

RPTS SMITH

DCMN HERZFELD

ADJUDICATORY HEARING IN THE MATTER

OF REP. JAMES A. TRAFICANT, JR.

Wednesday, July 17, 2002

House of Representatives,

Committee on Standards

of Official Conduct,

Adjudicatory Subcommittee,

Washington, D.C.

The committee met, pursuant to call, at 11:30 a.m., in Room 2118, Rayburn House Office Building,
Hon. Joel Hefley [chairman of the committee] presiding.

Present: Representatives Hefley, Biggert, Hulshof, LaTourette, Berman, Pastor, Tubbs Jones and
Green.

Staff present: Robert Walker, Staff Director/Chief Counsel; Paul Lewis, Counsel; Ken Kellner, Counsel;
Bernadette Sargeant, Counsel; Virginia Johnson, Counsel to the Chairman; Bari Schwartz, Counsel to
Ranking Member; and Joanne White, Administrative Assistant.

The Chairman. The committee will come to order. We apologize for the delay. We were considering several motions that have been presented during the course of these hearings by Mr. Traficant. The oral motion to dismiss made by Mr. Traficant on July 15, the recent written motion to dismiss submitted by him on the 15th, the motion to dismiss in writing dated July 16, and the written motion to refer criminal and other alleged conduct dated July 15, all of those motions are denied, Mr. Traficant.

Mr. Traficant. I object.

The Chairman. Now, Mr. Traficant, do you have additional submissions that you want to make at this point?

Mr. Traficant. Yes. I have an oral motion I would like to make. Since I will be filing a writ of mandamus in the Sixth Circuit Court today relative to the jury selection and service plan the Congress passed in 1967 and some of the elements therein, that this committee take no action until the adjudication by the Sixth Circuit Court determines those outcomes.

To be specific, the motion in the Northern District challenges the voir dire process on January 14 when I submitted a motion before trial. Judge Wells ruled on the motion 2 days later, basing her argument on the fact that it was untimely. I would like the committee to place in the record the following: That you should refer to U.S. v. Ovalle, Sixth Circuit, 1998; and U.S. v. Green, ED Michigan, '97, which clearly states that it has been recognized, quote, the plain white language of rule 1(b) clearly does not require the constitutional challenges to a jury selection process must be made prior to trial -- that's U.S. v. Green -- even though I made them prior to trial.

I would like the committee also to refer again to U.S. v. Ovalle, Sixth Circuit, '98, to see that Judge Wells' further assertion that the Sixth Circuit approval of the jury selection plan means absolutely nothing to a defendant's right to challenge the jury selection process. Be advised that the Sixth Circuit's approval of the jury selection plan for the Northern District of Ohio was, in fact, not affirmed and approved until after my indictment. The judge clearly erred in that ruling. My case should have never gone to trial until that issue was explored, resolved and solved by a court of proper jurisdiction, in this case the Sixth Circuit.

So I'm asking the subcommittee to postpone any further proceeding against me until the issue is resolved with the court. I think it would be extremely unfair to expel any Member prior to a ruling on an issue that

deals with a sixth amendment right. This committee should have allowed attorney Percy Squire, whom I asked to be subpoenaed, to explain this significant point.

Now, as further amplification and embellishment of those issues, the jury service and selection plan basically points out that you have to be tried by a jury of your peers. What we have in the State of Ohio is a lottery system. You're not tried by your peers, you're tried by a lottery. When my case ended up in Cleveland, that meant that the Youngstown district was excluded, members and peers of mine from that jury pool. Now the unusual thing of this, and I think it is untruthful and were lies, that not one of the jurors said they knew of me, although one of the jurors later was quoted in the press saying, we knew he was flamboyant. Most Members of Congress are crooks, and he got caught.

Now, the point I am making is these alleged crimes all occurred in the Youngstown district. I was tried in the Cleveland district. Now, the sixth amendment doesn't say that we have a jury selection plan by lottery. It says we have a jury selection plan by peers. I believe the right, not just me, but as a microcosm of rights of any Americans to be tried by a jury of their peers is eminent. Russell Saadey, Jr., Was also in that same position; Russell Saadey, Jr., Now in prison.

But the most important thing about the peers is not that they know me, but they know these witnesses. They know Cafaro. They know Sinclair. They know Bucci, not just me. So I was basically tried outside of the jurisdiction when the jury selection plan that was approved by the Northern District Court of Ohio judges, but it was not affirmed and ratified by the Sixth Circuit Court until after the Traficant indictment.

Now, in addition to that, with the information that was brought out yesterday, and Representative Green talked about 2001, my investigation started in the '90s when Janet Reno was there; clearly targeted by Reno. Called her a traitor, believed she committed treason.

The Chairman. Mr. Traficant, I think you're off your --

Mr. Traficant. I'm not off target. I want to make this point. I believe because of that vendetta and because of the jury selection plan placing me up in the Cleveland district, now with evidence showing that the judge's husband as a senior partner in Squires, Sanders and Dempsey, that there is judicial misconduct as well as prosecutorial misconduct. And I don't know what you, in fact, are deliberating about here after having denied me witnesses such as Mr. Detore to clearly speak to the issue. I was denied that right in Cleveland.

The Chairman. Mr. Traficant, if you would suspend. You know, we asked you -- the witnesses, we had great latitude in the witnesses you want. You keep saying we the denied witnesses. Every witness that you wanted --

Mr. Traficant. I disagree with that. You only subpoenaed one of my witnesses, Chairman. One.

The Chairman. Mr. Traficant --

Mr. Traficant. No, but I want to object. You only subpoenaed one of my witnesses.

The Chairman. We let you bring in every witness you wanted to except when I asked you the question of what other witnesses do you think would help your case if you brought them in. You had a very difficult time telling me what other witnesses was. And I finally concluded there might be, might be, two witnesses there.

Mr. Traficant. I object. I submitted a subpoena list in writing.

The Chairman. What is your motion, Mr. Traficant?

Mr. Traficant. That you, in fact, do not take action on any sanctions or expulsions until the adjudicative matters of the Sixth Circuit Court relative to the sixth amendment rights of an American are resolved; second of all, that the prosecutorial misconduct as represented here finally brought out in the light and widely now heard around the country, and the judicial misconduct that has now come to light, where the judge's husband is in a law firm that received payments from the Cafaro Company -- God Almighty here.

The Chairman. Don't go into details on it.

Mr. Traficant. I think I have to. I want to put it on the record.

The Chairman. We're going to have closing argument, and I want you to say whatever you want to say in your closing argument.

Mr. Traficant. I don't want to waste my time in a closing argument.

The Chairman. I want to get to the motions here. You're talking about you don't think we should act. That is your motion, that you don't think we should act at this point. Is that correct?

Mr. Traficant. I don't believe you should act at this point, and I think you should at least give it a week to review. There's a writ of mandamus that's being filed. There's a motion for new trial being filed now in the connection between the judge's husband and the Cafaro Company.

The Chairman. We're back into details, and we're back into closing argument. I'm going to recess briefly so we can consider your motion that we do not act at this point, and we will be back in 5 minutes or so.

Do you have any other motions that you want to make? I asked you at the outset this morning if you had other motions so that we could consider them all in our deliberations earlier. You indicated to me you had no other motions. We come back in, and you have a motion. Now, do you have additional motions?

Mr. Trafficant. I also ask unanimous consent that some of the supporting legal language of 28 USC, section 455 on judicial misconduct be incorporated into the record.

The Chairman. Okay. Now --

Mr. Trafficant. And the other motion that I make is that you release me without harm and commend me for coming in here and facing you.

The Chairman. We've got your motions. Thank you.

[Whereupon at 11:40, the committee proceeded in Executive Session.]

[11:45 a.m.].

The Chairman. We need to get Mr. Traficant back in the room, and then we will send out a search party.

The committee will come back to order. Mr. Traficant, we -- the committee has carefully considered your motion and has denied it. Now, do you have additional material that you would like to submit for the record?

Mr. Traficant. Yes, I do. And I'd also like to have until 5 p.m. today since we got out at such a late hour, and I have a box of tapes, and there's some more I may want to introduce.

The Chairman. Mr. Traficant, this is your opportunity to introduce additional material. You've been told for some time that this would -- this would be the time. So if you have it, let's have it.

Mr. Traficant. I have an original tape of Pete Bucheit and Henry DiBlasio marked PC-21 and one original tape that is not marked. I shall mark it as --

The Chairman. Mr. Traficant, if you would give that to our person here and then go back to the microphone to describe it so that it will be picked up.

Mr. Traficant. This will be BS-3000.

I also have an affidavit of Linda Kovachik, original document under seal of notary, Exhibit AA; Exhibit BB, affidavit of Brian Kidwell, original document under seal of notary; Exhibit CC, affidavit of Rolando Ferrante, original document under seal of notary; Exhibit DD, affidavit of Susan Bucci, original document under seal of notary; Exhibit GG, affidavit of Sandra Ferrante, original document under seal of notary.

There are original u altered tapes of the following phone conversations, I think, which I have labeled. They are labeled here, but be advised that the Manganaro tape and all those other matters that are on record are also there.

The Chairman. Mr. Traficant, the documents that you presented will be accepted in evidence.

(Traficant Exhibits Nos. AA, BB, CC, DD and GG were received in evidence.)

The Chairman. Would you describe the tapes briefly and what is contained in those tapes that you think will be beneficial for your case?

Mr. Traficant. Basically that there was no illegal action. We were pretty much pressured, pressured in to going along with the government, things very similar to what Mr. Detore talked about.

The Chairman. Do the tapes show the pressure?

Mr. Traficant. You'll have to listen to the tapes. I think people are very careful about how they talk about it, but you listen to it very carefully.

The Chairman. Do you have all the tapes? You gave us all the tapes?

Mr. Traficant. The tapes that I have given you -- I have other tapes, but I haven't had a chance to go through all of them. I have another tape that deals with Cafaro, but I doubt if I'll submit it. I don't want to subject the individual to harm.

And I want to make one statement here without it coming out of my time. I want to mention some names. I want the committee to have these names spread across the record, and I don't want the --

The Chairman. That's all right, Mr. Traficant, we'll let you mention names, but do you want to describe to us individually the tapes and what you think they will do?

Mr. Traficant. Yes. What the government was doing to them, the types of things they were going through, and the pressure that they were under.

The Chairman. Is your voice on the tapes?

Mr. Traficant. I taped them.

The Chairman. So your voice is on the tapes?

Mr. Traficant. They didn't know that I taped them. I taped them.

The Chairman. But is your voice on the tapes?

Mr. Traficant. Yes.

The Chairman. Okay. So it was a two-way conversation between you and someone else.

Mr. Traficant. These parties, yes.

The Chairman. So you can verify these tapes are authentic as one of the persons that was involved in the conversation.

Mr. Traficant. Yes I can. I have.

The Chairman. All right. Continue. Individually on the tapes.

Mr. Traficant. Pardon?

The Chairman. Describe individually on the tapes what they have that you think will help your case.

Mr. Traficant. Basically the duress and pressure placed upon them to derive whatever they could that would be helpful in getting a conviction against me regardless of the veracity.

The Chairman. And that is all. Each of the tapes, that's what they do.

Mr. Traficant. Yes. The Manganaro transcript deals with Sugar. The DiBlasio tape deals with himself and Sinclair. The Bucheit tape, he's now under indictment. I assume he'll make some deal to save himself a couple of hundred thousands that I believe -- there's several tapes, and that's the one that says that they're now putting pressure to maybe indict his son and daughter in the matter.

The Best tape will confirm the Innella affidavit where Henry Nemenz wasn't charged, Comaceti was being threatened and to lie, and he felt real bad, but he didn't want to lose his business. So I taped his girlfriend Robin Best. You have that tape, although that wasn't part of the charge, but I want it on this record because it speaks to the veracity of the witnesses and the misconduct.

The Chairman. I understand that Robin Best said specifically she did not want to be taped. And --

Mr. Traficant. No one wanted to be taped, but I'm talking about what happened.

The Chairman. No. I understand she said specifically she didn't want to be taped, and you taped her anyway. Is that true?

Mr. Traficant. Absolutely. Taped her stone cold dead, and got the truth the only way I could.

The Chairman. Okay. Go over again which tapes exactly you have handed us right now.

Mr. Traficant. I don't know all the tapes you got, but I think you have the transcript, and you said you had the Manganaro tape.

The Chairman. We've got the Manganaro tape.

Mr. Traficant. Where did you get it, because I don't have it, and I looked all over for it for a week. Did you get it from the Federal Government? I'm asking your counsel. Have you been in collaboration with the U.S. Justice Department?

The Chairman. Would you ask your question and then be quiet until we can get an answer for you? We'd like to give you an answer.

Mr. Traficant. I'm going to do that. But Mr. Hulshof told me to be persistent, that that's the way you have to act in a courtroom. But Mr. LaTourette told me shut my big mouth, so I'll take a little bit of advice from both.

The Chairman. Okay. Mr. Traficant, I think you're aware of this. These tapes were provided by you to the Department of Justice during your criminal trial up in Cleveland, and they provided us copies of these tapes.

Mr. Traficant. They did?

