THE COURT: I'm not sure what it is you want to inquire about. I will hear you at side bar.

MR. DUFFY: Maybe if I just ask the question which I don't think it will be damaging, your Honor can entertain an objection to that.

THE COURT: Keep in mind what is proper cross examination.

MR. DUFFY: Yes, sir.

(End of side bar conference.)

(Open court.)

Q You were arrested on the Pittsburgh scam in January of 1977, were you not?

A That's correct.

Q Isn't it so that in February, 1977, you were arrested and charged with the Miami charge?

A February?

Q March '77.

A I think it was March.

Q Pardon?

A I think it was March.

Q So it was after you were arrested on the Pittsburgh scam you were arrested on another scam in Florida; is that right?

MR. PUCCIO: Objection.

THE COURT: You are a little late, Mr. Puccio. You should have objected two questions back. I will let him answr that question.

THE WITNESS: Repeat that, please?

Q After you were arrested on the Pittsburgh scam, Miami arrested you, did they not?

A That's correct.

Q And that was the federal prosecutor, was it not, the FBI?

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q Isn't it so that the Miami charge was dismissed?

THE COURT: Sustained.

Q Isn't it so that the Miami charge was dismissed?

THE COURT: Sustained.

MR. DUFFY: I didn't hear an objection, so maybe I was talking too loud.

MR. PUCCIO: Same objection.

THE COURT: It is sustained.

Q You testified that on August 22nd, the day of the meeting with Congressman Myers, you had a talk, a chat with Amoroso upstairs, and then you went downstairs and approached the mayor, and had a conversation with

him, do you remember that?

A That's correct.

Q And you told us that you informed the mayor then that ou and Tony wanted a $15,000 kickback; is that right?

A You are talking about the meeting with Myers?

Q Yes, sir.

A No, I didn't inform them. I informed him at the meeting with Myers that he was only getting $50,000. And that, you got the meetings mixed up.

Q Will you tell the jury what meeting it was that you left the room and went downstairs and talked about $15,000 kickback?

A That was at the airport.

Q But it had to do with the Myers meeting?

A Had to do with Myers.

Q All right. It was the same day, was it not?

A No, it wasn't.

Q What day was it?

A I don't remember offhand what day.

Q In any case, you went to the mayor and told him that you and Tony would require a $15,000 kickback, and your purpose was to see if you could uncover who was

was going to share the money; is that right?

A That's correct.

Q All right. Did you tape record that conversation.

A No, I did not.

Q Did you prepare a report for this jury to see of that conversation?

A I did not make reports out.

Q Ever?

A That's correct.

Q Did Amoroso prepare a report of your meeting to the mayor that day?

A That you will have to ask him.

Q But so far, all the jury has to determine whether or not you had this conference with the mayor is your word; isn't that right?

MR. PUCCIO: Objection.

THE COURT: Sustained.

MR. DUFFY: That is all.

THE COURT: Any other questions for Mr. Weinberg?

MR. BEN-VENISTE:

RECROSS EXAMINATION

BY MR. BEN-VENISTE:

Q Mr. Weinberg, in connection with the

expenses you put in for, during the time you were working for -- on the Abscam project, do you recall whether personal expenses relating to you you were put in, that is, things like toilet articles and so forth, everyday living expenses?

A That's correct.

Q Would it be fair to say that you charged the FBI for virtually everything you needed in order to live?

A Well, I was -- when I was on the road, yes.

Q So that things like things that you would ordinarily have to use, you charged the FBI anyway?

A I don't know what things you are talking about.

Q Well, like clothes?

A That is correct.

Q You charged the FBI? Do you know how much money you charged as expenses for clothes?

A I haven't the slightest idea.

Q Before you got involved in Abscam, I take it you wore clothes?

A I have reason to think I did.

Q Do you have a doubt about it?

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q And you wore -- let me understand.

At some point you were getting as much as $5,000 a month?

Is that right?

A Idon't know. You have it in front of you.

Q You don't know, Mr. Weinberg?

A That's correct. You have the slip in front of you, I don't.

Q You mean unless I have a slip in front of me, you are not going to answer before this jury whether you know if --

THE COURT: Sustained. Argumentative.

Q Do you know whether you were paid $3,000 a month at some point?

A That's correct.

Q You testified that you know you were paid $1,000?

A That's correct.

Q Didn't you testify in Philadelphia that you got a raise up to $5,000 a month?

A I said I got extra money near the end.

Q Wasn't that a retroactive raise to raise you up to $5,000?

A Not that I know of.

Q Was it a business?

A I don't know really what it was for.

Q Somebody just came up to you and said, "Mel, here is a bunch more money."

And you said, "Okay, I will take it."

Is that what you are saying happened, in substance?

MR. PUCCIO: I object.

THE COURT: I will let him answer.

THE WITNESS: Is that what happened? They gave me the money there, they had to put in there the -- what the money was for.

Q Did you ask for the money?

A I never asked them for the money.

Q You are saying you never asked for a raise?

A There wer times when I asked for raises but what you are talking, I didn't ask.

Q Wait a minute. When did you ask for a raise?

A When I was getting a thousand.

Q So you asked for a raise and you got $3,000?

A That's correct.

Q Was that about the same time that Mr. Amoroso came in to pinch hit for Mr. McCarthy?

A I think so.

Q Then you got a bunch more money, you said? Do you know how much it was?

A Ihaven't the slightest idea.

Q When you say you haven't the slightest idea, Mr. Weinberg, do you really mean that?

A I never seen that slip until Icame in to court.

Q But you saw the clerk when someone laid it on you?

MR. PUCCIO: I object.

Q Didn't you?

THE COURT: Sustained as to form.

Q You saw the check when you cashed it, Mr. Weinberg? Didn't you?

A That's correct..

Q I ake it you did cash the check?

A That's correct.

Q You did accept the money?

A That's correct.

Q And are you saying you had no conversation about what it was for?

A Somebody giving me money I don't ask questons.

Q I see. Okay, nothing further on that line.

Q Do you have any idea how much you charged him for things like clothing, for shoes, and sox, underwear? On top fo the $5,000 a month.

A I have no idea.

Q Did you save some receipts to put in with the vouchers or did you convince them to take your word for it?

A Whatever I spent, there was a receipt for it.

Q That you kept the receipts for?

A That's correct.

Q But those were the only things you were -- you managed to keep in the way of financial records; is that your testimony?

A I have -- as all receipts were turned in to the FBI.

Q Those were the only things that you managed to save in terms of your financial records? Is that right?

A That is not a fair question, because I got those receipts when I spent the money, and I got reimbursed that money.

Q But you kept no official records, you tell us?

A That's correct.

MR. PUCCIO: I object on the grounds that all of this has been gone over.

Q Regarding the Mario Notto affair. Excuse me, I was looking at my notes.

THE COURT: I didn't rule. You went on to something else

MR. BEN-VENISTE: The witness answered the question, your Honor.

THE COURT: I will let it stand.

MR. BEN-VENISTE: Thank you.

Could we have it read back, if the jury heard? I heard him answer --

THE COURT: No, I think, Mr. Puccio is right, we have gone over it before.

MR. BEN-VENISTE: I see. I will move along.

Q With respectto the Mario Notto situation, I think -- I think you testified in response to Mr. Brown's questioning yesterday, sir, that you never faced Mr. Weinberg down. I am sorry. You never faced Mr. Errichetti down, in connection with them putting one or trying to put one over on you in the Mario Notto sitation with a ringer. Do you recall that?

A I recall that.

Q And you said that you hadn't confronted

Mr. Errichetti, you didn't face him down in any fashion and your answer was, I didn't say it to Mr. Errichetti, I said to Mr. Criden.

A That's correct.

Q You remember that, sir?

A That's correct.

Q Now, in that connection, was the facing down of Mr. Criden that you were referring to, the tape that was played to the jury?

A I don't follow you there.

(Continued on next page.)

CONTINUED RECROSS EXAMINATION

BY MR. BEN-VENISTE:

MR. BEN-VENISTE: May I have just a moment, your Honor?

THE COURT: Yes.

MR. BEN-VENISTE: I have it buried here myself.

Q It was an October 4th telephone conversation that you recorded, and I think it is in evidence, a portion is in evidence already as Exhibit 25A.

MR. BEN-VENISTE: May that be supplied? May your copy be supplied to the witness so that he doesn't have to check ours?

MR. PUCCIO: Do you want another?

MR. BEN-VENISTE: Yes, Exhibit 25A, your Honor.

May the jurors' books be distributed to them at this time? I am going to play another tape, and we have a supplement for them as well.

THE COURT: Before we get that set up, let's take a short recess.

Don't discuss the case during the recess, ladies and gentlemen.

(Jury leaves courtroom.)

* * *

* * *

(Jury enters the jury box.)

M E L V I N W E I N B E R G, having been previously duly sworn, testified further as follows:

RECROSS EXAMINATION

BY MR. BEN-VENISTE (Continued):

MR. BEN-VENISTE: May I approach the witness, your Honor?

THE COURT: Yes.

Q I was asking you, Mr. Weinberg, whether the compensation that you had with Mr. Criden about the Mario Noto situation occurred on October 4, 1979 in your telephone conversation with him. And I direct the jury's attention to Exhibit 5-A, which is an excerpt of that conversation.

THE COURT: Is that when it occurred?

THE WITNESS: What's that?

THE COURT: Is that when it occurred?

A I spoke to him before about -- this ain't the first conversation I had with him about it.

Q Was that a taped conversation or not?

A In fact, I spoke to him twice. Once was in the Holiday Inn and the other was at the Cricket Club.

Q Was either of those taped?

A No, they weren't.

Q Now, with respect to Exhibit 25-A, sir -- as a matter of fact, what you did with Mr. Criden was not to bawl him out or confront him, but to criticize him for mentioning to Mr. Errichetti that you thought the ringer had come from Errichetti's office; isn't that so?

A That's correct.

Q Now, let's go to the question of your cooperation with the FBI after your Pittsburgh conviction, sir. You say you spent three days being debriefed by FBI agents and you told them basically everything about your past, all the criminal things you have done and all the fraud you had committed; is that right?

MR. PUCCIO: I object.

THE COURT: What grounds?

MR. PUCCIO: Asked and answered.

MR. BEN-VENISTE: Well --

THE COURT: It does seem like --

MR. BEN-VENISTE: Foundation, your Honor.

THE COURT: You are into an area that was not brought up on redirect, as I recall.

MR. BEN-VENISTE: This area had to await the discovery, your Honor, that we have just now completed.

THE COURT: All right, I will permit it. Overruled.

THE WITNESS: Do you want to repeat that?

MR. BEN-VENISTE: Read it back, please.

(Record read.)

THE WITNESS: That's correct.

MR. BEN-VENISTE: Your Honor, would this be an appropriate time for that --

THE COURT: No.

MR. BEN-VENISTE: All right.

Q Mr. Weinberg, did you tell the FBI on that occasion -- strike that.

Part of your London Investor scam was the franchising all over the world to other con men of this particular scheme; is that correct?

A Correct.

Q Now, did you inform on all of those people to whom you had sold your franchise?

A I never sold the franchise.

Q Well, whatever you did with the franchise. Did you inform on all those people you brought in?

A I don't really rememb er.

Q This was in 1977?

A That's correct.

Q Did you inform on some of them, but not others? Is that what you mean to say when you don't remember?

A No. I don't remember if I -- because I don't think I have a record of who we gave the franchises out to.

Q So you don't remember one way or the other whether you informed on those people?

A Correct.

Q And of course, there are no records of that?

A Correct.

Q Now, just one question about this Senator Williams business. Is it not a fact, sir, that you lied to Senator Williams or the middleman in connection with that case to make it appear that you and Tony were going to cheat the phony sheik?

A What do you mean by lie?

Q I mean by lie that you told them an untruth.

A We were doing an undercover operation so we had to tell certain stories.

Q Well, whether you had to tell the stories or not, one of the stories you think you had to tell involved representing to them that you were going to either steal something behind the sheik's back or cheat him in some way, be disloyal to him in some way?

A Not in this case. They offered 10 percent.

Q Mr. Weinberg, answer my question yes or no if you can.

A I can't answer that yes or no.

Q All right. Let me try to simplify it.

Did you not tell the individuals in that case, which admittedly has nothing to do with this case, that you and Tony were partners and you were going to split up a particular deal between the two of you, and the sheik didn't have to know about that?

A The sheik had nothing to do with that. He's only putting the money up.

Q He was only putting the money up and you were going to get the profits?

A No, it wasn't to do with the profits.

Q You were going to get some shares in that project?

A He offered ten shares in the project.

Q And this was behind the sheik's back, right? Yes or no.

A Couldn't be behind the sheik's back because the sheik told him what we were doing.

Q You told the sheik something?

A Sure. We told him we were getting 10 percent.

Q The sheik was an FBI?

A That's why we told him.

Q He was fictitious. I am talking about what you told the people that you were dealing with. Didn't you make it appear -- you now know the difference between what is fake and what is real, don't you?

A We didn't tell the people.

Q Let me ask you a question again. If you can't answer, I will go on to something else.

Did you not make it appear to the people who you were dealing with that you and Tony were going to split up something involving the sheik's business that the sheik wasn't going to know about? Yes or no.

A That is, no. If we are talking about the sheik.

Q Or Abdul Enterprises?

A That's still, no.

Q What name do I have to hear to hear a yes.

MR. PUCCIO: Objection.

THE COURT: Sustained as to form.

Q Yassir?

A That's still, no.

Q Abdul?

A Still, no.

Q Ameer? Some other fictional character?

THE COURT: The problem is with your question, Mr. Ben-Veniste.

MR. BEN-VENISTE: I will drop it, your Honor.

Q Mr. Weinberg, there came a time when you learned, did you not, that the -- I will take that away from you.

MR. BEN-VENISTE: May I approach the witness, your Honor?

THE COURT: Yes.

Q There came a time, did there not, sir, when you learned that the prosecutor in Philadelphia wanted to run a little operation on his own involving ABSCAM.

MR. PUCCIO: I object to that.

THE COURT: It does seem to be beyond the scope of the direct.

MR. BEN-VENISTE: Well, your Honor, it would mean recalling the witness otherwise in a matter which I think is going to come up next. I would ask for your Honor's indulgence on this one area.

THE COURT: My indulgence seems to run on endlessly.

MR. BEN-VENISTE: This will be very narrow.

THE COURT: I am trying to keep things in their proper order of proof. But I will leave that to Mr. Puccio. I will sustain the objection if he

preases it. If he has a suggestion that might save something in the future, he can withdraw it.

MR. PUCCIO: All right. On the representation that it will save us some time, I will withdraw my objection.

MR. BEN-VENISTE: Thank you.

THE COURT: All right, proceed.

Q Can you answer --

MR. PUCCIO: Your Honor, on the -- I will withdraw my objection as to the taking it up at this time. But I object on the grounds that this witness can't testify to a conclusion of someone else.

THE COURT: I have forgotten what the question was.

MR. BEN-VENISTE: Then I will rephrase it.

Q Did you learn at some point that there was going to be some kind of undercover operation based out of Philadelphia?

A That's correct.

Q And when did you hear about that?

A I don't know the exact time, but a week before I was told to make the call.

(Continued on next page.)

Q And you were told to make the call to Howard Criden, were you not?

A Yes.

Q In between August 22nd,and the time that you make the call, you had had absolutely nothing further to do with Congressman Myers, had you?

A That is correct.

Q You were told to make a call to Mr. Criden in order to introduce Mr. Criden to another gentleman, is that correct?

A I didn't know. I was told to make the call and introduce Ernie. He was going out with another fellow.

Q Your instructions were to call Mr. Criden and tell him that he would be expecting a call from two other individuals?

A He was receiving a call from Ernie Apodapolos.

Q How about Haridopolos?

A Haridopolos. And he would call Mr. Criden up and make an appointment.

Q Wasn't there another gentleman?

A Michael Cohan.

Q Was Michael Cohan a real name or fictitious name?

A Fictitious.

Q Was Haridopolos a real name?

A Yes. He didn't use that name, he used --

Q What was that?

A Poulos I think.

Q Special Agent Ernest Poulos and Special Agent Michael -- do you know his real name?

A I don't know.

Q Michael Wald, using the name Michael Cohan?

A If you say so.

Q Did you ever know his real name?

A I only met the fellow just recently.

Q You didn't know his real name?

A No.

Q You knew the name Cohan was fictitious?

A That is correct.

Q Do you recall having a conversation with Mr. Criden on January 18, 1980?

A I know I called him around that time.

MR. BEN-VENISTE: I would ask your Honor for the jury to hear 3500-231. It should be ready to go.

Q Let me show you 3500-231, the transcript. Do you have the original of that?

(Pause.)

MR. PUCCIO: We didn't know the tape was going to be played.

MR. BEN-VENISTE: I advised the agent before the break, your Honor.

THE COURT: Are there any others?

MR. BEN-VENISTE: No.

THE COURT: How long is this one?

MR. BEN-VENISTE: Only two or three minutes.

THE COURT: All right.

Q Showing the witness 3500-231A, would you take a look at that please, Mr. Weinberg?

A Yes.

Q I ask you if that appears to be a transcript of a telephone conversation you had with my client Mr. Criden January 18, 1980?

A That is correct.

MR. BEN-VENISTE: May we play the tape, your Honor?

THE COURT: Play it.

MR. BEN-VENISTE: We will supply a transcript as soon as we can get the Xeroxed, uour Honor.

THE COURT: Have them for the jury tomorrow morning.

(Tape played.)

Q Mr. Weinberg, did you hear a Jewish or Yiddish expression on Page 4 of that transcript?

A (No response.)

Q Where it says, okay, inaudible, name?

A Not really.

Q You didn't hear one?

A No.

Q Did you hear the word Haimeshe?

A No.

Q Do you know what that word means?

A No.

Q Did you make out you were Jewish during this ABSCAM --

A With a name like Weinberg, what do you want me to be?

Q I take that for a yes. That was your real name?

A Yes.

Q You knew Mr. Criden was Jewish?

A I presume so.

Q But Mr. Cohan was not the real name of the next agent who came along?

A I don't know.

Q You said it was a fictitious name?

A That is correct.

Q You knew it was fictitious?

A Yes.

Q You thought it would be pretty good, a pretty good idea for another man with a Jewish name to come along to help relieve the Fat Arabs of their money?

A That is not true.

MR. BEN-VENISTE: Nothing further.

MR. CACHERIS: May I show the witness Court Exhibit 14, your Honor?

THE COURT: Yes.

RECROSS EXAMINATION

BY MR. CACHERIS:

Q Look at Court Exhibit 14 and tell the jury what it says here?

A Compensation paid to Mel Weinberg.

Q I want to direct your attention to the date --

THE COURT: I don't think the document is in evidence.

MR. CACHERIS: It's not in evidence.

Q 10/17/79, they're all in the left hand corner. Do you see that?

A This here (indicating)?

Q Yes.

Is this what they said it is?

Q Yes.

A That is right then.

Q You're looking at the expense you received, $1989.65?

A That would be correct.

Q Turn to the next page and tell the jury how much you billed the FBI for your personal clothing?

A 1021 you're talking about?

Q Right.

A $635.58.

Q Did they pay that?

A Yes.

Q On October 21,1979, how much did you bill the FBI for your clothing?

A $113.48.

Q Did they pay that?

A Yes.

Q On November 19, 1979, turning to the next page, how much did you bill the FBI for your clothing?

A $336.44.

Q On the first of -- 11th of January,1980, how much did you bill the FBI for your personal clothing?

A $541.84.

Q They paid all of these?

A Yes.

Q Looking at that Exhibit 14, that is a breakdown of the expenses that you spoke about yesterday, is that correct?

A If you say so, I haven't seen it.

Q You are verifying all the clothing figures?

A What is here.

Q Do you have any doubt?

A If they got it it must be true.

MR. CACHERIS: That is all I have.

THE COURT: Anything else?

MR. BEN-VENISTE: May I ask one more question?

THE COURT: All right.

RECROSS EXAMINATION

BY MR. BEN-VENISTE:

Q Mr. Weinberg, you knew, did you not, in connection with the Philadelphia aspect of this investigation in January that the purpose of calling Mr. Criden would be for Mr. Criden to try to bring in Mr. Myers to another meeting in Philadelphia?

A No, I did not.

Q You didn't know Mr. Myers was going to be sought for again?

A No, I didn't.

MR. BEN-VENISTE: Nothing further.

THE COURT: Thank you, Mr. Weinberg, you may step down.

Next witness.

MR. PUCCIO: Michael Wald.

* * *

* * *

6 M I C H A E L W A L D, a witness called herein,
7 was sworn by the Clerk of the Court and
8 testified as follows:
9 THE CLERK: State your name and spell it for
10 the record.
11 THE WITNESS: Michael Wald, W-a-l-d.
12 THE COURT: All right, Mr. Puccio.
13 DIRECT EXAMINATION
14 BY MR. PUCCIO:
15 Q Mr.Wald, you are a special agent of the
16 Federal Bureau of Investigation, is that correct?
17 A Yes.
18 Q How long have you been a special agent of
19 the FBI?
20 A Eleven years.
21 Q Are you assigned to any particular office
22 within the FBI?
23 A Philadelphia Division.
24 Q For how long a period of time have you been
25 assigned to the Philadelphia Division?

A Approximately ten years.

Q Now, during January of this year, did you have occasion to act in an undercover capacity with the FBI?

A Yes sir, I did.

Q Would you tell the Court and jury what role you played in this undercover capacity?

A An individual by the name of Michael Cohan, a representative of some gentlemen from the Middle East.

Q Now, while you were acting in this undercover capacity, did you have occasion to meet with Howard Criden?

A Yes, I did.

Q Did you meet with Mr. Criden on the 24th of January of this year?

A Yes, sir.

Q Where?

A Barkely Hotel in Philadelphia.

Q Did you also on that day meet with Congressman Myers?

A Yes, I did.

Q In your undercover role, who was your employer?

A Two gentlemen from the Middle East, both Sheiks, Yassir Abeed was one -- the only one I mentioned.

Q Could you describe to us -- withdrawn.

Was the room in which you met with Mr. Criden and Congressman Myers at the Barkley Hotel in Philadelphia outfitted with equipment capable of producing a video tape?

A Yes.

MR. PUCCIO: Your Honor, I have available, unless stipulated, the FBI technical person who made the video tape.

THE COURT: Any need to qualify the tape?

MR. BROWN: There is another objection we would like to make. It may have slipped --

THE COURT: Is there an objection?

MR. BEN-VENISTE: I would like to see the expert.

MR. DUFFY: Yes.

THE COURT: I will hear the objection at side bar then.

* * *

* * *

THE COURT: Do you want to have Mr. Walsh step down at this point?

MR. PUCCIO: Yes. We will interrupt his testimony ask the technical witness to come in.

THE COURT: All right. Will you step down, Mr. Walsh?

(Witness excused.)

J O S E P H G M C Q U I L L A N , called as a witness, being duly sworn by the Clerk of the Court, testified as follows:

MR. PUCCIO: May I proceed, your Honor?

THE COURT: Proceed.

DIRECT EXAMINATION

BY MR. PUCCIO:

Q Mr. McQuillan, you are a special agent of the FBI assigned to the Philadelphia division; is that correct?

A Yes, sir.

Q Do you have any special assignment within the FBI?

A I do the technical work in Philadelphia.

Q Now, were you on duty as an FBI agent on the 24th and 25th of January of this year?

A Yes, sir.

Q Did you have occasion on both of those dates,

sir, to make tape recordings of the Barclay Hotel in Philadelphia?

A I did.

Q I show you --

MR. PUCCIO: May I approach the witness?

THE COURT: Yes.

Q I show you Exhibit 7B and 8B and I ask you to identify them.

A 7B is an original evidence envelope that contains the tapes that we conducted on Howard Criden and Michael Myers.

8B is an original tape envelope containing a tape on Michael Myers.

Q All right. Now, with respect to 7B, that's the videotape; is that right?

A Yes, it is.

Q In fact, they are both videotapes?

A Yes.

Q And was the -- withdrawn --

Where were you located at the time these tapes were made?

A In a room adjoining the main room where the meeting took place.

Q On both of these occasions through the use of

electronic equipment did you make these taps?

A Yes, I did.

MR. PUCCIO: Your Honor, I offer both exhibits into evidence.

THE COURT: Are you through with questionining the witness?

MR. PUCCIO: I think --

THE COURT: Just for voir dire or examination. That's all.

MR. PUCCIO: I might want.

MR. BEN-VENISTE: May I, your Honor?

THE COURT: He may have one more question.

MR. BEN-VENISTE: I am sorry.

DIRECT EXAMINATION

BY MR. PUCCIO: (continued)

Q Was there a backup audio recording made in connection with the tape -- videotape recording on the 24th of January?

A Yes, there was.

Q Do you have it with you?

A No, I don't.

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

May I have this marked as -- may I approach the witness?

THE COURT: Yes.

MR. PUCCIO: Your Honor, I would like this exhibit marked as 7C.

THE COURT: All right.

THE CLERK: So marked as Government 7C.

Q I show you Exhibit 7C. I ask you to identify it.

A This envelope contains two reels of the original audio tape on January 24, 1980 containing conversations of Howard Criden and Michael Myers.

Q Now, this tape is made with different equipment; is that right?

A Audio recorder as opposed to a video recorder. Yes, sir.

Q It's made simultaneously with the videotape; is that right?

A That's right.

Q Did you also make that tape?

A Yes, sir, I did.

Q Now, is there a portion on that audio tape that is not contained in the two videotapes of the meeting of the 24th? That is, Exhibit 7B?

A Yes. That's right.

Q That would be a portion when the two reels are

changed?

A The videotape lasts for approximately an hour. And this meeting lasted almost two hours. Therefore, we had to change the videotape. The audio tape kept running while we changed the reels.

Q So that the audio tape fills in a gap that was made when the videotape machine was -- when the reels on the video machines were being changed?

A That's correct.

MR. PUCCIO: Your Honor, I offer that exhibit in evidence as well, only insofar as the portion is concerned that fills the gap between the two videotapes.

THE COURT: The rest is duplicative.

MR. PUCCIO: The rest is a duplicate.

THE COURT: So you are offering 7A, 7B and 7C.

All right, cross-examination.

CROSS-EXAMINATION

BY MR. BEN-VENISTE:

MR. BEN-VENISTE: May I approach the witness?

THE COURT: Yes.

MR. BEN-VENISTE: May I question from here?

THE COURT: If it helps you.

MR. BEN-VENISTE: Thank you, sir.

Q 7C is contained in an envelope, sir, with a big evidence sticker around it; is that correct?

A Yes.

Q And would you explain to the jury the procedure at the FBI for maintaining records such as this evidence?

A The individual who takes the tape off the machine fills out this envelope and accepts custody in the first block, releases custody in the second block to the right. And the person who then receives custody signs his name and the reason in the block on the left below that, and so on down the envelope.

Q Would it be fair to say, sir, that in each of the exhibits that sit before you, 7B, 7C and 8B, the same procedure was followed?

A That's correct.

Q And,indeed, that is pursuant to some pretty strict FBI regulations concerning the maintenance of evidence?

A As far as Philadelphia is concerned, yes, sir.

Q You have certain rules that are unvarying about how you treat this evidence?

A Any evidence is -- we have to maintain a chain of custody on any type of evidence. Yes, sir.

Q And if I understand you correctly, as soon

as that tape was taken off the machine, under your procedures it was logged in and dealt with in a way that conforms to a fixed procedure?

A That's true.

Q Now, with respect to the actual videotaping, this occurred in the Barclay Hotel in Philadelphia?

A That's correct.

Q And that is in a pretty fashionable neighborhood, is it not?

A It's down Center Street.

Q High rent?

A High rent district, yes.

Q The suite -- you had an opportunity to see it, of course?

A That's right.

Q How long in advance of the time that you operated your camera on the 24th and 25th did you have to work there?

A Installing the equipment?

Q Yes.

A Somewhere between two and four hours.

Q So on the very same day you had the meeting, you installed the equipment?

A That's correct.

Q Would it be fair to say that in this case the cameras were focused through some ventilation ducts?

A Yes.

Q And there were some limited scope of the cameras, was there, within the room?

A Yes.

Q So when that -- when the jurors see this film tomorrow, they are going to see it circumscribed; is that correct?

A See what the camera saw, yes.

Q You trained the camera so that it would focus on a sitting area within the suite?

A That's true.

Q It was a suite, was it not?

A Yes.

Q The most expensive suite in the hotel, was it?

A I couldn't say that for a fact.

Q Pretty sumptious?

A It was a nice place.

Q And were there other people in the room adjacent to the room that was going to be filmed?

A Yes.

Q Yours and who else?

A Another agent that does what I do. We had another agent there to help us install the equipment. The special agent in charge was in there. One or two prosecutors. Another two or three agents.

Q Do you remember who the prosecutors were?

A Mr. Vervonti (phonetic) and Mr. Penrose.

Q Would you tell the jurors whether those two gentlemen were prosecutors from the Office of the Eastern District of Pennsylvania? That is, Philadelphia as opposed to New York?

A They were.

Q And this operation was being run out of Philadelphia at that point?

MR. PUCCIO: Objection. Irrelevancy. Irrelevant, your Honor.

THE COURT: I will let him answer. Overruled.

Q You may.

THE COURT: You may answer if you know.

Q From the standpoint of the prosecutor's office I'm not talking about the FBI now.

A It is my understanding it was in conjunction with the case in New York.

Q But the prosecutors who were running the case, as far as you know, were from Philadelphia?

A They were.

Q Okay. Now, you were also -- in addition to the cameras, you had some hidden microphones in that suite as well?

A That's right.

Q I think we have heard some testimony that microphones -- well, you tellus where the microphones were -- when the jurors look at the film, where will they not see a microphone? Where are they hidden?

A They were pinned in the drapes on either end of the couch.

Q Some gentlemen were sitting on the couch?

A Yes.

Q And the instructions were to have the people who were not agents sit on the couch?

A I don't remember anything like that.

Q Were there going to be some stage directions so the faces of the Congressmen and Mr.Criden would be seen as opposed to those of the agents?

MR. PUCCIO: I object, your Honor, as to form.

THE COURT: Overruled.

THE WITNESS: The camera was set up in such a way that we tried to get everyone in the picture.

Q Is it fair to say that some -- you get a front

face and others are going to be shown in the film in profile?

A Well, I'd say we had three-quarters of Mr. Wald there and Mr. Haridopolos. Probably just had the side of his face. Profile, yes.

Q How about Mr. Criden and Mr. Myers?

A We had a frontal view.

Q And when you set this up, I take it, you told Mr. Wald and Mr. Haridopolos, look, have the two other gentlemen sit in these particular seats?

A I don't recall doing that.

Q Did you go over it with Mr. Wald or Mr. Haridopolos was your camera arrangement was going to be?

A I remember we moved Mr. Haridopolos' chair over to the left a little bit so that it would be encompassed in the scope of the lens.

Q You had even essentially taken their places to see whether your cameras were going to get them once you started it running?

A I could tell without them taking their place. If I didn't have a chair in the picture, we wouldn't have a person.

Q I see. Did you do any kind of a run-through to make sure your equipment was working and so forth?

A We conducted a test on the microphone to

make sure that the microphones were working. Yes.

Q Is it fair to say that every precaution was taken by you to make sure that the entire conversation was recorded?

A Yes, sir.

Q And is it also fair to say that, to the best of your knowledge, the whole conversation was recorded?

A Yes, sir.

Q That's because even when the videotape ran out, you had a backup audio tape?

A That's right.

(continued on next page)

Q And you were -- you had the presence of mind -- you were careful enough to make sure there were no missing parts of the conversation?

A Yes, sir.

MR. BEN-VENISTE: Nothing further.

MR. CACHERIS: I have a few questions.

THE COURT: All right.

Mr. McQuillan, were the microphones or the backup audio on the same microphones as used for the videotape?

THE WITNESS: Yes, sir. They fed into the video machine and they were looped in the back of them into the audio machines.

THE COURT: All right.

Yes, Mr. Cacheris.

CROSS-EXAMINATION

BY MR. CACHERIS:

Q The room that you were in, was it a bedroom in the suite?

A Bedroom and bathroom.

Q Aside from the bedroom that you occupied with your technical equipment, were there any other rooms occupied by any other FBI or prosecutorial personnel?

A No, sir.

Q And the number of people you described for Mr. Ben-Veniste, yourself and the few other FBI agents and special agent in charge and two prosecutors all were in the same room?

A Yes.

Q Did you have the ability to tape a telephone conversation in that room?

A I did not.

Q Did you have the ability to do so?

THE COURT: What do you mean by ability?

Q Could you tape a telephone conversation if you wanted to?

A If I had the equipment, I could.

Q If you had the equipment. And you are familiar with that type of equipment?

A Yes.

Q All right. Was there a telephone in the bedroom

A Yes.

Q Was the telephone frequently used to call in to participants that were being videotaped?

A It was used, yes.

Q Who used it?

A Mr. Virvonti and Mr. Best.

Q Mr. Virvonti is a prosecutor?

A Yes.

Q He was calling in to the agents in the room while you were videotaping? He was calling Mr. Wald and Mr. Haridopolos?

A I don't know whether he actually instigated the calls. It may have been Mr. Best. But I know he spoke on the phone once or twice.

Q Regardless of who instituted the calls, someone from your group, either Mr. Best, Mr. Haridopolos, spoke to the agents inside the room while the videotape was running?

A Yes.

Q That was not recorded?

A No.

MR. DUFFY: One or two, your Honor.

THE COURT: Yes.

CROSS-EXAMINATION

BY MR. DUFFY:

Q You had monitors, did you not, in the room you occupied?

A Yes, sir.

Q So that you could see what was going on in the action room where Congressman Myers and Mr.Criden were talking with the two agents; is that right?

A That's right.

Q If something went wrong with the videotaping, you'd know it in an instant, would you not?

A Yes.

Q Because your monitor would show blank?

A That's right.

Q Is that right?

A Yes.

Q The phone calls that were made into the two agents in the room by the prosecutors, touched upon instructions from the prosecutors to the agents as to what to say or not to say; is that right?

MR. PUCCIO: I object to the form of that.

THE COURT: Overruled.

THE WITNESS: I don't know what the content of the conversations were, sir.

Q Because you didn't hear?

A I was busy monitoring what was going on, watching the levels on the recorders and I had a set of earmuffs on.

Q And because you didn't tape, isn't that right?

A I did not tape it, no.

MR. DUFFY: That's all.

THE COURT: Any other questions for Mr. McQuillan?

MR. BEN-VENISTE: No, sir.

THE COURT: Thank you, Mr. McQuillan. You may step down.

(Witness excused.)

THE COURT: Any objection to the exhibit on authenticity? We covered other objections.

MR. BEN-VENISTE: Not on authenticity.

MR. CACHERIS: No.

THE COURT: All right. Exhibit 7B, 8B and 7C are received in evidence.

The next step would be to play them.

MR. PUCCIO: Yes, your Honor.

THE COURT: In view of the ones we have had as to the duration of the exhibits I think rather than stay here until -- looks like 6:30, we will recess and start off in the morning with these -- with these tapes.

During the recess, ladies and gentlemen, do not discuss the case among yourselves or with anyone else.

We will resume at 9:30 tomorrow morning.

I will ask the people to remain in the courtroom until the jurors have left the court house.

(Whereupon, the jury left the courtroom.)

(Whereupon, an adjournment was taken to Friday, August 22, 1980 at 9:30 o'clock a.m.)

# I N D E X


| Witness | Direct | Cross | Redirect | Recross |
|---|---|---|---|---|
| MELVIN WEINBERG | | | 2411 | 2461 |
| MICHAEL WALD | 2494 | | | |
| JOSEPH G. McQUILLAN | 2509 | 2513 | | |


## E X H I B I T S


| Court Exhibits | | Ident. | In Evid. |
|---|---|---|---|
| 14 | Copies of breakdowns of payments to Mel Weinberg | | 2410 |
| **Government's Exs.** | | | |
| 7C | 2 reels of audio tapes 1/24/80 | 2512 | |

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | Investigation Pursuant to H. Res. 608 |
| Representative | ) | |
| | ) | |
| MICHAEL O. MYERS | ) | |

# Appendix to Special Counsel's Preliminary Inquiry Report

## Volume III

E. Barrett Prettyman, Jr.
Special Counsel
Allen R. Snyder

Hogan & Hartson
815 Connecticut Avenue, NW
Washington, D.C. 20006

82-077 O—81——79 (Pt. 1) BLR

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA,

-against-

MICHAEL O. MYERS, ANGELO J. ERRICHETTI,
LOUIS C. JOHANSON, HOWARD L. CRIDEN,

Defendants.

----------x

80 CR 00279

United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

August 22, 1980
9:30 o'clock A.M.

B E F O R E :

HONORABLE GEORGE C. PRATT, U.S.D.J.

MICHAEL PICOZZI
OFFICIAL COURT REPORTER

1 A P P E A R A N C E S :

2

3 EDWARD R. KORMAN, ESQ.,
United States Attorney for the
4 Eastern District of New York

5

6 Department of Justice
Strike Force
7 Brooklyn, New York

8 BY: THOMAS P. PUCCIO, ESQ.,
9 LAWRENCE H. SHARF, ESQ., and

10 Special U.S. Attorneys

11 Attorneys for the Government

12

13 MESSRS. HUNDLEY & CACHERIS, P.C.
1709 New York Avenue, N.W.
14 Washington, D.C. 20006

15 BY: PLATO CACHERIS, ESQ., and
LARRY S. GONDELMAN, ESQ., of Counsel

16 Attorneys for the Defendant Michael O. Myers

17

18 BROWN & BROWN, ESQS.,
26 Journal Square
19 Jersey City, New Jersey

20 BY: RAYMOND A. BROWN, ESQ., and
21 HENRY F. FURST, ESQ., of Counsel

22 Attorneys for the Defendant Angelo J. Errichetti

23

24

25

A P P E A R A N C E S : (Continued)

MESSRS. CARROLL, CREAMER, CARROLL & DUFFY
Suite 326 Three Penn Center Plaza
Philadelphia, PA 19102

BY: JOHN J. DUFFY, ESQ.,

Attorney for the Defendant Louis C. Johanson

MESSRS. HELROD, REDMAN & GARTLAN
1801 K. Street, N.W.
Washington, D.C. 20006

BY: RICHARD BEN-VENISTE, ESQ., and
NEIL I. LEVY, ESQ., of Counsel

Attorneys for the Defendant Howard L. Criden

* * *

* * *

17 M I C H A E L W A L D having been previously
18 duly sworn resumed the stand and further testified
19 as follows:
20 DIRECT EXAMINATION
21 BY MR. PUCCIO: (continuing)
22 Q Mr. Wald, you indicated yesterday that in
23 your undercover capacity you used the name Michael Cohen,
24 C-o-h-e-n, is that correct?
25 A Yes.

Q Why did you use that name?

A We tried to use the same first name as our own and we had identification and credit cards in the name of Michael Cohen existing from previous matters so we used that.

Q Had you ever met Mr. Weinberg or spoken to Mr. Weinberg prior to January 24, 1980?

A No sir.

Q When for the first time did you meet Mr. Weinberg?

A A couple of weeks ago, here in Brooklyn.

Q Now, in connection with your undercover activities in Philadelphia, you had a cover story, is that correct?

A Yes.

Q What was it?

A That as a representative of one of two sheiks I was in the City of Philadelphia to invest money based on some statements that had been made and relayed to me had been made by Congressman Myers concerning investments within his district, within the City of Philadelphia.

Q Was there any particular investment project that you mentioned?

A A hotel complex.

Q Now, was this meeting on January 24, 1980,

your first meeting with Congressman Myers?

A Yes.

Q You never met with him before that day or had spoken to him?

A That is correct.

Q On this tape we are about to see, there is a meeting with Mr. Criden first, before Mr. Myers comes in, is that correct?

A Yes.

Q Did you have anything to do with setting up -- withdrawn.

Did you personally contact Mr. Myers prior to any meeting to set it up?

A No sir.

Q Was there anyone else present at this meeting other than you, on the 24th, other than you, Criden, and Myers?

A Yes, another Special Agent.

Q What is his name?

A Earnest Haridopolos.

Q What undercover name was he using?

A Ernie Poulos.

MR. PUCCIO: May I approach the witness?

THE COURT: Yes.

Q I show you Government's Exhibit 7A and I ask

you to examine it and tell us what it is?

A It is a transcript, a written transcript, of the tape. Of the tape of that particular meeting we were just discussing.

Q Have you reviewed the tape of this meeting?

A Yes.

Q Have you compared it with the transcripts?

A Yes.

Q Is it accurate to the best of your ability?

A Yes.

Q This transcript only contains an exerpt of this meeting, is that correct?

A Yes.

MR. PUCCIO: Your Honor, I offer the transcript then I ask that it be distributed to the Jury.

THE COURT: Any objection?

MR. CACHERIS: No.

MR. PUCCIO: May we distribute the book?

THE COURT: You may.

MR. PUCCIO: May we play the tape?

THE COURT: As soon as the book is distributed.

MR. BROWN: Previous objections and -- perhaps I should come up?

THE COURT: You are requesting a limiting instruction?

MR. BROWN: Yes.

THE COURT: In addition to the caution I gave you a moment ago, keep in mind the limiting instruction I have given you with respect to the other tapes, we have been dealing with transactions here which involve only the defendant Myers. He is the only one present. Until I tell you to the contrary, you should use this only in connection with your evaluation of the case against the defendant Myers.

Mr. Criden is present too.

Mr. Errichetti is not present nor is Mr. Johanson.

MR. PUCCIO: Did you say only against Myers?

THE COURT: I corrected that. Myers and Criden are present.

Errichetti and Johanson are not.

MR. PUCCIO: May we play the tape?

THE COURT: Yes.

(Tape played.)

MR. PUCCIO: Your Honor, we are going to play the audio that was introduced in evidence, or that

portion that fills in the gap.

THE COURT: That is the part where the first reel of the video tape ended? You have the audio?

MR. PUCCIO: It continues for a short period and then we go back to the second reel.

THE COURT: Alright.

(Audio played at this time.)

MR. PUCCIO: Now we will go back to the video.

(Tape played.)

[Exhibit 7A: Transcript of Videotape and Audio Tape Exhibit 7]

Date: January 24, 1980

Time: 9:54 P.M.

Place: Barclay Hotel
Philadelphia, Pennsylvania

Participants: MICHAEL MYERS (MM)
MICHAEL WALD (MW)
HOWARD CRIDEN (HC)
ERNEST HARIDOLOLOS (EH)

INAUDIBLE (IA)

* * *

HC: This guy that you're gonna meet with in a few minutes, ah, let me give ya a little bit of background.

MW: Okay.

HC: I don't know if you know his background, Do ya?

I know who, what his is, as far as his, ah, you know, I've known you've done business with him.

Yeah.

...on a substantial basis.

Yes.

...And I know, ah, his titles, positions.

Okay. He replaced the guy who was Congressman William Barrett.

Congressman Barrett was an old, was a Congressman I guess longer than almost any guy that ever worked, lived, what, you know, served in Congress. And was a most unusual guy, was a little backward guy, wore a very starched collar, always, never saw him without a, a starched collar. Stiff starch and a little...very thin tie, you know, immaculate guy. Never stay overnight in Washington in his entire life and served like 45 years in Washington. Okay.

PH 183-1075

ZZ

MW : That's incredible. Incredible.

HC : He would go every morning before there was plane service and take the train, or drive, or have somebody drive him, and go to Washington, and when it's done, the session, or whatever it was, he would drive home. he would hold court in his ah, and he's not a lawyer, was a ward leader. Had no other means of a livlihood except his political means. He would sit every night from 7 or 8 o'clock until midnight and nobody was denied access to him. The lowest Puerto Rican or a black guy that dug a trench wanted to see Barrett. He got in to see Barrett. He went in, got it to see, when he got in not if, when and he would sit till the last guy was sittin' out in the outer office.

EH : Okay

183-1075

...No matter, if he had talked to
the President of the United States,
a minute before he would still see
that littlest guy. Okay. If
he had a problem, Barrett would
write it down, he would call ERNIE,
tomorrow, this guy got a problem,
you'll see that...
Handle it...
It's taken care of. Okay. Now,
the next morning you would get a
letter, in the mail ...(IA)...Dear
ERNIE, was ah nice to see you last
night, I...(IA)... so and so is
handling your problem,
we will make every effort to see that
your problem is...
Can't lose an election.
You could have run the Ayatollah
against him in Iran and this mother
would have won. Nobody ever ran against
him. Okay. This guy, people literally,
there was nothing...
How'd he make a livin'?
He lived very quietly in a row house
he took...(IA)...

| | |
|---|---|
| | Okay and BILL would say HOWARD it's goin' to cost you "X" amount of dollars. |
| UM: | BILL...(IA)... |
| MW: | Up front guy.... |
| HC: | ...And he'd get the job done. |
| MW: | I understand that, that, ah Mr. MYERS is up front. |
| HC: | Up front. That's what I'm givin' you ...IA... |
| MW: | I, I mean he and I can can have a byline. I don't have to fence with this, this fellow. |
| HC: | No... |
| MW: | I've been told by, by others that he he's the guy to deal with... |
| HC: | He's a super guy. |
| MW: | ...Makes life easy. |
| HC: | He's a longshoreman... |
| UM: | ....(IA)... |
| HC: | ...And he mingles...(IA)...Okay. Grew up the hard way. |
| MW: | Well, so did this other guy. |

Yeah. But...(IA)...

Okay.

Okay. He has acquired

...(IA)...

That's right. He knows how to handle himself. He knows how to dress and he knows he runs with a little broad once and awhile, okay. And he's got the class already.

He's, he's mingled with the high ...(IA)... of Washington a little bit and a little has rubbed off on him.

Okay.

But he's still basically the street fighter. No problem.

He's happy with us, or he wouldn't be coming here...(IA)...

Ah, I, ah I was at ah at the airport, remember when ah, OZZIE met ah TONY.

You met him. You've met him.

No. I never met him. I just was downstairs. You know it was one of those things. I had to go downstairs. I didn't see you around.

| | | |
|---|---|---|
| HC | : | I was there. |
| EH | : | You were at the airport that day? I didn't see you. Ah, ah, ya...when ah... (IA)... |
| HC | : | That was my first one... |
| EH | : | What...(IA)... |
| UM | : | Okay. |
| EH | : | I thought it was...I thought it was, who do you call it... |
| HC | : | ...(IA)...brought |
| EH | : | Yea, ANGIE brought |
| HC | : | But where do you think ANG got him from? |
| EH | : | Yeah. From you. |
| HC | : | Okay. |
| EH | : | But, but...(IA)...you weren't there. |
| HC | : | I didn't go up to the room, no, I, I brought him up to New York. |

183-1075

And I didn't see ya in the lobby, because
I was sittin'...(IA)...
No, I was just at the airport.
Oh. I don't know how he got there,
I don't know whether he drove up or,
did he fly up that day?
No, we took him up.
He drove up?
The other guy flew up from Washington
...(IA)...
Ah, ah, the other...
The other guy...
Yeah, I saw you, you...we, we sent
the drink over to you. Ah, ah...
...Yeah, that's right...
...If you remember...
...(IA)...
ah, ah, and like I say ah I was, I
know that, from the way it all went
down, ah, that you were there.
This guy took BARRETT's place.
Uh-huh.

HC: Okay. And he's, operates, not exactly like BARRETT, but he's trying to emulate, to a certain degree, that's the reason I give ya that background history.

MW: BARRETT retired.

HC: BARRETT died.

MW: In office?

HC: Yes. You...(IA)...couldn't have, You couldn't have beat BARRETT. Okay. I don't care who it was. You could have spent 10 million dollars in that district, you couldn't beat BARRETT.
There, ah, ah elections came and went and they never even, the Republicans never even slated a candidate against him.

MW: Do you have any Republicans in the city?

HC: There is one powerful Republican in the city, a guy by the name of BILL MEAD.

183-1075

Okay.

I'm sure you've heard his...

The name's been mentioned to me.

But, he's the republican, he's the, he's the leader of the Republican Party in the Clyt of Philadelphia. He's a lawyer. Nice guy.

(IA). His father was the, the. This use to be a Republican town. His father was the Republican boss in this town. The absolute unequivocal boss. And if he said it's black, it's black, and nobody would fight. His name was AUSTIN MEAD and he was the-sheriff of the city. Great big heavy-set Irish guy,

Okay...

This is his son. Ah. Super guy and he words, he's, now the loyal minority of the loyal opposition.

Does he hold nay type of position, other than m...

...Ah, he..not in the city wide, no ah he holds a position, held some positions in the State Government, he

was on the Turnpike Commission, some honorary bullshit.

MW: Is there anybody that, that we should be dealing with in the State Government. I know we've got a we've got liquor licenses to deal with. I know we've got that type of thing ah, ah...

HC: The State Government ...(IA)...right now also in a very you know, it's a republica administration.

MW: I'm aware of that. I'm aware of that...

HC: Governor Thornburg.

MW: And I'm aware of that man's former position.

HC: That's right. U.S. Attorney.

MW: But I'm also aware that ah, he had ah make appointments and certain appointments, especially in Eastern Pennsylvania...(IA) ...

| | | |
|---|---|---|
| HC | : | Normally, it would be cleared by Mr. MEAD. Okay, but not all of them have. And he thinks Mr, the Governor is an asshole. (Door bell rings) |
| HC | : | ....(IA)....OZZIE? |
| MM | : | Yeah. Hello. HOWARD...(IA)... |
| HC | : | How the hell are you buddy? |
| HC | : | Say hello to MICHAEL COHEN. |
| MM | : | MIKE, how are ya? |
| HC | : | This is Congressman OZZIE MYERS. |
| MM | : | Congressman, how are ya? |
| MM | : | My pleasure MIKE. |
| HC | : | This is, this is ERNIE... |
| MM | : | Hi ERNIE. |
| EH | : | OZZIE, I, I saw you one time during the summer, but you look a little different. |
| HC | : | He's grown a mustache. |
| EH | : | ....(IA).... |
| HC | : | Yeah...(IA)...He's grown a mustache. |

| | | |
|---|---|---|
| ER | : | Wasn't your hair curlier? |
| MM | : | Yeah. Same hair. |
| ER | : | Yeah. |
| MM | : | Couldn't change that. |
| | | (Laughter) |
| HC | : | So, when did you start with this? |
| MM | : | I was away ah during the second week of December, on a hunting trip...all right. So, I decided to ah, I wouldn't shave for a few days. (IA)... |
| HC | : | You look good. |
| MM | : | ...(IA)...I tried. I, I came home and everyone likes it, so I decided to try it for awhile. |
| HC | : | Did you ah... |
| UM | : | Let me get you a drink. |
| MM | : | Ah okay...(IA)... |
| ER | : | Scotch, or, or a... |

| | | |
|---|---|---|
| MW | : | Scotch and there's some ah Jack Daniels over there. |
| UM | : | I'll take some Bourbon on the rocks. |
| ER | : | Okay. |
| UM | : | Was it snowing in Washington? |
| MW | : | ERNIE take care of this. |
| MM | : | Occasionally, ya know...(AI)... ah it was a heck of a time. I was originally scheduled on 5:40 then I was on a 6:35 and then 6:59. Finally...(IA)...7:20...(IA)... I had to stop at Palumbo's. I had office hours. I have a meeting yet after this. |
| MW | : | Okay...(IA)... |
| BC | : | I was telling MICHAEL about BILL BARRETT. ...(IA)... How he never spent a night in Washington... (IA)... |
| MM | : | For 30 years and he didn't spend one night. |

PH 183-1075

34

| | | |
|---|---|---|
| MW | : | ...(IA)...that's Incredible. |
| MM | : | I just heard a new story about BARRETT the other day. |
| UM | : | Is that right? |
| MM | : | BARRETT had a place down in Margate and he was so secretive, he didn't want anybody to know that he had a place down there. Of course, it was in his daughter's name, and he went out to a hardware store and purchased one of these ah name plates that you put on your lawn, you know, a little animal, and... |
| UM | : | Yeah. |
| MM | : | ....(IA).... |
| UM | : | Yeah. |
| MM | : | Little... Some kind of a figurine to hold the name place, you know. He put (IA) COOPER on his lawn. (laughter) |
| UM | : | Right out of the phone book. |
| HC | : | He's an unbelievable guy. |
| | | ...(IA)... |
| | | Is there some plain club soda there or ah? |

Yes.

That's super. I love some of that if

I may please.

Can you imagine that?

Name of COOPER...(IA)...

He was an unbelievable guy MIKE.

Unbelievable guy. I was telling MIKE

how he held court every night.

Right.

He waited to see everybody.

Ah that's a, that's, you know I had a

following, guy like BILL BARRETT was a,

is very difficult...(IA)...

Tough act to follow.

Ah unreal.

So I ah, you know, that's how I'm into these

night office hours. No other member of

Congress in the nation has night

office hours. It's unheard of today

with all the...

He can't break that precedence.

...(IA)...

PH 183-1075
36

MM: I'm down scaling it. I started out with three nights a week and I'm down to two and once I'm through this next primary, I'll be down to one night a week.

MM: Cuts on the social life.

MM: Ah, it's, it's, it's, it, it, you just can't do it today. You can't be in Washington and be coming home to night office hours.

MM: Right.

MM: Now I can see when we're not in session, you know, I'm gonna try to change the whole image gradually. Now what I want to get into is ah town meeting and things like that. I'll go to West Philly to a town meeting and ah go up into Overbrook. Just do a ...(IA)...and have a school hall something and just ah open, open forum type meeting. You know and take on a problems at once. Have enough staff that would handle that kind of stuff with that individual. Like on

social security, veterans problems
and all that. And just talk about
issues. I think, that you, ya know you do
that and ah once or twice a month and your
better off than gettin' ...(IA)...
office hours.
I have people that come to see me.
Thank you.
...This is no lie, and ah
if I get delayed in Washington,
and I can't come in that night,
like tonight for instance, I ah
you know, a tough time getting
out of Washington because of the
scheduling. Ah they'll
just won't talk to any staff, like
it's secretive, you know, this big
problem that they have...
It's usually nothing but they need
a little favor.
Yeah. Sure.

| | |
|---|---|
| HC: | Somebody...(IA)... |
| MM: | ...(IA)...will he be here Monday? Well, I come back Monday. Now, they'll sit there, ah, ah, an hour sometimes, two hours waiting to tell a staff member that they'll ah be back Monday. |
| UM: | ...(IA)... |
| MW: | That's loyalty. |
| HC: | And...But BARRETT... |
| MW: | He had 'em all trained. |
| UM: | He had 'em trained. |
| MW: | ...conditioned...(IA)... |
| HC: | He's tryin', it, it, it's impossible for him to get out of that image. |
| MW: | He's got to win next time too. |
| HC: | Well, he's not ...(IA)... problem...he couldn't lose if he tried. |
| MW: | Let me tell you why I wanta meet ya, and I, and I did, I, I was instructed to first of all... |

...Right...
I'll be right up front with ya. I
was instructed to because of etiquette.
He said you're in Philadelphia
...(IA)...
Your representative, if you have the
opportunity, the man can see you,
please see him. To me, that seein'
if at all possible.
So...Ah, we take care of that. Ah, the
Arabs have a word, Mouckta (Phonetic) right
meaning "balls". Right. The man
thinks you have a sizeable pair of
balls.
(Laughter)...
Mouckta (phonetic), huh?
(Laughter)...
...(IA)...
I will, I will remember that.
The gentleman who gave it to me is,
is different, ah...

HC: We made an impression.

MW: Yeah. You did. Ah, he's been led to believe that the...you're the gentleman, he, he puts his faith in, that, that he can deal with and he's happy with and feels very secure... Ah, ah I spent some time in, in D.C., ah earlier this week and received news which has been relayed back and ah the situation, ah that you discussed with our other associates, ah, is worsening. It really is. And I Parsonally feel from what I've learned recently that ah my employer has a very short period of time to remain where he is.

Ah can you give some short, brief overview, a quick education, on what's gotta happen if you receive a telephone call that he's gonna come over here with his passport on a visa and get into this country, ah...

Well see like I had to explain the,
back then, ah the problem you have,
that I see, it's depending on who
this individual is and, you know, what
kind of heat is on this or if there's any,
and I don't know...
He is friendly, he is friendly.
Ah, we're not dealin' with ah...
...Communist...
...Communist individual we're
dealin' with somebody who's, who's
so steep in free enterprise that ah
Alexander Hamilton would have been
proud.
(Laughter)
I mean this is, petro dollars by
by millions, he's free enterprise, it's
his thing, right. America is a shining
light in the Statue of Liberty, but he
likes to bypass the Statue of Liberty and
come to Philadelphia.
We'd like to have him.
(Laughter)

82-077 O—81——81 (Pt. 1) BLR

MM: And I think that one of the reasons that he wants to come here is the the impressions that he's received, ah probably because of you. For him to use that word, a word that is not used very often over there, it's substantial. Ah, faith...

...(IA)...

MM: Well, you know, each individual that I deal with, dealing with the State Department and immigration matters, ya know, they're each individually handled. And I had ah made ah...made it known that I have some friends in the State Department. But you're dealing, ya know, I don't know what the circumstances will be that day if that call rings. And more, hon, honestly, not to give you a short answer, I'll have to take it from that, from that point to see actually how I should handle it.

MM: Okay.

MM: Ah, Now I had made it well known then,

that I, I liked it, if there was ah
investments in the city.
And I have a, a...
...(IA)...
...Just an open reason to be very...(IA)...
That's a point two, that's point two,
I'm...(IA)...
...(IA)...
Ya know I had made that clear then.
Ya know. Ya know. Give me a
reason to be vocal, I'm not, ah, I
have no reason for someone I don't
know that's...
I'm in the city, today...
Yeah. But ah the point, you're
talking about...
...(IA)...Those comments, those
very same comments that you made.
All right.
That's very important.
Also, now I've talked to some people.
Yeah.

MM: About that, and ah, I would think that ah, does this gentleman speak English?

MW: Ah yes, he gets by, but he knows ...(IA)...

MM: He should, he should take, ah, I was advised that he should take some crash courses in English. To get by better, that's very important at this time.

MW: Let's...(IA)...put it this way. He understands everything you say to him. The man does not verbalize ah what he's thinking. These are sharp people...

MM: Well, but I'm saying...(IA)...

MW: You know the image of the guy on the Arabian steed...

UM: Yeah...(IA)...

MW: ...crashing through the desert and picking up the girl and throwing her on the back of the horse right, is nonsense...Ah you know, they're shy, retiring type individuals,

and he understands everything.

Okay...(IA)...

He just does not verbalize ah, and if he knew English as well as any of us, he ah, he still does not verbalize his, his thing.

...(IA)...

That's what he needs.

I would have him take some private...(IA)...

Get a tutor, get him some private instruction and make a record of it with a legitimate outfit. That's important. Because he wants to come here. He wants to learn the language so he can...

Ah...(IA)...

...(IA)...Introduction of a bill. Private legislation.

Yeah, I could do that, but if I had a reason to do it, I can do it.

Fine. We'll get into that. We'll give ya reason to do it.

| | |
|---|---|
| MM: | All right. |
| MW: | We'll back you with whatever you need. |
| MM: | All right, good enough. |
| MW: | All right, so when you stand up, that was pointed out to me, by these other individuals exactly how you feel. And that's ah, ah, you can uphold your end of ah, of the the business arrangement all right, if you look good. |
| MM: | Uh-huh... |
| MW: | All right. From a very basic level. And we can make you look good in any direction you need, you need to look good. All right...(IA)... HOWARD is well aware... |
| EC: | ...Right... |
| MW: | ...Right...of, of the kind of financial ah situation we're in... |
| UM: | ...(IA)...Okay. |
| MM: | It's very good. |
| EC: | Wide open...(IA)... |
| UM: | Let's get out of that. |
| MW: | Let's talk about that. |

HC: Let's talk about it, and we've been talking about that the last couple of days.

MW: All right. I, I arrived here ah last week and HOWARD ah, ah, set up some appointments with ah with individuals in municipal government for me, the last few days. And I've dealt with what I have been told and my researchers confirmed are very powerful important people within the municipal government.

UM: Uh-huh...

MW: Okay. I don't know if...(IA)...

MM: ...(IA)...

HC: No we have not.

UM: ...(IA)...

HC: Just the telephone conversation this morning.

MW: Ah the sheik is interested in putting up a hotel/motel type complex. 34.6 million dollars was the figure given

to him. All right. For what he envisions. Ah that is the figure, that was put together based on the plans at that time.

At that time is like two weeks ago. Ah we break ground in April and we still got ah an increase of probably 1.2 from now to April, we've been led to believe. So, the, the dollar values are no problem at all.

MM: Uh-huh.

MW: Figures are not problem. Financing is no problem.

I've been led to believe by the gentlemen I've met with that, zoning is no problem, that variances are no problem...

MM: That, that's...I can help you with, you know that's, that's no problem...

MW: ...(IA)..Labor and industry.

Okay.

PH 183-1075
49

MM: Now, would you be able ah would it be fair to me to go back and say ah. Mr. MYERS has stated that ah he can use his office to help in those, in those, I noticed you're not on on a municipal level, your level is higher.

UM: ...(IA)...

MM: ...Be more than happy to. See, the one thing I, you got to understand about this new, this new Mayor, that just came in, and his administration, They're at this point in time, now at least from the dealing that I did with them, they're straight laced and , you know, you got to be very careful how you deal with them.

HC: You're talking about the Mayor

...(IA)...

MM: Talkin' about the Mayor and...

HC: ...(IA)...

MM: ...His close advisors. I'm talkin' about the ah, you know the new management director, for instance...

HC: All right.

MM: ...You couldn't talk to him the way you could talk to me.

MM: The managing director is a black man.

HC: WILSON GOODE.

MM: WILSON GOODE

HC: ...(IA)...black guy.

MM: ...And obviously, you'll probably talkin' with DICK DORAN, who knows, you know, he's interested in bringing business to the city. They're very interested in that.

MM: There's no way I, there's no way I can do business with those two individuals as with the way I conducted business in the past. Is that it?

MM: That's exactly it.

PH 183-1075

51

MW : Now Mr. DORAN is the...(IAO...

RC : Mr. DORAN is the uh, the puplic, the City's representative. Okay. He's the guy...

MM : ...The Commerce director.

RC : (IA)...

MW : The hype guy...(IA)...

RC : Yeah. Okay. The public relations guy, so to speak. He's interested in the community, the business community.

UM : Okay.

MM : Very interested in what you're speaking of...

RC : Oh yeah...

MW : Bypass these two, I would imagine through I mean, we've...

RC : Bypass them because there is no way that we could do anything...(IA)...

MM : Okay now, you, you obviously you want to deal with City Council President who is a guy that you know, I would think...(IA)....

That you could deal with, you know, I can deal with him. And I'm sure ...(IA)... other people ...(IA)... here, very, very reasonable guy understands this business probably better than any of us. A sharp guy. Very sharp. My close friend.

UM: Yeah.

MM: In the zoning board again that would be no big problem. And I'm very..

MW: You can, you can help...(IA)...

MM: I can help with the zoning board.

MW: ...(IA)...Be a fair statement ah, ah to the sheik, that you that you're willing to do that as well... You know...

MM: ...Absolutely...

MW: That you're on our side in that direction.

MM: Absolutely.

PH 183-1075
53

MW: Ah, we were considering South Philadelphia which is your district right?

MM: That's me.

HC: (Laughter)

MW: For that complex...

MM: That's me...

MW: Okay and I'll...

MM: I give you some good, good builders too...

MW: ...Give you this reasoning why.

(Laughter)

I'll give you that, I'll give you the reasoning...

MM: Go ahead.

MW: Behind that. Ah, he has had dealings in Atlantic City. Those dealings are, are being continued at this point. Ah we don't have any real difficulties in doing a gambling situation in Atlantic City, but we do

see a real problem with major hotel construction in Atlantic City.

UM: Okay.

UM: Well I...

MW: Because of what's going on there. I think we're more welcomed in Philly.

MM: Yeah. I do too, because you're in a... there...money's no object. You're deelin' in a, in a, in a, in a, you know a market place where they get money. They got all the money they could ever, you know, the concerns are looking to take Atlantic City over. You got a lot of people involved there that are you know, mafia type, they're involved with a whole different ballgame. The legitimate business and I think that's the direction he has to travel.

MW: Okay.

FH 183-1075
55

MM: Atlantic City, in my opinion... hey it's a great place to go and get involved with it, if you here, established, but to come in you know and try to break in to that kind of a line-up would be difficult.

MM: We've made some deals.

MM: Costly...

Ah obviously you know...

MM: ...(IA)...

MM: You can deal there...

MM: ...You know how we do business...

...(IA)...Up front right?

MM: ...And you can deal there.

...(IA)...Let me assure you, you can deal in Atlantic City...

MM: Right.

MM: Yeah, you know, but ah...

MM: A lot of its been dealt already. Right. We don't find a real problem with what we want to do there. When,

when I was told to come down and negotiate a situation here in Philly, South Philly was pointed out to me because of the fact that a, you have the easiest access to Atlantic City. There's a bridge there, you know... we're not, we're not on side streets, we're on main, thoroughfares. We're on situation. We get to Atlantic City in an hour from South Philly.

We can run ah New York-Vegas style junkets only by limo right to Atlantic City. From a complex, we can take advantage of the sports complex situation you have in South Philly. Right.

UM: ...(IA)...

MW: ...(IA)...Your PICKPOCKET

...(IA)...is there.

UM: Yeah.

MW: Ah

HC: You're speaking to the man

...(IA)...

PE 183-1075
57

MM: We do, we done research. We're not totally naive. I don't know the City of Philadelphia. Take me two blocks from here and I'm lost. Ah I don't particular like the City of Philadelphia, it's not for me. I don't have to be here though.

MM: You don't know...(laughter)

MM: So I don't have to, I don't have to be happy here. There are so many places that I could be happy in, this isn't one of 'em. Ah

MM: You don't know the City. If you knew the City, you would like it.

UM: Yeah.

MM: ...(IA)...
I could take you to right now to a show and club that you, you would think was great. Seriously.

MM: I don't know about that.
(Laughter)...
(...(IA)...)

| | |
|---|---|
| MW: | (IA)...I've conducted good business here in Philadelphia and I'm happy. But how does that sound to ya? |
| BC: | It's unimportant. |
| MW: | ...(IA)...feasibility... I mean the ... |
| MM: | Sure. |
| MW: | Right. You be able to back it. Would that be the type of backing that you would require? |
| MM: | Well that would certainly help me out. |
| MW: | Okay. |
| MM: | Something around that line would... |
| MW: | ...Fine... |
| MM: | Give me some interest in, in particularly my own area. Ah ya know. |
| MW: | That would make you look better? |
| MM: | Absolutely. |
| MW: | ...(IA)...You stand up if this guy happens.. |
| MM: | I would like to, I would ah... |
| MW: | ...(IA)...You're talkin' 30...you know 34.6. A lot of money. |

PH 183-1075
59

NM: Let me say to you. I would like to be in on the, you know be consulted about the, ah the location where you're goin', and so forth, so I could be in from the early stages.

MM: Do you have any properties we...

NM: Help to ah, yeah, I could maybe hald you find some ...(IA)...
See ya talk about excursions to Atlantic City like using that as a convention center or a place, and then you know the the next day after the business is over you head down there for the day and have some kind of an arrangement. Well South Philly it's gotta be the greatest place of all. But I don't mean any kind of action, real action is downtown. You know any kind of gambling or anything like that is (IA...)

MM: ...(IA)...Yep, yep okay.
...(IA)...

MW: What else, what else...

MM: ...(IA)...operation.

MW: Do you envision any other type of business for us in South Philadelphia? This doesn't...(IA)...

MM: I have suggested that dealing with the port ah you know ah...(IA)...

MW: All right. all right.

MM: ...seriously but...

MW: If I could just do that it's...
(clears throat)
(Phone ringing)...
Yes (Answering the phone).

HC: You goin' back tomorrow?

MM: No. We're not we, we don't that's why ...(IA)...we're running late tonight...(IA)...we finished up the ah final day off tomorrow, this session, but we will be back in Monday.

HC: Monday.

UM: Uh huh...(IA)...

MM: Did you take an Allegheny commute today?

HC: Yeah, I've been on that everyday of this week. (IA)

Ex. 9A

PH 183-1075
61

MN: Yeah. It is tough...

HC: ...(IA)...

MN: I was thinking of registration tonight. I was, sat at the airport, for two hours, waitin' on that fuckin' flight and I've come to a conclusion that I ~~sdised this~~ OUGHT TO INTRODUCE legislation that says "if the commuter service has the...(IA)...amount of people, as the customers...

MN: ...(IA)...(In background) Okay right. If you're happy. I'm happy...(IA)...

MN: ...(IA)...Where they could run jets, they must do it.

MN: Okay (in background)...

MN: Now here's my thinking behind it. I didn't do any research. Just, just throwing it out. If you got these little commuters and all these major mishaps that have been occurring in the last couple of years, involve some little craft, off course, running into ah ...

UM: Right.

MM: some big traffic lane...

UM: Yeah.

MM: Now when you got a little commuter that has to go back, ah has to make six or eight trips, 28 people aboard, now ya got, ah to to fill up the capacity of one jet...

UM: I agree.

MM: Imagine the landing and take offs that's involved...

UM: Yeah...

MM: The safety factor.

HC: I, I would love to back that bill Oz.

(laughter)...(IA)...

MM: Yeah.

HC: Oh God...Gee...(IA)...that would take some balls.

MM: That would take some balls...

HC: Yeah...(IA)...I would...

MM: I would at least get that one in...

UM: Ha Ha...

MM: When I talked about the, the limo type situation, on the junket package, inherent in any of that type, ah activity, are certain problems some of them maybe on the state level, some of 'em maybe...

MM: ...Well...

MM: ...Maybe ah...

UM: ...(IA)...

MM: ...Some may be an interstate situation.

BC: Sure will.

MM: Yeah.

BC: I could...

MM: ...(IA)...

Could you help us with that, could you even put me in ah, ah...

MM: I could help you with that...

MM: ...(IA)...

MM: Let me just say this to you. The guy that's gonna be very key in any kind of operation like that, in my opinion, and I'll tell this right now,

is JIMMY FLORIO. He's the Congressman from across the river. Now FLORIO in my opinion, okay, will be the next Governor of New Jersey. That's what I feel about him.

HC: I would hear that, I would think, I've heard differently, okay.

UM: Okay.

HC: That's...

UM: ...Yeah, okay...

MM: Believe me when I tell you that he's got one hell of a shot, takin' that state office for congress...(IA)...

...And he's my very, very close friend. I can assure you that.

MW: Should I have a problem with a limo thing or something...

MM: ...Na, we could handle that...

MW: ...Like that...(IA)...

MM: ...The main thing ...(IA)... that where you gotta...(IA)...union problem, ya know, particularly with

the construction unions here,
building trades, forget that that's,
we can handle that...

MM: Okay. All right, now...

EH: Can I just say one thing?
You know you said before about ah you know..

MM: Port development is something that
I think that ...(IA)...

MM: Yeah, well I'm gonna get into that.

MM: Go ahead.

MM: I'm gonna get into that...

EH: You ah said something before about
mafia type guys in, in Atlantic City.
Would we run into anything like this...

UM: ...(IA)...

EH: Here?...(IA)...

MM: ERNIE hold it. I wanna, I wanna
discuss another situation, which
could...

UM: Uh huh.

MM: ...Go and lend itself to a, it's it's going to bring up a question, a major question, that we're gonna have to deal with. Ah, down the road. Again ah well your city councilman, right, city council seems to be a key here, right...(IA)...Can you help us with city council.

MM: City council.

MW: ...(IA)...

MM: ...(IA)...Let me just say this. City Council, the members of City Council, four of them are in, within my district. ...(IA)...members that are, that are on City Council, elected members, are my close friends. One I helped make. Others I helped remake. Some ...(IA)...

MW: You could call in some chips for us?

MM: I would say I could deliver four or five votes out of the overall council.

MW: Fine. Fine. Okay...

MM: Ya know, ah now I don't mean over some mission that's a mission to nowhere.

MW: Ah yeah...(IA)...

MM: Something that's...

MW: ...Yeah something legitimate up front.

MM: ...Something that you can explain... ha, ha (laughter) that's it.

MW: All right. Ah you're willing to do that for us?

MM: Absolutely.

MW: I, I can go back and say yeah, I met with Mr. MYERS...

MM: I ...(IA)...
Let me just say this to ya...

MW: ...(IA)...And his balls were as big as all outdoors.

MM: ...Right now I have more influence locally than I do in Washington. Because, I'm I'm only new in Washington. I'm only there, I'm in my second term. Now to get the kind of seniority that you need to be, ya know, heavy down

LA 7A

FE 183-1075
68

'ere, ya, your like, ya, you got to be in your six, seventh eighth term before you're really recognized as a leader in Washington, because you have to establish that kind of seniority. Now, a lot of people say that your, you know, seniority is not what it used to be, it's true to a degree, but seniority is still the key. And I know what's happening to me right now. I'm in line to take DAN FLOOD's spot on the appropriations committee. I have the support of the Pennsylvania delegation. It's a Pennsylvania seat. I have TIP O'NEIL on my side. Openly, TIP O'NEIL's on my side. I have GENE RUCK, majority leader on my side. There's 28 members of the ...(IA)... Policy Committee. Out of 28, I got 16 commitments. I don't mean just paper commitments, open commitments ...(IA)...commitments.

Jim Wright

give to the press

MM: Up front commitments.

MM: Ya know...(IA)...
So, ah, it looks to me,
there...(IA)...
...that ah ya know I'll be there
very shortly.

MM: Would it be fair when I go back next
week to report that I met with Mr.
MYERS and he said yes, he has this
influence, etc., and he's willing
to use it?

MM: I'm willin' to use my influence.
The only thing that I can be very
honest with ...(IA)...
and I'll tell ya this up front, I
can't go on a Kamikaze mission.
I won't go on a Kamikaze ...

MM: ...(IA)...
Give you all the facts up front.

MM: Yeah. I won't go on a mission
that there's no return ...(IA)...

Ex. 74



| | |
|---|---|
| | Give me a reason to go, that I can explain and I have no problems...(IA)... |
| MM: | We'll back you up then in other words... |
| MM: | I mean, you know, if I have... |
| MW: | Does the hotel help back you up?... ...(IA)... |
| MM: | ...(IA)... The hotel will be, yes, absolutely. |
| MW: | You get up on the floor ...(IA)...and you say this man put 30, 36 million dollars in my district...(IA)... |
| MM: | You're lucky, you know, what we'll do, when you get ready to roll here, and I'd be, I'll tell you another thing that I like to see you get involved with because I think it would be a natural. And ah, is in Port Development. |
| MW: | All right. |

Lx. 7A



MM: And ah...

MW: Port development is something I want to bring up now. The gentleman...

MM: Everybody's interested in Port Development. We have a need here for Port development.

MW: I'm gonna give you some Port Development or I'm gonna ask you for some help in that direction. When your, when your friend, the other day, mentioned ah, hard coal, Eastern Pennsylvania Coal Region, ah, he doesn't know how close he came to the reason that first brought me here, to Pennsylvania. And ah Pennsylvania was a place I flew over, all right. And the first time I really spent any time here was a few months ago, ah, in, in Schuylkill County.

