can't remember that far back. It's -- it's got to
- 14 be early, like I said early '90s. I can't remember
- 15 exactly.
- 16 Q. Was there a piece of machinery that you've seen in
- 17 that barn?
- 18 A. There was a piece of machinery on the outside of the
- 19 barn. It was a hubcap.
- 20 Q. Did it have a name of who owned it?
- 21 A. No. Just -- I think it was a specialist on it.
- 22 That's all.
- 23 Q. Now, the Prosecutor asked you about digging close to
- 24 the area where the barn came in. Isn't that what caused
- 25 the barn to fall?

## Manganaro - Redirect

1 A. There was apparent digging there. There was digging  
2 on the floor and closer to the foundation. That was  
3 contributed to the fall of the barn. I wasn't there to see  
4 it, but it's a very good possibility because of the  
5 gentleman who was there before helping me made it clear if  
6 you did the floor, it could fall.

7 Q. Was it just a simple little thing or a major problem?

8 A. I thought it was a major problem if he didn't take  
9 care of it. The barn was going to fall.

10 Q. Now, when the -- they asked you about the tile.  
11 Isn't it a fact that the historical society of our Valley  
12 was trying to save the building itself?

13 A. They were trying to save that building for probably  
14 five years prior to demolition.

15 Q. And when the City of Youngstown decided to tear it  
16 down, did they not then say save that special tile?

17 A. The tile was put in the book, but I don't believe it  
18 was advertised in the legal news because in the legal news  
19 is where we saw the advertisement for the bid, for the  
20 Higbee building, but there was nothing in there stating  
21 about the tile being saved.

22 Q. Harry, was that a unique tile that was very rare?

23 A. Well, in those days, different buildings, the tile  
24 was basically square tile, 12 by 12 or something even  
25 bigger than that. That's not as unique as the saving of

## Manganaro - Redirect

1 the fanciness on the top, the top and the sides coming  
2 down. That's what makes tile worth money and takes it for  
3 the savings. It's the carvings on the top and along the  
4 windows.

5 Q. Did it have those types of features?

6 A. Yes, had it on the top and the windows.

7 Q. I want you to take a look at this beautiful  
8 courtroom. Would you call this a unique, historical type  
9 of room?

10 A. Yeah, probably call it plastered, too.

11 Q. Was the Higbee building's tile very unique and  
12 historical?

13 A. Yes, it was unique. It may have been historical  
14 because of that era in which it was built. I'm a  
15 demolition contractor. I don't see that kind of stuff. I  
16 don't like it.

17 Q. You tear things down, right?

18 A. Yeah, I tear it down.

19 Q. But, now, there's historical society wants it. Then  
20 when they found out the building couldn't be saved, they  
21 wanted to save the tile, at least, didn't they?

22 A. Yes, they did. They protested quite a bit about it.

23 Q. Wasn't it a fact that many of the Government entities  
24 were approached about the tile?

25 A. That was our understanding at the prebid meeting.

## Manganaro - Redirect

1 They said everybody that was in -- everybody that was in  
2 need of the tile was contacted.

3 Q. Well, did you make the -- do final decisions on the  
4 final bid numbers for Dave Sugar?

5 A. I would probably say yes. We worked out actually  
6 together and everything and came up with one figure and cut  
7 it down, and then we go back up and cut it down. Then we  
8 both just a shot in the dark any time you bid on any kind  
9 of job.

10 Q. Do you have any knowledge that if anybody else called  
11 me besides Dave Sugar to save the tile?

12 A. No, I don't.

13 Q. Were there other groups trying to save the tile?

14 A. I don't know. The only thing I know is that the  
15 historical society and the arms museum in Youngstown, Ohio,  
16 which is also a historical type museum, but I don't know if  
17 they were -- as a matter of fact, Mayor McKelvey wanted the  
18 stipulation he would save the sign that was his father's  
19 sign on the, I believe it is, it's Phelps Street, Phelps  
20 Street, and the year -- the years that it was put up. That  
21 was the original Higbee's, was on the side street.

22 Q. You know if that sign was saved?

23 A. Yes, it was.

24 Q. Who was the mayor of the City of Youngstown?

25 A. Right now?

## Manganaro - Redirect

1 Q. No, when the Higbee building project was going on.

2 A. That was the one we have now, McKelvey.

3 Q. Now, after Mainline got the job, was there a problem  
4 that followed some of their work?

5 A. Well, they were supposed to start supposedly, say --  
6 and I don't want to -- I don't want to say dates because  
7 I'm not aware of it, but I'm just giving you an example.  
8 They were supposed to start like, say, in October. They  
9 couldn't start in October because they had problems coming  
10 out of Pittsburgh. They just finished a job in Pittsburgh.

11 Q. Now, while they were doing the job, did any other  
12 damage occur from their actions?

13 A. Yes. First of all, they were shut down. They were  
14 shut down on three different occasions because they had  
15 done the job, like I said in Pennsylvania, and the union  
16 came up and shut them down in Youngstown because they never  
17 paid their fringes down in PA and never paid some other  
18 bodies down there that had worked for them. That was one  
19 problem. The next problem they had, they weren't complying  
20 with the EEO, which is the minority portion of the contract  
21 work.

22 Q. Who enforced that?

23 A. Actually, Bill Carter, which is in charge of the EEO,  
24 he got wind of it and had a meeting with the people from  
25 Mainline, and they said they would comply with it. They

## Manganaro - Redirect

1 started to comply with it. They hired a minority company  
2 and kept them two days and got rid of them and brought  
3 their own trucks in from New York.