The Chairman. Would you describe what you just --

Mr. Traficant. Could I first ask -- could I have the correspondence that requested those tapes, whether it came from the committee or the Justice Department?

The Chairman. No, you can't.

Mr. Traficant. I am a Member of Congress, and I am asking relative to a process that involves my future.

The Chairman. There is no relevance to your --

Mr. Traficant. Your simple communications.

The Chairman. Mr. Traficant, is this a difficult question?

Mr. Traficant. Yes.

The Chairman. What did you hand us just now? You mumbled it up here, but you were not at the microphone, so we're not quite sure what you gave us.

Mr. Traficant. A number of affidavits.

The Chairman. Okay. Not the affidavits.

Mr. Traficant. And there are three tapes there.

The Chairman. All right. Give us the names, the title of those tapes.

Mr. Traficant. You have to look at them. I think there's the -- you have the DeTore tape, right?

The Chairman. What did you give us?

Mr. Traficant. I know I gave you --

The Chairman. Three tapes.

Mr. Traficant. The Bucheit tape, the DiBlasio tape and a -- I don't know what the other one was. Your staff will know.

The Chairman. We have two tapes. One has two conversations with DiBlasio and Bucheit, and the other one is a Bucheit tape.

Mr. Trafficant. I do have a tape of DiBlasio dated June 19, and I don't know if that's that tape. That's the only thing that bothers me. I didn't get out of here 'til real late last night, and I want to reserve for the record the right to submit a tape of Henry DiBlasio dated June 19, and I will get that to you before the close of business today. I don't know if that is the tape, and I haven't had time to listen to these tapes, so I submitted those tapes, quite frankly, but --

The Chairman. Is there any objection from counsel on these tapes?

Mr. Lewis. There is no objection, Mr. Chairman. The committee does have both tapes from DiBlasio that the Congressman gave to the Department of Justice and were given to the committee. So we have DiBlasio tapes.

Mr. Trafficant. Is one June 19?

Mr. Lewis. I believe it is.

Mr. Trafficant. Well, I would like that to be confirmed, or I would like the record left open for the June 19 tape.

The Chairman. Okay. The two DiBlasio tapes, the Manganaro tape, and the two tapes that you gave us today will be admitted into evidence.

Mr. Trafficant. And the tapes that the Justice Department evidently sent you and the Best tape.

The Chairman. No. No. No.

Mr. Trafficant. Why not the Best tape? It confirms the Innella affidavit. The key here is the Innella affidavit where Nemenz confided in me that he didn't want to lie, and I confirm that he called his girlfriend and told her that he told me, and the Justice Department come to Cleveland and gave him hell immediately.

The only thing the Best tape does is confirm the veracity of the Innella affidavit, and I think it's unfair not to have it on this record. After hearing Richard DeTore last night, I think it's unfair not to accept any of my tapes.

The Chairman. Mr. Trafficant, we're trying to accept everything we possibly can from you.

Mr. Trafficant. Then accept that.

The Chairman. You know that.

Now, do you have any other things that you want to put on the record?

Mr. Lewis. Mr. Chairman, my notes indicate the committee does have the June 19, 2001, tape that the Congressman is interested in.

Mr. Traficant. Does it also have the Best tape?

Mr. Lewis. It's my understanding the committee does have a copy of the Best tape. The committee has the nine tapes that the Congressman gave to the Department of Justice at his trial and that the committee informed the Congressman of months ago that we had.

Mr. Traficant. Well, then why did you ask me for my tapes?

The Chairman. The Best tape was obtained by deceit, and that's the reason that was not being --

Mr. Traficant. None of these people knew they were being taped. Richard DeTore said he wasn't being taped. Under Ohio law one consenting partner can tape someone, and I object to this as to, in fact, eliminating and excluding my tapes.

Mr. LaTourette. Mr. Chairman, may I make a parliamentary inquiry?

The Chairman. Yes, you may.

Mr. LaTourette. It was my understanding as a result of the meeting that we had on a variety of matters before the committee that the procedure now would be that Mr. Traficant would indicate what he wanted in, and then that we as a body would get together and determine issues of relevance and deceit and things of that nature and come to a collective judgment as to what came in and what came out. And my question is was I mistaken in that understanding?

The Chairman. We're happy to do that. If you question the Chair's ruling, we'd be happy to do that.

Mr. LaTourette. I'm not questioning the Chair's ruling. What I'm questioning is I thought we were going to -- I believe it was Mrs. Tubbs Jones that indicated this procedure, and I thought that we had agreed that that's what we were going to do, and I don't have an opinion.

The Chairman. All right. We will do that.

Mr. LaTourette. Thank you.

The Chairman. I was trying to accept everything Mr. Traficant wanted to put in within reason, but I am happy to take the committee into executive session and discuss it, so we will adjourn again for a brief adjournment.

[Whereupon at 12:00 p.m., the committee proceeded in Closed Session.]

[12:20 p.m.]

The Chairman. The committee will come back to order.

Mr. Traficant, so that we're clear on what you want introduced, the tape you have numbered BS-3600, Henry DiBlasio and Pete Bucheit, I guess is the way you pronounce it, you want that tape admitted?

Mr. Traficant. Yes.

The Chairman. Without objection, committee, that will be admitted.

(Traficant Exhibit No. BS-3600 was received in evidence.)

The Chairman. You want the tape -- well, the Defendant's Exhibit PB-21, which is a Bucheit tape again, I guess, you want that admitted?

Mr. Traficant. Yes.

The Chairman. Okay.

(Traficant Exhibit No. PB-21 was received in evidence.)

The Chairman. You want the Manganaro tape admitted?

Mr. Traficant. Yes.

The Chairman. Okay. Without objection, that will be admitted.

(Traficant tape was received in evidence.)

The Chairman. Oh, and I'm asking -- when I say without objection, I'm asking counsel as well. I should give you time. Is there any objection to these tapes being admitted?

Mr. Lewis. No, Mr. Chairman.

The Chairman. All right. What other tapes would you like admitted, Mr. Traficant?

Mr. Traficant. All nine tapes that the government sent to you.

The Chairman. What would those tapes be, Mr. Traficant?

Mr. Traficant. They would all be relative to prosecutorial misconduct and elements of the investigation of this case, and would speak to the veracity of witnesses and were not allowed at trial and in this hearing, under a different burden, should be admissible.

The Chairman. In other words, you are not going to describe to us how -- you would propose it would help your case. What they say in there -- what I'm confused about, Mr. Traficant, is that many of your arguments, as I've said before, I think, are great arguments for appeal. But many of them --

Mr. Traficant. That's what the judge told me. Not to interrupt, Chairman, and sincerely as a friend, if my comments are offensive, I apologize, but that's what I heard from the judge through trial, that I could do everything on appeal. Appeal means that they've already predisposed the conviction. I keep hearing appeal here as if there's already a predisposed position on expulsion.

Mr. Berman. Mr. Chairman, can I make a suggestion?

The Chairman. Mr. Berman.

Mr. Berman. Could counsel for the committee read, if he has them, the tapes that are in -- or subcommittee -- the tapes that are in the -- apparently in the possession of the committee and one by one, and so we can identify them so we can mark them as exhibits, and then decide whether or not they're to be admitted?

The Chairman. I think that's an excellent suggestion, but at the same time I -- tell us whether you have any objection to them being admitted.

Mr. Lewis. I'd be glad to do that, Mr. Chairman, Mr. Berman. The committee has two tapes from Henry DiBlasio. There's a tape June 19 of 2001 and a tape July 11 of 2001.

Mr. Traficant. Is there a 6/19 tape I asked you before that you confirmed?

Mr. Lewis. I just said June 19.

Mr. Traficant. I thought you said 2/19. I apologize.

The Chairman. Please don't interrupt counsel. Let him go through the list.

Mr. Lewis. A tape from -- that -- a tape that purports to be representative --

Mr. Berman. Let's mark them as potential exhibits as you are mentioning them so we can get that out of the way. Well, at least let's identify them.

Mr. Lewis. All right. The first purported tape between Congressman Traficant and Henry DiBlasio, June 19. I thought that was just admitted.

Mr. Berman. It was.

Mr. Traficant. Are you talking to me?

Mr. Lewis. So that's marked. Okay.

Mr. Berman. Tape 1; why don't we call it that?

Mr. Lewis. Okay. Trafficant tape 1; Trafficant tape 2, the Congressman and allegedly Henry DiBlasio, July 11 of 2001; tape 3, purportedly the Congressman and Richard DeTore, May 16, 2001; tape 4, purportedly the Congressman and Richard DeTore, August 1, 2001.

The Chairman. Are you having any objection to these tapes being admitted?

Mr. Lewis. No, Mr. Chairman.

The Chairman. All right. You just note when you do have objection, if you do have.

Mr. Lewis. Tape number 5, purportedly the Congressman and a woman named Robin Best. Purportedly it was taped on September 5, 2001. Tape number 6, it's purportedly the Congressman and Peter Bucheit, and supposedly, allegedly, it was taped May 7, 2001; number 7, the Congressman and Pete Bucheit, August 6, 2001; tape number 8, purportedly the Congressman and Henry Manganaro, purportedly January 27, 2002; and number 9, I -- it's one conversation and two tapes. There are actually 10 tapes we received from the Department of Justice. But the -- the 9 and 10 tapes are one conversation with a Mr. James Kerchum, allegedly a James Kerchum, and allegedly that was recorded by the Congressman on April 26, 2000. And there are no objections.

The Chairman. Inquiry?

Mr. Trafficant. Was there -- were there any redacted tapes or transcripts submitted by the Justice Department between myself and an unknown anonymous person whose name was not disclosed in that prosecutorial misconduct proceeding?

Mr. Lewis. I have just described the 9 conversations and 10 tapes that I'm aware of the committee receiving from the Department of Justice.

Mr. Trafficant. I would ask then that the committee leave open -- I have some questions, and before I say anything else, I'll just defer to the Chairman but --

The Chairman. We will consider the admission of all these tapes over the lunch break and render a decision when the lunch break is over.

Mr. Trafficant. Mr. Chairman.

The Chairman. All right. I'm going to change that ruling, and we will admit those tapes.

(Trafficant tapes numbers 1 through 9 were received in evidence.)

The Chairman. Congressman Trafficant, do you have anything else?

Mr. Traficant. Mr. Chairman, I did destroy a tape relative to an individual by the name of Russell Saadey, Jr., who is now incarcerated. That tape contained conversations of a gag order by Judge O'Malley in Cleveland, and I did so so as not to endanger him.

The Chairman. Mr. Traficant, if we don't have that tape, it can't be admitted.

Mr. Traficant. But I do have another tape of Mr. Saadey, and I would like a window of time to bring it in, that does not conclude -- does not include matters of the gag order and speaks again to the issues of which we discussed and had testimony here on.

The Chairman. Mr. Traficant, you've had enormous time in order to this. This is the time to get it in. So let's close the issue of additional submissions at this point.

Let's talk about what we're going to do in the summations. We're going to come back at 2:00, and we're going to --

Mr. Traficant. I have some questions, Mr. Chairman.

The Chairman. We're going to do some summations at that point. The way the summations will go, that Mr. Traficant will have the opportunity to do his summation. You have 30 minutes left on your time. Do you think you could complete your summation in 30 minutes?

Mr. Traficant. Mr. Chairman, I ask unanimous consent that the counsel go first and I go last, and I have a full hour.

The Chairman. All right. Well, I'll tell what you we will do. The counsel can go first. I will agree with that. But they have the burden of proof, and, therefore, they get the last say because they have the burden of proof. So the counsel can go and use as much of their hour of summation as they would like to, and maybe save some time if they want to rebut. Then you go, Mr. Traficant, and we will grant you the full hour with them, even though you have used up that time. We will do it, and then we will come back if they have a rebuttal.

Mr. Traficant. I have another -- these are not motions of law or to concern you with matters of law, but I would like for you to just take a couple of minutes, and after we do come back, and after distilling and digesting what happened here this morning, I may have some other motions, but I would -- I'll just take a minute. This is very important.

The Chairman. The time for motions is over.

Mr. Traficant. No, this is very important. It's not even in the form of a motion. It's a request from a Member. I want this committee, and I want it placed upon the record, that I want no retaliation from Federal agencies against the following people: David Sugar and his family; Harry Manganaro and his family; Mike Terlecky and his family, who they've also -- they've already gone after for \$140,000, a disabled sheriff, a deputy sheriff; Brian Kidwell and his family; Richard DeTore, who's already been contacted by Federal officials this morning, I've just been notified that by staff; Henry Nemenz and his family or business; Robin Best and her family; Peter Bucheit, his son and his daughter; Sandra and Orry Ferrante, who are on disability; Russell Saadey, Jr., Currently imprisoned, the same jury situation I faced, and in prison, in fact, on perjured testimony; John Innella and his family; Mike Antonoff and his family; Renee Lanzaro and their family; Dennis Johnson, his family; Billy Coleman, his family; Greg Tyson, his family; attorney Percy Squire and his family; and attorney Mark Colucci, his family; and Gary O'Nesti; that they not be subjects of targets of investigations due to anything that happened in the Traficant case, and that the committee, in fact, reflect that in the form of a letter to the Justice Department that that at least has been put on the record. And you can't tell them what to do, but I have asked for that request.