UM: Uh huh.

MW: Did I say that correctly?

EC: ...(IA)...oh yeah.

MW: Schuylkill County...(IA)...

MW: I mispronounced it a few times and I was told...(IA)...

MM: Skiing in a few months up there...(IA)...

MW: Different place...(IA)...
(laughter)...

MW: Let's put it this way, I think I emerged, the victorious, when I left Schuylkill County.

HC: If you were with the right people...
...(IA)...

MM: Let me tell ya another thing...(IA)...
...Schuylkill County...
I got influence in Schuylkill County, believe it or not. I put six years in Harrisburg, at State Legislature.

HC: Mr...(IA)...

MM: The key, one of the key guys up there is the Democratic Chairman, who is JIM DUGAL(?) Very close friend of mine. Very close friend.

MW: Okay. My time in Schuylkill County was well spent, we have ah enough options. We have enough leases,

petro dollars are limited, a lot more limited than coal. And we have already taken care of ah ourselves when it comes to coal. Okay. I'm not talking about using this coal domestically, I'm talking about taking it from Pennsylvania.

MM: Export.

MW: Out of Pennsylvania. Now, how do I get it out of Pennsylvania.

MM: Only one way, you gotta take it by rail down to a Philadelphia Port and ship it out.

MW: Okay. This is to be shipped Scandinavian areas, parts of Great Britain, and ah, Western Europe in general. I have the commitments already lined up, purchased and I own enough coal, I, we own enough coal...

MM: Now let me just tell ya something about ...port development.

L. 1A



NW: Ah...

How do I get it out of Pennsylvania?

UM: How do we get it out of the United States.

MM: Let me tell ya, Let me tell ya how you do it. One of my closest friends and ...(IA)...this kid, who is the Director of the Philadelphia Port Corporation, he's FRED DEBONA...I played a key part in getting his job in my last administration, but he's a sharp, sharp, guy. Very very sharp.

HC: His father is a Judge.

MM: His father is a Judge in the Court of Common Pleas...(IA)... His father was one of the best criminal lawyers in the country.

HC: ...(IA)...His father was BILL BARRETT's closest friend.

MM: Sharp operation here. Now the guy is, FRED DEBONA, Junior who's the executive director of Philadelphia Port Corporation, which is a, which is a corporation that

is funded, they get a million dollars a year from the state, from Harrisburg, they get a million dollars a year from the City of Philadelphia, to oversee the Port operations. They handle all leases on piers, all renting of space, all new development, all, any kind of a, a PR work that they do business in. Now the, the executive director is my guy. And if you want to move coal, he'll show you how to move coal.

MM: I'm gonna have to move coal.

MM: Okay. We'll take...We'll take you into some spots that can be bought now, can be leased now. We'll rip 'em down and rebuild the facility that's needed. For that, the guy is covered well, believe me when I tell you that.

MM: All right. What is it in...

...(IA)...

What are we talkin'? What's it gonna cost...

MM: Ah, well, let me tell ya what it's gonna cost ya.

MW: What's it gonna cost me in the bag?

MM: All right.

MW: To take care of that situation.

MM: Well.

MW: See, I have ah, I have ah...(IA)...

MM: Well, we, we'll talk about that...ha...

MW: All right. We got to cause, I'm committed in Schuylkill County, I'm committed.

MM: All right. Let me tell ya...

MW: Have enough money, I have enough money already spent...

MM: First of all...

MW: ...(IA)...

MM: I, I, I can't put figures on, well without researchin' I couldn't just quote a figure to ya. I, I, I mean I'd be

lyin' to ya if I did. What we can do, we would have to get ah, first of all, we would have to look over the whole operation as far as what you're lookin' to export. What kind of facility is needed. Ah what we would have to put into develop that facility to, to build it, to, to meet your standards. Then we'd have to, you know, get into a...

MW: ...(IA)...lease it to us?...

MM: Long-time lease.

MW: We'd lease it to you. We'd build it. We'd use city bond money to build it, which would have to be approved by city council and in some cases, the electorate, which we ...(IA).could handle that

UM: Yeah.

MM: You know, it's not that tough...

MW: All right, does that help you on the floor ...(IA)...

MM: Absolutely. Helps me a lot.

MW: Ah...Are we talking in the right ball park now, we comin' up with the right things to...

MM: ...Helps me a lot...

MW: ...To make you look good, if, when, when you introduce this ...(IA)... and it's not matter.

MM: ...(IA)...

MW: ...At this point of, of, if ah...

HC: When, when he has to go to bat...

MW: Mr. MYERS, it's a, it's a when...

HC: Call him OZZIE, please okay.

MW: OZZIE, it's a when ah...

MM: You know...(IA)..., ~~in our field, let me~~... ya know how the private bills work?

MW: To some degree.

MM: Okay. Private bills are not too readily approved. Okay, but they are approved on occasion. But, you know, ah, ah, ah, I and I don't know who were talking about ah but during you know, but if it's if it's a very controversial problem here...

| | | |
|---|---|---|
| MM | : | It's not... |
| MM | : | Okay. Well then, you know ah, and he's he's investing big bucks here. Certainly ah... |
| BC | : | You'll get all ya want. In other words, he'll say...(IA)...this many is creating...(IA)... jobs. |
| MM | : | All right. |
| MM | : | ...(IA)...be more then happy too... |
| MM | : | It's no embarrassment to you, you're not, you're not looking to get the job...(IA)... |
| MM | : | I'm telling you, I, I, I can't go on a mission to, of of no return. |
| MM | : | You don't want to cut your own throat. |
| MM | : | I can't kill myself at this young age. I've got I figure I got two many years left (ha, ha laughter)... |
| MM | : | True. |
| BC | : | ...(IA)...at the beginning of a long great career in politics. |

MM: But you know, I'm I'm you know, I'm ...(IA)...you know... I don't have too many fears. ...(IA)...

MW: Okay, now. In dealing, ah let me give ya a little insight, in, into the sheik. Ah the man is well read. And ah, he enjoys the cinema as well. If he's, if he's in Britain, if he's, if he's a week in London, four night with the cinema, and American ah cinema art is all over the world. He's seen every mafia type movie, the Godfather, the whole thing. He reads them all, and he's paranoid concerning ah the mafia. You'll hear him try to pronounce it, all right. But he is paranoid concerning them. Now we're dealing with docks all right.

MM: ...(IA)...

MW: I am, I am obviously not...

MM: Now let me...

MW: ...you know and I know we have a dock situation.

MM: All right, let me tell you what the story is in Philadelphia.

MM: Do we have that problem?

MM: No. No.

MM: Do we have to deal, I can deal with 'em. I, I don't want to deal...

MM: Let me say to you if ya have to deal with the problem, I can, I can handle that. WHEN: IT WON'T BE A ~~O~~ ~~mafia~~ problem. But you won't have to deal on the docks with that kind of a problem. You got a little bit of a black problem on the docks now. Ah the the old Moslem problem, and they've had some Moslem problems. But again that's not a big problem. We can handle that. Now as far as mafia in this city, the key people here, of course, ANGELO BRUNO is the key.

BC: The number one man.

(telephone ringing)...

| | |
|---|---|
| MM: | Now, he is an old man. |
| MW: | See who that's for... |
| MM: | Okay. He's an old man, but he still respected. Now you got...(IA)... ANTHONY TESTA. You got CHICKIE NARDUCCI, who acts ...(IA)...as one of the mafia ...(IA)... They're more into gambling, they're not into an, kind of real legitimate, they're into a lot of legitimate stuff, but they're thing is gambling...(IA).... |
| MW: | CHARLIE again. |
| UM: | Yeah. |
| MW: | I'm not gonna speak to anyone else. So you get the phone from now on when CHARLIE's callin' Excuse me please. |
| MM: | Go ahead. |
| MW: | Yeah CHARLIE. (answering telephone) |
| EC: | I don't think there'd be any problem with that... ...(IA)... docks...(IA)... |

MM: I can handle the docks. Don't worry about that.

EC: That's his baby, he's a longshoreman.

EH: ...(IA)...

MM: Got 13 years on the job

EH: All I gottin' to say is ah I know that this guy is about ya know and ah he, he doesn't want to get involved with that stuff.

MM: No, he can't. If he came in here and got involved with that kind of an operation that, that would be the biggest reason in the world that he shouldn't come in here.

MW: All right Tuesday...(IA)...

MM: People don't want to hear that...

MW: The dollar figure we talked about is good.
OKAY, VERY GOOD.

MM: You can't get involved with anything even if ya wanted to...

UM: Yeah.

MM: If he does, he's in trouble.

EH: Right.

MW: Okay.

MM: No matter what I say on the floor.

MW: Excuse me, Tuesday'd good, the dollar figure is good, and you'll handle that ...(IA)...

MW: (clears throat)...Ah ah, go ahead... I'm sorry. Ah...

MM: As far as the docks are concerned with any kind of mafia operation in this port, Philadelphia, I can handle all that...(IA)...no problem... Maybe there's some guys that guerrilla suits, we may have to pacify a few people, but that's nothin', nothin' that can't be handled very easily. Very smoothly.

MW: All right you brought up some names. Okay.

MM: Okay. When you talk...

MW: You said they were into gambling. ...(IA)...

MM : Ah when you're talking about Mafia in Philadelphia, ANGELO BRUNO is the kingpin in Philadelphia for years, he's been the boss of any MAFIA operation here. And there's some others, SKINNY RAZOR, who's now big, all downtown, this is all my ward.

MM : ...(IA)...This is all south Philadelphia.

MM : They're in my area.

MC : That's what it is.

MM : Now the key guys today...ANGELO BRUNO with this ah grand jury in New Jersey, he's been in and out of jail. He put, Christ he did four years, one...(IA)... 'cause he won't talk. And ah, he's ah, he's a guy that very senior individual at this point in time. Very sickly ya know, I don't think he'd be lasting much longer. But a good guy. Very, very good guy. The young turks...

MM : Do you understand how a guy like that scares the shelk?

Ex. 7A

PH 183-1075
86

| | |
|---|---|
| MM: | Okay, the young turks that are on the scene is a guy names TONY TESTA, and another guy named CHICKIE NARDUCCI. |
| MW: | What, what's their thing? I mean what... |
| MM: | Their thing is I can handle ah... Now I can't tell ya handle TONY TESTA because I'm not that friendly with him. I know him. He knows me. The kingpin is CHICKIE NARDUCCI. |
| MW: | Can I deal with these people. |
| MM: | ...(IA)... |
| MW: | Can we deal... ...(IA)... |
| MM: | Wait a second. You can deal with them without even being...(IA)... I got that covered. |
| MW: | All right. |
| MM: | ...(IA)... I got...(IA)... |
| MW: | I'll deal with them through you. |
| MM: | You can deal ...(IA)... |

Ex. 7A



UM: ...(IA)...

MM: ...if ya have to...You don't, you don't want to get involved with them.

UM: ...(IA)...

MM: Let me just say this to ya. The worse thing that you could get this individual involved with is any kind of mafia problem.

MW: Yeah.

MM: 'Cause your...(IA)...

MW: I'll tell ya this is why I brought it up.

MM: You don't want anything like that. I don't even want to deal with 'em. I don't, they don't know anything about this...(IA)...
I don't deal with them on a, on a social level or any kind of level. They're my friends and you know from the old days when I was the, know them, I, I wasn't a part of...(IA)...

Ex. 7A



MW: But, if an interest is taken in our operation, right, because I mean, we're dealing...

MM: Any kind of interest, we can handle...

MW: Again, you said their bailiwick is South Philadelphia.

MM: ...(IA)...

MW: ...that's yours as well...

MM: But they, they're bailiwick is ...(IA)...

MW: ...(IA)...hole.

MM: Now they're in here. They're tied into Atlantic City. They're tied in ah throughout the whole, this whole Delaware Valley area. They're into all kinds of slot machines, and gambling operations, all kinds of...

UM: ...(IA)...

MW: I'm not, I'm not a naive individual. You and I had a conversation the other evening and a name came up, Mr. MALNIK.

Ex. 7A



| | |
|---|---|
| HC: | Right. |
| MW: | Okay, concerning a piece of ground here in Philadelphia. |
| HC: | Right. |
| MW: | And, his name, you know, researched, the, the, research that's been done for me, ah you know he, he shows up. |
| HC: | Sure. |
| MW: | Ah I spent some time in in the mountains of Pennsylvania and a... |
| HC: | ...His name showed up. |
| MW: | ...picked up a few things up there... the man... |
| HC: | ...(IA)...he and Mr. PALMER... |
| MW: | with the backing... of some Las Vegas types. |
| UM: | Yeah. |
| MW: | And some Central States Teamsters Pension Fund money. |
| HC: | No question about it. |
| MW: | He may have some situations already in the Poconos. |
| HC: | Certainly. |

Ex. 7A-

PH 183-1075
90

MW: Right.

MM: Let me tell ya something about...

MW: ...So I don't feel, I don't mind being surrounded, if I'm surrounded by friends.

MM: Let me just say something.

HC: You are.

MM: Let me tell ya something about the Poconos. Now, you'll, you'll be and you could relay this. The Poconos of course that section of Pennsylvania which for many years, DAN FLOOD, that's his area. Congressman FLOOD. Wilkes-Barre, you know, and that that general area. All right now, the new guy was down in Washington yesterday. He has just received the nomination from the Democratic Party to run the Special Election for Congress to succeed DAN FLOOD. His name is RACHEL MUSTO, member of the State House of Representatives, State House now. Very close friend of mine. Shared an office with him for two and a half years. Good, good guy and really is the guy in the Poconos who knows

Ex. 7A



what's happening. I got, Poconos covered ...(IA)... and you think I'm kiddin' ya right.

MW: ...(IA)...You tell me ya got the Poconos covered but Mr....

MM: ...(IA)...

MW: Look at my, look at my situation.

MM: Now...(IA)...

MW: I come to Philadelphia as a stranger.

UM: Okay.

MW: ...And I look at a piece of ground and I make a telephone call and I say check it out, and it gets back MALNIK.

HC: Let me tell ya something.

MW: I pick up MALNIK in Florida where I have transactions. I pick up MALNIK.

UM: Ah...

MW: Two months ago...(IA)...

HC: You want to talk to Mr. MALNIK.

MW: I don't want to talk to Mr. MALNIK...(IA)...

HC: Listen to what I'm sayin' to you. You don't have no problems with Mr. MALNIK. Mr. MALNIK and I go back...

Ex. 7A

PH 183-1075
92

MW: Mr. MALNIK's connections scare the man I work for...

HC: ...Okay...

MW: ...And anything that scares him...(IA)...

MM: Now listen to what I'm tellin' you. I'm talkin' about legitimate business, that has a problem with some local municipality up in that part of Pennsylvania. The guy that I'm talkin' about, RAY MUSTO, who you'll see, you'll read his name in the next few weeks, who has been nominated by the Democratic Steering committee to succeed DAN FLOOD, and be the candidate in the Special Election. He was with me yesterday down in Washington. A very good friend of mine, and a good guy. Now, I don't mean guys lookin' to a, yeah, you know, there in somebody's, looking to jump and ah to get himself involved in any kind of an issue, but if you has any kind of legitimate money that wants invest, he's, our friend.

Ex 7A



This is only, I'm talking about zoning problems, local problems. This is the kind of shit that you got to...

MW: Okay.

MM: ...(IA)...

MW: If I go, if the hotel winds up ah and the hotels ah certainty...Hotel/Motel whatever the hell this is, a hotel. Right. A Holiday Inn is a motel. Something in the middle. Okay. Ah if, if we wind up with the thing in South Philadelphia, where that influence is there, there's no doubt about it, I mean this town, it's it's a good town, there's an element here, it's you brought it up, it's been brought up to me. It's, it's been ah, it's been made apparent What do I have to give up? Cigarettes, garbage, you know. These things, things I can live with Right.

MM: Well.

Ex. 7A



MW: What do I have to give up?...

MM: Well, there's a lot of things...

MW: ...'Cause these are questions, these are big questions to him...

MM: Now...Wait a second, you have to...

MW: To me, they're ...(IA)...

MM: First of all, you have to be, any kind help in, in the in the operation, I'm talkin' about the, the janitorial, maid service, all that stuff. You gotta give all that up. That's, you know, it's a set rate on that. The unions will control that. And bartenders, waiters, waitresses, all that's controlled.

MW: I'm talkin' about with the, the type of people you mentioned before. When I say give up...

MM: You, you talkin' about givin' up X amount.

MW: You know, they come in and say any of the people you mentioned before...

UM: Ah no.

MM: I don't think you got that big of a problem.

Ex. 7A



MW: Any of those, any of those representatives come in and say...

MM: Let me just say this...

MW: You're putting a facility here and we own this area or whatever the the pitch is, right.

MM: Yeah, but you not lookin...

MW: That you gotta give up.

MM: No. You're not going to have anybody there takin', takin' action. I mean you're talkin' about, ah, we're talkin' about legitimate stuff here, aren't we?

EC: Sure.

MW: Yeah, But...I mean, he's gonna ask me what do I have to give away and what he means is, if I have to go to a certain insurance firm, to make people down there happy, if I have to use a certain garbage, you know, I'm not municipa. ...(IA)...I gotta, a dumpster...(IA)...

MM: No you can't, they won't, they won't bring it up.

MW: Right, I know. So I've got to go to a contractor. Right.

Ex. 74



MM: Yeah, we...(IA)...

MW: Do I have then to go ah into spec ah a specific contractor, do I have to give up my vending machines, to a certain contractor, that's fine what I mean by give up, What contracts do I have to let to certain...

MM: It's not necessary to the point, depending on how, what, your overall operation on the street, up, hotel operation...

MW: Yeah.

MM: You'll have to give up some stuff you know, not to be harassed with other problems.

MW: Will that keep these people happy to give up those types of concessions.

MM: Absolutely.

MW: Those types of ...(IA)...

MM: Oh sure.

HC: You might have to give up a ...(IA)...

MM: What I'm sayin' it's not gonna be...

Ex 7A



MW: Is that what they're lookin for, I mean ha's gonna ask me what are they lookin' for?

MM: Okay.

UM: Wall to wall...

MW: ...(IA)...Respect...

MM: If he had let me say this to you. As far as givin' up, you know, who hauls the trash or who does this or who has casualty insurance. We can work that, work that out in a way that would be most beneficial to you. Okay. We can handle all that. That's no big problem. Now if you get involved with any kind of a mafia, you know, don't want you comin' in because they want somethin'...(IA) We can handle that. I'm tellin' ya, we can handle it. That's no big thing...

MW: You can take care of it...

MM: I can take care of it...

MW: Okay...

MM: Now if it comes to a point in time

Ex. 9A



where we have to do somethin', I let you know that. I let you know that. I mean, if, you know, I can back people down, with the right kind of ...(IA)..

MW: He doesn't mind spending the money, right... ...(IA)...

HC: When MIKE comes to you and say look...

MM: Let me say this to ya. What I, what you have to do here, ...(IA)...listen to me a minute. You know. This ain't a town that you're gonna get scalped every, avery step of the way.

HC: It's not...

MM: If you got legit, this is a city that needs help. If you got legitimate money and you want to invest it, we'll show you how to invest it. Where you don't have to get sca...every scam artist in the city's gonna look and take a poke at ya. Well, we can back them away. Ya know, if ya want to ah, ah, you don't wanta ah...

MW: There are, in every city ...(IA)...

Ex. 7A



| | |
|---|---|
| MM: | Listen to what I telling you... |
| MW: | ...(IA)...and this city to... |
| MM: | Don't ...(IA)..., |
| MW: | ...(IA)...scam guys...(IA)... |
| MM: | Listen to what I'm tellin' you, don't even, I mean you can say it to me 'cause it won't go any further, but if I was you, I won't even talk about who we had to take care of...(IA)..., that problem arises in this situation, and we will show how to handle it. |
| EC: | Exactly. |
| MW: | ...Okay... |
| MM: | I mean, if you advertise that you you want to come in and invest and ya, who do I see, you know, these fuckin' guys will rip you up in a few seconds. ...(IA)... |
| MW: | HOWARD...(IA)..... HOWARD and I...(IA)... |
| MM: | They'll kill ya... |

Ex. 7A

PH 183-1075
100

MW: HOWARD and I...(IA)...

MM: ...(IA)...need two boat loads of money just to take care of them.

EH: (Laughter) That's why he's here.

MW: HOWARD and I have participated in quite a few conversations with third parties, all right. And it has not come up and I would never mention it. But it is a major concern of the man and he told me directly to mention it to you, because you're the guy...
...(IA)...

MM: Who is this?...

MW: All right...

MM: If you come to this town and you needed guidance, we'll show you how to operate, you know, without no fuckin bullshit. Believe me when I tell ya that. I'll show you what to do. And who to pay and who has to be paid... who you kick in fuckin' ass and tell them to get up the road...

MW: All right.

Ex. 7A



MM: If this, if ya, if you let it out, that you got money to spend every scam artist in the fuckin' country...(IA)...

MW: I know...

MM: ...(IA)...

MW: You two are the only two that I know...(IA)...

MM: Listen to ...(IA)...Don't, Don't let these people bullshit you. ...(IA)... bullshit.

MW: There is an element here that exists that has to be dealt with.

MM: There's an element ...(IA)...

MW: ...(IA)...

That's my point.

MM: I will bring, you, you put a hotel in my district, every one of those elements that has to be dealt with, I'll have them at the fuckin' opening night celebration.

MW: Okay.

MM: That's guest...

MW: All right.

Ex. 7A



MM: Not looking for nothing. Now if it comes somethin' along their way that they're involved with then we'll give it to 'em.

MW: Okay...

MM: Without a question.

MW: Do you think I should meet ah Mr. DEBONA is that it? De, is it...

DEBONA or DEBOMA.

UM: DEBONA

MW: DEBONA, all right.

BC: DEBONA.

MW: Do you think I ought to meet him while I'm in town. Do you think that he and I ought to have ah sit down and come to some arrangement, right now, while I'm here. Because the coal, the coal is not a hypostasis.

MM: Do you know what you're lookin' for?

Ex. 7A



MW: The coal is there! ...(IA)...

MM: Let me ask you this. Do you know what you're lookin' for? Are you prepared to meet with him and, ah...

BC: Be specific...

MM: Be specific and...

MW: I'll tell you exactly how specific I can be...

MM: ...How many square feet...(IA)...

MW: No, but ...(IA)... I can tell him this. I can tell him I have ah, and I can get the figures if I have to, I have X amount...

MM: Well, we need the figures.

MW: ...Of square feet of coal, cubic feet of coal which I have locked firm leases on and I spent a lot of money to do that, and the coal is there...

MM: I'm gonna give you another lease up in.

MW: ...The mining will be started...

MM: Central Pennsylvania, if you're interested. I got some good little

Ex. 7A



information about some area up in, located in Clinton County and Centre County, on some ground up 'ere with some heavy coal in 'ere. Their getting jerked off (IA)... If your interested in that type of coal. Now you're talkin' about anthracite, aren't you?

MW : I'm talkin' about hard coal.

MM : Hard coal.

MW : You see...

MM : You're talkin'...

MW : ...In Europe, in Europe, they have or they are developing the same type...

MM : ...(IA)...

MW : ...of regulations...

MM : ...(IA)...convert it into coke.

MW : ...The few folks yeah. The few folks in D.C. have done us and, and legistate, state legislatures have done right, we have clean air standards, and, and hard coal does burn well. And hard coal is a commodity in Europe.

Ex. 7A



It's a commodity. It sells as a commodity. You know, it doesn't sell, you know, give ya 14 tons, 14 tons, it's like oil. Right? You get it out on the waterways right and I'll set that ship out there ah for a month if I have to, to get the right price and I'll get it. And I'll get, but I need to move it out. And where do I move it out from, if I'm mining it here, I've got to move it out.

HC: ...(IA)...

MW: Delaware Port...

MM: ...(IA)...

Let me just say another thing that, that which you should know now and you should keep in your mind. Philadelphia is a port that you can deal with.

...(IA)...

You go to New York, you goin' to have more fuckin' shakedown artists than you can handle...

UM: ...(IA)...

Ex. 7A



MW: I know a little about New York and I...

UM: ...(IA)...

MW: That's why we're here.

MM: Okay. You make, you can go to New York and you know but you know what's goin to happen there. I mean ah, SCOTTO, I don't know whether he's gonna get any jail but...

HC: Five years he got...

MM: He got five years, but if it ain't SCOTTO, it's gonna be some, somebody else. Everything that happens there, I don't care what you do, is a price on. Here, we're lookin' for the work. Okay. And now you may have to justify a few things with certain groups to make 'em happy and that'd be easy...(IA). I tell you that. And you got to not only ...(IA)... more productive, you know, on a, on a tonage here, our stevedores. Our fuckin' tonage here is, is ah, not, not double

Ex. 7A



the amount but it's about ah, it's about 50 percent more than what New York does an hour. Loading a fuckin' ship. These guys here work, they don't know what, you know, we need...

MW: ...(IA)...

MM: ...the work, I'll be very honest with ya.

MW: Should I meet with Mr. DEBONA while I'm here?

MM: I, I, I could arrange it. How long ya gonna be here?

MW: Well that depends on if I can meet with him. Ah...

MM: When will you be back? See here's what we should do. Let me tell ya what you should do. If you could get your architect or you, whoever you're dealin', the engineers, to develop some kind of a, what is needed (IA)...what you're looking for. Okay. What kind of a facility are you looking

Ex. 9A



to lease, on the years, what kind?

...(IA)...

How long do ya want it? How much, how much coal you're gonna move out of here. What is needed to meet, what ya, you know, what ya need. That's what I got to know. And I can set it up with him and we got some facilities that are now vacant, that we can, you know, get working on, let's get it ready to go.

(Telephone ringing)...

MM: Now you ain't gonna move coal next week, but you may be ready to, to...

MW: ...(IA)...

MM: What kind, what kind of an option do you have? Five, you must remove the coal within five years.

MW: Ah eight point six (8.6).

EH: Hello (answering phone), yeah.

MM: It's a crazy situation, there's even days involved, all right, there's no...

All right, within 8.6 years you must remove the coal. See you're talkin' about

| | | |
|---|---|---|
| MW | : | See 8.6 comes up, ya know, you got days in there too, too... |
| MM | : | Well, let's develop, ah, ah, ah, ah, some location within the city, taking everything into consideration... |
| ER | : | (IA)...in background)... |
| MM | : | What kind of raw services can be provided directly here, okay? |
| ER | : | (IA)... This if for you. |
| MW | : | It is CHARLES? |
| ER | : | No, it's someone else... |
| MW | : | Hello...(IA)... |
| MM | : | You need a little bit more on that trip boss, bossman... |
| BC | : | Get the two mustaches. You look good in it. OZ (IA)... It really does. It's looks, very becoming on ya. It's not becoming on everybody...(IA)...It really does look good on ya. |
| MW | : | OK. (IA)..handle that tomorrow morning... No...(IA)... |

Okay. We'll handle that tomorrow morning early? ...(IA)...Okay...(IA)...All right (clears throat)...I'm here for one purpose. The other gentlemen do things differently or do different things than I do. Ah, titles impress ah the individual I work for. I have a title, all right, I just expedite things. Okay. I'm not gonna be involved all right in this hotel/motel...-...motel, nor will I be involved anymore at, at this point with ah coal. These are things that I I really have no background in and no interest in.

MM : That's what...

MW : Ya know...

MM : I'm sayin' to you...(IA)...

MW : I'm involved in takin' care of people up front. I, I'm gonna be very....

Ex. 7A

PH 183-1075
111

MM: Now, that's what I gotta know...

MM: ...See 'cause I, I...

MM: You know straight, that's, that's where I...(IA)...

MM: Before I set you up with a, with a guy who's gonna look to develop a location, export spot. Now I liked to get involved more with the people that's involved in that line, and ...(IA)... firm, I set the games up...

MW: That's, that's ah, that's down the road a short period of time, down the road, but it's down the road. Ah, I came here with the express purpose of makin' sure that municipal government was very friendly towards us in construction of this hotel. Be it the sité, a site here in Center City or be it a site in South Philadelphia, the City Council is friendly to us.

MM : City Council...

MW : Okay. All right. You mentioned four individuals that you have connections with yourself...

MM : Yeah, that's right.

MW : ...in South Philadelphia ah...

MM : That's that very easy...

MW : Okay, I mean...

MM : That's firm...

MW : There's enough influence on your side in City Council, an individual that I've already dealt with that, you know I don't have a problem there. Right. Those zoning things are taken care of.

UM : Right.

MW : Let me, let me explain...

MM : ...(IA)...

MW : The dialogue that I will have when I return...

MM : See, this FREDDY DEBONA, who I'm gonna ah, that you're gonna

Ex. 7A



meet is now the Director of Port Corporation. He is the former Director.

BC: ...Director...

MM: ...of the zoning board...

BC: ...former chairman of the zoning board.

MW: That's nice, that's nice, okay.

MM: And there's the operation in and out...

MW: Yeah.

MW: But understand...

MM: And I hope ya do, you know, good guy my close associate...

MW: Understand my role, right, I'm not a technical...

MM: Yeah.

MW: ...individual, right. I'm not those are not my things. Okay. I come in and I talk to an individual and I become friendly. Ah we we strike an agreement and I go home and I'm happy. When I, let me give a short, ah ...(IA)...of what my dialogue would be when I go back. All right, and that will be who did you meet. Okay.

Ex. 7A



Yours was the only name mentioned up front by him. Please see him while you're there. Like who did you meet? What are they're titles? All right. Are they friendly to us? And what can they do? What type of, ah, friendship do you have? What can they do for me when I come over? Ah, or, or we gonna, am I gonna come over there and have problems? All right.

MM: You just say this, see this, Philadelphia is a is basically a labor town, okay, it's a labor town. This city I would classify as a labor town. We have a lot of respect in the building and construction industry in this city. The building and construction trade unions are probably the most strenuous union group in this city. Okay. Teamsters have a lot of influence but the building and construction ... (INT). Teamsters

Ex. 7A



is the, is the strongest. No question about that. They have one of their great leaders is their workers ah leader, JOHN MC COULLOUGH who, next Tuesday, I'll be having a fundraiser at Palumbos. He will be sitting probably next to me at, at a table. Okay. I mean, I got all that shit covered. Ya know these guys are not lookin' to rob anybody, not lookin' to shake anybody, they want the work, we need the work and we make it, here and there. We have some problems with various contractors and they have some problems, that we can work out.

...(IA)...

EN: I guess that's what he sayin' like a guy like DEBONA. Would he have to be takin' care of ...(IA)...up front? Or would...

Ex. 7A



| | |
|---|---|
| MW: | ...(IA)... |
| EH: | He be just happy enough... |
| MW: | I'm goin' to Montreal...(IA)... |
| EH: | ...To be, to be just happy enough to have the work for the people here. Do we have to see him up front? |
| MM: | Well ...(IA)... |
| MW: | I'll take care of it if it's necessary. The man ...(IA)... |
| MM: | Let me talk, well ...(IA)... |
| MW: | It can be handled? |
| MM: | I would have to talk to him about money. |
| MW: | It can be handled. |
| MM: | Yeah, it's an old story money talks and bullshit walks. |
| MM: | Ya know...(IA)... |
| MW: | It's appropriate. It's appropriate. I'm, I'm goin' to Montreal. All right. |

Ex. 7A



MM: Let me, just say, tell ya one thing one guy that isn't take care of is me. (odd sound) 'Cause I got screwed on the, on the last time I meet somebody.

EH: Well you're happy...

MW: Ya did...

EH: ...With the arrangement that we have so far?

MM: Well, I, I'm the guy that got screwed last time.

EC: There was a misunderstanding.

MW: Well tell me. Tell me about it. This is the first, this is news to me.

MM: Ya know I'm.

MW: ...(IA)..

MM: No, seriously I mean, ya know...

EC: No, let me explain that to ya, okay?

MM: ...(IA)...

MW: I know only what told.

Ex. 9A

PH 183-1075
118

| | |
|---|---|
| HC: | Go ahead...Let me hear what you were told. |
| MW: | No, you tell me, right, because if I got a problem on, on, on, on you tell me about it. |
| EH: | Yeah, O2 ...(IA)... |
| MW: | What's the problem. |
| EH: | You tell us. |
| MW: | 'Cause we'll get it worked out quickly. |
| MM: | I I was supposed to go up to New York, North Jersey, New York, whatever you want to call it, and meet with various people. And some people didn't show, am I, am I correct? |
| HC: | Correct. |
| MM: | And ah I was supposed to ah, the end of the day, be ah, ah be 25 ah times ah happier than what I was when I went there. And I wasn't when I returned to my own city. |

Ex. 7A



BC: ...(IA)... There was a regional transaction that was told through a various source was that there was to be a number, okay. Ah, when they came out...

UM: ...(IA)...

BC: ...of the meeting the number was half of what it was supposed to be.

MM: ...(IA)...I don't, see this is the, this is the...

UM: ...(IA)...

MM: Let me just say this to ya.

BC: ...(IA)...

MM: Were you there?

EB: No, I wasn't there. I was there not not listening to anything I ...(IA)...was downstairs.

MM: Let me just say this to you.

EB: I remember you being at the airport.

MM: All right. I was at the airport and I meet, ya know, the various people

Ex 7A



and I, I only came there because I had confidence in the people that brought me there. I've knowed them all awhile ya know.

UM : ...(IA)...

MM : I'm not, not a goddamn idiot. Ya know. Ya know, it's a...

UM : ...(IA)...

MM : What happened that day I was very very disappointed and ah I'll be very honest with ya. Now I heer all these big figures that you're investing 34 million, 50 million, 400 million...Everyone is talking about these (IA)...millions (ha-laughter) I like all that. I like to hear it. And I willin', ya know, I'm a little ah.

MW : I, I'm a little shocked here. All right.

MM : ...(IA)...I'm tellin' ya facts.

MW : I'm...

Ex. 7A



MM: Now let me just say this to ya. I went back to my home city with $15,000 in my pocket and ya know, I...

MW: You, wait a minute...

MM: I went up there with a different impression.

MW: You came back with $15,000.

MM: That's exactly right.

EH: Weren't you given an envelope.

MM: Yeah I was given an envelope.

MW: I was lead to believe that you were taken care of in the sum that was much greater than...

BC: How much were you led to believe?

MW: $50,000.

BC: We were...

MM: See that's not true.

BC: We were led to believe that there was to be 100. Okay.

MW: I was told that you personally, all right, up front, before we have any transactions, ya know, before we get down the line, all right was $50,000.

Ex. 7A

PH 183-1075
122

| | |
|---|---|
| MM: | ...(IA)... |
| | Now I'm telling you what the facts are |
| | now. Ya know I... |
| EH: | Of the 50,000 you only received |
| | 15,000. |
| MM: | I got 15,000. |
| EH: | Well I thought it was ah ~~BW~~. FIVE-O |
| ~~UM~~: HC: | ...Wrong. |
| MM: | I'm tellin' you what the facts are |
| | I'm, ya know, I'm willin' to get |
| | involved, ya know, and I'm interested |
| | in business for the city. |
| MW: | I am little embarrassed over that. |
| MM: | Well, I'm tellin' you facts, okay. |
| UM: | ...(IA)... |
| MM: | So I, I just want to bring that up |
| | because I mean it's important to bring out. |
| EH: | We thought it was just 50... |
| MM: | Well ya, ya know what the problem is |
| | here. I mean, I meet you gentlemen in |
| | your operation, through other people. |
| | Okay. So I don't, ya know, and the people |

Ex. 7A



that I met you through are very good people, very standup...I won't even be here.

MW: Well, that's how we do business.

HC: Right...

MM: Okay.

HC: Exactly.

MM: Because how would be...

MW: HOWARD has been dealin' it. HOWARD has...(IA)

MM: But, the point I'm making to you, ya know, if ah, if I'm to get involved and I'm, I, I want to get involved, you can show me a legitimate way where you want to come into my district and invest ...(IA)...
Didn't I just do that?
You did it okay.

MW: And that's ...(IA)...

MM: I'm, I'm not lookin' to really put a hurtin' on anybody. I'm tellin' ya facts.

Ex. 7A



MW: What do I owe ya? Let's get down to...

MM: Let me say this to ya. Now, I was a little hurt that day because I'm, I'm a guy that's as, look come up there and I was given ya know a, a figure that I was supposed to come up and I was led to believe that ah, all this is ah, you know, people wanta invest, they want help in the Congress, we know the kind of guy you are, we know ya don't know that they, they know their own fucking guy, ah that I'm guy that I don't give a fuck what anybody says when it comes time to do something ya know.

HC: You'll stand up...

MM: I'll be the guy to do it. You, ya follow what I'm sayin' to ya.

MW: I auth...I authorized $50,000. Now I'm gonna find that other 35. That's my problem, and that's... What do I owe you. I owe you $35,000.

Ex. 7A



MM: Well, I'm a lit...I, I don't want to say ya owe me 35 or anything like that but ya know...

MW: I authorized 50 thou. Is that what you expected?

MM: Well, I ...(IA)...

MW: And you ended up with 15?

EH: He says a 100.

MM: Well ya know, I was, I was under the impression there was so much more money involved, now I'm tellin' ya, I, I went up there with a different impression. Now I, ...(IA)... I'm not gonna, I came back home and I had so much in an envelope.

MW: All right.

MM: Okay. Now, it, ya know, what am I gonna do? Ah I mean I just...

MW: Well, you're talkin' to the right guy...

MM: Chalked it up as experience.

MW: You're talkin' to the right guy about it.

MM: Well...

MW: Ah...

MM: I just chalked it up as experience,

Ex. 7A



ya know, I figure well...

MW: ...(IA)...'Cause we, we don't do business that way.

...(IA)...

MM: Well, what I should have do, I'm not. Who am I goin' to complain to, ah, I mean my congressman.

MW: Well, that's true. That's true. (Ha Ha laughter)...

MW: Ha...Ya don't, ya don't go to ah ...(IA)...

(laughter) ...IA...

All right. Ah...

MM: And that's a fact...

MW: It'll be rectified...

MM: ...he'll tell ya...

MW: And that will be rectified. And I, I got credibility with HOWARD because I ...(IA)...don't deal that way.

HC: Ain't no question about it.

MM: I didn't think it's true. I mean everybody's it...

MW: Nobody gets cheated, nobody gets cheated.

MM: Listen to what I'm sayin' to ya now.

Ex. 7A

FH 183-1075
127

MM: Listen to what I'm sayin' to ya now.
I go up there to talk to the Chase
Manhattan ...(IA)...400 million , ya know,
people want to invest in
American business. Ya know, get into
the shipping business, oil, coal. That's
ah ya know, there's one on every street
in the Delaware Valley. And there's
just me. You know, all this money, I
think, what the fuck, you got all this
money, man I guess that's bulishit
I, I thought it was bullshit all
this money. You're talkin' that
kind of money ...(IA)...what the fuck.
If you, if you got to give a guy a few bucks
to get him involved, ya know, ya ain't
gonna, ya, ah, whosé gonna hedge at at
at that kind ah there's no limits
is it? I mean I mean that's the way
I feel about it.

MM: ...(IA)...problem. My friend.

MM: I mean if somebody's lookin' at,
now I don't know and I cert, I'm sayin'
this in front of ya now...

MM: ...(IA)...

Ex. 7A



MM: Because I want it aired out completely.

HC: Exactly...

MM: And I don't want no, I don't like...

HC: We were together...

MM: Whatever I do, I'll do up front
I don't need nobody talkin' for me
or nobody makin' a deal for me

MW: "Let's put it up front. The note was
supposed to be a 100.

MM: The note was supposed to be a 100. I was
supposed to walk away with 50.

HC: 50.

MM: I came home with 15. Now when I went
up there, I met people, they didn't
know what, they didn't really know anything
about Congress or know anything about
investing money in the Delaware Valley or
anything about Port operation, anything
about New York or Scotto or the guys that
are involved there, or anything about any
of that, ya know. And I just, ya know, I
know all about that. I've been down that
road many times. I know all about that
shit.

Ex. 7A

FH 183-1075

129

MM: I mean that's my...

MM: ...(IA)...

MM: ...end of it...

MM: That's right. That's why we that's why we expected to deal with ya. But I'm not happy, if you're not happy.

MM: Well (IA)...

MM: ...and obviously...

MM: ...(IA)...

MM: There's reason to be happy...

MM: Well...

MM: ...and you walked away with less than half of what you ah expected or a third...(IA)...

MM: Now what...

MM: ...of less than a third.

MM: What would you think, I mean. Think about it yourself...(IA)...I mean ya know I figured well ya know I don't know whether it's a fuckin' scam, all ...(IA)... is a few in the middle that shakin' somebody el down...quotin' shit. I don't know any of this and...

MM: I'll take care of...(IA)...

MM: I don't expect to...

Ex. 7A



| | |
|---|---|
| MW: | I'll take care of those problems. 'Cause if those problems exist... |
| MM: | ...(IA)... |
| MW: | They're my problems all right. |
| MM: | Let me say somethin'... |
| MW: | ...and they will be handled. Now you got 35 comin'. |
| MM: | Okay. |
| MW: | Period. That's the bottom line. And that's what counts. That's what you got comin' to ya. |
| MM: | Well. |
| MW: | All right. |
| MM: | The point I'm tryin' to make here is that you know I'm not the, the type of guy that's lookin' to blow whistles I could care less if somebody out slipped me while I'm, I ain't the first fuckin' time I've been out slipped believe me, I'll tell ya. |

Ex. 7A



And it won't, the last, I can assure you (laughter). But when it comes to down to doing business in this town. Now I'm not sayin' I can go in and say BILL GREEN you're goin' to do this or do that, I can't do that. BILL GREEN's my close friend and very close associate. But when you deal with the key people in this city, I can use a lot of influence to help you. Now if you give me reason, I got the fuckin' balls...

MW: Okay.

MW: ...enough to do whatever has to be done in Congress.

MW: All right. When I'm tellin' you about ...(IA)...

MW: And I can't, I'm not...

UM: ...(IA)...

MW: ...on a fuckin mission. Well one ...(IA)...I'll tell ya, I like girls, I like to fuckin' gamble, that's one reason (Ha Ha laughter)...

Ex.



MW: That's a good reason

MM: Laughter.

MW: That's two good reasons. Ah you got 35 comin'.

MM: All right.

MW: All right. And that's that's a statement of fact. All right. 'Cause I'm gonna take what you said.. Why didn't you bring this up?

HC: Because of my reasons...(IA)...to bring it up.

MW: All right then you're right.

HC: Okay, I don't ah...(IA)...Okay

MW: ...(IA)...I'm glad ya brought it up. I'm glad ya brought it up. Ah that'll be handled.

MM: Well I'm only sayin' to you...

MW: That's...

MM: ...you know, I felt a little hurt about it, hurt to a degree that I was misled. I, I mean, I made the trip on the agreement,

Ex. 7A



EH: I know but who do you think misled you. You think ah...

MM: I don't really know. Now I dealt through HOW...HOWARD and HOWARD...

EH: HOWARD, who do you think misled you?

MM: ...and other people.

HC: Well, it's a I think it was a lot of ah originally the number was 100.

EH: Yeah.

MM: Okay.

EH: Well you know who we're dealin with right?

HC: Exactly.

EH: Okay.

HC: Well, I didn't at that time... Let me tell ya, it was my first, ya know transaction. I didn't have...

MM: HOWARD how much...

UM: Well you'll have to speak up.

MM: You have a great deal of money transacted here.

HC: No question about it.

Ex. 7A



MW: All right. Is this the only problem I got?

HC: It's the only problem you have. The only problem...(IA)...

MW: All right. We don't have a problem anywhere else?

UM: ...(IA)...

HC: Nowhere else. It was the first time, it was a fuck up from the beginning, okay.

MW: Yeah. But everything else is cool...I mean

UM: ...(IA)...

MW: I, I don't want any problems tomorrow morning.

HC: You don't have no problems.

MM: Ah, it seems to me that ya know, ya know I could be very helpful to you ya know getting other people who are really interested in in helpin' you. Ah, you know when I, when this happened to me, okay...

MW: I, I, apprec...

MM: I backed off.

Ex. 7A

PB 183-1075
135

MW: I appreciate your feelings,...

MM: I didn't even, I didn't, now I'm bain', bain' hon, well I, I know what's goin' on which ya. I'm gonna tell ya how I feel. Now one thing about me, you'll know where the fuck I comin' from, from day one. 'Cause I'm not gonna screw with ya.

HC: Amen.

DM: All right.

MW: Supposing...

MM: Ya know, I may not, and I'm not gonna bullshit ya either. I'm not gonna say look, ya meet me tomorrow and I got this taken care of and I'll have the mayor ...(IA)...I'm not gonna kid ya. If the mayor ~~is there~~ AIN'T THERE... (telephone ringing)... I'll tell ya from day one. He's not there. He's against ya. And what could we do to try (telephone ringing) to get him with us. Then we'll do that.

Ex. 7A



| | |
|---|---|
| | Ain't that the way you want to deal? |
| EH: | Yeah. |
| MM: | I mean, let me be clear on how youns want a deal |
| EH: | Yeah. We thought...(IA)... everything was fine with that ah business at the the airport. |
| MM: | Well... |
| MW: | Uh huh (in background)... |
| UM: | (hugh)... |
| HC: | I'm glad you brought it up... |
| MM: | Listen if I'm gettin' robbed, everybody ...(IA)...gonna end up gettin' in our hair.. |
| HC: | Ah absolutely pal...(IA)... ...by the way they're going to do business. |
| MM: | Now you got 15 and I'm not...(IA)... |
| HC: | ...that's why... |
| MM: | ...don't want to hear about that... |
| HC: | See nobody knows about this deal tonight, not even our other friend. |
| MM: | Now, that's okay, I mean, I don't want everybody knowin' about my business... ...(IA)... |
| HC: | ...(IA)...I didn't even tell him that I really talked to you about it... |
| MM: | [illegible] |

Ex. 7A



| | |
|---|---|
| KC: | Normally, I would have him call ya, okay, but I didn't ...(IA). Fuck that ...and call ya direct. |
| MM: | ...(IA)... |
| KC: | Right. |
| MW: | You were promised 50, soon as I can put it together, you got 35 comin'... |
| MM: | ...(IA)... |
| MW: | Okay. Bottom line, let's forget that situation, all right and that handles the situa...that handles the the immigration situraliza...ah, situation...a bill the whole thing...I'll back you up with the properties, we can work that out... |
| UM: | ...(IA)... |
| MW: | We can work that out very quickly all right. Let's talk about the cash. Let's finish it up. Right now, 'cause I'm pissed. |
| UM: | Yeah. |
| UM: | I understand. |
| MW: | You got 35 comin', I'll put it together. What are we talkin' about, |

Ex. 7A



all right, let's do it all at once...

UM: ...(IA)...

MW: What are we talkin' about for you to use, all right, the influence we talked about that you have in city government, all right, on the docks and with any organized type criminal enterprise problem I might have in the future. All right.

UM: ...(IA)...

MW: Give me a figure right now, you got one package...

MM: I would say that if you want, if you, if you got, now now I don't know what you're down so far as far as developing a plan who your architect is, what kind of land you're looking to acquire.

MW: The, the land is negotiable.

MM: Ah where was it located by...

MW: The land is negotiable...There's a site we have interest in in center city, all right?...Ah...

MM: Here's the thing...

Ex. 7A



MW: But...

MM: We not gonna have...

MW: South Philadelphia, if it, the main problem is the immigration, you realize that...

MM: Okay absolutely.

MW: Getting the man here.

MM: Ya know I, I realize that...

MW: Okay, If the thing should be in South Philadelphia, well then it'll be in South Philadelphia, okay...

MM: Okay...Let me just say this to ya...(IA)...

MW: I've been led to believe that there are parcels of land...

MM: All right, let me say this to ya...

MW: ...in South Philadelphia.

MM: There is a, there is a, there is currently a, a vacant building in my area that is already built. Okay, it was built for the purpose of being a motel/hotel operation.

HC: A Holiday Inn.

MM: It's vacant...

Ex. 7A



HC: You know where it is?

MM: Up for sale...

MW: I understand, yeah...

MM: Bad area.

HC: Bad area...

MM: But it's the kind of thing that even, ya know, you offer it up, ya know, they're tryin' to get somebody else to take it up...

HC: The people...

MM: And I can explore that and you can pick it up cheap. I'm lookin' to save ya money...

MW: I'm not lookin' to save a dime...

MM: Well I'm lookin' to save...

MW: I'm...

MM: Ah (IA)...listen to what I'm tellin' ya now.

EH: I think this package...(IA)...

MM: I'm lookin' to, we could, we can put together a package cheaper and we can get, instead of givin' it to the contractors, we can ah, split somethin'. I don't know, ya know, I mean, am I free to talk here...(IA)...

Ex. 7A



BC: Lay it on the table...

MM: I don't want to save nothin' either. Now I ain't lookin' to save somebody else's money...

MW: ...Fine

MM: But my own (laughter)... But we might be able to put somethin' together a lot cheaper than what we was talkin' about...

MW: Okay, I am going to Montreal this weekend and then I'm flying overseas. And then, I'll be back as soon as possible. The conversation I'm gonna have with the man all right relates to certain key topics. It's gonna be a very short, sweet conversation, because you sit with a man for five hours and 22 minutes of it, all right, is business. All right and three and a half hours of it is fun ya know, it's pleasantries, because that's how business is conducted. In those 22 minutes, I cover city council and a lot of things on what I've done. Your name will come up

Ex. 71



ah there's no way in the world I'm gonna tell him about that problem that we discussed before. Ah I'll take care of that myself...(IA)... There's no longer a ~~[illegible]~~ problem you gotta...

UM: Okay...

MW: ...guarantee. You gotta 100 percent guarantee...

...(IA)...

MM: ...(IA)...

Now let me just say this to you. ...(IA)... Ya know, I'm the type of guy that if I'm on a mission, okay, let's say I got to go deal with some mafia operation downtown. Say we got a little problem about some horseshit, whatever it may be. Somethin' that really shouldn't even relate to the individual who we're talkin' about. Okay. Now when I go down there and I say look, what's the problem, what does it take to straighten it out. Now I can't ah I mean my name is is very important down there and ya know my friendship is even more important. Now when I go back, I can

go back and say look ah well I made the deal but ah here's half the...(IA)... action. I'd be in the fuckin' river the same night. I can't operate like that. I gotta know what I'm talkin' about. I gotta be specific. Very specific on the way I deal. Now I don't wanta die at this young fuckin' age...(IA)... good reason. I'm after a good fuckin' reason....(IA)...

MW : You have some of the same fears that he has...

UM : See...

MW : Okay.

UM : Uh-huh.

MM : Well...

MW : ...(IA)...

MM : If you say to me all right look you gotta problem here with the cigarettes. Go down and we'll make a deal, we'll resolve it for 10, 15,000. See what you can do. I'll do that...

MW : Fine, that's what I'm talkin' about...

Ex. 7A



MM: All right. I'll do that. But I don't want to go down there and then when I'll meet ya tonight, and someone shows up and gives me 3,000, then I have to try to fuckin' negotiate and save my own skin...

MW: No problem.

MM: I don't wanta operate like that...

MW: You won't operate like that...

EH: You know...(IA)...it won't happen.

MM: But that...

MW: Okay...

MM: ...is the way. Well that was my own experience, that's why I'm bringing this shit up.

MW: I can go back...

MM: And I don't want to have to operate if I have to operate like that.

EH: I don't blame ya OZZIE.

MM: I mean what the fuck, I'm not, not gettin' shot over somebody I don't even know.

MW: ...(IA)...you're right...

Ex 7A



| | |
|---|---|
| | OZZIE I can go back there and tell them that that... |
| MM: | 'Cause they're figuring I'm fuckin'... scamin' off the top. Ya know, and I'm not... |
| MW: | ...(IA)...Listen to me for a minute. If the immigration situation is handled right? 'Cause I'm gonna finish up... Handled to...I, I don't ...(IA)... make it clear... |
| MM: | Though I, I, I, I'm not kiddin' nobody ya know, for any amount of money. I can't just say, ya know we're in here... |
| MW: | Mr. ...(IA)...allright Congressman MYERS... |
| MM: | Now I want to be clear on it. |
| MW: | ...is goin' to try as hard as he possibly can, he's in your corner anything he can do he will do. |
| MM: | Now that's you can say that. |
| MW: | Fine. That's all I need to say. |
| MM: | And give me a reason. |
| MW: | All right. Number two right. |

Ex 71



MM: Other than, ya know a a reason that ...(IA)... what the hell why are you interested... what are you gettin' a kickback...

MW: No, that's what I'm talkin' about, number two.

MM: Give me a reason. Somethin that I got some money in my district...

MW: ...Your hotel...

MM: ...(IA)...where, hey this guy is investing bucks...

EH: Well he's givin you a reason.

MW: You got a hotel...

MM: ...(IA)...You see what I'm sayin' to ya...

EH: Yeah sure...

MM: Give me a reason and I'm there...

MW: All right. Based on those facts that you're gonna use your influence...

MM: Don't forget about what I told ya about that English language, it's very important...

MW: Okay, that's...(IA)...

MM: State Department told me that...

MW: Number two...

Ex 14

PH 183-1075
147

MM: Get a tutor, get...(IA)..

MW: All right. You can help use your influence with the, at least with the four city council members in your district.

HC: And..(IA)... everybody else included?

MW: And everybody else.

MW: You can use your...

MM: ...listen...

MW: ...influence in city council for whatever benefits...

MM: See, ah, listen to what I'm tellin' ya...

MW: ...him in the construction...

MM: ...City Council, now I, I I don't, ya know, I can't say I got every city council member, city council we can handle. ~~We got~~ Forget city council. Those that we can't handle, we can buy. So don't worry about city council.

MW: All right. GEORGE has given me a little or or ah HOWARD has given me a little

Ex. 7A



education concerning city council and a a lot of names have come and so forth. who are those four that you're talkin' about?

MM: ANN VERNA, JIMMY TAYOUN, FRANNY RAFFERTY and AL PEARLMAN.

MW: Okay. Those are yours. You, I have no problem with that.

MM: No problem whatsoever.

MW: I go back and tell him fine. You'll use your influence, your office...

MM: Use my influence, my office and my personal friendship...

MW: Okay...

MM: With these people...

MW: They'll go all the way...(IA)...

MM: They'll go all the way and...

MW: ...And so forth)...

MM: Everyones that we can't get I'll ah I mean I could go on and tell ya. I be glad....

HC: He might have another guy that we...(IA)

MM: I got Lucien Blackwell...

Ex. 7A



| | |
|---|---|
| HC: | My guy. |
| MM: | Oh, LOU JOHANSEN, forget it. I mean, he's ours automatically. |
| MW: | Okay. |
| MM: | ...And... |
| MW: | The big ...(IA)...and his last question and the bottom line, and he'll do it very dramatically. All right, is what do I deal with, how do I deal with the mafia. ...(IA)... |
| MM: | Ya deal with the mafia through...(IA)... ...we'll keep it very quiet. You'll deal strictly through me. |
| MW: | Fine. And you can handle those matters for me. |
| MM: | I can handle...(IA) |
| MW: | I can tell him those, all those points were covered with you. I'm not gonna mention to him this other problem we had fine. Now... |
| MM: | You can handle... |
| MW: | ...To be able to tell him, all right, those things, all right. We still... |
| MM: | ...(IA)... |

MW: ...have the other matter, what do I owe you at that point. You were dealt with before on one thing, right...that immigration thing. Now I'm talkin' about three or four other things right. Three or four other...(IA)...

MM: ...(IA)...

MW: ...possibilities. Things I need help with, Things he needs help with.

MM: But I would say just, you know, it's here's the, now...

MW: Don't, don't, don't be embarrassed ...(IA)...

MM: I'm not embarrassed...

MW: ...(IA)...figures, all right.

MM: Okay.

MW: Give me a figure...

MM: If you want to ah throw another 50,000 in are, and if you want me to spread it out and wind things up, I'll do it.

MW: That's your, that's your pick, right.

MM: Ah, let me just say this to ya. The thing with me and and I'm gonna be

Ex 70



very...I, I want to be up front, okay. I'm not kiddin' nobody. I'm not tryin' to shake anybody down. If you want somethin done in city council, if you come to me with a proposal and say what does it take to get this enacted into law. Now I can't guarantee that the mayor will sign it. Okay. I could never guarantee that, I mean if it's a legitimate thing, investment of money, zoning, anything like that, you ...(IA)... simple shit. We can handle that for a few bucks.

MW: Fine.

MM: If necessary...

MW: It's...'Cause it's legit, these are legitimate businesses. I'm not comin in...

MM: Okay...

MW: ...(IA)...

MM: What I'm sayin' to ya, city council, if you got something I don't, if I don't I, I, I could, I don't care what it really is, you can, you can basically handle it, I'm tellin' you. Now I

can't put a dollar figure on every, like, like tonight. I, I just can't do that. If you want me to...

MW: What's it take to make you happy... forget them?

MM: ...do somethin...

MW: Forget what we have to comin' later on. I deal with that as it comes. All right.

MM: Well ah, let me just say this to ya. What would it take to make me happy is...

MW: ...in those other fields, because the other thing is...

MM: Well, I'm talkin' about, see I thought that I should had 50 grand that day.

MW: All right. For this ...(XA)...

EH: 35 you got coming.

MM: 35, yeah, I should, I should have comin.

MW : All right. And add the rest for those other, those other things we talked about...

MM : Well, if want me to spread some...

MW : And...(IA)...

MM : other money...(IA)...around...now and you know, I, I don't what ya, you tell me what ya want me to do.

MW : Okay.

MM : Now if ya want me to get involved...

MW : No...

MM : ...with city council and line up guys that have been...(IA)... automatically on your side...

MW : When a vote comes, right...

MM : Ya tell me that...

MW : ...When and if a vote comes, you use all the influence you have and the power of your office to help away city council if we have vote situation problems. Okay? Number one. Number two, you help us ah with any type of ah, ah labor ah city government, whatever, port authority,

this type of thing. Number two.
All right, just a commitment, right.
That you can do this, you'll help us,
you'll give us your best shot.

MM: Absolutely.

MW: Number three. And that's all anybody
can ask for in any type of situation.

MM: Best shot we have...

MW: ...All right, and number...

MM: ...is with Port Development. We're so
hungry for Port Development.

MW: And number three right, if we gotta
deal with mafia situations, right, that
you can intercede...

MM: I'll handle that...

MW: ...And use your good graces, and what
have ya, and tell us how to handle it.

MM: I will...

MW: All right...

MM: Handle that and, that...

MW: ...insight...

MM: ...will strictly be money deal, clear.

MW: Fine. That's okay. Now, so I'm not
talkin' about...

EH: The money comes from him.

MW: Right.

EH: ...And to you.

MW: I'm not talkin' about spreadin' money around down there because when it has to be spread around, you got it ...(IA)... right?

MM: I'm tellin' you this, ya know, I and ah believe me when I tell you this, I'm not a, I'm not a ...(IR)...man, but I'm, I'm lookin' to be, lay the cards on the table. Is that what ya, is this what you're lookin' for?...

MW: Exactly. For those three points.

MM: Now, ain't that the way we deal.

HC: Exactly right.

MW: You were dealt with before...

MM: Now I'm, I'm not gonna tell ya I need ah 8 million dollars before I, I mean, I mean I, ya know, I don't operate like that. I'm gonna tell ya how ya can do business, and if you, if you, you show me that you guys are reasonable guys, and

ya know, I'm not lookin' for a jackpot ...(IA)...or nothin'...Now I'm talkin' with ya 'cause we gotta friend here, and I don't expect any tapes to be runnin' there. And I won't be talkin' if it wasn't, if I don't know you guys, but I, he's here, so I'm talkin' because I feel he's here and ah I'm legit to be able to talk this way. Now the key is you don't go runnin' around like crazy . . . people 'cause ya got a lot of money. Don't do that. Don't try to butter everybody with money because you'll waste more fuckin' money in more different directions than you could ever spend it right. You could spend probably one third of it right and get the same result or better than ...(IA)... .

MW: That's why I'm dealin' with you people...

MM: Well I realize that...

MW: ...(IA)...Right.

MM: No, but you got the impression you're givin' me the impression that, that well wh will it take for this what will it take for that.

Ex. 7(i)



| | | |
|---|---|---|
| MW | : | No, no, no, no. No what...(IA)... |
| MM | : | ...(IA)... I'll submit you a bill each month...(IA)...for three million.. |
| MW | : | You don't understand... |
| MM | : | ...(IA)... |
| | | (Laughter) |
| MW | : | No, no...You're not gonna get it. |
| MM | : | ...(IA)... |
| SC | : | ...(IA)... |
| MW | : | You're missing my, you're missing my point. Right. You were deal with before. That somethin' that made good that's guaranteed. That's money in the bank. You were deal with before strictly on one issue. All right? |
| MM | : | Yeah. |
| MW | : | Okay. I brought up three other situations. |
| MM | : | And I got them all covered. |
| MW | : | ...(IA)...influence right? |
| MM | : | ...(IA)... |

MW: We struck a new bargain this evening and I...

MM: I got 'em all covered.

MW: ... asking you what are we talkin' about right.

MM: We're talking about make me happy.

MW: ...making you happy.

MM: ...(IA)... To keep me happy, just make me whole with the kind of ah, ah...

MW: ...you'll be made whole...

MM: Kind of agreement that I...

MW: ...You'll be made whole...(IA)...

MM: I, I went to New York for...
I come home I was...(IA)...

MW: ...(IA)...business.

MM: I come home embarrassed.

MW: All right...(IA)....

MM: Make me whole and then we'll go on from there.

MW: All right. I wanta you'll be made whole. It's finished business right. I brought up 3 other fields, right. What, what I owe yo for, I'm goin' back and gave him a commitment, the same commitment ya gave me.

That the man said yeah, he'll handle his...

...(IA)...the best he can.

EH: I think what MIKE is sayin' is...

MW: Give me the figures.

MM: I know what he's sayin'...

EH: ...(IA)...

MW: ...(IA)...not what it's gonna cost me down the line, but what, ya know, what keeps ya happy.

EH: I think what he's sayin' is he trusts you ah to deal the extra bucks with these people who...

MM: ...(IA)...

EH: ...But what this, just what are you lookin' for, ya know, like to make you happy...

MM: ...to make me happy...

EH: ...(IA)...so...

MM: To make me happy...(IA)...

EH: ...(IA)...for six months like ya have been.

MM: All right. Let me say this to ya. To make my happy, I was introduced to you people. Okay. I didn't read your name in no want-ads section or I didn't pick ya out of a paper. This gentleman introduced me to ~~yeens~~ you. Now what arrangements ya have with him, I mean, does he have a retainer with you or...

MW: HOWARD and I have...

MM: ...(IA)...

MW: ...(IA)...business transactions and HOWARD...(IA)...

MM: I maan do I have...

MW: ...(IA)...keep happy.

EH: Don't worry about HOWARD, that's separate...

MM: Ah let me say this to ya when I talk about what I'm talkin' about...

ME: You personally just you...

UM: ...(IA)...

MM: ...(IA)...

MW: ...(IA)...HOWARD, HOWARD...

MM: I mean because I was referred, recommended through this gentleman.

BC: Right.

MW: I take care of HOWARD...

MM: ...(IA)...You know if I have to worry about HOWARD than I'm talkin' ...(IA)...

MW: You don't have to worry about HOWARD this is strictly...

MM: Now look, the only thing I can say to you, I can line a lot of customers up for ya, members of congress that are willing to deal with us. I could put people around you, you wouldn't be, you would be shocked. I mean, you may think I'm kiddin' but ah if you want to spend fuckin' money, I'll show ya how to spend it.

MW: Oh, I'm sure you could.

MM: (Laughter)...

MW: I'm sure you could...

MM: ...(IA)...

MW: I want to make you, ah, I want you got to be paid for those other three things. Now what is it?

MM: Well...

MW: Now, give me a figure because I gotta be, he's got a lot of banking business to do here for me and I...

MM: I would say that ah you know, I mean I and I'm not lookin' to rip anybody off. Give me, I want my 35, but ah...(IA)...

MW: All right, now that's ~~cash~~ porro business. You got it...

MM: Give me 50 in addition. You're gonna work on other people, city council, people, we're gonna have to deal with. I'll go talk to, to the mafia connection, there's CHICKIE NARDUCCI my close, close friend. Okay. We'll get FREDDY DEBONA lined up. You give me some plans. You send me your engineer who wants it to develop somethin' at the port. Done taken care of. You'll have to invest some money, give us a long term lease. We'll spend city money.

MW: Okay.

MM: Okay. Develop that operation.

MW: All right.

MM: I show you, do exactly how to do that.

MW: All right. Those two plus your influence with city council and your influence in your office. That's a powerful office, I mean...(IA)...no bones about it.

MM: Well if I need, I mean, just give me, - now I, I, I...

MW: ...this is yours...

MM: ...didn't rob ya...

MW: ...this is yours...

MM: Ya want me to tell ya to give me ten million, I'll tell ya that, I don't want to ...(IA)...ya know. I'm not goin' to tell ya that. Now I'm goin' to be very honest which ya. I, when I first talked about this, I was lookin' to get fifty. So let me walk away with my 35, give me 50 to go out and do these other things that we spoke about and you know...

MW: Okay.

MM: ...We'll meet again...

MW: ...Fifty covers only you on those matters. Anything else we got to do down the road we do, right. It's a new ball game.

MM: ...(IA)...

MW: Fifty will cover you on those three issues. We'll take care of the other matter.

MM: Absolutely.

MW: All right. You got a big package comin' all right?

MM: All right.

MW: I'm a...

MM: We'll go out and do what we have to do...

MW: Let me do...

MM: I got that covered...

MW: Are you stayin' in town or are you goin' back tomorrow?

| | |
|---|---|
| HC: | No, no, he's stayin' ... |
| MM: | No, I'm stayin' in town. |
| MW: | Can you do this? Can you give it some thought on whether I should see ah, ah Mr. DEBONA tomorrow. I... |
| MM: | Let me say this to ya... |
| MW: | ...I'll give it some thought as well... |
| MM: | If you want to see Mr. DEBONA, I can arrange that, okay. I can, all right, I can even take ya to Mr. DEBONA's house tonight.' Okay. |
| MW: | If I do, I want to go with a package. I don't have a package available at... ...(IA)... |

MM: But, you don't want to go in with a package at this point in time you listen to what I'm telling you.

MW: I'm listening, that's why you're here.

MM: Are you ready? I want you to meet with Mr. DEBONA, but I wanta...see, Mr. DEBONA is going to want; he don't want to talk to you about any packages (telephone rings). You follow what I'm saying to ya.

MW: I know wxactly what you're telling me.

MM: Alright now.

MW: (Answering phone) yes, yeah, hold on a second (MYERS leaves).

MM: (IA)...take a leak.

HC: Leave the door open for me will ya? Jesus christ it's; we got to wind this thing up here. I'm getting tired.

EH: Yeah, yeah.

HC: Can I use that phone (IA) (CRIDEN leaves)

EH: Yeah, take your best shot.

MW: (On phone) good enough, ok. I appreciate it. You know I like the way you do it. (off camera (IA) conversation)

MW: (To EH) where's OZZIE? Head?

EH: What's that? yeah. He's taking a leak and Mr. CRIDEN is telephoning

(pause) (IA talk off camera) (MM, MW and EH come into camera range)

MW: Alright, fine, why don't we do this. Tell me your itinerary. You gonna be in town tomorrow?

MM: Be in town tomorrow.

MW: Alright, alright we don't want to do business with him like that at this point.

MM: No.

MW: Fine, hey, that's good enough. Your opinion is valuable, there's no doubt about it.

(HC enters).

EH: I think we have a friend in (IA).

MW: Alright, I, I'm going to Montreal. I'm going to go, most likely tomorrow, the way things are going. I' going to go. I have to. I have commitments. I'm goir there. I'm going overseas from there this weekend. I'll take care of it. The money will be wired. You will take care of it. (points to EH).

EH: Alright. I'll take care of it next week.

MW: Alright, you'll be taken care of. You and I will deal. ERNIE will take care of it. Eh.

EH: And you have to...HOWARD, there's another piece of...

MW: Yeah, you...

HC: Ok, we'll talk.

MW: We'll round it off, alright. Eh, how long you going to be here?

MM: I'm gonna, I only, you know.

HC: He lives here.

EH: He's got a job in Philly.

MW: When you going back to DC?

MM: I'll be going back Monday morning...

MW: Ok.

MM: ...12 O'clock... mid-day...

MW: Could I possibly reach you through HOWARD?

HC: Sure.

MW: If I call him from, oh, oh...

MM: Absolutely.

MW: ...Montreal...

MM: Let me say this, Now I'm not...

MW: ...this weekend.

MM: I just want to be clear, you know, so, I mean, you're taken care of...

MW: He's my business.

MM : And whatever we do. We're doing...

MW : You and I.

MM : Ok, is that understood?

EH : Since we had misunderstanding before, we can make it clear now.

MW : Alright.

MM : So I know where I'm coming from now, I, I, I went up to New York with good people. Now I didn't ask a lot of questions, or question anybody, but as long as I know where I'm coming from. Alright, now, whatever I have to do, you know, we can meet the way we're meeting now. Are you the head hauncho of this operation in America?

MW : Right now, I'm it.

MM : Alright, you're the head guy, oka, sow e'll meet and we'll discuss what has to be done. Now, I mean, I can, I'm not looking to put any great price on anything, eh, eh...well, I have to talk to this longshoreman boss, oh, the guy that headed the ILA and it's gonna cost. I'm not looking to do that. Ok, I'm personally not looking to do that (phone rings) Now if that's what I should do, you tell me that.

(phone rings) and if you gotta.

UM: (IA).

MM: And if you're looking to spread money. (phone rings) and you gotta have a reason, a reason to do it, then I'll handle that. You know, you give me some clues on what you want to do here.

EH: Just let me tell you this.

MM: You see what I'm saying.

EH: Just leave it the way..., everything is fine now, becaus we have to get this all squared out now.. Eh, everything is great.

MW: (On phone) ok, ok, alright (hangs up). That's good. That's finished now. That worked out nice and nobody's mad at me. Eh, I'll tell you what. How can I get in touch with you tomorrow? Alright, I'm going to start making some telephone calls right now...

MM: I'll be around (IA).

MW: ...and you are as well and I'll make a few in the morning, if I can't reach the parties tonight and I, I'm her and I'm a little embarrassed and I'm gonna straighten the situation and I'm gonna try to make you whole tomorrow, if I possibly can. If not, it wil be within a mat..., just a matter of days.

MM: Alright.

MW: Are you satisfied with that. You got eight, five coming...

MM: Very good.

MW: ...and I've got my commitments, and I'm happy, eh...

MM: (IA).

MW: I can only apologize for that. Alright, that's all I can do...

MM: Let me say this to you.

MW: ...and I'll make it whole.

MM: You know, I'm the type of guy that when you have to go do something, you just better hope I'm at your side, if you want to go do a serious mission, you should hope I'm at your fucking side, at your side.

MW: That's why I'm here.

MM: I don't give a fuck about nothing. I'm a little fucking, you know, half crazy at times. You know I'm the type of guy, did you know, how do you I got a ninth grade education. How the fuck do you think I got to congress? On my fucking wisdom? Hey, heh, heh.

HC: Yeah, on your wisdom OZZIE.

MW: How do you think I got where I am.

MM: (Laughter).

MW: Luck? how can I reach you tomorrow?

MM: You can call me at several numbers. The best way to call me is to call my office and tell them that you're looking for me.

MC: Five-nine-seven-three-five-nine-two.

MW: Three-five-nine-two. Ok, and eh, I can call you there. I can call there and say I...

MM: Call there I won't be there.

MW: Eh, MICHAEL COHEN, MICHAEL COHEN called you...

MM: MIKE COHEN is looking for me and he's at a certain number and I'll call you back. That's all.

MW: Ok, great, great. Eh, I'll take care of it. What else can I say. Alright, I'm going to make some telephone calls right now.

MM: Alright, all these other things...let me just say this to you. All these other things, when you're dealing with the mafia in this town, when you're dealing with the part, when you're dealing with City Council, when you're dealing with the Zoning Board, all the key things that you may run into a problem with, in this town, if you got fucking money, you don't have a fucking problem. You can handle all the problems.

MW: Fine then I have no problems because...

MM: You have no major problems, now I can make things easier for you now, eh, you gotta tell me. Now I'm not a fucking thief to the degree that I'm trying to skin anybody and take their eyes out. I mean gouge your eyes out. You know, I, I believe in live and let live and I'll be very honest with you when you're dealing with FREDDY DEBONA, he's interested in quick promotion. If you can make him happy, in, while we're promoting the part, I'll tell you how to do that.

MW: That's down the road alright.

MM: That's down the road.

MW: You got no problems...

MM: Yeah, and I need, I need statistics, figures, tonage...

MW: You'll get it.

MM: What you need, what kinda lease you're running into, and I can handle that. We'll enter into an agreement...

MW: That's what lawyers are for.

MM: ...in two fucking days, if you got the proposal and you got the money to back up the proposal.

MW: That's what lawyers are for. They handle that. That's what architects are for. That's what engineers are for. That's what those guys go to school.

MM: (IA).

MW: You know.

MM: You know there's a lot that, that can be done, you know. I'm the type of guy, you know, I play eh, like a very fucking nonchalant role, till I know who I'm dealing with ok. I try to develop the kind of confidence that I think I can develop for you guys and then we can deal.

EH: I think we understand each other now.

MM: You know, I'm not...

EH: I think we...

MW: We got somethings up front and I'm, I'm...

MM: I'm not coming in here looking to, looking to put a shake in anybody. I mean, eh, I'm interested in the city, given some reasons. I'm not, I'm not a fool, I'm not going to run out, you know, say well here's X amount of bucks, go out and introduce this bill. I'm not interested in a fucking bill that's going to get me fucking shanghaied the next day.

MW: We're going to back you up.

MM: I'm no fool.

ER: We're going to be here a long time.

MW: We're going to back you up.

MM: Give me reasons...

ER: We got a nice arrangement between all of us.

MW: This man's going to back the.

MM: ...and I'm willing...

MW: City of Philadelphia to the tune of 11 dollars and it's it's, it's...

MM: Well, the point I'm making, you know, you...

MW: ...he's going to make people happy to have him here.

MM: You want to, you wanna, oh, build good relationships you want a good understanding, clear understanding, so you know where I'm coming from.

MW: I think; did we clear up some things tonight?

MM: I think so.

MW: Fine. I have...

EC: It was a super meeting.

MW: I have to do a little investigation right now. Alright, I'm going to get on the telephone and burn some wires...

MM: Ok.

MW: ...and I don't show it, but I'm a little hot. I'll take care of you.

MM: Alright.

MW: Beautiful.

MM: MIKE, pleasure.

MW: OZZIE, good meeting you and it will be taken care of possibly tomorrow, if I can.

MM: I'll tell you, whom we have...

MW: Hustle them up.

MM: ...whom we have a face and discuss such as we did tonight, I think we should get together like this...

MW: Alright.

MM: ...just thrash it out.

MW: (IA).

MM: If you have, if you even invision a problem. Let's say it's a, I don't give a shit what it is. If you invision a problem, I don't care what it is, I mean if it's local. I don't care what the fuck it is, if you invision a proble if it's Atlantic City, if it's labor, part, if you invisi a problem, you call me in on it.