4 Q. Is that when I got involved?

5 A. Yes, it was, sir.

6 Q. Was there a fire as a result of their actions there?

7 A. Well, further on down the line, right before they did  
8 a job cleaning the building all the way around, took up out  
9 the smaller portions and left maybe six stories on one side  
10 of the building, and they left the walls, and what they did  
11 is they were going to drop the building.

12 They went inside of it and cut the beams out of it  
13 and decided to drop the building. In the process while  
14 they were cutting the beams inside, they cut the inside of  
15 the building on fire. And instead of putting the building  
16 out, they cut the building and let it drop, thinking the  
17 percussion of the building coming down would blow the fire  
18 out.

19 It didn't. It kept going, and it wasn't actually  
20 flames. It was underneath all debris. It was probably  
21 some flames but such a bad smoke in the town that they had  
22 to shut like three different buildings down.

23 Q. Did any other buildings get damaged?

24 A. No. Just had a -- well, depends upon the smoke. The  
25 smoke was so thick that it probably had to be cleaned, the

## Manganaro - Redirect

1 next buildings and the normal breakage of windows in the  
2 building next door broke from the demolition. That might  
3 have been fragments flying.

4 Q. Do you object to having that tape turned over to the  
5 court that we made together?

6 A. No, I didn't.

7 Q. Were you truthful on that tape?

8 A. Yes, I was.

9 MR. TRAFICANT: Your Honor, I ask that the  
10 tape made of consent between Harry Manganaro and myself be  
11 considered now.

12 THE COURT: Well, we have to recess the jury.  
13 It's a good time for a break so we can do that. 20-minute  
14 break.

15 (Proceedings in the absence of the jury:)

16 THE COURT: Congressman, I went back to see  
17 whether this was a tape we have a transcript of, we don't  
18 have a --

19 MR. TRAFICANT: No, I haven't had it  
20 transcribed yet.

21 THE COURT: We can't deal with this unless we  
22 have a transcript. You know that.

23 MR. TRAFICANT: I'd like to finish with this  
24 witness and revisit this issue.

25 THE COURT: Okay.

1                   MR. TRAFICANT: So I can get on with my  
2 defense.

3                   THE COURT: All right. That's a good idea.  
4 We should give the jury their full break, though.

5                   MR. TRAFICANT: Yes.

6                   THE COURT: And I -- at 4:30, which I'm sorry  
7 I keep saying 3:30, but at 4:30, we can take up the hearsay  
8 issues regarding these two witnesses if you have decided  
9 how you want to go forward in laying --

10                  MR. TRAFICANT: Your Honor, not to interrupt,  
11 I do not want to do it today. I want to do some research.

12                  THE COURT: Okay. Well --

13                  MR. TRAFICANT: And I won't take much time.

14                  THE COURT: It is a second opportunity, but I  
15 don't want to use the break right now to do this either  
16 because I -- I don't think you're ready necessarily. When  
17 I -- when I went back and thought about where we were with  
18 this continuing discussion of hearsay, I think -- I think  
19 that the part of this about finding and supporting a  
20 hearsay exception or that something isn't hearsay is what  
21 you need to pay attention to, and if you want to do some  
22 research on that, then that's fine.

23                  But we do need to have that done out of the hearing  
24 of the jury and before we put hearsay in front of the jury.  
25 So we've got to get it organized for your witnesses.

1 MR. TRAFICANT: Your Honor, let me ask you  
2 this. Evidently, the Prosecution has met the requirements  
3 and qualifications to have people testify relative to the  
4 comments of one Charles O'Nesti passed; is that correct?

5 THE COURT: That is a fact, but that in  
6 itself doesn't mean that that is an exception to the  
7 hearsay rule. There's more to do, and it's the doing the  
8 second part that I want you to focus on so we can really go  
9 forward with your witnesses. And it's all there in the  
10 rule.

11 If you just keep reading through the rule, it's not  
12 simply having a -- an established -- on a witness that's  
13 not available. It's more to do -- it is the second part.  
14 If you want to do more research, I think we should take the  
15 time.

16 MR. TRAFICANT: If it's a statement against  
17 interest and that's why I would have to subpoena the -- FBI  
18 agent that threatened him with the military hospital.

19 THE COURT: Well, in any event, if you want  
20 to do some more work on that before we give you a chance to  
21 establish it, we are putting your case on, got your  
22 witnesses here today, and I would suggest that you use the  
23 rest of the break, and that we approach that again at 4:30  
24 when the witnesses are gone.

25 MR. TRAFICANT: I may not be prepared to

1 address that at 4:30 with the -- I don't even have the  
2 Federal Rules of Evidence with me, and I think I deserve at  
3 least a night to look into it. I don't need to take up the  
4 jury's time. I can bring the witness back and finish up  
5 things other than the tape; have the tape transcribed and  
6 call him back.

7 THE COURT: We have this apparently with nine  
8 separate tapes, no transcript, and you're not clear  
9 about --

10 MR. TRAFICANT: No, there's two.

11 THE COURT: -about how you want to try and  
12 establish them so we really need to get this resolved.  
13 Mr. Morford.

14 MR. MORFORD: Your Honor, I think it was as  
15 early as last Friday I brought this issue up we were going  
16 to have this tape problem because I could see this coming  
17 up. A couple things.

18 THE COURT: We're in it.

19 MR. MORFORD: Number one, the Congressman is  
20 saying this isn't fair because the Government got their  
21 hearsay in. If the Court will recall, we had a tape  
22 recording of Chuck O'Nesti admitting that he kicked back to  
23 the Congressman, and we acknowledged that that was hearsay  
24 and did not fit any of the exceptions of 804(b) and did not  
25 offer it.