The Chairman. Your request will be noted, Mr. Traficant.

Is it clear the procedure for this afternoon?

Mr. Lewis. Yes, Mr. Chairman.

The Chairman. Mr. Traficant?

Mr. Traficant. I did want the window open to make those motions because I didn't have them totally prepared.

The Chairman. Mr. Traficant, I think you have had plenty of time to prepare. We just kind of keep going on with another deal. We want to be fair with this thing. I think you would agree.

Mr. Traficant. Mr. Chairman, I don't want to interrupt you, but let me tell you this. The last Member and the only one expelled since the Civil War was Representative Michael Myers. They had him on videotape tape and cameras taking money from an Arab sheik. Now, this is a different type of case.

The Chairman. That is exactly why we're taking this so seriously, and we have allowed --

Mr. Traficant. There's no physical evidence here, and I think my motion should be considered.

The Chairman. We have. You don't have a motion before us, Mr. Traficant.

Mr. Traficant. I have one now then.

The Chairman. We've tried; we really have stretched things to let you put in information that some of which is relevant, some of which is not relevant at all, because we wanted to give you the best opportunity we could to make your case.

And so we will begin the summations at 2:00 this afternoon.

Mr. Traficant. Can I inquire of the Chair if the possibility of judicial conflict exists with the husband of the judge in Cafaro --

The Chairman. Committee stands in recess until 2 o'clock.

Mr. LaTourette. Mr. Chairman, before you do that, just a housekeeping matter, and this will just take a minute. In front of every Member today was a letter from the Department of Justice to attorney Lawrence Huntsman in response to my request for Mr. Detore that he provide the letter describing immunity to him. Mr. Traficant's office, I guess, has communicated, and just to make sure that it's in the record, unless there's an objection, I would like it marked Subcommittee X or Z, or whatever is appropriate for marking purposes; and just wanted to inquire of Mr. Traficant that it was my understanding when we were discussing with Mr. Detore, he said that was a letter, and then there was a letter of clarification. I only have the one letter that's been provided this morning.

And you don't have anything, Stephanie?

Okay.

Mr. Traficant. I think in response the record should be left open, and I would like to say this --

Mr. LaTourette. Let me -- this is my request, and so I -- let me just make this observation that I have a letter in front of me dated August the 18th, 2000. It would be my request that it be submitted or accepted as a subcommittee exhibit unless there's an objection by a member of the subcommittee. And the request I would have of you, Mr. Traficant, since this is your witness, if there is a second letter -- I think I asked him for all letters relating to this issue. If there is a second letter, I would ask if you could get it to us, and I would ask the abeyance of the Chair that if such a letter does, in fact, come in, and that we can also consider whether that could be a subcommittee exhibit as well.

Mr. Traficant. I'd request a copy of that letter, and I believe I have an affidavit from Attorney Huntsman, and if I do, I'll deliver it

. The Chairman. The committee stands in recess until 2:00.

[Recess.]

RPTS O'ROURKE

DCMN HERZFELD

[2 p.m.]

. The Chairman. Subcommittee will come back to order. In response to Mr. LaTourette's request, Mr. Traficant has submitted a -- the document of the motion to Mr. Detore's motion to have his case dismissed, and that will be admitted into evidence.

Mr. Traficant. Mr. Chairman, not to belabor the committee, I think Mr. LaTourette also talked about the matter of Mr. Huntsman, and Attorney Harney and I have an affidavit from Attorney Harney here and a statement from Lawrence D. Huntsman. I would like to have them just presented, not necessarily as evidence. You can consider them as evidence, but when I asked that the committee also register the names of people who could be subject to harm by their involvement in this case, I want to include Linda Kovachik, Anthony Traficanti, Bob Barlow, Mike Robertson and his family, Attorney Huntsman and Attorney Harney, and that the committee at least make note that there be no targeting of those individuals for their participation.

And I will place these two affidavits on the desk up here, and your staff can pick them up.

The Chairman. All right. We will take a look at those and so note your other comments, and, Mr. Lewis, you may begin your summation.

Mr. Lewis. Mr. Chairman, Representative Berman, members of the subcommittee, Representative Traficant, the evidence presented at this hearing proves by clear and convincing evidence that Representative Traficant violated the standards of conduct charged by the investigative subcommittee in each count of the statement of alleged violations. The evidence proves that Representative Traficant misused his office for personal benefit.

The evidence proves that he misused his office for personal profit in three different ways: First, Representative Traficant sought and obtained tens of thousands of dollars worth of cash and other things of value from businessmen who were seeking constituent services from his congressional office. These violations are charged in Counts 1 through 3 and the Bucheit portion of Count 10. Second, Representative Traficant paid three senior congressional employees high salaries and in return received a portion of those salaries back in cash each month. These violations are charged in Counts 4 and 5 and Count 7. Third,

Representative Traficant had his congressional staff perform hundreds of hours of personal work for him on his farm and on his boat while on official time and while they were being paid for official duties. These violations are charged in Count 7.

When you look at all the evidence together, it proves that Representative Traficant's misconduct was repeated, ongoing, knowing and deliberate. Each count stands alone; however, the pattern and repetitive and ongoing nature of this conduct is charged in Count 10.

Members of the subcommittee, his actions were not mistakes. The evidence proves that Representative Traficant repeatedly and continually solicited the cash and services he received. He deliberately sought out the tens of thousands of dollars worth of cash and services. He asked for it.

It is your solemn constitutional duty delegated to you by the House to review this conduct. In reviewing the conduct, I will address five issues: first, what is the undisputed evidence for each count; second, what is the proof of an agreement between Representative Traficant and the witnesses, an improper agreement; third, what is the corroboration for the proof of that agreement. Fourth, I will address any relevant issues raised by Representative Traficant. He raised the issue of credibility with the key witnesses against him, who stated under oath that there was an improper agreement. I will address the issue of the credibility of those witnesses in detail. Finally, I will ask you to apply your common sense to this evidence. As a distinguished panel of attorneys, judges, public defenders, prosecutors and experienced members of the Ethics Committee and Members of Congress, I will ask you to use your common sense like all finders of fact do and like the jury did in Representative Traficant's case where they found that he was guilty beyond a reasonable doubt and by a unanimous verdict.

I ask you to look at Counts 1 through 3 and the Bucheit portion of Count 10 together. Those are the counts that deal with actions with businessmen. The statement of alleged violations charges that Representative Traficant agreed to and did accept cash and services and other things of value in exchange for official acts from four different groups of businessmen.

Count 1, the Bucci brothers. The evidence shows that the Bucci brothers received what they paid for, a Congressman who went to bat for them over and over and over again. The official acts by Representative Traficant or his staff on his behalf of the Bucci brothers or companies they controlled are undisputed. They included interventions with the U.S. Department of Transportation, U.S. Department of Labor as late as

1996, the Federal Bureau of Prisons, the Ohio Department of Transportation, the Youngstown Halfway House and others.

The trial witnesses who testified in Cleveland were public servants with no interest in this case. The exhibits were undisputed documents. They are all about events that occurred many years ago, many years before the investigation against the Representative was commenced.

The things of value done for Representative Traficant by the Buccis were also testified. Representative Traficant himself stated that in his opinion at least 3- or \$4,000 worth of work was done on his farm by the Buccis. No witness testified that the six Bucci employees who took the stand under oath and said they worked at his farm did not do the work except Sandra Ferrante. No witness took the stand or gave testimony that the work that Peter Bucheit paid for on Traficant's farm, the \$30,000 worth of work, wasn't done.

Representative Traficant presented two witnesses at trial, one a current employee of his, Dominic Marchese, who stated he was a very close personal friend of the Congressman, and who has had no experience in construction work in many years; second, Mr. Innella, who lives and works at Congressman Traficant's farm now for room and board, and who hasn't done any construction work since 1976. Both commented on the quality of the work done by Manevich and the other people. I submit to you that the jury found their testimony wasn't credible, and you should do the same.

There is no independent evaluation of the work done by Bucheit. There is no dispute over the handwritten list in Representative Traficant's handwriting of the things he wanted the Buccis to do for him at his farm.

Hearing Exhibit Number 10 for identification, the Congressman said this is his handwriting. Anthony Bucci had this document and gave it to the FBI. It is undisputed that this document in the Congressman's handwriting says filter manufactured sand, haul debris, tracks and loading, oats, driveway, barn lane, 929. It is undisputed in the Congressman's handwriting in the possession of Anthony Bucci. He didn't object to its admission into evidence at trial. In fact, it was a joint exhibit. It corroborates the proof of the agreement.

The proof of the agreement started with the testimony of Anthony Bucci. You heard that he and his brother were approached by Congressman Traficant's district director Charles O'Nesti to settle their pay

dispute with him. The only issue for you to decide in Counts 1, 2 and 3 and the Bucheit portion of count 10 is the proof of the agreement. But it is not just the word of Tony Bucci that you would have to take, or the word of Allen Sinclair, John Cafaro or Allen Lange, who each provided direct testimony of the agreement and the counts regarding their activity, for there is overwhelming corroboration of Buccis' testimony.

If you recall during my summary, I went through the many documents establishing that Representative Traficant owed the Bucci brothers \$12,900 in 1988. That was undisputed. It was undisputed it was for work done at his farm. You saw Anthony Bucci's letter to his attorney requesting that a lawsuit be filed against the Congressman. It is the only evidence in this record of a lawsuit other than the uncorroborated testimony by Sandy Ferrante. This corroborated testimony of the lawsuit. You saw the attorneys' letter to the Congressman all corroborating Anthony Bucci's testimony; the testimony of the career civil servants who were not under jeopardy, who were not under immunity, who did not have plea agreements also corroborated Bucci; attorneys like Wilbert Baccus from the Department of Transportation, investigators like Thomas Buckley from the Department of Labor and Thomas Williams and David Dreger of the Ohio Department of Transportation, all confronted by Representative Traficant because they were trying to enforce the law and regulations against Bucci.

Bucci is further corroborated by six of his employees who testified under oath without jeopardy, without plea agreements, without immunity, without any testimony other than the uncorroborated testimony of the Congressman that they are being harassed by the FBI or the IRS, that they worked for Anthony Bucci at the Congressman's farm and paid by Bucci, not the Congressman.

Joseph Altiero, his testimony is not disputed by anybody except Sandra Ferrante. Merrill Whippo, his testimony under oath was disputed by no one. James Ragazzine, his testimony not under jeopardy was disputed by no one. Bruce Pierce, his testimony under oath, not under jeopardy, was disputed by no one. Donald Burkey, the same. The only person who disputes their testimony is Congressman Traficant and Sandy Ferrante, who says they are liars, liars, liars, based on her review of the television testimony of the trial. And keep in mind that this was not just a few hours of work at the farm. Altiero said he was there on and off on a regular basis for over 6 months.

If you have any doubt at all about the testimony of Bucci, Cafaro or Sugar, recall the testimony I pointed out of Representative Traficant's longtime chief of staff Paul Marcone. He served as his chief of staff for

approximately 10 years. He was not under jeopardy. He was not under an immunity agreement or a plea agreement. He admired and respected Representative Traficant. Representative Traficant was his mentor. He said it was the hardest thing he has done in his life testifying against the Congressman, but it was Marcone who testified that the Buccis, Cafaro and Bucheit all received more attention from Representative Traficant than any other businessmen in his district.

You recall I stated that he testified on page 1458 of the certified trial transcript as follows:

Question: Do you recall Congressman Traficant asking you if the office of Congressman Traficant treated any company any different than anyone else? Do you recall that?

Answer: Yes.

Question: Were there some companies in the office that the office spent more time helping than others?

Answer: Yes.

Question: Where would the Bucheit companies fit?

Answer: They would be at the top of the list.

Question: How about Cafaro and USAG?

Answer: Very high on the list.

Question: How about the Buccis?

Answer: Very high on the list.

Question: So it is fair to say that the Bucheits, Cafaro and Bucci received more time and assistance from your office than the 100 or so companies you testified you helped over the years?

Answer: Correct.

Now, Representative Traficant questioned Anthony Bucci's credibility. Bucci has been convicted of at least four felonies, and you know that, and the jury in Cleveland knew that. He testified pursuant to a plea agreement with the United States Attorney's Office and under immunity. You know that other key witnesses did the same.

I will now address the credibility of all of these witnesses at this point. The evidence shows that each of these witnesses were credible, ladies and gentlemen. Look at the circumstances of their testimony. Each testified under oath. Each, with the exception of DiBlasio, was subject to extensive cross-examination. Each of those who testified was subject to the extensive cross-examination of this respondent

Representative Traficant. Keep in mind that each plea agreement was reviewed and accepted not only by the U.S. Attorney's Office, but by the U.S. district court. In each case the details of the plea agreement were examined in great detail in front of the jury, particularly by Representative Traficant. You know and the jury knew down to the month the possible sentence for each witness.

The witnesses were also open about their misconduct. Anthony Bucci testified to many acts of misconduct in addition to what he pleaded to. I read you the list. The list was so long, I didn't even read the entire list. John Cafaro admitted that he did not tell the truth while testifying under oath in another trial. The jury heard that. You know that. He admitted that he did not tell the truth under oath, the laymen's term. He did not say he committed perjury, but he did say, I did not tell the truth under oath.