MW: Alright and you can use some influence to help us out.

HC: You want me to stay a minute?

MW: No, I'm going to get right on the phone and I...

HC: No I want to talk to you just for a second.

MW: Fine, that's great.

MM: If you got the kind of money that you tell me you have we can straighten any problem out.

MW: Eh, HOWARD knows what the resources are.

HC: No problem.

MW: That'll be, that'll be made good.

MM: What I'm saying.

MW: Let 's not even discuss that anymore, cause I'll take care of it.

EH: You want OZZIE to wait for you downstairs?

HC: Yeah, just a minute, I'll only be a second OZZIE.

EH: OZZIE.

MM: Pleasure.

UM: (IA).

MM: MIKE, see you.

MW: Ok, thank you for stopping in.

MM: I'll wait down there.

HC: Where?

MM: And we'll have; down in the lobby.

HC: ...in the bar, yeah. I'll be down and we'll have a beer.

MM: I've got to get home and get some a...., I've been away from Philadelphia for a week, you know. Got to go home and take care of the home life.

MW: Whatever you have to do show him out, make sure does he know how to get out.

EH: Do you....

MM: Yeah.

HC: Do you like this guy?

MW: Yeah, that's how to do business.

HC: Right.

MW: That's how you do business.

HC: Right.

MW: I'll take care of that. That's my problem alright.

HC: I want to give you a little background to that problem, ok, tell you how that problem arose, ok. That problem arose because somebody may have said that there was a hundred, ok, and he was given commitments that he was going to get fifty, ok, but when it came to the meeting, there was only fifty and I, I, ok.

MW: Who took the package up.

HC: The package got whacked, ok, from the time that

he got...

MW: Let me ask you a question.

HC: What I want you guys to understand.

MW: Was there fifty thousand in that bag?

HC: There was fifty in the bag.

EH: Ok, that's all we want to know. Everything's fine as far as we're concerned.

MW: Ok, then all we have.

HC: (IA)...I didn't want you to get the wrong impression, that I, I'm assuming that what you thought was that the people (IA).

MW: Somebody skipped out...

HC: But that was not the case the case was...

MW: But they know better.

EH: As long as there was fifty, that's all that was.

HC: You're people did what was right.

MW: Fine, that all I'm after.

HC: Ok, that's what I want to get.

MW: Who walked out with the package?

HC: Well, it changed hands, I mean, it was...

| | | |
|---|---|---|
| MW | : | Fine ok. |
| HC | : | ...between, eh... |
| MW | : | There was fifty thousand dollars in that bundle. |
| HC | : | There was fifty in that bundle. |
| MW | : | Fine. |
| EH | : | You saw CZZIZ as he walked out with the package. |
| HC | : | Yeah. |
| MW | : | Would you tell him that? |
| HC | : | Oh yeah. |
| MW | : | Would you tell him that downstairs? |
| HC | : | Yeah, yeah, I'm gonna tell him that, ok, there was fifty in the package, ok, but before the package got down to him, it got skimmed, ok, there were other people. |
| MW | : | What do I owe you on him. |
| HC | : | You tell me. |
| EH | : | We can work something out. |
| HC | : | You tell me. |
| MW | : | I'll be in touch with you very soon. |
| HC | : | Ok. |
| EH | : | It was a good meeting tonight. |

HC: Ok, I, but, I, I, don't want to go in, listen, some guys deserve to get burned, but some guys are...

MW: If he walked out of that...you can assure me.

HC: I swear to you.

MW: You were standing there and you saw it. There was fifty in the package.

HC: There was fifty in the package.

MW: That's what I was led to believe (IA).

HC: There was fifty.

MW: As long as we know where we're standing.

EH: We know there was fifty in the package.

HC: There was fifty in the package.

MW: That's a misunderstanding and if there was supposed to be a hundred, that's that's, something else.

HC: Yeah, see the commitment was made that there was a hundred to be given and he was told he was going to get fifty.

MW: That's a misunderstanding. I was told fifty, if I was told a hundred, eh, he'd had a hundred.

HC: See, nobody told anybody that there was going to be a switch from a hundred to fifty until the meeting was in progress.

MW: Are we friends? heh.

EH: We're they...

MW: What did you get out of that? Did you beat him?

HC: Oh, no, no, no.

EH: Let me ask you this.

HC: I got something, but I didn't get pie ~~cook~~ cock out of it. You got to remember the guy across the river there, was involved in this.

EH: Was it supposed to be whacked up so much?

MW: Tell me how it was whacked up?

EH: I mean, was it supposed to be whacked up so much?

HC: When I got the package, when it was (IA). Now he knows there was more than fifteen, ok, but there was twenty-five when it got down to me, ok, and he sat in my office and and took fifteen.

MW: The guy across the river, he took twenty-five.

HC: I don't know what...I can't vouch for anything. Ok, when the package came back, when the package came to the office, ok, there was twenty-five in the package, ok, and he got fifteen and ten stayed and there was, and there was somebody else involved on my end.

MW: Ok, alright.

HC: Of the ballgame.

MW: Ok, he'll be made whole.

EH: We can assure you...

HC: Alright, I don't bullshit you.

EH: We can assure you there was fifty when the package when it...

HC: There was no question about it.

EH: Ok, that's all we want to know.

MW: That's an embarrassment...

HC: I understand that.

MW: ...and I left like, I didn't care for it.

UM: Remember one thing.

MW: The short hand, not only will it be made whole, but that it's a misunderstanding, that eh, alright.

HC : Let me tell you something, ok.

MW : Do I want to look chintzy to this guy?

HC : No, no, no-no, no-no. But I don't won't you to, eh, I want to play straight up and it was the first chance, I was only a messa..., I'm not a messanger boy.

EH : I never saw you there.

HC : I, I, delivered him, ok, ok, the other guy across the river took credit for the delivery, cause he was the guy..., you were there. He brought him in...ok, I wasn't even, oh, oka, now I have no control, I didn't even know.

MW : He not only took the credit. He took twenty-five...

HC : I didn't even know.

EH : (IA).

HC : What am I going to do?

MW : Great day for him, twenty-five.

HC : Ok, now, what are you going to do?

MW : Then things will work out.

HC : Ok.

MW : (IA)

HC: I just wanted you to know.

MW: It's money. It's nothing, nothing to be concerned about.

HC: No, but I didn't want you to think that your people skinned you.

MW: Ok, I'm going to take care of it and I can relax.

HC: Now.

MW: Make sure he doesn't think that we...

HC: No, no, OZ thinks,...

MW: (IA).

HC: I see, he understands (IA).

MW: See how uptight he got, because he thinks that, eh.

HC: No, because he got uptight because when we made the arrangement with him, we said OZZIE, there's fifty in it for you. Ok, there will probably be a hundred. Fifties going to get whacked, cause nobody was taking, taking care of us at that time. We had to care of our other package.

MW: Ok, that why you and I have a different (IA).

HC: Exactly and I would rather do it that way.

MW: Fine.

HC: I don't want to be involved in a...

MW: Ok.

HC: I'd rather he got his and I...

MW: Ok, he gave me, he gave me the right commitments and, and everything's fine.

EH: This was a good meeting tonight.

MW: Yes, that took care of a lot off...

EH: He deserved something for setting this up.

MW: Alright we'll take care of that and I'll. I mean the right way.

EH: Besides what you already have...

MW: Yeah, HOWARD, thank you.

HC: Ok MIKE.

EH: Ok my man.

HC: Alright, ERNIE, take care pal, when will I talk to you?

EH: I don't have to tell you where the elevators...

HC: No, eh, when will I talk to you?

MW: If I can't get anything, if it, this weekend. I'll try to call you from Montreal, if not you'll hear from him no later than next week.

EC: Ok.

MW: You just took a load off my mind, thank you.

HC: HAVE A SAFE TRIP

EC: I knew I would.

MW: (IA).

EC: I didn't want to...

EH: Did you leave anything.

EC: I didn't want you to have ulcers unnecessarily.

EH: Ok, my man.

MW: Good night HOWARD.

EC: Chow.

(END)

12 MR. PUCCIO: Judge, apparently a couple of
13 pages were missing. We just stopped for that.
14 MR. BROWN: We don't know what is happening.
15 THE COURT: I don't know how it appears with
16 the others, I had 183 in the 150's. That is all that
17 was wrong with me.
18 The tape stopped playing on page 159.
19 MR. BEN-VENISTE: We have the same mistake.
20 THE COURT: Apparently the xerox collator
21 flipped.
22 MR. BROWN: Are there any new pages?
23 THE COURT: I don't think so.
24 MR. PUCCIO: The last page is 183 and that
25 was stuck somewhere in the 150's.

THE COURT: I have in effect two pages 163, one of them is out of order.

MR. BEN-VENISTE: Can we continue to run at this stage rather than to redistribute pages? I make my request on one leg. There is not much more to go.

THE COURT: We are on page 159.

(Tape played.)

MR. PUCCIO: May I indicate we are on 162 at this point?

THE COURT: 163.

MR. PUCCIO: Alright.

(Tape continues.)

THE COURT: Alright, we will take a short recess.

Don't discuss the case.

(Recess taken at this time.)

(continued on next page)

1 M I C H A E L  W A L D  having been previously
2 duly sworn resumed the stand and testified further
3 as follows:
4 (Whereupon, the Jury entered the Jury Box.)
5 THE COURT: Alright, Mr. Puccio, you may
6 proceed.
7 DIRECT EXAMINATION
8 BY MR. PUCCIO: (CONTINUED)
9 Q Now, Agent Wald, did you have occasion to
10 meet with Congressman Myers again?
11 A Yes, I did.
12 Q That's on the very next day, the 25th of
13 January, 1980?
14 A The 25th.
15 Q Where did the meeting take place?
16 A In the same location, Barclay Hotel.
17 Q Was there anyone else present at that
18 meeting?
19 A I believe Agent Haridopolos was.
20 Q I show you --
21 MR. PUCCIO: May I approach the witness?
22 THE COURT: Yes.
23 Q I show you Exhibit 8A and ask you if you can
24 tell us what it is?
25 A That's a partial transcript of the second

meeting I believe.

Q And have you had the opportunity to compare that to the video? Are you satisfied that that is a transcript of the meeting?

A Yes.

Q Accurate?

A Accurate, to the best of my ability.

Q Now, let me show you Exhibit 8?

MR. PUCCIO: May I approach the witness?

THE COURT: Yes.

Q Can you identify that for us, please?

A That's a video tape of the second meeting -- my second meeting with Congressman Myers on January 25th, 1980.

Q That's a redacted portion that corresponds with the transcript; is that right?

A Yes, it is.

THE COURT: In other words, this is a copy of a part of 8B.

MR. PUCCIO: That's correct, your Honor.

Your Honor, I offer those two Exhibits in evidence and I ask that the books be distributed and the tape be played to the Jury.

THE COURT: Any objection to 8 or 8A?

MR. DUFFY: Your Honor, I assume I have the same continuing objection?

THE COURT: Yes.

MR. DUFFY: On the basis --

THE COURT: On what we discussed.

Again, keep in mind, ladies and gentlemen, we are dealing here -- I don't see any reference to any conversation by the defendant Myers. The defendant Criden is involved; is that right.

MR. BEN-VENISTE: No sir.

THE COURT: I beg your pardon.

MR. BEN-VENISTE: On this one --

MR. PUCCIO: This is Congressman Myers.

THE COURT: I am sorry. I hadn't turned the page. I am sorry.

MR. BEN-VENISTE: We would ask for a cautionary instruction with respect to Mr. Criden.

MR. PUCCIO: Judge, may I approach on that question? I can hold it, I suppose.

THE COURT: I think it can wait until later.

MR. PUCCIO: Ok.

THE COURT: It shows Congressman -- the defendant Myers, not any of the other three defen-

dants, so when it is still continuing -- consider this as part of the same cautionary instruction I have given you. I will give you more instructions on it later.

Alright. 8A and 8 are received in evidence.

You can distribute copies if you have not already done so. And then play the tape. Are you ready, Mr. Puccio?

MR. PUCCIO: We are setting up, Judge.

(Video tape played)

[Exhibit 8A: Transcript of Audio Tape Exhibit 8]

Date: January 25, 1980

Time: 8:20 P.M.

Place: Barclay Hotel
Philadelphia, Pennsylvania

Participants: MICHAEL MYERS (MM)
MICHAEL WALD (MW)
ERNEST HARIDOPOLOS (EH)

* * *

MW: Oz, how you doing? Come take a seat. Ernie will take your coat. Can I get Ernie to get you a drink?

MM: Ah, not really.

MW: Okay.

EH: A little bourbon.

MM: No, not really.

MW: Long day. Ah, I started early this morning and, da, checked out a lot of things, all right, I mean, ah, the operation, ah took a blow from you last night on that story you related to me, you know, I was, I was upset very upset. You weren't out of here five minutes and I was on the telephone. Now, when you left I had a little talk with Howard and I made some telephone calls and had some people contacted who

were involved in the situation, and eh should anybody within this organization, all right, within our organization, try to, try to skim, all right on a, on our employer, there are consequences, and they're dire. There's no courts involved, there's none of that nonsense.

MM: Sure.

MW: It's, it's Moslem retribution and ERNIE would have had certain things he would have to accomplish. And st..., it would have been a very bad situation. All right. And I was very upset. I'm less upset now, but I still am in one regard. I found out that they had $50,000, just as was agreed on, and that that package was handed to you with 50 in it. Talked to Howard last night and he said that's true. Ah, the gentleman was supposed to receive, Mr. MYERS, was supposed to receive $50,000 and that's what was in the package, but from there, right, it went to various places.

MM: Oh. I...I...

MW: It wound up with you.

MM: Ah...No...I don't disagree with that.

MW: It...it...becomes a matter of honor with my employer.

MM: See the thing...

MW: He's not aware of this situation, you know. Right. I kept that from him entirely. Kept it with me.

MM: Uh ha.

MW: And da, it's a matter of honor. You promised 50, and you end up with a package of 50. What happens from there? Ah...

MM: See, here's what happened. You know when I was there. First of all it seemed to me. Now I was approached with initially, okay, by right people, with a, you know come up for lunch, you know meet these people and who could help in some way. See we don't want you to sign in blood but you have to do. But you know these people are looking to

establishing a relationship on a friendly basis and this is the way it was explained to me. Now, when I get there, see, it was suppose to be a 100, okay, now these people who were setting it up, and there were very few names, I couldn't name everybody that was involved here. I didn't ask and I wasn't really told, but my understanding with the guy I dealt with which was another associate to this gentleman, you know it seems like there was a lot of hands in the pie.

MW: Tell me about it. If you wound up with 15...

MM: I wound up with 15...

MW: Then we had heavy heavy hands in the pie.

MM: Okay. Now, right afterwards...

MW: Now if there was supposed to be a 100 in the first place, then there was a dire misunderstanding because I was told when the approach, be, ah, before the approach was made, ah, we need 50 thousand dollars for this gentleman. I said

That's fine. That's what he, that's what he should, da, obtain here, that's what he, that's what it takes.

MM: All right. So we go up there. All right. Now, all through the process, you know, I didn't personally want to walk out of, up in New York, with this package anyway. I wasn't looking to do that, travel back down myself or fly back down or any other way with the package. So the other people that are involved eh, in other words, I...I took the package.

MW: Right.

MM: Didn't see what was in the package. Didn't have any, a, reason to rip it open and go through it, walked out the door and handed the package over. I didn't see the package no more. Now I headed back to Philadelphia. Now I didn't, you know, people that I was referred up there by, I didn't know

whether there was, ah, there were you know, ah, the kinda people that were aware what this arrangement was.

KM: That appears to be where the misunderstanding.

KM: Right. Now. So when I got back home, ah, back down this area, Philadelphia, ah, I went to...to meet the people at the City. Now when I met, meet the people, there is a misunderstanding. The first thing that I was told, instead of a 100, there's only 50, because the other people are obviously were supposed to get half of, for whatever the action was, for setting it up. So when I get there, there is a misunderstanding. The 100 turned into 50. And other people were involved and played a part of it, this had to happen, and that had to happen, and this had to happen. So now there was 15 left. So I was in a position either to take 15 or figure, or

not take it. Now that's the position I was in. So, I almost didn't take it to be very honest with you, but I figured, fuck it, why should I give him back the 15, and let somebody else take it, really screw me, so I, I, I you know eh, you know, now other people even that, that, that day were, were telling me, you know, I'm going tell you so you hear this. "Look, don't deal with him, deal with me." So it seemed like a fucking scam to me, all the way of whoever was at the top, so I wouldn't even ask to get some more customers or you know some members, I'm talking about. And I, I got a little bit of clout. I'm not saying that I could deliver 30 or 40 members, but I got a few stand-up guys that could help and they would be interested in...I could never approach anybody...

MW: I...I want you to realize that it becomes a point of honor.

MM: Yeah...Ah...

MW: With us...

MM: Same to you. If I had a deal...I... Even if I had to go for it myself, I couldn't get caught in that kind of a trap. If I do somebody...You know... that somebody, reputable guy on an important committee that could help and we...and I tell them a certain thing and that's how I'm instructed...

MW: You've got to be better, be backed up.

MM: You know I...I can't...I wouldn't do it, you know I'm afraid...

MW: As long as you see...

MM: Ta...When they say got me customers and you could get a piece of their action, I'm not looking to do that.

MW: All right.

MM: Believe me when I tell you, I'm not.

MW: As long as you see that in that incident we have a...a...we're were trying to be honorable. I'mean I was told fifty

82-077 O—81——91 (Pt. 1) BLR

thousand dollars for you. That was made available. And it was there. And that's what was given to you. Now. Other people took a slice of it...

MM: Yeah. And I'm not aware...

MW: For the time you had it, "A" and the time you wound up with it "B".

MM: Yeah, I can't ...

MW: Eh...

EH: I think I know how it got whacked...

MM: Well I don't know. I don't even know these people...Okay...And I...I...I'm not blaming anybody. I mean I'm telling you just what happened.

MW: Well...

MM: I...I...

MW: I'm a little miffed at Howard because he didn't bring it up.

MM: Well, you know...

MW: Until you brought it up last evening.

MM: Maybe he didn't expect me to bring up... I...

MM: It's...

MM: But I'm going to tell you. I'm going to be up front...

MM: Ah...If fifty thousand is there in an envelope for you and you wind up with fifteen. I mean what kind of... what kind of fee for that is setting it up...is...is...a thirty five thousand dollars for setting up a fifteen thousand dollar...a...note. That's, that's insane. Right...That's...that... that bothers me. If it was a hundred... it should have been made clear to begin with. Obviously it wasn't because I was told fifty. If I'd been told a hundred, I'd have asked "why" and I would have known...and it would have been handled

MM: I mean...it...In other words...the... the...the thing about...you know, I just felt...and you know...and now when he called me, he had no idea I was going to bring that up. But I wanted to bring that up for a reason.

MW: I'm glad you did.

MM: I brought it up for a...for a reason... I...I want to know where I'm coming from.

MW: Right.

MM: I can't be dealing with other people when I'm uncertain. And I gotta wait for this, and then this changes, that changes.

EH: You got a beef. Let me tell you...

MM: Sure...

MW: I appreciate you bringing it up for a lot of reasons and one of them is that da...ah...

MM: See that...

MW: I rather deal differently at this point. Okay?...

MM: I'm glad...

MW: Ah...

MM: Let me say something. I'm glad you call me. You know the way you do, it's...

MW: I didn't call the other gentleman. I called you.

MM: Okay.

MW: You understand...

MM: You called...Whenever...Whenever you call, for instance, I get calls continually.

MW: I'm sure you do.

MM: Now...

MW: As I do...

MM: I get called...

MW: I just got off...

MM: They screen out my calls.

MW: The last two hours on the telephone.

MM: I have all kinds of calls, I don't even want. Now if it's important...for instance...when I got the call today, I was at home if you want me to be honest with you. That you had called. The gentleman called. and you know, ah, anytime, eh, if you call and leave a message like that...eh... unless I'm on an airplane or, eh, on a boat, and they can't reach me immediately, you know...

MW: All right.

MM: Ah...I'll be reached within, within the hour, and you know I can usually, you know, I'll call right back.

MW: All right.

MM: And you know...

MW: Ah...

MM: I'm in town or if I'm...

MW: Ah...The business we did last night, let's forget about that for a minute. That's a problem but that's gonna...I want to deal with you differently. We're not gonna have those kind of misunderstandings anymore.

MM: Okay. That's fine.

MW: Right. There...There...

MM: I'm glad to hear that.

MW: All right. What you did last night, right, is fifty. Okay? The things we talked about last night that's worth fifty thousand dollars, and that's what you will be paid. You got nobody cutting that pot.

That's between you and I, okay?

* * *

MW: And eh, I'm not going to have any misunderstanding because you and I can talk.

MM: Sure . . .

MW: As have have that, this misunderstanding before might be water under the bridge but I remember . .

MM: Yeah, I'm not concerned about it. If, Eh, you see, let me say this to you, one thing about this guy that was here last night, he's a reputable guy. Now I don't know who he deals with, I didn't ask him, and I don't wanta know, to be very honest with you. Now the guy that I got connected with, with him, is another good guy, you know one of his key guys, he's a good stand-up guy, a guy you could do business with.

MW: You see what happened to the, the package that was put together for you.

MM: But now, when other people get involved, and you go across the river, and I don't know who else is involved beyond that, and when I got up there that day, it was, it was a really bad scene. I'm telling you.

EH: I don't know if you remember. I was there. I was standing with ANGIE in the lobby. Remember where you came walking in...

MM: Yeah.

EH: I don't know what happened after that, but it's none of my business because you went upstairs.

MM: Yeah. I'm just saying, it's eh, you know, when I arrived at the aiport, I, eh was you at the airport?

EH: No.

MM: I was.

EH: I was at the hotel there when you walked in.

MM: When I walked in the hotel, but I'm saying when I got to the airport, you know, first of all, I don't even know why I even went to the airport. It's a bad place to meet. You know, there's too many people in the airport. I might even bump into people I know coming into Kennedy Airport. I don't even know why I met anybody at Kennedy. I thought that's, I didn't have, I, I thought that, I really thought that the hotel where, eh, these

gentlemen were staying is right across from the airport, like walking distance, but it was yet some miles from the airport so I didn't fly, I had no reason to be at the airport. But anyway I met, when I got to the airport, it seemed like there was too many people involved with this.

MW: Well I...

MM: People I didn't know, really, you know, there was another two or three people there. And I didn't...

MW: Ozzie, I was, I was not involved in that, couldn't control it.

MM: It was...it was a bad scene.

MW: Alright but I, I, you know, I did my investigation I'm satisfied that it was a an error right, nobody tried to do anybody, it was just an error.

MM: No, I didn't think that, let me just say this to you, you know MIKE to be very honest about it, that's the main reason I brought that up. I want you to know where I'm coming from.

MW: I'm glad you did. I'm glad you did.

MM: I understand English, clearly, you know what I mean?

MM: Because there's no reason for us to have a misunderstanding.

MM: That's why I brought that up last night.

EH: From now on, just deal direct, direct with Michael.

MM: Now last night, the gentleman...I, I waited downstairs for him, he came down and he says "I'm so happy you got that brought right out," and I, you know, that was the end of it, he said no more about it, and I said no more about it and he was very happy that that issue was cleared up.

MM: He knows how much money I've spent here in the last, less than a week. I mean an awful lot of money, and eh, he's aware of it, right, and he should have brought it up, but that's, eh, let's forget that. That's it's a matter of honor and it sticks...

MM: See what happened here.

MM: See, you see, I tell ya, I tell ya what happens, just so you understand the picture here. When you're dealing through one source and he's handling the rest of the action and there's one set figure and you know what you have to do, that's what I want to know. That's that's what, the way I like to understand things.

* * *

12 THE COURT: We have no audio.

13 (Video tape stopped)

14 MR. PUCCIO: We are getting the redacted

15 part.

16 THE COURT: I see.

17 MR. BEN-VENISTE: Your Honor, there is some

18 audio on the original copy of that. I would ask that

19 that be played to the Jury.

20 THE COURT: We have seen something on video

21 with no related audio. Does that have anything to

22 do with what is in the transcript? That is, 8A.

23 MR. PUCCIO: No, it doesn't. We are playing

24 the portion that corresponds to the transcript with

25 the understanding that if defense counsel wants to

play the entire tape, that's fine. But we are playing this portion.

THE COURT: They may play any other --

MR. BEN-VENISTE: May we have a -- we did not have the prelude. We did not know it was going to be played, what the agent says by himself in front of the camera.

MR. PUCCIO: Judge, in the transcript we supplied, that part is not in. So I don't see how it could be misunderstood.

MR. DUFFY: Before there is any discussion, I have a motion that I respectfully ask your Honor to hear at Side Bar.

THE COURT: Side Bar.

* * *

* * *

7 Q Mr. Wald, on the 29th of January this year,
8 did you have a telephone conversation with Congressman
9 Myers?
10 A Yes, I did.
11 Q Is that the conversation -- is that conversa-
12 tion recorded?
13 A Yes.
14 MR. PUCCIO: May I approach the witness, sir?
15 THE COURT:
16 Q I show you first Exhibit 9B and then Exhibit 9.
17 Can you identify 9B, please.
18 A Yes. It is a tape recording of a telephone
19 conversation made on January 29, 1980, approximately 3:30
20 p.m. from me in New York to Mr. Myers.
21 Q That's the original; is that correct?
22 A Yes.
23 Q Now, will you look at Exhibit 9B and tell us
24 what that is -- I am sorry. Exhibit 9 and tell us --
25 A 9 appears to be a copy, an excerpt copy from

the original.

MR. PUCCIO: May I approach the witness?

THE COURT: Yes.

Q I show you Exhibit 9A and I ask you to identify that.

A This was a transcript of this telephone recording I just spoke about.

Q Is that a transcript of the excerpt copy?

A Yes.

Q Have you compared that, the excerpt copy, and is it accurate, to the best of your ability?

A Yes.

MR. PUCCIO: I offer the exhibit copy, Exhibit 9, and the transcript 9A into evidence.

THE COURT: Any objection?

MR. BEN-VENISTE: May I have a voir dire?

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MR. BEN-VENISTE:

MR. BEN-VENISTE: May I approach the witness?

THE COURT: Yes.

Q Mr. Wald, the date of the tape-recorded conversation was January 29, 1980?

A Yes.

Q And do you recall what you did with the actual tape, Exhibit 9B, the original, after you made the recording?

A I made the telephone call. I did not make the recording. So I never had possession of the tape.

Q Someone was present with you?

A Yes.

Q And can you take a look in this? Would you open that envelope, Exhibit 9B? It has an evidence sticker around it.

A Yes, it does.

(Continued on next page.)

Q Would you examine the tape itself and see if it bears any identifying material?

A Yes.

Q Whose handwriting is on it?

A I don't know whose handwriting that is.

Q Did someone write on it in your presence on the 29th?

A Yes, someone wrote on the tape and we made the telephone call.

Q May I see it for a moment?

A Yes.

(Pause.)

Q Is it fair to say, sir, that the evidence was logged in immediately after the tape was made?

A That is our usual procedure but I had no role in that.

Q You are familiar with the handling of these?

A Yes.

Q There are strict guidelines with respect to that?

A Yes.

Q Is it fair to say that those guidelines were followed in all respects in the handling of this material?

A As far as my knowledge, yes.

Q From the Exhibit 9B, there is a record of everyone who had the tape at the time it was made until today?

A It appears that way, yes.

MR. BEN-VENISTE: I have no further questions. My objection is on the basis of the materiality to this indictment, to the fact that Mr. Criden is not a party thereto, and for the other reasons we have discussed at the side bar relating to the relevancy and Katteakos case.

THE COURT: Objection overruled.

MR. PUCCIO: May I have it marked in evidence?

THE COURT: 9 and 9A are received in evidence.

MR. BEN-VENISTE: May we have a limiting instruction, your Honor.

THE COURT: The same instruction here, ladies and gentlemen, this conversation is a telephone conversation between Mr. Wald and the defendant Myers, none of the other defendants are involved. Until I instruct you otherwise, you should consider it only with respect to Mr. Myers.

Are you going to play that tape now?

MR. PUCCIO: Yes.

THE COURT: You may proceed.

MR. PUCCIO: May I distribute the transcripts, your Honor?

THE COURT: Yes.

(Pause.)

THE COURT: You may proceed.

(Tape played.)

[Exhibit 9A: Transcript of
Audio Tape Exhibit 9]

Date: January 29, 1980

Time: 3:30 P.M. (approximate)

Place: Telephone Call from Michael Wald (New York)
to Michael Myers (Philadelphia)

Participants: MICHAEL MYERS (MM)
MICHAEL WALD (MW)

* * *

MM: Where do I stand with that?

MW: Well a I still, you know, I owe you a the monies we discussed.

MM: Yeah.

MW: And a I'm going overseas this weekend, I'm leaving Friday and I'm going a be back within a well definitely within ten days, probably less, and a and then you've got that amount coming period. I mean there's no if's, and's or but's it's owed to you.

MM: O.K.

MW: You know that's a we we we got that out Friday. We had a good conversation I think and a . .

MM: I thought so and a . .

MW: You know, you made it apparent you're owed X amount of money and I'll go along with it. I I have no problem

with it. A you know I might have problem with the other people and the way they treated you with that thing but a, a that's that's their problem. You know that's between me and them and that'll be taken care of, but a, you'll be made whole. You know I I promised you that and I I there's no way I can go back on my word there.

MM: All right.

MW: Ok but let me a let me get a hold tomorrow a...either from here again or a or from there and I call that 202 number?

MM: Yeah.

MW: And they...

MM: I'll be there to 202 tomorrow.

MW: Ok fine what's the best time a in the afternoon sometime?

MM: Well probably around 3 - 4 O'clock.

MW: Very good.

MM: I'll be staying there tomorrow night.

MW: Ok fine.

MM: 202.

MW: Very good then I'll take to you then.

MM: All right Mike

MW: O.K. thank you.

MM: Right.

MW: Right, bye now.

(End of Call)

8 DIRECT EXAMINATION

9 BY MR. PUCCIO (Continued):

10 Q Agent Wald, two days later, January 31, 1980,

11 did you have occasion again to speak on the telephone with

12 United States Congressman Myers?

13 A Yes, I did.

14 Q Was that call recorded?

15 A Yes, it was.

16 MR. PUCCIO: May I approach the witness, sir?

17 THE COURT: Yes.

18 Q I show you Government's Exhibits 10, 10A

19 and 10B. I ask you to examine these.

20 A Yes.

21 (Pause.)

22 Q First, with respect to 10B, what is that?

23 A It appears to be the original recording of

24 that telephone call.

25 Q What is Exhibit 10?

A 10 appears to be a cassette copy of that call.

Q Of the same recording?

A Yes.

Q Is that an excerpted copy?

A Yes.

Q It contains a portion of the telephone conversation, is that correct?

A Yes.

Q What is Exhibit 10A?

A That is a transcript of 10, Exhibit 10.

Q Have you compared that transcript to the tape recording, Exhibit 10?

A Yes.

Q Is it the same to the best of your ability -- accurate?

A Yes, it is accurate.

MR. PUCCIO: I offer Exhibit 10 and 10A in evidence.

MR. BROWN: I have one objection to be heard at side bar.

THE COURT: A new one?

MR. BROWN: Yes.

THE COURT: Side bar.

* * *

* * *

14 THE COURT: Ready to proceed?

15 MR. PUCCIO: We are going to call that 10-A1

16 if it is all right with the Court.

17 THE COURT: All right.

18 The objections have been made and 10-A will

19 be left for identification. 10-A1 is admitted

20 into evidence.

21 And you are going to play the Exhibit 10

22 and stop it where the transcript ends on 10-A1; is

23 that correct?

MR. PUCCIO: That is correct.

* * *

* * *

THE COURT: 10 and 10A1 are received in evidence.

(So marked.)

(Jury is in the box.)

THE COURT: Ladies and gentlemen, I have received in evidence Exhibit 10 which is the excerpt from the tape of January 31, 1980, telephone conversation between Mr. Wald and Mr. Myers. I have also received in evidence the transcript which has been marked 10-A-1. And it is the intention of the Government to play 10 to you and give you 10-A-1 right now.

(Pause.)

THE COURT: Anyone who does not have a transcript? All right, you may proceed, Mr. Puccio.

MR. PUCCIO: We are ready, your Honor.

(Tape played.)

THE COURT: All right.

DIRECT EXAMINATION

BY MR. PUCCIO (Cont'd):

GOVERNMENT EXHIBIT
10-A
80CR249

Date: January 31, 1980

Time: 1:25 P.M. (approximate)

Place: Telephone Call from Michael Wald (Philadelphia) to Michael Myers (Washington, D.C.)

Participants: MICHAEL MYERS (MM)
MICHAEL WALD (MW)

* * *

MM: Now what do you want me to do on the other thing?

MW: On what thing Oz? Ah, what I owe you.

MM: Yeah.

MW: Well, as soon as I come back ah I'll make you whole and, the other figure that I owe you as well.

MM: O.K. (IA).

Q Mr. Wald, did you have occasion to speak to Mr. Myers again?

A Yes, sir.

Q Was that on the same day?

A Yes, later that evening.

Q Specifically, when you spoke to Mr. Myers again, did you agree that someone would be coming to see him on Saturday --

MR. CACHERIS: Leading, your Honor. I object.

MR. PUCCIO: I am leading in the area because I'm trying to cover a certain particular item --

THE COURT: I will permit it.

Q Did you agree that someone would be coming to see him on Saturday, February 2nd, at Longport, New Jersey, at his home?

A Yes.

Q Who did you agree would be coming to see him?

A Mr. Poulos, the agent.

Q What was Mr. Poulos to see him for on Saturday, February 2nd?

MR. CACHERIS: Objection, unless he told him.

Q Did you tell him what Mr. Poulos was to see him for?

A Yes.

Q What was he --

A To deliver $85,000.

MR. PUCCIO: I have no other questions at this time.

THE COURT: Cross-examination, Mr. Duffy.

MR. DUFFY: Mr. Johanson passes.

THE COURT: Mr. Ben-Veniste?

MR. BEN-VENISTE: May I have a moment, your Honor?

THE COURT: All right.

(Pause.)

CROSS-EXAMINATION

BY MR. BEN-VENISTE:

Q No other money was given to Mr. Myers, was there?

A No.

Q Indeed, all that fumbling and putting $5,000 in an envelope, that didn't go to Mr. Myers either, did it?

A No.

MR. PUCCIO: Objection to the form.

THE COURT: Overruled.

Q Your answer?

A No, it didn't.

Q Now, you knew, did you not, that Mr. Melvin Weinberg was going to set up a meeting so that you could meet my client Howard Criden in January, 1980?

A Yes, sir.

Q You knew that Mr. Weinberg was supposed to get Mr. Criden to set up a meeting with Ozzie Myers so that you could meet with Ozzie Myers?

A No.

Q You didn't know that Mr. Weinberg had told Mr. Criden that he wanted to meet with Ozzie Myers?

A No, I wasn't aware of that.

Q Were you aware of the fact that Mr. Weinberg had arranged for Mr. Myers to be brought before the cameras on August 22, 1979?

A I had viewed a videotape of Mr. Myers in New York City.

Q Did anybody tell you what Mr. Weinberg had said either directly or through an intermediary to Mr. Myers about how he should behave at that meeting?

MR. PUCCIO: I object to the form. Also it assumes facts not in evidence.

THE COURT: Overruled.

A I am not sure I understand the question.

MR. BEN-VENISTE: Read the question.

THE COURT: Read the question.

(Question read by the reporter.)

A No, sir.

Q No one told you one way or the other?

A No one had mentioned it to me.

Q I think you said you had not met with Mr. Weinberg yourself?

A I had not.

Q Until very recently?

A True.

Q When was that recently you had met with him?

A Approximately two weeks ago, two and a half weeks ago.

Q Did you review the tapes and transcripts in this particular case?

A Only the ones I participated in.

Q As far as the meeting with Mr. Criden, which was in turn setting up a meeting with Mr. Myers, you had no knowledge about Mr. Weinberg's participation; is that your testimony?

A No. That is not my testimony.

I was told that MR. Weinberg had placed a call to Mr. Criden for the purpose of introducing me, and Myers did not enter into it. I don't know what was on --

the text of that telephone call, but Myers was not part of it as far as I was told by anyone. That came up later.

(Continued on next page.)

Q What do you mean it came up later?

A It came up in conversation with Mr. Cridan.

Q So if Mr. Weinberg had mentioned that one of the purposes in Mr. Criden meeting with you was for him to introduce Congressman Myers to you, that would be a surprise to you as you sit here?

A Yes.

Q And you say there was a conversation. Do you know whether there was more than one conversation between Mr. Criden and Mr. Weinberg to set up that meeting?

A I am only aware of one. It could have been more.

Q So if there were more, that would be a surprise to you?

A Yes.

Q So is it fair to say that the only thing that you know about, as far as Mr. Weinberg contacting Mr. Criden concerning meeting you, would be that one conversation?

A Prior to meeting me, yes.

Q Right. That one conversation?

A Yes.

Q And the day that he met Mr. Criden was what date, sir?

A The first time I met Mr. Criden I believe was the 18th of January.

Q Now, did you compare the transcript which is marked as Exhibit 7A with the tape recording?

A Which? I compared all of them at one time or another, yes.

MR. BEN-VENISTE: May I just have a moment, your Honor?

THE COURT: Yes.

MR. BEN-VENISTE: May I have the Court's indulgence.

Q Do you recall Mr. Criden's using a word in another language other than the English language during that meeting?

A He did use a word during one meeting that -- I don't know which meeting it might have been. We had several.

Q Let me show you page 178, very bottom of the page.

MR. BEN-VENISTE: May I approach the witness?

THE COURT: Yes.

Q You knew that Mr. Criden was Jewish, didn't you?

A Yes.

Q And you see the word in the sentence by Mr. Criden in the second line from the bottom, "I got something but I didn't get" -- and then it says "piecock." Did that make any sense to you?

A Absolutely none.

Q Do you know what the word "piecock" means?

A No. In the context in which he used it, I assumed it meant "nothing."

Q You assumed it?

A Nothing or very little. Only from the context. I had never heard that word before.

Q Now, had you studied psychology at all in the course of your official training?

A Somewhat in -- meaning FBI training or --

Q Yes.

A -- or education? FBI training, slight amount.

Q And during the meeting with Congressman Myers on the 24th of January, Congressman Myers was given a certain amount of liquor, was he not?

A Yes, I believe he had something to drink. Maybe he had two drinks.

Q Two tumblers of bourbon over ice?

A I know he had bourbon. How much, you know, I don't know. I didn't make the drinks.

Q You didn't pour the drinks?

A No.

Q Did you intentionally intend for Mr. Myers to imbibe alcohol?

A No. Certainly not.

Q So that when you offered him alcohol, that was not your intenti on for him to drink it?

A No. It was my intention to be sociable. It was a business situation and --

Q So you did.

A The normal thing to do.

Q You intended him to drink?

A I intended to make the offer. If he wanted to drink it, fine. If not, that's fine, too.

Q During the course of the tape there is -- as I listened to it -- I don't know whether you heard it, there is a great deal of clinking of glass -- ice in glasses that you can actually hear.

A Yes. Most of that was mine.

Q Yes. You weren't drinking alcohol, were you, sir?

A Yes. I had a little.

Q A little?

A Yes, I did.

Q You were aware of the fact that the clinking of cubes in a glass made another person -- it would have the effect of reminding him that he's got a glass in front of him and to drink as well?

A No.

MR. PUCCIO: I object to this.

THE COURT: Overruled.

The answer is no?

THE WITNESS: I was trying to condition Mr. Myers into drinking or or less? I had a sore throat. I was ill. I had a cold during that entire time. I was chewing ice.

Q Is it fair to say, sir, that in your conversation on the 25th of January -- and, of course, my client wasn't present -- but you mentioned the -- you mentioned something about Moslem retribution. Do you recall that?

A Yes.

Q Is it a fact that you wanted to give the impression to Mr. Myers that Ernie was either a hit man or an enforcer in some way in connection with your organization?

A Yes. Qualified by the fact that if someone in our organization wanted to give him the impression that if someone in our organization had in fact doubled us, that

he would be in fact in serious difficulty, meaning employees of ours.

Q Serious difficulty. You weren't suggesting just being quiet, were you?

A I really wasn't suggesting anything. I just threw it out.

Q You were suggesting that he was going to get hurt, that Ernie was going to be sent out on a mission of retribution?

A That was a possibility, yes.

MR. BEN-VENISTE: Okay. Nothing further.

THE COURT: Mr. Cacheris?

MR. CACHERIS: Yes.

CROSS-EXAMINATION

BY MR. CACHERIS:

Q Mr. Wald, you told the jury that you are an 11-year veteran of the FBI; is that correct?

A Yes.

Q Ten of those years you spent in the City of Philadelphia?

A No. In the Philadelphia division, which encompasses three-quarters of the State of Pennsylvania.

Q Now, in connection with the January 24th meeting, you consulted with your superiors about having

Mr. Myers brought back before the cameras, did you not?

A Would you repeat that?

Q In connection with the January 24th meeting, that's the first time you met Mr. Myers?

A Yes.

Q You had discussions with your FBI superiors and with prosecutors about bringing Mr. Myers back before the cameras?

A Yes.

Q Now, at that time you had discussed the areas that you wanted to talk to Mr. Myers about?

A No. I had pretty much finished talking to Mr. Myers about anything I had to do with him on the 24th.

Q I am sorry. You are correct, the 24th. Prior to the meeting of the 24th, the first meeting, the first time you met him, you had decided the areas you wanted to talk to him about?

A Yes.

Q You had decided those areas in consultation with or your superiors of the FBI and with federal prosecutors in Philadelphia?

A Yes.

Q Now, those discussions centered around the City of Philadelphia, the municipal government of Philadelphia?

A Yes.

Q You wanted to discuss with Mr. Myers the City of Philadelphia?

A Yes.

Q And, indeed, that's what you did discuss?

A Yes.

Q And so from the beginning of the meeting that occurred on the 24th of January, you told him about the City Council? You wanted to know what he could do for you at the City Council?

A Yes.

Q You told him about the zoning problems? You wanted to know what he could do about zoning problems?

A Yes.

Q And you discussed the hotel complex?

A Yes.

Q And you wanted to know what he knew or could do about the hotel complex? You discussed with him a limousine service?

A Right.

Q Is that correct?

A Yes.

Q Now, all of those things were prearranged between you and the prosecutors and your superiors in the

FBI as areas to discuss with Mr. Myers?

A Most of them, yes. A few of them were brought up. And there were other things that we discussed that came into it as we went along.

Q But that was the entire thrust and purpose of that meeting, to discuss the local affairs of Philadelphia?

A No. The real purpose of that meeting -- I was in Philadelphia doing other business with others. And Mr. Myers in a previous meeting with our people had stated that we should invest in his district. And I was touching base with him, to show him the type of investments we were looking at.

Q You were talking about local investments in the district?

A That's his district.

Q That's correct. But they were to be local investments? Local investments in the City of Philadelphia?

A Well, the City of Philadelphia, we spoke about coal. We spoke about many things. But the hotel was going to be in Philly.

Q And the City Council and the Municipal Government is all in Philadelphia?

A Yes.

Q And associated matters would all be in Philadelphia?

A Certainly.

Q Now, you told him also that your superior, this fictional Arab, was living in London then and was --

A No. I never told him where he was living.

Q I am sorry. You told him that he had viewed films in London of The Godfather and other Mafia type things, that he was paranoid about it.

THE COURT: Yes is the answer?

THE WITNESS: Yes.

MR. CACHERIS: Did I speak --

THE COURT: No. He was nodding, yes, and you were accepting it. We are supposed to have it on the record.

Q And you wanted to see what Myers would tell you about the Mafia, didn't you?

A Well, he brought it up in the conversation about Atlantic City.

Q He said, "Don't go to Atlantic City because the Mafia is there"?

A Yes.

Q You considered that bringing it up?

A Yes.

Q He told you not to go there because of the Mafia?

A Yes.

Q And then you took that as a cue to recite this fairy tale about The Godfather and how paranoid the sheik was about the Mafia?

MR. PUCCIO: Objection to the form of that, Judge.

THE COURT: Strike the "fairy tale."

Q This fiction.

THE COURT: You may answer.

A I thought it would be an appropriate avenue.

Q You thought --

A To discuss with him.

Q You thought it would be an appropriate avenue.

Now, Mr. Myers told you not to deal with the Mafia?

A That's right.

Q He told you, you shouldn't deal with the Mafia.

A That's right. Unless we had to.

Q He told you that and you pressed him on that?

A Yes, I did.

Q Now, during the whole meeting, which I believe lasted -- what, an hour? 45 minutes?

A Approximately.

Q You had in the very next room agents of the FBI and two federal prosecutors?

A One, I believe, during that meeting.

Q All right. I will accept one. Was that Mr. Fioravanti?

A Yes, it was.

Q Did you and Mr. Haridopolos, who was posing as Ernie Poulos, have any code between you during the course of this meeting?

A No.

Q None at all?

A None at all.

Q You had no prearranged code words?

A None.

Q But you expected during the course of the meeting to receive instructions from the prosecutor as to how to proceed?

A From my immediate boss, not from the prosecutor.

Q Did you in the series of phone calls that have been shown on the television -- you have seen them, of course -- talk at each instance to one of your FBI superiors?

A Always to one, Mr. Best.

Q And Mr. Best was a special agent in charge?

A Yes.

Q And Mr. Best was also viewing this video proceeding from the adjoining room?

A That's correct.

Q So that he was able to call you and clue you and instruct you during the course of this meeting?

A Yes. He had that capacity, yes.

Q Well, he did it?

A On occasion. Not all the calls were for that reason. But, yes, I received instructions to pursue a certain area.

(Continued on next page.)

Q In other words, as they were viewing the video tape and they saw a certain area, you were to pursue it?

A Yes.

Q Did they tell you at certain times to examine certain areas?

A The only thing that related to that was the last telephone call in that tape and he said, try to get rid of him. He said, it's late.

Q Try to wrap it up and get rid of him?

A Yes. He said, you have been there a long time. You guys are just looking at each other at this point.

Q I am sorry.

A He wanted me to end that particular tape because it had gone on for quite some time and we had pretty much exhausted what we had been talking about anyway.

Q Now, was your purpose also to strike what you called a new bargain; isn't that correct?

A Yes.

Q And that was the bargain that you wanted to strike concerning the local events that we described earlier?

A Yes.

Q Now, in connection with the Mafia, Mr. Myers told you he heard or knew of Angelo Bruno?

A That's correct.

Q And as an agent of the FBI, you knew who Angelo Bruno was?

A Certainly.

Q Anyone who would read the Philadelphia newspapers would know who Angelo Bruno was?

A Yes.

Q He was as familiar in philadelphia as Frank Costello was in New York?

A Probably more so.

Q Probably more so. So it didn't require any special knowledge to know Angelo Bruno's name?

A No.

Q He also told you he knew a Tona Testa?

A That's correct.

Q And do you know a Tony Testa?

A No, I do not personally. I know who he is.

Q You know who he is?

A I heqrd of a Phillip Testa.

Q That's right. There's no Tony Testa in the Mafia.

A Phil Testa.

Q He told you that he knew a Skinny Razor whose big in Philadelphia in the South Ward isn't he?

A He mentioned the name. I never did put

that together.

Q Well, did you try to investigate who this Skinny Razor was?

A No.

Q Had you heard of Skinny Razor before?

A No.

Q Did you know that Skinny Razor had been dead for 16 years?

A I had never heard of him so how could I know he was dead.

Q But that was put on you as a big man in the Mafia by Mr. Myers.

A He did mention the name, yes.

Q He did that and you had never heard of him?

A No.

Q Now, at the end of this conversation, Mr. Myers had been drinking as you described.

A He had two drinks, yes.

Q At the end of this conversation you got a phone call --

MR. CACHERIS: And, Mr. Puccio, do you want to show him page 166 of the Exhibit.

Q Does page 166 of that Exhibit -- at the

bottom of 165, Mr. Wald, where the sentence of Myers talking, "Ok, I am personally not looking to do that".

Phone rings.

A Right.

Q And then continuing, Myers says, "Now, if that's what I should do, you tell me that.

Phone rings".

Is that correct?

A Yes.

Q Is that the call that you received from Mr. Best telling you to wrap it up?

A One of those two would have been that call.

Q Well, the phone rings, but you answered. You didn't answer twice, did you?

A There were two phone calls near the end of that conversation if I remember correctly. Very close.

Q Both phone calls deal with you wrapping it up?

A No. I'm sure at least one of them did.

Q In wrapping up, you summarized the events of the evening didn't you?

A Yes. To some degree, yes.

Q You told him that there were three points

that were decided upon on that evening as far as you were concerned?

A That's right.

Q Those points were what?

A Any City Council -- influence with the City Council.

Q Right.

A Dealing with any organized crime elements that would give us any type of problem. And I am not sure what the third one was at this point.

Q You don't know what the third one was/

A I don't know.

Q Zone?

A Zoning, yes.

Q So those three problems, City Council, Zoning and the Mafia were the points that you summarized as being the new bargain that you think you struck?

A Yes.

Q And none of those have anything to do with the United States Congress?

A No. Not a great deal.

Q That's correct, isn't it.

Now, when you called him back again on the 25th of January for the next meeting -- and did you call

him?

A Yes.

Q Was that based on a decision between you and the prosecutor to get him back again?

A That was based -- I had told him I would be in touch with him. And it was based on a decision made by my superior, Mr. Best, to try to set up a meeting with someone else through Mr.Myers.

Q And you did get him back?

A Yes.

Q And again you recited to him by summary form that the new bargain was the local events you just described for us?

A Yes.

Q And again none of those dealt with his position as a United States Congressman?

A Yes.

Q Isn't that correct?

A Well, it is -- not -- I don't really understand that. His position as a Congressman --

Q They dealt with local municipal events in Philadelphia?

A Yes.

Q Zoning, City Council and the Mafia. You

don't suggest that the Mafia then is in the United States Congress?

A I wouldn't make that suggestion. But I would like to answer the question. The fact that he was a Congressman and, you know, is the reason I was talking to him, the fact that he had that position.

Q The fact that you were a Congressman is why you were talking to him?

A Well, that's where his influence would come in. If he was Michael Myers, cab driver, he would have no influence politically within the City of Philadelphia.

Q You don't know that to be a fact? If he was Michael Myers, longshoreman, he might have a lot of influence in the City of Philadelphia?

A Yes.

Q Just because he had the title indicates he deals in Congressional matters day and night, does he?

A I had been told by Mr. Criden that he was also a Ward Leader in the --

Q Alright. A Ward, that's local. A Ward Leader is not a United States Congressman?

A In this case it is.

Q It happened to be in this case?

A Yes.

Q In fact,Mr. Myers told you because of his longstanding friendship he know people in the City of Philadelphia?

A Yes.

Q He grew up in the City of Philadelphia?

A Yes.

Q He worked in the City of Philadelphia? That was personal. Friendships that he had. Isn't that correct?

A I would believe so. Yes.

Q Now, near the end of the conversation after you had been told to wrap it up by your superiors, and that's the first conversation of January 24th, and I direct your attention to page 171, he told you, "I'm not going to run out, you know, say, well here's X amount of bucks, go out and introduce this bill. I'm not interested in a f'ing bill that's going to get me shanghied the next day".

Didn't he tell you that?

A Yes.

MR. CACHERIS: No further questions.

THE COURT: Mr. Brown, any questions?

MR. BROWN: No sir.

MR. DUFFY: I've got a few. I only passed.

1 THE COURT: Ok.

2 CROSS EXAMINATION

3 BY MR. DUFFY:

4 Q Mr. Wald, are you telling this Jury, sir,

5 that the only reason you brought Ozzie Myers into the Barclay

6 is that at the meeting in Kennedy on the 22nd of August he

7 mentioned something about investing in his district?

8 A No. That would not be the only reason.

9 That was the rationale behind meeting him.

10 Q Weren't you aware at the time you brought

11 Ozzie Myers into the Barclay Hotel, that the folks in the

12 FBI were dissatisfied with Weinberg?

13 A No. I never knew -- I still don't know

14 that anyone was dissatisfied with Weinberg.

15 Q You didn't hear from any of your superiors

16 that Weinberg was suspect of setting people up or skimming

17 money?

18 A I never heard that.

19 Q Weinberg had been the one who was in on

20 all of the meetings up until that time, was he not?

21 A I don't know if he was or not.

22 Q With Amoroso?

23 Did you read the reports?

24 A No.

25 Q Did you look at any of the files?

A I watched I believe two or three video tapes.

Q Wasn't Weinberg inthere?

A He was in two of them I believe.

Q He never struck you as a subject of inquiry to say, what happened to Mel?

A What do you mean, what happened to him?

Q Why wasn't Mel running the Philadelphia skam?

A Running the Philadelphia skam? Philadelphia was a City. I was told, you're Michael Cohen. And that's it. I didn't inquire why Mel --

Q Mel was a peripatetic individual? He went from Florida to Washington to New York to Jersey, why not Philadelphia? Did that ever occur to you?

A No.

Q You were brand new to this operation, were you not, in January of 1980?

A Yes.

Q Just brought into it?

A Yes.

Q Are you telling this Jury that Ozzie Myers was not at all affected by the licquor he consumed when he met with you that night, the 24th?

A He appeared totally rational and sober to me at that time.

Q And at all times through that meeting?

A Yes.

Q You didn't pour the bourbon, did you?

A No sir, I did not.

Q But it was a full size table glass, wasn't it? We can look at the film.

A They were regular hotel type glasses. I think seven ounces or six ounces.

Q And just straight bourbon, right?

A I have no idea.

Q Well, you were there in the room.

A I did not watch the drinks being made. It was in a bar area in a different location.

Q The man sat in front of you and no further than I am from the end Juror, am I right? And are you telling this Jury that you didn't see the whiskey.

A I never looked to see, you know, what was in his glass or how much. I had one of my own.

(continued on next page)

Q Could have been iced tea?

A I doubt it. He asked for bourbon. I'm sure he got bourbon.

MR. DUFFY: Your Honor, I don't mean to be disrespectful with the next question but I feel I have to ask it with all due respect to the ladies in the Courtroom.

Q In the beginning of that meeting with Ozzie Myers, he never said fuck, did he?

A I don't know in that meeting when and where he might have said that.

Q But he said it regularly towards the end, didn't he?

A Yes.

Q You studies psychology?

A Yes.

Q You know what booze does to the tongue?

A Booze does to the tongue?

Q To the inhibitions?

A Yes.

Q Alcohol reduces inhibitions? I don't want to turn you into a doctor but you know that?

A He had a tendency to do that.

Q Toward the end of that meeting that word

was frequently in Ozzie Myers conversation?

MR. PUCCIO: I object to this unless you qualify Mr. Wald as an expert.

MR. DUFFY: He already answered.

THE COURT: Overruled.

Q It did not --

A The same thing held true --

Q Answer my question, will you please.

A Would you repeat it?

Q Towards the end of the meeting, isn't it true, that Ozzie Myers uses that four letter word frequently?

A Yes.

Q You didn't connect that at all with the state of sobriety?

A No.

Q He didn't have just one of those seven ounce glasses of bourbon did he?

A I don't know if he had a seven ounce glass of bourbon.

Q I am only going on what you told the Jury. You want to make it six?

A I would like to qualify that particular drinking thing. I asked him if he cared for a drink and he said yes, I will will have bourbon.

I said I will have one too.

Q We saw it.

A Mr. Poulos made the drinks. I believe we both had a refill.

I don't know if that was that much in the glass or --

Q You're indicating about a foot?

A Certainly not. You saw the tape. Regular highball glass.

Q When you brought Ozzie Myers into Philadelphia, isn't it true one of your purposes was to get him to admit on that tape with the cameras running that he had traveled to New York from another state on August 22nd?

A Categorically, no. I never expected him to mention it.

Q Isn't it true one of your purposes was to find out on this tape whether he got money in New York on August 22nd?

A No. I had viewed the video tape in New York and knew he had a package.

Q You only knew he was handed a package?

A Yes.

Q You didn't know if he kept it?

A No.

Q Are you telling the Jury one of your assignments was not to find out how Ozzie got to New York on the 22nd of August?

A That's right.

Q One of your assignments was not to find out whether he -- or to get him to admit that he accepted money or received money on August 22nd?

A That's right.

Q One of your assignments is not to find out the way he got to New York on August 22nd?

A That's correct.

MR. DUFFY: May I have a moment, sir?

(Pause.)

Q You were in the room with Ernie Poulos, weren't you?

A Yes.

MR. DUFFY: Next week I will have a helper but I have to look for it myself now, your Honor.

THE COURT: It's alright.

(Pause.)

MR. DUFFY: Unless somebody wants to volunteer over there.

THE COURT: If we knew what you were looking for --

MR. DUFFY: I know, but I don't want him to know yet.

(Pause.)

THE COURT: We will be patient.

MR. DUFFY: Thank you, your Honor.

(Pause.)

MR. DUFFY: I am really embarrassed. Mr. Ben-Veniste has a question or two, may I sit down and find it while he goes on? I will find it.

THE COURT: Yes.

CROSS EXAMINATION

BY MR. BEN-VENISTE:

Q Is it fair to say Mr. Wald that in terms of the assets of this mythical Arab you wanted to appear it would be carte blanche?

A Yes.

Q In terms of Philadelphia, that meant great things could be built in Philadelphia that would help the city?

A Yes. Hotel.

Q And the Hotel, as far as you're discussing it with Mr. Myers, could be located in South Philadelphia?

A Yes.

Q And South Philadelphia did not have a luxury hotel at that time did it?

A Luxury hotel?

Q Thirty-four and a half billion dollar hotel.

A Not like that.

Q South Philadelphia is a working class area.

A Yes.

Q Now, with respect to other projects you were talking to him about the construction on the waterfront?

A Moving coal through the waterfront.

Q Construction of a pier, did that come up?

A Yes.

Q Building a new pier?

A The City would pay for that.

Q To get back to hotels, were you aware that the City of Philadelphia had a great need at that time for hotel construction?

A Yes.

Q That the City itself was clamoring for this kind of construction?

A Any type of construction.

Q This would mean jobs in the construction field?

A It would mean jobs in running the hotel

for people who would work there?

A Yes.

Q It would mean in increase in the city tax roles, that is the business would generate income that in turn would go into the City coffers?

A Yes.

Q You were aware there were certain depressed areas within the City of Philadelphia?

A Yes.

Q Some of which were in Mr. Myers' district?

A Yes.

Q You were aware were you not, that Mr. Myers was very, very concerned about jobs?

A Yes.

Q And providing jobs?

A Yes.

Q Indeed, he stressed this on many occasions, the City of Philadelphia needs more jobs, we have to put people to work?

A Yes.

Q Indeed, every time Mr. Myers mentioned one of the things good for the City of Philadelphia, you said: We could be right there with the money?

A I don't remember saying that.

Q Did you ever say there was any project that was suggested that you didn't have the funds to accomplish?

A No, I gave him the impression we had what amounted to the unlimited funds --

MR. BEN-VENISTE: Nothing further.

MR. DUFFY: One other area before I turn to what I was looking for.

CROSS EXAMINATION

BY MR. DUFFY:

Q Did you cover that with Mr. Criden, how Ozzie got up to New York, wasn't that part of your assignment too?

A No, as I said before it was never part of my assignment.

Q Regardless of whether it was, did you do that?

A No.

Q Was it done in your presence?

A It was brought up by Mr. Myers late on that day of the first tape.

Q Would you look at page 26 of the transcript of 7A where the conversation is with Howard Criden, turn back to the bottom of 25 if you will.

A Yes.

Q You say -- can you go through it with me?

A Yes.

Q This is an accurate transcript?

A Yes.

Q And you are present at that meeting and this was said in your presence?

A Yes.

Q There is an MW, that is you?

A That is me.

Q Ernie said: "Ah, I, Ah I was at ah at the airport, remember when Ah Ozzie met Ah Tony."

You said: " You met him. You've met him."

Ernie says: "No. I never met him. I just went downstairs. You know it was one of those things. I had to go downstairs. I didn't see you around."

Howard says: " I was there."

Ernie says: "You were at the airport that day? I didn't see you."

Howard says: "That was my first one."

Ernie says: "What. I thought it was, I thought it was, who did you call it..." and

Howard says: "The one Ange brought." and

Ernie says: "Yea, Angie brought." and

Howard says: But where do you think Ange

1 got it from?" and

2 Ernie says: "Yea, from you." and

3 Howard says: "ok." and

4 Ernie says: "But, but you weren't there."

5 and

6 Howard says: "I didn't go up to the room,

7 no, I brought him up to New York."

8 EH "And I didn't see ya in the lobby, because

9 I was sittin'...(IA)...

10 HC: No, I was just at the airport.

11 EH: Oh. I don't know how he got there,

12 I don't know whether he drove up or,

13 did he fly up that day?

14 HC: No, we took him up.

15 EH: He drove up?

16 HC The other guy flew up from Washington

17 ...(IA)...

18 EH: Ah, ah, the other...

19 HC: The other guy...

20 EH: Yea, I saw you, you...we, we sent

21 the drink over to you. Ah,ah..."

22 And then so forth.

23 Q Were you there during this conversation?

24 A I was there during the conversation.

25

Q Are you telling this Jury -- this may have been asked and answered and if it was I apologize -- are you telling this Jury that the FBI had not virtually disowned Mel Weinberg by January 1980?

MR. PUCCIO: Objection, asked and answered.

THE COURT: I will permit it.

A I had no idea what Weinberg's relationship with the FBI was then, now, or previous to that time.

Q You were working on the same scam, is that correct?

A Working on the Philadelphia end of it.

MR. DUFFY: I don't have anything further.

THE COURT: Any redirect?

MR. PUCCIO: No, Sir. I have to go call another witness. Perhaps we should take a recess.

MR. BEN-VENISTE: Can I ask one question while Mr. Puccio makes up his mind?

THE COURT: He is trying to wait for me to make up my mind.

CROSS EXAMINATION

BY MR. BEN-VENISTE:

Q One thing, with respect to Testa, you knew that Mr. Myers gave you the wrong first name for Mr. Testa?

A

A Yes.

Q With respect to a Skinny Razor, he was supposed to be a Mafia figure, with all the capability and computers that the FBI has and criminal investigation network, from that day up until today, did anybody run that name through the FBI computer?

A I don't know.

Q As far as you know no one ever did?

A As far as I know.

Q You don't argue the fact that the man has been in the ground for 16 years?

A I don't know.

Q Despite when Mr. Myers was telling you in response to your question about the Mafia, who he was knew was big in the Mafia, he mentioned Skinny Razor, is that correct?

A I never asked him that. He brought up his name. I knew Bruno, Maguchi, and he got a half name right.

Q These are people he's supposed to know personally?

A Yes.

Q When you say he got half a name right, that is if I call you Jack Wald, that would indicate to you I was in good --

A Certainly knew something about it.

Q Knew your last name which could have been read in the papers?

MR. PUCCIO: I object to the statement.

THE COURT: Sustained.

Q With respect to Skinny Razor, it would be more accurate to say he was deep in the Mafia as opposed to big (indicating)?

A You say he's dead for 16 years.

Q You never checked it out?

A No.

MR. PUCCIO: I object.

MR. BEN-VENISTE: Nothing further.

THE COURT: We'll take a short recess.

* * *

* * *

.)

THE COURT: Alright, Mr. Puccio, next witness.

MR. PUCCIO: We call Mr. Best, your Honor.

E D G A R N. B E S T called as a witness being duly sworn by the Clerk of the Court, testified as follows:

DIRECT EXAMINATION

BY MR. PUCCIO:

THE COURT: Ladies and gentlemen, I am not sure as to the full extent of Mr. Best's testimony but I have been informed by counsel that one of the things he will be testifying to is certain statements made to him by the defendant Johanson either on or shortly after February 2nd, 1980.

I have given you a variety of limiting instructions before. I will give an even more stringent one now as to this testimony. As to whatever Mr. Best tells you that was said to him by Mr. Johanson, assuming that's the thrust of this testimony, that testimony can only be used by you

in determining the guilt or innocence of the defendant Johanson. You may not consider that testimony in sense as relating to the other three defendants.

I will give you a final instruction or rather a detailed explanation with respect to how you may use statements, conduct by various people when they are accused as the four defendants are here as being involved in a conspiracy. There are a number of special rules that relate to those things. And some of the limiting instructions I have given you are tied in with those rules. And I will have to modify some of these limiting instructions that I have given you and give you some other instructions as to how to deal with those various items. I will try to clear all that up for you. But one of the -- you should view any statements made by Mr. Johanson that may be testified to by Mr. Best as having been made at this time, that is, February 2nd or later, as being related strictly to Mr. Johanson and not to the other defendants. And you would use them primarily for determining one of the issues that you will have to determine for each of the defendants and that is whether or not he was in fact a member of a conspiracy, if you find that indeed a conspiracy did exist. And you have to make that

finding with respect to each defendant separately based upon what that defendant did and not based on any statement that anybody, any of the other defendants may have made about it.

That is a very, very short version of what I will explain to you later when it's time for you to deliberate. But all that needs to be said for the moment, the purpose of this testimony by Mr. Best, you may just think we only have one defendant involved and that is Mr. Johanson. None of the others with respect to none of the others may it be weighed in your determination.

Alright, proceed, Mr. Puccio.

Q Mr. Best, by whom are you employed?

A The Federal Bureau of Investigation.

Q For how long a period of time have you been employed by The Federal Bureau of Investigation?

A A little over 20 years.

Q What is your present occupation, sir?

A Special Agent in Charge, Philadelphia Division.

Q For how long a period of time have you been a Special Agent in Charge of the Philadelphia Division of the FBI?

A Almost 2 years.

Q Now, direct your attention to Saturday, February 2nd of this year. On that date did you have occasion to interview Councilman Louis Johanson?

A I did.

Q Where did this interview take place, Mr. Best?

A In my office.

Q In Philadelphia; is that right?

A That's correct.

Q Now, prior to commencing this interview with Mr. Johanson, was he advised of his rights regarding self-incrimination?

A He was.

Q And about how long a period of time -- about how long did this interview take? Do you recall?

A From the time he was in our office base until he left, it was approximately 6 hours.

Q Now, at some point during this interview, did you advise Mr. Johanson that the FBI had video tapes?

A I did.

Q And subsequent to that, did you question him about a trip to New York City during August of 1979?

A Yes, I did.

Q Did he in fact tell you that he had

traveled to the vicinity of a hotel near Kennedy Airport during August, 1979 in connection with a meeting with Mr. DeVito, a Mr. Weinberg and another person?

A He did.

Q During this interview did Councilman Johanson tell you that as a result of this trip he received a sum of money?

A that's correct.

Q Did he tell you that he in fact had observed the sum of money in large denominations wrapped in rubber bands?

A He did.

Q And did he tell you in fact that there was less money than was actually expected?

A Yes, he did.

Q Now, at one point in the interview, Agent Best, did you say -- did you ask this question of Mr. -- or councilman Johanson? Did you say to him Councilman do you understand the ramifications of this type of influence peddling?

A I did.

Q And what did he say to you? Do you recall?

A He said that he did realize the seriousness of this type of activity. As a matter of fact, he went

on to say that since July of that year he had many sleepless nights.

MR. PUCCIO: I have no other questions.

THE COURT: Cross examination.

CROSS EXAMINATION

BY MR. DUFFY:

Q Agent Best, you are the head man in Philadelphia?

A I am the Special Agent in Charge.

Q Tell the Jury what that is? That's the boss; is that right?

A Yes, that's the senior agent in charge.

Q You have been with the bureau for 20 years?

A That's correct.

Q Are you a lawyer?

A I am law trained.

Q Did you go to law school?

A Yes.

Q Like all of us lawyers here?

A That's correct.

Q So you had college and then three years of law school?

A That's correct.

Q So on the night you had Louie Johanson in the office of the FBI for six hours, you knew what you were doing and what you were after, did you not?

A Yes, I did.

Q And tell this Jury, Louie asked to have a lawyer there, didn't he?

MR. PUCCIO: I object, your Honor.

I will withdraw the objection.

THE COURT: Overruled.

Q Didn't he?

A That's not quite correct.

Q Well, Mr. Puccio asked you if you advised him of his rights?

A That's correct.

Q Did you do that?

A Right.

Q When you advise people of their rights, you read from a card that says, you have a right to have a lawyer present during the interrogation and things like that, right?

A Yes.

Q And you told that to Louie, didn't you?

A Yes.

Q and Louie said, I want to call a lawyer,

didn't he?

A No, he didn't. At first he said that he read the advice of rights, which was a printed form. I asked him if he understood it. He said he did.

Q Alright.

A But at that point --

MR. DUFFY: Your Honor, I object to this characterization. I am asking the witness if he --

THE COURT: You just want the --

MR. DUFFY: I am asking him if Johanson asked that he wanted a lawyer. That can be answered, yes or no.

THE WITNESS: At one point he asked telephonically to contact an attorney. That's correct.

Q Are you telling us that he told you, I would like to telephonically contact an attorney?

A He said, can I use your telephone to call an attorney.

Q He tried to get one for an hour or an hour and twenty minutes, didn't he?

A Yes.

Q He didn't get a lawyer?

A No.

Q Because you got these fellows in on a

Saturday night, right?

A He came in on a Saturday night. That's correct.

Q And you were aware what most criminal lawyers are doing on Saturday night, weren't you?

A No.

Q In the office of the FBI in Philadelphia, tell this Jury on the day, February 2nd, 1980, did you have video tape equipment?

A Yes.

Q Did you have Nagras?

A Yes.

Q Did you have other tape recording equipment?

A Yes.

Q And you were interviewing Lou Johanson with an eye toward sitting in that seat where you sit right now and telling twelve, sixteen people what he told you, were you not?'

A I didn't think of it that way. We were trying to find out what the truth of the facts were.

Q Well, you weren't spinning your wheels, were you, Agent Best? You knew you were trying to get a statement to tell a Jury some day?

A Not necessarily. We were interested in what he could tell us to be the truth of a situation.

Q Well, what did you intend to do with the truth? Send it to the other guys or tell the Court?

A No. Provide it to the prosecutors.

Q And come into Court and testify as a witness right?

A That would be their decision.

Q But -- and they decided to have you here today, didn't they?

A that's correct.

Q And you don't have a video tape of Lou Johanson, do you?

A No, we do not.

Q And you don't have a tape recording of this statement you say he gave you, do you?

A No, we do not.

Q Because you didn't bother that night to do it, did you?

A We didn't do it. No.

Q And you don't have a typewritten statement or handwritten statement that's signed, Louis C. Johanson, do you.

A Not because we didn't ask him to do that.

Q Answer my question.

A We don't have it because we didn't try.

Q Alright. What you had -- what you have is your word.

THE COURT: Wait a minute. He said, we don't have it because we didn't try. Is that what you mean.

THE WITNESS: Yes. We asked him to do just that, provide us with such a statement.

Q And he wouldn't do it?

A Yes. He was ready and willing to do it the following day.

Q But he got a lawyer, didn't he?

A that's correct.

Q Alright. Now, what you have for this Jury is Edgar Best's word -- I beg your pardon. John Best, isn't it?

A Edgar.

Q Edgar Best's word for what happened in that room in the Office of the Federal Bureau of Investigation on the night of February 2nd; isn't that right?

A As well as two other special agents.

Q But you don't have anything with Louie's signature on it? You don't have the video tape which is what

this case is all about, do you?

A No. We have got a receipt for the return of bribe money.

MR. DUFFY: Objection, sir. That is not responsive.

MR. BEN-VENISTE: I move to strike and admonish the witness to answer only the question.

THE COURT: The objection is sustained. Disregard the answer.

Read the question back to the witness.

(Record read.)

THE WITNESS: That's incorrect in part.

Q On the night that you took this statement or you interviewed Lou Johanson, you didn't video tape him, did you?

A No, that's correct.

Q And you didn't audio tape him, did you?

A No.

Q And you knew that -- well, strike that.

Now, let's go to the question that Mr. Puccio asked you, whether you asked Louis Johanson if he understood the ramifications of this type of influence peddling. Are you telling the Jury there your exact words?

A Those were my exact words. Yes.

Q What did you say?

A I said, do you understand the ramifications of this type of influence peddling.

Q And Louis -- you have in your report -- you prepared this report, did you not?

A Yes.

Q You signed it?

A Yes.

Q You attest to your superiors at the Bureau that what was in there was true, am I right?

A Yes.

Q Did you write in your report, he stated that he had been aware of the dangers of these dealings since July, but it was a chance to make some easy money and he decided to go forward. Is that what you wrote?

A Yes.

Q Is that what Louie said?

A To the best of my recollection, yes.

Q We have to go on your recollection?

A You certainly do.

(continued on next page)

Q And then did you write, according to Johanson, he had many sleepless nights since it began, but that his family situation pressured him greatly? Is that what Louie told you?

A Yes.

Q He then related that his son Louis Jr., an alcoholic at age 25, is currently hospitalized with extensive liver damage and the prognosis indicated very large medical expenses in the immediate future. Is that what Louie told you?

A Yes.

Q And we just have your recollection; is that right?

A As well as two other special agents.

MR. DUFFY: That's all.

THE COURT: Any other questions?

Mr. Ben-Veniste.

CROSS EXAMINATION

BY MR. BEN-VENISTE:

Q Mr. Best, you were aware prior to January of 1980 of the fact that an investigation called ABSCAM had been going on for some time, run out of Brooklyn, is that correct, sir?

A That's correct.

Q And you pushed for Philadelphia getting some share of the investigation; is that true, sir?

A We were interested in some aspects of the investigation, yes.

Q There was a time when you -- when you specifically requested that you be allowed to get a crack at ABSCAM, run by the Philadelphia FBI Office; is that right?

A Yes.

Q And in that connection, sir, is it fair to say that a request was made of Mr. Weinberg to do something?

A No, I never requested him to do anything.

Q If you listen to my question, sir, my question was, is it fair to say that a request was made of Mr. Weinberg to do something?

A That's possible. Yes.

Q Well, you were in charge of the Philadelphia investigation?

A That's correct.

Q And you were concerned with how it was going to be set up, were you not?

A Yes.

Q And you had determined for whatever reason that you weren't going to use Mr. Weinberg; is that correct?

A We had no use for Mr. Weinberg in our --

Q I understand. With respect to Mr. Weinberg, sir, do you not know that Mr. Weinberg was instructed to call Mr. Criden in order to introduce Mr. Criden to the new cast of characters?

A Yes, I believe that's correct.

Q And do you not know, sir, that Mr. Weinberg was asked to tell Criden --

Do you not know, that Mr. Weinberg was asked to ask Criden whether he could get a hold of Ozzie Myers and introduce him to your agent?

A I have no knowledge of that conversation.

Q You don't?

A No.

Q You were in charge of the -- you don't recall such a message being brought to you, that such a request was made?

A At no time did we direct Mr. Weinberg at all.

Q No. But you were coordinating with someone else, were you not?

A That's not how we made our connection.

Q Pardon me?

A That is not how we made the connection.

Q Weren't you coordinating with the FBI

Office in New York?

A To a limited degree at that point.

Q Well, didn't you know it was going to be Mr. Weinberg who made the introduction of Mr. Criden to your new cast of characters?

A No. We were going to use a different situation.