1           What we did offer were contemporaneous statements of  
2 Chuck O'Nesti made prior to the time he ever had any  
3 charges against him or anything else, so these are apples  
4 and oranges. But aside from all that, my only point is  
5 this: That the Congressman has known about this for days.  
6 We put him on notice because we were concerned about having  
7 15 jurors who have put their lives on hold and have jobs  
8 and families to tend to, sit around and do nothing, and the  
9 point is here we are now in the middle of his  
10 case-in-chief.

11           He has not made the transcripts. He has not filed  
12 anything in writing, and from what he just said, he hasn't  
13 looked at the hearsay rule.

14           And my other objection is -- and I'm going to ask the  
15 Court to do something about this somehow -- is that  
16 Congressman Traficant, after the Court had said that these  
17 tapes could not be mentioned in front of the jury until he  
18 addressed these things, the Court has told him repeatedly  
19 to address, purposefully and intentionally said in front of  
20 this jury I have a tape, and I'd like to put it in, and I  
21 believe that that can create real problems.

22           We can tell the jury to disregard that, but the fear  
23 I have is that what he's doing is a pattern of suggesting  
24 to the jury that there's some evidence out there that he  
25 knows is not admissible. They'll never see it, but

1           somehow, he's not getting a fair shake in front of the  
2           jury, and so I just ask the Court to somehow address that.

3                       MR. TRAFICANT: I'd like to respond to that.

4           Number one, Mr. O'Nesti was asked to sign an  
5           affidavit after the fruit basket ploy if he gave kickbacks  
6           to Traficant, sign the affidavit, and he did not sign an  
7           affidavit because he didn't kick back money.

8           Now, look, if you guys had something, you'd have it  
9           in the courtroom, quit trying to play to the press on this.

10           Mr. O'Nesti was brought in. Clearly, he's a man who  
11           was at risk. He was told by Mr. Pikunas who admitted in  
12           his 302 that he mentioned he didn't want the U.S. Attorneys  
13           to find out because they may sentence him to an Army  
14           hospital.

15                       THE COURT: This is --

16           MR. TRAFICANT: He didn't want to leave his  
17           home. Mr. -- this tape could not be admitted because it  
18           was a lie, anything that would have been on the damned  
19           thing. He didn't want to die away from his home and kids.  
20           Now they're trying to make it look like something else.

21                       THE COURT: Congressman, Congressman.

22           MR. TRAFICANT: Let me ask the Court, I'm  
23           going make a transcript, but Manganaro admitted -- I didn't  
24           hear objection on the intent -- his consent, total tape,  
25           not one objection.

1 THE COURT: Right. But did you -- did you  
2 listen to what he just said about what he -- what he --

3 MR. TRAFICANT: I listen to what the Court  
4 says.

5 THE COURT: Let me reiterate that when we  
6 rule against you and give you an opportunity to establish  
7 whether or not you have something which either is not  
8 hearsay or an exception to the hearsay rule and we have  
9 given you lot of those opportunities, and you have failed  
10 to use them or prepare, and then you try and talk in front  
11 of the jury about something that you know the Court not  
12 only has not yet admitted but we have told you what you  
13 have to do in order to make it clear whether or not it can  
14 be admitted, you're trying to do something with this jury  
15 that we don't permit lawyers or pro se parties to do in  
16 front of jurors.

17 MR. TRAFICANT: Your Honor, you've allowed  
18 them to sneak things in, and I let them do it with Bucci, a  
19 lot of hearsay in. I let them ramble, but in my first  
20 trial in sixth generation copies --

21 THE COURT: Congressman, this is not --

22 MR. TRAFICANT: Look, I don't care.

23 THE COURT: It's not --

24 MR. TRAFICANT: You have witnesses who have  
25 statements made by a man who is now deceased, that you've

1 allowed them to use. Now you're not allowing me to use it,  
2 and whatever rule they use, certainly the same rule can be  
3 used by me or another one.

4 THE COURT: It does. You can use the same  
5 rule or another one, any one you can find, but you have to  
6 take the time and effort to establish that what you want to  
7 do is permitted in a court of law. We've given you that  
8 time, I'll give it to you again, and I'll tell you one  
9 other thing I'm going to do because we have -- we have out  
10 there you with nine tapes. We have no transcripts. You  
11 are in your case now. This is your opportunity.

12 I'm going to ask that you get yourself organized at  
13 this break so that at 4:30 we can address whatever it is  
14 you've discovered in that rule that will allow your  
15 particular situation to be brought in front of the court.

16 MR. TRAFICANT: I'm not ready at 4:30. If  
17 you want to meet tomorrow at 8:00, I'll meet at 8:00.

18 THE COURT: You should be ready.

19 MR. TRAFICANT: I'm not ready at 4:30. I  
20 don't have a battery of 5,000 people in Philadelphia,  
21 attorneys to help me out, and I'm not ready at 4:30, and  
22 when I'm ready, I'll bring it.

23 THE COURT: We're in our seventh week of  
24 trial.

25 MR. TRAFICANT: They've had seven weeks.

1 I've only had two hours, and you've denied me the  
2 opportunity to directly examine witnesses --

3 THE COURT: Okay. Tell you what I'm going to  
4 do. Tell you what I'm going to do. We're going to go at  
5 4:00 this afternoon with your witnesses because you've got  
6 them here, right, you have two more?