In addition to the factors I have just discussed, I ask you to keep in mind four points when you address the credibility of these witnesses. First, the only trouble these witnesses can get into at this point in time is if they did not tell the truth in their testimony under oath. In each case, it was indicated that they would lose their deal with the government or the court if the government or the court found out they were not being completely truthful in their testimony. And look what happened to John Cafaro. He made a proffer agreement to the United States Attorney's Office, said that he was truthful. He did not tell them about the \$13,000 cash payment to Congressman Traficant at first. Because he was not truthful, he lost his immunity and was indicted by the U.S. Attorney's Office.

Second, keep in mind -- ask yourself if they exaggerated or tailored their testimony to hurt Representative Traficant. If they were really out to get him as opposed to telling the truth, there were many areas that they could have embellished their testimony. If David Sugar wanted to lie to the jury and get Representative Traficant, wouldn't he have said it was the Congressman who told him to create those false invoices? Instead he said, no, that was my idea, and the Congressman had nothing to do with it. I panicked because I knew it was an illegal activity. But he didn't implicate the Congressman.

If John Cafaro wanted to lie to get Representative Traficant, wouldn't he have just said the Jeeps and the Avantis were outright gifts? But he didn't say that. He explained the situation. He said, Congressman Traficant just didn't get around to paying me.

If Lange were shading his testimony to hurt Representative Traficant, would he have stated under oath that he did not think John Cafaro was a truthful person?

If Grace Kavulic was out to get the Congressman, would she have lied about O'Nesti taking payments? If she was lying about that, why wouldn't she go one step further and say DiBlasio also did it?

And finally, if Bucci were trying to exaggerate and extend, he would have said, I did the work for the Congressman at his house; but he said, no, I didn't do that.

Third, look at the evidence from Representative Traficant's point of view. Does it make sense for him to make an illegal agreement with these witnesses? If you are a Congressman and you want to make an illegal -- receive an illegal gratuity, who is going to give it to you, an honest businessman or dishonest businessman? Who can help him with the scheme? Who won't talk? If you want to receive a payment from your employee, who will do it? Paul Marcone or Henry DiBlasio, who gets to practice law and receive a congressional salary and rent in exchange, a witness whose interests are the same as the Congressman's.

Does Allen Sinclair even get a job? He is not vetted by both DiBlasio and Representative Traficant. It was in his interest to give a large portion of his salary back to the Congressman because he would not even have a job but for it.

John Carfaro desperately needed to save a \$10 million family investment. What is a 40- or 50,000 boat deal in exchange for that?

Sugar needed something. He needed his son out of jail to help run the business.

And finally, Representative Traficant knew each of these individuals for years. Even Sinclair he said was a volunteer worker in his office for many years. And they knew him. In fact, Carfaro and some of the other witnesses said they didn't like Representative Traficant just like he didn't like them. But these people who didn't like each other, who despised each other, who hated each other did a lot of business together.

Why did Carfaro do business with Representative Traficant? Because he needed Representative Traficant, and Representative Traficant needed money and somebody to take his boat off of his hands. The very fact that some of them are convicted felons who are willing to give an illegal gratuity to a Congressman is why this Congressman was able to use them for his purposes. Remember, the government did not introduce any of these witnesses to Representative Traficant. Each course of conduct in Counts 1 through 3 and the Bucheit portion was well established before the government's investigation ever started.

Finally, in assessing credibility, the point I stressed earlier, corroboration. This case is about two things, credibility and corroboration. As you know, none of the counts rely solely on the word of a witness who has a plea agreement or immunity. Paul Marcone did not have a plea agreement or immunity. None of the Bucci brothers did. Sue Beegle, Sugar's secretary, had neither immunity or a plea agreement. Dominic Rosselli, Patricia DiRenzo, Tracy Sloan for the Cafaro account, neither -- none of them were under jeopardy. Former employees for Representative Traficant, Lucia Foiani and Kimberly Bliton, who testified regarding Count 10, they did not have immunity or plea agreements. The other Bucheit witnesses including Bucheits' daughter did not have a plea agreement or immunity. So this is not a case, as you have heard, about every single witness being under jeopardy. That is just not the facts.

Now, having addressed credibility, returning to the Buccis in Count 1, I ask you to use your common sense in evaluating the evidence. Ask yourself about what Tom Williams said, the 37-year employee of the Ohio Department of Transportation who was on the phone Memorial Day weekend 1995 receiving a phone call from Tony Bucci and then a phone call from Representative Traficant, and the Congressman said the Buccis were messing up -- and was informed that he was harassing the Buccis. And he told the Congressman that it was the Buccis who were fouling up the holiday weekend for thousands of his constituents at a State park over that weekend, and why was the Congressman taking the side of convicts instead of his other constituents? Why did this Congressman keep helping the Buccis when he said he despised them, and his own staff began raising concerns?

You heard testimony yesterday from Sandy Ferrante. There is nothing new that you heard yesterday that the jury didn't hear in Cleveland. She was a close friend, and she was repeating her trial testimony. The jury heard the testimony about the barn being damaged. They heard it from her and heard it from Susan Bucci, and they did not find it credible. Ferrante's testimony was contradicted by the Congressman himself. She said the Buccis did nothing around the farm. He admitted he they did at least 3- or \$4,000 worth of work. And her testimony -- her opinion of the other witnesses lying was based on news reports and nothing else. In fact, she told the jury in Cleveland the only thing she knew about the Buccis is what Congressman Traficant told her.

As far as ownership, I remind you again about what I showed the Congressman yesterday, Government Exhibit 6-11. Now, he said, well, it was my wife's. I just signed it to help her out, and it does say it is from

Patricia Traficant to the Congressman's daughter. But it also says that for valuable consideration, I, James A. Traficant, Jr., Release this quitclaim. So it is more than the Congressman's signature. He was the one that actually said, I release this quitclaim to my daughter.

The date, significant date, December 10, 1999. What was occurring in December of 1999? You know from the Congressman's own words and the testimony of everybody at trial, Congressman Traficant knew he was under investigation. The property suddenly becomes his daughter's once he is under investigation.

Count 2, you heard the testimony showed that on the very day David Sugar asked Representative Traficant for help with his son's legal problem, Representative Traficant had him go to his farm to show Sugar the work that he wanted to be done in exchange for the official acts. It is undisputed that Representative Traficant sent a letter to the court and to the halfway house on behalf of Sugar's son. Representative Traficant, no one, no witnesses disputed Sugar's testimony that he did over \$12,000 worth of work on the farm during the same period. Sandy Ferrante couldn't even dispute that.

David Sugar testified about the agreement. He said he had an agreement with the Congressman. His testimony is corroborated by that of his secretary and by the false invoices he created. Use your common sense. When the FBI showed up, and Sugar panicked and he created the false invoices, if his dealings with Congressman Traficant were legitimate, why did he panic and create false invoices? Why did he tell his secretary to lie to the FBI? Why did he admit to lying to both -- both of them lying to the grand jury? Why bring his secretary into this? Because it was an illegal deal.

You have heard about Harry Manganaro. There is a tape. He testified at trial. He is a friend of the Congressman. They have known each other for 20 years. What he says on the tape is that -- what you have heard the Congressman say, that Sugar was harassed by the FBI and was scared, and that is why he changed his testimony. Well, first of all, David Sugar testified and was cross-examined by the Congressman and said that wasn't true. Second of all, everything that Manganaro says on the tape he said to the jury in Cleveland. They heard him say he felt --

Mr. Traficant. Objection. Manganaro did not testify to the jury on Sugar. I want these facts clarified.

The Chairman. This is not a time for objections, as you well know, and I don't expect our counsel to object to you.

Mr. Traficant. Manganaro did not testify on the Sugar matter before the jury. I want that on the record now.

The Chairman. That will not be on the record. Mr. Lewis has a right to use his time -- you know this because you know the law well enough that you know --

Mr. Traficant. He has made a lot of misrepresentations, and I have had about enough of it.

The Chairman. You get your opportunity to make your misrepresentations when the time comes.

Mr. Traficant. I will make none.

Mr. Lewis. Members of the subcommittee and the public, I direct your attention to the affidavit, to the trial transcript which you have, and which is on the committee's Web site. He testified under oath.

Mr. Traficant. Not about Sugar. Now, admit it.

The Chairman. Mr. Traficant.

Mr. Traficant. I will not have him lie here and force me to waste my time to deny it. I want to see the damn record now.

The Chairman. Sit down, Mr. Traficant.

Mr. Traficant. I have been railroaded once, and I will be damned if I will be railroaded. Manganaro did not testify about this. No one testified about any of this -- any of these damn lying witnesses.

The Chairman. Mr. Traficant, would you like the hearing closed?

Mr. Traficant. No. Not really.

The Chairman. I wouldn't think so. Sit down and let Mr. Lewis complete his testimony. We do have a vote. We have a series of votes.

Mr. Traficant. I object to anybody leaving in the heat of this contest.

Mr. Green. Mr. Chairman, we might admonish both the attorneys and Congressman Traficant that the committee Chair runs this hearing, and we have the right to go vote, and we make the decisions. And I know that has been a concern I have had for a couple of days now, but you know the Chair actually manages the hearing.

Mr. Traficant. I was just kidding, but I'll tell you what, I am not going to have him make any more misrepresentations. I am going to object to them whether it is committee rules or not. And I want to see the trial evidence. I want it now.

The Chairman. We are going to recess, and at this moment we don't particularly care what you want.

This is --

Mr. Traficant. How much time has he already used?

The Chairman. None of your business. He gets to use the hour as he sees fit -- by the way, an additional 30 minutes that I granted you so that you would have absolutely a fair opportunity to do your summation even though you used up that time, we granted that to you. I want to ask you when we come back to cool your jets, relax and listen to Mr. Lewis' summation, and then you summarize any way you want.

Mr. Traficant. Listen, if he misrepresents that record or misrepresents the facts, I am going to object.

The Chairman. We are in recess until the vote is over.

Mr. Traficant. How many votes are there, and when are we expected back? Does anybody know how many votes there are and when we will be expected back?

The Chairman. There are three votes, I understand, Mr. Traficant.

[Recess.]

The Chairman. We will get the microphones turned on, and we will resume. Committee will come back to order.

Mr. Lewis, you were saying --

Mr. Lewis. Thank you, Mr. Chairman.

Mr. Chairman, on page 4480 of the trial transcript of the trial in Cleveland, the defendant Congressman Traficant called Harry Manganaro to the stand in front of the jury. On page 4492 he started asking Mr. Manganaro a series of questions about Mr. Sugar's relationship with the FBI. And on page 4496 he asked the question:

When you looked at Mr. Sugar, what was his normal condition?

Normally he was grumpy. But this time he is extremely nervous, and he confided in me because I'm his friend.

Question by the Congressman: Was he worried about something?

Answer: Yes he was.

Question: Was he worried about his family?

The point I was trying to make is that the testimony of Mr. Manganaro and the tape and the affidavit were presented to the jury.

Mr. Trafficant. Object.

Mr. Lewis. As far as Mr. Sugar, the testimony I wanted to clarify about the piano and the other antiques. If you look at the trial testimony, that goes to racketeering act 6, which is not charged by the investigative subcommittee, regarding Mr. Sugar. Mr. Sugar only involves payments or things of value for April of 1999. And even if you throw in the piano, which is estimated at 5,000, and the antiques and the \$1,000, it still didn't add up to the total of \$12,000 worth of work that was done in 1999 by Mr. Sugar.

Count 3, the proof of the agreement and the evidence of the cash services and other things of value provided to Representative Trafficant were initially based on the testimony of Cafaro and Lange, but there is overwhelming corroboration. There is the \$13,000 check, the bank ledgers. You saw the date and the amount. There is Patricia DiRenzo's testimony that Mr. Cafaro needed \$13,000, and she went out and got it for him. The day before he testified, he gave it to the Congressman. There is Cafaro's calendar and Representative Trafficant's press release about appointing Mr. Cafaro to the committee that was meeting on the morning of that day. You also have Allen Sinclair's statement to the FBI in early 2000 before Lange, before Cafaro went to the FBI that Representative Trafficant told him that Cafaro had given him cash. You have Mr. Detore's expense reports for dinners with Mr. Trafficant. You have the Crevet rental documents. You have invoices that show USAG did purchase the welder and did purchase the generator.

As far as the cars, there is disputed testimony about the value of the cars, the condition they were in. I will just say this: It is undisputed that Cafaro gave the Congressman the use and possession of two Avantis and a Jeep for at least the period of 1999 through 2000. Whatever their value, he had the use of those vehicles.

Recall that everybody, even Representative Trafficant's own witnesses, testified that he wanted to get rid of that boat. He tried to get Tony Bucci to buy it. There is testimony he wanted Bucheit to buy the boat. Robert Gatti. Lisa Bucheit said he wanted their help with the boat. And even Paul Marcone said Representative Trafficant told him he needed to unload his boat on somebody.