Q Well, do you not know that in fact Mr. Weinberg called Mr. Criden?

A That's possible. I'm not aware of it.

Q Let me see if this refreshes your recollection, sir.

MR. BEN-VENISTE: I am showing the witness a recording -- a transcript of a recording marked as number 1589.

Q I would like you to take a look at it.

THE COURT: 1589?

MR. BEN-VENISTE: Yes. January 11, 1980. That's not the 3500 -- it is the FBI number. This witness may not be familiar with our 3500 code.

THE COURT: How is anyone reading the record going to know what you are talking about.

MR. BEN-VENISTE: Maybe Mr. Levy can help us.

MR. LEVY: 3500-230A.

THE COURT: Thank you Mr. Levy.

Q Take a look at the first page of that, please, Agent Best.

MR. BEN-VENISTE: May I ask the questions from here?

THE COURT: Yes.

Q Now let me ask you to review pages 2 and 3, sir?

A Ok.

Q Doew that refresh your recollection, sir, that indeed Mel Weinberg telephoned Howard Criden and asked Mr. Criden whether he would be willing to get a hold of Congressman Myers and introduce him to these new fellows who were going to be in Philadelphia?

A That's what that appears to say, yes.

Q Do you have any reason to doubt that?

A No.

MR. BEN-VENISTE: Nothing further.

MR. CACHERIS: No questions at this time.

THE COURT: Mr. Brown, any questions?

MR. BROWN: No, your Honor. Thank you.

THE COURT: Any redirect?

MR. PUCCIO: May I have a moment, your

Honor.

THE COURT: Yes.

MR. PUCCIO: Your Honor, I won't pursue this witness. I will call Agent McMullen.

THE COURT: I take it, there are no more questions for Agent Best.

MR. DUFFY: No sir.

THE COURT: Thank you,Mr. Best. You may step down.

(Witness excused)

THE COURT: Next witness.

MR. PUCCIO: We call Agent McMullen.

R I C H A R D M C M U L L E N called as a witness, being duly Sworn by the Clerk of the Court testified as follows:

THE COURT: Alright, Mr. Puccio:

DIRECT EXAMINATION

BY MR. PUCCIO:

Q Mr. McMullen, by whom are you employed?

A the FBI.

Q For how long a period of time have you been employed by the FBI?

A In excess of 15 years.

Q Are you assigned to any particular office

within the FBI?

A Yes. I am an Hauppague resident agent of the Brooklyn-Queens Office.

Q On February 2nd of this year, did you have occasion to speak to Congressman Michael Myers?

A Yes, I did.

Q Where did this conversation take place?

A In a home in Longport, New Jersey.

Q That's where Congressman Myers was staying; is that right?

A That's correct, sir.

Q At the time of this conversation were you accompanied by any other members of the FBI?

A Yes. Special Agent James T. Mahr of the Philadelphia office.

Q Now, prior to speaking to Congressman Myers -- withdrawn.

Why don't you tell us what you said to Congressman Myers and what he said to you and Agent Mahr, as best you can recall?

A Yes. On February 2nd, 1980, we arrived at the residence in Longport, New Jersey, approached the house. Congressman Myers was standing near the door looking out the window, saw us approach, opened the door. We identified our-

selves by displaying our credentials, handed our credentials to Congressman Myers. He took both sets, examined them, handed them back to us and invited us into the house.

We sat in the -- what I would believe to be the living room of the house where we told Congressman Myers that the FBI was conducting an investigation into the activities of Tony Devito, Mel Weinberg, Angelo Errichetti, Howard Criden and Michael Cohen. He was asked if he was acquainted with any of these individuals.

Congressman Myers replied that he knew Howard Criden to be an attorney, Philadelphia attorney, that he knew Angelo Errichetti to be the Mayor of Camden, New Jersey. And he was not acquainted or did not know Tony DeVito, Mel Weinberg or Michael Cohen.

At this point of the interview, Special Agent James Mahr advised Congressman Myers of his rights by reading to him the contents of a form known as Interrogation, Advice of Rights. He handed the form to Congressman Myers. Congressman Myers studied the form for a few minutes, handed it back to Special Agent Mahr. Special Agent Mahr asked the Congressman if he understood the contents of the form. Congressman Myers stated, very clearly.

Congressman Myers was asked for a second time, do you know Mr. DeVito, Mel Weinberg, or Michael Cohen. He stated

again, no, he did not know these individuals. He stated that he did know Howard Criden to be an attorney --

MR. BEN-VENISTE: Objection.

Q Alright. Agent McMullen, during the course of this interview, was Congressman Myers asked for the third time if he knew Tony Devito, Mel Weinberg and Michael Cohen?

A Yes, he was.

Q And what did he say for the third time?

A He did not know either -- he did not know any of the individuals. Did not know Tony DeVito, Mel Weinberg or Michael Cohen.

MR. PUCCIO: No other questions.

THE COURT: Cross examination.

CROSS EXAMINATION

BY MR. CACHERIS:

Q Agent McMullen, when you went to this house in Longport, did you tell Mr. Myers that he was under investigation?

A Not specifically. No sir.

Q did you tell him that Tony DeVito was really an FBI agent named Anthony Amoroso?

A No sir.

Q Did you tell him that Mel Weinberg was an undercover agent, FBI operative?

A No sir.

Q Did you tell him that Michael Cohen was really an FBI agent named Michael Wald?

A No.

Q did you tell him that you had or the FBI had video tapes showing Mr. Myers in August and January?

A No sir.

MR. CACHERIS: No further questions.

THE COURT: Any other questions? Mr. Ben-Veniste?

MR. BEN-VENISTE: May I have a moment, your Honor.

THE COURT: Yes.

MR DUFFY: May I have one more shot, your Honor?

THE COURT: Yes.

CROSS EXAMINATION

BY MR. DUFFY:

Q Mr. McMullen, were you aware when you went to see Congressman Myers that in an interview with Cohen, who is really Wald, Cohen told him that the Arabs attended to people that got out of line with Moslem retribution administered by Ernie Poulos?

A No sir, I don't believe I was aware of

that.

MR. DUFFY: That's all.

THE COURT: Mr. Ben-Veniste.

CROSS EXAMINATION

BY MR. BEN-VENISTE:

Q Did you do anything to indicate in that regard, sir, that there would be no danger to any of those individuals if Mr. Myers were to discuss that with you?

A I don't remember.

Q In other words, in connection with the undercover names that you mentioned, Cohen, Weinberg and DeVito, did you indicate anything to Mr. Myers that these were just a put on?

A The Me. Weinberg name is a true name. But I didn't indicate to him at all that Tony DeVito or Michael Cohen was an assumed name.

Q You say you had received no briefing to the effect that Agent Wald had told Myers that if any of these individuals got out of line that Poulos was going to kill them or do something serious to them in the way of physical retribution?

A No sir. I never received a briefing like that.

MR. BEN-VENISTE: Nothing further.

THE COURT: Any redirect?

MR. PUCCIO: No, your Honor.

THE COURT: Alright, thank you, Mr. McMullen. You may step down.

(Witness excused.)

* * *

# I N D E X


| WITNESS | DIRECT | CROSS | REDIRECT | RECROSS |
|---|---|---|---|---|
| Michael Wald | 2544 | 2588 | | |
| Edgar N. Best | 2640 | 2645 | | |

| EXHIBITS | IN EVIDENCE | ITEM |
|---|---|---|
| Government's Exhibit 9 | 2577 | Tape 7-29-80 |
| Government's Exhibit 9A | 2577 | Transcript of Tape |
| Government's Exhibit 10 | 2387 | Tape (Excerpt) 1-31-80 |
| Government's Exhibit 10A1 | 2386 | Transcript of Tape |

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA,

-against-

MICHAEL O. MYERS, ANGELO J. ERRICHETTI,
LOUIS C. JOHANSON, HOWARD L. CRIDEN,

Defendants.

----------x

80 CR 00249

United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

August 25, 1980
9:30 o'clock A.M.

B E F O R E :

HONORABLE GEORGE C. PRATT, U.S.D.J.

82-077 O—81——97 (Pt. 1) BLR

1 A P P E A R A N C E S :

2

3 EDWARD R. KORMAN, ESQ.,
United States Attorney for the
4 Eastern District of New York

5

6 Department of Justice
Strike Force
7 Brooklyn, New York

8 BY: THOMAS P. PUCCIO, ESQ.,
9 LAWRENCE H. SHARF, ESQ., and

10 Special U.S. Attorneys

11 Attorneys for the Government

12

13 MESSRS. HUNDLEY & CACHERIS, P.C.
1709 New York Avenue, N.W.
14 Washington, D.C. 20006

15 BY: PLATO CACHERIS, ESQ., and
LARRY S. GONDELMAN, ESQ., of Counsel

16 Attorneys for the Defendant Michael O. Myers

17

18 BROWN & BROWN, ESQS.,
26 Journal Square
19 Jersey City, New Jersey

20 BY: RAYMOND A. BROWN, ESQ., and
21 HENRY F. FURST, ESQ., of Counsel

22 Attorneys for the Defendant Angelo J. Errichs

23

24

25

A P P E A R A N C E S : (Continued)

1

2 MESSRS. CARROLL, CREAMER, CARROLL & DUFFY
Suite 326 Three Penn Center Plaza
3 Philadelphia, PA 19102

4 BY: JOHN J. DUFFY, ESQ.,

5 Attorney for the Defendant Louis C. Johanson

6

7 MESSRS. MELROD, REDMAN & GARTLAN
1801 K. Street, N.W.
8 Washington, D.C. 20006

9 BY: RICHARD BEN-VENISTE, ESQ., and
NEIL I. LEVY, ESQ., of Counsel

10

11 Attorneys for the Defendant Howard L. Criden

12

13

14

15

16

17

18

19

20

21

22

23

24

25

THE COURT: Good morning.

Do you have another witness,Mr.Puccio?

MR. PUCCIO: We will have no further evidence at this time.

THE COURT: The Government rests.

Any motions?

MR. BEN-VENISTE: Yes, your Honor.

We would move to dismiss each count of the indictment ont the ground that the Government has failed in its necessary burden at this stage. I won't belabor the point that we have made, however, the evidence does not demonstrate the conspiracy charge. The evidence does not show other than the fact that this was a sham proceeding from beginning to end that the Government agent arranged for Congressman Myers to act out a role and all actions which he took were confident with his doing and opposed to making a promise to receive money with the intent to actually misuse his official office.

Further, we would urge the Court, on the basis of the record already standing, that this Court dismiss the case on the basis of Government overreaching that is so shocking that it is to the extent of offending any conception of due process of law.

Further, I ask that the indictment be dismissed on the ground that on the Government's case it's been shown there was entrapment as a matter of law in this case.

Further motion with respect to the striking of evidence -- shall I take that now, your Honor? Or stop with respect to the motions for directed verdict?

THE COURT: The motions for acquittal are denied.

MR. CACHERIS: We all join and we add one observation with regard to Mr. Myers. The Government must prove beyond a reasonable doubt what Mr. Myers was supposed to do was an official act that has been defined in the statute. There has been absolutely no proof that there was any official act to be done or the Government hasn't proved what was contemplated was an official act. They have the burden to put in before the jury, to give the jury guidance as to what the official act is and they have not done so.

Secondly, on the same point, the 24th and following tapes, do not deal with official acts of the Congressman, they deal, as the Court has heard with local municipal affairs and could not be considered official acts.

THE COURT: I don't quarrel with your latter characterization of what happened in January. But the motions to dismiss on the official acts ground is denied.

MR. DUFFY: As to strictly defendant Johanson, I move for a directed verdict of acquittal on the grounds the Government has not offered any proof at all that he was a party to any agreement to violate any law, number one, and number two, that with respect to the travel act, the Government demonstrates jurisdiction that was manufactured. I don't speak for the other defendants, they were lured into the Eastern District of New York. And their travel into the Eastern District was a sine qua non of jurisdiction which was manufactured by the Government.

THE COURT: Motion denied.

MR. BEN-VENISTE: I would simply add to that the fact the Government has not proved that essential element of the crime that is Ozzie Myers was a Congressman of the United States and had the capacity to perform the official acts charged.

THE COURT: You don't think there is evidence of that in the record?

MR. BEN-VENISTE: I don't think they have

satisfied their burden in the direct case.

THE COURT: Denied.

MR. BEN-VENISTE: With respect to the evidentiary matter, your Honor, I would ask ast this time that the Court strike the testimony of Ellis Cook particularly with respect to the hearsay statements made by Cook concerning travel to the Eastern District of New York.

Ellis Cook was not shown to be a member of a conspiracy. He did not act in furtherance thereof. There was no one act taken by Ellis Cook which shows participation in a conspiracy.

His testimony was that he sat down with his law pastners when the matter was broached and had a discussion about whether anything was improper in introducing the Congressman to the supposed Sheik.

They in and the Congressman would receive a fee therefore, however, it's emphatically stated there would be no quid pro quo and therefore no violation of law.

The only concern he had was whether a law firm should register as an agent of a foreign government and their conclusion since the Sheik was not a representative of a foreign Government, is that they

had no such responsibility.

Under those circumstances the Government has failed to show that Ellis Cook was a co-conspirator.

He is cast in that light simply by the Government saying so in the Bill of Particulars. The Grand Jury took no such action.

For those ressons, we would ask tha the hearsay statements which were admitted, I suppose subject to proof that he was a member of the consipracy, be stricken.

THE COURT: What specific hearsay statements are you referring to?

MR. BEN-VENISTE: Statements by Ellis Cook with reference to travel, with reference --

THE COURT: What did he testify to about travel?

MR. BEN-VENISTE: That he was told that Johanson and Criden were going to travel to the vicinity of the airport in New York.

THE COURT: Is that hearsay?

MR. BEN-VENISTE: Yes.

THE COURT: Doesn't it indicate a present state of mind?

MR. BEN-VENISTE: Ellis Cook is testifying what Mr. Criden told him.

THE COURT: He's going to go to kennedy Airport or whatever --

MR. BEN-VENISTE: Yes. He further testified he had a meeting up in New York which would be inadmissible hearsay.

He further testified over our objections as to his characterization of what Mr. Criden told him about what the Sheik would be receiving for his money. That was objectionable on other grounds other than hearsay,but your Honor allowed it.

I would suggest that the Court -- that that is extremely prejudicial on th basis of the Government's failure to show Cook's participation in a conspiracy and it should be stricken.

THE COURT: I will reserve decision on that.

MR. BEN-VENISTE: With respect to Cook's testimony and that of Michael Criden, I suggest to the Court that the Government had no independent basis for obtaining that testimony other than the statement made by Mr. Criden on February 2nd and that that testimony is fatally tainted and should have been excluded. We ask your Honor at this time to strike it.

This evidence introduced a matter taken up

before Judge Mishler.

THE COURT: You better run that by me again.

MR. BEN-VENISTE: A matter that Judge Fullman ruled upon, Judge Mishler accepted Judge Fullman's opinion. Judge Mishler had a brief hearing pretrial. Perhaps I can approach the side bar?

THE COURT: No. I don't know what you're talking about. You started talking about Michael Criden.

MR. BEN-VENISTE: Yes, he testified that his father -- that he had drove his father to New York on August 22nd.

THE COURT: You say Judge Fullman made a ruling?

MR. BEN-VENISTE: May I approach the side bar?

THE COURT: You're talking about the taint arising out of Mr. Criden's statement?

MR. BEN-VENISTE: Yes.

THE COURT: I passed on that.

I already ruled.

MR. BEN-VENISTE: I don't recall your specifically done so. Judge Mishler held a hearing pretrial where he found on the basis of representations made by Mr. Puccio that there was no taint.

I would suggest to the Court that a reevaluation

of that ruling in light of the evidence adduced at trial is in order and on that basis the testimony of Mr. Michael Criden and Ellis Cook should be stricken.

THE COURT: That request is denied. Anything further?

MR. SEN-VENISTE: No, sir.

THE COURT: Do you wish to --

MR. BROWN: May I have one?

THE COURT: Yes.

MR. BROWN: I would like to incorporate in my objection, my motion for a directed judgment, the concepts enunciated by other counsel.

In addition, I would move to strike from consideration of the jury with respect to Mr. Errichetti all that which occurred after December, 1979, particularly with respect to the incidents concerning Congressman Myers of January 24th, 25th and subsequently.

Since the testimony of Mr. Weinberg and I believe confirmed by the conversations on the January 24th tape were to the effect that Mr. Errichetti had in effect withdrawn, I based that on Mr. Weinberg's testimony where he said while they continued to contact Mr. Errichetti in order to keep him available

or neutral it was their conclusion he had in essence withdrawn after the Noto incident of September.

And of course, implicit, although not explicit, in the objection is the fact that throughout Mr Puccio has stated he considers incidents, for example the Lederer circumstances, one of a total conspiracy which goes beyond that which is charged in the indictment. Getting in what is a mutliple conspiracy being tried.

I ask for a dismissal of the indictment or a limitation in the rulings which respect to Mr. Errichetti.

(Continued on next page.)

THE COURT: I think what you are arguing with respect to the ending point of Mr. Errichetti's participation in this conspiracy is probably a fair argument.

There is a conceptual problem, however, in that what happened after that time is admissible and probably helpful in this case only to the extent it helps determine Mr. Myers' state of mind back in August.

MR. BROWN: That is true.

THE COURT: In so far as his state of mind in August is a relevant factor, Mr. Errichetti is bound by that if the jury finds there was a conspiracy at that time.

MR. BROWN: I wrestled with the concept. I tried to carefully phrase my objections so that at least it makes some sense.

How that can be handled I think is a matter of law which I will later have to submit to your Honor in a brief.

It does appear there is at least a reasonable inference arising almost to a presumption that because of what Mr. Weinberg said and the way he said it, "After that Noto thing," we felt he withdrew

and was trying to work out some sort of trickery on us -- I don't think the Court is bound by the phrase Mr. Weinberg used in response to my question: "Would you say that at that time he was no longer involved in ABSCAM," and he said, "Yes."

I do not say in any sense Mr. Weinberg's statement is binding on the Court.

I do argue it is a strong inference to a presumption that he has withdrawn.

As far as Mr. Myers state of mind in the total concept, it is important. I would have to work hard for a motion to do whatever justice is indicated.

THE COURT: When you get right down to what I have to instruct the jury, it may require some kind of a focusing of the jury's attention with respect to two or three of the overt acts that are alleged.

MR. BROWN: Yes.

THE COURT: Which may have occurred after the time that Mr. Errichetti was out of the conspiracy and if the jury finds he was.

I understand your problem and I have focused on it to some degree. I don't know if it requires any instruction at this point.

MR. BROWN: My argument is, I suppose, a motion for a partial judgment of acquital with respect to that aspect which is merely to introduce the idea that I would urge your Honor to charge the jury after -- I am picking December as the outreaching date, for example, the Myers conversation of January 24th and those that followed are somewhat precise on this point that appears to me, as I recall the tape, Mr. Criden says that fellow across the river hasn't been notified of this and the agents in their technique say this is a new deal, this has nothing to do with the old.

This is between Weinberg, the co-conspiratory statement, in reality he had withdrawn from the conspiracy.

I would ask your Honor perhaps this is not the right place to bring for a direction to the jury that would fairly limit any testimony of December from being considered by them, in the presentation of the defense those issues will I think be highlighted --

THE COURT: To the extent it is a motion for a partial verdict of acquittal, it is denied.

MR. BROWN: That is what I had in mind.

THE COURT: As to what instructions to give to the jury I will wait.

MR. BROWN: I make the Bertolotti argument, on the basis, of course, part of the Kotteakos argument as well, Mr. Puccio said: I view all of these matters not mentioned in the indictment, Lederer, to be specific, Williams when he first -- to be all of one indictment and even though they are not charged that with Bertolotti, I ask for a dismissal of the indictment based on the Kotteakos case.

THE COURT: That is denied.

MR. BEN-VENISTE: We would all join in that.

Not rearguing specifically those points, but with respect to the January 24th and January 25th meetings, in so far as there are admissions with respect to the receipt of money, we have no quarrel. That is admissions with respect to the receipt of money coming from the August 22nd meeting. We do not quarrel with the relevance of that.

However, with respect to Mr. Criden although he is present at the meetings on the 24th, it's quite clear from the statements made at that time and statements made on the 25th outside his presence, anything to do with the local situation is entirely

prospective and does not involve Mr. Criden in any way.

He's not elicited or enlisted into any prospective agreement, and because of the fact that he has simply exceeded to a request to produce Mr. Myers, to invite him to a meeting, he is now in a position in the jury's eyes somehow responsible for these statements made therein.

Although he does not adopt them or act in any way to further them

THE COURT: You are forgetting some of the evidence that was on the tapes.

MR. BEN-VENISTE: I am not forgetting it, your Honor, I simply don't believe that the statements made on the tapes with respect to how we are starting out a new situation, that and that Mr. Criden is not necessary to be contracted any longer, it's quite apparent in the January 25th meeting which incidentally is charged as an overt act in the conspiracy, improperly as I suggested to the Court before, since it has nothing to do with the agreement which led to the Ausgut 22nd meeting. I ask that overt act be stricken and not submitted to the jury.

Further, I will ask your Honor to review the

prosectuor's memorandum prepared by Mr. Puccio in December of 1979. Judge Fullman has done that.

THE COURT: So have I.

MR. BEN-VENISTE: You have?

MR. BEN-VENISTE: I would ask whether the Court would be willing to comment on my suspicions that in that memorandum Mr. Puccio concluded that Mr. Myers should be prosecuted on the basis of the facts surrounding the August 22nd meeting.

This would indeed confirm the argument which was advanced to your Honor concerning the fact that the later January meeting, and the discussions about the Mafia end the various other things in Philadelphia, were at least in part generated with the notion in mind that Mr. Myers would be sitting in a Courtroom at some point and that tape would be played not only to his detriment, but any other co-conspirators sitting in the Courtroom with him.

I think that is an improper technique and the Government has succeeded in having that evidence come before the jury.

THE COURT: That is a matter for me to consider with respect to the dur process motion pending before me.

MR. BEN-VENISTE: Does your Honor have any guidance with respect to the putting in of our defense, whether your Honor will allow the jury to consider disputed factual evidence concerning the due process issue?

THE COURT: It's not an issue for the jury to consider. I am going to deny your seventh request to it on that ground.

MR. BEN-VENISTE: Despite the fact it would appear from a reading of Judge Pullman's decision that he may well allow disputed facts on the due process argument to come before your Honor --

MR. DUFFY: There are two items I want to mention. I join Brother Brown on the Kotteakos aspect. I didn't want to beat that into the ground during the trial --

THE COURT: Yes.

MR. DUFFY: Your Honor consistently overruled us and I am sure you take the same position.

I have a pleasurable motion to make with some pride. I seek the Court's permission to permit a senior law student from Villanova to assist me for the during of the trial.

I take some pride because he is my daughter.

THE COURT: Miss Duffy?

MR. DUFFY: Jane Duffy.

THE COURT: You have my permission.

Now, did the defendants reach some agreement as to the manner to proceed?

MR. CACHERIS: Mr. Myers wishes to testify. In that connection I intend to play two of the tapes during the course of his testimony. And at a certain point I want to stop for his commentary.

I want to work that out with the technician.

THE COURT: Will he be the first witness?

MR. CACHERIS: Yes.

THE COURT: Are the tapes ones already in evidence?

MR. CACHERIS: I wouls specifically tell you the tapes of the August 22nd meeting, which is 5A or 5B is the actual tape and 7 which is the January 24th.

THE COURT: You intend to play all of both tapes?

MR. CACHERIS: Yes. I feel I have to have that done --

THE COURT: It is a rerun?

MR. CACHERIS: A summer rerun, yes.

I might suggest that perhaps because there will be some commentary at a proper point of stopping it might be better to have the jury not put the earphones on and try to listen to the loudspeaker.

THE COURT: I don't know. It's very difficult to hear what is being played out there without the earphones.

You can hear the conversation through the earphones.

MR. CACHERIS: I would be guided by your Honor's wishes in this regard.

I wonder if the transcript would be made available. It will be my hope that they will concentrate more on the watching rather than reading.

THE COURT: In so far as the transcripts go --

(Continued on next page.)

MR. DUFFY: Yes, your Honor, we of course, and I in particular, viewed that, let us say in particular the tape at the Barkley, I viewed that tape many times watching television. And My experience the other day in Court led me to conclude that the thoughts I had entertained earlier might not be true. I think I have concluded, after watching it again over the weekend, without the transcript, that the difficulty arose from the fact that I succumbed to the temptation to read the transcript and not watch the picture. And I suggest to the Court that that may be what happened with the jury. I particularly for one am interested in the jury really seeing the film. And I enlist the Court's guidance. I suggest it might be good to tell the jury we are not going to give you the transcripts because we really want you to watch the picture.

THE COURT: I certainly have no quarrel with focusing the jury's attention either upon the transcripts or possible difference between the transcripts and what it sounds like on the audio, or upon what the actions is on the video. I have some reservations about giving or exposing the jury to an hour and a half of tape without the aid of the transcript,

although I would, for the purposes of the defendants, if you want to present it in that way I will permit you to do so, or in the way in which it is done if you have a reasonable purpose of what it is you are trying to present, it is all right with me.

If you want them to have the transcripts, fine. If you don't I will explain to the jury that the purpose is to have them focus more upon what is on the screen, what they hear by ear, and what they see by their eyes, and if they were to see the transcripts that perhaps there may be a doubt --

MR. DUFFY: It might be better if they were to get the transcript, your Honor, so they don't suspect we are trying to keep it from them and if the Court were to tell them --

THE COURT: I would feel more comfortable with that.

MR. CACHERIS: I have no problem with that, your Honor. I suggest they try to avoid the use of the transcripts.

MR. BEN-VENISTE: Your Honor, the order would be on the order of the indictment in terms of presenting the offense.

THE COURT: All right, that is --

MR. BEN-VENISTE: Myers, Errichetti, Johansen and Criden.

THE COURT: All right.

MR. BROWN: Your Honor, we do have one witness whom we would like to put on th stand who may not be available tomorrow. I assume your Honor would not restrict us so long as the defense is going along and we would be able to call that witness --

THE COURT: I will not restrict that.

We are ready to proceed?

Bring in the jury.

MR. CACHERIS: I have a problem of watching this to indicate when it is to be stopped. I may have to move over here (indicating).

THE COURT: That is no problem.

MR. DUFFY: Your Honor, may I inquire of the Court, Mr. Cacheris examines the Congressman, and would it be the Court's position that I cross next or that Mr. Puccio conducts his cross and then we get to cross.

THE COURT: Normally I would expec the defendants to examine him further, whether it be viewed as cross or direct examination I guess is a moot point, and then Mr. Puccio gets the opportunity

to cross examine.

MR. CACHERIS: We will be ready shortly, your Honor.

THE COURT: All right.

MR. BEN-VENISTE: While we are waiting, could I most respectfully except to your Honor's severance ruling in respect to the Lederer case, not insomuch as opposed to the severance from Congressman Lederer as I am with the severance as it relates to Brown.

THE COURT: I haven't made th ruling yet.

MR. BEN-VENISTE: Oh, I thought that you had.

MR. BROWN: I thought that you had. But that was scuttlebutt, I guess.

THE COURT: I won't make the ruling until for example the Government appeals.

MR. BEN-VENISTE: I see that is conditional.

THE COURT: I am prepared to do it in order to accommodate Judge Fullman. There are all kinds of things that might prevent it --

MR. BEN-VENISTE: In which case it would be a severance under certain conditions.

THE COURT: It is my present intention --

MR. BEN-VENISTE: We were thinking of things like your Honor deciding it our way.

THE COURT: That is another possibility.

Are you ready?

MR. CACHERIS: Yes.

THE COURT: All right, bring in the jury.

(The jury thereupon returned to the Courtroom at 10:12 o'clock A.M.)

THE COURT: Good morning, ladies and gentlemen, I hope you all had a nice weekend. Since I spoke to you on Friday morning have you talked to anyone about the case? Has anyone talked to you or attempted to talk to you? If so, will you please raise your hands.

(There was no response.)

THE COURT: Since that time have any of you read any newspaper articles, or seen any television broadcasts or any radio broadcasts that had anything to do with the trial?

(There was no response.)

THE COURT: Very tood.

Now, the Government has concluded its side of the case so we are at that stage of the trial where the defendants have the opportunity to present evidence on their side of the case. The order in which the defendants will proceed, although there

may be some deviation with respect to the order of witnesses and so forth, but generally speaking you will be hearing from Mr. Cacheris on behalf of the defendant Myers, Mr. Brown on behalf of the defendant Errichetti, Mr. Duffy on behalf of the defendant Johanson, and Mr. Ben-Veniste on behalf of the defendant Criden.

All right, Mr. Cacheris, you may proceed.

MR. CACHERIS: Your Honor, I call Mr. Myers.

THE CLERK: Please raise your right hand.

M I C H A E L M Y E R S, called as a witness, having been first duly sworn by the Clerk of the Court, took the stand and testified as follows:

THE CLERK: Please state your full name for the record.

THE WITNESS: Michael Myers, M-y-e-r-s.

THE CLERK: Please be seated.

DIRECT EXAMINATION

BY MR. CACHERIS:

MR. BROWN: If your Honor please, you might perhaps suggest if the jurors would not refer to the transcripts.

MR. CACHERIS: It will be a few minutes before

we get there.

MR. BROWN: I beg your pardon.

THE COURT: Proceed.

BY MR. CACHERIS:

Q Mr. Myers, how old are you?

A 37 years old.

Q Where do you reside?

A Philadelphia. 2636 South 6th Street, Philadelphia, PA.

Q What type of neighborhood is that?

A It's a working class neighborhood.

Q With whom do you live?

A I live with my wife and three children.

Q How old are your children?

A My oldest son is Michael, he is 12 years old. I have a daughter, Kelly-Ann, 10 years old, and I have a son, Kevin, who is 9 years old.

Q Are your parents living?

A Yes, they are.

Q Where do they live?

A They live about two blocks away from where I live, same neighborhood.

Q What does your father do for a living?

A He is now a retired longshoreman.

Q Mr. Myers, how long did you go to school?

A I left school in the 10th grade. I completed nine years.

Q What kind of a family do you come from in terms of size?

A I am one of eight children. I have five sisters and two brothers, and three cousins that was raised with us.

Q Now, when you left school in the 10th grade, did you say?

A Yes.

Q What did you do after that?

A Well, I went to work as a Western Union telegram boy delivering telegrams.

Q For how long did that last?

A That lasted about six months.

Q What did you do thereafter?

A After that I went to work in a can company, assembly worker in a can company.

Q How old were you then?

A I was about going on 17.

Q How long did you remain as an assemblyman in the can company?

A Four or five months.

Q What did you do thereafter?

A After that I went to work on the waterfront in Philadelphia.

Q Your father had prviously worked there?

A Yes, my father had worked down there at the time and my brothers.

Q How old were you when you first started working on the docks?

A I was 18 years old at that time.

Q How long did you remain working on the docks?

A Well, I worked on the docks until about 1974, from '70 to '74 on a part time basis, because during that period of time I was a member of the State Legislature in Pennsylvania. But in those days when I was a member of the legislature the salary was only $7200 a year, and I used to work a couple of days on the waterfront to supplement my income to try to make ends meet at home.

Q When did you first get into politics?

A I first got into politics when I wa 21 years old.

Q Tell the jury how you got into politics?

A Yes.

I was helping a friend out at the time, a gentleman named McNulty, William McNulty. He was the Demoratic

Ward leader in those days, and he asked me to help out at one of the polling places. So I agreed to. And I took it from there. I ran for Committeeman after that and gradually worked my way up through the Ward organization. I became the First Vice Chairman. Then I became Chairman and then I became Ward leader. And I got an opportunity when I was 27 to run for the State Legislature.

Q How old were you when you ran for the State Legislature?

A 27 years old.

Q How long did you remain in the State Legislature?

A I was elected in November of 1970. And I served -- and I was sworn into office in January of '71, and I remained there until November of 1976 when I became a member of Congress.

Q Tell the jury how you became a member?

A Well, my predecessor was a William Barrett. He had died in April of 1976. And under the party rules it was up to the party to select someone to replace his name on the ballot. He had been nominated posthumously in the primary election. So with his death of course it created the vagancy. And the Democratic Party leaders of the county met and they selected me to run and replace Mr.

Barrett's name in November.

Now at that point in time the Governor, Governor Schaff it was at that time, declared a special election to be held on November -- on election day in November of '76. So actually I was elected twice the same day. One election elected me to serve out the unexpired term left vacant by Mr. Barrett and the other was to a full two year term which would commence January of 1977.

Q What type of district is that?

A Well, it is strictly a working class district. It's about half black, half white.

Q Mr. Myers, I want to direct your attention to July and August of 1979?

A Yes.

Q And ask you if you met Louis Johanson?

A Yes, I did.

Q Will you tell the members of the jury how you met him?

A Yes, I will, Mr. Cacheris.

Sometime in late July, early August of 1979 Mr. Johanson called me and said that he would like to talk to me.

So I said fine. That I would be going to Longwood, where I had a summer place probably most of the

month of August where he could stop by and if he wanted to see me, we will talk.

He did. He stopped by my place. He stopped by one night around 5 or 6:00 o'clock. My wife and I were going out at the time.

And I said, "Lou, listen, I am going out. Would you mind if I stopped off? I will stop over your house tomorrow morning. We will have a cup of coffee and we will talk."

He said, "Fine."

So the next morning I went over to Lou's house and we--

Q Will you tell us how you knew Mr. Johanson?

A Well, I knew Mr. Johanson through politics. Mr. Johanson is a Ward leader in the City of Philadelphia. I am also a Ward leader. And we have attended many political gatherings, rallys, meetings dealing with registration, dealing with putting our ticket together for the election and the primary in general.

We have a system in Philadelphia where all the Ward leaders meet once a week for about 8 to 10 weeks prior to an election. Every Friday morning we meet and we go over election strategy. We get into the overall registration drive. You know Lou and I have spent a lot of time together

over the period of the time that I have been a Ward leader.

Q Did he ever help you in an election year?

A Yes. He has helped me. He has pitched in and helped me. And he has helped other friends of mine in various elections because we work together.

Q And you did meet with him?

A Yes. I met with him at his place in Longport which is a couple of blocks from my place.

Q What did you discuss?

A Well, we had a discussion about -- we sat down -- when I got to his house he said, "Well, come around the back of the house." And he had some beach chairs sitting in the rear of his place with a little garden there. And we had some general discussion. We had a cup of coffee. And he went on to tell me about this rich Sheik, about this rich Arab Sheik that he knew. He told me about a deal that he was involved in with his partner, Mr. Criden.

Q Did you know Mr Criden?

A No, I didn't know Mr. Criden. I knew of him. I had seen his name, you know, on the law firm on a door, but I really didn't know Mr. Criden.

And he told me about this hotel casino deal in Atlantic City. And that him and Mr. Criden were looking to land this deal. It looked very good. He told me that if

went through they were going to make a trememdous fee. He didn't tell me the exact fee, but he told me it was in the millions.

He told me if it worked out he was going to retire, get out of politics, go down to Longport and just retire.

So of course it just sounded great to me. I wished him luck.

And so he went on further starting to tell me about his son, which I was aware of.

And he went on to tell me that this rich Arab was willing to pay $100,000 to him and Mr. Criden if they could introduce some important people to the Sheik.

So I told him, I said, "You know, Lou, that sounds like a fairy tale to me."

I never heard of something like that.

"For what reason?"

I said, "Why would he do that?"

He said, "Well, he has got so much money; he has got billions," he said, "$100,000 to him is just peanuts. It just don't mean anything."

So, you know, thinking about this hotel and all this money, maybe it's true. It seemed like a fairy tale. I couldn't believe that it was true. But I had

confidence in Lou. I wouldn't believe he would be giving me any B.S. I believed it. So he said if I was willing to meet with this gentleman that there would be a hundred thousand dollars and he would be willing to give me $25,000.

Then he went on to explain how the money was to be split up.

He told me about Angelo Errichetti at that time, the Mayor of Camden.

(Continued on next page.)

He told me about Mr. Weinberg.

He told me I would get $25,000 and him and Mr. Criden would get $25,000 to split.

Mayor Errichetti would get $25,000, and $25,000 would go to Mr. Weinberg another representative of the Sheik. No other names were mentioned. I didn't know of any other names at that time of any of the representatives.

Q What were you supposed to do?

A Well, I just asked him that question.

I said, "Lou, what am I expected to do?"

He said, "You will probably never see these guys again. You won't have to do anything. I can assure you these people have so much money they are willing to pay that amount just to know some important people."

So I said, "Well, as long as I don't have to do anything," I said, "It sounds okay to me."

So he went on and told me that -- I said, "Well, what do they want to ask me?"

I said, "Do I have to know anything?"

"Well, the Sheik may ask you some questions about immigration. There was some talk about," he said, "Maybe a hostile situation where he currently lives. He might have to try to come to America. He may talk to you about that. But," he said, "I am not sure about that."

He said, "If you really go you will meet later with Mayor Errichetti and he will tell you word for word just what to do and what to say."

He says,"And also with Weinberg. You will meet with them and I will set that up."

So I said, "Okay. Set it up."

Q Why did you agree to set it up?

A Well, first of all I thought,you know, obviously Lou was very excited about this hotel deal. I thought I was doing him a favor by meeting with this rich Arab, and because he had done me a lot of favors, particularly in the last general election.

And so I also seen it as a way to pick up some easy money for doing absolutely nothing.

Q Did that conclude the conversation at that time?

A That basically concluded the conversation at that time with Mr. Johanson.

Q Did you meet with him again?

A Yes, I spoke to him again.

During that period of time, during August, Congress was in recess, and I had spent a lot of time down at my summer place. I would go back Mondays, and Tuesdays and Thursdays and just ride back to the office, which is

about, well, 56 miles from my home. So it is about an hour ride. I would go up for office hours at night and then return the same night to my place at the shore.

He stopped by my house one night right around suppertime and he said that the meeting was set up for the next day. So that would be the day before the 22nd. This would be the 21st of August.

So I said, "Okay. What we do have to do?"

He said, "Well, we will have to get there early because you are going to meet with Mayor Errichetti and you are going to meet with Mel Weinberg to go over the script of what you are to say to the Sheik."

I said, "Okay." I said, "Well, how do you want to go up?"

He said, "I don't care. I will pick you up or you will pick me up."

I had a pretty decent car. And I said, "I will pick you up tomorrow morning."

The next morning, that would be August 22nd, the day of this meeting, I picked up Mr. Johanson at his house. And then I headed up the Garden State Parkway up to the -- we got up to the airport, Kennedy Airport, I would say somewhere around 9:45, somewhere in that range. And we went in the airport. We had some breakfast there.

And we hung around the lobby there just waiting for this meeting to take place. I was to meet with Errichetti and Weinberg. We waited there. We waited there and they never showed until about somewhere in the vicinity of 11:30, I would say, a quarter after eleven or 11:30 they showed up.

Q Did you meet anyone else?

A During that period of time?

I didn't meet anyone else, no.

Mr. Johanson and I just sat there reading papers and just waiting for them to show up.

Q At 11:30 they showed up?

A At 11:30 Angelo Errichetti walks in and with him is Mr. Criden and a couple of other gentlemen. One was Mr. Criden's son and another gentleman I believe to be now that I have seen him around, I believe it was the Mayor's driver.

I was introduced to everybody. This was the first time I met Mr. Criden and the first time I met his son.

Of course I knew Mayor Errichetti because of any number of other transactions in the Port of Philadelphia which of course includes his City, the Port of Camden. We met on the Penjurdel Corporation. That's a corporation

that takes in the whole Delaware Valley, Philadelphia, New Jersey and Camden, the Port.

(Continued on next page.)

Q As a matter of fact, Camden is across the river?

A Yes, directly across the river.

When you talk about the Port of Philadelphia, that includes the City of Camden. The ILA in Philadelphia handles all that work in that port, although it's another state, the same jurisdiction.

I knew Ang, and said hello, and he grabbed me by the arm and pulled me on the side.

He left the main group standing talking, and we were against the wall in the airport.

He told me at that time that the plans had changed. We weren't going to meet with Mel Weinberg because of a time problem.

Q Not?

A Not going to meet with Mel Weinberg, which I believed we were going to do to go over the script of what I was supposed to say and do.

He said, "I will tell you what you have to do. First of all, the sheik does not understand English. No matter what you say, he doesn't know what you're saying is the truth or what."

I said, "Is he going to ask any questions?"

He said, "They may ask you something about

immigration."

I said, "I don't really know that much about immigration. If he gets into any technical areas I won't know the answer."

"Talk about anything. Talk about the Phillies." I know quite a bit about the Phillies.

That was about the extent of it. "You've got to come on strong."

He also told me: "Did you ever see me on television?" I had seen him many times talking about things in Camden. "You know how positive I am, how strong I come on? That is the way you've got to act. The sheik likes tough guys. Tell how him powerful you are. Maybe talk about immigration. You will never have to do anything. Don't worry about that. I got that covered. If there are any areas you don't understand I will talk up. Mel is going to be in the room with us. Mel is our friend. He wouldn't let anything happen to get you in trouble."

I said, "Okay. If it's that simple." He assured me that it was and I said fine.

Q What happened then?

A After that, we headed over to the hotel which was a mile or so away from the airport. A few minutes later Lou Johanson and I walked out and walked to the parking

lot and picked up the car. We followed maybe ten minutes or so behind him over to the hotel, parked outside the hotel. Lou and I both walked in.

When I walked in the hotel lobby, Mayor Errichetti was standing right in front of the elevators. Lou said, "I will wait" and veered over to my right over to the cocktail lounge in the lobby.

I walked up to the Mayor. He said: "There has been a change in plan."

"What do you mean," I said. "The sheik is tied up at another meeting. You're not going to meet with the sheik."

I said: "With whom will I meet? "One of his representatives, but Mel will still be there. Come on the same way."

"Suppose they ask me questions I can't handle?"

He said, "We will handle that."

"What about immigration?"

He said: "Tell them to do anything they want, don't worry about that. You don't ever have to worry about the sheik coming to America because Mel already told me if he has to leave his country arrangements have been made in South America and they never include to come to America."

So, I said, "Fine." As long as I understood that. That was about the extent of it.

He was telling me all the way up in the elevator "Come on strong, talk positive, tell him about yourself, how important you are in Washington and you're on important committees and you control this and that, make yourself sound important because they like important people."

I walked in the door. That is where the tapes are.

MR. CACHERIS: With your Honor's permission, we would like to run the August 22nd tape.

THE COURT: That is Exhibit 5.

With respect to the playing of the tapes, ladies and gentlemen, you have seen this tape before, and with this one and with respect to another one you may be looking at, counsel have requested me to suggest to you that since you have been through the tapes once with the transcripts, and what they would like to do at this point, instead of concentrating heavily on the transcript, concentrate more on what you hear and what you see.

I know there is a temptation to watch the words rather than what is going on at the screen. Let me encourage you to keep your eyes off the transcript

and watch the screen and listen to the words.

The transcripts will be given to you so that you can follow and so forth. Keep in mind the transcripts themselves are not the evidence, it's what you see and what you hear which is the evidence.

You may distribute the transcripts.

MR. CACHERIS: I ask Mr. Furst to help me. I'm totally unmechanical. I would push the wrong button. I am sure.

(Transcripts being distributed to the jury at this time.)

THE COURT: Did I understand it was your intention to stop the tape at certain points and ask questions and proceed with the rest of the tape?

MR. CACHERIS: Yes, sir.

THE COURT: You will go through the entire tape?

MR. CACHERIS: Yes, sir.

One juror does not have Exhibit 5A in her volume.

(Pause.)

THE COURT: Ready?

MR. CACHERIS: One question.

Q What is your nickname?

A Ozzie, O-z-z-i-e.

MR. CACHERIS: We are ready to proceed.

THE COURT: All right.

(Tape played.)

Q Mr. Myers, is it correct to say you just walked into the room and you made discussion about your position and your leadership, is that correct?

A Yes, Mr. Cacheris.

Q Were all the things you were saying in there accurate?

A No, they were not. When Mr. Errichetti gave me the clue to talk about me, I went on to expand how important I was.

Q Did Mr. Errichetti say you were the leader of a six Congressional delegation?

A Yes. I picked up on that. He was not right.

Q How large is it?

A The delegation is four members. To keep his statement right, I go on to expand Philadelphia and talk about two more counties to make it six members.

Of course, that is not true.

Q If indeed there were six members including the Southeastern counties, would you be the leader?

A No, there are senior members from the other counties.

Q Did you also tell them that you had representation in the Judiciary Committee?

A Yes. I said that, and of course, we do not.

Q Do you tell them you were very keen with immigration matters?

A I said that. Of course, we don't have.

Q Are you, as you said, the spokesman for the Southeast region?

A No, I'm not. I speak for myself only.

Q Why did you say these things?

A I was trying to make myself look important. Impress the representative of the Arabs. I had all the power and I was an important individual.

MR. CACHERIS: All right.

(Tape played.)

Q Was that Mr. DeVito speaking to you?

A Yes.

Q He told you that he was sure the Mayor had explained all this to you?

A Yes.

Q In fact, the Mayor had explained it all to you?

A There may be talk about immigration and I should come on strong, but the Mayor never mentioned anything

about Somoza. When Mr. DeVito brings up the name Somoza, that is the first I heard of that.

MR. CACHERIS: All right.

(Tape played.)

Q Now, you've told Mr. DeVito that you could drag out a bill keeping someone in the country?

A Yes, I did.

Q Is that correct?

A That is not correct. As far as I know about private bills, each bill would be judged on its own merits and that is strictly up to that committee to handle it.

I don't serve on that committee.

Q Why did you say that?

A I was trying to impress them saying I could do anything.

Q Now, again you discussed the four and six delegation?

A That is -- I don't want to change it, what he said.

Q You are tied up with Ohio, what did you mean by that?

A If they want an important man, I could control Ohio too.

MR. CACHERIS: Okay.

(Tape played.)

Q Do you take matters to the Chairman of the Judiciary Committee?

A No. I never took any matter to the Chairman of the Judiciary Committee. I only know the man to say good morning.

I hardly know Mr. Rodino.

MR. CACHERIS: All right.

(Tape played.)

Q Mr. Meyers, Mr. DeVito asked you about your connections in the State Department?

A Yes.

Q Your response was you had a lot of connections in the State Department?

A That's what I say. That I had connections in the State Department. I'm trying to impress how important I am.

Q Do you have any connections with the State Department?

A No. I didn't have any then and I don't have any now. I never had any connections in the State Department.

MR. CACHERIS: All right.

(Tape played.)

Q Did you go on the Appropriations Committee?

A No.

Q What committee were you on?

A Education, Labor, and Merchant Marine and Fisheries Committee.

MR. CACHERIS: Okay.

(Tape played.)

Q What do you mean by that statement, were you in his corner?

A I don't know really what that means. It's strictly BS.

MR. CACHERIS: All right.

(Tape played.)

Q Did you tell him you had the clout to introduce legislation?

A Yes.

Q What does that mean?

A Any member of Congress can introduce legislation by having the bill drafted and dropping it in the hopper.

I tried to make it sound like it takes me to introduce a bill which is totally untrue.

MR. CACHERIS: All right.

(Tape played.)

Q Now, you just said you can wait until the smoke clears, eighteen months pass, what are you saying?

A I am just stalling, trying to answer his questions. Impress upon him I could do all this, stall the committee.

I am totally BS'ing there.

MR. CACHERIS: All right.

(Tape played.)

Q Mr. DeVito told you, asked you, are you going to introduce a bill to get him here, what does that mean?

A He didn't understand what he was talking about either. He's all through this. He said things that don't make sense to me. He doesn't understand immigration or the Congress.

MR. CACHERIS: All right.

(Tape played.)

Q You were asked about the worst possible situation, what did Mr. Errichetti say?

A He said I would have to put a bill in. I said yes. I would have to put a bill in at that point in time.

MR. CACHERIS: All right.

(Tape played.)

Q What did you mean by that?

A I wanted to impress the representatives that I'm on his side and how important I was. I control the

delegation, to impress upon him. I wanted to have him believe I was a strong guy in Congress.

Q Is that in accordance with the directions you had?

A Come on strong. I'm coming on strong. I know he doesn't know what I'm talking about. I even build it up more.

MR. CACHERIS: Okay.

(Tape played.)

Q You can speak for the Philadelphia delegation, Southeastern Region and the rest of the State delegation?

A We tie into the rest of the State delegation. What I mean, I can deliver all these people. That is the procedure we use -- that is what I am telling him. It's total BS. We don't use that procedure. Each region is after its own things for its own region. What's beneficial for Pittsburgh doesn't help Philadelphia. We differ on most all issues.

(continued on next page)

(Tape played.)

Q What did you mean by that expression?

A That is a figure of speech that I use and had been using for many years.

I had heard that back in the waterfront days. It seems that everything you wanted to do or had to do took money, so it is a phrase we used on the waterfront and something I have been using for many years.

(Tape played.)

Q Now, you just told Mr. DeVito that you have all sorts of people coming from the Middle East and OPEC countries and wanted to make deals?

A Well, that is what I said, but I didn't know anybody from OPEC countries or the Middle East and I don't anybody from OPEC countries or the Middle East whoever intended to come.

(Tape played.)

Q You say you know all sorts of operations such as we are talking about now?

A I say that but I am just trying to impress him that I am the guy who knows all about these immigration matters, and that I can handle these things.

I do not know any of these deals and never heard of one.

I am trying to build up how important I am and can handle it just for his ears.

(Tape played.)

Q Do you know key staff people, key people who can show you how to stall things?

A No, I don't know any staff people on the judiciary committee. I don't know any key people on there whatsoever.

I told him this to make me seem important. That is why I am saying it to him.

(Tape played.)

Q Now, you tell him that you got the best guy in the world, you have got some real key people in State.

A I don't know anybody in State, and he asked me for the name and I told him I could not give him the name and the reason I couldn't is because I don't know any.

(Tape played.)

Q You just said you were going to discuss with State and line up your connections there.

Is that correct?

A That is what I said.

Q Did you ever go to anyone in the State Department and discuss anyone, with anyone, in the State Department, about this matter?

A No, I did not.

In never did. I never intended to and never had in my entire career.

(Tape played.)

Q All right.

Now, Mr. DeVito asked you about green cards.

A Yes, he asked me about green cards.

Q What did Mr. Errichetti say?

A Angelo butted in and said he has feelers out for green cards.

Q Do you know anything about that?

A I knew absolutely nothing about green cards.

When Angelo butted in I knew he was in an area and I couldn't explain.

Q Did you know anything that Mr. Errichetti was doing about green cards?

A No, that was an area I didn't understand well and if there was any question about green cards, if you read on, you can see that I dummied up because I didn't know anything about green cards.

(Tape played.)

Q What did you mean in this passage where you were talking about economics, investing dollars?

A It goes back to the hotel in Atlantic City

that Lou Johanson told me about, and all the other investment they were talking about.

I thought if he was, if the Sheik had all this money and intended to invest over here, fine, I would like to have some in my district and I go on to tell him that is the way that people can immigrate here.

Of course, I don't know much about that procedure, but I knew he didn't neither.

(Tape played.)

Q Now, you said there that this gives you the perfect opportunity to raise hell before Congress.

What do you mean by that?

A I am trying to impress him that if some investments came into my district this would give me an opportunity to raise hell.

I am always looking for any kind of investments in my district and that is what I was trying to relate to him, that Philadelphia was a good town and he should try to spend some money there.

I was trying to impress him that this would make me go ahead with anything dealing with immigration, if he would come back and put some investments in my district.

I knew that I never had to do that and I

wouldn't be asked to do that, and I thought it was a great opportunity to lobby for my City.

Q Did you intend to do anything before Congress?

A I never did anything and never intended to do anything before Congress and was told that I did not have to.

That is the reason why I went to this meeting.

(Tape played.)

Q Now, you said there you deal with these matters continually. What did you mean by that?

A Well, I was trying to impress upon the representative of the Arab that this was just a matter of routine for me. That I deal with these things all the time, this was not true. I never deal with them. In my experience I have had one private bill in four years and I don't know anything about private bills and I never was involved in private bills.

Q Why don't you tell us about the bill.

A Okay.

Sometime around June of 1979, a social agency in Philadelphia in my district contacted my local office and they said that there was a gentleman who was going to be deported from the United States and that they would like to have me intercede. He resided in my district.

So my staff handled the matter and they got all the facts together and the way it came down is that this gentleman had cancer and he didn't expect to live too long. He had two children that were born here in the United States. For that reason he did not want to leave his family, you know, until his death, sometime in the near future. After all the facts were together his lawyer contacted my staff and they came to me and explained the situation to me, that this gentleman had two children born here and he wanted to remain here for the remainder of his days.

I agreed.

I said, have a bill drafted and I would be happy to introduce it.

That is the only experience I ever had with immigration matters at all.

(Tape played.)

Q Were you interested in legitimate investments in Philadelphia?

A Of course.

I am always interested in any kind of investments in Philadelphia in my district and particularly with the poor.

I am always lobbying for business to come into the City, whenever I get an opportunity.

In this case I knew all this money, I heard four hundred million in Chase Manhattan, and I heard about this big hotel casino and a mortgage company and all this money and I continually thought about my district, knowing I didn't have to do anything.

If this was for real, and they had to come to my district, it certainly would be a plus for me.

(Tape played.)

Q All right.

Now, you are telling him you can use your connection with the committee and stall things?

A That is what I said.

Q Is that true?

A No, that is not true.

Each bill, whether it would be an immigration matter of not, that is introduced in Congress is weighed upon its own merits. Whatever committee has jurisdiction over that matter sets the scheduling of the matter and sets the hearing and it is taken up from there. They either approve or it falls on the merits.

Sometimes a hearing can be held in one day and it is recorded out or it may stay there for three months.

I don't have anything to do with that committee.

So I am just B.S'ing him.

Q Did you have any ability to staff anything?

A No, anything dealing with immigration you have to understand it strictly in the judiciary committee. I don't serve in the judiciary committee and no member of our State does.

[Tape played.]

Q Now, you mentioned the Port of Philadelphia. Why did you do that?

A Well, anytime that I get in a room with more than two people I talk about the Port.

The Port is very close to me. I always talk about the Port.

Of course, my father worked there and I worked there and we made a nice living from the Port.

Anything I can ever do as an elected official to help that Port, I try to do it. I am thinking about all this four hundred million and that we have a need for a third container Pier and we have all sorts of needs for Port development and I thought it was an area they might be interested in.

If I could explain to them that it was a good Pier and it is a good place to work out of and do business, maybe they would come and if they did it would be a plus and I would be very happy.

Q Did that have anything to do with your Congressional office?

A Oh, no, it had nothing to do with my Congressional office.

(Tape played.)

Q What are you saying there? What is your intention?

A My intention there is in case they were intending to go to New York, I was trying to discourage them and to bring them into Philadelphia.

(Tape played.)

Q What are you talking about there, about handling that, all that can be handled?

A Well, he mentioned that we have to kick something into the Union people. That is not so.

Philadelphia is dying for the work and a very good Port.

You don't have to operate like that in Philadelphia. If you have a shipping company that wants to come in, there are Piers that are empty and dying for the work.

Because of automation we have lost a lot of jobs in that Port and we will do anything to get jobs in that Port.

(Tape played.)

Q What are you saying there?

A What I am saying, it is a great opportunity for them to come in with all this money to take over one of these empty Piers. It is a legitimate operation.

They could, you know, get all the help they needed as far as the local participation from City Government is concerned, from the Port corporations and it would have been a great thing for my Port and that is what I was concerned about there.

I keep trying to promote the Port because anything that comes into that City is of benefit to me and particularly when I know I don't have to do anything for it.

(Tape played.)

Q Mr. Myers, you just said you got my guarantee, you have no problems with me, and Mr. Errichetti says you have my guarantee.

What were you guaranteeing?

A I would have guaranteed him anything he wanted a guarantee on because I knew I didn't have to do anything and never intended to do anything and was told that.

I was also told, as I told you earlier that this possibility could never come up because it was already

taken care of.

(Continued on next page.)

(Tape ends.)

MR. CACHERIS: Can we have a recess at this point, your Honor?

THE COURT: Yes.

Take a short recess ladies and gentlemen.

Don't discuss the case during recess.

(Recess taken at this time.)

THE COURT: All right, bring in the jury.

(The jury is in the jury box.)

THE COURT: All right, Mr. Cacheris.

M I C H A E L M Y E R S, resumed the stand, having been previously duly sworn, testified further as follows:

DIRECT EXAMINATION

BY MR. CACHERIS: (Continued)

Q Mr. Myers, at this meeting of August 22nd, which was just gone through, Mr. Weinberg was there?

A Yes, he was.

Q Were you told by anyone what to expect from him?

A Yes, I was told by Mayor Errichetti that Mel Weinberg would be there, and in the event I ran into a problem in an area I didn't understand or couldn't explain, he would take care of that.

He would handle that and butt in.

Q When you left that meeting, did you have any intentions of doing anything?

A No, I had never had intentions of doing anything.

I was strictly told that I never had to do anything on several occasions.

I never did anything and never intended to do anything.

Q Did you do anything in connection with this private bill?

A I never done anything at all.

Q Now,as you left the meeting you had an envelope with you?

A Yes.

Q Can you tell the jury what happened to that?

A I walked out of that room with this envelope which was handed to me by Mr. DeVito. And as soon as I passed through that door I handed the envelope over to Mr. Errichetti.

Q What happened then, Mr. Myers?

A We continued up the corridor towards the elevator. When I reached the elevator I stepped off. Mayor Errichetti stayed on that floor with the envelope.

The door closed. That is the last I seen of Mr. Errichetti.

I went down to the lobby and walked over to the cocktail lounge to pick up Lou Johanson.

I looked around the cocktail lounge and it was completely empty, there were no customers.

I walked outside figuring maybe he went out to the car. Sure enough, he was sitting in the car reading a pocket novel.

I got in the car and Mr. Johanson said to me: "How did it go? I guess it went fine."

We started the car up and went back to Philadelphia.

Q What did you do then?

A Got back to Philadelphia, we stopped and had something to eat in the center City area near Mr. Johanson's office.

He made a phone call over to his office. And he said, "Okay, they are back, let's go over."

We left the restaurant and headed over to the law office. There were people there that I didn't know. I walked into Mr. Criden's office and Mr. Johanson, Mr. Criden and myself sitting around in his office around his desk.

Mr. Criden went on to tell me, he said: "We

got a problem."

I said, "What is th problem?"

He said, "There has been a misunderstanding."

I said, "What do you mean a misunderstanding?"

He said, "It was supposed to be one hundred thousand dollars in the package. But now it's only fifty thousand."

So he said, "I don't know what happened at the top. I don't have all the details."

So, I didn't know what to think at that time. Maybe Weinberg got off with the money. I didn't know what to think. What could I do or say about it?

He said to me, "Because it was only fifty, that twenty-five had to go back to Ange and Mel so we were left with $25,000."

He put the twenty-five thousand on his desk and he said: "I am sorry, I never expected this to happen."

So we talked about it.

He said, "Look, you were promised twenty-five, how about if you take fifteen and we will take ten?"

I said, "Well,what can I say about it. It's all right with me. We don't have to do anything for the money, it's found money."

It seemed like a fairy tale to me. What is the

difference.

At that point in time I picked up $15,000 which was three bundles of money, five thousand in each bundle. I put it in my pocket and I left his office and walked out of his office to my car.

Q Did you get any other money out of this?

A No, that was the extent of any money.

Q What did you do with the money?

A Well, first of all, this was in August. It was back to school time. I paid the tuition for my children to go to Waldren Academy and including the tuition and back to school clothes and books it was about $4,000 right there.

I paid some of my wife's charges and got all of that stuff paid off, a couple of more thousand dollars, maybe $3,000.

I bought some furniture. I paid my father back a thousand dollars that I owed him from the last summer tuition money.

I went through it that way, things for the house, and bought a couple of things probably I didn't need. It was found money so I spent it quickly.

Q From that time, August 22nd, till January of 1980, did you ever have anything further to do with any of

the participants in this transaction?

A No. I had nothing to do with any of the participants. The only one I really had any dealings with after that was Lou Johanson. And that went back to the political end, going into a general election, we met at the Friday meetings, but we never discussed any of this.

Q When did you next hear from anyone?

A The next I heard about the Sheik was in January, January 24th. I was down in Washington that day. The house was in session.

I received a phone call from Mr. Criden. And Mr. Criden -- when the call came through I was on the house floor. I returned his call.

Mr. Criden said "Our friends were back in town." He had spoken to Mel Weinberg and they were very much impressed with me."

I impressed the Arab representative and there was a new representative in Philadelphia working on a hotel complex that they were looking to build. Another Jewish gentleman named Mr. Cohen. He said I impressed him the first time. I impressed him and they wanted to see me to say hello and have a meeting about investing money in Philadelphia.

"Can you meet with him?"

I said, "Sure, I am coming to Philadelphia tonight."

We were finishing up business for the week. I always went back on Thursday to my office, dnd Monday and Wednesday I went back.

That night I happened to be going because the week was over as far as the legislature in Congress.

Q At the end of that working day, what did you do in your office?

A I did basically the same thing I do at the end of every working day, see my staff, administrative assistant Michael Corbett, we had a couple of beers, couple of cans of beers. It's not usually after five or 6:00 o'clock.

Q Are you normally a beer drinker?

A Yes.

Q Do you drink hard liquor?

A No. Rarely do I.

Q Why?

A I just don't like it first of all and I can't handle it.

Q After you left your office, where did you go then?

A My administrative assistant drove me to the

airport to pick up my plane and head for Philadelphia. I was scheduled, I believe, on a 6:45 or 6:50 flight back to Philadelphia.

Q What were the weather conditions?

A The weather conditions were very rough, raining and hailing and snowy. It was a bad day.

When I got to the commuter terminal, my assistant left and I was waiting for the flight which was delayed.

I had time to kill. I got an hour delay, almost two hours before I actually took off.

During this period of time, I walked over to the lounge in the main terminal which I do whenever there is a delay. I have a sandwich or whatever. And I had a couple of beers at that lounge over in the terminal. I don't know how much, maybe three at the terminal.

Then I went back, of course, boarded the flight to Philadelphia.

(Continued on next page.)

Q When you got to Philadelphia, what did you do?

A I went from the airport to my office, but this was rather late and the people that were there to see me -- it was a bad rainy night -- most of them had left.

My constituents would come in to see me at night. Sometimes 40, 50 people.

Because of the late hour and because of the weather, I only had a few.

I went in the office. I saw the few people still remaining. I called Mr. Criden at that point at the hotel to tell him I was in Philadelphia and I was here.

He said, "Can you come up?"

I said, "Yes."

It takes about ten or fifteen minutes because my office is not that much from the Barkley Hotel.

I locked the office up and headed up to the Barkley Hotel.

MR. CACHERIS: Your Honor, we would like to run the tape which deals with this meeting at the Barkley Hotel?

THE COURT: All right.

I see what is on the monitor, you're beginning a few pages in?

MR. CACHERIS: Yes, Mr. Myers was not there for a number of pages.

THE COURT: Page 31?

MR. CACHERIS: That is correct, your Honor.

THE COURT: Proceed.

MR. CACHERIS: It is cued up already, I am told.

THE COURT: Proceed.

Q Mr.Myers, when you got there, to whom were you introduced?

A Introduced to Michael Cohen, Ernie -- I didn't know Ernie's name at that point in time, Ernie Haridopolos is the gentlemen. Who did you believe these people were?

A I believe they were representatives of the Arab Sheik, the same one I had met the other representatives.

And they were in Philadelphia to get involved with local building and a hotel complex and all kinds of other investments in Philadelphia.

Q What did you believe you had to do?

A I believed I had to impress them that I was a strong guy and the same way I did back in the August meeting.

I had to come on strong and make sure they

wanted to invest here. Try to impress upon them this is the City to come to.

Q In the tape you used some rather foul language?

A Yes.

Q Why did you do that?

A Because I was instructed to act like a tough longshoreman. The only way I know is to use foul language.

MR. CACHERIS: All right.

(Tape played.)

Q You were offered alcohol?

A Yes, I was, Mr. Cacheris.

Q Did you accept it?

A Yes, I did. I accepted it.

I asked for a burbon on the rocks. I would say that is probably the only time in my life I ever did that.

The reason I asked for it is because it's mentioned here by Michael Wald there is scotch and Jack Daniels there. That is the only thing they had. Had they had beer there I would have accepted a beer. I would have asked for a beer.

I can't stand scotch so I asked for a burbon.

Q Describe the drink?

A The drink was a large water tumbler, a glass that reminded me of a McDonald's glass, the kind they give out at McDonald's hamburger shop, a very large glass.

Q Was it filled?

A About half filled with ice and almost to the top with liquor.

MR. CACHERIS: Go ahead.

(Tape played.)

Q You were asked by Mr. Wald about these fellows coming over?

A Yes.

Q You said depends on who he is, didn't you?

A Yes.

Q What were you intending to say?

A I wasn't sure whether Mr. Wald was aware of Mr. Weinberg and what already happened? I didn't know.

He seemed to be fishing. I let him go.

I explained each case is individual. I was waiting for him to tell me more about this.

MR. CACHERIS: All right.

(Tape played.)

Q What were you saying when you were asked about individual problems dealing with State and Immigration is individually handled, you don't know what the circumstances

will be?

A Well, I didn't think he knew what the circumstances were. I told him I have to take it from that point. Nothing at that point was ever going to come.

MR. CACHERIS: All right.

(Tape played.)

Q What difference does it make if this gentleman speaks English?

A I was told back in the August meeting that he did not speak English and I could talk about the Philies.

I get into telling Mr. Wald he better speak English, trying to say let him learn English -- who knows how long that will take.

I was interested in the development of the City and I had questions about whether these guys were legit, everything was going to be built, they talked about it, but I don't see nothing.

MR. CACHERIS: All right.

(Tape played.)

Q You were just asked by Wald about the introduction of a bill for private legislation?

A Yes.

Q You said you could do that if you had a reason?

A Yes.

Q What did you mean?

A I wanted the conversation to fall in line with the first meeting. I didn't know what Mr. Wald understood about the first meeting. I also wanted to let him know I knew something about immigration.

Q Did you intend to introduce immigration bills?

A I never intended to. I was told I didn't have to do anything. That was made clear prior to the first meeting to me. That is the reason I went to the meeting.

MR. CACHERIS: Okay.

(Tape played.)

(Continued on next page.)

(Tape played.)

Q Now, Mr. Myers, you just heard Mr. Wald, the supposed representative of the Sheik telling you that they were going to put up a hotel, 34.6 million dollars, and they were going to break in August -- break ground in April, is that correct?

A Yes, that is what he said.

Q And what did you think of that?

A Well, you know, I thought it was kind of an unusual story. Here is a major hotel complex, and that they were going to break ground like eight weeks from this date we are talking, this January meeting. I hadn't even heard a word about it. And something that significant would be in the press. There would have been a lot of talk about it. I never even heard about it. So I had my doubts about it, what he was telling me, that it could be true. And at this point in time I figured, you know, let me hear more.

(Tape played.)

Q Now, Mr. Wald has asked you if you could use your office in connection with the zoning problem, variances?

A Yes, he does.

Q You said you would be more than happy to. What did you mean by that?

A Well, I meant that if someone is going to break ground in eight weeks, they don't have any zoning and variance problems because that is already taken care of ahead of time.

In a City like Philadelphia that is dying for a hotel complex, and recently we lost a Democratic National Convention because we didn't have rooms. There wouldn't be a problem with zoning or variance. The City would bend backwards to try to get someone to build a 34 million dollar hotel.

I knew at this time this guy don't know what he's talking about. He is B.S.'ing me.

Q How could your office help on the municipal level?

A My office has nothing to do with zoning or anything along those levels. Nothing whatsoever. And there wasn't a problem. He is trying to create a problem that never existed and that would not have existed in a City like Philadelphia or any town where someone was going to invest that kind of money.

(Tape played.)

Q What help did you give with the Zoning Board?

A I could give absolutely no help with the Zoning Board.

But getting back to what I said earlier, he is talking about a hotel that they are breaking ground on. I knew there never was any zoning problem. If you are breaking ground obviously you are ready to roll. So there couldn't be a zoning problem. That stuff would have been taken care of 18 months to a year in advance.

So I know this guy is giving me a lot of B.S. So I just letting him go on. I am just letting him talk.

(Tape played.)

Q Mr. Myers, as you look at yourself on the screen at this point, describe to the jury what your condition is?

A At this point in time I am starting to get intoxicated.

My words are getting slurry.

If you watch my motion I am even slouching on the couch and I am really getting drunk here.

(Tape played.)

Q This is the first reference to the Mafia?

A Yes, sir.

Q What are you telling him?

A I used the reference here to try to deter them to stay away from Atlantic City, to come to Philadelphia.

Anytime I get a shot to -- anywhere they talk about it I tell them there is a problem there, but come to Philly. There is no problem. None of these problems exist. But if they think there is a problem there they will locate in my City, in my district.

(Tape played.)

Q You just assured Mr. Wald that you can deal in Atlantic city?

A Well, he was telling me that he wants to make some deals there. So I told him I could handle that too.

You know, I thought I have got to, you know, impress him. If he was.. insistent upon going to Atlantic City, well, then, I will handle that too.

(Tape played.)

Q How are you feeling at this point, Mr. Myers?

A Well, I gradually -- I can see myself throughout -- I have watched this tape many times and I can actually see myself getting more and more intoxicated as the meeting goes on.

(Tape played.)

Q You had previously mentioned the Port back in August, had you not, with the other representative of the Sheik?

A Yes, I did.

Like I said, I always talk about the Port.

Q And you raised it again?

A Pardon me?

Q You raised it again here?

A Yes, I did.

(Tape played.)

Q What did this computer service have to do with it?

Q Did it have anything to do with the conversation that is going on?

A That is nothing at all. It is just something I brought out, I was thinking about. I was talking to Mr. Criden. It had nothing to do with the other conversations.

(Tape played.)

Q You have just been asked whether there is a problem with a limo thing or something, and you told him you could handle that?

A Yes, I said that.

Q What did you mean by all that?

A What I meant, when he mentioned interstate, and he told me earlier about this excursion, junket package from Philadelphia to Atlantic City, and to get to Atlantic City you have to go through south Jersey. That is how I

mentioned the name Florio. I bring up the bit about becoming Governor and he is my close friend. To let them know how important I am. You know, they have to see me if they want to talk to Florio. Of course I never even talked to Floria about any of this stuff.

Q What about construction, and building trades and all that that you say you can handle?

A Well, these are all problems that don't exist so I keep telling him that I can handle them.

(Tape played.)

Q You have been asked about the City Council. And you say you can deliver four or five votes on the overall council.

Is that correct?

A No, that was not correct. I never could deliver any votes for any reason.

(Tape played.)

Q Mr.Myers, look at yourself again on the screen and tell us --

A I have got a bad picture here.

Q How do you feel at this point? Can you see that?

A Well, gradually I notice myself continually, you know, getting more and more heavy tongued.

(Tape played.)

Q Did you have these commitments that you are speaking of?

A No, I didn't have these commitments.

I talk about a seat being one seat, being a Pennsylvania seat. The seat went to California.

Of course I would have liked to have got it, me, and I guess about 400 other members approximately, but I didn't get it and I had no commitments.

(Tape played.)

Q Mr.Myers, you are telling him now that you won't go on a Kama Kazi mission.

What do you mean by that?

A A Kama Kazi mission means to me a mission where there is absolutely no return.

I wouldn't do anything wrong as far as my office was concerned is what I am trying to tell Mr. Wald.

By this time in this conversation I know that this guy doesn't know what he is talking about. He is all screwed up on the hotel complex. First he is going to break ground eight weeks from this conversation.

Now he is still looking at parcels in South Philly.

I know the guy don't know what he is talking

about.

So I want to make it clear to him where I am coming from.

I don't know whether he had any discussions with the other gentlemen, the other representatives that I met. He don't seem to be clear on certain things. So I take, you know, a different position. I am trying to make it clear to him where I am coming from.

Q In the meeting in August at the Kennedy Airport you tried to portray yourself as a very powerful Congressman?

A At the hotel you mean. Not at the airport.

Q Yes.

A Yes. I try to portray myself as a very strong guy in Washington loaded with influence.

Q Now, at this meeting at the Barkley on the 24th of June do you not tell him that you have got more influence in Philadelphia than you do in Washington --

A Yes, I reverse my position because he is looking for influence now in the City.

So I tell him how important I am now.

Q And in this passage we just read on Page 67 you go back and tell him how important you are in Congress?

A On Page 67?

A Yes. About your taking the spot --

A Well, I tell him that would be an important position and that I am going to take it. You know I'm trying to build myself up on all angles -- on all levels. If he talks about the City I am important there. Whatever he talks about I am important there.

(Tape played.)

Q What influence did you have in that county?

A I had no influence at all in Starrucca County. But like I said earlier, whatever he brings up I am the guy who can handle it. I have got the influence.

(Tape played.)

Q You just mentioned a key guy, a Democratic Chairman, Jim Dugan?

A I don't know any Jim Dugan. I made that up while he was sitting there.

(Tape played.)

Q Now, you mentioned Mr. DeBona. Is he in fact a friend of yours?

A Yes, I know Mr. DeBona quite well.

Q Did you play any part in getting him his job?

A I played no part whatsoever. A Congressman has nothing to do with the Port Corporation. He got his job -- the way it works, the Mayor recommends to the Executive

Board of the Corporation several names, and then they have a vote and select who they want to appoint to that job.

As far as my duties, I had nothing whatever to do with appointing that job. And Mr. DeBona's father, I think this is probably how he got recommended, was a very close personal friend of the previous Mayor.

Not only that, but you know Fred DeBona is a very, very sharp guy. And, as I said, he's a good lawyer. He is a guy that has done amazing things in that old Port.

Q Now,the Philadelphia Port Corporation that you mentioned here is a local municipal corporation, is it not?

A Yes. It is a local corporation and has nothing to do with me.

It is strictly on a local level.

Q And your interestin the Port is because of your background as a longshoreman?

A As I said from the beginning, anything that would help that Port, I would fly to China once a week to do something to help that Port, because it was good to me and my family. And it is just a good place.

(Tape played.)

(Continued on next page.)

Q You were asked by Wald what it's going to cost him in the bag, what does that mean to you?

A I thought he meant what it is going to cost to put this kind cold terminal together. I answered, I don't know without figures. I asked him about figures. I continually asked him to give me architects or builders and of course he keeps coming back that he's a financial man and he doesn't know about these things.

This guy at this point in time, I know he doesn't know what he's talking about. I still think maybe there is hope, if this comes, fine. I would love it if it comes.

MR. CACHERIS: All right.

(Tape played.)

Q You just told Wald you could use City Bond money, have to be approved by the City Council and electorate?

A Yes.

Q Did Wald ask you, did that help you on the floor?

A I say absolutely it helps me on the floor a lot.

Q What did you mean?

A If he thought it helped me on the floor, all right.

Q Did it?

A It has nothing to do with the floor.

This local stuff he's talking about is 130 miles removed from Washington. They have nothing to do with that.

Q When he talks about the floor, you understood it to mean the floor of the House of Representatives?

A That's what I understood it to mean, yes.

Q Mr. Myers, Mr. Wald directs the conversation back to private bills?