7 MR. TRAFICANT: I'm going to bring the  
8 witness back because he has to make two bids tomorrow.

9 THE COURT: You can --

10 MR. TRAFICANT: I'd like to bring the other  
11 one in, too.

12 THE COURT: You can bring your witnesses in,  
13 and we'll do this after the jury has had their break, try  
14 to get these witnesses on today. If we do that, then if  
15 there is time tomorrow because we've gotten this testimony  
16 on, then we'll try and make arrangements to see whether or  
17 not you can do this at 8:00 tomorrow morning. I'll come  
18 in, Congressman.

19 MR. TRAFICANT: I've relieved one of the  
20 fellows.

21 THE COURT: That's your choice.

22 MR. TRAFICANT: Because the other fellow has  
23 a sister at home sick. Dennis Johnson had to take  
24 Mr. Coleman and Dennis Johnson are gone.

25 THE COURT: Okay.

1                   MR. TRAFICANT: I only have Manganaro here  
2                   and another witness, and I'd like to get them both done. I  
3                   want to bring them back. I'm not finished with my  
4                   redirect. I think we can handle the tape issue tomorrow  
5                   morning.

6                   THE COURT: We can handle the tape issue  
7                   whenever you get us the tapes.

8                   MR. TRAFICANT: I'd like to handle the tape  
9                   issue, quite frankly, next week when I can have  
10                  transcripts.

11                  THE COURT: No. You can't do this when  
12                  you've got a jury. They are ready and willing to work.  
13                  This is your time in this court. You've known for a long  
14                  time that you were going to put on whatever.

15                  MR. TRAFICANT: I can put on other witnesses  
16                  that don't deal with the tapes. I need time to have them  
17                  transcribed.

18                  THE COURT: Okay.

19                  MR. TRAFICANT: And I don't have the budget  
20                  the United States Justice Department has.

21                  MR. MORFORD: Well, then, I request he not  
22                  mention the tapes again until he's provided the Court with  
23                  proper materials, number one. Number two, I request if  
24                  there's any further redirect of Mr. Manganaro, we don't get  
25                  into more hearsay because he knows that rule, too. And

1 number three, I ask any further redirect be restricted to  
2 the scope of the cross.

3 MR. TRAFICANT: Now, wait a minute. Is this  
4 my witness or yours?

5 MR. MORFORD: You rested. You finished your  
6 direct.

7 MR. TRAFICANT: No. I didn't finish my  
8 direct. I asked for a side bar. You took it on this issue  
9 of tapes. Mr. Manganaro is coming back out under redirect  
10 by me.

11 MR. MORFORD: That was Mr. Johnson.

12 MR. TRAFICANT: Well, Mr. Johnson was not  
13 relieved. He can be recalled. Mr. Manganaro is going to  
14 be my next witness, your Honor. And I -- I urge that you  
15 move the jury out now so we can get these two out of the  
16 way. And I'd like to say something for the record --

17 THE COURT: Just a minute.

18 MR. TRAFICANT: I'd like to say something for  
19 the record.

20 THE COURT: Excuse me. Is the jury still  
21 back here or out smoking?

22 THE CLERK: They're back.

23 THE COURT: Okay, okay.

24 MR. TRAFICANT: Just for the record.

25 THE COURT: Okay.

1 MR. TRAFICANT: I don't want the Prosecution  
2 to ever speak for me again.

3 MR. SMITH: We haven't tried.

4 THE COURT: Yeah. Congressman, you do well  
5 speaking for yourself.

6 MR. TRAFICANT: And I don't want them to  
7 address me, nor demean me, or try to intimidate me in any  
8 way.

9 MR. MORFORD: What are you doing right now?  
10 Why don't you turn and address the Court?

11 MR. TRAFICANT: What have you been doing to  
12 me?

13 THE COURT: Congressman.

14 MR. TRAFICANT: He has intimidated everyone  
15 in this investigation.

16 THE COURT: Oh, stop it.

17 MR. TRAFICANT: Oh, you know he has. You've  
18 seen the damn reports.

19 THE COURT: Stop it.

20 MR. TRAFICANT: Now, you're not letting  
21 anything in.

22 THE COURT: Congressman.

23 MR. TRAFICANT: Look, I'm either going to go  
24 to jail, or I'm telling you this: He's going to go to  
25 jail. That's where this trial is because I'm not an

1 attorney, and they're not going to scare me to death, and  
2 they have gotten their attorneys to suborn perjury, they  
3 have twisted their attorneys.

4 THE COURT: If you continue -- if you  
5 continue to yell in front of the jury, we won't be able to  
6 proceeded.

7 MR. TRAFICANT: Well, I advise the  
8 Prosecution to constrain themselves.

9 THE COURT: Okay. Here's what I suggest we  
10 do. Congressman --

11 MR. TRAFICANT: Yes.

12 THE COURT: -- you go forward until 4:30 with  
13 your witnesses.

14 MR. TRAFICANT: Yes.

15 THE COURT: We let the jury go home at 4:30  
16 and let them stay home tomorrow. You come in here, we'll  
17 start at 9:00 in the morning, and we'll give you every  
18 opportunity to get whatever it is you're going to do with  
19 the witnesses you intend to call clear, and then we'll go  
20 forward on Monday.

21 MR. TRAFICANT: I'll make every attempt to  
22 comply with that. I'm saying this to you --

23 THE COURT: I'm giving you more time than is  
24 common, and I want you to understand it and take advantage  
25 of it because you frequently come in, as you did today,

1       when we gave you overnight to read two cases that we gave  
2       you the citations on. You came in today and all of a  
3       sudden acted as if you never had an opportunity to read it.  
4       We'll give you the opportunity you're asking for. It's  
5       very unusual to do that to a jury, to simply say to them  
6       stay home a day, but they probably won't mind.