You know Cafaro was trying to buy the boat. The Congressman admitted it. He said that Cafaro tried to give him the check. You have seen the check. It is documented. Why would USAG want to buy

Congressman Traficant's boat for nautical testing of a system that they are trying to get funding and approval for? Why not buy a new boat? Why buy an old boat that everybody says needed thousands and thousands of dollars of repairs? As I said, Marcone even said the boat was in bad shape. You have seen the pictures of the boat, and the pictures are available, and it is not in dispute. They are Exhibit 869-1, and they show the state that this boat was in.

So either Cafaro and Lange were untruthful or were truthful, and this money was for Traficant, or Lange pocketed the money. Now, Lange did testify under immunity, but when you have immunity, as you heard, you are also under jeopardy. If you are not truthful, you lose your immunity.

You heard how the testimony shows how this case started. The Cafaro portion was started. USAG was subpoenaed. They obtained an attorney. Lange was told, you better get an attorney. He made a proffer to the government. The government studied that proffer. The government decided that he was truthful and said, you have immunity if you continue to be truthful.

You have the uncorroborated testimony of the testimony that Lange sunk his boat. Richard Detore said the boat was sunk. You also have corroboration of Lange and Cafaro, Government's Exhibit Number 36-1. It is 48 pages of receipts for work done for the boat. These receipts are not challenged by the Congressman. They were offered into evidence, and you heard no testimony today and there is no testimony at trial other than the other uncorroborated testimony from Congressman and Detore that the work was not done to the boat.

As far as the boat being sunk, I direct your attention to page 21 of the exhibit, which is not challenged by the Congressman. He has never challenged it. April 16, 1999, the remaining work consists of details like manufacturing mahogany trim, PTP trim surrounding flybridge, staining new mahogany, refastening grab rails, and most importantly, as even Lange said, the engine work. There was still work on the engine to be done.

There is also the testimony of Dominic Rosselli, who is the treasurer and chief financial officer of the Cafaro Company. Mr. Rosselli testified that the Cafaro Company spent \$10 million in USAG in contradiction of the testimony of Mr. Detore.

Mr. Detore was in jeopardy. You know why he was in jeopardy. However Dominic Rosselli did not testify under immunity or did not testify under a plea agreement. He said the company had spent \$10

million. It was hemorrhaging money, and that is why USAG failed. He also testified about Detore and business expenses that Detore signed off on Lange's request for the boat expenses. Detore agreed to Cafaro, and there is written documentation, that those were business expenses, not personal money going to Lange, which corroborates Lange.

Tracy Sloan also testified to the jury without immunity, without a plea agreement, without jeopardy. She stated Richard Detore ran the day-to-day operations of USAG, and that Richard Detore instructed her to get a luxury car or exotic car, quote/unquote, luxury car or exotic car for the Congressman, and she went to Millennium and she obtained the Corvette. So it just wasn't any as you heard last night. She, who was not under jeopardy, was told to get an expensive car for the Congressman.

You also heard the Congressman testify about Brian Kidwell and Mr. Squire, an attorney, that it wouldn't be possible for Cafaro to have given the \$13,000 cash to the Congressman. I just direct your attention to the transcript of that testimony. Mr. Kidwell said he wasn't even sure which year he saw Mr. Cafaro, and Mr. Squire said that it was possible that Cafaro could have left with the Congressman. All Mr. Squire said is that at the end of the morning that Cafaro said he gave \$13,000 to the Congressman and the car, that the Congressman left with someone else, not -- so it is possible that at some point the Congressman did leave with Cafaro. Cafaro said he dropped him off, and then the Congressman could have left with somebody else. So I submit to you the testimony and affidavits of Kidwell and Squire are not credible.

Count 10, the only issue here is nothing is contested about the official acts. Nothing is contested about the \$30,000 spent on the farm other than Innella and Marchesi, as I stated earlier. And the only thing different here, and that is why this is in Count 10, is Bucheit did not testify. He is under indictment, and he is charged with lying on behalf of the Congressman about this issue. So you do have to make an inference here. There is no direct testimony about the agreement. But you can make an inference in Count 10 that -- just like Counts 1, 2 and 3.

Representative Traficant asked Bucheit to do something in exchange for the cash. Bucheit's own daughter, Lisa Bucheit, admitted between 1993 and 1996 the company was never paid by Representative Traficant for the addition to the farmhouse. She billed him -- she sent the bill to the farm, but he never paid for 3 years. Now, if -- like I said earlier, if this was a loan and not an illegal gratuity, why didn't he list it as

a loan in his financial disclosure statements for those years? The common-sense answer, like the answer to all the others, is that he never intended to pay Bucheit because it was not a loan, it was a gratuity.

Counts 4 and 5, in these two counts you heard that instead of receiving cash and services from businessmen, Representative Traficant received cash from one of his own employees. The essential agreement with Allen Sinclair was I will put you on my staff and let you continue your private law practice on a full-time basis with no supervision and pay you \$60,000 a year. I will continue to let the government rent the space and pay you rent on the building you were were buying from DiBlasio, and then you will give me \$32,500.

It is undisputed that Representative Traficant committed the official acts of hiring Allen Sinclair, setting the salary at a high level, letting him to continue practice law, minimal supervision, minimal duties except for the Congressman's uncorroborated testimony, and rental of office space from the building. Sinclair's testimony provided proof of the agreement and that he paid the money to the Congressman. His testimony is corroborated. It is corroborated by copies of the checks, copies of the bank receipts and copies of the bank statements. It says there is \$2,500 in cash every month. Does it say where that cash went? No. But it corroborates Allen Sinclair. It is also corroborated by the rent checks paid by the U.S. Treasury.

Sinclair is corroborated by the testimony and the congressional records regarding the office structure salary. Paul Marcone corroborated that Sinclair lacked any kind of experience for his position, and that he strongly opposed his hiring. Granted, Congressmen can hire people over the opposition of their chief of staff, but there should be a credible basis for it. Marcone and the congressional salary records corroborate that Sinclair was paid more than any other employee except for Marcone.

DiBlasio's plea agreement admitting paying the Congressman money corroborates Sinclair's testimony that DiBlasio orchestrated and managed the implementation of the Sinclair payment for Representative Traficant. While the DiBlasio and O'Nesti kickbacks, payments, are only charged in Count 7, not in Counts 4 and 5, the evidence of those payments also corroborates Sinclair. It corroborates him because it shows that his payments to the Representative are merely a continuation of the DiBlasio and O'Nesti payments, and it explains why he was hired. Sinclair's testimony is even more credible when it is seen as the continuation of an ongoing scheme instead of the start of a scheme.

The testimony of former office manager Jackie Bobby and Representative Traficant's former secretary Grace Kavulic regarding the DiBlasio and O'Nesti payments also corroborates Sinclair, their testimony that both of them received cash in envelopes from Congressman Traficant, he left it for them on a regular basis, and they deposited this cash in the bank for him on a regular basis. Keep in mind that their testimony was given not to the government by a cooperating witness, but, as far as the DiBlasio and O'Nesti statements, was told that by fellow congressional employees over a decade before this investigation commences.

Like Sinclair, DiBlasio was allowed to practice law full time at the same time he was supposedly the administrative assistant in charge of the entire office. Paul Marcone and even Representative Traficant's own witness Anthony Traficanti admitted that he did not perform that job. No one knew what DiBlasio did. Paul Marcone, Jackie Bobby, Grace Kavulic, West Richards, the other chief of staff who testified, and Anthony Traficanti all testified that staff members regularly complained about the fact that DiBlasio received such a high salary for doing such little work, and the Congressman can't answer that testimony that is not under immunity or not under plea agreements.

Bank records show that like Sinclair, DiBlasio almost always received cash when he deposited his congressional paycheck. For the 3-year period that the government was able to document it, Henry DiBlasio cashed \$120,000. And you also now know he has admitted making the payments to the Congressman. What was the Congressman's testimony? His testimony that O'Nesti didn't make kickbacks was the testimony of a convicted felon, a former deputy sheriff who pleaded guilty to taking money from the mob and testimony by two current employees.

I ask you to use your common sense. Why would Representative Traficant bother to stay in the Overhill office when he had a brand new office in the Youngstown courthouse? Why would DiBlasio bother to obtain Richard Jeren and Nicholas Chuirazzi to pretend that they owned the building long after the office was supposed to have moved to the courthouse? Why would the Congressman have his secretary, office manager, his caseworkers in one office in Youngstown and 5 miles away have an office for himself and Henry DiBlasio or Allen Sinclair? Why did he do this over his chief of staff's strong objection and the chief of staff's memo saying it would strain the budget, raise ethics issues and waste money? Why? Because if DiBlasio and Sinclair could stay in the Overhill office, they could run their law practice full time, which they couldn't do if they had to be in the courthouse and work on congressional matters from

8:30 to 4:30 like all the other employees. They needed to practice law because they needed to make the payments to Representative Traficant.

Count 7, this count presents evidence of three different methods by which Representative Traficant took money from a new source, the U.S. Government. That includes the salary payments to the Congressman from Sinclair, DiBlasio and O'Nesti, but this time in terms it was defrauding the U.S. Government. The second method, as you know, instead of having his congressional employees to do office work, he directed many of them to provide him with free work on his farm all paid for by the U.S. Government. The third method, congressional employees also provided him with free work on his boat, also paid for by the U.S. Government.

The testimony of Traficanti, his own witness, Bucella and Rovnak was corroborated by his own witness Betty Manente and other office workers. They all said Bucella was gone, he went to the farm, and they complained about it. They testified that Rovnak didn't even have a desk in the district office. And they testified that Anthony Traficanti also worked.

The boat testimony, granted, it is not comprehensive as the farm, but it is uncontested. West Richards, chief of staff, not under immunity or plea agreement, said it happened. Mr. Whitehead, another former employee said it happened. Richard Rovnak said it happened. And Rovnak said he went to the boat more often than once.

Count 6. You have heard argument that the government pressured witnesses. The only corroborated testimony of any witness being pressured in this case is the charges against Congressman Traficant. The only direct testimony of pressure is from his former employees. You heard what they said. You heard what Sinclair said, that he was pressured, in his grand jury testimony. You heard -- you know the testimony of Paul Marcone that he was also pressured, in his grand jury testimony.

You heard -- you know the testimony that the Congressman gave Sinclair the cash that he asked him to burn the envelopes, that he gave him the Post-it notes. The Congressman said those notes and letters are in his own handwriting. They are uncontested. Paul, I may have violated House ethics rules giving you the loan. Paul, tell the truth. I never gave you kickbacks. The Congressman can't explain those letters. They are in his own handwriting. The only official mention in writing of the term "kickback" is in the Congressman's own handwriting.

And think about other testimony you have heard. This is how, according to Sinclair, the Congressman operated when he felt he was under threat by the FBI. Well, it fits in with the other testimony. Suddenly in December, on December 17, after using the Corvette for a month, the Congressman pays for the Corvette. Why is December 17, 1999, significant? He knows he is under investigation. He also decided to give David Sugar a check for \$1,142 for work done in April in December because, quote/unquote, the government is after me. Does this fit in with a pattern of requesting Sinclair to burn envelopes a month later? Use your common sense. Recall that Representative Traficant, and in the words of Paul Marcone his chief of staff, said, have to go on the offensive.

Count 10 is an overarching count. It basically states what I said earlier, that for this Congressman's entire career, he is -- he has used his office for public benefit. Remember, no matter what you have heard, the evidence in this case is that the case was not started by the government. Mr. Traficant knew these people before any government investigation was going on. The FBI did not introduce him to the Buccini brothers, David Sugar, John Cafaro, Al Lange, Peter Bucheit, Henry DiBlasio or Allen Sinclair. This is a case not based on wiretaps or video surveillance, it is a case based upon the testimony and records of his friends, his business associates and his employees. That is why they didn't need a videotape or physical surveillance.

The standards of conduct that are charged are those that are very familiar with you. Exchanging your office for personal benefit brings discredit to the House and violates the spirit of the rules. Improper compensation, the way it is described, violates the rules. And you know the rules, so I won't read them to the members of this committee. This statement of alleged violation charges Representative Traficant with failing to conduct himself in a manner that reflects credibly on the House of Representatives and other related charges; the repeated sale of his office in violation of the public trust in exchange for money, personal services and other things of value to Representative Traficant.

It is not often that we see such direct evidence of this sort of misconduct. This case displays misconduct, which, thankfully, often is not seen. Based on the evidence of that misconduct, the undisputed testimony of witnesses who were not in jeopardy, the direct testimony of his friends, his employees, his business associates and not hearsay, but direct testimony, when you evaluate the evidence, you will find that each count of the statement of alleged violations has been proved by clear and convincing evidence.

Thank you, Mr. Chairman and members, for your patience and attention, and I reserve the balance of my time.

The Chairman. You have 15 minutes left if you wish to use it.

Mr. Traficant, you have an hour.

RPTS SMITH

DCMN MAGMER

. Mr. Trafficant. There's an awful lot of misrepresentations. I won't call them lies. Many of the people referred to that testified, testified outside the presence of the jury under voir dire, were not allowed to testify before the jury.

Second of all, you have before you a hearsay transcript, and I am going to go one count at a time.

Now, he said, I admitted to 3 or 4,000 dollars by the Buccis. Quite frankly, they never bought any oats, never bought a damn thing and didn't do no driveway. They did send a machine out to do some grading, and I gave them the benefit of the doubt.