A Yes.

Q What did you tell him?

A I tried to talk around it. I'm trying to get by it without getting any real details because he still hasn't given me an indication he knows about the first meeting and why I went to the first meeting.

I am still looking for this guy to come across with an indication to make that clear to me and I still haven't heard it.

MR. CACHERIS: All right.

(Tape played.)

Q Mr. Wald directs the conversation now to the Mafia?

A Yes.

Q What did he tell you?

A Well, he's asking me if there is any problems with the Mafia in the docks in the Port of Philadelphia.

Q What do you tell him?

A No. There is not a problem.

MR. CACHERIS: Okay.

(Tape played.)

Q You told him, if you have to deal with the problem, you can handle that.

What did you mean by that, Mr. Myers?

A I could handle a problem. He thinks there is a problem. The Sheik is paranoid about Mafia. If he thinks there is a problem, I can handle a problem that doesn't exist.

First I tell him no, you will see as we go on, he keeps insisting there is a Mafia problem.

If he wants to go back and tell the Sheik we can handle that, fine.

I go along with that.

MR. CACHERIS: All right.

(Tape played.)

Q You heard the telephone ringing several times during this conversation you had, didn't you?

A Yes.

Q Do you have any idea what directions were being given to Mr. Wald?

A No. I thought he was a financial advisor and was getting all these important phone calls.

Q Did you know there were prosecutors and FBI agents in the next room directing Mr. Wald's interrogation of you?

A No, I did not.

A JUROR: Could we have the set adjusted, please? It's very dark.

THE COURT: Yes.

(Pause.)

THE COURT: It is better?

MR. CACHERIS: Can everyone see that?

(Tape played.)

Q Mr.Myers, after you told Mr. Wald there is no problem, he comes back and asks you some names?

A Yes.

Q The name you gave him, one of the names is Angelo Bruno?

A Yes.

Angelo Bruno is a name in the Philadelphia papers, probably papers around the nation, for the last 25 years.

Q Did you have anything to do with Angelo Bruno?

A No.

I was never in the company of Angelo Bruno and didn't know him.

Q You also named Tony Testa. Is there a person

A I found out since this tape there is a Philip Testa. I remember Testa being in the papers.

Q You know him also from the newspapers?

A From the paper, I know Naducia from the papers.

Q You mentioned Skinny Razor, how did --

A That is the name I remember going back to being a kid when you hear a Mafia name, it sounds important when you are a kid.

Skinny Razor has been dead for 15 or 16 years, I understand.

Q You told him you could deal with all these people?

A I can handle something that doesn't exist. He's trying to manufacture a problem. The Sheik is paranoid. He wants to go back and tell the Sheik we've got the Mafia covered, fine. Because it was never a problem, at least that I was aware of.

MR. CACHERIS: All right.

(Tape played.)

Q In fact, on Page 85 you tell him the worst thing you can do is get involved in any kind of Mafia problem?

A I'm trying to give him a hint. Don't think or talk about it. But he continuously insists a Mafia problem. I don't know of any Mafia. So this guy is rambling on and he's got me really confused. I don't know where he's coming from.

MR. CACHERIS: All right.

(Tape played.)

(Continued on next page.)

CONTINUED DIRECT EXAMINATION

BY MR. CACHERIS:

(Tape played)

Q. Do you know a person known as Rachel Musto?

A. No, I know a gentleman named Rayfiel Musto, who, at that time, was a member of the State Legislature in Pennsylvania. Here the alcohol is getting dimmer. I call him Rachel; his name is Rayfiel.

Q. Did you hear the name Rachel in place of Rayfiel.

A. I heard myself call him Rachel, a woman's name.

(Tape played)

Q. Mr. Wall is talking about Mr. Malik.

Do you know him or anything at all about him?

A. No, I don't know Mr. Malik at all.

(Tape played)

Q. What are you talking about here, Mr. Meyers?

A. Well, he refers to if the hotel is built in south Philly, the one the ground was going to be broken on eight weeks after this meeting. Now he's trying to lead me into a Mafia question here and I tell him as far as I know, anything to do with waiters, waitresses and that stuff is all union jobs and they must be union

employees. That's what I tell him. He doesn't have to give anything up, as long as they have a union book, they work.

(Tape played)

Q Mr. Wall is asking you to give up, amount of money, or give up, amount of money?

A I don't know what he's talking about. He keeps throwing all these questions to me. He is hitting me with stuff, I can't understand what he's really up to at this point in time.

Q What do you tell him?

A I tell him there is no problem. You don't have to give up anything.

(Tape played)

Q There, what do you tell him?

A I ask him if it's legitimate stuff that we're talking about here. You know, I'm trying to get him to say something to me.- Up to this time in the conversation, he's feeling me out, he's lying to me, I know he has been lying to me, and I am not sure about him. I don't know whether he knows anything about Mel Weinberg, you know, what I was told initially. I am trying to get clear what he's trying to convey to me. It's not coming through to me. He jumps from one area to

3 Meyers direct Cacheris

another.

(Tape played)

Q Here again, Mr. Wall is asking you what he has to give up and what do you tell him?

A I tell him it's not necessary. I don't know of it being necessary anywhere in Philadelphia. Anything on what he's talking about You know, he's throwing this stuff at me continually and I keep telling him that's not a problem and if he thinks it is a problem, I tell him I can handle it, because I know it is not going to be a problem.

(Tape played)

Q Is that part of the same theme, Mr. Meyers?

A Yes, it is, Mr. Cacheris. He just continually pressed me on these things, and at least I don't think there is any problem, I never heard of one, if he really believes he has to tell the sheik this is a problem, well then, I can handle it. That's what I'm trying to do here, trying to tell him to let the sheik know that Ozzie can take care of whatever problems you have. He just mentioned Poconos, I got Poconos covered. No matter what he mentions, I got it covered.

(Tape played)

Q Mr. Meyers, again, here you are telling him

that there are no scam artists

A. I am trying to let Mr. Wall know that the way he is talking, he wants to walk into this city with bags of money, walk up and down Market Street and let everybody stick their hand in it. I am trying to tell him that's not the way to handle this, that's not the way to do business in this city.

(Tape played)

Q. What are you telling him here, Mr. Meyers?

A. Trying to impress upon him that if he thinks there is a problem, that he has to pay people, if people try to gorilla them, mafia or whatever, we'll take care of it. I wanted to convey the thought to him that I could handle any problem that could ever exist.

MR. CACHERIS: We're coming to the end of a reel. I think I can read it. It is also in the books. This is the part not on the video. It's on the audio.

THE COURT: I was beginning to wonder, do you want to continue through this before we break for lunch?

You have been about an hour, you're half way through.

MR. CACHERIS: I can do it either way.

MR. BROWN: I would rather break for lunch.

THE COURT: Would this be an appropriate time to break for lunch?

MR. CACHERIS: Yes.

THE COURT: We'll break now for lunch, ladies and gentlemen.

Don't discuss the case.

We'll resume at 2 o'clock.

(Luncheon recess taken)

M I C H A E L O. M E Y E R S, called as a witness, having been previously duly sworn, was examined and testified as follows:

THE COURT: Bring in the jury.

(The jury is in the jury box.)

THE COURT: All right, Mr. Cacheris, you may proceed.

MR. CACHERIS: Page 199, Mr. Meyers.

This portion of the audio will be played.

THE COURT: This is the bridge between the two reels?

MR. CACHERIS: Yes, your Honor.

DIRECT EXAMINATION

BY MR. CACHERIS: (Continuing)

Q Page 199, Mr. Meyers.

A Yes.

MR. CACHERIS: The headphones might be needed for this audio part.

All right, go ahead.

(Tape played)

Q Mr. Meyers, on the audio portion, you said to Mr. Wald, you know what you're looking for, be specific; what do you mean by that?

A I asked him if he has -- for some more infor-

mation about what he's looking for. All through the conversation to this point, he doesn't give me any facts. He continually evades the questions.

I ask him about tonnage or square feet at the piers, he doesn't know the answer.

I'm totally convinced at this point this guy doesn't know what he's talking about.

THE COURT: Proceeding with the video tape?

MR. CACHERIS: Yes.

(Tape played.)

Q You mentioned andalusite and he talks about hard coal, aren't they indeed the same?

A As far as I know, yes.

MR. CACHERIS: All right.

(Tape played)

Q Do you know what Mr. Wald was saying to you at this time?

A He continually confuses me when he gets involved with coal. The only thing I ever heard about coal is tons. He talks about cubic feet, square feet. He's got me really confused.

He talks about 14 tons. I never heard of 14 tons of coal, millions of tons is what they talk about when you talk exporting. One ship would hold over one-

thousand tons.

He doesn't know what he's talking about. I am letting him go on and on.

MR. CACHERIS: All right.

(Tape played.)

Q Mr. Meyer, this passage that was just played, were you asking for architects and engineers? What are you telling him?

A I want him to give me some facts. He just will not do it. He cannot give me any facts, making it more and more clear to me this guy may be a financial man, he wouldn't be there building hotels not having any knowledge of nothing.

(Tape played.)

Q You just said give me a little bit more of that tip, boss?

A I was asking for a refill in my glass.

Q Had you finished the other?

A I finished the drink I had in my hand.

Q How are we feeling at this point?

A I would say right now I am about three-quarters of the way done towards being drunk.

MR. CACHERIS: All right.

(Tape played.)

Q Mr. Wald is telling you he's not going to be involved in the hotel-motel with coal anymore, what did you take that to mean?

A At this point in time, I just figured he didn't want to provide me with any answers to these questions.

When I viewed the video it becomes clearer he got instructions he was on the wrong area because he couldn't answer these questions.

Any minute I have to find him out that he is a liar.

MR. CACHERIS: Okay.

(Tape played.)

Q Mr. Wald tells you he came for the express purpose to make sure the municipal Government is friendly with --

A Yes, he says that.

(Tape played.)

Q He's asking you about your influence in the city council, knowing things that are taking care of, what do you have to do with --

A I have nothing to do with any zoning matter or any matter concerning local government. Mr. Wald never stops with the hotel. Now he's telling me he's not sure if it's in South Philadelphia. He told me they were

going to break ground in eight weeks. I realize he's lying but I let him go on.

It's obvious because of the first meeting on the 22nd with Mr. Weinberg I'm trying to get answers out of him.

(Tape played.)

(Continued on following page.)

(Tape played.)

Q Mr. Myers, what are you saying here?

A Well, I am promoting the building and constructions trades, and what a good job they do in our City.

And I also am evading his question when he hits me with titles.

And I go into promote the City again, and how good the unions are.

(Tape played.)

Q Mr. Myers, when you use that expression, what are you trying to say here?

A They keep bringing up money, money, money. So, you know, if they think it is that important I tell them that it is.

(Tape played.)

Q Now,you are saying that you got screwed the last time.

A Yes, I say that.

Q Why did you bring this up?

A Well, at this point in the conversation it is very, very clear to me that Mr. Wald don't know what he is talking about as far as any investments in any kind of Port, any kind of hotel, or anything else that he is talking

about. So I figure this is a good time to bring up the last discussion and find out if he knows anything about Mel Weinberg. If he knows anything about that transaction. That is how I got involved with that is how I got screwed. I tell him the story.

Q What do you mean by that?

A Well, what I meant by it was that I got screwed because I was told I was going to get $25,000. And when I come home I got $15,000. Now, I don't know who ripped off at the top, who was skimmed in the middle. I thought maybe I could get some of these questions answered by him.

I thought it was a good time to bring it up.

I am also getting drunk here.

(Tape played.)

Q You say you were supposed to go to New York, New Jersey,New York, whatever you want to call it and meet various people, and some people didn't show.

What are you saying there?

A Well, what I meant by that is I was told that I was going to meet with the Sheik. I was told I would meet the Sheik himself, who didn't understand English. Now when I got there I didn't meet the Sheik. I met the Sheik's representative, Mr. DeVito.

(Tape played.)

Q You tell him you heard all these big figures?

A Yes.

Q What was your state of mind at that time?

A Well, I heard all these big figures. And Lou originally told me about the hotel in Atlantic City. I thought it was true. Lou was a lawyer, a smart intelligent man. I didn't think he was being conned. I thought for sure that this was a legitimate deal, and when they spoke about all this money and all these investments in Philadelphia and in the Valley area and the region, but here they continually talk about it, but I never saw it. All these investments, all these hotels, all these Piers. Nothing ever comes. When I ask questions, they don't have answers.

(Tape played.)

Q What did you mean here when you tell him what the facts are and about getting involved?

A Well, I am telling him I got 15. He obviously was under the impression I got 50.

I want to get involved because I agreed to go up there. There was nothing I ever had to do. I never did anything. I agreed to meet. I keep telling him that the people who brought me I had confidence in. And that is the reason I went there. I am trying to make it clear to him.

Q Did you tell him that you were interested in business for the City?

A I am always interested in business for the City.

But I never see any business coming. This is the problem.

(Tape played.)

Q Do you notice your manner of speech in this passage?

A Yes, I do.

Q Is it your normal manner?

A No, it is not.

I am really getting under the weather here to the point where I am just mumbling. You know, what can I say about it. I don't feel good about it. It is embarrassing even to watch it.

(Tape played.)

Q Did I understand you to say you owe me 35?

A Yes, that is what I said.

(Tape played.)

Q What do you mean here, Mr. Myers?

A Well, they give me the impression that there was no limits to the money. They had so much. Johanson told me that a hundred thousand dollars was peanuts to the

Sheik. And, you know, I just thought that all of this money was going to come into Philadelphia and be spent in my district and in my City.

(Tape played.)

Q Now, they tell you that the note was supposed to be a hundred, and your response is that you were supposed to walk away with 50, is that correct?

A Yes.

Q Were you supposed to walk away with 50?

A No, I was supposed to walk away with 25.

But earlier, a few pages back, Mr. Wald, he made it sound like I was supposed to get 50. So I didn't disagree with him. He only owed me ten the way I looked at it. I knew he was mixed up then.

(Tape played.)

Q What do you mean in this last passage about the fact that you didn't know whether it was a scam or shaken down?

A Well,when I got back to Mr. Criden's law office, a hundred thousand dollars went from a hundred to fifty in about a two hour ride from New York down to Philly.

I had my doubts about the people at the top, Mr. Weinberg and the other representative. I had some doubts

about the people above me. That is the quickest fifty I had ever seen disappear.

(Tape played.)

Q What are you telling him now, Mr. Myers?

A Well, we are talking about Bill Greene, who is the Mayor of Philadelphia.

You know, I had all this power that I am telling about. I can control anything. I didn't even want to get into that area because if he asked me to deliver I couldn't deliver.

I couldn't call the Mayor and talk about anything. And I just wanted to lay it out ahead of time in case if he got into that area, because he is really going all over the lot here.

(Tape played.)

Q At the bottom of Page 129 you say you dealt with Who?

A Harold.

Q Who did you mean?

A Howard Criden.

Q And you called him?

A Harold. I called him the wrong name. Now, you know I am drunk. What can I say.

(Tape played.)

Q Look at yourself in the screen, Mr. Myers, did you spill the drink down the front of you at that time?

A I can't tell from this. I wasn't watching when you went into it.

I know watching it from before I did see myself spill drinks down the front of me and in my face.

MR. CACHERIS: May I go back, your Honor?

THE COURT: Yes.

(Witness observes himself on screen.)

Q Did you see it then?

A I saw it. I had saw that once before. But I didn't catch it the first time you asked me because I was following the transcript.

MR. CACHERIS: Go ahead.

(Tape played.)

Q You say when this happened to you you backed off. What did you mean by that?

A Well, these people were untrustworthy. You couldn't be dealing with them in any way at all. I never tried to approach anybody. No one ever tried to approach me. I just forgot it.

(Tape played.)

Q Now Mr. Wald again starts telling you about 50, and 35. And he says that handles the immigration

situation and Bill, the whole thing.

What was your response to that?

A I knew that that was never a problem because that problem did not exist.

I would never have to do anything along those lines. I was told that time and time again that this never would even be a possibility because everything was taken care of through Mr. Weinberg and this wouldn't be a problem for me to ever have to get involved with it.

I never got involved with anything. I never intended to get involved with anything.

And I was told that time and time again.

Q In fact you didn't even answer the statement that he made, did you?

A I didn't answer the statement because he says you have got 35 coming. His arithematic was bad. I had ten coming. I didn't answer. He is making mistakes.

(Tape played.)

Q Now,. Mr. Wald again is summing up and telling you that the things that we talked about is the City, the docks, organized crime and you start talking about architects?

MR. PUCCIO: Judge, I object to the statement and the question.

THE COURT: It is more in the nature of summation,

Mr. Cacheris.

Q Did you start talking about architects?

A Yes. He hits me with we will give you one package. He is talking about putting a package together. And I asked about development and architects. I just dodge around the question.

(Tape played.)

Q What are you telling him here, Mr. Myers?

A I am asking him if I am free to talk. He is not biting. He is not -- it don't seem like he is entering into the same kind of agreements that Mr. Weinberg wanted to enter into.

I am trying to get some direction off him. I am looking to save him money. He don't want to save the Sheik's money. So I figured he wants to waste it. So I come back with that kind of question trying to get him to say something to me that I can understand.

This gentleman just will not respond to my questions. Everytime I hit him with something he don't understand me.

(Tape played.)

Q What are you saying there, Mr. Myers?

A Well, I am trying to tell him a point where I got fifteen thousand when I was told I was going to get twenty-

five. I am trying to make him understand I have got to know what I am talking about. I am to get him to tell me something which he won't do.

That is, I am trying to use this as an illustration because of the great fears that they keep talking about Mafia. So I figured, you know, if I got to go downtown to do something I have got to know facts. That is the point I am trying to convey to him. But again he just will not come back.

(Tape played.)

Q Mr. Wald again says the immigration situation is handled. Did you respond to that?

A Yes. I wanted to be clear on it. I keep asking him to make it clear. I know what was clear to me. But he sounded like he didn't know what was clear.

What I was told prior to the first meeting at the hotel in New York was clear to me. That I didn't have to do anything. Would never probably see these people again. And I never intended to do anything. It seemed to me this thing was now out of hand. I don't know whether he was communicating with Weinberg. I was getting very confused here. I wanted to make my position clear.

(Tape played.)

Q When you look at yourself in the screen there,

will you tell the jury what your condition is?

Q Well, my condition at this point, I am drunk.

(Tape played.)

(Continued on next page.)

Q Can you handle the five city councilmen?

A No, I cannot. I never had any dealings with city councilmen on these levels or any others.

MR. CACHERIS: Okay.

(Tape played.)

Q You mentioned four names, who are they?

A I mentioned four names, members of the city council. I never spoke to anyone of these city councilmen. I have no control over them. I know them as being members of the council. As far as having any influence what they would do, I have none whatsoever.

MR. CACHERIS: All right.

(Tape played.)

Q You say you will use your influence, office, and personal friendship; what did you intend --

A I told them whatever they wanted to hear. They keep going over the same thing, never stopping with these questions by Mr. Wald, the way he is hitting me. Ihfluence, influence.

I would have told him at this point in time I could have done everything he could have dreamed up.

He's talking about problems I don't even know. I come back with: don't worry, I can handle it. It's total B.S. here.

Q All right.

(Tape played.)

Q Again, you are asked about the Mafia, what do you tell him?

A I told him it would be handled strictly through me and to keep it very quiet. My reasoning there is that there is no problem I know of with the Mafia. Not a problem existing.

That you can deal through me. I can handle this problem that doesn't exist.

MR. CACHERIS: All right.

(Tape played.)

Q What are you saying here, Mr. Meyers?

A Finally, I told him to throw another 50,000 in here after he is pressing me, don't be embarrassed. This is too much B.S. This guy doesn't know what he's talking about. I'm going along with whatever he is saying.

MR. CACHERIS: All right.

(Tape played.)

Q You are telling him you can handle anything?

A I can handle anything. And I can't put a dollar figure on it. He wants to put dollar figures on everything he talks about.

It's not -- it's a dream when someone thinks

that way.

This type of problem, zoning, city council matters, anything going to benefit the city of Philadelphia, the city council will pass overwhelmingly. Everyone knows that. The problems he imagines do not exist. That's why I say he can do anything. Anybody going to spend 400 million dollars they would lay a red carpet down for him on broad street. We need help in this city. This guy is talking about -- everything he does, give me a price. It's ridiculous.

MR. CACHERIS: All right.

(Tape played.)

Q Mr. Wald says, if a vote comes you will use all your influence; what vote do you have?

A My vote is in the United States Congress. He's referring to here a vote in the city council.

Again, the kind of problems he envisioned don't exist. The city council wants a hotel complex. Automatically, they're for a port development. Anything that is going to help the city. He's making problems that don't exist. But he's putting prices on everything.

If the shiek wants to come here -- he wants to tell the shiek about coming here and spending money every inch of the way.

If that is what he wants to be pulled, I keep

telling him. He doesn't pick up the point.

(Tape played.)

Q You are telling him here, Mr. Meyers?

A I am trying to give him a little advice, you don't run around with money sticking out of his pockets. He's trying to force money on everything. Prices on everything. Trying to make it clear that is not the way to do business.

(Tape played.)

Q And what did you tell him you would submit a bill for?

A I would submit him a bill each month for three million dollars a month if that is what he wants to hear. It's ridiculous.

(Tape played.)

Q And what did you do when Mr. Wald was trying to get you to say here, Mr. Meyers?

A He's telling me he trusted me, I take it the shiek. If there were extra bucks they would have them.

Q Did he ask you for figures?

A Throughout he asks, give me figures, sure.

(Tape played.)

Q What did you mean by this response, Mr. Meyers?

A What I meant, he continually talks about the tremendous amounts of money. I'm trying to impress him that I can show him how to spend it if that is what the shiek is interested in doing.

I would be the guy to advise him, make myself sound important again.

(Tape played.)

Q Mr. Meyers, you tell him to give you an additional fifty and you're going to work on people, city council, the Mafia, Chicky Narducci?

A He has no problems with any of this stuff. These are problems he manufactured and do not exist. I don't know of any problem in anything I say here.

He thinks it's a problem and he wants to go tell the shiek about the problem. I know there is no problem.

(Tape played.)

Q You say you want me to tell you to give me ten million --

A That is what I say.

Q Why?

A I'm looking for a response from him. Waiting for him to tell me more about the first meeting, the reason I went up to the first meeting. The reason I was brought up to the first meeting, I wanted to find out if Mr. Wald

is in someway trying to steal something of the shiek the way the other representatives were. If they wanted me to tell the shiek to give me ten or 20 million dollars, I wanted to hear it from him.

He's not making himself clear what part he's playing in this.

(Tape played.)

Q Do you know they were trying to get you out of here at this point in time?

A I didn't know it at that point in time when this actuall took place. It's very obvious to me now, of course.

(Tape played.)

Q What are you telling him here, give you some clues?

A I wanted him to give me clues if he is in on any shake of the shiek, I want to know about it. I want him to tell me if he's going back to the shiek with a story and going to ask for X amount of dollars but I want him to tell me the same way I was told in the first meeting.

(Tape played.)

Q Mr. Meyers, what is your condition at this point in time?

A I can't in my whole lifetime -- I never

told anybody about my education before. I'm trying to pose as a tough guy. I'm totally out of the picture here.

Q Did you tell them you could handle all the problems?

A All the problems. If he had money he would have no problems.

He brings up money with every problem he manufactures.

(Tape played.)

Q What did you tell him then?

A I am making it clear, he's not clear about the introduction of the bill. I'm making it clear that I will not go out and introduce any bills. I never intended to introduce any bills and I was told that at the first meeting.

Q All through the conversation when I tried to get this kind of colloquy going with this gentleman, he wouldn't enter it.

I wanted to make it clear and I'll make it clear at this point.

(Tape played.)

Q You are telling him if you envision a problem you don't know what it is, local, you can take care of it?

A I can handle anything. Even the ones he envisioned. If he thought of something else I could handle that too.

(Tape played.)

(Continued next page.)

(Tape played.)

MR. CACHERIS: At this point Mr. Myers leaves. So I don't see any point in playing the rest of that tape.

THE COURT: All right.

MR. CACHERIS: Would it be appropriate to take a recess now, your Honor?

THE COURT: All right.

We will take a short recess. Don't discuss the case during the recess.

(Recess taken at 3:27 p.m.)

(After recess.)

(Jury entered courtroom at 3:40 p.m.)

BY MR. CACHERIS:

Q Mr. Myers, the next evening, January 25, 1980, did you go back to the Barkely Hotel?

A The following night, yes.

Q I am making reference to Exhibit 8A, if you would look at it in your book. Who asked you to come back?

A I received a call from Michael Cohen, agent Wahl, that is, to come back.

Q Did you go back?

A Yes, I went back.

Q Why did you go back?

A Well, I went back to find out what had happened the night before.

I was drunk when I left. I wanted to explore further other investments in the city. I wanted to see if he had any facts and I wanted some more information.

Q Did Mr. Wahl say anything to you about a Mozlen retribution?

A Yes.

He talks about if anybody in his organization tried to skim there would be certain things that Ernie would have to do and wouldn't stand for any kind of nonsense.

It scared the daylights out of me. I thought e eant her would have to have Mel Weinberg killed.

Q Did you -- would you turn to page 8?

A Page 8?

Q Yes.

You almost didn't take the 15.

A Yes, I said that.

Q What else did you say?

A I told him I almost didn't take the money because I was afraid there was a scam all the way and the

only reason I did take it was because I thought I would get ripped off if I didn't take it, the people who scammed me in the beginning would even get that money.

Q Now, on page 14, at the bottom, did Mr. Wahl tell you all those things you talked about last night with 50? What were all those th ings you talked about last night?

A I take it he was referring to all the local things, city council and zoning.

Q Was that anything you could do anything about?

A First there were no problems there and secondly I had no influence in that kind of stuff.

Q Now, Mr. Myers, throughout your contacts, starting in August 22nd, going through the meeting of the 24th, the 25th, a number of different topics were thrown at you, weren't they?

A I don't even know how many. There must have been fifteen, all kinds of topics.

Q Did you tell them you could eeal with the Judiciary Committee, the Immigration Department and the State Department?

A Yes.

Q Could you?

A No. I have no influence on those committees. I don't serve on those committees.

Q Did you intend to use any influence with those committees?

A From the first meeting I didn't intend to do anything and I was told that, I never did anything and never had any intentions whatsoever and I was told that this problem couldn't even exist even if the sheik wanted to come to America, it wasn't a problem because he already had arrangements to go to South America.

I knew I couldn't be involved ina problem and I was told that from day one.

Q Were you also asked about construction unions, and hotel employee unions, zonings and variances, the Mafia, Atlantic City, the City Council,school county, Pocono mountains, Rodino, Florio, Duggan, Cavona, Testa, Narducci, Skinny Razor, Brunoa, Anne Verno, Jimmy Arfranafti and Al Perna; is that correct?

A Yes, I was asled about those things.

Q Did you tell them you could do anything in those areas?

A I told them I could handle any problem that could ever exist with all these people and all those places.

Q Could you?

A I couldn't. I never even spoke to them about this problem. I never seen a problem that existed.

Q Mr. Myers, you told this jury that in August of 1979 you received $15,000, is that correct?

A Yes, that's correct.

Q Did you receive any other money?

A No, I received no additional money.

Q Did you thiknk it was proper for you to accept that money?

A Well, when I looked at this tape, I know it wasn't proper that I accepted thismoney but I didn't do anything wrong for it. I didn't break any laws. I never intended to do anything wrong nor did I do anything wrong but when I vew this tape I know it wasn't right.

Q Did you intend to do anything in connection with your congressinal office?

A No. And I made that clear from the first minute I got involved in this whole thing and I was told that.

MR. CACHERIS: I have no further questions, your Honor.

THE COURT: All right, Mr. Duffy.

CROSS-EXAMINATION

BY MR. DUFFY:

Q Ozzie Myers, were you conned?

A I certainly was conned.

Q In Philadelphia we all call you Ozzie. I will call you Congressman Myers. We are both from the same town. I want to go over a few things that Mr. Cacheris did.

You referred to Testa and Narducci as the young Turks.

Do you remember that on the tape?

A Yes.

Q And you said Bruno is the perennial head of the Mafia but the young Turks are Testa and Arducci, yes.

A Yes, I remembver that.

Q And you got Testa's name wrong?

A Yes, I called him Tony.

Q Assuming they are Turks is there anything young about those Turks?

A I don't know them.

Q Have you learned since that they are both men pushing 60 years of age?

A Yes.

Q Where did you find that out?

A Well, the press told me. Lots of people told me when it appeared in the Philadelphia papers about all these Mafia terms, young men pushing 60. I don't know them or know their right age.

Q I want to talk about the drinking that went on at the Barkley Hotel.

MR. PUCCIO: I object to the statements, your Honor.

MR. DUFFY: I will withdraw it, your Honor.

Q Did you do any drinking at the Barkley Hotel?

A Yes, I did some drinking there.

Q Are you Irish?

A Half Irish.

Q Did you hear on the tape the clinking of ice periodically throughout the video tape?

A Yes.

Q Did that ice clinking -- strike that. Who was clinking the ice in the glasses?

A I am not sure who was. I don't know.

Q Did the clinking of the ice have any conscious effect on you as regards your own drinking? Do you know what I mean?

A No, I don't think so.

Q You weren't aware the clinking didn't make the events, didn't make you aware of anything at that time?

A No. I remember hearing the ice on the tapes but then I don't remember hearing any ice.

Q Your conversation with Louis Johanson?

A Yes.

Q How long had you known Lou?

A I have known Lou about five or six years.

Q And that was through political activity in our city, is that right?

A Yes, that's how I met him.

Q Lou was a ward leader and so were you?

A Yes. We were both Democratic ward leaders.

Q Was it at all unusual for Lou to come to you and say he wanted to talk to you about something?

A No, I didn't think it to be unusual.

Q When you went to his place in Longport and met with him, tell this jury hat emotional status was there when he talked about these millions of dollars --

A He was very excited. He saw an opportunity for him and law partner Mr. Criden to land their hotel deal which would mean millions of dollars to them as a commission to sell this real eatate. He told me he was going to retire and I wished him well and I thought he

was.

Q When he discussed with you the desire of the sheik's people or of the sheik to meet important people, he didn't say Congressman to you, did he?

A No, he just said important people.

Q When he talked about the $100,000, didn't he say, we are going to make $100,000, just for introducing important people to these people?

A Yes.

He explained to me that him and Mr. Criden would get $100,000 off the sheik for introducing the sheik to important people.

Q Didn't he tell you that the notion was for that to be divided four ways?

A Yes.

Q Didn't he say, there is a fellow, Mel Weinberg, who is going to split 25 of it with this partner?

A Yes, he did.

Q Did he say Mayor Errichetti is going to keep 25?

A Yes.

Q And didn't he say that Howard and I get the other 50?

A Yes, he said they would get the other 50 and

they would give me 25 of their end of it.

Q All right.

Did you believe then that Louis Johanson was going to get $100,000?

A Well, I --

Q At that point?

A Well, really it was hard to believe. I told him it sounded like a fairy tale.

That's when he told me that the $100,000 to the Arab sheik was like peanuts to him and I.

He was so excited about this deal in Atlantic City, I thought as a lawyer he is in that kind of business, I thought that it was true.

Q Ozzie, didn't he say to you, Ozzie, they are so loaded with dough they are giving away free money.

Do you remember hikm saying that?

A Yes, he told me that the sheik had met with a U. S. Senator and met with other congressmen. He didn't mention any other names. He didn't mention other names and I didn't pursue them.

Q Do you remember him telling you, answer this yes or no, and then you can explain it, do you remember him telling you that their producing important people to meet these Arabs would play a role in determining

whether or not the hotel deal would go through?

A Yes.

MR. PUCCIO: I object to the leading, your Honor.

THE COURT: Sustained.

Q Was there any conversation between you and Lou about the hotel deal and the impact of bringing important people to meet the Arabs?

A Yes.

Lou told me about the hotel. I thought the way he -- he was so excited about this hotel deal, it was part of the reason that I went up and met with these people because I thought I could do Lou a favor, in turn he said my political friends and personal friends --

Q In fact, he helped you out in a couple of elections, didn't he?

A Yes, he supported me.

MR. PUCCIO: I object.

THE COURT: Overruled.

THE WITNESS: Shall I answer?

THE COURT: Yes.

THE WITNESS: He supported me in the last general election and he was always there in all kinds of political activities that helped me and my

area in the city.

Lou is a guy that many times provided free legal advice to people that needed a laywer and couldn't pay for it.

Q When the time came and Louis -- I think you said he dropped by your house and said there is a meeting scheduled for tomorrow?

A Yes, that's what he did.

Q Did he tell you that Weinberg and the Mayor would tell you what would go on at the meeting?

MR. PUCCIO: Objection.

THE COURT: You are just rpeating his direct testimony.

Overruled.

A Yes, he told me that.

Q Did Louis have anything to do with telling you what to say or do at the meeting?

A He mentioned the fact about immigration but he did not have all of the details.

He told me that Mayor Errichetti and Mel Weinberg would give me a script and tell me exactly what to say and tell me how to handle the sheik when I meet him.

Q When you met Mayor Errichetti and you told

us that he said Weinberg couldn't make the meeting, that he mentioned the word "script"?

A Play acting, come on strong, you saw me on television, there were all referrals to the script, you have to come on strong.

I told him if I need an area that I couldn't handle, I said, how do I explain at that point? He said talk about the Phillies because he doesn't understand English.

Q Back to Philadelphia for a moment.

You talked in this Jnauary 25th meeting at the Barkley Hotel a great deal about the Port of Philadelphia, is that right?

A Yes.

Q Tell the jury how far you live from the water?

A Right currently I live at 6th and Arden Avenue.

Q Is it six blocks from the waterfront?

A It's a little further than six. It's about ten. I was born almost on the waer where I was raised until I was 13 and they built Stone House Lane, near the river.

Q After this meeting progressed, is it so that

you were drinking bourbon?

A I was drinking bourbon and as I watched, not particularly today, but as I watched this video prior to today,I could see myself taking these very large gulps, I counted some of the mouthfuls that lasted four or five seconds.

Q You described the glass as being a McDonald's tumbler?

A Yes, it was a big water tumbler.

Q For those of us who don't know what a McDonald's tumbler is, tell us how many ounces that was.

A I would say 12 ounces.

Q How much whiskey was in the first drink you had?

A There was some ice in it. I asked for bourbon on the rocks.

Q Was it filled up to the top?

A Right up to the top and you could see that on the monitor.

Q Do you have a judgment how much whiskey was in it?

A I would say eight ounces allowing for the ice.

Q When vyou gave it back did you say, boss, give

me a tip on that?

A It was empty and he filled it up again.

Q The same way?

A Yes.

Q The same, eight ounces?

A Yes.

Q Sixt an ounces of bourbon in an hour and a half?

[illegible] about what I drank.

[illegible] you become aware at least today of what your condition was, let's say in the last ten minutes of that meeting, when the two phone calls came in about four minutes apart?

A I became aware today, and prior to today, watching the film that obviously they were trying to get rid of me at this point in time.

Q You told them from time to time when problems came up that you could handle them, am I correct?

A Yes, I told them I could handle anything they brought up.

Q When they talked about coal, you mentioned Clinton and Center County?

A The reason I mentioned those two counties I

go deer hunting there and that was a coal county in the twenties and thirties. If you go over those mountains you go over coal hills and it is very obvious that the damage that was done in those days, those days they didn't have the lane reclaimation act. It's still very obvious that used to be a coal region.

Q When they talk about coal, where do you turn the conversation?

A Back to the port.

Q How many people do you know personally in the longshoremen, stevedore, waterfront business, yourself, who are now unemployed but employable?

A Oh, I know hundreds.

Q Men who don't have work in the city?

A Men who don't have work in the city and a lot of it is because automation and the shipping industry and of course the coal fields when they closed all the coal exported out of there that went down the tube, and it is a port that really needs help.

We have a deep canal, a 40-foot canal in that --

Q All right, don't make a speech.

Are they people who vote for Ozzie Myers?

A That's the reason I got elected the first time and ever since.

THE COURT: All right, Mr. Ben-Veniste.

Q Mr. Meyers, you had not ever met Howard Criden before August 22nd, 1979, had you?

A No.

Q And the first time you ever laid eyes on him as far as you know is when you met him at the terminal, at the Pan Am -- at the Kennedy Airport?

A Yes, at the airport, yes, sir.

Q And on that occasion was there anything more than small talk and an introduction?

A Just an introduction, and that was it.

Q And then you said you went off with Mayor Errichetti and talked privately?

A Yes.

Q Now, on August 22nd, at page 15, if I can direct your attention to that?

A Seven A is that?

THE COURT: Six A is that?

MR. BROWN: Five.

THE WITNESS: Five?

Q Right at the middle of the page.

A What page was that?

Q Page 15.

A Fifteen?

Q Right at the middle of the page.

Q Do you recall Mayor Errichetti says that you, meaning DeVito, and Weinberg can call Ozzie directly.

A Yes, I recall that.

Q Now, from the time of that meeting until you saw Cohen in January, had they ever called you directly?

A No, I never heard from anyone.

Q Now, the next thing you heard was a telephone call from Howard Criden? Is that correct?

A Yes, sometime in January.

Q That was, I think you said, on the very day that you met him?

A The very day that I met him. The first meeting.

Q And now, in the conversation you had with Mr. Criden, as I recall your testimony, he told you that the Arab representatives were back in town?

A Yes.

Q That they wanted to make some investments in Philadelphia?

A Yes.

Q That you had impressed them or their representatives at the first meeting, according to what Mr. Criden had been told?

A Yes, that is exactly it.

Q And that there was another Jewish guy who got involved named Cohen who was to meet you.

A Michael Cohen, he said, was now in Philadelphia putting together a hotel-complex.

Q Now, on the 24th at page 125, and that would be Exhibit 7a, near the top third of the page, you say: "I don't need anybody talking for me or making a deal for me..."

Do you recall that?

A Yes, sir.

Q Then nevertheless later in the conversation it is a fact that again they say that if they want to get in touch with you they will involve Criden again. They will get hold of you through Criden.

A Yes.

They say, well, you know -- I say, well, Howard can call me --

Q But there is no explanation as to why they wanted to get Howard Criden involved in all of this?

A No, I didn't know about it.

Q Between August 22nd and January 24th, have you had any conversation with Howard Criden whatsoever?

A None, whatsoever. I never even heard from him, or saw him, or anything else.

Q Did Howard Criden ever indicate to you by word or act that he ever expected that you would do one thing in your official capacity or otherwise on behalf of these wealthy arabs --

A No, he never mentioned one thing about anything that I would have to do.

Q And indeed as far as you know from any other sources you were not expected, and indeed you did not believe you would ever do anything in your official capacity on their behalf?

A I --

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q Is it not a fact that consistently from the standpoint of the people who asked you to come to the meeting you were told in reverse, that you would never be called upon to do anything?

A I was told that from the first time I even discussed meeting with the shiek. I was told that by the Mayor. It was reenforced to me by the Mayor. And he told me point blank that you will never see these people again. Don't worry about that. Whatever they want to hear just agree with them.

And I was hedgey when I found that the

shiek wasn't going to be there and his representative was going to be there and that he understood English. And I know I couldn't talk about the Phillies, if he understood English. You know, so I was concerned about that. And that is when he told me about Mel Weinberg, and that there was arrangements would be made if the situation of the shiek became hostile and had to leave his own country, and he was going to South America, and there would never be a possibility I would ever have to do anything.

Q In fact, is it true, Congressman Meyers, that during this whole time from the beginning of the time that brought you into the net until the time that the masquerade was over, that you did not do one single thing on their behalf?

MR. PUCCIO: Objection.

THE COURT: Sustaine.

Q And is it true that you did not do one single thing in your official capacity or otherwise in their behalf?

A Yes, it is true. I never did nothing. I never intended to do anything. And I was told point blank that I didn't have to do anything.

MR. BEN-VENISTE: Nothing further.

THE COURT: Mr. Brown, any questions?

MR. BROWN: I have a few questions briefly,

your Honor.

CROSS EXAMINATION

BY MR. BROWN:

Q Congressman, I think you testified that you didn't see or meet Mr. Errichetti in terms of the matter we are talking about until August 22nd, is that right?

A That is correct, yes.

Q And you have outlined the conversation that you had, is that right?

A Yes.

Q Now, where was this conversation held with Mayor Errichetti?

A Well, I had two conversations with Mayor Errichetti.

Q Well, those conversations .

A Pardon me?

Q Well, those conversations, if they are plural

A The first one was held at the Kennedy Airport when he pulled me away from the main group and stayed on the side, talked for about 10 or 15 minutes, about what I was to say or what I was to do when I met with the Arab Sheik.

And he went on to tell me what I should do.

He said, "Did you ever see me on television?

"Come on strong. You've got to talk like a tough guy. You were a longshoreman. You know how a tough guy operates. Talk tough. You have got to impress the sheik. He likes tough guys. This is all play-acting. And make it as strong as you can."

He says, "You'll never see these people again."

That is when I told him, "Yes, but well, you know, what if he asks me in an area that I don't know or that I can't explain."

He says that, "He doesn't understand English. Talk about the Phillies. Talk about anything. I will be in the room. Mel will be in the room. If you have a problem we will take over." He made that very clear.

Q Now, when you got to the hotel, you saw Mayor Errichetti again.

A When I walked into the hotel I saw Errichetti again. He was standing -- he was waiting for me. I was only a few minutes behind him because I came in my own car.

Q Was he alone?

A He was standing alone by the elevator.

Q Yes?

A When I walked up to the Mayor that is when

he told me that there was a change in plans. There was a change. The sheik himself would not be present. One of his representatives would be there. But he would still be in the room. And Mel would still be in the room. And come on strong the same way.

Tell them whatever they want to hear. And at this point in time is when I talked about it and I said well, he will understand about immigration matters. What will I say if he understands all of the procedures. How will I explain that I know everything about this when I don't really know about it.

That is when he told me that Mel says don't worry about that. Tell them whatever you want. Tell him you will do anything that he asks you because this could never even be a possible situation because the sheik was already established and was set to go to South America should there ever be a problem in his homeland.

Q Now, when was the first time you saw Mel Weinberg?

A The first time I ever saw Mel Weinberg was when I walked into that meeting at that hotel.

Q Did you ever exchange any conversation with Mel Weinberg?

A He hardly spoke. He just sat there. I

thought he was playing his part, waiting for me to make a mistake. He only said one or two lines in the whole 20 or 25 minute meeting.

Q Was everything consistent as far as you could see as to what the Mayor had told you was the game plan?

A Yes, it came off just the way it was supposed to. He started me right off. I made a speech telling him how important I was. I got stuck on green cards because I didn't know the procedure. He interceded and he bailed me out of that because I didn't know about the green cards. Everything seemed very consistent.

Mel at the end just talked about the goose that laid the golden egg. That fit right in with the picture.

Q Well, how did that fit into the picture as far as Weinberg --

A Well, Weinberg was obviously robbing his boss. He was taking some money off of his employer.

Q Now, the meeting finally ended on the 22nd of August? Is that right?

A Yes.

Q Then you testified as to a meeting on January 24 of 1980, is that right, five months later?

A Yes, that is correct, Mr. Brown.

(Continued next page.)

Q After you left that room on August 22nd, did you thereafter see Angelo Errichetti in any way connected with the matters that are being testified to here today?

A No, I did not.

Q And from that day, when was the next time that you actually saw Mayor Errichetti?

A August 22, 1979.

Q I this Courtroom?

A Right.

Q Now, as you walked into the second meeting on the 24th you saw certain people there, is that right?

A Yes.

Q Weinberg was not there?

A No, he was not there.

Q Now, from your understanding of the entire proceedings that you testified to today, did you conceive or understand any connection between the meeting of January 24th and the meeting of August 22nd?

A No.but these representatives were -- other representatives of the Sheik. That is the only connection that I saw.

Q Well, may I call your attention to Page 107 -- 108 of Exhibit 7-A? That is the meeting of the 24th?

A Yes, 108?

Q Yes, sir.

Would you read that out loud please?

A The entire page, Mr. Brown?

Q Yes, if you will.

A Does it start up, "Okay"?

Q Yes.

A "Okay. We'll handle that tomorrow morning early.

"All right. (clear stroke) I am here for one purpose. The other gentlemen do things differently or do different things than I do..."

Q May I stop you there?

A Yes.

Q Who is speaking?

A Well, I have to look back because it is not on my --

Q You want to make sure?

A Yes.

Tha is Michael Wald who is Michael Cohen.

Q All right. And he said the other gentlemen do things differently.

Were you able to identify the other gentlemen who did things differently in the sense of the statement there?

A Yes, I took it he was referring to Mr. Weinberg and Tony DeVito.

Q And then he says, "....do different things than I do..."

Did you get an understanding of that?

A Well, I know that -- what he was talking about -- I thought he meant that he was here because of this hotel and that they were involved with something different. That is what I took it to mean.

Q Now, the rest of that, would you read the rest of that, please?

A Yes.

"...differently. Different things than I do..."

Q Ys.

A "Titles and press. The individual I work for, I have a title, all right. Just expedite things..."

Q Would you stop right there.

Now,this is Mr. Wald and he is talking about titles and press. Had you heard that before?

A Well, important people -- actually the word titles, do you mean?

Q Yes.

A No, I hadn't heard the word titles raised

before.

Q And then he says, "I am titled" is that right?

A Yes, he says he is titled.

Q Now, did he as anytime tell you that he was impressive to the Sheik because he had a title or any sense of that?

A No. He never talked about that.

Q So when he talks about "titles and press" he says "I am titled" is that right?

A Yes.

Q Now, would you go on?

A Yes.

"I am not going to be involved all right in this hotel-motel -- motel, nor will I be involved any more at this point with uh uh coal. These are things that I realy don't have no background in and no interest in..."

Q All right, now, he had talked to you about something that was a cross between a hotel and motel, is that correct?

A Yes.

Q Did he ever identify or describe what a thing is that is a cross between a hotel and a motel --

A At one point he says something in the middle.

Q What was that? Do you know what that is?

A No, I don't know what is in the middle between a hotel and a motel. I took it to mean some kind of a complex. He talked about, you know, having this excursion to Philadelphia.

Q Were you able to pin him down as to what he was talking about?

A I couldn't pin him down on anything through this whole conversation.

Q Isn't it a fact that in the early part of the conversation, the pages before 108 in 7-A he talks to you about the hotel-motel, and the amount of money. What was the amount of money he said he would invest?

A He said in the hotel?

Q The hotel-motel?

A Yes, he said 34.6 million. And then he added --

Q Yes.

A He added another million to on for I took it tha he meant completion over a couple of weeks before the ground breaking.

Q Were you ever able to pin that down?

A No. I couldn't pin anything down with him.

Q Now he mentioned coal, is that right?

A Yes, he mentioned coal.

Q And he mentioned something about the length of

time that he had to get the coal out of the ground? Is that right?

A Yes.

Q Do you remember what that was?

A Yes. I came back then and asked him how much time was his leases. And he came off with an answer 8.6 years, and there is days included --

Q Did that make any sense to you?

A I never heard of a lease 8.6 years. I mean if he said eight and a half years it would have sounded right.

But 8.6 years, I never heard of anybody talking years and using a decimal point

Q Did you press him for details as to where this coal was?

A Yes, I pressed him. I think this is part of his answer here. He is not involved with that. And from watching this monitor I realized what happened there.

Q What happened there that you observed?

A Well, I observed that these questions that he couldn't answer that I was hitting him with, he was probably instructed to get out of that area because I am going to find out that he is not a representative of the Arab.

Q How was he instructed from what you observed?

A Well, he changed the subject at this point in time.

I'm not longer interested in that one. I am a financial man. And everything he talks about he talks about a price on it.

Q How was he instructed, if you know, to get off that topic and switch to another?

A Well, he just changes. He shifts gears here in mid stream.

MR. PUCCIO: Your Honor, I object to this question unless it was expressed as to what was in the Congressman's mind at the time.

THE COURT: I think that was what the question was directed to.

MR. BROWN: Yes, it was your Honor, yes, to his state of mind as to why he thinks he changed topics.

Q Did you observe anything or did you hear anything in that meeting that seemed to cue him up to change is mind?

A Well, he was all over the lot. It seemed that everytime I asked him a question, give me some sound information -- when I talked about who is your builder, who is your architect, how many square feet do you need on

the waterfront --

Q And what would happen then?

A He would go from that area right into some other area.

Q I'm not going to ask you if you heard any telephone calls?

A I heard all kinds of telephone calls.

Q Did you relate that to anything that happened there?

A Well, I didn't then. I thought he was that important. But I do now.

Q What do you relate it to now?

MR. PUCCIO: I object.

THE COURT: Sustained.

Q At that time you thought the telephone calls were related to his importance? Is that right?

A Yes.

Q Now, in the course of the dialogue or the conversation with Mr. Wald, isn't it a fact that he brought up naturalization a number of times?

A Yes,he did.

Q Can you give the jury an impression from your own recollection as to how many times he brought up naturalization?

A I would have to say seven or eight times he brought it up.

Q Now, each time he brought up naturalization can you tell us what then happened?

A Well, he would bring it up to me.

And he would try to pin me to naturalization, something along the line of immigration. And I wouldn't let him pin me. I kept sidestepping that question. I kept asking for reasons. Give me reasons.

Q What would happen then if you can recollect?

A Then he would start talking about hotels and reasons that he was talking about.

Q And then what would happen?

A Well, I would just go along with whatever he would say. But I never saw no reasons.

Q Did there ever come a time when you flatly and unequivocally said that you intended or would vote for a particular bill for the Sheik?

A Yes. At the end I told him that I would not introduce -- I was not interested in any bills. I would not introduce it. I would not go on any missions to no return --

Q Would you go to Page 171 in 7-A please.

At Page 171 -- are you at Page 171?

A Yes.

Q Where it starts: "....I am not coming in here..."?

A Yes.

Q Was this really your last statement to him concerning the bill or anything connection with your Congressional office?

A That was my last statement to him.

Q Well, would you read to the jury what you told him and that is written there unchangably? Read it to the jury, what you said to him, please?

(Continued on next page.)

A I say to Mr. Cohen:

"I am not coming in here looking to -- looking to put any shake on anybody. I am not uh -- I am interested in the city. Give me some reasons. I am not a fool. I am not going to run out, you know, say, well, here is X amount of bucks go out and introduce this bill. I am not interested in the Nevin Bill that is going to get me into F and Shanghai the next .day..."

Q Does your language change when you are drunk, Congressman Meyers?

A Yes. I don't use that kind of English, Mr. Brown.

Q Well, what does that mean, what you said to him directly here? What did that mean?

A That means that all through this conversation that lasted all of an hour and a half, or whatever it was, he tries to pin me down on immigration matters. And I won't let him pin me down. I don't know who I am dealing with here. I went there to talk about a hotel.

This is my final answer to him on immigration matters before this conversation ends.

Does that embody your intention or lack of intention with respect to violating your congressional oath?

A That embodies my intention that I had no intentions of introducing any bills.

Q Now, you said you gave an envelope to Mr. Errichetti?

A Yes.

Q At the time you gave it to him did you know what was in it?

A No, I didn't know what was in it. I took it to be $100,000 in it. That is what was told to me.

Q Did you ever see Mr. Errichetti open that envelope?

A No. When I handed it to him he just took it and then I got on the elevator. The doors closed. And he disappeared from my sight.

Q Tell this jury, you had been in a room talking to Mr. Weinberg, and Mr. Errichetti and Mr. Amoroso just prior to leaving with the envelope? Is that right?

A Yes.

Q With respect to that room where you were all talking when you received that envelope, will you tell us where, with respect to that room, physically, you gave the envelope to Mr. Errichetti?

A I gave the envelope and we went right -- as we left the room and walked out the door, as soon as

I got on the other side of that doorway I handed him the envelope. And we continued walking out the corridor to the elevator which was maybe 40 or 50 feet up the hall. We both stood there. I hit the down button. The elevator doors opened. I stepped in. He stood there. He remained there. The doors closed. I left and I didn't see Mr. Errichetti no more.

Q And that is the end of your knowledge with respect to Mayor Errichtti?

A That was the last time I saw Mr. Errichetti before coming in this courtroom.

Q And you cant't tell us whether or not you saw him with any money, whether he received any money, or what happened to that envelope? Is that correct?

A No, the only thing I know about the envelope is when it got back to Philadelphia and I went to Mr. Criden's office --

Q And was Mayor Errichetti there?

A No, he was not.

Q Did you ever talk to him by telephone? You said you hadn't seen him, but did you communicate with him by telephone?

A I had no communication whatsever with Mr. Errichetti.

Q Was there ever an occasion when Mayor Errichetti told you to act in any way that would violate your congressional office?

A No. He told me that I would never have to do anything. This was all a joke, play acting, and come on as strong as I could. And he made it very very clear that I wouldn't have to do anything. And that is the reason I agreed to go up there.

MR. BROWN: Thank you. No further questions.

THE COURT: Mr. Puccio? Any questions?

MR. PUCCIO: Yes, sir.

May I have one moment, your Honor?

THE COURT: Yes.

CROSS EXAMINATION

BY MR. PUCCIO:

Q Congressman Meyers, when you walked into the courtroom this morning, did you know that your lawyer was going to call you to the witness stand?

A Did I know it?

MR. CACHERIS: Objection.

Q Yes.

THE COURT: Overruled.

A Yes, I knew it.

Q You were expecting to be asked questions that

you would have to answer before this jury? Is that correct, Congressman Meyers?

A Yes.

MR. CACHERIS: Your Honor, there is nothing wrong with that. I object to that.

Of course he has to know he's going on the stand beforehand.

THE COURT: Nobody said there was anything wrong with it.

Overruled.

Q Now, you have viewed a number of videotapes before your testimony? Is that correct?

A I watched these tapes I would say totally about four, maybe five times.

Q Was that before or after this trial began?

A That was mainly before the trial began when your office first supplied us with them.

By the way, I didn't see that last tape. You never supplied that to us.

Q Which tape was that, Mr. Congressman?

A The very last meeting involving Mr. Musto.

Q All right, I see. What date did that meeting take place on?

A I believe it was January 27th.

Q Now, prior to your testifying, you had reviewed these tapes and you had discussed this matter with your attorney, is that right?

A Yes.

Q When you walked on the stand this morning, you were prepared to answer any questions that your attorney would ask you, is that correct?

A You didn't tell me what questions he was going to ask me or anything like that.

Q He didn't give you any idea or what he would say to you during your direct examination?

A No. The only thing he told me was to tell about your family background when you start out.

Q And the rest of it, you had no idea what was coming, is that right?

A Well, certain key areas here I pointed out to him -- I would have to say I pointed out to him that -- when I first knew that Mr. Wald, when he was talking about this hotel of 34.6 Million dollars, well, he was all over the lot.

First he was going to Center City. Then he was going to South Phillie. That is when I first realized that Mr. Wald didn't know what he was talking about.

Q And you discussed that with your attorney,

is that right?

A Oh, yes, I put it to him.

Q And you asked your attorney to ask those questions on the witness stand?

MR. CACHERIS: I think this is objectionable. I think it is entirely proper for an attorney to talk with his client. Mr. PUccio is trying to make this look sinister.

THE COURT: Overruled.

MR. CACHERIS: I think the jury should be told, your Honor.

THE COURT: I assume the jury assumes and I will tell them that lawyers and clients talk together. A lawyer would probably be guilty of malpractice if he let his client get on the stand without discussing his testimony in advance.

But that doesn't mean that the area is not a proper area of inquiry on cross examination.

The objection is overruled.

Q Now, have you ever talked to Mr. Brown, Mr. Ben-Veniste, or Mr. Duffy about your testimony, Congressman Meyers?

A Not any specific questions. We talked generally about this whole case.

We had at lunch. We had it right in this courtroom. But I have not sat down with any of the other attorneys and went over this transcript and told them or they told me any specific things. No, they had not.

Q I take it then that you had no idea that those three gentlemen would also ask you questions today?

A I did not learn that until today.

Q Until I asked you the questions that you sat there on the witness stand, is that right?

A Well, I went through this whole tape. I was prepared to answer anything that involves me in this transcript.

Q And you didn't know that those three gentlemen would ask you any questions until you heard those questions on this witness stand? Is that right, Congressman?

A That is correct, Mr. Puccio.

Q Now, Congressman Meyers, did you tell the absolute truth to this Court and to the jury during your testimony?

A I have told the absolute truth during this entire trial to this jury and to the other people in this courtroom from the first minute that I took this witness stand.

And I intend to tell the truth all through your questioning too.

Q You didn't lie to this jury once. Is that correct?

A That is correct.

I didn't lie to this jury. And I never intended to lie to anybody.

MR. CACHERIS: Your Honor, he's arguing with the witness.

THE COURT: Is that an objection to the next question or the last?

It has already been answered.

(Continued next page.)

Q Congressman Myers, when you walked into the Travel Lodge Motel room on August 22, 1979, and met with Mr. DeVito and Mr. Weinberg, did you know that video tape cameras were watching what was going on and microfilms were recording what you said?

A No, I did not.

Q When you walked into the Barkley Hotel subsequently on January 24, 1980, did you know that video tape cameras were recording that scene?

A No. sir.

Q How many times did you tell an intentional falsehood? How many times did you lie to Mr. DeVito and Mr. Weinberg during the meeting on August 22, 1979?

MR. CACHERIS: Objection.

THE COURT: Overruled.

A I don't know how many times I couldn't give you a number. In the meeting of the 22nd, I can go through it when Angelo Errichetti gave me my cue to talk about myself in that particular statement I told three or four lies in there about judiciary committees and appropriations. I started off telling lies the way I was instructed. You were instructed to lie during that meeting, is that correct?

A Yes.

Q Within the first few minutes of that meeting you told three or four lies?

A Yes.

Q The meeting lasted for about 35 minutes?

A Yes.

Q How many lies did you tell during that meeting, Congressman Myers?

A Mr. Puccio, I would be happy to go through it with you and tell you what was a lie.

I could not guess. I came on strong and --

Q In almost everything you said it was not the truth?

A Almost everything I said there is not the truth, that is correct.

Q Why did you go up to New York City on that day, Mr.Myers?

A I went up there for two reasons. One reason was to try to help my friend Mr. Johanson out with his transaction in Atlantic City. The other reason was to get $25,000.

Q Did you lie to get that money, Congressman Myers?

A I told people that I would introduce legislation when I knew I didn't have to and never intended to. Yes, I lied.

Q You lied to get that money, is that correct?

MR. BEN-VENISTE: Objection to lie. Weinberg told him to play act. It's a question whether this is a lie or not under the circumstances.

It's argumentative.

THE COURT: Is that the ground, argumentative?

MR. BEN-VENISTE: Repetitious.

THE COURT: Sustained on the latter ground.

Q When for the first time did you hear that there was a Sheik?

A The first time I heard about the Sheik was the day I met with Mr. Johanson at his summer place in Longport.

Q He told you that the Sheik had a lot of money, is that correct?

A Yes, and about the hotel deal.

Q He told you that the Sheik had an immigration problem, is that correct?

A Yes.

That is the first time I heard about immigration

Q And he told you that the Sheik needed a Untied States Congressman to solve his immigration problem, is that correct?

A No, he didn't say anything about a United States Congressman.

He said that the Sheik was willing to pay him and Mr. Criden a hundred thousand dollars to meet -- if they introduced the Sheik to important people.

Q He told you that one of these important people would be you, is that correct?

A If I agreed to meet.

Q You agreed to meet, is that correct?

A Yes, after he explained to me a little more about the money.

Q He explained to you that you would receive $25,000, is that correct?

A Yes, he did.

Q Did he tell you you would have to lie to make any intentional false statements to the Sheik?

A No, he told me that I would get further instructions from Mayor Errichetti and Mel Weinberg.

Q He told you you would have to --

A He told me to make an impression on the Sheik. He liked tough guys.

Q Did he tell you you would have to say something to the Sheik that wasn't true?

A No, he didn't have all the details. He didn't have all the details what actually I had to do.

He told me there would be a meeting set up

between Mayor Errichetti and Mel Weinberg and myself prior to the meeting with the Sheik.

Q But he told you you would have to play act?

A Yes, he told me I would have to play act.

Q What did you take that to mean?

A Act like a tough guy in this point in time. He didn't know all the details.

Q Did you take it to mean you would have to say something that wasn't true to the Sheik in order to get the money?

A At this point in time, no. Mr. Johanson didn't tell me that.

Q You thought you would have to play act li a tough guy and you would get $25,000?

A Yes.

Q What did he tell you you had to be tough about?

A Act like a tough guy.

Q What did you take that to mean?

A To me,it's somebody who talks tough, acts like a tough tumble-type character, that's what it meant to me.

Q Did you believe at that time that you would not have to do anything for the money?

A I asked that very question to Mr. Johanson. I said it sounds like a fairy tale. A hundred thousand

dollars, he told me it was peanuts to the rich Arab.

Q Have you ever received a proposition like this before from Mr. Johanson or anyone else?

A No, I never heard of such a proposition.

Q In any event, you agreed to attend this meeting, is that correct?

A Well, I knew Mr. Johanson to be an honorable person and good laywer. When he told me about the hotel deal and he was going to receive a couple of million dollars, I thought it was true. That is what convinced me.

Q The first time you heard about the meeting from Mr. Johanson you didn't think there was anything improper in this, is that correct?

A That is correct.

Q Now, when is the next conversation you had concerning this matter?

A The next conversation was the day -- the 21st of August when Mr. Johanson stopped at my house down in Longport and told me that the meeting was set up for the following day, the 22nd.

Q During that intervening period you had nothing, is that correct?

A That is correct.

Q Had you called or telephoned Mr. Johanson's

office earlier that day?

A Had I?

Q Yes.

A No, I don't recall calling, no.

Q Did Mr. Johanson appear at your house out of the blue that evening before the August 22nd meeting or had you expected him?

A I expected him at some point in time once the meeting was set up to stop at my house. I told him I would be down in Longport in the month of August because I was on vacation from Congress.

Q You had no problem attending up in New York to pick up $25,000 the next day?

A I was on vacation. As far as any other commitments I had none, only my night office.

Q If you had some appointments that day you wouldn't have gone?

A I had no appointments during the daytime during the whole month of August. I was on vacation, but I did attend office hours at night.

Q Did Councilman Johanson tell you on August 21st, when he came to your house that you would have to do something that you would have to promise something to the Sheik?

A No, he did not. He told me the next morning that I would meet with Mayor Errichetti and Mel Weinberg. I would be given my script at that point in time.

Q Your tough guy script?

A I didn't know.

Q Didn't you ask him?

A He didn't know what I was going to be told to say.

Q Both of you were in the dark at that time, is that fair to say?

A Well, not totally, because he had mentioned to me about immigration. They may want to talk about immigration.

Q You knew that the meeting was going to be about immigration, is that correct?

A I didn't know what the meeting was going to be or what they may want to talk about.

If they brought it up. I didn't know they were.

Q You didn't know they were going to bring it up.

A At that point in time he said they may bring it up.

Q You knew money was going to be passed, is that

correct?

A Yes, I knew about money.

Q You knew that money was going to be passed to you, is that correct?

A Yes.

Q That you were going to carry it out of the meeting, is that correct?

A Yes, I knew it.

Q Now, Congressman Myers, at this point you had not spoken to Mayor Errichetti about this matter, is that correct?

A That is correct.

Q Did you know Mayor Errichetti before this date?

A Yes.

Q How many occasions had you met with him prior to this date?

A Dealing with political matters concerning our area?

Q Any matters?

A I would say 15, maybe.

Q You felt it was sufficient at this point to deal through councilman Johanson and not speak to the Mayor directly about the trip to New York?

A All my faith was in Lou Johanson who I knew.

Q Did you ask Mr. Johanson why you would have to travel to New York and why it couldn't be done in Longport or Philadelphia or any place else?

A No.

Q That didn't make any difference, did it?

A I didn't know the reasons. I didn't ask that question.

Q Did you ask any questions?

A Only what was expected of me.

He told me nothing. I had to do absolutely nothing.

Q Except read the script?

A I was instructed by the Mayor and Mr. Weinberg then I would have to read the script.

Q Did you know on the day before that that script would contain a promise that you would introduce a private immigration bill before the house of representatives? Did you know that?

A No.

Q Did you know that that script would contain a promise by you that you would intervene with the United States Department of State?

A No, I didn't know I was never told about the

State.

Q Did you expect a written script to be handed to you?

A No, I wasn't told a written script, just instructed on what I had to do and say.

Q You were prepared to do anything, isn't that right, Congressman Myers?

A No, I wasn't prepared to do anything. No, that is not right.

Q What were you not prepared to do?

A I wouldn't do anything that would violate my office. I made that clear from the very first minute. I reinforced that when I spoke to the Mayor. I told him that right up to getting to the room.

Q We didn't get there yet.

A I'm sorry.

Q You wouldn't do anything that would violate the law, is that correct?

A That is correct.

Q You wouldn't do anything that was dishonest in any way, is that correct?

A That is absolutely right, Mr. Puccio.

Q Now, on the next day you met with Mayor Errichetti, is that correct?

A The next day being the 22nd, that is correct.

Q He gave you the script, is that correct?

A That is correct.

Q Who else was present when he gave you the script?

A Standing 20 or 30 feet away was Lou Johanson, Howard Criden, Mr. Criden's son, and I believe another gentleman who was Mr. Errichetti's driver.

Q Were they part of the conversation that you had with Mayor Errichetti?

A No. They were not a part. We went off by ourselves.

Q Privately?

A They could see us. We were hardly 20 or 30 feet away, but against the wall at the Kennedy Airport in the terminal there.

Q At the Pam Am Terminal, is that correct?

A I believe it was Pan Am, yes.

Q You weren't concerned about this being a private conversation, is that correct?

A We were private. I took it to be a private conversation.

Q You weren't concerned that the others were excluded from the conversation?

A No, because I was told I was going to meet with the Mayor and he was going to tell me about what I should say.

Q You assumed everyone else there knew what was going on, is that correct?

A No, I didn't assume anything. That is the first time I ever met Mr. Criden's son. I didn't know what they thought or assumed.

Q What did the Mayor say to you in this private conversation?

A He said to me there was a change in plans. That Mr. Weinberg couldn't make the meeting and he would give me my instructions.

He went on to tell me,you've got to come on strong. You have to talk like a tough guy. It's all play acting, tell them whatever they want to hear. The Sheik doesn't understand English.

I said suppose it's an area I don't understand. He said, "Talk about the Phillys, anything. I will be in the room with you. Mel will be in the room with you. If you have any problems, we will back you up and speak up if there is anything you got a problem with."

Q Did he tell you anything else?

A Just to come on strong and he talked -- "Did

you ever see me on television, how positive I talk, aggressi
I am? Sure I've seen you on television a number of times.
Act like me, you are a former longshoreman, you know."

Q You didn't need a script for that?

A Well, I had an idea how a tough guy acts.

Q Tough guys say things like F'n?

A Yes.

(Continued on next page.)

Q What did he tell you to come on strong about?

A Anything they wanted to talk about.

Q What did you believe, as you stood there with Mayor Errichetti in the Pan Am Terminal that they wanted to talk about?

A He talked about investments, immigration matters, told me about the sheik being -- wanting to immigrate to this country, tell them whatever they want to hear.

They don't understand what you are saying, just talk about it.

I told him I didn't understand all the details and intrical parts of immigration matters. I don't serve on that committee. I never had any real dealings with that.

Q Would it be fair to say Mayor Errichetti told you that the purpose was you should give surety to the sheik that his immigration problems would be solved?

A I would say it is a fair statement, yes.

Q You said to Mayor Errichetti, I'll tell the sheik or his representatives, whoever was there, I am prepared to introduce a private immigration bill, is that correct?

A I don't think that came up at that point in time, no.

Q You had discussed the introduction of a

private immigration bill before you walked into the room before the cameras?

A He said he may talk about it. He didn't actually tell me to tell him you would introduce a private bill. I am the one that got in the private bill. He talked about immigration problems. He didn't talk about private bills.

Q Didn't he tell you that in order for the money to be paid you would have to say that you would introduce a private immigration bill or in some way make assurance that the sheik would get into the country?

A He didn't talk about a private immigration bill, he talked about immigration matters that the sheik was interested in coming to America to possibly live. I told him I didn't understand the ramifications or the problems that could arise. He said don't worry about it, tell him whatever you want to tell him, he doesn't understand English.

He doesn't know if you are telling him a fact.

Q He told you to lie to the sheik?

A He told me to talk about the Phillies.

Q Did he tell you to lie to the sheik?

A He didn't actually say lie to the sheik, no.

Q Was it understood that everything you would say during the meeting would be the truth, Mr. Meyers?

A It was understood that I was to come on strong and tell these people whatever they wanted to hear. I didn't know what they wanted to hear other than they may talk about immigration matters.

He didn't tell me a specific bill. No, he did not tell me that.

Q If they would have talked about immigration matters, you would tell them what they wanted to hear about immigration matters, is that correct?

A Yes.

I started right off explaining that.

Q You start right off and promise to introduce a private immigration bill?

A I talk about a private bill. I start, if you read the way that starts off, I go into talking about the committee.

Q You are jumping ahead.

Correct me if I am wrong, in that meeting, you promised to introduce a private immigration bill, is that correct?

A Yes.

Q Thank you.

That was a false statement of your intentions, is that correct?

A That is correct.

Q And that was a false statement of your intentions to obtain money, is that correct?

A A false statement of my intentions? I never intended to do anything as far as introduce any bills. I was told I never had to do that.

Q When you said that you would introduce a private immigration bill, you said that, you made that false statement in order to obtain money from the sheik, is that correct?

A I made a false statement.

Q In order to obtain money from the sheik's representative, is that correct?

A Yes.

Q Congressman Meyers, you were in the House of Representatives in Pennsylvania, is that correct?

A Yes, sir.

Q During the period of time that you were in the House of Representatives, you had occasion to vote on bills concerning criminal matters, is that correct?

A Criminal matters?

Q Yes.

A I don't recall any criminal--

MR. CACHERIS: Objection, relevance.

THE COURT: Overruled.

Q Are you saying that you never voted on a bill concerning criminal matters?

A You're going to have to explain what bill you are talking about. I didn't know we voted on criminal matters.

Q Do you know what a penal code is?

A Yes. You're talking about laws that we voted on that govern certain things?

A Yes.

Q I assume while you are in the legislation you voted on laws, is that correct?

A Yes. I didn't know that was criminal matters. I just learned that today from you, Mr. Puccio.

Q Well --

MR. BEN-VENISTE: I object and ask for a Side Bar if Mr. Puccio is going to pursue some other legislation in some other code other than the one we are dealing with here.

THE COURT: Is that your intention?

MR. PUCCIO: I have some questions about a certain statute, criminal statute.

MR. DUFFY: I object. I recognize the book, it is --

THE COURT: Sustained.

Q Congressman Meyers, did you believe it was dishonest to obtain money by false pretenses?

A I --

MR. BEN-VENISTE: Objection, your Honor.

THE COURT: Overruled.

A No, I didn't think this was dishonest.

Q Now, after that meeting with Mr. Errichetti at the Pan American Terminal, what did you do?

A After Mr. Errichetti left, I left shortly thereafter, a few minutes behind him.

I went with Mr. Johansen out to my car which was on the parking lot. We drove over to the hotel, parked the car outside, walked in, at which point in time I met Mayor Errichetti standing in front of the elevators in the lobby.

Q He told you that something changed?

A Yes.

Q He told you there wasn't going to be 100,000 dollars, there was going to be 50,000, is that correct?

A No, sir, that is not correct.

Q Didn't he tell you that the amount had changed

in some way?

A He never mentioned the amount to me at no time.

Q Well, he told you something changed about the sheik's plans, is that correct?

A That is correct.

Q Did he tell you the sheik was prepared to go to South America, is that correct?

A No, he told me the sheik would not be at the meeting. That he was tied up in other deals and could not be present for this meeting, but one of his representatives would be there.

And of course he would still be there and Mr. Weinberg would be in the room.

Q Didn't he tell you that the sheik was prepared to go to South America if he had to leave his native land?

A He told me at this point in time, when I realized the sheik would not be present, I wanted to know about more of what I'm going to say. Who is going to be there in the room.

Obviously, I'm not going to talk about the Phillies to someone who understands English.

Q Back up a moment. You walked into the Travellodge Motel and as you said the Mayor is standing

there alone and you walk over to him and engage him in conversation?

A Yes.

Q He is informing you of what has happened in the interim since you saw him last, is that correct?

A Yes.

Q You're asking questions because now you find out that the sheik is not going to be there and you need more details as to what is going to happen, is that correct?

A Yes.

Q You are standing in the lobby?

A Right in front of the elevators, yes.

Q How long does this conversationtake?

A I would say just a couple of minutes.

Q What questions do you ask?

A I want to know who was going to be in the room if the sheik is not present. He told me one of his representatives would be there.

So I said, "What is he going to ask me? What do I have to say?"

He said, "Go on with the same stuff I told you, don't worry about anything."

I was concerned about the immigration stuff.

What about immigration, does he know all the procedures on immigration matter-.

He said tell him whatever -- you go along with it.

Q Whether it is true or not?

A He didn't put it that way. Tell him go along with whatever he asked.

Q You took it, go along and say thing whether they were true or not?

A Yes.

Q At this point you knew that the immigration matter was of no importance, is that correct?

A Just at that point I learned that. He tells me Mel Weinberg told him that I would never have to do anything. It couldn't be a possibility anything would arise dealing with the sheik coming to America because if he ever had to leave his homeland that arragements were already made in South America for him to go there.

Q You knew at that point that you wouldn't have to promise to introduce a private immigrationbill, is that correct?

A I know I would never have to introduce one.

Q You knew you never had to promise to introduce one?

A No, I didn't know -- I didn't know what the representative was going to ask.

Q If the sheik were going to South America, there would be no need for the representative to ask you anything about private immigration bills is that correct?

A I didn't know that until I got to the room. There is no talk of that.

Q Hadn't Mayor Errichetti told you before you went to the room that the sheik was going to South America?

A No.

Q He told you before you went to the room?

A Yes, I'm sorry. Yes.

I thought you meant outside the elevator.

Q You knew at least insofar as immigration matters were concerned that was out of the picture, is that correct?

A Yes, that was out of the picture.

Q The first thing you did when you walked in the room is say you would introduce a private immigration bill?

A When I first go in the room, I say hello, they say hello. The Mayor talks about the six-member delegation and I go on to a statement, and give a brief summary of my background.

I go on to tell them how important I am on all these important committees.

Q All untrue?

A Not totally untrue. There are 25 members of the Pennsylvania delegation. A lot of untruths throughout the first statement.

Q That first big paragraph on page 2?

A Yes.

Q Now, Mr. De Vito started off with talking about the sheik's immigration problems, is that correct?

A (No response.)

Q Is that right?

A I want to refer to the page if you tell me where we are.

Q What is your best recollection, does he start off talking about the sheik's immigration problem?

MR. CACHERIS: I think he ought to refer to the page.

MR. PUCCIO: I have no objection.

A Talking about 5a, I make a long statement.

Q You told us about that, after that Mr. DeVito talks about Somosa and how the sheik is in the same position?

A Yes.

Q Right after that you say, well, since the

sheik is going to South America, you have no immigration problems, is that what you say?

A No.