7                   MR. TRAFICANT: Your Honor, I recommend that  
8       we do that, and that we address these problems.

9                   THE COURT: All right.

10                  MR. TRAFICANT: Today without a jury and  
11       Friday, and you said no.

12                  THE COURT: Not today. We have a jury here.

13                  MR. TRAFICANT: I know, but I did recommend  
14       that to you, I think on Wednesday, and you said we'll have  
15       a jury in here.

16                  THE COURT: We did. They're here.

17                  MR. TRAFICANT: So that was your decision. I  
18       tried to do it.

19                  THE COURT: Well, are you interested in  
20       having tomorrow morning rather than presenting evidence --  
21       having an opportunity to try and clear up this --

22                  MR. TRAFICANT: I would prefer that, yes, but  
23       I don't know if I'm going to have all my final -- I'll have  
24       the best stuff I can here.

25                  MR. SMITH: But --

1                   THE COURT: This is a lawsuit, and this is a  
2 trial. We don't just wait while you get ready. You've had  
3 plenty of time to get ready.

4                   MR. TRAFICANT: Look, I have different  
5 witnesses in different matters, but what I'm telling you is  
6 this: When they make statements like he just made about a  
7 tape that they know is inadmissible over the fruit basket  
8 ploy, when they ask Mr. O'Nesti to sign an affidavit if he  
9 gave kickbacks and he wouldn't sign it -- let's tell it  
10 like it was because he knew it wasn't true -- and I have a  
11 witness that knows, he told, and confided how they  
12 pressured him and put him in an Army hospital --

13                   THE COURT: Why don't you stop yelling, stop  
14 yelling. Stop it. There's a jury in the room right there.  
15 Stop.

16                   MR. TRAFICANT: I have no problem with you,  
17 but you're not going to scare me.

18                   THE COURT: Okay. We'll take a break.

19                   MR. TRAFICANT: I say for the record he has  
20 intimidated my constituents. This is the Congressman  
21 speaking now, not a defendant.

22                   THE COURT: Well, then, do that in Congress.  
23 Don't do it here.

24                   MR. TRAFICANT: Thank you.

25                   THE COURT: Okay. We are taking a short

1 break. We'll all benefit from it. What is it, ten, five.  
2 How long have they been out, Ed?

3 THE CLERK: Half an hour.

4 THE COURT: Okay.

5 MR. TRAFICANT: How much time do we get?

6 THE COURT: We get five minutes.

7 MR. TRAFICANT: Thank you.

8 By the way, your Honor, if you want to help me with  
9 my motion?

10 THE COURT: Come on. Take your break.

11 MR. TRAFICANT: The Court is to administer  
12 justice.

13 (Thereupon, a recess was taken.)

14 (Proceedings in the absence of the jury:)

15 THE COURT: Two things regarding the hearsay  
16 work that you do tonight when you study these things, I  
17 want you to also understand the way we begin going forward  
18 tomorrow morning is at 9:00, you would have Mr. Johnson,  
19 and if you want Mr. Manganaro, whichever -- the two where  
20 we had issues so far, and maybe there'll be another witness  
21 you call today, and if so, you can bring that witness in,  
22 we go into session without the jury present, and you can  
23 then put them each, one at a time, on the stand here and  
24 ask the question that raised the objection before or  
25 questions that raised objections before so that I then have

1 the statement to consider.

2 And I'll then make the ruling so that I can rule on  
3 whether a hearsay exception applies or whether it's not  
4 hearsay at all. We'll try the case in some of these where  
5 there were objections, but that's the way -- the practical  
6 way that we would go forward. It's called voir dire. But,  
7 when you read the rule, you'll see what it is that set up  
8 their objection, and then you can address that,  
9 Congressman.

10 MR. TRAFICANT: To Mr. Johnson, and Mr.  
11 Manganaro cannot be here tomorrow. Mr. Manganaro has two  
12 bids for his --

13 THE COURT: Well, then, we'll go forward with  
14 the jury tomorrow with your other witnesses, but  
15 remember --

16 MR. TRAFICANT: I thought you said we weren't  
17 going to do the jury tomorrow.

18 THE COURT: I won't do them if you have  
19 something to do here that we're supposed to be doing. We  
20 don't just stop --

21 MR. TRAFICANT: I thought we were going to do  
22 the criminal -- we were going to do the hearsay, and we  
23 were going to do the --

24 THE COURT: Yeah. When you do hearsay, you  
25 have to -- you have to do something that will show what the

1 statements that they would have made are so that the Court  
2 has something to evaluate. I don't have anything to  
3 evaluate until you do it. And one good way to do it is  
4 with putting the person on the stand, asking the question  
5 the Government objected to, or the questions they objected  
6 to. We'll let them answer without the jury present, and  
7 then I know what it is that the answer would have been, and  
8 I can rule for you. So that then we know whether it can  
9 come in or can't. If you don't want to do that, we don't  
10 have to do it.

11 We've been over so many of these processes with you,  
12 but I'm not going to let the jury stay home. We're going  
13 to go forward with your case if there's nothing for us to  
14 do.

15 MR. TRAFICANT: Is the jury coming in  
16 tomorrow or not? I thought you said --

17 THE COURT: It depends on if you want your  
18 hearing. You weren't ready to do it today, and I said  
19 we'll do it tomorrow --

20 MR. TRAFICANT: I am not ready. I'd like to  
21 do it, but I don't know if I'll have witnesses to do it  
22 with. Two of them can't be here.