The Susan Bucci affidavit clearly states and the Sandy Ferrante testimony, they owe me money. Bucci was on his fourth plea agreement, working to bring his brother back from Cuba who fled on another warrant; and he lied through his teeth. And if you believe Anthony Bucci over a fellow Member of Congress, expel me. His own sister-in-law said he burned his farm down, called her overnight and said, move my horse. Would it be all right if I put your horse out in the pasture? She said she wondered why. The next day she heard on the news the barn burned down. This guy was a crook.

Now they said and my staff said that I did most of my work for the Bucheits, the Cafaros, the Buccis, and whomever else. They were the ones that had the most problems that my staff couldn't handle. Now I don't know how you handle your business, but my staff can't handle a case, it comes to me.

I didn't like Anthony Bucci, but he employed about a hundred people in my district, and when they got a highway contract, there were 250 people working there with subcontractors, and I fought like hell for them. They ruined my dad's bank barn, and I should have sued them. Period.

Now let's talk about Sugar. His dad and my dad were good friends. Sugar come out and talked to me about his son. Yes, I helped him with his son. He did some work for me. That piano was not \$5,000. It was \$5,500 or \$6,500 -- conservatively -- plus a \$1,400 check. What David Sugar got indicted for was for backdating an invoice that I didn't know he backdated, and he wasn't done with work at my farm.

If you listen to Harry Manganaro and that tape -- Manganaro, who was not my close friend, I hadn't talked to him more than four times in my life but knew him through some business experiences. He was a demolition man, came to me; and I said, I love Dave Sugar. I don't want to see him hurt, but I don't want to

see you hurt. Dave told me after the second FBI visit that he lied, had perjured himself, that he didn't backdate invoices. His secretary said that he did backdate the invoice, and they were going to indict his wife and son if he didn't go with the script like Detore testified to.

David Sugar never finished the work he said he was going to finish at my farm. I even paid for the concrete that his people laid, that TC Redimix came out at that trial. And you misrepresent the fact when you say Manganaro testified to the jury about that Sugar matter. I won't say you lied, but get your figures right.

Number three is Cafaro. Give me a break. He said he lied about 13,000, and so his immunity was taken away. It was just in the paper. He's getting zero jail time.

Richard Detore told you exactly the way it was. You will have affidavits from attorneys that were in his presence when he was pressured by that attorney. Richard Detore is a good American the country could be proud of, and exactly what happened to Richard Detore happened in every one of these cases, one common thread. They all had them going to jail, going to jail.

Now let's look at Cafaro. Cafaro paid for Al Lange's attorney. Now I want to ask you as a prosecutor and people affiliated with the criminal justice system, if I hire your attorney, is it your attorney or is he mine? He said the boat had no value. Then why did an independent survey show it to be of a value of 32,000 and 38,000 before they sunk it? I didn't learn till yesterday that only \$8,000 went into that boat, and I know that's a fact. They ruined my damn boat.

Now, Dennis Johnson was not allowed to testify before the jury. Dennis Johnson went to Cafaro and was trying to go to Cafaro because he is the chairman of a county in my district and also on my staff. He was trying to contact Cafaro to get the titles for me.

I didn't have the use of any cars. The only car I had use of was that he asked me to drive an Avanti down here so someone might see it and maybe someone might buy it. He sold the company for \$1. The car I drove I couldn't even drive back and forth. It overheated every 20 miles, took me 10 hours to get home. It's been stored, and the man who stored it wants 35,000 for the storage.

The other car was built out of scrap parts. The frame was a used Malibu frame. The Jeep was worthless. The engine was blown. I paid him 10,000, and I wanted the titles. I never got any titles.

But the key to it was when Dennis Johnson finally went outside in that driveway and Cafaro turned around -- Cafaro just unexpectedly told him -- and this should have been a hearsay exception -- I did nothing illegal with your boss. Tell him not to worry about it. I've got problems with another case.

And Dennis Johnson said, I'm not here to talk to you about the case. I want the titles.

John Vogel was not allowed to testify before the jury. He testified that George Bucella took \$2,500 to fix a DUI case which I didn't know about, and that's what the government had on him. Bucella didn't come to the farm 300 days. And I ordered nobody to come to my farm. People that came out to see came of their own volition and free will and put in their hours of work every day.

Anthony Traficanti said that Rovnak shared a desk and was always at work when he was hired. Look at that in your transcript. You misrepresented that. Anthony Traficanti said it was a health spa, and I wanted to go there. He knew Bucella was lying, and everybody in town knew Bucella was lying because the FBI had him. And I don't even blame him.

Now let's look at Sinclair, O'Nesti and DiBlasio. There's a 302. O'Nesti is on his deathbed. The FBI comes in with a fruit basket. And if you don't have it, you'll get it, whether I put it on the Congressional Record or not. They come in with a fruit basket and admit that they say loud enough for him on his deathbed to hear them say that they don't want the U.S. attorneys to hear this because the U.S. attorneys may send him to a medical facility.

Now, Chuck told me several weeks before that, Jim, they want to take me and put me in a medical facility. I want to die at home. They're pressuring the hell out of me.

He told Mike Terlecky at a Speedway when he saw a headline "Traficant Problems on Kickbacks," he said, why don't they let that guy alone?

I sure as hell didn't give any kickbacks, and I feel bad what's going on. But the bottom line was the FBI come to corroborate some evidence of kickbacks, and they brought an affidavit and said, if you gave him kickbacks, sign it. And he said, I'm not signing it.

There is nothing but hearsay evidence from two women who were disgruntled that they didn't get a big job and didn't like the woman I hired and split that one job up into three. And those were long-time employees. When you talk about high payrolls, I had probably the least turnover of any staff member in

this house until all of this stuff broke. And I want you to tell me where you hire a decent attorney, a decent attorney for the type of task I had for him for under \$55,000.

Now let's talk about some circumstantial evidence here, which is what you're bringing out.

Let's talk about Sinclair. How on \$50,000 did he say he told the government in the 302 you have in which he wouldn't help get Jim Traficant, with all these kickbacks, did he buy a \$300,000 house, brand new Buick van, a \$300 brand new car rental and spend \$55,000 on media advertising? What they had on Sinclair is they --

He told me, Jim, my wife, Kimberly Ann Sinclair, KAS Enterprise, he could benefit from it. When I found that home savings and loan account there were five accounts. The government only showed one, and I had it the last day. And Mike Robertson was limited from offering testimony to that jury.

Sinclair and DiBlasio's problem, DiBlasio put it in a trust. Sinclair could benefit from it, DiBlasio evidently could benefit from it, and they were going to be charged. Sinclair already had a suspension, would lose his law license. Sinclair owed DiBlasio what DiBlasio said was \$470,000. Sinclair said it was only \$120,000.

Let's talk circumstances. \$2,500 a month comes out of his pay, but no one shows the other four accounts. Now let's talk IOLTA. Twenty-two months after \$2,500 is put in there, there's never a \$2,500 check from anybody put in again.

Now, you're prosecutors. You're looking at the number one target of the Department of Justice. And I hate those bastards, and I believe America's starting to hate them.

You want to get Jim Traficant? They had a thousand ways for Allen Sinclair to take me. Came out in the trial that he told me he was going to be before the grand jury on March 2, and he testified in February.

Now I'm an old sheriff. I'd get a tape on any of you, if I wanted it. They had tapes on me. They had wiretaps on me. And they're lying. They had no physical evidence. Cafaro admits he lied. But I didn't perjure myself. And Bernard Smith told me on the break you can lie without perjuring yourself.

When Capri Cafaro told people at U.S. Aerospace that his dad had trouble with his perjured testimony in the Chance trial, they had JJ right here. Now he said he gave me \$13,000 cash. Come on now.

You Members don't know Attorney Percy Squire. I'm not sure if Mr. LaTourette knows him. But I believe Ms. Jones knows him. He was the Chief Clerk of the Chief Justice of the Northern District of Ohio,

Tom Lambrose. He is now handling my appeal on the jury service selection plan and the sixth amendment constitutional issue which you should have heard, even if it was for an educational purpose for you.

I asked Percy to come in as a character witness. When he got in, he says, Jim, why do you want me to be a character witness for you? I know the Bucci case. I handled Greg Tyson, and I know the Cafaros lie. When you talk about that meeting where JJ was asked to be a participant, he was not at the head table.

But the counsel that was helping me trying to put together this regional development community to bring my valley out of the problems it has by putting a quarter percent sales tax, putting it together and raise \$13 million to leverage \$50 million a year for infrastructure matching monies, Percy was the counsel helping me do that.

He got there late; and he said, Jim, I've got to talk to you.

I said, Percy, I'm already late. We've got to get going.

He said, I'll see you after.

Cafaro's testimony was he waited till everyone left, everyone. Look in your transcript. Then he said, Jim and I walked out, got in the car, went around the block. I picked up the thing and he took the envelope.

Sinclair lies and said he saw the Cafaro envelope. Here's the testimony of Attorney Percy Squire, Clerk of the Chief Judge of the Northern District of Ohio:

When the meeting was over, people were all around you, and you wanted to get out of there. I walked out with you. We discussed my issue. I saw you get in the green truck.

Brian Kidwell testified he picked me up in the green truck. He had a cab on his, took me to my office where my pickup truck was, did not have a cab because we had pre-fab sides made for a 6-by-8 hunting hut that we were installing in Trumbull County.

God almighty here. What happened to me in Cleveland is what happened to me here. Mr. Hefley's a friend of mine, and I'm so damn mad I've infuriated you. I infuriated a jury that convicted me over my attitude without a damn bit of evidence.

But here's the point I'm making. You have a tape there on everybody. And Henry Nemenz come to me on this 150,000 national news barn. He said, Jim, I feel so damn bad. I feel like a coward. My attorney

told me it's going to cost me hundreds of thousands of dollars if I get indicted. I'm going to lose my business, but I feel so bad.

I said, sit down, Henry. Wasn't our original deal this? Wasn't this our agreement?

In front of a witness, John Innella gives an affidavit. I know that affidavit would be thrown in 13, so I taped his girlfriend, Henry's girlfriend, the next day who confirmed that Henry called and said, yeah, he talked to Traficant. Now his attorney said, oh, Henry ran into Traficant, but they had no discussion.

Here's another point I want to make. The prosecutor said he did no threatening of these witnesses because the attorneys were always present. That's "bullshlip." Because one common thread runs through the entire Traficant case. There's no evidence.

Mr. DeGroot did the work on the boat, and he said he got \$8,000 cash. I didn't even have the Harney stuff to know that there was a demand note. If there's a boat scheme, why did Mr. Cafaro want a demand note signed by Al Lange for repayment in the event he quit work?

The only reason they indicted Mr. Detore is to keep him out of my case. And if they realized that I'd have the jury I had and the way I got the jury so damn mad they wouldn't have indicted him.

You had an opportunity to meet a great American who put himself in great jeopardy. If something happens to him, you should protect him.

I expect to go to jail. I'm not guilty of these crimes. If I were, I'd throw myself at the mercy, try and cut a deal and come to the big congressional Members and say, hey, give me a hand. I've been a decent guy. But you know what? I don't like the government. It's true I came here with a chip on my shoulder; and, Ms. Jones, you would, too, if you faced the RICO trial with a fake confession and had to prove it. And that's why I'm sitting here today.

Mr. Kerchum was not allowed to testify, and he was put on a payroll. His FBI undercover code name was Cheese One. He said they'd build a monument to him if he could get Traficant for them.

He said, I couldn't get anything on Traficant. They were supposed to give me 250 a week and 250 expenses. They paid me about four times, stopped paying me. He said, I called a person in Washington by the name of Lewis Slade; and they said no one by the name of Lewis Slade worked for the Department of Justice. But then the local newspaper found a guy by the name of Lewis Slade in the Department of Justice. To stop Kerchum from assisting me, they finally indicted him. They said he was making bombs.

Finally turned out his grandfather made two old muskets and he didn't have a Federal stamp, and he was indicted on a felony four. His total fines were \$30, \$15 per gun; and they never even collected it.

Russell Saadey was not allowed to testify before the jury; and he said his brother-in-law said, look, I'm going to go to jail for 15 years. I'm going to lose \$10 million. I added up the money I gave Traficant over the years and said it was a bribe. Like a dummy, he couldn't even identify the so-called barn he gave me the money in; and they threw that out. But I wonder about why that was thrown out because Mr. Sabatine made a statement under duress to his brother-in-law who was subject to being sentenced in complete jeopardy, which is clearly eligible for the hearsay exception which should have been offered to the jury.

So as we talk about this pattern of things, did I help the Bucci brothers? Yeah. No one else could in my district. But did I help the Bucci brothers or did I help 250 workers in my area at a 20 percent unemployment rate?

Did they put asphalt in my driveway? Go and see what it was. Dan paved his -- Sandy said it's a mile long. I measured it, it's about 1,800 feet. And the little bit they had left over in the truck, rather than have it jam their truck up or have their workers take it 45 minutes to Girard, took it across the street and dropped it in the Traficant farm. Quite frankly, put it where I wouldn't have had them put it.

Cafaro lied through his teeth to save himself. Sinclair would have lost his law license, and his wife would have been involved. Manganaro says that Sugar told him that his son and his wife would be involved. O'Nesti would die in an Army hospital.