Q Why don't you say that?

A Because at this point in time the only one I know in the room knows about the operation is myself, Mayore Errichetti, and Mel Weinberg.

I don't know anything about Mr. De Vito other than he is a representative of the sheik.

Q And he is Weinberg's boss, right?

A I didn't know who was the boss at that time. All I knew was Weinberg and the mayor was a part of this overall $100,000 that was going to change hands.

Q Since Weinberg said nothing, as you point out, and De Vito was running the meeting, you had to assume Weinberg worked for DeVito, is that correct?

A I didn't assume that. You can look at it either way.

Q You assumed that DeVito didn't know that the shake had plans arranged to go to South America if he had a problem in his Native land?

A I figured he would bring it up.

Q You assumed he didn't know about it, is that correct?

A It was never brought up.

Q Did you assume one way or the other?

A I didn't assume anything. I didn't bring it up. He didn't.

Q Now, -- may I have a moment, your Honor?

(Pause.)

Now, you say during this meeting, Congressman Meyers, that you are going to use your influence or words to taht effect, is that correct?

A Yes.

Q And do you know how many times you said that during the meeting?

A During this first meeting?

Q Yes.

A No, I never counted.

Q And you tell us now that wasn't a true statement of your intentions, is that correct?

A That is correct.

(Continued on following page.)

CONTINUED CROSS EXAMINATION

BY MR. PUCCIO:

Q And you talked about intervening with ths Department of State on behalf of the sheik, is that correct?

A I talk about that after Mr. DeVito brings it up, yes.

Q You wouldn't have brought that up, is that correct?

A I would bring - - No, when Mr. DeVito brings up something about the Department of State, that was the first time throughout any of this that I ever heard the Department of State mentioned.

Q And you respond that you're willing to do something with the Department of State because of a connection there, is that correct?

A That's what I say, yes.

Q And are you telling us now that that was all false, you didn't have any connection with the Department of State?

A I didn't then and I never did.

Q As a U.S. Congressman, did you have occasion to work on any immigration problems for people in your district?

A No, I didn't, personally.

Q Well, the members of your staff, did they ever work on immigration problems for people in your district?

A Yes. People would come in my office.

Q About how often does that happen?

A In my o-fice?

Q Yes.

A I would say maybe a couple of times a month, with things dealing with immigration in my office.

I have a Spanish speaking community where immigrants have problems. I have Italian community where people are coming in from Italy.

Q Would it be fair to say that people of your staff to people in the Immigration Service frequently?

A No, I don't think that's a fair statement.

Q Well, in connection with these immigration problems that your constituents have, people of your staff contact immigration, is that correct?

A Well, we contact them in the Philadelphia office, yes, on occasion, but I wouldn't say it is a fair statement that they regularly deal with them. I per personally have never dealt with them.

Q If it were necessary for you to do so, in connection with a matter, you would contact the Department

of State for a constituent, wouldn't you?

A MR. CACHERIS: Objection.

THE COURT: Read the question.

(Question read)

THE COURT: Sustained as to form.

Q Well, there wouldn't be anything wrong in a Congressman contacting the Department of State on a legitimate problem, isn't that correct?

A I don't see anything wrong with it. I wouldn't - - I wouldn't contact a local Immigration Service in Philadelphia located in the William J. Green Federal Building where I have an office located.

Q Don't members of Congress contact Immigration and Department of State all the time in connection with matters that come before them?

MR. CACHERIS: Objection, Your Honor.

THE COURT: Sustained as to what others might do.

A I don't know what other members do. Whenever anybody in my office had an immigration matter - -

MR. CACHERIS: Your Honor - -

THE COURT: Mr. Meyers, I sustained the objection. You don't have to answer.

THE WITNESS: I'm sorry.

Q Well, your office contacts agencies of the Federal Government fairly regular on all sorts of problems for your constituents?

MR. CACHERIS: Objection, beyond the scope?

THE COURT: Overruled.

A Yes, if we have a constituent, for instance, a Vietnam veteran, who has a problem with the V.A., we will contact the Vetrans Administration of Philadelphia, and if it's a social security problem, we will contact the Social Security Bureau and what we do, I will explain the procedure if you would like me to.

Q Now, during this meeting, you talked about investments in Philadelphia, is that correct?

A Yes.

Q And you indicated that although you would help the sheik with his immigration problem anyway, it would be nice to have an investment in the Port of Philadelphia, to cover you, isn't that correct?

MR. CACHERIS: Objection to the form.

THE COURT: Overruled.

You may answer.

A I talked about investments in the Port of Philadelphia and throughout the City, with mortgages and all kinds of other posibilities that they were talking

about.

Q Well, didn't you agree that such a course of action taken by the sheik, that is, investing in Philadelphia, would protect you?

A Any investing in my district that I would have a part of would certainly make me look good with my constituents and I always consider investments in my district at all times.

Q Didn't you indicate at this meeting that investments by the sheik in your district or in Philadelphia would protect you?

A Yes, I said that.

Q Now, was that a true statement when you made it?

A It wouldn't protect me, it just would be beneficial to my district.

Q So, insofar as you agreed or said that it would protect you, that was false, is that correct?

A That's correct. I didn't have anything to be protected from.

Q Why did you feel it necessary to tell that falsehood to Mr. DeVito and Mr. Weinberg?

A Well, when I heard about the 400 million dollars, I didn't want it to go to any other city but my

own.

Q And therefore, you were legitimately seeking from this sheik investments in Philadelphia, is that correct?

A That's correct.

Q Now, you also talk in this meeting about labor problems, is that right?

A I think they bring it up initially.

Q And you talk about how the Port of Philadelphia was more advantageous than the Port of New York, is that correct?

A Yes, sir.

Q And you try to sell the sheik's representatives on investing in Philadelphia, is that correct?

A That's correct, yes.

Q And you even talk about the Port of Camden, is that correct?

A Yes, I talk about the Port of Camden when we say the Port of Philadelphia, that includes the Port of Camden.

Q And you suggest that an investment there would be beneficial, is that correct?

A Yes.

Q Now, by the way, you continually talk through

this meeting about having connections down in Washington, is that right?

A Yes - -

MR. CACHERIS: I object. He used it several times, he answered questions during the meeting.

THE COURT: Overruled.

Q And you indicate that if someone from the middel east without a connection came to the United States and wanted a private immigration bill introduced, somebody would be crazy or insane to do it?

A Yes.

Q Because you wanted to indicate to Mr. DeVito that he came to the right person, is that right?

A I wanted to make myself sound important, that's correct.

Q Now, you also wanted to indicate that there were only certain ways that things could be done in Washington, is that correct?

A Certain ways, meaning that it took influence to introduce a bill.

Q Yes.

A Yes, I said that.

Q And you wanted to indicate that it took money to get things done down in Washington, is that

correct?

A. What are you referring to, the money statements, bullshit walks statement?

Q. Well, at the very least?

A. Well, I said that, yes.

Q. Was that a false statement?

A. It was a figure of speech that I use, that I heard many times. Anything that you get involved with costs money, and I use it loosely, but that's basically what I mean by it.

Q. Well, you said, if I can find the page, "I am going to tell you something real simple and short. Money talks in this business, and bullshit walks", which business were you referring to?

A. I'll have to go back and see what he says to me. I think I was referring to anything that he was talking about. Anything that Tony was talking about.

Q. I'm sorry. I didn't hear your answer.

A. I believe I was referring to anything that Tony DeVito was talking about.

Q. And what was he talking about?

A. He was talking about State Department, talking about immigration, talking about private bills.

Q. And that's the business in which money talks,

is that right?

A. I use, like I said earlier, Mr. Puccio, that statement covers everything and that's the way I used that statement.

Q. And then you said, "And it works the same way down in Washington," is that right?

A. Yes, I say that.

Q. And is that a true statement?

A. I have no knowledge of the working that way down there in Washington, no.

Q. And you say we have our own group that we use our influence, is that correct?

A. No, I don't - I am a part of no group.

Q. Well, that's what you said, isn't that correct?

A. Well, it's not true. It's B.S. Strictly B.S.

Q. And you said it's a trading game down in Washington, is that correct?

A. Yes.

Q. And that, of course, is false, is that right?

A. That's false.

Q. You have never had occasion to have a

legislature in Washington to trade off your interests or the interests of your constituents against someone else's, is that right?

A No, I never did any trading.

Q And you said that the sheik could be 100 percent better with me in his corner, is that right?

A Yes, I said that.

Q And that was a lie, wasn't it?

A Yes.

Q Why was it a lie?

A Because I just meant it loosely, 100 percent better meant to me, that if you carry an umbrella, you won't get any rain on your head, but somebody may throw a bucket of water on your head..

Q Well, wouldn't the sheik be better with a United States Congressman in his corner?

A Well - -

MR. CACHERIS: Objection, Your Honor.

THE COURT: Overruled.

Q Wouldn't the sheik be better off with a United States Congressman in his corner?

A I would think if he had an immigration problem, he would be better off with a good immigration lawyer.

Q Why do you say that, Congressman Meyers?

A I would say that because these cases are very complicated, and each case, you know, is judged on its own merit and someone who knows immigration law would certainly be in a better position to advise someone than a lot of members of Congressman, meaning myself, I don't know anything about immigration.

Q But a Congressman could introduce a bill that can go beyond the law, isn't that correct?

MR. CACHERIS: Objection, Your Honor, beyond the law.

THE COURT: Overruled.

A Any member of Congress, there's 435 members of the House, 100 in the Senate on the Senate side can introduce a private bill not only on immigration matters, but a private bill on anything can be introduced.

Q Don't you think that someonw such as a sheik would be at least a little better off with a United States Congressman in his corner?

A No, I think he would be better with an immigration lawyer.

Q Now, you said - -

THE COURT: Mr. Puccio, if you can finish in 15 minutes, fine.

If you can't , find a good spot to stop for the day.

Q Now, Congressman Meyers, you said without someone in my position, you're in deep trouble.

Do you remember saying that?

A Yes.

Q People wouldn't even want to deal with you, is that right?

A That's what I said.

Q And that was a false statement, isn't that correct?

A Yes, that's correct. It was a false statement.

Q Now, you said I feel very comfortable here, that's the only reason I am here, is that right?

A Yes.

Q And why did you say you felt comfortable?

A I felt comfortable because Mayro Errichetti was there and Mel Weinberg was there who was 100 percent of this million dollar transaction we were going to relieve this sheik of.

Q DeVito knew what you meant when you said you were comfortable there?

A No, he didn't give me any indication whether

he knew what I meant or not.

Q. Now, during this meeting, you offered certain concrete suggestions to help the sheik with his immigration problem.

Do you recall those?

A. If you tell me what they are - -

Q. Do you recall any concrete suggestions that you made?

MR. DUFFY: Objection as to form.

THE COURT: Overruled.

A. I talked about some business investments in Philadelphia, concrete -

Q. Didn't you first say something about a veterinarian?

A. Yes.

Q. What did you say?

A. I said if he had some specialities and Mr. DeVito said his own specialty would be money, I said that makes things easier.

Q. You suggested if the sheik had some special occupation that would be helpful in assisting you in your efforts on his behalf, is that correct?

A. If he had some special occupation, what I meant by that - -

Q Didn't you say that?

A Yes, I said that.

Q And was that true or false?

A Well, I had no way of answering that. I said it, but I did not know what the answer to that was.

Q Are you saying that you didn't know that it would be helpful for someone trying to immigrate to the U.S. to have a special occupation that was needed here?

Are you saying you didn't know that?

A No. I tried to explain that earlier, when you asked the next question. I had knew and I had heard that when private bills, in private bills, that sometimes private bills are approved by Congress when it deals with somebody who has some special talent, for instance, someone who was a scientist looking to get out of Russia and come to America, it was beneficial for us to allow this individual to come in that that type of private bill would be passed.

Q You felt it was necessary to offer this solution to the sheik, is that right?

A I brought it up as another after. I was trying to explain that I knew all about this immigration stuff.

Q That particular explanation or particular statement about a specialty was true, isn't that correct?

A If there was some real specialty, like I said, if he was a scientist and has some special scientific projects he was working on, you know, that would be a real consideration for Congress to make its decision upon.

Q You also indicated that the sheik might become a shipping expert, is that correct?

A Yes, promoting the port again.

Q You also indicated if the sheik opened a business, family members could be rotated in that business so they could have occupations to get them into the country, isn't that correct?

A That's what I said, yes.

Q You talked about, now, certain experts handling storage of cargo, is that correct?

A Yes.

Q That would be something that a sheik or a member of his family, would be the kind of specialty that one of them could have, is that right; to facilitate this entry into the United States?

A I said that, but I had no knowledge of specialty in storage of cargo.

Q If the sheik were going to South America,

why did you feel it was necessary to bring up these different possible solutions?

A I thought Mr. DeVito was going to go back to the sheik and report to him exactly what took place in his conversation.

Q This would impress the sheik because the sheik was going to South America?

A No, I thought it was going to impress the sheik that I was an important person.

MR. PUCCIO: I don't have - - I don't think I can stay within your time frame and I think I will stop at this point.

THE COURT: So it would be a convenient spot to break for the night?

MR. PUCCIO: Yes.

THE COURT: We will recess.

During the overnight recess, don't discuss the case with yourselves or with anyone else.

We'll resume at 9:30. I would like to see counsel at sidebar. I will ask the people in the courtroom to remain in the courtroom until the jury has left.

(Continued on following page)

Pages 2882 to 2886, inclusive are omitted for the purpose of the sealing the record as per instructions of the Court.

1 I N D E X

2 WITNESS: DIRECT CROSS

3 MICHAEL MYERS 2702 2800

4

5

6

7

8

9

10

11

12

13 E X H I B I T S

14 (None)

15

16

17

18

19

20

21

22

23

24

25

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA,

-against-

MICHAEL O. MYERS, ANGELO J. ERRICHETTI,
LOUIS C. JOHANSON, HOWARD L. CRIDEN,

Defendants.

----------x

80 CR 00249

United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

August 26, 1980
9:30 o'clock A.M.

B E F O R E :

HONORABLE GEORGE C. PRATT, U.S.D.J.

1 A P P E A R A N C E S :

2

3 EDWARD R. KORMAN, ESQ.,
United States Attorney for the
4 Eastern District of New York

5

6 Department of Justice
Strike Force
7 Brooklyn, New York

8 BY: THOMAS P. PUCCIO, ESQ.,
9 LAWRENCE H. SHARF, ESQ., and

10 Special U.S. Attorneys

11 Attorneys for the Government

12

13 MESSRS. HUNDLEY & CACHERIS, P.C.
1709 New York Avenue, N.W.
14 Washington, D.C. 20006

15 BY: PLATO CACHERIS, ESQ., and
LARRY E. GONDELMAN, ESQ., of Counsel

16 Attorneys for the Defendant Michael O. Myers

17

18 BROWN & BROWN, ESQS.,
19 26 Journal Square
Jersey City, New Jersey

20 BY: RAYMOND A. BROWN, ESQ., and
21 HENRY F. FURST, ESQ., of Counsel

22 Attorneys for the Defendant Angelo J. Errichet

23

24

25

A P P E A R A N C E S : (Continued)

MESSRS. CARROLL, CREAMER, CARROLL & DUFFY
Suite 326 Three Penn Center Plaza
Philadelphia, PA 19102

BY: JOHN J. DUFFY, ESQ., and
JANE DUFFY

Attorney for the Defendant Louis C. Johnson

MESSRS. MELROD, REDMAN & GARTLAN
1801 K. Street, N.W.
Washington, D.C. 20006

BY: RICHARD BEN-VENISTE, ESQ., and
NEIL I. LEVY, ESQ., of Counsel

Attorneys for the Defendant Howard L. Criden

* * *

* * *

3 CROSS-EXAMINATION

4 BY MR. PUCCIO:

5 Q Congressman Myers, is it true that it was

6 your idea to bring up the matter of introducing a

7 private immigration bill at your meeting with DeVito and

8 Weinberg and Mayor Errichetti on August 22, 1979?

9 A No. It is not true. I started off with

10 my explanation of how powerful I was. I just covered

11 that area.

12 But it wasn't my intent when I walked into

13 that room to bring it up, no.

14 Q Let me ask you a question again:

15 Was it your idea, Congressman Myers, to bring

16 up the introduction of a private immigration bill at that

17 meeting on August 22nd?

18 A No.

19 It was not my idea.

20 Q You said those words, did you not? You

21 proposed to introduce a private immigration bill?

22 A I promised to introduce a private immigration

23 bill after I was asked to introduce one.

24 Q All right.

25 And who asked you?

Q Will you point that out to me in the exhibit? That is Exhibit 5A.

A I'll have to read through it to find it but he brings it up first.

Q Let me point out page 3 where you say a little down on the top, absolutely.

Where I could be of assistance in this type of matter, first of all, is private bills that can be introduced.

Do you see that on page 3?

A Page 3?

Q Yes, sir.

Do you see that?

A Yes. I say they can be introduced. I don't say that I am going to introduce one.

Q Can you repeat that?

A Yes.

I say absolutely, where I could be of assistance in this type of a matter, first of all, is private bills that can be introduced.

I don't say I will introduce one.

Q At no time do you say you will introduce one at any time in subsequent mettings or this meeting.

A I don't say so. When Mr. DeVito says to

me to inroduce a private bill I say um-hum.

Q At no time at this meeting or subsequent meetings do you say that you will introduce a private immigration bill, is that correct; yes or no?

A That's correct.

When they say it to me I agree. But I didn't bring it up.

Q Now, before you mention private bills on this page you just looked at I'll ask you to look at pages 1 and 2 of the transcript and see if anyone else mentions private bills, Congressman Myers.

A No. I don't see anyone else mentioning it.

Q So you are the first person to utter those words at this meeting; is that right, Congressman Myers?

A Yes.

In my opening statement I refer to immigration matters. There are private bills. Let me just read this and I'll give you the exact wording.

Q Surely.

But my question, while you are thinking it, if you can think about it, is you are the first person to utter the words "private bills" at this meeting; is that right?

A Yes. I bring private bills up in what I refer to in page 3 for the first time. In my opening statement I mention immigration matters. I don't say private bills there.

But on page 3 what I read before I say that can be introduced. Private business that can be introduced. I don't say that I am going to introduce one. Later on in this conversation Mr. DeVito brings up that what impresses me you will introduce bills and I say um hum.

But I don't offer to introduce any bills. But I say that can be introduced.

Q When you say um hum, you agreed to introduce private bills, is that right?

A I was instructed to go along with the play acting to answer anything he asked.

Q Now, did Mayor Errichetti -- excuse me. I assume Mayor Errichetti is the only one that ever instructed you to do anything; is that right?

A Yes.

Q And you followed his instructions, did you not?

A Yes, I did.

Q How about Mr. Criden, did he instruct you to

do anything?

A No, he did not.

Q Did Mr. Johanson ever instruct you to do anything?

A He instructed me to follow the mayor's instructions.

Q And of course you took councilman Johanson's instructions to follow the mayor's instructions, is that right?

A Yes, that's right.

Q Now, your conversations with Mayor Errichetti, did he instruct you to say I'll introduce a private bill at the meeting?

A No, he didn't say I am introducing a private bill. He talked about immigration matters.

Q The words "private bill" were never in your discussion with Mayor Errichetti prior to the August 22nd meeting in the hotel room, is that correct?

A No. He talked about there will be-- they want to know some information about immigration and I say I don't know that.

Q Before we go to that, I'll allow you -- the court will allow you to say anything you want. But before you complete that, in your discussions with

Mayor Errichetti, prior to walking into this room were the words "private bill" ever uttered?

A No. I don't recall "private bill." The first private bill is when I mentioned private bill here, the first time.

Q So it would be fair to say that at least that much was your idea?

A Yes. I said that a private bill can be introduced. I never said I was going to introduce it. That's a process that can be done.

Q I see.

And even when you say umhum, you didn't take that to mean that you would agree to introduce a bill, is that right?

A I would have said following my script, um hum, to anything Mr. DeVito asked.

Q No matter what he said to you you would have said um hum, I am willing to do it?

A I would have said it because it was all played out.

Q And you were afraid unless you didn't say yes or um hum he would not give you the money?

A No. I thought he was going to go back to the sheik to talk to him to tell him how important

I was.

Q You were not concerned that he was not going to give you the money, is that right?

A I was up there for two reasons.

Q Can you answer that question?

A Would you repeat it?

Q You were not concerned that he was not going to give you the money, is that right?

You didn't worry about that?

A I went there to get some money for doing nothing. Like I said.

Q When you were at the meeting you were not concerned he would at one point say, goodbye, Mr. Congressman, I am not giving you a dime? You were not concerned about that, were you?

A No, I was not concerned about that.

Q And you really didn't have to say anything because you were going to get the money no matter what happened, is that right, Congresman Myers?

A I didn't know.

I was told to come on strong. I went there to meet a sheik. The sheik didn't show up. His representative showed up. I was told to come on strong and play act and that is exactly what I did.

Q So there was some uncertainty in your mind during this meeting as to whether or not Mr. DeVito was going to turn over that money, isn't that right?

A Some uncertainties?

Q Yes.

A No. I was told by the mayor that Mel was a part of it.

I didn't see any uncertainties. I thought Mel was going to convince his associates that we have a strong guy here, we have a stand-up guy.

Q You really didn't have to say anything to get the money?

A Well, I didn't have to say anything to --

MR. CACHERIS: Objection, your Honor. Argumentative.

THE COURT: Sustained.

Q In any event, Congressman, whenever you said, first of all -- right after you said absolutely, where I can be of assistance in this matter, first of all, is private bills that can be introduced, and as you say you were not talking about actually introducing one yourself, and then you say this, "Now, when you are coming from a third world nation and you have no political support in this country, unless somebody is insane, you don't

need, um, you would not introduce a bill to protect your interest if you had to go into exile somewhere." You say that, is that right?

A Yes.

Q And you meant what you said; is that right?

A This is strictly -- you know I am expanding upon that he said from a middle eastern country somewhere and that he is an Arab. It is just talking big here.

Q So what you said was not true, is that correct?

A It was B.S. I was boasting here. I was trying to make myself sound important.

Q And you said somebody would be insane to introduce a private immigration bill, isn't that correct?

A That's what I said.

Q And that was true, isn't that right?

A Yes, that's right.

Somebody would be insane.

Q So that was not really play acting, was it?

A I knew I was never going to introduce a bill, never intended to and I was told I didn't have to.

Q It was not really play acting, was it?

A It was play acting on my part, I can assure you.

Q So when vyou say -- strike that and let me go on.

Now, there came a time during this meeting -- by the way, let me just, if I may, go back a moment.

You said yesterday in one of your conversations with Councilman Johanson, and I believe it was at his residence, he told you that other congressmen and a senator had met the sheik, isn't that correct?

A That's correct.

Q Laying aside the question of the senator for a moment, he was telling you that members of the body in which you served had met with this sheik prior to you, is that correct?

A Yes.

Q And did he tell you who these people were?

MR. BROWN: I object if your Honor please. Irrelevant and immaterial and I ask for a side bar and an offer of proof.

THE COURT: Overruled.

You may answer the question yes or no.

A No.

Q Weren't you curious at that point to find out?

MR. DUFFY: Objection.

MR. BROWN: Objection.

MR. CAHCERIS: Objection.

THE COURT: Overruled.

Q Weren't you curious, Congressman Myers, here he was telling you that members of the House of Representatives had met with this sheik; weren't you curious to find out who these people were?

A I guess I was curious but I didn't pursue it.

Q Why not?

A I didn't know it was --

MR. BROWN: Objection.

THE COURT: Overruled.

A I didn't think where it was any of my business.

Q Did he tell you that other people had received or were going to receive money from the sheik?

A No. He didn't mention anything about other people receiving money.

Q Did he tell you that you were going to be the only one who would receive money from the sheik?

A No. He didn't tell me that.

Q Did he tell you that the-- the delegation to which these people belonged who had met with the sheik?

A Had met with the sheik?

Q Yes.

A I don't follow the question, Mr. Puccio.

Q Did he tell you what state the representatives were from who had met with the sheik?

A No.

Q It may verycwell have been that members of the Pennsylvania delegation --

MR. BROWN: I object.

MR. DUFFY: Objection.

MR. BROWN: Speculative, your Honor, and asking for a conclusion of the mind.

THE COURT: Sustained.

(Continued on next page.)

Q There came a time during this meeting on August 22nd where some sort of package appeared on the scene, is that right?

A Yes.

Q And was it Mr. DeVito who took out this package?

A Yes.

Q And about how big was that package, Congressman Myers?

A It was a brown envelope, I would say about the size of this page.

Q And about how wide was it?

A I would say it was about an inch, maybe.

THE COURT: You mean thick?

THE WITNESS: Thick is what you mean, Mr. Puccio?

Q Yes. I'm sorry, thick.

A An inch thick, an inch and a quarter, maybe.

Q When Mr. DeVito took out that package you knew what it was, is that right?

A Yes.

I knew what it was.

Q You knew it was money?

A Yes.

Q And there came a time when he handed you that package, is that right?

A Yes.

Q What did you do with it when he handed it to you?

A Just held onto it. I had it in my hand like this.

Q Under your arm?

A I had it right in my hand. It wasn't that big to put it under my arm.

Q You didn't put it in your pocket or anything like that?

A No. I just held it in my hand.

Q By the way, when you got that package in your hand, Congressman Myers, did you then believe that what you had dond was improper?

A No. At no time did I believe what I had done was improper.

Q And even today you don't believe what you had done was improper, is that right?

A Yes, that's correct. I don't believe anything I've done is improper.

When I see myself on this box here, I am ashamed of myself. I am not proud of what I had done, my

actions, and particularly when I sas drunk. It's very embarrassing to me. But I didn't do anything wrong.

Q So what you are embarrassed about is the fact that you say you were drunk and not the fact that you took any money, is that right?

A No.

Now that I see this I am embarrassed that I took money. I am embarrassed that I was drunk. I am embarrassed of my whole attitude.

Q But your taking the money was not improper, is that right?

A I don't see it to be improper, no.

Q Now, you walk out of the room with Mayor Errichetti, is that correct?

A Yes.

Q And the door closes behind the both of you, is that correct?

A Yes.

Q And both of you walked to the elevator, is that right?

A Yes.

Q And you are holding the package, is that right?

A Yes.

Q And what does the mayor say to you at that point?

A He said the meeting went real well.

Q Okay.

Does he ask you for the package?

A No. I just handed it over to him.

Q According to a plan, is that right?

A According to a plan, yes.

Q As you pointed out Mayor Errichetti didn't go down in the elevator, is that right?

A Yes.

Q So you left him up on whatever floor it was, is that right?

A Yes.

Q And he took this package before you left and he put it in his pocket or did something with it, is that right?

A No. He still had it in his hand when I left. When that elevator door closed I handed the package to the mayor.

We walked up the hall and he still had the package in his hand. He didn't put it in his pocket or anything like that.

Q You saw the video tape of his next meeting

with Amoroso and Weinberg which took place a few minutes --

MR. CACHERIS: Objection.

MR. BROWN: Objection, your Honor. His conclusions with respect to an observation of evidence is irrelevant and immaterial and improper.

THE COURT: I am not sure what the question is.

MR. PUCCIO: I'll go on, your Honor.

THE COURT: All right, it is not necessary.

Q Is it possible, Congressman Myers, that in fact you didn't turn that package over to Mr. Errichetti?

MR. CACHERIS: Objection, your Honor, as to what is possible or not.

THE COURT: Overruled.

Q That you didn't turn that package over to Mr. Errichetti outside that room; is that possible?

A No. That is not possible because I handed that package to Mr. Errichetti.

Q Is it possible that you may have brought that package downstairs and handed it to someone else for Mr. Errichetti?

A No. It is not possible.

Q Now, at least while you were there the money was not taken out of its wrapper or anything like that,

is that correct?

A Yes, that's correct.

Q Now, you testified further yesterday that you went downstairs, you rejoined Mr. Johanson and drove back to Philadelphia, is that correct?

A Yes.

Q And I assume during the ride there was no conversation about this incident that had taken place, is that correct?

MR. CACHERIS: Objection to his assumption, your Honor.

THE COURT: Sustained as to form.

Q On the way back to Philadelphia did you and Mr. Johanson talk about what had taken place up in that room?

A To a little degree but we didn't get into it. I just told him I thought the meeting went okay and I was talking about the port and asking him what he thinks about a third container pier and that kind of stuff.

Q So you were pursuing with Councilman Johanson at that point his views about the feasibility of an investment in the port of Philadelphia, is that correct?

A Yes.

We talked a little about the port, yes.

Q And you talked about other legislative and council matters, is that correct?

A No.

MR. CACHERIS: Objection to legislative and council matters, your Honor.

THE COURT: Overruled.

MR. BEN-VENISTE: I object to the form, your Honor, when it says other legislative and council matters, referring to the prior question.

Q Well, is it --

MR. BEN-VENISTE: Excuse me, Mr. Puccio.

THE COURT: The answer is still no.

Overruled.

Q To your knowledge, Congressman Myers, is the port of Philadelphia of some concern to a member of the City Council?

A I would think that the port of Philadelphia is of some concern to every citizen in Philadelphia.

Q And that would include a United States Congressman, is that right?

A Yes.

Q And in view of the fact that you exchanged correspondence with various city officials concerning local matters in Philadelphia for a number of years,

is that correct, Congressman Myers?

A Correspondence?

Q Yes. They sent you letters and you sent them back letters all concerning local matters, isn't that correct?

A No. Every and any correspondence I had as a member of congress concerned legislation dealing with the port or something to help the port, for example coal or something of that nature. That is a federal matter. When they send me letters about that it is not a federal issue.

Q But it would have impact on local matters, is that correct?

A Yes. The same way as any other legislation would have an impact on local matters.

Social security people, we vote on it in Washington but people in my district receive it.

Q About how long did it take you to drive from Kennedy Airport to Philadelphia, Pennsylvania on August 22, 1979?

A I would say about two and a half hours, something like that.

Q And approximately how much time during the two and a half hours was spent discussing the money that you had received up in that hotel room at Kennedy Airport?

A We didn't even get into the money. We were going back to Philadelphia. At that point we were going to discuss money when we reached the law office, Mr. Johanson's law office.

Q About how much time during that two and a half hour trip was taken up with any conversation?

A We basically --

Q About what had happened up in the hotel room.

A Very little.

MR. CACHERIS: Asked and answered, your Honor.

THE COURT: Overruled.

Q When you say very little do you mean five minutes worth?

A I can't give you an exact minute. I didn't have any stop watches with me to keep a record of it.

Q Approximately.

A I would say a few minutes. Ten minutes, maybe.

Q At the most?

A At the most, yes.

We didn't talk much about it.

Q Now, what else did you talk about, do you recall?

A General converation.

Any time I am with Mr. Johanson we always talk about politics, the upcoming elections. This happened to be a year where there was a mayorality race. I know we talked about that.

Any time I am with Mr. Johanson we talk about politics.

(Continued on next page.)

Q You are very close with Mr. Johanson, are you not?

A I wouldn't say I am very close with Mr. Johanson. I know him quite well. I knew him through politics really and of course he had a summer place down in the same area I had.

Q And you know other members of the City Council of the City of Philadelphia, is that correct?

A Yes.

Q And is there any member in the City Council of Philadelphia that you don't know?

A Yes. There are some I don't know personally. I know their names but I don't know them.

Q But you know most of them personally, isn't that correct?

A I would say yes, I know most of them personally.

Q And you know labor leaders in Philadelphia, isn't that correct?

A Yes.

Q And you know people in the construction business, isn't that correct?

A Yes.

Q And you know people who are serving or have served on the zoning board, is that correct?

MR. BEN-VENISTE: Objection, your Honor.

Q Well, answer each one.

Do you know people who are serving on zoning boards and do you know people who have served on the zoning board?

MR. BEN-VENISTE: Objection as to relevance.

THE COURT: Overruled.

A Yes.

Q Now, as you have testified yesterday, you arrived in Philadelphia, you went out to eat with Mr. Johanson, is that correct?

A We stolped at a bar restaurant type, a little restaurant bar right in Center City, Philadelphia near his office.

Q Why didn't you just go home at that point, Congressman Myers?

A We had to allow time for Mr. Criden to come down from New York.

Q And why were you interested in whether Mr. Criden was to arrive from New York?

A Well, I was interested in Mr. Criden coming down because someone was coming down with the package that I handed over.

Q So you were waiting for the money, is that

right?

A I was waiting to meet for the money, yes.

Q Okay.

Now, there came a time when Johanson called and found out that the money had arrived, that Mr. Criden had arrived, and you and Johanson went right up to the office, is that right?

A Yes.

Q And as you described it there was a little private meeting with you, Criden and Johanson and the money, is that right?

A Yes.

Q Mr. Cook was excluded from that meeting, was he not?

MR. BEN-VENISTE: Objection, your Honor.

THE COURT: What grounds?

MR. BEN-VENISTE: Excluded.

As to form. He was present or not present.

THE COURT: Overruled.

You may answer the question.

A The question was: Was Mr. Cook excluded?

Q Yes.

A I certainly didn't exclude him. But he was not present.

Q Now, when for the first time did you see this money, the actual bills?

A At that meeting in Mr. Criden's office

Q Where was it in the office, do you remember?

A He had the brown envelope on his desk and he said we have a problem. He went on to tell me about the problem.

The problem was that instead of one hundred there was fifty.

Q And did there come a time when the money was taken out?

A Yes. It was put out on his desk.

Q Out on the desk?

A Yes.

Q Wrapped up with rubber bands?

A I am notsure if it was rubber bands or bank wrappers around it.

Q When you saw the money on that desk, Congressman Myers, what was your state of mind?

A My state of mind at that point was this was the easiest money that I ever obtained any time in my life.

(Continued on next page.)

Q You were very, very happy, is that right?

A I was very, very angry at that point.

Q Why were you angry?

A Because I thought someone at the top had swindled us.

Q You were angry because you wanted more than you were going to get, is that correct?

MR. CACHERIS: Objection, argumentative.

THE COURT: Overruled.

A No, I was happy to receive what I got but when he told me about the story about $100,000 being changed to $50,000, I thought Mel Weinberg had really took a large chunk off the top.

Q You never suspected Mr. Criden of taking anything off the top, he wouldn't do anything like that?

MR. CACHERIS: Objection.

THE COURT: Sustained.

MR. BEN-VENISTE: May Mr. Puccio be admonished?

MR. PUCCIO: I will withdraw the last part.

THE COURT: Mr. Puccio, it helps if

you save the sarcasm.

MR. PUCCIO: I'm sorry, Judge.

Q You didn't suspect Mr. Criden of taking any of that money off the top, is that correct?

A That is correct.

Q You didn't suspect Mayor Errichetti of taking any of that money off the top, is that correct?

A No, I thought Mr. Weinberg was the guy who took it off the top.

Q You certainly didn't expect your friend Councilman Johanson?

A No.

Q Now, there came a time when you took custody somehow of these one hundred dollar bills, is that correct?

A Yes.

Q How many packages were there?

A What I took custody of?

Q Yes.

A Three.

Q Three packages with $5,000 in each package? Is that correct?

A Yes.

Q Were you carrying a briefcase at this time that you took custody of this money in Mr. Criden's office?

A No.

Q What did you do with the money?

A Put it in my pocket.

Q All in one pocket?

A I don't know.

Q Some in here (indicating)?

A Inside pocket and some in the other side --

Q Other side of your coat, is that correct?

A I couldn't exactly answer that. I don't remember exactly what pocket.

Q Before you left the office you managed to stick that money in one or more of your pockets, is that correct?

A Yes.

MR. CACHERIS: Objection, asked and answered.

THE COURT: Overruled.

Q There came a time -- by the way, when you were walking out of that office on that evening with the money stuffed in different pockets --

MR. DUFFY: Objection to the form.

May we have a ruling before Mr. Puccio --

THE COURT: Objection to stuffed.

Rephrase the question.

Q When you were walking out of that office with that money in your custody, Congressman Myers, did you at that time believe that this was improper or wrong or dishonest in any way?

MR. BEN-VENISTE: Objection, your Honor. Asked and answered.

THE COURT: Overruled.

A No, I didn't believe it to be dishonest or wrong at any time.

Q Did there come a time --- withdrawn.

What did you do after you left Mr. Criden's office, Johanson's office?

A Went back to Longport to my summer house.

Q What did you do with the money when you got to your Longport home?

A Put it in my bedroom, in a drawer, top drawer.

Q How did that money remain in your top drawer, Congressman Myers?

A Not very long. A couple of days.

Q Did there come a time when you took this

$15,000 and put it in a bank account?

A No.

Q At the time of this incident, you maintained bank accounts, is that correct?

A I had a checking account. I never had a savings account --- I don't have one now.

Q You had a checking account at the First Pennsylvania Bank?

A Yes.

Q Did you have any checking account --

A No -- yes, I had one in Washington in the House of Representatives.

Q A checking account maintained by you and every other congressman at the House of Representatives?

A Yes. My salary is deposited in there on the first of each month.

Q You didn't put this $15,000 in your account at the House of Representatives, did you?

A No, because I spent it in about two weeks.

Q When you made these expenditures that you discussed during your testimony here, I assume these expenditures were in cash, is that correct?

A No. Some were and some were not.

Q Well, what is the biggest expenditure you made of that $15,000? What is the biggest chunk you spent in any one place?

A My children's tuition for their school.

Q About $4,000?

A It was not $4,000 in one lump. What actually went to the school was $2,550. Additional stuff went to another thousand.

Q Did you deposit any of this money in your checking account at the House of Representatives and write a check?

A Yes.

MR. CACHERIS: Objection.

THE COURT: Overruled.

Q Which account did you put the money in?

A First Pennsylvania.

Q In Philadelphia?

A I didn't put it all.

Q How much did you put?

A I don't know. I would have to get my records out. When I paid a bill off, I deposited cash into that checking account.

Q Is that the only checking account you

used for this proedure?

A I pay all my bills out of that account.

Q As I understand it, as you found the desire or need to spend money you would put cash in the account and write the check on that account, is that correct?

A Yes.

Q All of the money was spent in that way?

A No.

Q How much was not spent through that procedure?

A I would say probably about half of it.

Q The other half was spent in cash?

A Yes.

Q So that would be about $7,500 spent in cash, is that correct?

A Yes.

Q How was that $7,500 spent?

A Well, the largest expenditure out of the seventy-five -- I don't know if it's exactly $7,500.

Q Approximately?

A All right. The largest expenditure was $1,000 that I paid to my father that I know.

Q In cash?

A Yes.

Q In one hundred dollar bills?

A Yes.

Q Taken out of your dresser?

A Yes.

Q How about the other $5,500 approximately?

A The next -- one of my sisters, Marylou, husband is a serviceman over in Germany. I lent her $500.

Q In cash?

A Yes.

Q How about the other $6,000?

A I bought furniture.

Q In cash?

A Yes.

Q Where?

A Sears & Roebuck.

Q Did you go into the store and buy the furniture yourself?

A Yes.

Q How much did you give the lady or gentleman at Sears & Roebuck?

A Whatever the bill was. I bought a freezer,

trash compactor -- I don't know exactly what they cost.

Q Approximately?

A Three or four hundred dollars apiece.

MR. BEN-VENISTE: I have an objection to relevancy.

THE COURT: Overruled.

A I don't know exactly what they cost. Trash compactor for three or four hundred dollars, freezer for something.

Q There is still another $5,000 that you haven't answered for, right?

A Yes.

Q What did you do with that?

A Well, I am a member of a hunting club. I put some money into that.

Q Yes?

A They are building a hunting camp upstate Pennsylvania. In the process of building.

Q How much did you put into that?

A I put, I would say, about $2,000 into that.

Q Who did you give that money to?

A I gave it to the people who delivered

1
2 the building materials.
3 Q What did you do with the rest of the money?
4 A The rest of the money I just spent.
5 Bought my children all kinds of stuff. It's not
6 hard to go through the money.
7 Q In a couple of weeks, it was all gone?
8 A A couple of weeks it was all gone, yes.
9 That is correct.
10 Q Now, by the way, did you ever bring any
11 of this money with you to Washington, D.C. and spend
12 it there?
13 A I may have. Like I went down, I may
14 have took a hundred or two for expenses. I can't
15 recall if I did or didn't.
16 When I go down each Monday I have to
17 have money in my pocket to eat and live.
18 Whether I actually took any of that, I
19 don't know.
20 Q You maintain another residence down
21 in Washington, is that correct?
22 A Yes.
23 Q You live in a house in Washington with
24 similar congressmen, is that correct?
25 A Yes.

Q Congressman Myers, one of the people that you roomed with in Washington, D.C. is Congressman Raymond Lederer of Pennsylvania, is that correct?

A Yes. Congressman Lederer and I both rent a room from a United States Treasury Agent.

Q Both of you are very close friends, is that correct?

A Yes, I would say that is correct.

Q For how many years have you been a friend of Congressman Lederer? Do you recall?

MR. BROWN: I object to this within the context of the sidebar.

THE COURT: Overruled.

A I first became acquainted with Congressman Lederer when he was a member of the Pennsylvania legislature. I think he was elected in 1973. He took office I believe in '74.

Q So you have been friendly with Mr. Lederer for approximately six years at least, is that correct?

A Yes.

Q Both you and Congressman Lederer hold positions in the Democratic Party in the City of Philadelphia, is that correct?

MR. DUFFY: Objection. That is

beyond the scope --

MR. PUCCIO: I think it is relevant for two reasons.

MR. BROWN: I would like to make a motion at sidebar. I would like to reserve.

THE COURT: Save your motion for later.

You're getting into areas other than what we discussed, Mr. Puccio.

MR. PUCCIO: All right.

THE COURT: Pursue what we discussed. If you want to pursue other areas, we will have another sidebar.

MR. PUCCIO: All right.

Q Now, Mr. Myers, during your meeting on August 22nd, 1979, page 2, you said in talking about the Pennsylvania Delegation, "We're team players, you know, we work together. We have very important committee assignments. One of our members is on the ways and means committee."

Now, was that a true statement when you made it on August 22, 1979?

A Yes.

Q Later on page 5, you said: "We got,

we also got a ways and means member. Now the ways and means committee is probably the most powerful committee in Congress. And it's my close colleague and one of our Philadelphians."

Was this a true statement when you made it?

A Yes.

Q Who is that powerful Philadelphian on the ways and means committee?

A Raymond Lederer.

Q Now, Congressman Myers, what is your present salary as a member of Congress?

MR. CACHERIS: Objection.

MR. BROWN: The same as all the --

THE COURT: Sustained.

Q Well, Congressman Myers, did you report the $15,000 that you received on August 22, 1979, on your income tax return?

A I have an extension on my '79 return. I have not filled out my '79 return under advice of my tax consultant.

Q What reason did your tax consultant give you for getting the extension?

A He told me that it would be best to

wait until the trial was concluded. He said that to file it prior to the trial, a gift, I would have to pay the tax for the gift. I better wait for the trial to be over. The Court or the Judge might instruct you to give the money back.

I will wait for this to conclude to fill out my '79.

Q Who is your tax consultant?

A A lawyer by the name of James Di Marco.

Q When he told you you became concerned about gift taxes that Abdul Enterprises would have to pay?

A No, I was never concerned about that. I wanted to be straight on actually how I should proceed with this.

Q You certainly believe that the $50,000 that you received is a gift, is that correct?

A Yes.

Q With no strings attached whatsoever, is that correct?

A That is correct.

Q This was because you were told it was a gift, is that correct?

A I was told by Lou Johanson, yes.

Q He told you that the money you had received would be a gift, is that correct?

A Yes. A gift from him and his law partner, yes.

Q So, Howard Criden and Louis Johanson, the law partners were giving a gift to you, is that correct?

A Yes, they were receiving $100,000 for intorducing the Sheik to important people.

They told me they would get $50,000 and they would be willing to share that with me and give me half of it as a gift.

Q The gift you were receiving from them?

A From them, $25,000, right.

Q You were not concerned that they would have to pay a gift tax on the money they were giving you, is that correct?

A At that point in time I was not concerned about that, no.

MR. BEN-VENISTE: I object to this.

It's not a tax case. Your Honor already instructed the jury and I thought Mr. Puccio about that.

THE COURT: Overruled.

Q Now, you and every other member of Congress is required to file a public statement every May, is that correct?

MR. CACHERIS: Objection.

Q Concerning monies that you received --

MR. CACHERIS: Objection. May we have a sidebar?

THE COURT: Sidebar.

(Continued on next page.)

* * *

* * *

THE COURT: Ladies and gentlemen, I sustained the objection to the last question which by now you probably forgot entirely. It had something to do with the filing of reports of financial activities with some agency of the Government. Disregard it. It has no bearing on the case.

Proceed, Mr. Puccio.

MR. PUCCIO: Yes, your Honor.

M I C H A E L M Y E R S, resumed the stand, having been previously duly sworn, was examined and testified further as follows:

CROSS EXAMINATION

BY MR. PUCCIO: (Continued)

Q Now, Congressman Myers, prior to you testifying in this Courtroom and excluding your attorney or attorneys, how many people have you told about the monies that you received on August 22, 1979?

MR. CACHERIS: Objection, your Honor. Not relevant.

THE COURT: Sustained.

Q Well, did you, prior to -- after August 22nd and prior to February 2nd of this year, that is in that intervening period between August 22, 1979 and February 2, 1980, when you were interviewed by the FBI, between those dates did you ever make it known publically that you would receive this $50,000 -- $15,000?

MR. CACHERIS: Objection, your Honor.

MR. DUFFY: Objection.

THE COURT: Sustained.

Q Now, Congressman Myers, do you know what an honorarium is?

A Yes.

Q And have you received, ever received an honorarium?

A No.

Q Congressman Myers, were you agreed to go up to New York during August of 1979, were you in need of the $25,000 that you were to receive?

MR. CACHERIS: Objection, your Honor. Not relevant.

THE COURT: Overruled.

A I am always in need of money, Mr. Puccio.

Q Well, were you especially in need of money at that time for any pargicular reason?

A Well, it was two weeks' time. I needed some money. I was about to make a loan on my salary.

Q I'm sorry, you were going to what?

A I was going to have to make a loan on my salary.

Q And did you haveany other lozns outstanding or any loans outstanding at that time?

A I have made about 15 loans, I would think, since the time I was in the House of Representatives. We are allowed to borrow on our salary at a low interest rate and it is deducted monthly from our salary, pay back money.

I have had once since the first month I was there.

Q That is a lower interest rate than anyone else

would receive at a bank, isn't that right?

A It's a little lower than the normal bank, yes.

Q And were you receiving sufficient salary during August 1979 to enable you to support yourself and your family?

MR. CACHERIS: Objection, your Honor. That is argumentative.

THE COURT: Sustained.

Q Now, between August 22, 1979 and January 24, 1980, the day in which you met Mr. Wald and Mr. Criden at the Barkley, were you keeping in touch with your co-defendants?

A No.

MR. CACHERIS: Objection to the characterizations.

THE COURT: Overruled.

Q What was that?

A No.

Q Weren't you attending weekly meetings with Councilman Johanson at least up to the election?

A Yes.

With that -- I didn't understand your question. I saw Mr. Johanson at weekly meetings. Of course I didn't see him every week.

When the house would be on session on a Friday I would send one of my staff to cover these meetings.

But I had several contacts with Mr. Johanson along political lines.

Q And you occupied a position in the democratic party in the City of Philadelphia, is that right?

A Yes.

Q And you still do, is that right?

A Yes.

Q And you still do, is that right?

A Yes.

Q And you are called a ward leader, is that right?

A Yes.

Q And what does a ward leader do, Congressman Myers?

A A ward leader's duty is -- first of all, a ward leader is elected by the elected committeemen in that ward.

In my particular ward there are fifty committeemen and that group elects me as their spokesman to deal with matters at the democratic city committee.

In the City of Philadelphia there are

69 wards.

I happen to be one of the leaders of that ward. And within the democratic, you know, ranks, I speak for that fifty elected committeemen on any matters concerning politics.

Q For instance.

A For instance, when we select a candidate, for instance, there is a policy committee and they interview various candidates who want to run for various elected positions.

All the candidates' names would be submitted to the ward leaders for their approval and there is a vote on it.

Q Candidates for what kind of office do the ward leaders vote on?

A When we endorse a candidate or a slate of candidates, it would cover all elected offices from governor right down to the lowest elected office.

Q And somewhere in between would be members of the city council, is that right?

A No.

That is done on a -- there are various caucuses that are formed in each particular district to deal with that.

Q And do you as a ward leader have anything to do with the selection of city council members?

A On a district level?

Q At any level.

A Yes.

For instance, my city councilmen is the first councilmatic district within the City of Philadelphia. Within that district I believe there are ten individal wards that make up the first councilmatic district.

The ten ward leaders that are involved there would have a caucus. And they would select that candidate or they would recommend that candidate to the city chairman.

In my particular case, normally when it is an incumbant such as it is in the case as my area, normally it is just a formality, and that is it in this case.

Q The short answer to the question, and correct me if I am wrong, in your capacity as ward leader you have an effect on the selection of a member of the City Council, is that right?

A I have a vote on it, one of 69, yes.

Q And insofar as councilmen from your area, yours is an important vote, is it not?

A Yes.

It would be one of ten and my vote would be one of ten ward leaders on that caucus.

Q And you were one of the most important ward leaders in your area, isn't that correct, Congressman Myers?

A I would say that I am. But it is depending on how you look at it. I would think the other nine would think that they are the most important.

Q Now, Philadelphia is a democratic city, is it not, democratic party controls a lot of the patronage in Philadelphia, isn't that correct?

A Patronage?

Q You understand what patronage is?

A Yes, clearly.

Patronage is a thing of the past in politics.

Q Maybe you can define patronage for me so I can ask the next question.

MR. CACHERIS: Objection to the relevance of this, your Honor.

THE COURT: Sustained.

Q Do you know what patronage is, Congressman Myers?

MR. BEN-VENISTE: Objection, your Honor.

THE COURT: I sustain the objection.

Q Now, in your position as wared leader you have in effect through your vote or influence or whatever, on who receives certain jobs within city government, isn't that correct, Congressman Myers?

MR. CACHERIS: Objection to the form, your Honor.

MR. BEN-VENISTE: Objection.

THE COURT: Overruled.

Q Isn't that right?

MR. BEN-VENISTE: I object to the whatever part.

MR. PUCCIO: Strike the whatever, Judge.

THE COURT: Why don't you rephrase the question.

MR. PUCCIO: Yes.

Q Through your vote as a ward leader -- withdrawn.

Through your influence as a ward leader you have an effect on who gest a job in city government in Philadelphia, isn't that correct?

A I would say no, it is not correct. I recommend various people who want jobs. They must take a civil service test. And if they pass it and

get a high mark and it is very competitive. In the case of Philadelphia any civil service job that listed you usually get four or five hundred people taking the test. Because there is so much unemployment there. But I have made recommendations throughout my whole career for people.

If someone says can you send a letter backing me up, certainly I do that. Sure. That doesn't mean that they are going to get the job.

Q Now, one such recommendation that you made was for your friend, Mr. Fred DeBona, is that correct?

A No.

Q Well, didn't you at one time recommend to somone or to two people specifically, that Mr. DeBona receive a job in connection with the Port Corporation?

A No, I did not.

Q Do you remember having a luncheon with a Mr. Curry and a Mr. Kelly at the Downtown Club in Philadelphia concerning your recommendations that Mr. DeBona receive a job?

MR. BEN-VENISTE: I object to the relevance of this, your Honor.

It certainly has nothing to do with Mr. Criden and I would ask that your Honor curtail in

some way these tangential areas.

THE COURT: The objection is overruled, but you should keep in mind, ladies and gentlemen, the nature of the questions that are being put to the defendant Myers.

As I understand them most of them are directed at the question of his credibility as a witness here.

And if I understand correctly what Mr. Puccio is attempting to do, it is to try to presnt through questioning, other aspects of Mr. Myers' activities so that you may evaluate the testimony that he has given to you thus far. It does not bear directly on the issues in the case and it does not bear directly on any of the other defendants in the case, solely on this question of credibility of this witness.

Proceed, Mr Puccio.

Q Did you attend a luncheon at the Philadelphia Downtown Club with a Mr. curry and a Mr. Kelly and Mr. Fred DeBona in which you recommended to them that Mr. DeBona receive a job as secretary of the Philadelphia Port Corporation?

MR. CACHERIS: I would ask for a date, your Honor.

THE COURT: Can you give a date?

Q At anytime?

A I remember going to lunch with those gentlemen, yes. And --

MR. BROWN: I only object because I think --

THE COURT: Did you finish?

A I was going to explain what happened at the lunch, if that is what you want.

Q Sure.

A At the luncheon, we talked about Fred DeBona going on the Port Corporation as the executive director.

When you referred to making a recommendation, the Mayor of the City of Philadelphia makes that recommendation to the Board of Directors of the Port Corporation.

I never spoke to the Mayor of Philadelphia about that at any time. That is the point I am trying to make. I did not recommend that. That recommendation comes solely from the Mayor and then goes to the Board which consists of about 40 or 50 people.

I don't know how many are on the Board. They select who the executive director would be.

The word had been out the Mayor was going to recommend the name of Fred DeBona for that position. We discussed it at the luncheon.

Q And the reason for the luncheon taking place was so that you could tell these two gentlemen that you thought that Fred DeBona, your friend, should be director of the Port Corporation, is that correct?

A No, that is not correct. The reason for the luncheon, I knew the gentleman, Mr. Kelly, the director of Philadelphia's Marine Trade Association and Mr. Corey who handled the Pension and Welfare of the ILA.

The word was out that the Mayor was recommending Fred DeBona. When the Mayor of the City recommends somebody to a Board that is normally all it takes.

I wanted M. DeBona to become acquainted with them because he was going to be dealing with them, particularly in the Health and Welfare Plan.

Q Are you saying at the time you had the meeting it had already been determined that Mr. DeBona was getting that job?

A No, I said when the Mayor recommends somebody, normally that is all it takes. When the Mayor's recommendation is made it's usually approved readily.

Q Wasn't the reason for the two gentlemen to see what you had to say about Mr. DeBona?

A No, the reason was for me to introduce basically Mr. DeBona to these gentlemen. That was the purpose of the

meeting.

So he can get himself acquainted with some of the Port activities.

Q Now, would it be a fair statement that after your meeting on August 22, 1979, and after the meeting at Mr. Criden's office that evening, you had concluded that these representatives of the Sheik were untruthworthy people, would that be a fair statement?

A Yes.

Q You had concluded that they were people with whom you would never wish to deal with again, is that correct, Congressman Myers?

A I didn't conclude that, no.

Q You believed after this meeting on August 22, 1979, as you put it, Mel Weinberg was robbing his boss, is that correct?

A Yes, I thought he was robbing his boss.

Q Meaning the Sheik?

A Yes.

Q Now, you were concerned, were you not, that there might be, as you call it, a shake of the Sheik, is that correct, Congressman?

A I was concerned about a shake of the Sheik?

Q As you put it on the witness stand.

A I didn't know the Sheik got shook.

Q I think what you're telling me is you were not concerned --

A I didn't know the Sheik. I was never introduced to him.

Q Okay.

As a result you were not concerned with the fact that he was being shaken down?

A I wasn't concerned about him at all. I didn't know him.

Q You didn't care whether he was being shaken down?

A I had no feeling about him. I never met him.

Q You had no feeling one way or the other, is that correct?

A That is correct.

Q It was Mr. Criden, as I understand it, who called you and arranged for you to meet with the people at the Barkley Hotel on the 24th, January 24, 1980, is that correct?

A Yes.

Q And you attending that meeting, let's say, if I may say so, without any hesitation or mental reservation,

is that correct?

A Yes.

Q You attended that meeting without any hesitation because you believed that there might be some more money in it for you, is that correct?

MR. CACHERIS: Objection, argument.

MR. PUCCIO: Inquiring as to the state of mind, your Honor.

THE COURT: Overruled.

A No, I attended the meeting because Mr. Criden told me they were interested in a hotel complex.

Q As a Congressman it was essential for you to stimulate development in the City of Philadelphia, is that correct?

MR. CACHERIS: Objection, argumentative.

THE COURT: Sustained.

Q Were you interested in stimulating developments in the City of Philadelphia, legitmately interested in doing that?

A Absolutely, yes.

Q Was that the primary reason that you attended the meeting on January 24, 1980?

A Yes.

Q Was it the only reason you attending the

meeting on January 24, 1980?

A Yes, th only reason.

I didn't know we were going to get into all this other conversation when I got there.

Q You didn't know before you attended the meeting that you were going to bring up the business about the trip to New York, is that correct?

A No, I didn't know that.

Q You didn't intend to do that?

A No, I think it just came out the way the conversation was going.

Q Now, at one point, during that meeting on January 24th, I take it you never met Mr. Wald before?

A That is right.

Q You never remembered meeting Mr.Haridopolos, is that right?

A Yes.

Q After the preliminaries were out of the way, you recall you talked about Congressman Barrett and the house he had in his daughter's name?

A Yes.

Q After the preliminaries were out of the way, you said to these gentlemen, give me a reason to be vocal, do you remember saying that?

A Yes.

Q You were talking then about what?

A I was talking about some kind of investment in the City of Philadelphia. They brought up -- you want me to continue?

Q Yes.

A They brought up about all this investment, Lou told me about the hotel in Atlantic City. I didn't see any investment. I wanted to see some investment. I brought it up.

Q The investment, as you put it, was the reason to be vocal, is that correct?

A Yes.

Q The investment was the reason for you to be vocal where?

A The reason to be vocal --

Q Where?

A In all kinds of areas.

Q Yes. For instance?

A Anything they -- if they had a problem, I would be vocal because I would solve their problem.

Q One of their problems was an immigration problem, is that correct?

A Yes.

Q And the investment was the reason to be vocal with respect to their immigration problem, is that correct?

A No.

Q Why not?

A Because I knew that never existed, that problem. That was play acting.

Q You didn't tell that to Mr. Wald at the meeting on January 24th, djd you?

A No.

Q In fact, correct me if I am wrong, you did qutie the contrary,you told them on several occasions on Janaury 24th that you would help on the immigration problem, is that correct?

A No. Everytime they brought that up, I never brought it up. Everytime he brings up something about immigration, well, that was a different deal. And all that kind of talk. I just agree and go along with it. Yes, sure. I never brought up immigration at that meeting. He brought it up.

Q You were interested in legitimately helping the Sheik with his immigration problem, weren't you?

A I knew that was not a problem. It did not exist. No, I was not interested in helping.

Q You said during the meeting the Sheik should take crash courses in English?

A Yes, I said that.

Q That was in order to assist the Sheik with his immigration problem, was it not?

A Well, the way I meant it, yes.

Q Later on you say in response to a question by Mr. Wald, Mr. Wald says: Can you get the introduction of a bill, and you say: I can do that if I had a reason; is that correct?

A Yes.

Q Your reason again being investment?

A Yes.

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

THE COURT: Let's take a short recess.

Don't discuss the case during the recess, ladies and gentlemen.

(Recess taken at this time.)

(Continued on next page.)

THE COURT: Mr. Puccio, how much longer do you expect to be?

MR. PUCCIO: About an hour, your Honor.

THE COURT: Bring in the jury.

MR. BEN-VENISTE: We can save time at a side bar now as to one area Mr. Puccio may be interested in going into.

THE COURT: Maybe he will save time and not go into it.

MR. BEN-VENISTE: The fact that he said another hour indicates that he is --

THE COURT: We will see.

(The jury is in the jury box.)

THE COURT: All right, Mr. Puccio, you may proceed.

MR. PUCCIO: Thank you.

CROSS EXAMINATION

BY MR. PUCCIO: (Continued)

Q Congressman Myers, how many drinks did you have at the Barkley Hotel on the 24th of January?

A I had, after watching the video, I saw two.

Q The first drink you were offered, is that correct, by one of the agents when you came in?

A Yes.

Q The second drink you requested yourself; is that correct?

A Yes.

Q I assume that you were drunk before you received that second drink?

MR. CACHERIS: Objection to the assumption.

Q Were you drunk before you received that second drink?

A I would have to look at the time on the tape. I noticed myself from watching the tape, I noticed myself I believe it was around 2214 where I see my voice starting to slur.

What point in time I became intoxicated, I can't tell you exactly.

From that point on, I started to get under the weather more and more as time went on.

Q Well, the meeting lasted about how long, Congressman Myers?

A About an hour and 40 minutes, hour and a half.

Q Would you accept my representation that you asked for another drink, you said put a tip on this boss man, at Page 107 in a transcript of a meeting that for 183 pages, would you accept my representation on that?

A What page is that, Mr. Puccio?

Q 107. If you would like to check it --

(Pause.)

A Yes, I remember saying that.

I will verify it is 107.

Yes, give me a little bit more on that tip boss, boss man.

I asked for a little bit more, but he filled it up.

Q Would it be a fair statement the meeting was half over before you had a second drink, Congressman Myers?

A I don't know. At what point in time is this?

MR. CACHERIS: Objection.

THE COURT: What is the objection?

MR. CACHERIS: Participation of Mr. Myers does not start until much after the meeting started.

THE COURT: To save time, I noted times as they went through the tapes, Mr. Myers appears 2200, the request for the second drink was 2247, and Mr. Myers left at approximately 2330. So that it is almost exactly in the middle.

MR. PUCCIO: Thank you, Judge.

THE COURT: That is my conclusion, ladies and

gentlemen, you are not bound by it. If you think it is significant, you can have them play the whole tape or those particular events so that you can determine the minutes if you think it makes any difference.

Q Would you accept that estimation of how far the meeting progressed before you requested --

A I will accept anything the Judge says, Mr. Puccio.

Q Is that your recollection?

A Yes.

Q Before you requested this second drink, the subject of immigration is being discussed, is that correct?

A Before I accepted the second drink?

Q Yes.

A You would have to refer to the page. Throughout the whole conversation immigration is brought up by Mr. Wald. He brings it up, I don't know how many times, but throughout the hour and a half conversation he brings it up. I don't know how many times.

Q Is it your best recollection that the subject of immigration came up before you requested the second drink?

A I think it did. Show me the page.

Q Do you recall Mr. Wald saying that the situation insofar as the Sheik was concerned was worsening, do you recall that?

A Yes.

Q You took that to mean, I assume -- did you take it to mean that the Sheik would now have to leave his native land and have to come to the United States?

A Yes, that's what I thought he meant. Not to come to the United States.

Q Where did you believe that the Sheik was going to be going?

A I thought he was going to South America.

Q Did you pursue this matter with Mr. Wald? Did you say to Mr. Wald, well, the Sheik is going to South America?

A No, I didn't say that to Mr. Wald.

Q Do you recall telling Mr. Wald in response to his questions about the solution for the Sheik's immigration problems, do you recall your saying that it might depend on what kind of heat was on?

A Could you direct me to that page?

Q Yes, 41.

A Page 41?

Q Yes.

(Pause.)

A Yes, I said that.

Q On Page 42, did you say that in reference to immigration problems that each problem is individually handled; did you say that?

A Yes.

Q And you said these things while you believed the Sheik was not coming to the United States but going to South America, is that correct?

A Yes.

Q Now, on Page 76, you ask Mr. Wald to do something that will make you look good on the floor, is that correct?

A Page 76?

Q Yes.

A Yes.

Q What did you want Mr. Wald to do to make you look good on the floor?

A That was all B.S. That was total B.S.

Q What did you say you wanted Mr. Wald to do to make you look good on the floor?

A He said, all right, would that help you on the floor. He said that to me. Absolutely, helps me a lot.

Q What was it that helps you a lot?

A If you go back and pick up the conversation prior to him saying that, we are talking about the City Council. I say yes, to basically everything he asks, but in this particular colloquy he's talking about City Council and the electorate. If you go back -- you know.

Q Going ahead on Page 77, you talk about not wanting to go on a mission of no return, is that correct?

A I can't go on a mission of no return, yes.

Q You meant that?

A A mission of no return means to me something I would have to do that wouldn't be right.

Q You meant that when you said that, is that correct?

A Yes.

Q And you were not prepared to tell Mr. Wald that you would do anything wrong, is that correct?

A Well, I told -- the ten or fifteen problems that he was discussing, that he may have that don't exist, I knew they didn't exist, I told him I could handle all of them.

Throughout the conversation I am feeling him out, Mr. Wald, because I don't know Mr. Wald, I just met him. He's feeling me out. I know he's lying to me. He's looking for ground, going to break ground in eight weeks.

I know he's lying.

(Continued on next page.)

Q And you say all these outrageous things because you are just playing him along, is that right?

MR. CACHERIS: Objection.

THE COURT: Sustained as to form.

Q You are saying these things that you don't mean because you are playing Mr. Wald along, is that right?

A Yes.

Q You are feeling around, is that correct?

A Yes.

Q You are feeling around?

A Yes.

Because I feel maybe there is some money going to be invested in Philadelphia because I am trying to remove some road blocks that he may think he has, such as if he had a mafia problem or if he thought he had a problem with anything I wanted to remove it so it would not block all the Arab money from being invested in Philadelphia.

Q And you persisted in this as though, you said, Mr. Wald was lying to you?

A Yes.

He was lying to me. I sort of half believed him at times. He was sharp. He came back with answers like, I am the financial director in America and I am

not in the cold. He talked about all sorts of things. And I knew he didn't know anything about what he was talking about insofar as these investments.

Q And you felt it necessary to stay there for better than an hour and listen to these lies that Mr. Wald was telling you, is that right?

A Yes.

I thought it was worth staying there, yes.

Q And at no time did it cross your mind that you should get up and leave, is that right?

A No.

I didn't make any attempt to get up and leave.

Q Now, on page 115 you said that you got, quote, unquote, screwed the last time.

Is that right?

A Page 115?

Q That's right.

A Yes, I said that.

Q And that is not normally the way you speak, is that right?

A No.

That is not normally the way I speak. But the way they were speaking, it blended right in.

Q So you felt when in Rome, right?

They were speaking that way, and you would speak that way?

A Yes.

They were talking like tough guys and I would talk like a tough guy.

Q And at least part of the problem was that you were drinking, is that right?

A That was part of it.

Q Now, why did you bring up the subject of getting screwed in New York, Congressman Myers?

A Because it was all this hemming and hawing, going back and forth between me and Mr. Wald.

He was by this point in time, he must have already talked about fifteen other problems he had.

I solved all them and now we got up to this point.

Q You are referring to the trade union, the Port Corporation, the City Council, the Mafia, Zoning Board and Immigration problems?

You had already said you had taken care of that?

A Yes.

Q Now here is your opportunity and you said,

I got screwed in New York, and I am asking why you brought this up.

A At this time he never made any mention about Weinberg at all, anything to do with Weinberg.

I was becoming very suspicious after awhile.

Why didn't he understand what I understood and Weinberg understood?

He kept hinting around certain things.

Q And you thought that the way to flush this out was to request more mo ey, or at least agree to accept more money, is that right?

A I wanted to find out whether he knew what really happened.

Q Was it part of your plan or design to find out what Mr. Wald was about to accept more money or agree to accept more money?

A No.

I had no intentions of accepting more money or even talking about more money when I went to that meeting.

He brings up the 35. And first of all he made a mistake about the 35. It was supposed to be 35 that I was to get. He said 35. And when he says 35 I don't say nothing. I just dummy up.

Q Now, on page 128, you say again that you can't go on an F'n mission, as you put it yesterday, is that right?

A Yes.

Q And you also say -- that was true, of course, is that right?

A That I wouldn't go on a mission?

Q That's right.

A I am trying to get Mr. Wald to give me some clue to what he is trying to -- he is hinting all over the place.

He won't come out and tell me anything direct. It's just all the made-up problems that he talks about, but he hints around immigration, well, that's this, that's that, I want to try to get an understanding what Mr. Wald means.

I want him to tell me that he was aware of the Weinberg situation at the last meeting. He don't do that. So I keep coming on.

And as this conversation goes on you will see at the very end where I tell him absolutely I will not introduce a bill because he don't come on. He don't come on to tell me about the play acting. I took it he didn't know about the play acting after the meeting was

over.

Q Now, at one point on page 28 you say, well, I like broads and I like to gamble.

Do you recall saying that?

A Yes, I said that.

Q And of course that's false, is that right?

A Well, I like broads. I married one whom I love very much.

Q And that was the context in which you meant it when you said it to Mr. Wald, is that right?

A I just used it loosely. I didn't mean anything by it.

Q Well, you said you like to gamble -- excuse me.

Was that a true statement when you said it?

A That's B.S. It was not a true statement.

Q Now, you said at page 129 that you felt hurt about what happened in New York; is that right?

A Yes, for a little bit.

Q And is that a true statement?

A Well, I figured that Weinberg had really cleaned the envelope out to a degree that it wasn't the deal that was set originally.

He was ripping us off is the way I looked

at it.

Q On the question of Mr. Weinberg, Mr. Weinberg never instructed you to do anything, is that right?

A I never spoke --

Q Can you answer that yes or no?

A Can I answer it yes or no?

Q Yes.

A I never spoke to him.

Q Other than sitting at the meeting and saying a few words, is that right?

A Yes.

Q He never told you to act, is that right?

A Yes.

Q He never instructed you to do anything, is that right?

A No.

I never spoke to him.

Q He never told you anything about South America or the sheik going there or anything like that, is that right?

A That's right.

Q So everything that you knew, byou knew from Mr. Errichetti, is that correct?

A That's correct.

Q Now, at page -- I take it when you said I felt hurt, that was not a true statement, is that right?

A Well, I felt a little hurt. I wanted to get to the bottom of what happened at that other meeting.

Now, as we went along this lengthy conversation, I never dreamed that we would get into this area. Because of the drinks maybe I brought it out. I had no intention of this at all.

Q You said at page 130, I believe, you asked, am I free to talk here?

A 130?

Q I'm sorry, 136, you said, am I free to talk here; is that right?

A I remember saying it. But I'll find it here. 136?

Q Yes.

A Yes.

The very last thing. Am I free here. Yes, I see it.

Q And what was your reason for saying that, Congressman Myers?

A Well, I say that, am I free to talk here, meaning to Mr. Criden who was sitting there and to Mr. Wald, did they know what happened at the first deal,

am I free to talk, is the way I meant.

Mr. Wald was in a different area totally than in the first meeting.

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

THE COURT: Yes.

Mr. Myers on page 136, at the bottom it ends up, am I free to talk here.

And at page 137, Mr. Criden says,lay it on the table.

Did you address that question to Mr. Criden, am I free to talk here, or were you talking to Mr. Wald?

THE WITNESS: Well, I threw it out looking for someone to respond, your Honor.

THE COURT: All right.

Q Now, on January 25th, the next day, with reference to the subject of getting screwed last time, you said, I brought it up for a reason. Is that right?

A Yes.

Q And why did you say to Mr. Wald that I brought it up for a reason?

A Do you want me to -- do you want to refer me to that page, Mr. Puccio?

Q Page 12 of the next transcript which should be 8A.

A Yes.

I said I brought it up for a reason. I want to know where I am coming from. I want to get a response. I want to know what Mr. Wald was talking about here.

(Continued on next page.)

Q Now, going back to the 24th, you said at page 148, I thought I should have had fifty grand that day.

Did you say that?

A 148?

Q Yes.

A I thought I should have had fifty grand that day. Yes, I said that.

Q Was that a true statement of your thinking?

A No.

What happened here, and I'll have to explain it if you allow me --

Q Was that statement true or false?

MR. CACHERIS: He has answered it, your Honor.

May he explain?

THE COURT: He said no.

If you want an explanation he is ready to give it.

MR. PUCCIO: Yes, your Honor.

A When I talked about the $100,000 at the beginning when we got into this money, I was supposed to get 25.

Now, Mr. Wald said you were supposed to get fifty. So I didn't say no. I didn't say anything. I

just sat there.

So he took it I was supposed to get fifty. Then he suggests, we owe you twenty-five. The way I count he owed me ten. So I didn't say anything about that. I just dummied up.

Now he thinks he owes me fifty and when we get further down the line I am agreeing with him now that it is fifty instead of the original twenty-five that I agreed to.

Q And even though you said that you didn't intend to take any more money, is that right?

A At this point in time -- throughout this conversation I had my doubts about Mr. Wald because I was all over the lot.

Every two seconds he went in a different direction. I thought after this point in time after we talked for awhile, not long into the conversation, I don't know when I formed the opinion that Mr. Wald didn't know what he was talking about.

I thought he was in some way trying to steal something off the sheik.

Q Congressman Myers, can you answer my question:

At this point in time when you said that you

were not intending to take any more money, is that right?

A I never expected tp get any more money off Mr. Wald.

Q Were you intending to receive or take any moremoney when you said that to Mr. Wald?

A No. I never believed Mr. Wald.

Q Now, did you ever say during this meeting that you were concerned that receiving money would look like a kickback?

Did you ever say anything to that effect?

A Refer me to the page, please.

Q Well, did you say give me a reason other than a kickback or something to that effect?

MR. CACHERIS: May we have the page, your Honor?

MR. BROWN: What page was that?

THE COURT: He is looking for it.

MR. PUCCIO: One moment.

(Pause.)

Q 141 to 142, starting at the bottom of the page, 141, and I quote, "And give me a reason."

Mr. Wald says, "All right. Number two, right."

And Mr. Myers says, "Other than, you know, a reason that, what the hell, why are you interested, what

are you getting, a kickback?

A Yes.

I am asking him is he getting a kickback. I am asking Mr. Wald is he getting a kickback.

Q You are asking Mr. Wald if he is getting a kickback?

A Yes.

Q You are not talking about someone viewing what you received as a kickback, is that correct?

A Absolutely not. I am trying to get Mr. Wald to respond throughout this conversation.

I gave him all sorts of hints. I wanted an answer from him. I wanted to know if he knows about Mel Weinberg in the first meeting.

Q Now, you talked several times about not going on a Kamikaze mission; is that correct?

A Yes.

Q And on page 171, I believe you said again, I am not going to run out, you know, say, well, here's X amount of bucks, go out and introduce this bill. I'm not interested in an F'n bill that's going to get me F'n shanghied the next day.

Do you say that?

A Yes, I say that and that's what's exactly

what I mean.

That's the end of the conversation.

Q And are you saying --

MR. CACHERIS: Objection, your Honor.

Let him finish the conversation.

THE COURT: Did you finish?

THE WITNESS: Your Honor, I am saying that is about the end of our conversation that night.

Q Did you mean, when you said this, Congressman, that you would not under any circumstances introduce an immigration bill?

A Yes.

Q And you were not saying then that you would not introduce a bill that would get you in trouble. Is that right?

A I am not saying that?

Q That's right.

A What I say here, Mr. Puccio, is that I will not introduce a bill that is going to get me shanghied. If it is a legitimate bill like the one bill I had experience with in my four years as a member of Congress, yes, if it is a legitimate individual who has a problem.

But in this conversation what he is trying to hint to me I am making it clear I will not go

on any mission that will get me shanghied.

Throughout this conversation I try to tell Mr. Wald and I hint to him several times, I felt I tell him I will not go in -- to a mission of no return or a Kamikaze mission.

And this is the end of the conversation and I go on to tell him I am not interested in an F'n bill that is going to get me F'm shanghied is exactly what I tell him and that's about the endof our conversation that night.

Q Now, Congressman Myers, you meet again with Mr. Wald on the next day, is that correct?

A The 25th?

Q hat's correct.

A Yes.