23 THE COURT: -- you can't just talk all the  
24 time --

25 MR. TRAFICANT: I can have one here.



1 THE COURT: Good. We'll do it for one. But,  
2 they've got to come in here at 9:00 so we can work.

3 MR. TRAFICANT: All right. Well, then, make  
4 sure I tell somebody before they leave.

5 THE COURT: I am not making sure of anything,  
6 Congressman.

7 MR. TRAFICANT: Well, I'm going to let the  
8 last witness know before they leave so --

9 THE COURT: You go talk to them.

10 MR. TRAFICANT: Yes, I'm ready to go forward.

11 THE COURT: Okay. I have another thing when  
12 you come back. You go tell them.

13 MR. TRAFICANT: You want me to tell them now?

14 THE COURT: Sure.

15 (Pause.)

16 MR. TRAFICANT: I have one witness that I can  
17 have tomorrow.

18 THE COURT: Okay.

19 MR. TRAFICANT: And I'm ready to go forward  
20 with Mr. Manganaro.

21 THE COURT: Okay. I'll bring him in in a  
22 minute. I want to go over one other topic, which is  
23 important, and that has to do with this discussion of tapes  
24 in front of a jury.

25 You know the procedure on tapes. We've been over

1 this and over this, but you haven't done the first step.  
2 There are at least three steps that have to be taken before  
3 you can mention anything about any tapes in this courtroom.

4 That has to be, first of all, you provide the Court  
5 with a -- an accurate transcript of the tape. We don't  
6 have any for any of the nine.

7 Secondly, we have to have a hearing out of the  
8 hearing of the jury. And during that hearing, we have to  
9 figure out whether or not these tapes can be admitted in  
10 this case. You have to wait until we've had that hearing,  
11 and you have to wait until, if it happens, I find that  
12 these tapes are admissible.

13 Since I don't have any transcript or I don't have any  
14 capacity to go forward, I want -- I want you to really pay  
15 attention to getting those transcripts. But, if you choose  
16 not to do that, we don't have the hearing outside the jury,  
17 and those tapes can't be evaluated as to whether or not  
18 they can be admitted.

19 Therefore, do not mention any tapes in this courtroom  
20 until we've gotten through the third step. That's very  
21 important not to do that. You prejudice the jury, and it's  
22 not -- it's a simple proposition. If this jury has to --  
23 has to work with evidence, and as soon as a tape, if it  
24 ever is admitted, they'll be able to work with it but not  
25 beforehand.

1                   MR. TRAFICANT: Your Honor, you have two  
2 transcripts of tapes. They were produced to you. You  
3 probably didn't look at them as prosecutorial misconduct.

4                   THE COURT: I don't know which tapes you're  
5 using.

6                   MR. TRAFICANT: Richard Detore and Robin  
7 Best.

8                   THE COURT: Are you going to try to --

9                   MR. TRAFICANT: I don't know yet.

10                  THE COURT: I'm not going to spend my time  
11 going over those things again if you're not using it.

12                  MR. TRAFICANT: When I decide what I'm going  
13 to use.

14                  THE COURT: But when you get ready to do  
15 that.

16                  MR. TRAFICANT: I'll get ready for the  
17 hearings. What's the third step you said?

18                  THE COURT: Congressman, you have to give us  
19 enough notice so that we don't delay this jury.

20                  MR. TRAFICANT: What is the third step?

21                  THE COURT: That they're admitted into --  
22 that they're admissible, and you need a ruling that they're  
23 admissible.

24                  MR. TRAFICANT: Well, since you haven't ruled  
25 with me on anything why are we going to waste time? Why

1 don't we go forward? Let's bring the witness in, and I'll  
2 have your hearing tomorrow.

3 THE COURT: Well, the hearing tomorrow has to  
4 do with hearsay.

5 MR. TRAFICANT: Yes, it does.

6 THE COURT: What I just talked about now may  
7 have to do with hearsay, too. I don't know, but it has to  
8 do with the tapes. Don't talk about those tapes in front  
9 of this jury again.

10 MR. TRAFICANT: I'll try not to but --

11 THE COURT: No. You will not talk about it.

12 MR. TRAFICANT: I will not bring up tapes.

13 THE COURT: Thank you. Next witness.

14 MR. TRAFICANT: If I do, I'll only do it to  
15 prejudice the jury, to win it, like they had a murder  
16 charge to prejudice the jury selection.

17 THE COURT: You know what, do you want a  
18 witness today? Do you want to put another witness on  
19 today?

20 MR. TRAFICANT: Yes. I want to do it right  
21 now.

22 THE COURT: Let's do it. You can bring in  
23 the jury.

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

25 THE COURT: Come right up. Sir, you're still

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1 under oath. He has some more questions.

2 THE WITNESS: Thank you very much.

3 THE COURT: Um-hum.

4 BY MR. TRAFICANT:

5 Q. Harry, who made the last determination to give up on  
6 the Higbee building bid?

7 A. Dave did.

8 Q. Did you make final decisions on anything that dealt  
9 with bids?

10 A. No.

11 Q. Do you have knowledge of a concrete floor in Poland  
12 barn?

13 A. In Poland barn, Poland where your house is at?

14 Q. Yes.

15 A. Yes, I do.

16 Q. What knowledge do you have?

17 A. Dave Sugar and I were walking on the floor, and he  
18 said that's the floor that he pulled because we were inside  
19 the barn, and he poured the floor, and we were inside the  
20 barn, and you were picking up items in the barn.

21 Q. What items did you pick up in the barn?

22 A. An old bid and a -- he called it a humidior or  
23 something like that. That came out of the attic.

24 Q. The upstairs?

25 A. Yes.

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1 Q. Do you -- are you familiar with antiques?