Read the DiBlasio letters and the DiBlasio tapes. Now, after the conviction, falls right in, don't he? He even says on the tape, I don't want to spend \$250,000 to defend myself. Richard Detore spent a half a million dollars for three motions. You should have those attorneys in here.

What is the ethical violation? One afternoon, those members who wanted to, went down to my boat; and they had some beer. Some said they did a little bit of scraping. Some didn't go, were never forced to go. Never asked them to go. I don't even know if that was my idea. Someone probably said it was. I'll take credit for it then. I never compel anybody to come to my farm or our farm and do any work -- ever.

So now let's look at some of these testimony. Linda Kovachik was not allowed to testify about the O'Nesti statement. She said she went to Chuck. Chuck said, go back to work for him. He's a great guy. I didn't give him any kickbacks. That wasn't allowed to be presented to the jury.

Vogel's testimony not allowed to be presented to the jury.

Manganaro's testimony not allowed to be brought to the jury.

Saadey's testimony not allowed to be brought to the jury.

Detore successfully kept out.

DiBlasio's tapes and statements not allowed to be admitted, even though he took the fifth.

As a gentleman, I was asked by Detore's attorney to subpoena Detore through his attorney; and I did.

You heard Detore last night, and if you believe Cafaro over Detore I'm going to talk about some common sense. You don't have to even meet Mr. Cafaro. You met Mr. Detore. Mr. Detore is subject to great harm, and I think they might also have to put the nails in the coffin with me to jackpot him.

Now let's talk about Sandy Ferrante, that you sort of impugn and you sort of make slight of the witnesses that have spoken on my behalf. You don't know them, and I take offense to that. Sandy Ferrante knew what happened with Bucheit and my dad, and she testified truthfully. Sandy Ferrante knew about the deal with Nemenz and that barn. She knew about the Buccis, and she knew about the work I did across the street.

Do you know what it costs if you're a farmer to have 40 acres of a field Brush Hogged? About 40 an acre. I did that for 5 years. Look at Susan Bucci's affidavit. Do you know what it costs to use your own equipment to bail 25 acres of hay? I did that for 5 years for Dan. He was sick. The baler didn't work. Did they get me some sawdust? Yeah. Did he come and use some sawdust? Yeah. I even had some straw, good oat straw; and I did not use it because the horses would eat it. I gave that straw to Dan for his cows. I let Dan use my equipment. I went over and used my own equipment and my own fuel. I never charged him.

Many times Bucella come to the farm, and I didn't call him. Sandy called them. No one could drive that truck. Most of the time the staff was there on the weekend as a voluntary act.

Now when Richard Rovnak testified, who's a friend of mine and also want to list his name so he don't get hurt -- he testified that he worked 16 straight days at the farm for 16 hours and even slept there. I think Richard was trying so hard to get the jury not to believe him because he didn't want to hurt me that that's the way he testified.

Now, come on. I did not own the farm, did not live on the farm, and the bill that Lisa Bucheit sent was to the farm and to my father . My father died. Pete Bucheit come to me and I says, Pete, I'll reconcile this. How do we do it? And I wanted to do it with horses. I didn't have the money.

He said, I don't want it. I don't want the horses. When you come up with the money, you pay.

I did a great job for him, and I'll be damned if the Saudi Arabians are going to rip off one of my constituents.

By the way, when I personally settled this case with the Assistant of the Ambassador from Saudi Arabia, the reason they didn't want that Bucheit case settled was they were exposed to 16 other cases, up to a billion dollars. But they were forced to.

So I'm looking here, and I see what the hell I'm charged with.

Rovnak not only didn't work at the boat, Rovnak happened to be with me in Washington staying on the boat where I lived when I signed an agreement for a guy to make repairs on the boat, and he witnessed it. That came out in the trial.

Paul Marcone testified and, truthfully, when I'm going through all this, I have been for the last 3 years, you know, the big criminal, the mobster, the crook, every election -- and I had a powerful election. And something I say to a staff they may take one way, but my intent may be another. I'm talking about spin to my administrator, not about grand jury testimony. And he said I never asked him to lie to the grand jury. You lied.

Lange did admit that the boat sunk. He said the engines had to be pickled. That's the first I heard about it. Now Richard told me yesterday. It's the first I heard about it. It sunk twice. I have a valueless boat that was appraised at 32 to 38,000 before these jackasses started meddling with it.

The boat survey is on record, Mr. Chairman; and I didn't pay for that boat survey. And they left that boat in a bad position.

Now, you said Darmocelli said that the Cafaro company spent \$10 million. He works for Cafaro. Now, if he's told this is to be marked off against U.S. aerospace I guess they marked it off against U.S. Aerospace. You said these people didn't have immunity. What did they have to have immunity for? All they did was authenticate some letters.

Did I send letters? Yes. Am I a personally involved, active congressman? Big time. If there's a job, I want it. And that's the only deal I had with Cafaro. I want those jobs, and I want the manufacturing of those jobs, and I want your corporate headquarters. That's the only deal I had. Now if that's a quid pro quo favor, then I am sure as hell guilty.

The people that were not allowed to testify before the jury and who were voir dired under oath by the judge were Vogel, Kerchum, Hudach, Kovachik, Johnson relative to the Cafaro matter, Saadey. Saadey, who testified that if he would have lied he would have walked, he's now in prison. They got him real fast.

By the way, Richard Detore was contacted by Cleveland early this morning, and I'm waiting to see what that letter says. Richard Detore was kept out by his attorney. And in all respect to Detore I believed that I'd be able to use at least his tape and his transcript. As you know, two of those transcripts, because I couldn't afford to have them all officially transcribed, the two were by notarized transcribers from the Youngstown area, the Detore tape and the Best tape. I'm not sure if the DiBlasio tape was. But the other ones are true and accurate statements and reflections.

Manganaro was not allowed to testify about Sugar, nor was his tape allowed. Now, as common sense was discussed by counsel, if you have an individual just visited by the FBI that's in a state of let's call it legally uttered "exciterance," or excitement, and then he makes a statement to a friend, that person making that statement to that friend in a state of excitement and distress qualifies for admission under the hearsay exception.

Now, Jackie Bobby said DiBlasio kicked back money, but I don't know how much. Chuck O'Nesti kicked back me. Grace said Chuck O'Nesti kicked back money. Pure hearsay. Said he deposited large deposits of cash. Where are they? Where are the records? Where the hell are the records?

My deposits average \$482 a month. I ran a farm and earned approximately \$600 a month cash. I repaid the money I borrowed. And I did borrow money from Chuck -- he was a long-time friend -- and Henry, long-time friend.

I don't blame anybody involved in my case for saving their ascot and now, after these 10-count indictments, wouldn't be surprised to see Bucheit even make some kind of a deal and wouldn't blame him. I did nothing illegal.

But I think at some particular point you have to start to talk about the case itself. Now I jokingly recommended yesterday on one of the breaks that those in the gallery should be treated to some refreshments, and it should be Coors beer from Colorado because Mr. Hefley was the chairman. But let's talk about beer.

That police officer said Ms. Jones was weaving. She went left of center. When we talked to her, she seemed in a state of confusion. She took a Breathalyzer, and it was .09. They can't charge her with DUI because it's .10 in Ohio. You need physical evidence on the damn driving violation.

Mike Robertson was not allowed to testify to something that was very important.

And I think two things. Let's talk about common sense. If there was a scheme for kickbacks, look at the transcript. Why did Mr. Sinclair say, first of all, he thought it was a loan? I mean, if there was a deal made, why did he think it was a loan? Oh, then I realized it was a kickback. He's already had his license suspended for 12 months for lying, misrepresenting his ads. This is a RICO case -- RICO.

Now who did I conspire with? Cafaro is running his daughter against me trying to give credit for a \$4 million appropriation to Senators Stevens and Torricelli. When, quite frankly, I worked hard with Jimmy Duncan and guys like Mr. LaTourette and proved that that was a worthy technology and I wanted those jobs. So what count is it that I'm guilty of and where is the evidence?

Have any of you ever written a letter on behalf of one of your companies involved in an international dispute where they keep their workers, keep their equipment in the Gaza Strip and screw a businessman in my district? Or some monarch who says, we don't have laws like America. I'm sorry. Take his bank account. Take his equipment. All the money he paid for attorneys didn't do a damn thing.

Yes, I got it done. If I was an attorney, I'd be a millionaire.

And what Sandy testified to was the truth. She asked my father -- and she's close to my father. My father would visit her every morning, and my father went every morning to my mother's grave and put flowers on it. And she asked my father to enclose that deck. But those workers wouldn't listen to her.

That's true. Manevich didn't lie about. But who's lying, Manevich or Gatti? Manevich said he got \$15 an hour. Gatti said he got \$10 an hour.

Now you say Dominic Marchese is not a builder. Dominic Marchese is an excellent builder, as recently as 3 years ago did masonry work in building a public school.

John Innella worked with his father, was a construction man all his life. He could build a desk and table exactly the way it is that you're sitting at, counsel. They looked at it at today's prices and estimated three guys doing the job in 2 weeks at a cost of \$8,000, including material -- maybe 12. And the bill was what, 30,000?

Now let's talk about the car. I was going to Representative Cooksey's district to hunt deer and to speak at one of his events. The car I bought from Cafaro, the damn thing stopped; and they couldn't even fix it. I said, get me a car. What do you want? I said, I'm going to Louisiana. Get me something nice. I was to pay for it.

Well, what happened is I got the car, I went back home, I had problems back home in the district -- I don't know, strike or something -- and I put off my trip to Louisiana. I went about 3 weeks later. In fact, I got picked up coming in from Louisiana. The 30-day plate tag had expired. The officer -- I didn't even know that -- stopped me out here on, I think, 395. You could check with Representative Cooksey.

But, meanwhile, I don't know the meter's running. I get the bill. It's \$6,000. I paid that \$6,000 myself, and that hurt me to pay it. When I said a nice car, I wasn't talking about a Rolls. I'd have been very satisfied with a little Chevrolet convertible, yes.

But I was going to Cooksey's district, and I stayed with John, and I spoke to his group, and I went hunting.

None of my tapes were allowed to be admitted. None of my affidavits. None of my witnesses to rebut government witnesses. And Richard Detore told it like it was.

Henry Nemenz corroborated it. Jim, if I get indicted, I lose my business.

But here's the Traficant case. In 2001, Mr. Bush is President. And, quite frankly, I tell this jury, I told the Democrat National Committee and Vice President Al Gore visited my valley, I'd endorse President Bush. Because that Chinese money went to the Democrat National Committee. My investigation was going on, and Janet Reno was after me, and, quite frankly, she should have been brought before you. And that's the genesis here. The 1983 embarrassment where I beat the hell out of him, the only American in history, Janet Reno and an FBI investigation I was conducting in my own valley that will make the mob Boston connection look like a choir body.

Now I have submitted for the Congressional Record details of murders through FBI affidavits signed by FBI agents of whom killed whom, and they were never brought to a grand jury -- never.

DCMN NORMAN

. And I'll be damned if an FBI agent by the name of Anthony Speranza will compromise one of my constituents in a state of mental instability, desperately trying to maintain custody of her child, and this guy believes her, that he's got so much steam he'll help her keep the custody of her child. She told me, My mother's 87 years old. I want to just let it go. He didn't push me to the ground, but I hated the creep."

Ladies and gentlemen, I'm a sheriff. To compromise a woman in a state of mental instability in the State of Ohio is a felony one. That's rape. And I want that bastard in jail. While I'm Congressman, you don't rape my constituents.

By the way, the FBI agent, Speranza, threatened me and Russell Saadey. Jr., And Russell Saadey, Jr.'s case should be revisited. That man's in jail and it's a damn shame what happened to him. And part of the reason he's being jackpotted so bad is because he come forward about his brother-in-law.

There's no conspiracy. That jury was right. They didn't like the way I treated the judge. Quite frankly, that judge and I did have a hell of a conflict. And when you look at the judge, when you talk to her, quite frankly, she's a nice lady, and I probably should have been a little bit more diplomatic. But when they go outside and say Cafaro was the least credible witness, well why did they accept his testimony and throw out Sabatine's? They all said they didn't know Traficant, but they said he was flamboyant. I knew he was flamboyant. But most of those Members of Congress are crooks, and he got caught.

Now, the sixth amendment situation that I face I think is very critical to all Americans. And I think it is why Americans are beginning to not just mistrust but to dislike our government. I have the greatest respect, and this is not to patronize to get your vote. Vote whatever you want. I expect you to expel me. I love the armed services. I love the GSA that I worked with as chairman, and now Mr. LaTourette is their chairman, and they've got a good one. He'd better help my district after I'm in jail, too, or I'll come visit him.

I learned to love and respect the Congress. I've never held my tongue. I think you have turned it into an advisory board and let the executive branch run the government. I think the only hope is the Republicans to take it back because the Democrats caused it, Stephanie.

Excuse me for referring to you as Stephanie.

But as a lifelong Democrat, I realized for 50 years all the laws that are put in place are put in by the Democrats. They wouldn't even hold hearings on my IRS reform. All of my IRS reforms were put in by Chairman Archer, a Republican.