Q And you have further discussions with him about your trip to New York in August of 1979, is that correct?

A Yes.

Q And he indicates that there is money that is going to be paid to you, is that right?

A Yes.

Q And did you believe at that time -- withdrawn.

Q Did you at that time agree to receive that money?

A I didn't turn it down. Of course, nothing came and I didn't believe anything about more money coming. He kept telling me about all that stuff.

Q But you expected more money; isn't that correct?

A No.

I felt by this time that this guy was full of B.S. and there was just now way that he was going to do anything for me.

Q Well, you weren't drinking at the second meeting; is that correct?

A No. I was sick from the night before.

Q You understood perfectly what he was saying at that second meeting; is that right?

A I understood what he was saying, yes.

Q And what was your purpose of going up there for that second meeting visit?

A Well, I still thought that maybe there was a possibility that some development was going to come in the City, and I wanted to be clear on what happened the night before.

Q You wanted him to tell you what happened the

night before; is that right?

A I didn't want him to tell me. I wanted to get some questions straightened out.

Q He told you what happened the night before. He told you you were going to get some more money; is that right?

A I thought maybe he would have something to say without Mr. Criden in the room that he couldn't say with him there.

Q And you still legitimately felt it was important to seek investments for the City of Philadelphia; is that correct?

A Yes.

Q And would it be fair to say, Mr. Myers, that if someone from a foreign country made investments in the City of Philadelphia in a large amount,that would be ample reason for introducing a private immigration bill?

MR. CACHERIS: Objection, your Honor. Speculative.

MR. DUFFY: Objection, your Honor. It calls for a conclusion of law.

THE COURT: The latter objection is overruled. As to the former, you can answer it, Congressman Myers, on the basis of your evaluation on what would

be justification for introducing a private immigration bill, if you can answer it at all.

THE WITNESS: Would you repeat the question, Mr. Puccio, please?

Q Well, if the Sheik or anybody else from a foreign country had made a substantial investment in the City of Philadelphia, in your mind would that have been sufficient justification to introduce a private immigration bill?

A No.

Q And did you ever say at any of these meetings that you attended in August of '79 or January of 1980 that it was not, that it was investments in Philadelphia would not be a sufficient reason, sufficient justification for you to introduce a private immigration bill?

A I kept talking about reasons, reasons. My reasons were to get those Arab dollars to America quickly.

Q Now, did you say in your meeting on the 25th of January at the Barkley, that I got a little bit of clout, I am not saying I can deliver 30 or 40 members, but a few standup guys who could help and they would be interested in. I could never approach anybody.

Did you say that?

A What page are you referring to?

Q I believe it's Page 8. It's not marked on my copy, but it's the page after 7 of the meeting on the 25th.

A Page 7, Mr. Puccio?

Q The page after Page 7. It's not marked on my copy.

A Where I say it seemed like an effin scam to me?

Q Yes,that's right.

A Yes, I said that.

Q Did you mean that when you say, I got a little bit of clout, I am not saying I can deliver 30 or 40 members,but I got a few standup guys; did you say that?

A Yes.

Q Did you mean that when you said that?

A No. I didn't mean that I could deliver anybody to do anything wrong. I talk about an effin scam, an effin scame it seemed like to me. And what I indicate here is I tried to get more information out of Wald.

Q When you say I am not saying I can deliver 30 or 40 members, but I got a few standup guys, were you referring to members of Congress?

A Yes. I was referring to members of Congress.

Q And on Page 22 of that same meeting, you talked

about Kennedy Airport as being a bad place to meet, you know,there is too many people in the airport, I might even bump into people I know coming into Kennedy Airport, I don't even know why I met anybody at Kennedy.

Did you say that?

A Yes, I said that.

Q And was that the truth when you said it?

A Well, it was the truth. The way I felt about it at this point in time is that I was supposed to meet Mr. Weinberg to get my instructions and my script.

I didn't think Kennedy Airport was a good place to have such a meeting, is what I mean by that.

Q By the way, at the end of your meeting on the 24th you indicated that you were going to meet Mr. Criden in the bar of the Barkley Hotel, and have a beer with him; is that right?

A Yes.

Q And you in fact -- did you in fact do that?

A Yes.

Q And did you and Mr. Criden discuss what had transpired up at the meeting?

A Breifly, briefly.

Q Well, did you discuss this problem that had ocurred in New York and did you discuss the fact that you

had brought it up at the meeting upstairs?

A Yes. We discussed it a little bit, yes.

Q And did you discuss with Mr. Criden the fact that you were expecting to receive additional monies now that you had brought it up?

A No. I didn't get into that. I just told Mr. Criden that I wanted to bring it to a head because I wanted to find out the true story.

Q And did Mr. Criden express any reservations about Mr. Wald or Mr. Haridopolos at that time?

A No, he didn't say anything about either one of those gentlemen.

Q Did he in fact tell you to trust them and not to be suspicious about them?

A He talked more about this hotel complex. This is in real estate business. He was interested in real estate.

Q Well, did you discuss with Mr. Criden investments that you would seek in the City of Philadelphia at that time?

A Just general about a hotel complex that, you know, was going to break ground in eight weeks and they didn't know where it was going to be built.

Q And about how long did you stay with Mr. Criden

in the bar of the hotel?

A I would say about ten minutes.

Q Now, on the 25th of January you had a conversation with Mr. Wald about Mr. Musto; is that right?

A Yes.

MR. CACHERIS: Your Honor, can we come to the side bar?

THE COURT: Even before he answers the question?

MR. CACHERIS: Yes.

THE COURT: Side bar.

(Continued on next page.)

* * *

on

* * *

(The following takes place in open Court.

THE COURT: I have sustained the objection.

CROSS EXAMINATION

BY MR. PUCCIO: (Continued)

Q Congressman Myers, you spoke to Mr. Wald onthe 29th of January, is that correct, over the telephone?

A 29th of January?

Q That is right.

A I believe so.

Is that the tape played in the Courtroom?

Q That's right.

A Yes.

Q During this conversation I assume you were not drunk, is that correct?

A Yes.

Q I assume you were not play acting, is that correct?

A You will have to play the tape so I hear it.

Tell me what it says.

Q Were you play acting after the 25th of January, 1980, in your conversations with Mr. Wald?

MR. CACHERIS: Your Honor, may I direct the witness' attention to Exhibit 9-A, if there is a transcript of that.

THE COURT: That is a transcript of the telephone conversation of January 29, 1980 between Mr. Myers and Mr. Wald.

(Continued on next page.)

MR. CACHERIS: That is the area of inquiry, I understand.

THE COURT: There is a broader question now pending before the witness.

Q Were you play acting, Mr. Myers, after the 25th of January, 1980, in your conversations with Mr. Wald?

A With reference to all the problems I solved for him, yes.

Q With reference to the money that you were to receive, some $85,000 for those discussions, play acting --

MR. CACHERIS: Objection. That you were to receive.

THE COURT: Wait a minute I have three objections and the witness wants to answer.

MR. DUFFY: Withdrawn.

Q With respect to conversations concerning the monies you were to receive, after the 25th of January, was that play acting on your part?

A The money that I was to receive?

Q Yes.

A I never received any monies.

Q You discussed receiving monies on the 29th of Janaury?

A You are talking about all the money Michael Wald had been throwing out?

Q Did you discuss receiving money with Mr. Wald on the 29th of January?

A Yes. Mr. Wald said: I owe you the money we discussed.

Q What did you say?

A Yes.

Q What else did you say?

A He talks about going away for the weekend. I say okay.

Q Well, I will withdraw that, Mr. Myers.

Within this conversation, were you play acting?

A He was play acting.

Q And you knew that, is that right?

A I don't believe anything that this man said about all these things he was going to do. I'm looking for something concrete. I keep throwing it back to him.

Q You didn't turn down money?

A He didn't give me money.

I didn't have an opportunity to turn it down.

Q When he said on the 29th, you have the money coming, didn't you have an opportunity to say no, I --

A I didn't answer. If he thought I had money

coming that was his thinking.

Q You were prepared to take it?

A I wasn't prepared to take something that wasn't coming.

Q Were you prepared to take it on the 29th of Janaury when you said okay?

A You're telling me if he stopped by my house --

Q Were you prepared on the 29th of January to take the money when you said okay?

A I can't really answer that because I don't believe any money was coming. He kept telling me it was coming but it never came and I didn't believe it was coming.

Q You told him you didn't believe it was coming, is that right?

A That is in writing?

Q I'm asking you, did you tell him you didn't believe the money was coming?

A Are you referring to something said in the conversation?

Q I am asking you what happened?

A I don't recall saying that. If it is said somewhere, point it out.

Q Could you have said that?

A Could I have said it?

Q Yes.

MR. BEN-VENISTE: Objection. He said he didn't recall saying it.

THE COURT: Overruled.

Q Could you have said it?

A I could have said that, sure.

I don't remember saying that, but if you can point it out, I will go to the page.

Q On the 29th of January, when you agreed there was this money coming to you, you said okay, did you believe that was improper for you to do that as a United States Congressman?

A Improper?

Q Yes.

A For getting money for doing nothing, no.

Q Did you believe it was improper to agree to get more money?

A For doing nothing, no.

Q On the 31st of January, you again in a telephone conversation with Mr. Wald discuss receiving some additional money, is that correct?

THE COURT: That would be Exhibit 10-A.

MR. PUCCIO: That is correct, Judge.

A He again, he keeps bringing up what I owe you.

He threw it out to me. I say yes.

I don't ask him for the money.

Q Excuse me?

A I don't ask him. The money I owe you, I will be around Friday. He brings the stuff up. The way the conversation starts.

Q Who brings up the subject of the money?

A Are you talking about what I am reading?

Q 31st of Janaury, 1980.

A I say about the other things.

Q Meaning what?

A The gentleman that you asked me -- the meeting of the 25th.

Q You were referring to whom when --

MR. DUFFY: Objection, your Honor.

MR. BEN-VENISTE: Objection, your Honor.

THE COURT: Overruled.

Q You were referring to whom when you said the other thing?

A Here I say, what do you want me to do on the other thing. I am referring to Ray Musto.

Q What did Mr. Wald say?

A What I owe you --

Q What did you say?

A Yes.

Q It's clear that the other thing you were referring to was what was owed you, is that correct?

A No, that is not correct. This is entirely a different thing he is talking about.

MR. BEN-VENISTE: This was the matter discussed at the side bar. Mr. Puccio knows that. I object to it.

MR. PUCCIO: Your Honor, that is just not so.

THE COURT: In light of the witness' testimony the objection if overruled.

Q Mr. Wald says, well, as soon as I come back I will make you whole and the other figure I owe you as well; what did you take that to refer to?

A I take the two figures he talked about, 35 and 50.

Q Were you drunk during this conversation, Congressman Myers?

A No.

Q Were you play acting?

A No, I wasn't.

Q Did you believe it was improper for you as a United States Congressman at that time to agree to receive

these official monies?

A No, I didn't think it was improper because I didn't do anything and was to do absolutely nothing for money.

Q By the way,you were interviewed by the FBI on February 2, 1980, is that correct?

A Yes.

Q You were asked during that interview by agents of the FBI if you knew Michael Wald, is that right?

A Yes.

MR. CACHERIS: The question was Michael Cohen.

Q What did you say?

A I said no.

Q You were asked if you knew Mr. Weinberg, is that correct?

A Yes.

Q What did you say?

A I said no.

Q You were asked if you knew Mr. DeVito, you said no to that too?

A Yes.

Q In fact you denied knowing them on more than one occasion; is that correct?

A Yes.

At that point in time I didn't know what he was talking about. The FBI agent had not instructed me why he was asking the questions.

Q You didn't know who Mr. Cohen was February 2, 1980?

A I didn't know who he was?

Q That's right.

A Yes, I knew but I was afraid at that point in time.

Q Afraid of what?

A Michael Cohen was caught by the Sheik.

Q I see.

Why did that make you afraid?

A Because these people I took as legitimate people, as a friend and I didn't want to see anybody in trouble.

I didn't know what was up.

When Michael Wald told me about the retaliation, Ernie would have to go do something, I didn't want to see anybody get killed.

Q You thought admitting to the FBI you knew the people somebody would get killed?

A They never told me -- I invited them in. The first question out of the agent's mouth before he said anything

was: "Do you know Michael Cohen?"

If he had explained to me I was under investigation, explained they were FBI agents, I would have been happy to answer the question if I knew more about it.

Q You wanted him to tell you that these were FBI agents who you met before you answered the question?

A No, I wanted him to tell me things to properly answer the question.

Q They told you that they were conducting an investigation and showed you their credentials?

A They told me after they first asked me the questions --

Q You first said no, I don't know any of these people?

A Yes. Wait a minute, I told him I knew Howard Criden, Mayor Errichetti, other names. But the Arab Sheik's representatives, I said I didn't know. I didn't know why he wanted to know.

If he told me a little more, I would have been happy --

Q You said on three occasions during the interview you didn't know Michael Cohen, Mel Weinberg and tony DeVito, is that correct?

A Yes, that is right. I knew that Mel Weinberg

was doing something against his employer. That is the reason I said I didn't know him.

MR. PUCCIO: I have no other questions at this time.

THE COURT: Any redirect?

MR. CACHERIS: Yes.

REDIRECT EXAMINATION

BY MR. CACHERIS:

Q Mr. Myers, on August 22nd, you met with Mayor Errichetti at the airport and there you received instructions what to do in preparation for that meeting?

A Yes, that is correct.

Q You had previously spoken to Mr.Johanson about the meeting?

A Yes.

Q You are now aware that you were mentioned on some taped conversations between Mr. Errichetti, Mr. DeVito and Mr. Weinberg, are you not?

A Yes, I heard them in the Courtroom.

Q You are aware your name was mentioned?

A Yes.

Q And you were said to have been ready to come in?

A Yes.

Q Is that correct?

A Yes, I heard it.

Q Did you discuss any of that with Mr. Johanson or Mr. Errichetti before the August 22nd meeting?

A No, I did not.

Q Had you been contacted by anyone other than Mr. Errichetti -- withdrawn.

Had you been contacted about this meeting of August 22nd by anyone other than Lou Johanson?

A No.

Q You were told by Mr. Johanson that when you got to the meeting or before the meeting that Mayor Errichetti would discuss with you what you were supposed to say and do?

A Mayor Errichetti and Mel Weinberg.

Q When you got to the airport, you did not meet Mr. Weinberg, you met Mr. Errichetti?

A Yes.

Q He did in fact instruct you how to proceed in this meeting?

MR. PUCCIO: I object to the leading.

THE COURT: It's saving time, overruled.

Q Is that correct?

A Yes, that is correct.

Q Did you do what you were told to do in the meeting?

A Yes, I did exactly what I was told to do.

Q Did you ever have any intention of introducing any legislation for this so-called Arab?

A I never had any intention of introducing legislation and I never did. And I also knew that possibility didn't exist. So I had never intended to do anything and would not have.

Q On Janaury 24th, at the end of that meeting of some hour and 45 minutes, did you express yourself on the immigration matter?

A When Michael Wald, Michael Cohen was there, when he keeps hinting around immigration matters, I keep asking for reasons, talking about missions to nowhere, Kami Kaze missions, I tell him I am not interested in introducing any bill. I knew Mel Weinberg understood the stage play acting. I wanted to make sure Mr. Wald was clear.

Q Clear on what?

A I was not doing anything as far as introducing any legislation or anything illegal.

MR. CACHERIS: No further questions.

(Continued on next page.)

MR. DUFFY: May I?

THE COURT: Yes.

RECROSS EXAMINATION

BY MR, DUFFY:

Q Mr. Puccio brought up the tax question and the question of gifts?

A Yes.

Q Did you tell us you have a lawful extension of time within which to file your tax return for 1979?

A Yes. My --

Q Answer the question.

A Yes.

Q Did you consult some tax person, a lawyer or accountant, or whatever?

A Yes, I contacted Mr. James De Marco who has been filling out my income taxes for me for the past, I would say seven or eight years.

Q What is he?

A An attorney in the City of Philadelphia.

Q You mentioned something about De Marco telling you Abdul Enterprise might have to pay a tax if it is determined they gave you some gift?

A That's where I got the gift. When they told me Abdul Enterprise would have to pay a gift tax, you

know if it was a gift. That's when I brought up about gifts. I took it to get money for doing nothing. He says they may have to pay a gift tax.

Q Because under the tax law -- is that what you're talking about?

A Yes.

Q Was that a discussion about tax laws?

A Yes. That was a discussion about the tax laws and he said to me that Abdul Enterprise they have to pay a gift tax on this.

Q Isn't it so that you, your tax position with the Government is you actually have a refund coming back apart from this money?

A Yes. Throughout the year of '79, of course, the Federal Government has held withholding tax against my pay.

Q You get a W-2?

A Yes. For that year I paid around, I think around $21,000 I paid in tax. My tax lawyer estimated I would have a return of about seven or eight thousand dollars coming back.

(Continued on next page.)

Q And you haven't tried to get it pending the outcome of this case?

A No. He suggested that I wait for this case to be over and maybe the Court would instruct me to give it back and we would determine what should happen at that point in time.

Q So the same Government that you work for and Mel Weinberg works for took your tax money and not his; is that correct?

A Yes.

MR. DUFFY: That's all.

THE COURT: Any other questions of Mr. Myers?

MR. BEN-VENISTE: If I may, your Honor.

THE COURT: Yes, Mr. Ben-Veniste.

RECROSS EXAMINATION

BY MR. BEN-VENISTE:

Q Is it fair to say, Mr. Myers, that your lawyer expressed some puzzlement about this situation?

MR. PUCCIO: I object.

THE COURT: Sustained as to form.

Q Had he ever heard of a situation before where a fictional group had given money to a Congressman?

MR. PUCCIO: I object.

THE COURT: Sustained.

Q Did he indicate to you in substance that it was very unclear how all this would be handled from a tax standpoint?

A Yes. He said this is a most unusual case.

Q And did he say he was going to do the appropriate and legal thing in terms of getting a tax question answered?

A Yes.

MR. PUCCIO: I object.

THE COURT: Overruled. The answer is yes.

Q Now,with respect to the question about doing anything in return for the money that you received from this fictional Arab, is it fair to say that not only did you not introduce any legislation, but you did not even make a telephone call to find out about immigration in quotas or anything like that?

A That is correct. Normally -- do you want me to explain.

Q No. It can save time.

Did you ever even ask or was it ever told to you directly where this Arab supposedly came from?

A No.

Q Now, you knew someone was playing a game from this Arab side of the table, is that right?

A Yes.

Q There had to be a first meeting from what Mayor Errichetti told you?

A Yes.

Q And that person you believed to be Mel Weinberg?

A Yes.

Q Now, you also believed, did you not, from Mr. Johanson's earlier enthusiasm about the Atlantic City project that these Arabs did have incredible wealth?

A Yes. He told me about four hundred million in one bank.

Q And that was reinforced, was it not, when Mr. Criden mentioned about the multi-million dollar hotel construction in Philadelphia in January?

A Yes.

Q So that you believed on the basis of those statements at least, that these Arabs had substantial amounts of money, at least from the standpoint of the enthusiasm of others, which could be invested in Philadelphia?

A Yes, I did.

Q Now, Mr. Puccio in cross examination asked you a lot of questions about your state of mind.

Let me ask you with respect to Arab oil money as it related to the circumstances of the people who lived

in your district, what was your state of mind?

A Well, my state of mind was that the biggest problm we have in America is our dollars going over to the Middle East paying for oil. And this seemed like a perfect opportunity to get some of the Arab money, really our money over there, back into Philadelphia for investment. We have an unemployment rate of 15 percent in our City. I see some real gains of getting these bucks into our City.

Q With respect to the meeting after the meeting with Cohen and Ernie and Mr. Criden at the Barkley on January 24th, you went downstairs and said you had a ten minute meeting with Mr. Criden?

A Yes.

Q At that time did Mr. Criden agree with you that it seemed crazy, the way they were talking about hotel construction, breaking ground in eight weeks and yet not having a site?

MR. PUCCIO: I object as to leading, your Honor.

THE COURT: Sustained as to form.

Q Did Mr. Criden express to you that he had some suspicions also about the way that they were proceeding in the construction of your hotel?

MR. PUCCIO: The same objection, Judge.

THE COURT: I will permit that one. Overruled.

A Mr. Criden expressed to me that he had some doubts. But he was confident that this gentleman was the financial director.

Q And did he also express his confidence that on the basis of checking out their finances that these people actually had hundreds of millions that they said they did at Chase Manhattan?

A Yes.

That was brought out several times. It was brought out by Mr. Johanson first.

MR. BEN-VENISTE: Nothing further.

THE COURT: Mr. Brown.

MR. BROWN: Yes, your Honor.

May I question from here?

THE COURT: Certainly.

MR. BROWN: Thank you.

(Continued on next page.)

RECROSS EXAMINATION

BY MR. BROWN:

Q You are politician and you know Mr. Errichetti's profession, do you not?

A Yes.

Q What is his profession?

A He is the Mayor of the City of Camden and also a State Senator.

Q What party was he a member of?

A Demoratic Party.

Q Did you and he belong to the same faction of the Democratic Party?

A Yes.

Q What was that faction?

A We both were strong supporters of Senator Kennedy.

Q Now there was another gentleman's name brought out, a Congressman, which faction did he belong to?

A The other gentleman's whose name was brought up?

Q Yes.

A He was part of the same faction and he supported Senator Kennedy also.

Q And this was known publically?

A Yes.

Q By everybody?

A Yes.

Q And you told us about some of the factors that entered into your response to the FBI men when they talked to you in their role as Sheik's men.

When they talked to you about the docks and the Mafia, did you tell them that there was a problem or there was no problem?

A I told them that there was a problem, a black problem down at the waterfront.

Q What was the black problem?

A There was a Moslem problem at one time where some Moslems come in and try to take over some of the work, but the black longshoremen wouldn't stand for it and then it petered out.

Q Now, you had mentioned that to them in a conversation he had with you, is that right, the agent?

A Yes, I mentioned it.

Q Now, did any of the agents at any time ever ask you what progress that made on these problems that you brought up in the second set of meetings and by the second set I mean in January.

Did they talk to you about any progress made

with the problems discussed in August?

A No.

Q Between August and January, you testified, I believe, that you never heard from anybody at all?

A No.

Q Did Criden call you and ask you what did you do with these problems?

A No. The next time I heard from him was in January.

Q Did Criden call you and ask you what is happening with the Sheik's interests?

A No.

Q Did Errichetti call you and say,what is going on now that you have the $15,000?

A No.

Q Did Mr. Cohen or anybody we know now as Federal Agents ask you what you were doing?

A No.

Q Do you know whether or not there were any inquiries made of your administrative assistant or anybody on your staff what you were doing as to immigration matters for anybody?

A I never told anybody on my staff about anything, and nobody ever inquired anything from them.

Q You were asked many questions as to your response as to what Mr. Wald said to you, Mr.Puccio's query to you as to that period of time.

Would you turn to Page 130 of August 22nd.

A August 22nd, Mr. Brown?

Q Yes.

THE COURT: Exhibit 6-A.

MR. CACHERIS: 5-A, your Honor.

MR. BROWN: Yes, that would be the 22nd, your Honor.

THE COURT: Yes, that's the first meeting in which Mr. Myers was present.

Q If you don't have it, Mr.Myers, I will give you may page.

MR. BROWN: May I approach,your Honor, and give him the page?

THE COURT: Yes.

MR. BROWN: Then you don't have to fumble.

Q Now, in the August 22nd meeting you didn't have Mr. Wald, you had Mr. Amoroso or Tony DeVito; is that right?

A Yes, Tony DeVito and Mel Weinberg.

Q And Mel Weinberg?

A Yes.

Q Now, you haven't been asked anything Mel Weinberg said -- throughout Mr. Puccio's cross examination, he never asked you what responses you made to anything Mel Weinberg said, is that correct?

A That's right.

Q For the first time, tell the jury what Mr. Weinberg said to you about the situation you were in? He is talking to a representative of the Sheik.

A We got the goose that laid the golden egg, we all like to make a buck.

Q Did you respond to that?

A I say all right.

Q You are a tough guy from streets?

A Some people think I am.

Q What does that mean to you, we got the goose that laid the golden egg?

A He made it very clear to me he understood the same thing I understood when I was at the meeting.

(Continued on following page.)

Q Was that the theme that was set in August that persisted right on through?

A Yes.

Q On the new men, because Mr. Wald was new to you and the other gentleman was in January, did they indicate to you in the course of their conversation that they referred back to our people meaning the people from the August meeting?

A Yes.

Q Did anybody at any time tell you Mr. Weinberg didn't set the standard when he said, listen man, we got the goose that laid the Golden Egg, did anybody ever deviate from that?

A They didn't speak about Mel Weinberg at all.

MR. BROWN: Thank you.

MR. PUCCIO: I have something.

RECROSS EXAMINATION

BY MR. PUCCIO:

Q After Mr. Criden called you in January and told you that there was to be another meeting or asked you to attend another meeting, with the Sheik's representatives, did you have occasion to speak with Mayor Errichetti and seek instructions from him as to what

to do?

A No, I never spoke to Mayor Errichetti.

Q After your meeting on the 24th, you met with the Sheik's representatives on the 25th, and you spoke to them again on the 29th and the 31st, the same month, is that correct?

A Yes.

Q Before or after any of the meetings, did you speak with Mayor Errichetti to see if he had any instructions for you?

A No. I didn't speak to Mayor Errichetti at all, no sir.

Q Therefore, you received no further instruction from him, is that correct?

A I didn't know who was going to be at the first meeting.

Q After you learned and met with Mr. Wald between the 24th and the other meeting, the 25th, and conversation on the 29th and 31st, did you speak to Mayor Errichetti before or after the meeting to seek further instructions now that you had met the Sheik's new representatives?

A No.

MR. PUCCIO: Thank you, Mr. Meyers.

THE WITNESS: You're welcome, Mr. Puccio.

RECROSS EXAMINATION

BY MR. BROWN:

Q Did you need any further instructions from Mayor Errichetti to tell you what this is all about?

A No.

Q Was there ever any deviation from the Government's masquerading representatives after Weinberg told you this is the goose that lays the Golden Eggs?

A No, all this stuff that Mr. Wald talked about just did not exist. This guy created problems that were not there.

Q Errichetti had nothing to do with that?

A No.

MR. BROWN: No further questions.

THE COURT: Thank you, Mr. Meyers.

You may step down.

THE WITNESS: Thank you, your Honor.

THE COURT: It's almost one. I suggest we recess for lunch at this time. Let's try to resume at ten minutes to two. It may save us ten minutes later.

(Recess taken at this time until 1:15 P.M.)

* * *

* * *

(The jury enters the Courtroom.)

THE COURT: Ladies and gentlemen, the defendant Myers has now presented and completed his presentation as to the evidence on his case. We are now moving to the defendant Errichetti.

Yes, Mr. Brown.

MR. BROWN: Yes.

If your Honor pleases, first with your permission we would like to offer copies of the transcripts which have been made and which were played, the material that was played by us during the cross examina-

tion of Mr. Myers.

MR. PUCCIO: No objection, Judge, to putting them in the books.

MR. BROWN: It's T-1 through 11, your Honor.

If your Honor would permit us to distribute them so they can go in the backs of the books?

THE COURT: Did you say T-1 through 11?

I only had ten of them.

MR. FURST: 11 was a tape played by Mr. Ben-Veniste.

MR. PUCCIO: Was that marked as Exhibit A in evidence?

MR. FURST: January 18th.

MR. PUCCIO: May I look at this one, Judge? I wasn't given this one to check.

THE COURT: At least T-1 through T-10 are received in evidence.

MR. BROWN: May we have your permission to distribute them to the jury so they can go in their books?

THE COURT: Yes.

MR. BEN-VENISTE: Your Honor, we have T-12 through T-15. If I may hand this up to the Court?

THE COURT: Have they been played?

DEFENSE EXHIBIT T-1

EXCERPT OF TELEPHONE CONVERSATION

JUNE 16, 1979

MW Mel Weinberg

AE Angelo J. Errichetti

* * * *

MW: Alright now you know what we got to do with Pete then

AE: I know what we got to do with Pete and the other guy too

MW: Right

AE: Both of them

MW: And we'll be all set

AE: Yes sir

MW: Alright

* * * *

DEFENSE EXHIBIT T-2

EXCERPT OF TELEPHONE CONVERSATION

JUNE 20, 1979

MW Mel Weinberg

AE Angelo J. Errichetti

* * * *

MW: All right, here's what we got set up. They're flying Yassir into Washington, D. C. OK? We'll have the meeting Thursday, probably Thursday late in the afternoon.

AE: Next Thursday?

MW: Right

AE: Yeah

MW: All right? Now we'll, we'll, we're going to get him in, once we get him in a hotel at night there, he's not going to leave, we'll keep him so that nobody knows he's there.

AE: O.K.

MW: We'll register a suite of rooms in our name so for security reasons nobody has to know.

AE: I'll, I'll call Williams right now

MW: Right

AE: And tell the Senator be available Thursday afternoon

MW: Right

AE: And I'll get there early and get him settled in

MW: Yeh, I'll give you the hotel, I don't know the hotel yet

AE: I don't care yet. All I want to do is make sure its Thursday, I go there Thursday

MW: Right

AE: And I sit with him and we go over the speech before we go in there together

MW: Right

* * * *

* * * *

MW: The reason I say we should, case, cause Tony will if its strong enough get a hold of you and say, you know. Cause he knows Yassir better than anyone.

AE: OK

MW: You follow me? Huh?

AE: It's ok with me

MW: Cause, you know, he knows what he has to have in order to get the ok

AE: OK

MW: All right?

AE: What, what you have to do is get back to me to give me the proper speech. Now he knows he's got to guarantee He knows he's got to say that

MW: Right

AE: He knows he's got to say "I'm the man or this thing doesn't move or work."

MW: Right

AE: I guarantee all the contracts, guarantee it's going to be a successful...

MW: As long as he says to him "without me it don't work."

AE: OK

MW: You follow me?

AE: I told him that

MW: Yeh, he's got to come up and say "without me it don't work." As long as he says that then uh, you know, "I'm doing all that, I have to open all the doors."

* * * *

DEFENSE EXHIBIT T-3

EXCERPT OF CONVERSATION HELD AT

WASHINGTON, D.C. - JUNE 28, 1979

AE Angelo J. Errichetti

HW Senator Harrison A. Williams

MW Mel Weinberg

MW: O.K. Strictly loans. He's only interested in you. You gotta tell him how important you are, who you are, what you can do and you tell him in no uncertain terms "without me there is no deal", I'm the man. I'm the man who's gonna open the doors. I'm the man who's gonna do this and use my influence and I guarantee this." Follow me? All bullshit.

AE: (inaudible). I'm gonna be the one who's gonna

(inaudible) utilize me as a Senator

MW: Tony is, you gotta know Tony is a partner of ours. He's gonna be uh, the main thing he thinks he's gotta ask, he'll ask you.

HW: Right

MW: And when it comes to your shares, you tell him you own 18%. You put them in Alex' name. Alex is gonna endorse the back and give you a certificate back.

AE: (inaudible)

MW: When you leave the Senate, whatever time you leave, you put your name, your're the owner. O.K.?

HW: Yeah

MW: And that's it, it goes not further, its all talk, all bullshit. Nobody wants to hear it. He's not gonna open his mouth. He speaks bad English and he's ashamed of how he speaks.

HW: But he understands.

MW: Oh, he understands perfectly. He has been trying and double trying. Its a walk-through. You should be out of there in twenty minutes.

HW: What doe he know about the property? Does he...

MW: Don't say nothing. He's not interested, he's interested in you. We're getting the money because of you.

HW: Uh hum.

MW: Alright?

AE: And we'll produce

MW: You gotta just, play and blow your horn. The louder you b low and mention names, who you control.

* * * *

* * * *

HW: For twenty minutes.

MW: For twenty minutes with you. Alright. So, you gotta take the position, you're the boss. Alright?

AE: Period

MW: Come on, me I'm the power. And that's it. Its as simple as that. You're on stage for twenty minutes.

* * * *

DEFENSE EXHIBIT T-4

EXCERPT OF TELEPHONE CONVERSATION

JULY 29, 1979

AE Angelo J. Errichetti

MW Mel Weinberg

* * * *

AE: When you coming up?

MW: Well, we'll be up, if you get us up by, say, the sixth, we'll come up that weekend, next weekend

AE: For...ah...a couple of those things

MW: Yeah, and we'll take care of everything at one time. We'll be up there for a couple of weeks then.

AE: Ok. How many can you handle?

MW: As many as you can give me

AE: Ok

MW: Alright?

AE: Right

MW: As many as you can give me, I can handle

AE: Ok

MW: Cause that's number one priority with him

AE: Well

MW: Specially after they came out with that Samonoa thing.

AE: Well, there's a couple of Congressmen, I think we can work these things...at least, ah...may... could be five or six of them.

MW: Beautiful

AE: Alright?

MW: Ok

AE: And plus this fellow from the...the Naturalization Department.

MW: Alright

AE: That could be the key one. That could be the biggest one

MW: Beaut....that'd be marvelous

AE: Cause that guy will say it right in front, as I'm told

MW: Alright

AE: That, "Yes, I will guarantee"...you know, that kind of shit

MW: Okie doke

AE: Alright?

* * * *

DEFENSE EXHIBIT T-6

EXCERPT OF TELEPHONE CONVERSATION

SEPTEMBER 2, 1979

AE Angelo J. Errichetti

MW Mel Weinberg

* * * *

AE: I was in Washington Friday. I spent most of the day in Washington. I had to go there to meet with the Deputy to Jack Rothman (ph). The guy's name is Steve (ph) Kirsenbaum (ph) and while I was there I went to see a couple of my friends at the Bureau of Immigration and Naturalization. I think I got, you know... I did very well, I think in regards to green cards and whatever have you. And I have another meeting with him. He's going to come to see me, I think, maybe Thursday or Firday this week, coming to give me the right guy because I don't want no bull-shit, you know.

MW: Right

AE: The guy I know is not the guy that signs the papers you follow me?

MW: Right

AE: The guy I know is an investigator. He goes out and makes sure that everything is done.

MW: UH-Huh

AE: ...because him and the other guy which I'll be meeting next week is the key people

MW: Alrightie.

* * * *

DEFENSE EXHIBIT T-7

EXCERPT OF TELEPHONE CONVERSATION

SEPTEMBER 5, 1979

MW Mel Weinberg

AE Angelo J. Errichetti

82-077 O—81——119 (Pt. 1) BLR

* * * *

AE: Hi Mel

MW: Yeah. (IA) called back on those green cards right?

AE: Yeah

MW: Now what do they do supply the green cards or just let the people in the country?

AE: Supply the cards!

MW: Right!

AE: They get the application.

MW: Right.

AE: It's all filled out. (IA) job specialized job (IA)

MW: Right.

AE: (IA)

MW. Follow you.

AE: Then the application goes to the guy that I know. (IA)

MW: Right.

AE: (IA)

MW: Right.

AE: (IA) gives it to boss. (IA)

MW: Right.

AE: (IA)

MW: How long would it take? Any idea?

AE: (IA)

MW: Alright

AE: (IA) application (IA) fill it out (IA)

* * * *

* * * *

MW: And uh, one o'clock is the meeting, the first one Monday. Then, ah, what time, time you wanta make it for Wednesday with the , er, Congressman?

AE: Well, I, I talked to him briefly.

MW: Yeah

AE: I told him about, you know, eh, a wet closing and a dry closing Wednesday and Friday.

MW: Right.

AE: He says I'm jammed up, he says why can't we make it one day where I go up a little early and your good friend can give me the script and I can do that you know. He said, you know, I prefer to go one day Wednesday or Friday whatever you want and I come up early so that we could meet, you know, privately like we're supposed to and go over the whole thing so that I can understand what has to be done and I'll do it.

MW: Eh, heh

AE: Is that possible?

MW: Ah, let me see if I can arrange it.

AE: Alright.

MW: Alright.

AE: OK

MW: Make it Wednesday then.

AE: Whatever, you know

MW: OK

AE: Whatever you want to do. He has no problem coming up like nine o'clock in the morning and then sitting down with you, and I, and you know going over the whole thing and then like one o'clock go through with it, you know, whatever.

MW: Right

DEFENSE EXHIBIT T-8

EXCERPT OF MEETING

SEPTEMBER 12, 1979

MW Mel Weinberg

AE Angelo J. Errichetti

* * * *

MW: Yeah, Because this way I make arrangements for the hotel rooms now, get everything set up. Ah, who's the next guy after, do you know yet?

AE: It could be that immigration guy.

MW: Yeah

. . . (IA) . . .

AE: The guy's ready as I'm told by my guy, okay?

MW: Now what's his name?

AE: Top guy, I don't know.

MW: Oh you don't know his name.

AE: My guy is Torrentini . . . (IA) . .

MW: Your guy is what?

AE: Torrentini.

MW: Torratini?

AE: Torrentini.

MW: Tor . . . and what is his position there?

AE: Chief Investigator.

MW: Chief Investigator that's a good position.

* * * *

DEFENSE EXHIBIT T-9

EXCERPT OF TELEPHONE CONVERSATION

SEPTEMBER 14, 1979

AE Angelo J. Errichetti

MW Mel Weinberg

AE: ... Commissioner

MW: Commissioner.

AE: Of Naturalization.

MW: Of Naturalization.

AE: And Immigration.

MW: And Immigration.

AE: His name is Mario.

MW. Mario.

AE: T as in Tom

MW: T

AE: Nopo, Nopo, N - o p o.

MW: N o p o?

AE: Nopo.

MW: Nopo.

AE: That's it.

MW: Alrighty.

* * * *

DEFENSE EXHIBIT T-10

EXCERPT OF TELEPHONE CONVERSATION

SEPTEMBER 18, 1979

AE Angelo J. Errichetti

MW Mel Weinberg

MW: Right.

AE: OK. And he called me back about 10 minutes ago and said he feels that I have to meet him in his office around 11-11:15 which I will.

MW: All right.

AE: Then bring it right over to your place.

MW: OK.

AE: Cause he, he, the best time for him is between lunch time.

MW: All right.

AE: So I figured around noon time.

MW: Right.

AE: OK?

MW: OK.

AE: Uh, what time ya think we should get the hell outta there?

MW: Well, we should, how long should it take?

AE: How long should it take? Um, ya know I don't know what Tony's gonna do.

MW: It won't take long.

AE: Cause with me, it would be 5 minutes ya know.

MW: All right, so figure 15-20 minutes.

AE: OK.

MW: Now you able to shoot down to Florida or what?

AE: What I'm gonna do so you know is Joey's gonna drive me down.

MW: Yeah

AE: I should leave here around 8-8:30, go right to right to, to the immigration office.

MW: Right.

AE: And I'll chat with him, first get ground rules down with what he's expected to do.

MW: Right.

AE: OK. Become his friend naturally.

MW: Right.

AE: And then put him in the car, Joey'll drive us over to your place.

MW: Right.

AE: Oh, when we get all finished I'll say Joey take him back to his office and you go home, goodbye and Joey'll take him to his office and Joey'll go home and I'll stay with you and we go to Florida.

* * * *

MR. BEN-VENISTE: They have been testified to, your Honor.

These are in the Brady material.

MR. PUCCIO: Judge, as I understand, counsel wishes to distribute the books and then distribute this last insert which I have no objection to, and then ask the jury to read these before we continue.

THE COURT: I thought they had already been played.

MR. PUCCIO: I thought so, too.

MR. FURST: Yes, your Honor. But the jury did not have the benefit of the transcript at that time.

THE COURT: What do you propose to do now? Take time to read them?

MR. FURST: Yes.

THE COURT: 15 Exhibits?

MR. FURST: Just 10, your Honor.

THE COURT: Mr. Ben-Veniste is right on your heels with five more.

MR. BEN-VENISTE: That's true, your Honor, except they are three more.

MR. PUCCIO: With respect to the first ten, your Honor, I have no objection to them going into

evidence. I do think we should move ahead with the witnesses and they should be read at another time. With the others we have just received now I would like to study them and make sure we agree with the transcript.

THE COURT: All right. 1 through 10 are received in evidence. I will not take half the afternoon to get them read. If you gentlemen want to stop now and start discussing the charge, I will let the jury take them into the jury room and read it.

MR. BROWN: No, your Honor.We would like to proceed expeditiously. As soon as he has distributed them, I will call the witness.

MR. BEN-VENISTE: May I inquire, your Honor, of Mr. Puccio whether that Ellis Cook, Mario Novo transcript has been supplied in the jury's books? Mr. Puccio was promising to review that.

MR. PUCCIO: Yes. It has been done, Judge, but I will see to it that it is in the books. But I didn't understand the practice was to add something to the books and to have the jury read it.

THE COURT: What is the Exhibit number?

MR. PUCCIO: It hasn't been given one yet,

as I recall. We did play the Cook meeting. I think the defense played the Cook meeting,number one. And let me clarify that. The defense played the first meeting which was attended by Mr. Cook, Mr. Weinberg and Mr. Amoroso. We have no objection to playing that, your Honor, and furnishing it. But I didn't think the procedure was that it would be read. I felt the transcripts are only a guide.

THE COURT: The tapes that were played, which now have transcripts available to them, the transcripts are in evidence. They may be consulted by the jury. If you want to arrange, if anyone wants to arrange them to read any particular transcripts, I will provide the time for them to do it.

MR. BEN-VENISTE: Thank you, your Honor.

THE COURT: I will not disrupt other work that we have to do here.

MR. PUCCIO: I think there is some sort of problem.

JUROR NO. 2: This stops with 10-A?

THE COURT: That would be a likely place to put it if you have room for it.

MR. PUCCIO: It can also go in the end of the book, Judge.

THE COURT: They have given you the books through 10-A, I believe.

Do they fit it?

MR. PUCCIO: They should.

MR. BEN-VENISTE: Your Honor, with respect to the December 19th conversation for which there is a transcript, we ask that it be marked T-13.

MR. PUCCIO: No objection, Judge.

THE COURT: T-13 received in evidence.

MR. BEN-VENISTE: Can those be circulated?

MR. PUCCIO: They are not here now. We can bring them down at an appropriate time and have them put in.

MR. BEN-VENISTE: During this afternoon's break?

THE COURT: All right.

MR. PUCCIO: Yes.

T-11 and T-12 we still want to look at.

THE COURT: All right.

All right, Mr. Brown. Are you ready to proceed?

JUROR NO. 3: Wait.

THE COURT: Somebody is missing something?

JUROR NO. 2: No. They are hard to get in.

1

2 Yes, Mr. Brown.

3 MR. BROWN: Yes, sir.

4 I call Mr. DiLorenzo, please.

5

6

7 (Continued on next page.)

J O S E P H D I L O R E N Z O, a witness called herein, was sworn by the Clerk of the Court and testified as follows:

DIRECT EXAMINATION

BY MR. BROWN:

Q Would you give your full name?

A Joseph Di Lorenzo.

Q Where do you live?

A 10 North 35th Street, Longport, New Jersey.

Q Are you related to the defendant Mayor Errichetti?

A Yes.

Q What is your relationship?

A My uncle.

Q How old are you?

A Twenty-four.

Q What is your education?

A I attended the University of Rutgers, in enrolled in Thomas Edison College, attended Bradywine Junior College in Delaware for awhile.

Q Aside from your schooling, would you tell us what employment you have had?

A In the past four years, I was employed by the City of Camden. In 1975, first with the Department of

Community Development as a research aide, and later in 1979 as administrator of energy where I furthered my education at the University of Pennsylvania specifically for the job.

Q Were you a supervisor in that particular department?

A Yes.

Q Did you acquire that virtually through your Uncle appointing you to the job?

A No, Martin McKernan, the city attorney at the time, also responsible for the Bureau of Energy, had shown interest in me because of the -- my previous boss Thomas Corcoran, based on Thomas Corcoran's recommendation, I was appointed city administrator of energy to Martin McKernan.

Q You did so under your uncle at his pleasure?

A Yes.

Q As a result of your association with your uncle, did you in January of 1979 carry out any particular chore for your uncle?

A Yes. I drove my uncle on occasion when he would ask me.

Q How often would you drive him?

A Many time. I really don't know how many

times.

Q Did you at his insistence make any purchases along with anyone else in January of 1979?

A I did, in January of 1979 myself, along with Mrs. Anise --

Q Who was that?

A Secretary to the Mayor.

We purchased a microwave oven and dishes from Strawbridge and Clothier in Cherry Hill, New Jersey.

Q How did you come to make that purchase?

A Mrs. Anise asked me to go with her. She knew she couldn't handle the size of the microwave oven and asked me go to along and I did.

Q Who ordered the purchase?

A The Mayor ordered the purchase.

Q Did you come to know the person who was to receive this purchase?

A MR. PUCCIO: I object to that.

THE COURT: Sustaine.

Q What did you do, would you tell us what you did in order to obtain --

A It was my understanding through Mrs. Anise --

MR. PUCCIO: I object.

THE COURT: Sustained.

Q Where did you go to purchase this?

A Strawbridge and Clothier in Cherry Hill.

Q And after the purchase, did you do anything with the items?

A Yes.

Q What did you do?

A Myself, alone with the Mayor, drove to Long Island, a Holiday Inn, I believe Exit 55, I'm not sure, where at that time I put the microwave and dishes into Mel Weinberg's van.

Q How did you know it was his van?

A I met him on previous occasions. He told me that it was a company van, Abdul Industries Van.

Q Did it have any markings on it?

A No.

Q Could you describe it?

A A passenber van, tan and brown.

Q Could you describe the meeting and tell us in detail what happened when you arrived at the place you described?

A There really wasn't much of a meeting. It was out in a parking lot, Mel met myself and my uncle and he opened up the back of the van -- the side of the van, excuse me -- and I pulled around with the car and took

out the microwave and beta max and placed it in the van.

Q Can you describe what it was, microwave and what?

A I said beta max, I'm sorry.

Q Was it just the microwave?

A And dishes.

Q Were they in the original package?

A Yes.

Q When you put them in the gentleman's van, did he say anything to you?

A Thank you.

Q Thank you?

A Yes.

Q Now, did there come another occasion in March of 1979 when you had an occasion to make a particular purchase?

A Yes, there was.

Q Would you tell us when that was and how it came about?

A Either late February or early March when I was told by the Mayor to purchase a beta max T.V. recorder.

Q Did he tell you why he wanted you to get --

A Yes.

A Yes.

Q What did he say to you?

A He told me it was --

MR. PUCCIO: I object.

MR. BROWN: To what Errichetti said?

THE COURT: Overruled.

Q Would you tell us what the man said with respect to this?

A The gift was for the Sheik and that Mel would handle delivery of the gift to the Sheik.

Q What did you do with respect to that request from the Mayor?

A I went out and purchased a beta max.

Q Where did you go?

A Best Products in Morristown, New Jersey.

Q I show you Defendant's Exhibit Y and ask if this Exhibit has anything to do with the purchase?

A This is a copy of the receipt for the beta max that I purchased from Best Products.

Q How much did you pay for that?

A Total, including taxes, $939.61.

Q On this occasion, the conversation with the Mayor, what did he tell you with respect to Mr. Weinberg's request?

A He specified it had to be a four-hour tape and had to be an RCA tape.

Q I searched around a few different places. I know a friend of mine who works across the street at Wanamaker in Morristown, New Jersey, and she told me if I had found anything in there she would allow me to use her discount to purchase it. But it was cheaper at Best Products.

They didn't have one in stock so that the one I purchased was a floor model.

Q After you purchased it, what did you do with it?

A The next day, myself, along with my girlfriend --

Q What is her name?

A Debra Pricacci(ph) drove to La Guardia Airport to meet Mel Weinberg where we arrived, I guess early afternoon, and I was to meet Mel within the Ionosphere Lounge out at La Guardia Airport.

Q What is your -- was your girlfriend with you in the car?

A Yes.

Q You had with you the beta max you described?

A Yes.

Q What did you do after you arrived at La Guardia?

A I checked in the Lounge and Mr. Weinberg was not there. He arrived shortly thereafter, maybe 10 or 15 minutes later.

Q Can you describe his vehicle?

A He had a silver mark, Lincoln Continental Mark.

Q Was anyone with Mr. Weinberg?

A His sister-in-law or sister, I am not sure who. The name was Marie. His son, Junior, and a dog.

Q What kind of a dog?

A I believe it was a poodle.

Q When he arrived, what then happened?

A When he arrived, he met me outside of the lounge. I told him that I had the gift in the back of the car and we proceeded to the parking lot right outside the lounge where he drove his car to the car I was driving and proceeded to take the object out and place it in his car.

Q Was this young lady with you during that time?

A Yes.

Q Could you describe Mr. Weinberg for us as of that time when you say this occurred at La Guardia in March of '79?

A Mr. Weinberg is the same gentleman I saw testify here last week as Mel Weinberg. He didn't have a beard at that time and was a little bit heavier.

Q You're sure it was Mr. Weinberg?

A Yes.

Q Did there come another occasion in March when -- I beg your pardon, in April, when you made another purchase?

A Yes.

Q How could it happen that you made this particular purchase?

A Well, the Mayor had a picture of a stereo component set that he had received from Mel Weinberg. It was from a New York Times Magazine article.

It was a gold component, I think in the neighborhood of $3,000. He said that I should go and purchase something similar to that stereo although he could not afford something that elaborate.

Q How did you know it was $3,000?

A It had at the bottom of the page, could be bought at Sam Goody's for $3,000.

Q Did he tell you why he was making the purchase?

A It was my understanding the gift was for

again, for the Sheik.

Q Did he tell you who had made the request for the --

A Mel Weinberg.

Q Did he tell you who specified the $3,000?

A Mel Weinberg.

Q Did you as a result of those conversations do anything?

A Yes, I did.

I first took the picture and made a phone call to a friend of mine, George Norcross, and asked him if he had known or knew anybody in the audio business who could help us out maybe get a stereo at a decant price.

He said he had a friend. And we went to Hi-Fi House in Cherry Hill, New Jersey, Church Road and Haddenfield Road, I believe.

Q What happened?

A I purchased a stereo system similar to the one in the picture except it was for approximately $1,200.

MR. BROWN: May I use this just to clip these together?

THE COURT: Yes.

(Pause.)

Q Mr. Di Lorenzo, I show you Defendant's

Exhibit Z and ask you if that describes anything you are familiar with?

A This is a copy of the stereo that I purchased.

Q Is that the one you actually purchased?

A This is the set that I actually purchased.

Q Four pages -- what do they depict?

A The first --

Q Three pages.

A Genesis Three, Harmon Cardon Receiver and you can't see it but there is a picture of a vertical box that all the objects fit into. That was also purchased.

Q That is an actual photograph of the items purchased?

A Yes.

MR. BROWN: May I offer those two items in evidence?

The two, meaning the receipt --

MR. PUCCIO: May I inquire?

THE COURT: Yes, on the Voir Dire.

VOIR DIRE EXAMINATION

BY MR. PUCCIO:

Q Mr. Di Lorenzo, is Exhibit Z the exact document you received from Mayor Errichetti or a photocopy?

A That is a copy of the stereo that I purchased.

What the Mayor gave me was a copy, a photograph, from the New York Times.

Q Do you have that with you?

A No.

Q Where is that?

A I don't have it. I don't know where that would be. I had no reason to keep it.

Q When did you obtain Exhibit Z?

A Which one is Exhibit Z?

Q This one (indicating.)

A The day I purchased the stereo I made a copy of it.

Q Is this the copy you made the day you purchased the stereo?

A That is a copy of it that I bought.

Q Was this made in connection with your testimony here today or --

A That was -- I had that for quite some time.

Q This exact exhibit?

A Actually, Mrs. Anise had it.

MR. PUCCIO: I have no objection, Judge.

THE COURT: Y and Z received in evidence.

MR. PUCCIO: I have no objection to the other one.

MR. BROWN: May I show the jury Exhibit Z while I continue my interrogation, Judge?

THE COURT: Yes.

DIRECT EXAMINATION

BY MR. BROWN: (Continued.)

Q After you made the purchase which is depicted in Z, which the Jury is examining, did you do anything with that purchase?

A Yes, the stereo was in the Mayor's car. A few boxes, very bulky. I proceeded to drive again to the Holiday Inn, Exit 55, I believe, where I met Mel Weinberg who had had his brother-in-law's pick-up truck.

Q How do you know that?

A He told me it was. He told me at that point that he was taking the stereo directly to the airport and shipping it overseas to the Sheik.

I also delivered it to him, a letter from the Mayor that said Happy Birthday Sheik.

Q What was the occasion for the gift?

A I believe it was the Sheik's birthday.

Q I show you Defendant's Exhibit F and ask you if you can identify that?

A Yes, looks like the copy.

Q Copy of what?

A The letter that I gave to Me. Weinberg.

Q And copy of a letter you gave to Mel Weinberg at the time you delivered the Exhibit being shown to the jury?

A The reason why I say it looks like the copy, I -- the letter was in a sealed envelope and I gave it to Mr. Weinberg. I had seen it on Martin McKernan's desk.

Q From the letter and all that you were told, what was the occasion for the gift?

A The Sheik's birthday.

Q You said Mr. Weinberg told you something about shipping overseas?

A Yes, he was hinting to me it was going to cost about $300 for shipping fees. He didn't know if he had it.

Q By the way, how much did you pay for this unit, Exhibit Z?

A I believe it was in the neighborhood of $1,200. I'm really not sure.

Q Now, do you recall in the summer of 1979 the late summer of 1979, whether or not there was another occasion when you purchased and delivered a gift?

A Yes, there was. This time the Mayor asked me to purchase for him three T.V. sets, supposed to be

22-inch Sonys.

And, again, I called George Norcross.

Q Who did he tell you to purchase them from?

A It was my understanding from what the Mayor told me it was for the Sheik's Board of Directors.

Q How many were to be purchased?

A Three.

Q What brand?

A Sony.

Q What size?

A Supposed to be 22 inch.

When we found out the price of the 22 inch, the Mayor said it was too expensive, so I purchased three, 17 inch Sonys.

Q Approximately how much did you pay for those?

A I would say $1,000, in that neighborhood.

Q After you purchased the three Sonys, what did you do with them?

A The Mayor was meeting Mel Weinberg at the Hyatt-House in Cherry Hill, at that time.

Tony Di Vito and Bruce Bradley were also there at that time.

Q Did you know who Mr. Bradley was?

A Yes, Mr. Bradley was Abdul Industries'

chauffeur.

Q You didn't know him in any other way?

A No, sir.

Q You certainly didn't know he was an P.B.I. man?

A No.

Q What did you do with the T.V.'s exactly?

A Well, I saw Mel in the lobby of the Hyatt-House.

Q Where?

A Cherry Hill, New Jersey.

Q And?

A He handed me -- I told him I had the T.V.'s in the car. He handed me the keys to the van and told me to place the T.V.'s inside the Van, which I did.

I pulled the Mayor's car around the back of thh Hyatt House next to the van.

Q Was there any conversation on this occasion whether or not the Sony T.V.'s were for the Sheik or --

A It's my understanding supposed to be for the Sheik's Board of Directors.

Q Of Abdul?

A Yes.

Q Was that the last of the gifts you delivered?

A I believe so.

MR. BROWN: I have no further examination, I would like to move in the letter, a copy of which I have shown to Mr. Puccio.

MR. PUCCIO: Can I incorporate my Voir Dire into my cross examination on that matter?

MR. BROWN: I have no objection.

THE COURT: Mr. Duffy, any questions?

MR. DUFFY: Can't think of any.

THE COURT: Mr. Ben-Venisto?

MR. BROWN: I have one question, may I?

THE COURT: Yes.

DIRECT EXAMINATION

BY MR. BROWN: (Continuing.)

Q Was there ever an occasion when you delivered a gift or gifts when Mr. Weinberg said anything about whether you should say anything to anybody or not?

A The final time I delivered the T.V. sets, he specifically asked me not to mention anything to Tony and Bruce.

Q Tony and Bruce?

A Yes.

Q Who were they?

A Tony De Vito and Bruce Bradley.

Q Had you chauffeurred any members of Mr. Weinberg's family, on any occasions?

A Yes. One time last summer, I believe it was in June -- I don't know the exact date -- I got in an accident that day. I'm sure you can find --

Q You were in an accident that day?

A Yes. The Mayor met with Mel Weinberg and at that time Mel asked me to take his mother in law, father in law, and his wife over to INdependence Hall. They wanted to see the Liberty Bell.

Q You took them for the day?

A Yes.

Q There was only the one occasion when he told you just don't tell Tony?

A Yes.

Q Who did you identify Tony to be?

A Tony De Vito.

MR. BROWN: No further questions.

MR. BEN-VENISTE: NO examination.

MR. CACHERIS: No.

THE COURT: Mr. Puccio?

MR. PUCCIO: Yes, I have a few questions.

CROSS EXAMINATION

BY MR. PUCCIO:

MR. PUCCIO: Mr. Brown, is this yours?

MR. BROWN: I thought I might be back there in a moment.

Q Mr. Di Lorenzo, Mayor Errichetti made you the director of Energy for the City of Camden, is that correct?

A Administrator of Energy, that is correct.

Q And was that based upon your experience in the field of energy?

A Well, at that time, 1977, in the entire state of New Jersey there wasn't any municipal energy bureau. This was the first of its kind in the State of New Jersey.

Q How old were you when you became the Administrator of Energy for the City of Camden?

A January, 1979, I became -- that would make me 23 years old.

Q How old were you at that time?

A Twenty-three. A

Q For how long a period of time did you hold the position of Administrator of Energy?

A Up until March, 1980.

Q Now, for the year 1979, you actually occupied the position of chauffeur to the City of Camden, is that correct?

A No, sir.

Q Was it part of your duties as the administrator of energy to chauffeur Mr. Errichetti wherever he wanted to go?

A No.

Q Did you, in fact, while on the City payroll as administrator of energy, chauffeur Mr. Errichetti to various places throughout New York, New Jersey, Washington D.C., and other places?

A No. The requirement for any City employee is to work 30 hours a week which I did. Whenever I drive the Mayor, I pick the Mayor up 7:30 in the morning and hardly go home until eight or nine o'clock at night.

My boss, Thomas Corcoran, was aware of the fact I was driving the Mayor and was satisfied with the work I had been doing and allowed me to do so.

Also, one point I would like to make, last year the Mayor became very ill and Tom Corcoran, who is a very good friend of the Mayor --

Q What is his title, Tom Corcoran?

A The Director of the Department of Utilities.

Q You worked for him as the administrator of the Department of Energy?

A I was a bureau head.

Q The duties of the administrator of the Department of Energy did not include this chauffeurring job?

A No.

Q I assume you did the chauffeurring for the Mayor during normal business hours of the Mayor and yourself?

A It's possible.

Q It's true.

A I put in my 30 hours, whether I worked Saturday or Sundays, I had an agreement with my boss.

Q You feel a tremendous amount of loyalty to Mayor Errichetti, is that correct?

A Yes, sir, I love my uncle.

Q Isn't it so that the Mayor demands loyalty from everyone from whom he's associated?

MR. BROWN: I Object.

THE COURT: Sustained. Irrelevant.

Q Now, you made during the year 1979 many trips to Long Island, New York, is that correct?

A Yes.

Q That was all in connection with Mayor Errichetti --

MR. BROWN: I Object to this. I request a Side Bar at your discretion.

THE COURT: Not yet.

Let's see what the question is.

Q These trips to Long Island were in connection with Mayor Errichetti's business with Mr. Weinberg and Mr. Amoroso and Abdul Enterprises, is that correct?

A Yes.

Q Were you aware of the specific nature of these individual trips that you took?

A Not really, no.

Q Is it a fact that Mayor Errichetti would advise you of the details of these trips, the purpose of these trips?

A He would not.

Q Now, you testified before the Grand Jury, is that correct?

A Yes,sir.

Q ON two separate occasions, is that correct?

A Yes, sir.

Q You testified on the 27th of March this year and April 9th of this year?

A Yes.

Q You were asked about trips you took to Long Island, is that correct?

A Yes, sir.

Q And, you in fact furnished a list of trips that you made, is that correct?

MR. BROWN: I object and I request a Sidc Bar.

MR. DUFFY: I object. This examination is beyond the scope --

THE COURT: I am not sure where he is going.

MR. BROWN: That is why I asked --

THE COURT: Is this impeachment?

MR. PUCCIO: Yes. I would like, specifically, to address the meeting, the testimony concerning the alleged meeting with Weinberg.

THE COURT: The witness testified to that on direct?

MR. PUCCIO: Yes.

MR. BROWN: I have no objection.

(Continued on following page.)

Q Now, vyou recall supplying the grand jury with a handwritten document setting forth trips that you took?

A You mean that i remember offhand, yes.

Q And anywhere on that document that you supplied to the grand jury, did you make mention of these trips that you allegedly had to New York in connection with meetings with Weinberg?

A As far as the gifts?

Q Yes.

A No. They are not, no.

Q And at any time during the two appearances before the grand jury did you make any mention --

A No, I did not.

Q -- did you make any mention of these gifts?

A No, I did not.

Could I add one thing to that, sir?

Q Yes.

Go ahead.

A I did speak with the FBI about these gifts on another occasion.

Q And that was after these appearances before the grand jury. Is that right?

A Yes.

Q And when was it that you spoke to the FBI agent about these gifts?

A It was in June 1980.

Q And was that after or before the date the indictment was returned in this case?

A I am not sure.

Q Now, you indicated that you made purchases on behalf of Mayor Errichetti in January, in March, in April and in the late summer of 1979; is that correct?

A Yes.

Q And were these purchases made by check or were they in cash?

A They were in cash.

Q And where did you receive the cash to make these purchases?

A Usually from Mrs. Annise, and any change that I had and went back to Mrs. Annise.

Q So when you went out and bought a Genesis 3 stereo, you used cash for that, is that correct?

A Yes.

Q And if you know, is that Mrs. Annise's money?

A I have no idea.

Q She is the mayor's secretary and you would not assume it was her money, is that right?

A She is the mayor's secretary.

Q Now, on any occasion did you use a check to purchase any of this equipment?

A Any of the equipment that was testified to?

Q Yes.

A No.

Q Did you -- now, vyou drove Mayor Errichetti to New York on August 22, 1979; is that cofrect?

A Yes. I believe so.

MR. BROWN: I have an objection, your Honor, and ask for side bar with rspect to that being beyond the range of the direct, if you please, sir.

THE COURT: Let me hear the question, please.

(Record read.)

MR. BROWN: That is the ground of my objection, your Honor.

THE COURT: Overruled.

Q Now, where did you leave from, Mr. DiLorenzo?

A Probably from the city.

Q The City of Camden?

A Yes.

Q And you picked up the mayor at his office?

A I don't know whether he left from his office

or his house.

I am not really sure.

Q About what time of day did you leave Camden?

A I don't really remember.

Q I am sorry, I don't hear you.

MR. BROWN: May we ask the witness to speak up, if your Honor please, through you?

THE COURT: Yes.

Please speak up so everybody can hear ou.

THE WITNESS: I don't remember what time it was.

Q And did Mayor Erriohetti tell you what the purpose of this trip to New York was?

A No, he didn't.

Q And you drove him from Camden, New Jersey to where in New York?

A I believe this occawsion was the International Hotel.

Q Well, prior to that did you drive him to the Pan American Terminal at Kennedy Airport?

A Yes.

Q And whom did you meet with when you arrived?

A Well, when I drove to thePan Am Airline I parked illegally outside. I believe I met Mr.

Criden and his son.

I stayed outside with his son, Michael that day.

Q Well, did you know that Mayor Errichetti was to meet on that day with Congressman Myers?

A No.

Prior to that time, no, sir.

Q Well, there came a time on that date when you observed Congressman Myers, is that correct?

A I am not really sure of whether I met Congressman Myers on that day or not, sir.

Q Do you see Congressman Myers sitting in the courtroom today,sir?

A I understand --

Q Have you seen him before ever?

A I am not sure and I'll explain why I said that.

The Congressman and I are neighbors around the shore. He lives around the corner from me, maybe ten houses away. And I have been in Longport, New Jersey for nine years. And I didn't know who he was or that he was my neighbor until about a month or so ago when one of my other neighbors told me that.

So I would have thought if I would have

met hikm on that occasion I would have recognized him at another time, at other times, so I am not really sure whether I met the congressman on that date or not.

Q When you arrived at the Pan American Terminal what happened?

A I walked into Pan Am Airlines with the mayor and I believe we met up with Mr. Criden.

I then walked back out to the car because my car was parked illegally and so was Mr. Criden's.

Q And then what happened?

A I stayed outside in the car waiting for the mayor and drove to the International Hotel.

Q And who did you drive to the International Hotel with?

A I don't remember driving anyone.

Q Just the mayor?

A Yes.

Q And what happened when you arrived at the International Hotel?

A I dropped the mayor off at the hotel.

I parked the car.

Q And what did you do after you parked the car?

A I probably sat in the lobby and did some

work.

Q And about what time of day was this when you arrived at the InternationalHotel?

A I am not really sure. It was daytime. It was light outside and it was very hot.

Q And at the International Hotel did you see Congressman Myers?

A I am not sure, sir.

Q Where was Mr. Criden at this time?

A I don't know.

Q Did you see Mr. Johanson on that day?

A I can't say for sure, no, sir.

Q Now, did there come a time when you arrived at the International Hotel that you saw Congressman Myers?

A To say I saw Congressman Myers on that day, sir, it would be erroneous on my part.

Q And about how long -- well, did you know that Mayhor Errichetti went to a meeting with Tony and Mel?

MR. BROWN: I object, your Honor.

THE COURT: What ground?

MR. BROWN: He already said he has no knowledge of these events. It's been asked and

answered, if your Honor please, with respect to a meeting or anything else at that time.

THE COURT: Overruled.

MR. BEN-VENISTE: I'll object to it on the basis of relevance. The participants at the meeting are not being contested.

THE COURT: Overruled.

Q Did you know that Mayor Errichetti met with Tonyc and Mel on that day?

A I didn't knowwhere the mayor was.

Q Did there come a time when you saw the mayor go upstairs to a hotel room?

A I dropped the mayor off and just walked into the lobby.

Q And did you see the mayor get into the elevator?

A No. I dropped him off.

Q Now, about how long was it before you rejoined the mayor?

A I can't say for sure. I really don't know. I saw in the lobby for awhile. I don't know what the duration was.

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

THE COURT: Yes.

(Pause.)

Q Now, did you testify before the grand jury as follows on the 27th of March, 1980?

"Question: Did you take a trip to a Pan Am Terminal at Kennedy Airport in August 1979 when Mayor Errichetti met some other people and Mr. Criden?

"Answer: Yes, Mr. Criden.

"Question: And a Mr. Johanson?

"Answer: Yes, sir, okay.

"Question: And a congressman Ozzie Myers?

"Answer: Yes, right, yes."

Do you remember giving those answers to those questions to the grand jury?

A I do, sir.

And in June of this year I wrote a letter to my lawyer, Mr. Karpopularis, telling hikm to please explain it to you that there was a possibility that I might have been erroneous in my statement on that day.

Q Well, erroneous in what respect?

A I am not sure whether or not I met Mr. Myers.

Q Well, when Mr. Errichetti met up with you

again, at the Travelodge Motel, did he have in his possession a package of any kind?

A Not that I remember, sir, no. When I met with him again I believe he told me to just go out and wait in the car for him.

Q Did he tell you what you were to wait in the car for?

A No. I just went outside and waited for him.

Q Did you see a package in anyone's possession?

A No.

Q Now, you went out and waited in the car, is that right?

A Yes.

Q And did there come a time when Mayor Errichetti came out again?

A Yes.

Q And was he alone?

A I believe so, yes.

Q And where did you go after that?

A I am not really sure, sir. Iam not sure.

Q Going back to the Pan American Terminal to meet with Mr. Criden?

A It's possible, but I really don't remember.

Q Mr. DiLorenzo, did anyone on that day give you an envelope or a package containing money to hold?

A No. Not that Iremembver, No, sir.

Q Are you absolutely certain of that?

A Yes.

I don't remember a package.

Q Did anyone on that day give you a package --

MR. BROWN: Asked and answered.

Q -- whether or not --

MR. BROWN: If your Honor please, I have an objection based on the fact that he asked the question twice and it's been answered twice, if your Honor please.

MR. PUCCIO: Your Honor, if I may --

THE COURT: Overruled.

Q Did anyone on that day give you a package of any kind to hold, whether or not you knew what was in it, Mr. DiLorenzo?

A I don't remember, sir.

Q Are you saying that it may have happened?

A Anybody could have given me anything, but I don't remember.

Q Now, when in the late summer of 1979 did you meet with Mr. Weinberg concerning these TV sets?

A It was at the Hyatt House in Cherry Hill, New Jersey.

Q And was that in August, September?

A I really don't know. It was very hot outside and I don't know exactly when it was.

I only know that Mr. DeVito and Mr. Bradley were there at that time also.

Q Can you fix a date any better than late summer, 1979?

A I really can't.

Q And was that before or after this trip to Kennedy Airport on August 22nd?

A I don't know. I don't remember.

Q Well, do you have the receipt for the purchase of those TV sets?

A Do I, sir? No, I don't.

Q Have you made any checks to see if such a receipt exists?

A No, I haven't.

Q Did you pay for those in cash?

A Yes.

Q Cash that Mrs. Annise gave you?

A Yes.

Q And you said you put these TV sets in Mel

Weinberg's van? Is that right?

A Yes.

Q And you had seen this van before; is that correct?

A Yes.

MR. PUCCIO: May I approach the witness with respect to Defendant's Exhibit S?

THE COURT: Yes.

(Document handed to witness.)

Q Now, that is a copy of a letter that you say you saw somewhere else; is that right?

A Yes.

On Mr. McKernan's desk, the city attorney.

Q And Mr. McKernan was a city attorney and another appointee of your uncle, is that correct?

A Yes, at that time.

Q And where did you obtain this copy?

A This copy?

Q Yes.

A This copy I believe was given to me by Mrs. Annise.

Q In connection with this trial, is that right?

A Yes.

Q You didn't get a copy at the time?

A No. I didn't have a copy.

Q And was the original that you saw signed?

A I didn't see the original.

Q You just --

A I saw this copy. This copy doesn't have a signature on it.

Q When for the first time did you see that copy?

A I can't say for sure, only that I had seen it in Martin's office.

Q And how did you come to see it in Martin's office?

A Well, Martin I believe wrote the letter.

Q My question was:

How did you come to see that copy?

A Martin and I are very good friends. I would occasionally walk into his office after hours and I am sure that on one occasion I saw this letter in his office.

Q And with respect to the day on which the purchases were made, when did you see that letter?

A I don't understand the question, sir.

Q Was it before or after you made the

purchases, the purcvhaseof tho Genesis stereo that you saw that letter?

A I am not sure when it was.

Q So the letter may have been written before the stereos were purchased; is that right?

A I really don't know.

Q What I mean is you may have seen the letter before the steros were purchased; is that right?

A I couldn't say for sure.

MR. PUCCIO: Your Honor, I have no objection to the receipt in evidence of that letter.

THE COURT: All right.

Exhibit S is received in evidence.

Any other questions?

MR. PUCCIO: May I just have a moment, your Honor?

I don't believe so. I am looking at a document.

(Pause.)

MR. BROWN: Before my redirect, assuming he is finished, may we come to side bar for just a minute?

THE COURT: Yes.

(The following occurred at side bar.)

* * *

* * *

BY MR. PUCCIO:

Q Now, were you asked these questions and did you give these answers, Mr. DiLorenzo, on April 9, 1980 before a federal grand jury in this district?

MR. BROWN: If your Honor please, I object to the technique.

I understood normally you ask the question first.

MR. PUCCIO: The questions are being asked because we submit it is contrary to his testimony and we want to find out if the witness said it.

MR. BROWN: Normally isn't there a question and then the use of it depends on the answer?

MR. PUCCIO: I'll ask the preliminary question then.

Q Did you meet with Congressman Myers and did you see Congressman Myers on August 22, 1979 in possession of an envelope containing money?

MR. BROWN: Asked and answered, I think, youjr Honor.

I hesitate and object reluctantly but I think it was asked and answered three times.

THE COURT: Last time you objected because he didn't ask the question.

Now you are objecting because he asked it before. He thought he asked it before and he was going into the impeachment.

MR. BROWN: That's correct.

THE COURT: Now, you have asked for the question he is going to impeach him on and you are objecting to that.

MR. BROWN: He already impeached him on it, Judge.

THE COURT: Not as to Congressman Myers he didn't.

I don't know what he is going to ask him in terms of what is in the grand jury minutes, but overruled.

A I don't remember that eday for sure that I met Congressman Myers. So I would not know.

Q And when you testified before the grand jury were you asked these questions and did you give these answers:

"Question: Did you see Congressman Myers at the International Hotel?

"Answer: I remember I met the congressman

in the mayor's car. I don't think I met Congressman Myers prior to him going into the elevator or whatever. I think the time when I met Congressman Myers was after the mayor had come down from the elevator.

"Question: This was after the meeting when you met Congressman Myers; is that right?

"Answer: Yes."

A Right.

Q Were you asked those questions and did you give those answers?

A I did, sir. But like I said in June of 1980 I believe I have Congressman Myers confused with another congressman.

Q Now, I ask you again, did you see Congressman Myers on August 22, 1979 in possession of an envelope?

MR. CACHERIS: Objection, your Honor. That is not even the question that was asked in the grand jury.

THE COURT: Overruled.

A I don't remember if I saw congressman Myers on that day, sir.

MR. PUCCIO: I have no other questions at this time.

THE COURT: All right.

We will take a short recess, ladies and gentlemen.

Don't discuss the case during the recess, please.

(Whereupon, at this point a short recess was taken.)

(Continued on next page.)

THE COURT: Bring in the jury.

(The jury is in the jury box.)

THE COURT: Any more questions of Mr. Di Lorenzo?

MR. BROWN: Yes.

Redirect, with your permission.

THE COURT: All right, Mr. Brown.

REDIRECT EXAMINATION

BY MR. BROWN:

Q You were asked about a receipt for any of the items that were mentioned.

Did you indeed acquire receipts or have someone acquire a receipt for one of the items?

A Yes, for the Beta max.

Q What did you do with that receipt?

A Gave it to my attorney.

Q Where was it sent?

A Not sent, but picked up.

MR. PUCCIO: I object to this.

MR. BROWN: He asked the whereabouts of the receipt.

THE COURT: Isn't it in evidence?

MR. BROWN: No, sir, this receipt, the receipt for the Beta max. We have a copy --

the original receipt, we have a $900 some odd dollar receipt.

THE COURT: A copy?

MR. BROWN: Got another from the firm and turned it over to someone which I would like to bring out.

THE COURT: This is another copy of the receipt?

MR. BROWN: Yes.

THE COURT: Go ahead.

Q Who did you give it to?

A The original was given to the FBI.

Q When was that?

A That was I believe in early June.

Q What year?

A 1980.

Q With respect to the occasion when you have been asked whether you testified before the Grand Jury, as to Congressman Meyers, do you recall that?

A Yes, sir.

Q Now, on March 27th, 1980, did you testify before the Grand Jury?

A I did, sir.

Q Did you testify on that occasion that

you drove Mayor Errichetti to the airport on the 22nd?

A Yes, sir.

Q Did you return to the Grand Jury after March -- April 9th, 1980?

A Yes.