2 A. No. Just they're old when you look at them.

3 Sometimes you can tell, you know, they look expensive.

4 Q. Did you help get the piano?

5 A. Yeah. That was -- that was the original reason that  
6 I got to see the barn. First of all, we went to your house  
7 and got a piano out of there, the right-hand side of your  
8 house, the wing area I guess what you want to call it.

9 Q. How big was the piano?

10 A. It was a -- it was actually -- it was -- I've never  
11 seen a piano like that. It was probably maybe six-foot  
12 long, four-foot wide, maybe about two-foot high, and then  
13 it had legs on it, real fancy legs.

14 Q. How many guys had to carry the legs out?

15 A. Well, we had four guys there, and each person took a  
16 leg. First we had to get the piano off the legs and lay it  
17 on the rug and put stuff to protect your rug and also the  
18 piano. We got it laid over on its side, which took almost  
19 all four of us -- I think the three of us to turn it over  
20 -- and then we unbolted the legs and took the legs out  
21 first.

22 Q. And did you then take the legs outside?

23 A. Yes, we did. We took the legs out and put them in  
24 the truck.

25 Q. How many guys did it take to put the legs outside?

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- 1 A. Four guys, each person grabbed a leg.
- 2 Q. Were they pretty heavy?
- 3 A. They were heavy. One person was able to carry it.
- 4 It was still a heavy leg.
- 5 Q. Were they fancy ornate legs?
- 6 A. Yeah, they were like square, but they were rounded on
- 7 the top, and I don't know what you want to say, but they
- 8 had carvings on it, and the bottom had crow's legs on the
- 9 bottom.
- 10 Q. Was it a very old piano?
- 11 A. That it was. It was -- I am not too familiar with
- 12 pianos, but I looked at the piano and had different kind of
- 13 keys on it. Instead of piano with keys, all the way across
- 14 it's built in, and when we saw the name is a Steinway, I
- 15 figured it was old.
- 16 Q. Now, the Government, when they talked to you, they
- 17 said that you were banned from the City of Youngstown, is
- 18 that a fact?
- 19 A. I was banned for a period of time.
- 20 Q. Why were you banned?
- 21 A. We had done a job in '91 where a bridge had fallen,
- 22 and it wasn't -- wasn't with the bridge the rockers on the
- 23 bridge fell, and we never paid the people that were
- 24 involved with the bridge with us because the City wouldn't
- 25 give us our final payment. They were holding money on it,

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1 the \$111,000. And at that time, there was the railroad.  
2 We weren't on the job to take the wall down. The City  
3 wanted a wall taken down, and we followed to go ahead and  
4 see about taking the wall down. The wall that we were told  
5 to take down, the City decided to build another bridge over  
6 there.

7 And what they did is the price escalated from our  
8 original price of taking the wall down to an astronomical  
9 price now, which is like ten years later. So they said  
10 they would give us the difference of providing that -- it  
11 would be comparable to what our original price was.

12 Unfortunately, sort of amazing, the one contractor in  
13 Youngstown came in about a thousand dollars under our  
14 original -- what I had left in the City's funds. So I had  
15 -- I didn't get anything. So two weeks ago, I lost  
16 \$111,000.

17 Q. Did you ever have another incident with the City that  
18 caused you to be banned?

19 A. Yes, I did. At the time the bridge, we were still  
20 out of work for the City for quite a long time. We had a  
21 contract with the City. We had two contracts tearing  
22 houses down. And the time limit on each house or the total  
23 contract was 60 days, and we had a portion of our contract  
24 done. We went into an area, which is a rather bad area in  
25 Youngstown, and there was a shooting up in Youngstown,

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1 which involved four bullet holes in our machine.

2 And the employees I had jumped me on the ground and  
3 protected themselves and refused to come back on that area  
4 or any area on that side of town without protection. And  
5 due to the fact that it took six months to come back so we  
6 got some protection, they said it took too long, and they  
7 threw me out from bidding. About three months after that,  
8 I changed my name, and I was allowed to bid back in the  
9 City of Youngstown.

10 Q. Did the City give you protection on the job when you  
11 asked for it?

12 A. No, they didn't.

13 Q. Did they send the police out to protect the site?

14 A. When we called in about the shooting along with other  
15 neighbors called it in, it took probably more than a half  
16 hour to get there.

17 Q. Were the neighbors' in that area lives at stake at  
18 that time?

19 A. Well, there was quite a bit of shooting going on. I  
20 would imagine if the bullets went straight, it could have  
21 hurt somebody.

22 Q. Did the police respond at all?

23 A. Yes, within about a half hour.

24 Q. Did they send out protection for you to finish your  
25 job?

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- 1 A. No, they did not.
- 2 Q. Did your workers quit and stay away?
- 3 A. We went to private jobs. We said when we get  
4 protection, we'll go back to the City.
- 5 Q. So then you were banned?
- 6 A. Yes, I was.
- 7 Q. Now, did you ever get reinstated with the City?
- 8 A. Yes, I did. When I changed my name, I changed it  
9 from Youngstown Construction to YCE, and I was allowed to  
10 bid in again. As a matter of fact, we had bid a job,  
11 which was right across the street from Higbee's, and we did  
12 the job.
- 13 Q. Did they know you were the principal of YCE?
- 14 A. I imagine they did.
- 15 Q. Were your names on the bid?
- 16 A. Yes, they were.
- 17 Q. So the City let you do work after that then, didn't  
18 they?
- 19 A. Yes, they did. I got emergency work.
- 20 Q. Who gave you the emergency work?
- 21 A. From the City of Youngstown.
- 22 Q. Did they have a controlling board that determines  
23 that?
- 24 A. No. Only bid job, bid items.
- 25 Q. So they even gave you jobs that weren't even bid

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1 items?