And I think the only hope now, nothing to do with any quid pro quo, and the reason why I voted for Speaker Hastert, right to the point. I think he gives America the best chance in your Party. And I think the main thing you have to do is take back the trust of the American people. They dislike our government.

I hate the FBI, the Justice Department, the Treasury Department, the Internal Revenue Service, because they intimidate our people and invoke fear, and in America no one should fear the government. And I'll be damned; I'm prepared to go to jail for the length of time I'll spend in jail, Ms. Jones. I will die in jail. But you know what? I will die in jail before I would admit to doing something I did not do and had no intent to break any laws.

And there's one big word in this legal dictionary. It's called the intent. The only intent I had involved with all these people was to ultimately help my community. And the reason they are highlighted is because, number one, they had problems; and number two, they couldn't be solved by my staff.

Now, you've heard nothing of the Demjanjuk case. But he'd have been put to death in Israel. I brought him back on the plane. Nothing to do with this trial, but I want to commend Israel, I really do. Democratic state surrounded by a cluster of monarchs and dictators; ripped us off for oil for years. And you know what I learned in Israel? When they looked at the evidence, they knew he wasn't Ivan. They showed me more justice than I've seen in our own courts. And now, Demjanjuk is back on the stand for something else. Nothing to do with this case, but I think they should let the man alone now and die at home.

Count 1, Bucci. His partner Joseph Satarelli said, if Tony Bucci told me his name was Tony Bucci, I wouldn't believe him. His own sister-in-law said he ripped her off and he lied, and we owed Jim money.

Count 2, Sugar. He didn't want his wife and son involved. Look at the Manganaro tape.

Count 3, under the jeopardy faced by Detore, I want to applaud him because I know the government's got to hurt him. And you should make sure that the Detore case, irregardless of what happens to me, is looked into by an appropriate committee of this House.

Counts 4, 5 and 7, there's no money kickbacks. There were loans. I averaged \$2,400 a month after the IRS took all my pay. See, after I beat them in the criminal case, they took me into a civil trial and took all my pay. And I never bitched; I paid.

But when you look at this case, your counsel already said Traficant got all this money. The record clearly reflects they went back 15 years looking for one person that I bought something from for cash. Not one. The one agent said he estimated to be 47 agents working on the case. Then a couple of other names come up and I kept adding them. Just in the FBI and Department of Justice, 60. And I don't know how many contract agents. Not counting IRS agents. They don't bring an IRS investigator to the stand. None. He was a summarist. Said he did investigation of Jim Traficant. The FBI agent was a rookie. Said he took the so-called currency and envelopes and plastic bags to the FBI to go to the lab, and the lab report says no prints.

Jim Traficant has two scars on his right index finger and when you talk about fingerprints, prosecutor, we talk about Galton points. And if you have a man who is in the midst of a powerful FBI, Treasury Department, Justice investigation, handing an envelope that goes immediately to the FBI with dry hands, then you're looking at a special bird, buddy. Because out of 1,000 documents, they don't catch the scar on the right index finger of Traficant.

Come on now. Common sense. Can a plastic bag hold water? Manila envelopes. Currency. True, go get some Charmin or go get some napkins from the kitchen and the porosity, very hard. But there's too many options there for 1,000 documents without one print, folks. So I'm just not going to be intimidated.

The FBI in my valley has been connected with the mob, been paid by the mob for years. Their former FBI Agent in Charge just died. Was not only on the payroll when he left the FBI retirement, Mr. Berman, the mob appointed him chief of police of the City of Youngstown, and that's in an FBI affidavit.

One of the candidates running against me for sheriff come down here and testified before a Senate subcommittee and said how mob-infested our valley was. The affidavit just come out that he got \$80,000 in cash from the mob when he ran against me. My God.

And look at a 1987-1988 Senate subcommittee hearing where Joseph -- where a man named Lombardo, the under boss of the Cleveland mob, testified that Joseph Naples and James Prato admitted to killing a Charles Carubia to them, and there was never a grand jury hearing on James Prato and Charles Carubia and

Joseph Naples who were reputed to have strong connections with the judges in Cleveland, Ohio at the Federal level. Never even a grand jury.

Senator Glenn was at the hearing, by the way. In fact he said, I think we need more money for the FBI down there.

There's no evidence here. You have a hearsay transcript. That paper trail could be taken every which way you want. Yeah, I sent those letters. Advocated like mad. I'd do it again. But you see, I think in America, here's the basic issue. If you allow one man's rights to be trampled or violated, or don't take every step or measure to ensure the sanctity of this Constitution and Bill of Rights, then you endanger every American. I mean, that's what my case is about.

As far as the jury selection plan, it's a joke. In fact it was put in place, I believe, in time with the Traficant indictment. The plan was not approved until after my indictment by the Sixth Circuit Court. And the 1967 law passed by Congress, basically moot.

Now how much time do I have left, Mr. Chairman?

The Chairman. Five minutes, Mr. Traficant.

Mr. Traficant. You know you always give me that 5-minute ploy, Mr. Hefley.

The Chairman. You saw it on my face, didn't you?

Mr. Traficant. I resemble that. I know you as Members, I know you have a job to do, and do what you're going to do. But I'm going to tell you something. You have got an FBI that investigates the FBI at Waco and an FBI that investigates the FBI at Ruby Ridge. You've got an Office of Professional Responsibility that provides damage control for the Justice Department. The Justice Department is without oversight. And there's no reason why the American people have to fear the IRS or the Justice Department. Those suckers work for us.

And if there's one attitude or maybe chip that I bring down here -- and I admit to it -- I think that's what's wrong with the country, and I think that's your job now. And I think the Republicans are going to have to do it.

I hate to say this, Howard, but I think the Democrats created it. Maybe the intentions were well, but we screwed up.

Count 1, Count 2, Count 3, Count 4, Count 5, Count 6, it sounds like a Tyson-Lewis fight.

In closing, I've tried to be civil. I desperately wanted to wear my denim outfit, but I knew that Stephanie Tubbs-Jones would go back and say he wore his denims. And I know there are Members that I'm friends with, and you're in a tough position.

I will accept any decision here, but I'm going to make this statement to you: You're looking at an American that may be elected from a prison cell, because the people back home know I have been railroaded, because they know these witnesses. And I'll be moving not only for a new trial on newly gained information, but I have found out that the judge, her husband's law firm does business with the Cafaro company. And if that's the case, USC 28. Section 455, she should have removed herself. If that's the case, you may not be done with me.

In closing, I make this recommendation. I don't think you should jump with very much haste on your expulsion hearing. Now, I'm to be sentenced July the 30th, and I suspect that she'll put me in jail because I have certainly got her so damn mad and she's the sentencer. But quite frankly, Scarlet, do what you got to do; because no judge is going to push me around, because judges are afraid of the Justice Department, too. And what a mess we've got.

So in that regard, I think you should at least stay to see what she does. And furthermore, even though you're staying to see what she does, I think you should stay before you expel a Member until my sixth amendment rights have had an opportunity to be heard that have an impact on Americans throughout all these States. Throughout all these States.

And if I am in Leavenworth and I am reelected -- they say I have to be an inhabitant of the State of Ohio, but my name will still be on the ballot. Now, what happens if they vote for me, even though I am not an inhabitant of the State of Ohio and I'm in Leavenworth? Then you're going to have to have Mr. LaTourette help me with the Transportation Committee. And Mr. Hefley, you're going to have to give money for my air base. I had it. And Mr. Berman, you're going to have to spread the word around that I'm not antiSemite. And if there's anything over the years that have caused you or anyone in this Congress to believe that, I would apologize for any overt acts that would have made it look that way.

And I commend you for the work you have done. So I know you have a tough time here. I want you to disregard all the opposing counsel has said. I think they're delusionary. I think they've had something funny for lunch in their meal. I think they should be handcuffed to a chain link fence, flogged, and all of

their hearsay evidence should be thrown the hell out. And if they lie again, I'm going to go over and kick them in the crotch.

Thank you very much.

The Chairman. Thank you, Mr. Traficant. Mr. Lewis.

Mr. Lewis. Nothing further, Mr. Chairman.

The Chairman. All right, here's where we are. As I said earlier on in this hearing, the adjudicatory subcommittee will meet now in executive session to consider each count contained in the statement of alleged violations, and will determine by a majority vote of its members whether each count has been proved. In its deliberations, the adjudicatory subcommittee will consider all evidence that was properly entered into the record in these proceedings.

As the committee advised Mr. Traficant prior to the hearing, any statements made by Mr. Traficant or the committee counsel, other than those statements which were made under oath, will not be considered as evidence. If any one of the 10 counts in the statement of alleged violations is proved by clear and convincing evidence, the full committee of the Committee on Standards will conduct another open hearing to determine what sanction, if any, the committee should recommend to the House of Representatives.

Pursuant to committee rule 24(n), counsel to the committee bears the burden of proving the counts in the SAV, by clear and convincing evidence.

RPTS O'ROURKE

DCMN MAGMER

[4:45 p.m.].

The Chairman. Clear and convincing evidence is evidence that produces in the mind of the factfinder a firm belief or conviction as to the matter at issue. This standard does not require proof to an absolute certainty since proof to an absolute certainty is seldom possible.

The Supreme Court has described the clear and convincing standard as requiring evidence that could place in the ultimate factfinder an abiding conviction that the truth of factual contentions is highly probable.

I would like to take this opportunity to thank all the parties involved in this proceeding for their time and their attention, including Mr. Traficant and members of the Adjudicatory Subcommittee, the witnesses, the committee counsel Paul Lewis and Ken Kellner, the committee staff, as well as the staff of the Armed Services Committee that provided this facility for us to meet in.

The plan at this point is for us to go into Executive Session. We don't know how long it will take.

Mr. Traficant. Will it be today, Mr. Chairman, and what kind of a timetable can I expect? Because I am in between motions and adjudicatory matters in my case and travelling, and I would like to know what type of timetable so I can be here.

The Chairman. Let me give you the best of my ability. It will not be today. We have scheduled -- because the Armed Services Committee is holding a hearing in this room tomorrow morning, we have scheduled Room 2237 to resume the hearing tomorrow morning at 10 o'clock. If we are not finished -- we are going to be constrained by that time limit. If we are not finished by that time, we will plan on reconvening in this room at 2 o'clock tomorrow afternoon.

Let me make sure I am telling you right about this.

Mr. Traficant. I want the facts here. When will you report to the floor? Let us cut to the chase.

The Chairman. I can't tell you that.

Mr. Traficant. Will it be this week? Because I will not be needed until you do go to the floor.

The Chairman. I wish I could tell you that. I have no idea of what is in the minds of my committee members here, and they want -- I want them to have as much time as they feel they need to deliberate. That could be one hour, and there could be no telling what.

Mr. Traficant. Mr. Chairman, could I make a request of the committee? That regardless of what decision you make this week that you do not require me for any official action -- good, bad or in different -- until next week and notify me by Friday closing time of that.

The Chairman. Mr. Traficant, you don't have to be here at all, but we can't give you that kind of a guarantee.

Mr. Traficant. It may come to the floor this week. I want to know if I have to stay in town.

The Chairman. My advice would be for you to stay in town.

Mr. Traficant. Doesn't sound too good, Mr. Chairman.

The Chairman. We will meet tomorrow morning at 10 a.m. That may or may not be when we do. We will at that time in that room announce if we are not prepared to go forward and then 2 o'clock here.

Mr. Berman, I believe you wanted to be recognized.

Mr. Berman. Mr. Chairman, just so I think it is clear to Mr. Traficant and to anyone else who is interested and concerned, obviously, the Adjudicatory Subcommittee will now deliberate. There are different possibilities and alternatives, and one cannot cover all of them. But nothing goes to the floor unless certain findings are made and at that time there is still a -- if there were findings made, there is a sanctions hearing; and nothing can go to the floor before there is a sanctions hearing.

Mr. Traficant. Will I be involved in that sanctions hearing, Mr. Chairman? Not to interrupt you. What I am saying is, at some point you have got to report to the floor your actions, and then I am under the impression that I have 8 hours to present my case on the floor.

The Chairman. That is an entirely separate issue, and we don't control that part of the issue. The sanctions hearing I would assume would be conducted fairly soon.

Mr. Traficant. Sanctions hearing?

The Chairman. If there is a sanctions hearing, and we don't know there will be a sanctions hearing.

Mr. Traficant. Let us say there is a sanctions hearing tonight.

The Chairman. There will not be a sanctions hearing tonight.

Mr. Trafficant. Let us say tomorrow. Is the House in session Friday and is it possible I could be brought to the floor on Friday?

The Chairman. No, it is not and if --

Mr. Trafficant. Could I request that if you come to some agreement and have a sanctions hearing, could you do that Monday and will that be ample time to give me time to address some of my major legal problems? Would that be unreasonable?

The Chairman. I have given you the schedule the best I can tell. I would like for you to make sure that you know that we know where you can be reached, and we will try to give you ample time.

Mr. Trafficant. Well, no one will know where I will be able to be reached. I won't disclose that to anybody. And if the IRS -- I will tell them that LaTourette told them to go to hell, too.

The Chairman. So the committee stands in recess so we can go into Executive Session.

[Whereupon, at 4:50 p.m., the committee proceeded in Executive Session.]