2 A. Well, they're considered emergencies, plus I worked  
3 in the city on private ones like YSU and CCA and different  
4 others.

5 Q. Is that after the City banned you?

6 A. Yes. I always worked for the City, not just the City  
7 itself. I work for private people all through Youngstown.

8 Q. No fault of your own you got banned then?

9 A. That depends how you want to look at it. I felt that  
10 the shooting was crucial to the endangerment of my  
11 employees, and I refused to come back. So consequently, I  
12 didn't meet the deadline. I dragged it on, and they threw  
13 me out.

14 Q. In the surrounding neighborhood, were there some  
15 homes?

16 A. Yes.

17 Q. Did the police come and try to help the people who  
18 lived in those homes on a regular basis?

19 A. Well, they probably controlled it. I don't know.

20 Q. But they didn't send out anybody to protect your site  
21 in that neighborhood where the shooting occurred; is that  
22 right?

23 A. No. There wasn't any shooting. It was about a half  
24 hour before they came out there. We asked the police to  
25 send people out while we were doing work, and they didn't

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- 1 send them out to us.
- 2 Q. Did you ever default on a city contract?
- 3 A. No.
- 4 Q. When was the last job you did for the City?
- 5 A. Last job I did was Roble three years ago. That's
- 6 when I got rid of my company.
- 7 Q. What do you do now?
- 8 A. I do a little bit of estimating, and I do running
- 9 around as I said before with Dave. I go to auctions and
- 10 pick up different things for him.
- 11 Q. And most of your work is with Dave Sugar?
- 12 A. Yes.
- 13 Q. You know if those items that you brought up yesterday
- 14 were under subpoena to be brought up?
- 15 A. No, I don't.
- 16 Q. Who handed them to you?
- 17 A. Please?
- 18 Q. Who handed them to you?
- 19 A. Dave Sugar.
- 20 Q. In the years that you knew Chuck O'Nesti, did he ever
- 21 ask you for anything?
- 22 A. No. Chuck gave me some bid jobs.
- 23 Q. Did the fire chief have responsibility for trying to
- 24 eliminate homes and restore neighborhoods?
- 25 A. Yeah. The original way that was set up was the fire

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1 department had jurisdiction. If a house was open, other  
2 than -- well, let's put it this way: When it was broken  
3 out, it was open. He had the right if it was considered a  
4 nuisance, if somebody called and said there's kids running  
5 through it, he had the right to tear it down.

6 Q. Did you ever kick him back any money?

7 A. No. The only thing I did after I was involved with  
8 the City for, oh, probably the first or second year, I took  
9 bottles of whiskey down to him and took bottles to some  
10 other people, and at that time, the mayor said you're not  
11 allowed to do that so I took my whiskey back.

12 Q. Did you ever send any whiskey to me?

13 A. No, I didn't. I didn't know you drank.

14 Q. You know if I drink whiskey?

15 A. I have no idea.

16 Q. Did you ever give me anything?

17 A. No.

18 Q. When you came out and we discussed that job, did we  
19 discuss a price?

20 A. Yes, we did. It was a rough price between \$1,500 and  
21 \$2,000.

22 Q. And that was for what only?

23 A. That was just for labor for my father, stepfather.

24 Q. And did you give me a price with materials as well?

25 A. No, I didn't. I told you I wouldn't do that. You

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1 were going to supply the materials, but I gave you a ball  
2 park what it would run.

3 Q. Did you get a call back from me to do the job?

4 A. As I said before, you probably called down to the  
5 office, and I wasn't available. We had other work to do.

6 MR. MORFORD: Objection. This is all asked  
7 and answered in the direct, and it really --

8 MR. TRAFICANT: No further questions.

9 THE COURT: Okay.

10 MR. TRAFICANT: One last question.

11 Q. Do you have bids to make in the City of Youngstown  
12 tomorrow or in the area tomorrow?

13 A. We've got to finalize them with the bond and the  
14 bidding. The actual bid won't be until I believe it's  
15 Monday morning.

16 MR. TRAFICANT: No further questions.

17 MR. MORFORD: Nothing.

18 THE COURT: Thank you, sir.

19 MR. TRAFICANT: My other witness -- well, I  
20 will ask that we adjourn. It's up to you.

21 THE COURT: It's a good time. I think it's a  
22 good time to let the jury go.

23 The rest of us up here have work to do tomorrow so  
24 you're going to have a spring break, and we'll see you on  
25 Monday morning at 9:00. Remember your admonitions. Okay?

1 (Proceedings in the absence of the jury:)

2 THE COURT: Thank you. See you 9:00 tomorrow  
3 morning.

4 (Proceedings adjourned.)

5

6 DIRECT EXAMINATION OF WILLIAM COLEMAN..... 4456

7 CROSS-EXAMINATION OF WILLIAM COLEMAN..... 4460

8 DIRECT EXAMINATION OF DENNIS JOHNSON..... 4465

9 DIRECT EXAMINATION OF HARRY R. MANGANARO..... 4480

10 CROSS-EXAMINATION OF HARRY R. MANGANARO..... 4502

11 REDIRECT EXAMINATION OF HARRY R. MANGANARO..... 4520

12 C E R T I F I C A T E

13 I certify that the foregoing is a correct  
14 transcript from the record of proceedings in the  
15 above-entitled matter.

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