Q With respect to whether or not you had seen Congressman Meyers, did you have further testimony about that fact?

A Yes, sir.

Q Was this question asked and did you answer as indicated:

"Question: Did you see Congressman Meyers?

"Answer: I don't know. I believe I saw Congressman Meyers and another congressman."

MR. BROWN: Your Honor, I am paraphrasing because the other man's name is there.

Q "I am not sure if that is the same day, I don't remember picking them up from the airport or anything like that."

Do you remember testifying?

A Yes.

Q Did you also testify before the Grand Jury in response to this:

"Question: You testified the last time

that you once drove the Mayor to the meeting with Congressman Meyers and and another occasion with another Congressman?

"Answer: Right. It's very confusing because it all happened at the International Airport. I am confused with the dates."

Did you so testify before the Grand Jury?

A Yes.

Q "Question: Would you agree if I told you that the Mayor's meeting was on August 22nd, and the other Congressman meeting was on September 11th, both in the year 1979?

"Answer: If they were indeed at Kennedy Airport I would agree to that, yes, sir."

Did you testify before the Grand Jury?

A Yes.

Q You testified today you are still not certain when you met Congressman Meyers, is that correct?

A That is correct.

Q You did not say one way or the other whether you met him at the airport or motel on the 22nd?

A Yes.

Q You did so testify before the Grand Jury, is that correct?

A Yes.

Q Now, when you went before the Grand Jury on these two occasions in this District, Eastern District of New York, were you asked any questions about the gifts.

A No, sir.

Q Did you volunteer any answers or directions about the gifts?

A No, sir.

Q Did you have any other occasions when you sat down with Government officials, FBI or others, with respect to this case?

A Yes.

Q What was that?

A In June, 1980, at the Trenton Post office with three FBI agents from the Newark office.

Q Did you on that occasion mention the gifts?

A Yes.

Q Did you on that occasion tell them in substance what you testified to to this jury?

A Yes, sir.

Q So that that was what date, June what?

A Sometime in June this past year, I think early June.

Q It was as a result of that meeting you got the receipt for the Beta max?

A They asked if I had had any receipts, I told them I had one.

Q On that occasion, when you spoke to the FBI, who brought up the matter of the gifts, you or the FBI?

A I did.

Q You told them that, is that correct?

A Yes.

Q Now, you've testified that you are loyal to your uncle, is that correct?

A Yes.

Q And would that cause you to lie here under oath before this jury?

A No, sir.

MR. BROWN: I have no further questions.

THE COURT: Any other questions for Mr. Di Lorenzo?

MR. PUCCIO: May I, your Honor?

THE COURT: Recross.

RECROSS EXAMINATION

BY MR. PUCCIO:

Q Now -- would your Honor take notice of the fact that the indictment was returned and filed on May 27th, 1980?

THE COURT: Any question about that?

MR. BROWN: No question, sir.

THE COURT: All right.

Q It was after May 27th, 1980, that you first raised this question of the gifts, is that correct?

A That is correct, sir.

Q And in the Grand Jury you were questioned about your activities during January and February and March and April and May and so on during 1979, is that correct?

A I'm not sure how far, what dates we went over.

Q In connection with your testimony you submitted a hand-written list of matters which covered the entire year 1979, is that right?

A That is correct.

Q You didn't include anything about these gifts in this list, is that correct?

A No, sir.

Q Or anything about trips to meet with Mel Weinberg?

A No, I put down a list of meetings.

Q You didn't indicate or include these meetings with Mel Weinberg?

A I didn't think they were meetings.

Q This other Congressman that you may have confused with Mr. Meyers, do you recall that the meeting with him was at the Hilton Inn?

A Yes, sir.

Q And --

A It's all in the same general area. All in the same JFK Airport area.

MR. BEN-VENISTE: I ask for a cautionary instruction with respect to the relevancy of that material. It has nothing to do with the issues in this case or Mr. Criden.

THE COURT: What Mr. Ben-Veniste says is in effect correct, as I tell you before, I will tell you again in my final instructions, ladies and gentlemen, this case deals with matters that revolve around Congressman Meyers, particularly the events of August 22nd.

You've heard testimony about other Congressman, other events, other matters. They all have some bearing on some aspect of the case, whether it be credibility or a particular witness or particular person's state of mind, and so forth.

But you do have to keep in mind the somewhat

limited impact of a great deal of the evidence that you have heard in the case.

And particularly here when there is talk about other congressmen. This case is not about other congressmen. We get into it only because the witness is apparently -- has some confusion in his own mind between the events pertaining to Congressman Meyers and the other person.

It bears upon the quality of the witnesses' recollection and credibility, what weight you will give to his testimony, but we are not concerned here with the other congressman or what the other congressman may have been doing on some other occasion.

We have enough problems dealing with Congressman Meyers and the events that revolved around him on August 22nd.

MR. BEN-VENISTE: Thank you.

THE COURT: You may proceed.

RECROSS EXAMINATION

BY MR. PUCCIO: (Continuing.)

Q Mr. Di Lorenzo, in connection with these gifts, on each occasion, did you immediately deliver them after they were purchased or were any of them held for

any period of time?

A They weren't immediately delivered after the purchase, they may have been held for a day.

Q With respect to the last gift which was delivered, according to your testimony, in late Summer, you testified that that was put into Mel Weinberg's van, is that correct?

A Yes, the Company van. Abdul's van.

Q Abdul's van?

A That's right.

Q This particular place, Cherry Hill?

A Yes.

Q Would you describe that van, please?

A It was a passenger van, same van that I had driven in Florida. It was brown, tan, maybe '79, 78.

Q And on how many occasions had you seenthat van?

A I can't say for sure. I saw it a few times.

Q I didn't hear.

A A few times.

Q On how many occasions before this date when you put the items into it had you seen it?

A I can't say for sure.

Q You had seen it in Florida back in March,

is that correct?

A Yes.

Q And is that the only other time you saw it?

A I can't say for sure. I really don't know.

MR. PUCCIO: I have no other questions.

MR. BROWN: If I may ask from here?

THE COURT: Re-redirect.

REREDIRECT EXAMINATION

BY MR. BROWN:

Q With respect to the meetings that you listed for Mr. Puccio, in the past in connection with Grand Jury appearances, what meetings were you asked to list?

A Meetings that I remembered that I drove the Mayor.

Q ON the occasions when you delivered the gifst, did you drive the Mayor to deliver those gifts?

A I don't believe so.

Q So that you didn't see those as the same kind of meetings, whether you misunderstood or not, that is what you saw it?

A Yes.

Q With respect to your answering the information you gave the Grand Jury, is it a fact you were asked

questions and you gave answers?

A Yes, sir.

Q Were you instructed to answer the questions put to you?

A Yes,sir, I was.

Q Were you given any opportunity to volunteer?

A I don't understand the question, sir.

Q Mr. Puccio asked you why you didn't tell the Grand Jury session about the gifts.

A I didn't consider that a meeting.

Q You didn't consider it a meeting. How about your presence before the Grand Jury, speaking before a Grand Jury, did you have occasion to volunteer?

A No, sir, I didn't.

Q You did not?

A Had he asked me, I would have told him.

Q And there was one occasion when you delivered the gifts when Mr. Errichetti was present, is that correct?

A Yes, sir.

Q What occasion was that?

A It was January of 1979.

Q Did you consider that a meeting?

A It wasn't a meeting.

Q It was not, in your estimation?

A No, sir.

Q With respect to a certain meeting, you did say there was a delivery of gifts at a time when another person was present, is that not so?

A That is correct.

Q And would you tell us the date and occasion when the other person was present?

A Either late February or early March, Sunday afternoon, my girlfriend and I drove to La Guardia Airport where I delivered a Beta max.

Q What was your girlfriend's name?

A Debbie Ocacci(ph).

MR. BROWN: I have no further questions.

MR. PUCCIO: Just a few.

RERECROSS EXAMINATION

BY MR. PUCCIO:

Q Mr. DiLorenzo, in the Grand Jury, during the testimony, you submitted a list of trips and you indicated in January of 1979 you went to Long Island and you have next to that Mel?

A Yes.

Q Is that the trip in which you drove Mr. Errichetti to Long Island?

A I'm not sure if that was one or not.

I believe there were a few other trips and

I am not sure how many I drove in January.

Q During your testimony before the Grand Jury you listed trips in January but you did not list this trip in which you allege this gift was made?

MR. BEN-VENISTE: Objection, your Honor.

THE COURT: Overruled.

What was your answer?

A I'm not sure.

Q In the Grand Jury, on the 27th of March, 1980, you talked about a trip to the blue diner, is that correct?

A Yes sir.

Q Is that the same place where you say this gift was made?

A No, sir, that was the first time I ever met Mel Weinberg.

Q There was another trip, according to your testimony, during January?

A There were other trips. I became aware of other trips I did not remember later on.

Q First you testified concerning a trip in January and then you submitted a -- during your next appearance the next month -- a list of trips but you didn't include this one?

A I gave to you a list of trips I remembered. I have since been told there were other trips that I didn't remember.

Q Told by whom?

A The FBI.

Q Did the FBI tell you about this trip where you say this gift was made?

A The only thing I remember is it was in January.

MR. PUCCIO: No further questions.

MR. BROWN: Thank you, Mr. Di Lorenzo, you may step down.

THE COURT: Now next witness.

MR. BROWN: I call Ms. Procacci, please.

(Continued on next page.)

2 D E B R A  P R O C A C C I,  a witness
3 called herein, having been first duly sworn by the
4 Clerk of the Court, took the stand and testified as
5 follows:
6 DIRECT EXAMINATION
7 BY MR. BROWN:
8 Q Your full name is Debra Procacci, am I correct?
9 A Yes.
10 Q Where do you live?
11 A New Jersey.
12 Q Are you all right?
13 A Yes.
14 Q Do you know Joey DiLorenzo who just testified
15 here?
16 A Yes.
17 Q You have known him for sometime?
18 A Yes.
19 Q Would it be fair to say in 1979 you and he
20 were going together, boyfriend and girlfriend?
21 A Yes, sir.
22 Q Did there come a time on or about the early
23 part of May, 1979, when you took a trip with Joe?
24 A It was March.
25 Q March?

A Yes.

Q Where did you go with Joe?

A To LaGuardia Airport in New York.

Q Do you recall if there was anything inside the car?

A In the trunk, a Betamax video tape recorder cassette.

Q When you got to LaGuardia, could you tell us exactly what happened after you arrived in that area?

A Yes, Joe and I parked the car in the parking garage and went into the airport to a lounge. I can't pronounce the name.

Q Ionosphere?

A Yes.

I waited outside and Joe knocked on the door. Mr. Weinberg was not there. And he sat on the windowsill and Mr. Weinberg approached us with other people and I was introduced to him.

Q Was that your first introduction to the gentleman?

A Yes.

Q Were you ever introduced to him again so that you would know whether it was Weinberg?

A Yes.

Q Was his identification identified as Mr. Weinberg?

A Yes.

Q What happened after you were introduced to this gentleman?

A We went to the parking garage and Mr. Weinberg drove his car to where Joe and I parked his uncle's car and we transmitted the Betamax video tape recorder from our trunk to Mr. Weinberg's trunk.

Q Were there any words spoken on that occasion?

A Yes, hearsay, jibber-jabber, I talked with the woman there.

Q Do you know her identification in terms of relation?

A Sister-in-law.

Q Anyone else there?

A Yes, his son and their dog.

Q You are certain on that occasion that you did see the Betamax delivered to Mr. Weinberg, is that correct?

A Yes.

Q You saw this yourself?

A Yes.

Q You are not related to the Mayor, are you?

A No.

MR. BROWN: Thank you, no further questions.

THE COURT: Mr. Duffy?

MR. DUFFY: No, sir.

THE COURT: Mr. Ben-Veniste?

MR. BEN-VENISTE: No.

THE COURT: Mr. Cacheris?

MR. CACHERIS: No.

THE COURT: Mr. Puccio?

MR. PUCCIO: Yes.

CROSS EXAMINATION

BY MR. PUCCIO:

Q What was the occasion for your other meeting with Mr. Weinberg?

A Pardon me?

Q What was the occasion for your other meeting with Mr. Weinberg?

A I saw him at another time at LaGuardia Airport.

Q What was the reason for that meeting?

A Joe and I went in his uncle's car to LaGuardia to meet with him to bring him something which I don't know what it was.

Q When did this meeting take place?

A Sometime after the summer, maybe either late September or October. I don't remember.

Q What was it that was brought to Mr. Weinberg on this occasion?

A I don't know.

Q What did it look like?

A It was an envelope.

Q Did anyone tell you what was contained in the envelope?

A No.

(Continued on next page.)

Q Did you have any discussion with Mayro Bricletti about this envelope?

A No.

Q Did you see anyone else other than Mr. Weinberg?

A We met inside the lounge and there was another gentleman there that I spoke with while Joe and he spoke, but I don't really know if he had any connection to Mr. Weinberg.

In other words, there was another gentleman there that talked to me while Joe talked to Mr. Weinberg.

Q And is that the only other occasion you met with Mr. Weinberg?

A Yes.

MR. PUCCIO: No other questions.

MR. BROWN: Thank you.

THE COURT: Mr. Duffy, do you have a question?

MR. DUFFY: No, sir.

THE COURT: All right, thank you, Ms. Procacci. You may step down.

Next witness.

MR. FURST: I call Mr. Michael Duffy.

BEST AVAILABLE COPY

M I C H A E L D U F F Y, having been first duly sworn by the Clerk of the Court, testified as follows:

THE CLERK: Please state your full name for the record.

THE WITNESS: Michael J. Duffy, D-u-f-f-y.

DIRECT EXAMINATION

BY MR. FURST:

Q Mr. Duffy, are you presently employed?

A I am presently self-employed as a tax consultant and a financial investigator.

Q How long have you been so employed?

A Approximately one year, since July 1979.

Q What did you do prior to July 1979?

A Prior to '79 I was a special agent with the Criminal Investigation Division of the Internal Revenue Service, U. S. Treasury Department.

Q Where did you work out of?

A For the last 13 years I worked out of the Philadelphia office.

Q And prior to that time?

A I had worked three years in the Newark, New Jersey office.

Q Wereyou hired to assist the defense attorneys

A Yes.

This is an index of the 3500 exhibits.

The exhibits of recorxed conversations that were provided by the government is what it is.

Q Is this the list that you used to compare with the phone records?

A Yes, it is.

Q Did you prepare a summary of your observations?

A Yes, I did.

Q And would you look at Defendant's Exhibit U for identification and tell the jury whether that is the summary?

A Yes.

This is the summary that I prepared.

Q Can you describe to the jury how you prepared that summary?

A Yes.

First of all this summary is a summary of unreported telephone calls between Angelo Errichetti and Melvin Weinberg.

And the first page of the summary shows the telephone numbers that were used by Abdul Industries in New York and by Melvin Weinberg in New York and Florida, and the City of Camden, the mayor's office, which

is in Camden, New Jersey.

And these records were obtained from the mayor's offide itself. They had copies of the records. And the home telephone numbers of Angelo Errichetti which would be in Camden, New Jersey and Longport, New Jersey.

These records were prepared from records provided by him, copies of records that he had of his own telephone calls.

Q Do you know whether or not those phone records were also supplied to Mr. Puccio's office?

A Yes. Those records were supplied by the New Jersey Bell Telephone Company.

Q Can you describe how you prepared the summary?

A Yes.

What I did is I listed all the telephone converstions covering two minutes or more from each of the telephones listed in this summary.

And I compared the telephone toll records from the Bell Telephone Companies of the individual states involved.

Now, these toll records would show the date of the call, the place that the call was made to,

the place where the call was coming from, the number that was called and the number that the telephone call was charged to, the total minutes of the conversation, the telephone hook-up and the exact time of the connect time, which the records of the Bell Telephone keeps the correct time for each call.

Q Why did you select two-minute conversations or longer?

A The reason I selected two-minute conversations and I went through the 3500 index and I found seven telephone calls between Angelo Errichetti and Melvin Weinberg that were recorded.

And I have a list of those converstions in my pocket here.

Q Those are conversations that were two minutes in duration?

A Yes, yes, they were.

Q According to the toll records?

A Yes, that's correct.

Q And the 3500 index had transcripts for those conversations?

A Yes, that's correct.

MR. FURST: May I approach the witness, your Honor?

THE COURT: Yes.

Q I would like to hand you Defendant's Exhibit AA,BB,CCand Dd for identification and ask you what those are.

A The first exhibit, AA 1 through 19, is a listing of telephone calls from the New York Telephone Company that were charged to Abdul Enterprises, Ltd. In this list of exhibits, 1 through 19 are the telephone calls, two minutes or more that were not recorded.

There is no proof of recording --

Q You mean in terms of transcript?

A No proof of recording or a transcript was provided to the defense attorneys by the government.

Exhibit B, 1through 17, are the telephone toll records from the Florida Telephone Company, I believe it's Southern Bell Telephone Company of Melvin Weinberg's home or residence phone numbers.

And these calls, 1 through 17, list the telephone toll calls that there were no recordings for or any transcripts provided to the defense.

Exhibit CC are the telephone calls from the mayor's office regarding the same types of transactions.

There are 19 exhibits there, 1 through 19.

And Exhibit DD are the calls from the mayor's home telephone numbers in Longport, New Jersey and Camden, New Jersey, and that's Exhibit 1 through 5.

There was a total of 57 telephone calls, two minutes or more, totalling 227 minutes that were not recorded.

It's three hours and 47 minutes.

Q Did you in Exhibit U for identification break down those calls?

A Yes, I did.

Q And reading from Defense Exhibit U, could you tell us what is contained on those pages?

A Yes.

On page 2 of the exhibit, which is Exhibit A, it is Abdul Enterprises, and it is telephone toll calls that are charged to the Abdul Enterprises, Ltd. telephone number.

Q How many are there?

A There are 19 telephone calls.

Q From what date to what date?

A From February 9, 1979 to July 9, 1979.

Q And Exhibit B is the telephone toll calls charged to the Florida Telephone numbers of Mel Weinberg.

Q And there are 17 of these phone calls, ard they go from the period January 23, 1979 to August the 9th, 1979.

Pardon me, on this Exhibit B there are more than 17 phone calls. There are 17 phone calls on page 3.

Page 4 continues and it goes up to 29. There are 29 total phone calls.

Q And Exhibit C?

A Exhibig C is the City of Camden Mayor's office telephone toll calls that were charged to his numbers at that location.

Q All right.

A There are 19 telephone calls.

Q During what period of time?

A From January 17, 1979 to June 29, 1979.

Q And Exhibit D?

A Exhibit D is the telephone toll calls charged to the home phone number of the mayor in Camden, New Jersey and there are five such calls.

Q By the way, are you related to the defense attorney Duffy sitting at counsel table?

A No, I am not.

Q When you worked for the IRS in Philadelphia, did you work in an undercover capacity?

A Yes, I did.

Q When you were working undercover did you work in the organized crime area?

A Yes, I did.

Q Did you come to know an individual by the name of Skinny Razor?

A Yes, I did.

That person's real name is Felix DeTulio and he has been dead for about 15 years.

Q And did you also come to know the name of Tony Testa?

A The name Tony Testa doesn't ring a bell with me, but Philip Testa does ring a bell. He was the No. 2 man under Angelo Bruno.

Q Is it fair to say that thereis no person involved in organized crime in Philadelphia who is prominent whose name is Tony Testa?

A Yes, it is.

Q Did you also review the transcripts and tape recordings of telephone conversations to review the beginnings of those conversations?

A Yes, I did.

Q hen you were an IRS agent did you have occastion to reivew, to utilize telephone tapes?

A Yes.

We did analyze situations where there were telephone situations and the proper recording techniques.

Q And conceptual monitoring s as well?

A Yes.

Q And what is the proper procedure for taping a phone conversation?

A Theproper procedure for taping a phone call is to start at the very beginning when the phone is ringing and then to tape it from that point forward.

Q Did you review the transcripts and the tapes of phone conversations?

A Yes, I did.

Q That the defense was supplied?

A Yes.

Q r rather, the defendant Errichetti?

A Yes.

Q And what did your review disclose?

A Well, out of the total 83 conversations that were supplied to us, on 8 occasions it showed a ringing of the telephone or the operator on the telephone. On 35 occasions there was a first person involved. It wasn't the person that the call was intending to go to. And on 12 occasions the intended speaker was the first part

of the transcript and the tape.

On 28 occasions the conversation started in the middle of the conversation or in the middle of a sentence. It was a total of 83 conversations involved.

Q And who were those calls between? Who were the speakers?

A The calls were between Angelo Errichetti and Melvin Weinberg and sometimes Dani Annise who was the secretary for the mayor.

Q You can identify her voice on the phone?

A Yes.

MR. FURST: Your Honor, I would offer Defense Exhibit U at this time.

THE COURT: Any objection?

MR. PUCCIO: I would like to examine it, Judge and maybe ask some questions on it.

THE COURT: You may have voir dire.

MR. PUCCIO: I will wait until he is finished.

MR. FURST: I think I am done.

Here are copies of them.

That's all.

MR. PUCCIO: I can wait until other counsel have finished before I voir dire.

THE COURT: Do you have questions, Mr. Duffy?

MR. DUFFY: I have some questions.

THE COURT: Proceed.

CROSS-EXAMINATION

BY MR. DUFFY:

Q About our credibilityk, you don't know me, do you?

A I know you from Philadelphia, but not before this.

Q Chickie Narducci,Philip Chicken Man Testa, does that ring a bell to you from your undercover work in the city?

A Yes.

Q Can you tell the jury the ages of Philip Chicken Man Testa and Chickie Narducci?

A Both men are in their fifties and Testa is a little older than Narducci.

MR. DUFFY: That's all.

THE COURT: Mr. Ben-Veniste?

MR. BEN-VENISTE: No questions.

THE COURT: Mr. Cacheris?

MR. CACHERIS: No questions.

THE COURT: Mr. Puccio.

MR. PUCCIO: I have some questions.

CROSS-EXAMINATION

BY MR. PUCCIO:

Q Did you say, Mr. Duffy, you worked on organized crime matters in the City of Philadelphia?

A Yes, I did.

Q For how long a period of time were you so engaged?

A Off and on for 13 years.

Q And this was for the Treasury Department in Philadelphia?

A The Intelligence Division who later changed its name of the U. S. Treasury Department.

Q And that would be part of the Internal Revenue Ser ice, is that correct?

A That's correct.

Q. And in your opinion is there an organized crims problem within the City of Philadelphia?

A Yes, there is.

Q And to be morespecific does the mafia operate within the City of Philadelphia?

A Yes, it does.

Q And would the sphere of influence of the

mafia in the City of Philadelphia include the dock area of Philadelphia?

A No, it does not include the whole dock area.

There are differences of opinion as to what extent of control the mafia has over the City of Philadelphia.

South Philadelphia is where most of the mafia is located and it is made up of a mixed neighborhood, Italians, Irish, German, Jewish, blacks.

And in the northern part of the city you have docks also, which is the northeast section which is the Kensington area and North Richmond and they don't have any control in that area as far as I know.

Q But the South Philadelphia area, it is a fair statement that the mafia controls the docks, is that right?

A It would not be. I have never seen proof of that.

Q Well, is the view of law enforcement people in the City of Philadelphia that the mafia has control of the docks?

MR. FURST: Objection, your Honor.

MR. BEN-VENISTE: Objection.

MR. DUFFY: Objection.

THE COURT: Sustained.

Q Well, now, with respect to Defesne Exhibit U, I have a copy and I assume you have it in front of you, is that right?

A Yes.

Q This purports to represent unreported telephone calls between certain dats, is that right?

A Yes.

Q And the dates are -- well, let me ask you, from when to when?

A Well, the first telephone call that I have here is Exhibit C, January 17, 1979.

And it has the telephone call would be October the 24th, 1979.

Q And this exhibit represents telephone calls from a number controlled by Mr. Weinberg or Abdul Enterprises and a number controlled by Mr. Errichetti, is that right?

A That's correct.

Q And by the way, this exhibit, I would assume, is prepared largely with documents that were furnished to you during the trial by the government, is that right?

A It was half by documents furnished by the government and half by the mayor's office in Camden and his wife or himself.

Q All right.

But you had occasion to look at the government's records concerning Abdul Enterprises toll calls, is that right?

A Yes, it is.

Q And that you didn't get from the City of Camden?

A That's correct.

Q And the government supplied you with recirds of Me. Weinberg's telephone calls, is that right?

* A That's correct.

Q And what is the normal retention period for telpehone tolls?

A Well, the normal retention period is six months. But if a subpoena is issued to a telephone company they can keep it six months, nine months, twelve monts, and so on.

Q And it is for sure that the records the government supplied you were all within six months, is that right?

A That's correct.

Q Now, between July 26th and-- by the way, do you know if Mayor Errichetti ever used telephone equipment at Abdul Enterprises to call his own office in Camden?

A That I don't know offhand. Probably if I look through the records I can find out.

But offhand, I don't know.

Q In any event, from your knowledge of procedures in the law that would not be recorded unless there would be some party consenting to that conversation being recorded, is that correct?

A You say according to law?

Q Yes.

A Well, if he consented himself to have it recorded he would not have to go through the law.

Q In any event, it would be a fair statement tha if the mayor did call from Abdul Enterprises during the undercover investigation and you are familiar with undercover investigations, to his own office, that would not be recorded, is that right?

A No. I can't say that. I really don't know if Abdul had a tape recorder on their phone at all times or not.

Q But the mayor's consent would have to be obtained?

A No.

It is possible that his conversations could have been taped illetally by Abdul.

Q I see.

But excluding that possibility, the mayor's consent would be necessary, is that right?

A Yes.

Q Now, between July 26, 1979 and August 22, 1979, how many unrecorded telephone calls do you have on your list?

A Could you repeat those dates, pleease?

Q Yes.

Between July 26, 1979 and August 22, 1979.

A There are six telephone calls that are unrecorded.

Q And what is the duration of each one of those calls?

A Well, one call is three minutes, two minutes, two minutes, two minutes, three minutes and three minutes.

Q Okay.

And your records, all the records you have examined reflect no other unrecorded calls during that period of time, is that correct?

A No, they do not.

Q Tell us in each case what number the call was made from and to which number was it placed.

A During that period of time?

Q During July 26, 1979 and August 22, 1979.

A All telephone calls --

Q By the way, Mr. Duffy, you are generally familiar with the dates involved in this case, is that right?

A Yes.

Q You know August 22nd is a significant date, is that right?

A Yes.

Q You know July 26th is a significant date?

A Yes, I do.

Q All right.

And matters that occurred prior to July 26, 1979 really are not part of what is in issue here, is that right?

MR. BEN-VENISTE: I object to that, your Honor.

MR. PUCCIO: I will withdraw it.

THE COURT: All right.

Q Go ahead.

A The dats August the 9th or from the

period July 26 through August 22, there are six telephone calls.

All toll calls were charged for the Florida telephone numbers of Melvin Weinberg.

Now, the first call, the Exhibit number is B-17, August 9th at 12:49 p.m. from Atlantic City, New Jersey to the mayor's office in Camden, New Jersey.

Q How long was that?

A Three minutes.

Q Okay.

A The Exhibit B18, August 10, 1979, 5:10 p.m., two minutes.

Q Where was the dall made to?

A It was from Central Islip, New York to the summer home of Mayor Errichetti in Longport, New Jersey.

Q How long was that?

A Two minutes.

Q Okay.

THE COURT: Mr Duffy, that first one,did you say it was from Atlantic City?

A Yes, it was.

THE COURT: To the mayor's office?

THE WITNESS: Yes, from Atlantic City to

the mayor's office, but charged to the Florida telephone number.

Q So whoever made that call was in Atlantic City but charging it to the Weinberg number?

A Yes, that's correct.

Q All right.

A The third call was August 20th and that is B-19 exhibit number, August 20th, 2:32 p.m., two minutes. And it was a call from New York City, New York, to the mayor's office in Camden.

B-20 is August 20, 1979, 6:17 p.m., two minutes, from New York City to the mayor's office in Camden.

Q What date was that last one, sir?

A August 20th.

Q Okay.

And the next one?

A B-21. The date is August 21st, 5:35 p.m., three minutes, from the Travelodge in Queens, New York to the mayor's office.

The last call during that period is --

Q I'm sorry, what was that last one from the Travelodge?

What date?

A This was August 21st at 5:35 p.m. for three minutes, from the Travelodge Motel in Queens, New York to the mayor's office in Camden.

Q All right.

And that was charged to what number?

A To the Florida home telephone number of Melvin Weinberg.

Q Okay.

A The next one is B-22 which is August 22, 1979 at 10:31 p.m., three minutes, and it was from Queens, New York to the home of Mayor Errichetti in Camden, New Jersey.

Q What time of the day was that?

A That was 10:31 p.m.

MR. PUCCIO: Your Honor, I have no objection to those six calls, thatis, the ones between July 26, '79 and August 22, '79 being received into evidence.

THE COURT: What is offered in evidence is Exhibit U.

MR. PUCCIO: Well, I would object unless some showing is made as to the relevance to

this case as to the other calls.

MR. DUFFY: May I speak to that, sir?

THE COURT: At the side bar.

You are not offering the exhibit.

MR. FURST: I will speak to it.

THE COURT: I'll hear you just the same.

Come to the side bar.

(Continued on next page.)

* * *

(The following took place in open Court.)

THE COURT: Exhibit U is received in evidence.

So that I understand, Mr. Duffy, I heard some references to AA and BB, is that all part of Exhibit U?

THE WITNESS: Yes.

THE COURT: All right. Exhibit U is in evidence.

MR. PUCCIO: I assume what I received which is a seven-page Exhibit is --

THE COURT: Document here marked Exhibit U, I assume. Where is it?

THE WITNESS: Here it is.

MR. PUCCIO: May I look at it, sir?

THE WITNESS: Yes.

(Pause).

CROSS EXAMINATION

BY MR. PUCCIO:

Q Mr. Duffy, you stated the figures you have on the telephone calls duration are from the records supplied by the telephone company?

A That is correct.

Q Many of them in this case were records

subpoenaed by the Government which were turned over to you, is that correct?

A That is correct.

Q Does the telephone call record the exact number of seconds of each call?

A No, it doesn't.

Q In a telephone call which is one minute, one second, how would that be recorded?

A Different telephone companies work different ways.

Q How does the telephone company you examined the records on work?

A Southern Bell Telephone, Florida; New York Telephone Company; and New Jersey Telephone Company --

Q All do it the same way?

A I don't know how. I know New Jersey. If it's over two minutes, two minutes one second becomes a three-minute call.

Two minutes 57 seconds is a three-minute call.

Q One minute one second is a two-minute call?

A Yes.

Q You don't know if those calls are recorded as two minutes may have been one minute one second?

A That is correct.

Q You were supplied with a list of exhibits that were given by the Government to the defendant, is that correct?

A Yes.

Q They list recorded telephone conversations and other recorded meetings involving Mayor Errichetti and Mr. Weinberg, is that correct?

A That is correct.

Q Over how many occasions were recordings made of meetings or conversations in which Mr. Weinberg and Mr. Errichetti appeared?

A First objection, including meetings in this here -- the examination has only been on telephone calls.

THE COURT: As a basis for comparison, it might be helpful to -- I will overrule the objection then.

You can pursue both if you think it is necessary.

Q First, on how many occasions was there a recorded telephone conversation between Mel Weinberg and Mr. Errichetti?

A The total number of occasions?

Q Yes.

A Offhand, I couldn't --

Q Would you be able to consult the list?

A With the 3500 index, if I can look at the list I can tell.

THE COURT: How long will it take?

THE WITNESS: Just a minute, your Honor.

THE COURT: All right.

THE WITNESS: If Mr. Furst can give it to me I can pick it up.

MR. PUCCIO: All right.

(Pause.)

A A total of 63 telephone calls that show up on the toll records that are recorded conversations.

There are 16 recorded conversations on here that there are no toll records for. A total of approximately 79 telephone conversations on this sheet. On the 3500 index.

Q Seventy-nine recorded calls between Weinberg and Errichetti, is that correct?

A That is correct.

Q How many of those run for longer than three minutes, do you know?

A I will have to check thelist here.

Well, there is a total of eight telephone

calls, seven of which are two minutes that are recorded and one telephone one minute. That is eight.

Subtract from the total --

Q All of those others out of the 79 other than those eight or 10 was it?

A Eight.

Q Eight out of 79 are longer than two minutes, is that correct?

A That is correct.

Q And eight out of 79 of these recorded calls are longer than two minutes, is that correct?

A That is correct.

MR. PUCCIO: I don't have any other questions, your Honor.

THE COURT: Any other questions?

MR. DUFFY: I have a few, sir.

CROSS EXAMINATION

BY MR. DUFFY:

Q Was it not in the records, your compilation, if Mel Weinberg called the Mayor from a phone booth and dropped a dime, would that be in your records anywhere?

A Not in the toll records, not unless he charged it to his home phone number.

Q If such a call that was made from a phone

booth that was made and not recorded, we wouldn't know about it?

A That's correct. There are three telephone calls in here that are local calls. When he was in the Camden, New Jersey, area. There is no toll records to back that up. That is a ten-cent call.

Q No way for the jury to know how many other calls, if any, Mel Weinberg made to the Mayor from Camden, Cherry Hill, with no toll calls that came from phone booths?

MR. PUCCIO: Objection.

THE COURT: Overruled.

A No, there is no record. No way of knowing how many other phone calls he made.

Q If the Mayor called Mel Weinberg, when Weinberg was in the same area the Mayor was in, and he called from a phone booth, with a dime, there would be no record of that?

A No record of any local telephone calls.

Q If Weinberg called the Mayor, say, when Weinberg was staying at a hotel and charged the call to the room, you wouldn't have any record of that?

A No, there would be no record of that.

Only be an amount on the bill that the man

had.

Q You weren't given any of those bills?

A No.

Q We don't know how many unrecorded calls, if any, were charged to hotels, do we?

A No.

MR. PUCCIO: No further questions.

REDIRECT EXAMINATION

BY MR. FURST:

Q Mr. Duffy, if a call was for one minute and 59 seconds, what would that be listed as?

A A toll would be one minute -- no, the toll call would be two minutes. I'm sorry.

Q Did you review the telephone records for the entire year of 1979?

A Yes, I did.

MR. FURST: Thank you.

MR. BEN-VENISTE: May I?

CROSS EXAMINATION

BY MR. BEN-VENISTE:

Q Do you know whether the phone companies differs so that a call of two minutes and 59 seconds coming from Florida might be recorded as two minutes by Florida bills?

A Possibly could be recorded either way. I don't know how they work in Florida.

MR. BEN-VENISTE: Thank you.

THE COURT: Thank you, Mr. Duffy, you may step down.

MR. BEN-VENISTE: Robert Green.

THE COURT: Defendant Errichetti rests?

MR. FURST: No more witnesses.

R O B E R T W. G R E E N, called as a witness, having been first duly sworn by the Clerk of the Court, was examined and testified as follows:

MR. HUGHES: Your Honor, my name is Hughes from Townley and Updike and I am the attorney for the witness.

THE COURT: You may sit at counsel table.

MR. HUGHES: Thank you.

THE COURT: You may proceed, Mr. Ben-Veniste.

DIRECT EXAMINATION

BY MR. BEN-VENISTE:

Q Mr. Green, you are a newspaperman with Newsday Newspaper?

A Yes.

Q You know a man by the name of Mel Weinberg?

A Yes.

Q Have you entered into an arrangement with Mr. Weinberg in connection with the writing and publication of a book?

A Yes.

Q The proposed title of that book is: "The Sting Man?"

A It's a possible title.

Q Did there come a time, Mr. Green, when you discussed Abscam with Mr. Weinberg in connection with preparing an outline for a book?

A (No response.)

Q Or a proposal?

A There came a time when I spoke to Mr. Weinberg about the possibility of writing a book about his life which would include Abscam, yes.

Q Now, in the course of those conversations that you had with Mr. Weinberg, did Mr. Weinberg tell you at some point that he had kept some plans for -- he had available to him some plans for a hotel casino?

A I think what he said was he would have the availability of those plans at one time or another.

Q Did he also mention something with respect to having the pictures of -- photographs of the interior of the Washington Townhouse and certain video tape and

sound equipment?

A Pictures of something?

Q Yes.

Photgraphs.

A He said he would -- again, he would have the availability of those things.

(Continued on following page.)

Q Did he indicate to you he had a photograph of himself and undercover agents of the FBI sitting in the library of the town house?

A I am not quite sure whether he indicated to me or somebody else indicated he might have a picture.

Q When did Mr. Weinberg indicate to you that he had a photograph of the interior of the town house?

A I think he indicated to me he had the availability of those photographs sometime maybe -- oh, March, early May.

THE COURT: What year?

THE WITNESS: 1980.

Q Between March and May of 1980 sometime?

A To the best of my recollection. I had a number of conversations with Mr. Weinberg.

Q Your best recollection can't be any more precise than that, I take it?

A Not as to which piece of specific information came at which conversation.

Q You had a number of conversations?

A Yes.

Q Now, did you have a conversation with Mr. Weinberg on or about February 2nd, 1980?

A I believe on or about -- well, within a few

days, February 2nd, within a few days after that, I think I had a telephone conversation with him. And then I don't know whether he came up from down south or what, but I met him in a motel.

Q And you discussed the ABSCAM project or the book project?

MR. PUCCIO: I object to the form of the question.

MR. BEN-VENISTE: Withdrawn.

Q Mr. Greene, did there come a time when you had a conversation with John Good of the FBI?

A I have had hundreds of conversations with John Good.

Q Did there come a time when you had a conversation with Mr. Good in which he told you Mel Weinberg was the heart and soul of the ABSCAM investigation?

A At one time, after I had talked with Mr. Weinberg --

Q Could you answer yes or no?

A I called Mr. Good -- I am answering -- and Mr.Good, I said, Mr. Good -- John, would you do me a favor. I am thinking of doing a book on the guy, can you tell me if the guy is for real with ABSCAM.

He said, to those records he was the heart

and soul of the investigation.

Q Did Mr. Good also tell you on that occasion without Mel Weinberg there would be no ABSCAM?

A Words to that effect. He was really a tremendous part of it.

Q Did he also tell you on that occasion that Mr. Weinberg styled ABSCAM and made it come down?

A Words to that effect.

Q Did Mr. Good tell you that Mr. Weinberg had to create a lure so irresistible that the targets would come to it?

A No, Mr. Good's conversation -- he refused to answer questions. It was two or three lines on Weinberg. Mr. Good did not tell me that.

Q Did Mr. Weinberg tell you that?

A Right now, I talked to an enormous amount of people before I wrote the proposal. I don't recall Weinberg using words like that.

Q Did he tell you that in substance?

A Weinberg told me that he was -- and this was after a published report -- that he agreed with the published reports that he was a key person in this and one of the key contact men.

Q If you listen to my question I would appreciate

you answering it.

Did Mr. Weinberg tell you in substance that he had to create a lure so irresistible that the targets would come to it?

A (No response.)

Q Yes or no?

A No.

Q You are sure of that?

A Yes.

Q He never said anything like that to you?

A No, he doesn't talk in those phrases.

Q Is that the substance of what he told you, whether you prettied it up in writing or not?

A In discussions for the book, at one point I said I was reading newspapers, they are all screaming entrapment, entrapment, and Weinberg said it was not entrapment, all he did was sit there like the honey pot.

MR. BEN-VENISTE: I would ask the witness confine himself to answering questions when he answers, your Honor.

THE COURT: He did answer it.

Q Mr. Weinberg used the term honey pot?

A When I asked him about the entrapment, he said "No, we sat there like a honey pot."

Q He just sat?

A "We just sat there like a honey pot."

Q Did he ever say he wanted to make the lure irresistible?

A No.

He said, "We sat there like a honey pot." I assumed that is irresistible to flies.

MR. BEN-VENISTE: Thank you, nothing further.

THE COURT: Mr. Duffy, any questions?

MR. DUFFY: No, sir.

THE COURT: Mr. Cacheris?

MR. CACHERIS: No.

THE COURT: Mr. Brown, any questions?

MR. BROWN: Yes.

(Continued on next page.)

CROSS EXAMINATION

BY MR. BROWN:

Q Mr. Greene, have you stated you expected FBI agents to work with you in the completion of the book?

A Pardon me?

Q Have you ever stated that you expected FBI agents to work with you in the completion of the book?

A Mr. Weinberg assured me after the trial was over he would hope to get the cooperation of FBI agents who worked on the case.

Q Did he name any?

A Not offhand.

I hope he would be able to get them all, I understand, 10, 15, 20.

Q Starting with Mr. Good?

A I hope to get the cooperation of Mr. Good after the trial is over.

I probably know Mr. Good better than Mr. Weinberg.

Q Let me ask you about this quote, "The FBI agents who work directly with Mel Weinberg in the field have agreed to exclusively provide additional details for this book."

A That is what Mel told me they would do after

the trial was over.

Q They have agreed in effect --

A He said they would provide it. He didn't tell me that he had a sit down conference. He said the guys will give us extra details after the trial is over.

Q That language you are familiar with?

A Yes.

Q Pride of authorship would indicate --

A No, I have no pride in a sales pitch.

Q Would your sales pitch -- your sales pitch does have, I assume, truthful colonels?

A To the extent of the knowledge that I had at the time that I made the sales pitch.

Q Did you in your sales pitch point out that details of the ABSCAM sting will quickly become ancient history, but the story of the man who made it happen, how he used his unique talent to make it happen, is an enduring one?

A I think that is true. The story of his life even more so than ABSCAM is quite a story.

Q That is not only a sales pitch but that is true, details of the sting will quickly become ancient history, but the story of the man who made it happen, how he used his unique talent to make it happen, is an enduring

one?

A I believe that is more enduring, the story of Mel Weinberg's life and who the person is, is more enduring than this particular scandal.

Q What are his unique talents that will live long beyond this particular episode?

THE COURT: Sustained.

A I think --

THE COURT: I sustained my own objection, Mr. Greene.

Q Can you tell us which agents have agreed, whether they sat down or not, or whatever?

MR. PUCCIO: It's been asked and answered.

THE COURT: I don't recall that one being asked.

Q Which agents?

A No,he just said the guys, to my recollection.

Q The guys who worked with him?

A I said how can we corroborate some of the things you say. He said, "I talked to the guys. They will work with you after the whole thing is over."

Q He was referring to the agents that worked with him?

A I did not ask him specifically that.

Q They could not corroborate unless they knew the details, these --

A I presume not.

Q For example, would Mr. Amoroso's name be familiar to you as one of those who would work with the creator?

A Yes, I know Mr. Amoroso worked with Weinberg. I know he testified at trial.

Q And Mr. Good's name is familiar as the chief agent?

A I know Mr. Good was the agent who was totally in charge and totally responsible for the success or whatever the ABSCAM investigation --

MR. BROWN: Thank you, sir.

MR. DUFFY: Two questions, your Honor.

THE COURT: All right.

CROSS EXAMINATION

BY MR. DUFFY:

Q Mr. Greene, you knew Mel Weinberg other than his involvement in ABSCM, did you not?

A Yes.

Q Have you ever written a book?

A I have written, yes.

Q It's been published?

A Yes.

Q How many?

A Well, I was one of three authors in a book called The Heroin Trail and was published and won a Pultzer' Gold prize --

Q How many did you write?

A I was one of the three writers.

Q Just yourself.

A In other words, not with somebody else?

Q Yes.

A None.

MR. DUFFY: No further questions.

MR. PUCCIO: No questions.

MR. BEN-VENISTE: May Mr. Greene be excused but advised in other procedures that we want him.

MR. PUCCIO: I object to this.

THE COURT: For now, Mr. Greene, you are excused. Thank you very much.

THE WITNESS: Thank you.

THE COURT: Next witness.

MR. BEN-VENISTE: Bruce Brady, your Honor.

* * *

1 * * *

2 B R U C E E D W A R D B R A D Y, having

3 been first duly sworn by the Clerk of the Court,

4 testified as follows:

5 THE CLERK: Please state your full name

6 for the record.

7 THE WITNESS: Bruce Edward Brady.

8 THE CLERK: Please spell your last name.

9 THE WITNESS: B-r-a-d-y.

10 THE CLERK: Please be seated.

11 DIRECT EXAMINATION

12 BY MR. BEN-VENISTE:

13 THE COURT: You may proceed, Mr. Ben-Veniste.

14 MR. BEN-VENISTE: Thank you, your Honor.

15 Q Mr. Brady, you are an FBI agent?

16 A Yes.

17 Q And where were you assigned in the summer of

18 1979?

19 A The New York division of the Hauppauge

20 Rssident Agency.

21 Q Did there come a time when you became involved

22 in the ABSCAM investigation?

23 A Yes.

24 Q And I take it that you know Melvin Weinberg?

25 A Yes.

Q Let me focus your attention on some photographs that were supposedly taken by Melvin Weinberg.

MR. PUCCIO: I object to this, your Honor.

THE COURT: Sustained.

Q Did there come a time when you had a conversation with Mr. Weinberg with respect to photographs?

MR. PUCCIO: Same objection.

THE COURT: Relevance?

MR. PUCCIO: It is a collateral matter, Judge.

MR. BEN-VENISTE: It goes to motive, your Honor. It also goes to course of dealing with the FBI by Weinberg.

MR. PUCCIO: I object, your Honor.

THE COURT: That's irrelevant.

On the question of motive, I'll permit it. Overruled.

A Can I have the question repeated?

Q Did there come a time when vyou had a conversation with Mr. Weinberg about some photographs that Mr. Weinberg had?

A I believe I asked him once or twice.

Q Pardon me, I can't hear you. Can you speak into the microphone?

A I believe I asked him once or twice about the photographs.

Q What did you ask Mr. Weinberg and what did he tell you?

A I would have to paraphrase it but I was down in Florida after February 2nd with him.

I asked him did he take any pictures of the town house.

Q That is the town house on W Street in Washington that's been referred to in this case?

A That's correct.

Q And had you received information from some source that he had taken such photographs?

A I didn't receive information that he had taken such photographs.

The information that I received was to ask him if he took photographs.

Q I see.

And this converation took place appfoximately when between you and Weinberg?

A Any time between February 3, 1980 to I believe the end of February.

Q Sometime in February.

A Right.

Q Okay.

And what did Mr. Weinberg tell you after you asked him whether he had any such photographs?

A He stated that he had taken photographs and he reduced a negative, the camera negatives, from like a Kodak or an Instamatic type of film.

Q Let me ask you a question.

When did he say he had taken the photographs of the W Street town house and the interior thereof?

A I didn't ask him that question.

Q So you asked him whether he had taken photographs and he said he had and he produced for you a camera that had some film still in the camera?

A That's correct.

Q Did he attempt to open the camera?

A Yes, he did.

Q What did you tell him?

A I told him he should not advance the film.

He was trying to advance the film. And I also told him when you opened it to secure it enough so that the negatives were not exposed.

Q Did you have some concern that Mr. Weinberg was trying to expose the film?

A I was just taking the proper precautions

because I don't know how to operate a camera.

Q When vyou got the film what did you do with it?

A I put it in my briefcase.

Q And where was Mr. Weinberg at that time?

A He was sitting right beside me and he saw me put it in my briefcase.

Q Now, when is the next time you looked in your briefcase?

A When I arrived. To actually look? Are you saying to look for the film?

Q Yes.

A When I came back to New York.

Q What kind of briefcase was this?

A It's similar to the one that was used for one of the exhibits for the Nagra recording.

Q So it is sort of an attache case?

A In fact, it is placed right there.

Q Referring to Exhibit 16.

A The exact same thing, yes.

Q Okay.

Did you leave that briefcase in Mr. Weinberg's vicinity during the time that you were in Florida?

A Yes.

Q And when you looked in the briefcase when you got to New York did you find the film?

A No.

Q To your knowledge was Mr. Weinberg confronted with the possibility that he had removed the film from your briefcase?

MR. PUCCIO: I object to that.

THE COURT: Sustained.

A I did not --

THE COURT: I sustain the objection.

You don't have to answer it.

Q Did you personally confront Mr. Weinberg?

A No. I left that up to my superiors.

Q Now, did there come a time-- strike that.

Did you see Mr. Weinberg in January of 1979?

A In January of 1979?

Q Yes. I'm sorry, January of 1980.

A Yes.

Q Did you on occasion meet Mr. Weinberg at the airport on January 23, 1980?

A I can't tell you on that exact date but I know I picked Mr. Weinberg up sometime during January.

Q There was an indication that Mr. Weinberg

had said that some tapes had been removed from his luggage.

Are you familiar with that?

A Yes.

Q And were you present at the airport on that occasion?

A I picked him up on that day.

Q And were you present at the luggage retrieval area?

A Yes.

Q What luggage had been checked on the airplane?

A I think there was an overnight bag and there was some sort of a carry bag, a carry valise.

Q And what did Mr. Weinberg tell you?

A Once again I am just paraphrasing it.

Mr. Weinberg didn't say anything at the airport concerning what you are talking about, the tapes.

Q When did he tell you that some tapes were removed from the luggage?

A We proceeded to the JFK Hilton and Mr. Weinberg likes to smoke his cigars and he went to check for his cigars and at the same time he noticed he lost his cigars.

And he says the tapes were stolen.

Q All right.

Where did he tell you that he had placed the tapes?

A Inside the briefcase. Itvwas a multi-zippered I should say suitcase.

Q And when you say inside did he identify a compartment?

A To my recollection I don't think he did.

Q And did he say anything about the cigars that were taken?

A He was very disappointed that his cigars were stolen.

Q How many cigars did he say that was taken?

A I think he classified it as a bundle.

Q One bundle?

A Yes, which was 25 cigars.

Q One bundle of 25 cigars.

How many tapes did he say were missing?

A I believe he said about four or five.

Q Four or five he said?

A Yes.

Q Did you write up a report at that time, sir?

A I did not.

Q Were you told not to?

A No.

Q Did you have any conversation about whether you should write up a report concerning this missing evidence?

A No.

Q Was someone else delegated to that?

A I think my supervisor was there.

Q Who is that?

A John Good.

Q So as far as you were concerned if he wanted a report writtgen up he would attend to that or delegate that responsibility?

A Yes.

Q Now, were there any other tapes in Mr. Weinberg's possession on the 23rd?

A don't recall.

Q Did he say in substance, all the tapes I had had been stolen out of the briefcase or did he say some of the tapes?

A I don't know if he said all of them or some of them.

I don't recall at that period of time. My position was not to take control of the tapes. I knew they wer stolen and after my supevisor, John Good,was

made aware of it I had other things to be done that day.

Q All right.

Whose job was it to be concerned with receiving tapes from Wein erg?

A Sometimes it was my concern and sometimes it was special agent Bursey, sometime Mr. Amoroso took care of them.

Q How about on the 23rd? Whose responsibility was it on that occasion?

A I don't know.

Q Insofar as -- strike that.

Now, in terms of the luggage itself so I am clear, sir, you say Weinberg told you that one bundle of cigars plus four or five tapes had been removed from the inside of the suitcase.

Was it a multi-zippered suitcase?

A Yes.

Q And what compartment if he identified it were the tapes and cigars removed from?

A I told you I was not sure which department they were removed from.

Q You don't recall what he told you if he told you?

A I don't recall if he told me.

MR. BEN-VENISTE: Nothing further.

THE COURT: Mr. Duffy.

MR. DUFFY: May I,sir?

THE COURT: Yes.

CROSS-EXAMINATION

BY MR. DUFFY:

Q Your name is Brady?

A That's correct.

Q B-r-a-d-y?

A That's correct.

Q Have you ever met the mayor's nephew, Joey?

A Yes, I did.

Q Were you the fellow who was sort of the chauffeur in the ABSCAM at one time?

A Initially, yes.

Q Were you at the Hyatt House in the summer of '79 at any time?

A I probably was.

Q With Mel and Tony?

A Morethan likely I was.

Q Did you see Joey there?

A On occasion.

Q Were you held out as one of the board of directors of Abdul Enterprises?

A No.

Q Did Joey ever callyou Bradley?

A That was the undercover name I was using. Whether he called me it or not I don't know.

Q So Brady is Bradley in he ABSCAM?

A That's correct.

Q Did you also sign the paychecks that were distributed in Abdul Enterprises?

Q I had the authority to sign the checks and I did sign most of them but there were some other people who had the authority to sign the checks.

Q To satisfy my curiosity, weren't you in earlier in the trial with some financial records?

A That's correct.

Q Weren't you one of the finance men in Abdul Enterprises?

A I handed the accounts of Abdul Enterprises from March 1979.

Q Is your school background accounting rather than law?

A That's correct.

Q Did you tend to pay Mel?

A Yes.

Q Were there any taxes withheld from his wages?

A No.

Q Now, you say agent Good -- by the way, he was the boss at Hauppauge, is that correct?

A Yes.

Q And that is your agency over there?

A Yes.

Q And when he found out that Mel said some tapes were missing, did he tellyou not to do a 302 report on it?

A If my recollection is correct, I think he proceeded to all down to a resident agency down in Florida to have them check the airport.

Q Would you answer my question, agent Brady, which is, did agent Good tell you not to do a 302 report on the incident with Mel claiming that the tapes were lost?

A John Good didn't instruct me either way.

Q Well, you were the agent who traveled with him, were you not?

A On all occasions?

Q No.

A I travleled with him now and then, yes.

Q And you knew on that occasion that he was claiming some tapes were missing, did you not?

A Yes.

Q And you were in on the operation, were you not?

A Yes.

Q And the routine procedure, the required procedure in the Federal Bureau of Investigation is for an agent to do a 302 report when any significant incident occurs, is that right?

A But my superior would be --

Q Answer my question to the jury.

A Can you repeat it?

Q It is the policy , rather strictly enforced, in the bureau, is it not, that when an agent is engaged in some operation of whatever kind, and a significant event or incident occurs, he is to prepare a 302?

A I don't know if that is correct.

Q How long have you been an agent?

A Four years.

Q Four full years up to today?

A In excess of four years up to today.

Q So you were close to four years last January?

A To be exact it is four yeasr this past June.

Q Are you telling the jury that you don't know

whether you are supposed to do a 302?

A At that time there was no necessity for me to do a 302 because my superior was there.

He took command of the situation and it wasup to him to delegate authority on who should do what.

Q What other agents were there?

A I believe Mr. Amoroso was there.

Q Anybody else?

A My recollection is not that good but possibly Mr. Haridopolos.

Q You didn't do a 302 so it would not help your recollection today, is that correct?

A That's correct.

Q So can I fairly say that Good was there and Tony Amoroso was there?

A Yes.

Q And if there is a 302 one of them did it, is that right?

A If there is a 302?

Q Yes.

A Yes.

I guess that would be a fair statement.

Q Is there in fact a written report of what

happened when the tapes are alleged to hvae been lost or stolen?

Have you seen it?

A I have not seen it.

Q Do you know if there is one?

A I don't know.

MR. DUFFY: That's all.

THE COURT: Mr. Cacheris.

MR. CACHERIS: No.

THE COURT: Mr. Brown.

MR. BROWN: One question.

CROSS-EXAMINATION

BY MR. BROWN:

Q You took over for Mr. McCarthy as financial agent for Abdul, is that correct?

A That is not correct.

Q You took over in March?

A March '79.

Q Who was your predecessor?

A Special agent Daniel Melore.

Q Malloy?

A Melore.

Q I see.

Was McCarthy still on board then in ABSCAM?

A In March? Yes, he was.

MR. BROWN: Thank you.

THE COURT: Mr. Puccio, any questions?

MR. PUCCIO: Just a couple, Judge.

CROSS-EXAMINATION

BY MR. PUCCIO:

Q Mr. Brady,were you at the Iron House in Cherry Hill on August 7th and 9th, 1979?

A In most likelihood I probably was.

Q Were you also thre September 14th?

A I was traveling with special agent Amoroso and Mr. Weinberg extensively at that time so I probably was.

Q Would you look at this list and see if it refreshes your recollection as to --

MR. PUCCIO: May I approach the witness, sir?

THE COURT: Yes.

Q -- as to whetheror not you were at Cherry Hill in August and September?

THE COURT: For the record is the document you have given to the witness the list of tapes?

MR. PUCCIO: Yes, your Honor.

(Pause.)

A I can see from the tapes that in September

I was because my initials are in one of the overhears. And knowing that the meeting that took place on August 22nd at the International Hotel where Mr. DeVito and Mr. Weinberg met Mr. Myers, I know I was down in -- I can remember I was down in Cherry Hill down at that time preceding that.

Q Would that be the Auust 7th and 8th meetings?

A Yes.

Q All right.

Were there any other meetings in August or September in Cherry Hill that you attended?

A There was one meeting and I don't know the date, that I did attend.

But I always attended it in a very casual fashion, not as a major participant.

Q And that was in August or Sepember?

A I would believe so.

MR. PUCCIO: No further questions.

THE COURT: Any other questions for Mr. Brady?

MR. BEN-VENISTE: Yes, your Honor, one or two.

Q Were you in charge of actually approving Mr. Weinberg's expenses or was somebody else involved in that?

A I was delegaged to go over Mr. Weinberg's expenses, and being the accountant and being responsible for monies that were distributed,I did look them over and make a judgment.

Q Who made the determination that Weinberg was to be reimbursed for his clothing and his haberdashery?

A I would consider that myself and I made my supervisor aware of it.

Q So you approved if Weinberg went out and bought a suit that that be considered an expense and you paid him for it?

A Providing that I notified my supervisor of what I was going to do.

Q So the ultimate decision was Mr. Good's?

A Yes.

Q And were there other items where you sought Mr. Good's approval before you would pay Mr. Weinberg?

A Rather than approval I just made him aware of what I was doing.

Q With respect to tax returns, were you aware of the fact that Mr. Weinbdrg viled no tax return for

1979?

MR. PUCCIO: I object, Judge.

THE COURT: I will let him answer.

Overruled.

A I became aware of that recently.

Q How recently?

A I think sometime in February.

Q And between February and now -- well, the tax return wasn't due until March 1980 -- I am sorry, April 1980; is that right?

A According to the regular principles, yes.

Q Well, did somebody tell Mr. Weinberg as far as you know that he was not going to have to file a tax return for 1979?

A No.

Q And did you know that Mr. Weinberg had filed no tax return for 1978?

A I did not know that.

Q This is the first you learn of it?

A Today?

Q Yes.

A No.

From your questioning and from what I have seen in the papers and in the office from the questions,

you know, things that happen in the office, I became aware of it.

Q So I take it there was no indication as far as you know that someone had excused Mr. Weinberg from filing his taxes in 1978?

A Definitely not.

Q Do you know that he filed any tax returns in 1977?

A No. I don't know whether he did or he didn't.

Q Do you know whether he filed one for '76 or '75?

A I don't know one way or another.

Q Have you or anybody in the office made any effort to find out --

MR. PUCCIO: I object to this, Judge.

THE COURT: Sustained.

MR. BEN-VENISTE: Nothing further.

THE COURT: Any questions for Mr. Brady?

(No response.)

THE COURT: Thanks, Mr. Brady, you may step down. Next witness.

MR. BEN-VENISTE: Your Honor, the next witness will probably go on for a bit.

THE COURT: Side bar.

# I N D E X


| WITNESSES | DIRECT | CROSS | REDIRECT | RECROSS |
|---|---|---|---|---|
| MICHAEL MYERS | | 2892 | 3025 | 3028 |
| JOSEPH DI LORENZO | 3065 | 3082 | 3109 | 3114 |
| DEBRA PROCACCI | 3124 | 3127 | | |
| MICHAEL DUFFY | 3130 | 3142 | 3165 | |
| ROBERT W. GREENE | 3166 | 3174 | | |
| BRUCE EDWARD BRADY | 3180 | 3190 | | |


## EXHIBITS


| DEFENDANT'S | DESCRIPTION | IDEN. | EVID. |
|---|---|---|---|
| T-1 to T-10 | Transcripts of tapes | | 3060 |
| T-13 | " " " " " " " " " tape | | 3064 |
| Y,Z | Document | | 3076 |
| U | " " " " | | 3159 |

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | Investigation Pursuant to H. Res. 608 |
| Representative | ) | |
| | ) | |
| MICHAEL O. MYERS | ) | |

Appendix to Special Counsel's
Preliminary Inquiry Report

Volume IV

E. Barrett Prettyman, Jr.
Special Counsel
Allen R. Snyder

Hogan & Hartson
815 Connecticut Avenue, NW
Washington, D.C. 20006

82-077 O—81——128 (Pt. 1) BLR

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA,

-against-

MICHAEL O. MYERS, ANGELO J. ERRICHETTI, LOUIS C. JOHANSON, HOWARD L. CRIDEN,

Defendants.

----------x

80 CR 00249

United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

August 27, 1980
9:30 o'clock A.M.

B E F O R E :

HONORABLE GEORGE C. PRATT, U.S.D.J.

MICHAEL PICOZZI
OFFICIAL COURT REPORTER

A P P E A R A N C E S :

EDWARD R. KORMAN, ESQ.,
United States Attorney for the
Eastern District of New York

Department of Justice
Strike Force
Brooklyn, New York

BY: THOMAS P. PUCCIO, ESQ.,
LAWRENCE H. SHARF, ESQ., and

Special U.S. Attorneys

Attorneys for the Government

MESSRS. HUNDLEY & CACHERIS, P.C.
1709 New York Avenue, N.W.
Washington, D.C. 20006

BY: PLATO CACHERIS, ESQ., and
LARRY S. GONDELMAN, ESQ., of Counsel

Attorneys for the Defendant Michael O. Myers

BROWN & BROWN, ESQS.,
26 Journal Square
Jersey City, New Jersey

BY: RAYMOND A. BROWN, ESQ., and
HENRY F. FURST, ESQ., of Counsel

Attorneys for the Defendant Angelo J. Errichett

1 A P P E A R A N C E S : (Continued)

2 MESSRS. CARROLL, CREAMER, CARROLL & DUFFY
3 Suite 326 Three Penn Center Plaza
Philadelphia, PA 19102

4 BY: JOHN J. DUFFY, ESQ., and
5 JANE DUFFY
Attorney for the Defendant Louis C. Johanson

6

7 MESSRS. MELROD, REDMAN & GARTLAN
8 1801 K. Street, N.W.
Washington, D.C. 20006

9 BY: RICHARD BEN-VENISTE, ESQ., and
10 NEIL I. LEVY, ESQ., of Counsel

11 Attorneys for the Defendant Howard L. Criden

12

13 * * *

14

15

16

17

18

19

20

21

22

23

24

25

* * *

You may proceed. We are on Mr. Ben-Veniste's case.

MR. BEN-VENISTE: Yes, your Honor.

We would call Agent McCarthy.

J O H N Mc C A R T H Y, called as a witness, having been first duly sworn by the Clerk of the Court, took the stand and testified as follows:

THE CLERK: Please state your full name?

THE WITNESS: John McCarthy.

THE CLERK: Will you spell your last name for the record.

THE WITNESS: M-c C-a-r-t-h-y.

THE CLERK: Please be seated.

THE COURT: All right, Mr. Ben-Veniste, you may proceed.

MR. BEN-VENISTE: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. BEN-VENISTE:

Q Agent McCarthy, you are an agent of the

FBI?

A Yes, sir.

Q How long have you been an agent for the FBI?

A 18 years.

Q And in 1977 where were you stationed?

A I was assigned to the Babylon resident agency of the Federal Bureau of Investigation out of the New York office at that time.

Q And at that time did you have occasion to meet a man by the name of Melvin Weinberg?

A Yes, sir.

Q Under what circumstances did you meet Mr. Weinberg?

A I arrested him at his office at London Investors for mail fraud by wire on a warrant issued out of the Western District of Pennsylvania.

Q And he was subsequently charged in an indictment out of Pennsylvania?

A Yes, sir.

Q And he pleaded guilty to all the counts of that indictment, did he not?

A Yes, sir.

Q Then he was sentenced to three years imprisonment?

A Yes, sir.

Q Was there a secret deal when he was sentenced to th three years of imprisonment that the Judge didn't really mean what he said?

MR. PUCCIO: I object to the form of the question.

THE COURT: Sustained.

Q Was there a secret deal at the time that the Judge sentenced him in the Pennsylvania case?

MR. PUCCIO: Same objection, Judge.

THE COURT: Overruled. You may answer.

A I don't understand what you mean by secret.

Q In other words, the Judge stood up and sentenced Mr. Weinberg to three years of imprisonment? Do you recall that?

A I recall being in the Judge's chambers.

I don't believe I was in the Courtroom at the time of sentencing. So I wouldn't know from my own personal knowledge exactly--

Q But you learned that he was sentenced to three years?

A Yes, sir.

Q And then subsequently the sentence was reduced to probation?

A On application of the defendant's attorney, yes sir.

Q Right.

And what I am asking you is whether at the time that he was sentenced to the three years you understood that he was guaranteed a reduction in that sentence?

A Well, the way I recall the incident, Mr. Ben-Veniste, was that we had discussed -- we had discussed with the Judge Mr. Weinberg's possible cooperation with us.

He said, if I remember correctly, that he was bound by whatever the probation report recommended. And at that time I think the probation report recommended three years imprisonment. He would take into consideration possibly an application for reduction of sentence perhaps a month later. But at the time he was bound by what was said in the probation report.

Q So that as of that date that he sentenced Weinberg to the three years he meant three years?

A As far as I know he did, yes sir.

Q Nobody told Weinberg he didn't mean three years?

MR. PUCCIO: I object.

Q As far as you know?

A I didn't tell him.

Q Now, there came a time when Mel Weinberg was used in an undercover capacity in ABSCAM?

A Yes, sir.

Q And you worked with him in that capacity as well?

A Yes, sir.

Q Incidentally, did you debrief Mr. Weinberg in connection with the Pennsylvania guilty plea?

A What do you mean by debrief?

Q Well, after he had agreed to plead guilty and cooperate with the FBI, did you debrief him about his knowledge as to various matters?

A Well, I still don't understand -- do you mean did I ask him --

Q Did you question Mr. Weinberg?

A Did I question Mr. Weinberg about his activities in connection with London Investors?

Q Yes.

A I believe so, I did, yes.

Q Did you question him about his activities in matters that preceded the London Investors scam?

A No, sir.

Q Did he volunteer any information about his

activities?

A No, sir.

Q Did you question him about other persons who were involved in the London Investors scam?

A No sir, not directly, no. Much of the information that Mr. Weinberg furnished me about the London Investors was strictly gratuitous. In other words, there was no question and answer dialogue after he had been convicted, you know, the reason for it.

Q Well, let me ask you this, were you aware that Mr. Weinberg had franchised that scam to a bunch of other con men all over the world?

A No, sir.

Q Would that have been a matter of interest to the FBI?

A Th interest of the FBI would be the victims of the scam.

Q You were not interested in prosecuting the people who were involved in the scam?

A Yes, I was.

Q With Mr. Weinberg?

A The only one that came up was the main character in London Investors, which was Mr. Weinberg.

Q So as far as what Mr. Weinberg told you, the

London Investors scam was limited to his involvement and that of his girl friend, Miss Knight?

A As far as I was concerned, yes sir.

Q So if Mr. Weinberg says that he spent three days talking about all of the things he did in the past prior to London Investors, as far as you know is not true?

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q Do you know of any report of a debriefing of Mr. Weinberg wherein he laid out his lifelong criminal history?

A No, sir.

MR. PUCCIO: I object to it,your Honor.

THE COURT: Overruled.

Q Now, you knew at least on the basis of the London Investors scam that Mr. Weinberg was a con man?

A Yes, sir.

Q Did you know, incidentally, anything about his tax situation at the time that you employed him in the ABSCAM investigation?

MR. PUCCIO: Objection, your Honor.

THE COURT: Sustained.

Q Well, did you ever talk to Mr. Weinberg about

his tax situation?

MR. PUCCIO: Objection, your Honor.

THE COURT: It is irrelevant. Sustained.

Q Well, are you aware now that Mr. Weinberg has not filed income taxes for '79 and '78?

MR. PUCCIO: Objection.

THE COURT: Still irrelevant. Sustained.

Q Did you ever promise Mr. Weinberg that he would not be prosecuted in connection with the filing of income taxes?

MR. PUCCIO: Judge, I object.

THE COURT: No. I will let that one stand. You may answer.

A No sir, I never promised him anything.

Q As far as you know did anybody in the FBI promise him anything?

A No, sir.

Q Was that because you didn't know he had in some way violated the IRS regulations?

MR. PUCCIO: Objection, your Honor.

THE COURT: Sustained.

Q Did you think that Mr. Weinberg was the kind of guy that you would want to keep your eye on, Mr. McCarthy?

A I don't know what you mean by keeping my eye

on him.

Q Well, you knew he was a con man?

A Yes, sir.

Q You knew at least on the basis of what he told you about London Investors that he had swindled people out of about a quarter of a million dollars?

MR. PUCCIO: I object to that, your Honor.

THE COURT: Sustained.

Q You knew he was a big league swindler, didn't you?

MR. PUCCIO: I object to that, your Honor.

THE COURT: Do you know what that term means?

THE WITNESS: No sir.

I would like him to explain it.

Q All right, let's put that in the region of a quarter of a million dollars for the purposes of one scam?

A I knew he was a good con man obviously from his record. But there are other con men who were just as good.

Q You would not rank him first in the world?

MR. PUCCIO: I object to this,your Honor.

THE COURT: Sustained.

Q Now, did you think that employing Mr. Weinberg

services when he came up with the idea of ABSCAM that you ought to keep an eye on him, sir?

MR. PUCCIO: Objection, your Honor.

THE COURT: Sustained.

Q Did you supervise Mr. Weinberg at some period in the ABSCAM investigation?

A Yes, sir.

Q And did you work closely with him?

A Yes, sir.

Q And at some point you were relieved of your undercover responsibilities in that case?

Is that right?

A Yes, sir.

Q And when was that?

A On or about March 31, 1979.

Q And Agent Amoroso took over what you were doing basically? Is that fair to say?

A Yes, sir.

Q Now, was there any question in your mind, sir, that if you found that Mr. Weinberg was engaged in anything improper or illegal that you would not hesitate to lock him up again?

A Will you rephrase the question? Will you restate the question?

Q Was there any question in your mind, sir, that if you found out that Mr. Weinberg was engaged in anything improper or illegal that you would not hestitate to lock him up again?

A Yes, sir.

Q There was a question in your mind?

A No, there wasn't a question.

Q And that was made clear to Mr. Weinberg, was it not?

A Yes, sir.

Q And have you learned that Mr. Weinberg withheld certain information from you?

A No, sir.

Q Did you know that Mr. Weinberg had made a tape recording of a conversation with an individual named Meltzer?

A Yes, sir.

Q Had he turned that tape recording over to you, sir?

MR. PUCCIO: Objection, your Honor, irrelevant.

THE COURT: Sustained.

Q Did anyone explain to you, sir, the reason why you were being replaced by Mr. Amoroso?

MR. PUCCIO: Objection, your Honor.

THE COURT: Sustained.

MR. BEN-VENISTE: Can we get a yes or no, your Honor?

MR. PUCCIO: Same objection, irrelevant, your Honor.

THE COURT: Sustained.

MR. BEN-VENISTE: May I argue that at the side bar, your Honor, on the question of relevance. I do not want to do it improperly if it is in front of the jury.

THE COURT: I will hear you at side bar.

MR. BEN-VENISTE: Thank you.

(Continued on next page.)

* * *

Q Mr. McCarthy, you were aware, were you not, of certain FBI guidelines regarding the evaluation and control of informers, were you not?

A Yes, sir.

MR. PUCCIO: I object to it, your Honor.

THE COURT: I am sorry, I missed the question.

MR. BEN-VENISTE: I believe the witness answered the question in the affirmative, your Honor.

The question was that you were aware, were you not, that there were guidelines regarding the evaluation and control of informers.

MR. PUCCIO: I object to it as irrelevant, Judge.

THE COURT: Sustained.

Q Did there come a time in the course of the ABSCAM investigation, Mr. McCarthy, where you represented yourself as being an advisor to the Kennedy family of Massachusetts?

A No, sir.

Q Never happened, sir?

A No, sir.

Q Did you ever hear that you had been so characterized by others in the investigation?

A I heard that, yes sir.

But that wasn't true, no sir --

Q In other words, you didn't make the representation yourself?

MR. PUCCIO: Objection. Asked and answered.

THE COURT: Overruled.

Is that correct?

THE WITNESS: Excuse me, Judge, I wasn't listening.

THE COURT: You didn't make the representation yourself?

THE WITNESS: No, sir.

Q But someone had made the representation about you?

MR. PUCCIO: Objection.

MR. BEN-VENISTE: As far as he knows?

MR. PUCCIO: Same objection.

THE COURT: Is that what you heard?

THE WITNESS: I heard something to that effect, your Honor.

MR. BEN-VENISTE: Nothing further.

THE COURT: Mr. Duffy. Any questions?

MR. DUFFY: Just a few your Honor.

CROSS EXAMINATION

BY MR. DUFFY:

Q Agent McCarthy, would you say you look like a cop?

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q Do you remember an agent named --

MR. DUFFY: No offense, sir.

Q (Continuing) Do you remember an agent named Margo Kennedy?

A Margo Kennedy? I don't know how to answer that because that is not her name.

I know an agent named Margo, yes.

Q Did she use the name Margo Kennedy?

A Yes, sir.

Q And her real name was Dennedy?

A Yes, sir.

MR. DUFFY: And I don't know how to spell it.

Q Did she represent herself to be plugged in with the Kennedy family?

MR. PUCCIO: Objection.

Q (Continuing) The Kennedy family people?

THE COURT: I will permit it. Overruled.

A No sir, she never did.

Q Have you heard that others in the investigation attributed that relationship to her?

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q And let's go back to Pittsburgh.

You say that you conducted no debriefing of Mel Weinberg for three days or any period of days, is that right?

A Yes, sir.

Q I think I heard you say that he gratuitously told you some things about London Investors?

A Right.

Q Would it be fair to say that Mel Weinberg told you whatever he wanted you to know about London Investors?

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q You were at that time in the business of apprehending and arresting criminals, were you not?

A Yes, sir.

Q Are you telling this jury that when the arrangement or the deal was made with Mel Weinberg to get probation that you were not at all interested in any other parties who might have been sharing in Mr. Weinberg's guilt

in the scam that he had just brought forward?

MR. PUCCIO: Objection.

THE COURT: You understand that question?

THE WITNESS: No, I would like him to repeat it.

MR. DUFFY: Well, I will withdraw it and ask another.

Q Didn't you know when you arrested Mr. Weinberg and you got into the investigation that he didn't do a solo in this London Investors thing?

That he had help?

A Yes, sir.

Q And you knew that one of his helpers was Lady Evelyn Knight, did you not?

A Yes, sir.

Q And she got probation, didn't she?

A Yes, sir.

Q In fact she wasn't even prosecuted, was she?

A She plead guilty.

Q Didn't she get deferred prosecution?

A Not that I am aware of. She plead guilty.

Q She didn't go to jail?

A No.

Q Now, you knew also that there were other

1 people involved in the London Investors scheme, did you not?
2 A Yes, sir.
3 They were tried in other districts.
4 Q Who were they?
5 A I'm not aware of them because most of the
6 United States Attorneys throughout the country deferred in
7 favor of prosecution in the Western District of Pennsylvania.
8 Q And the only two prosecuted in the Western
9 District of Pennsyvlania were Mel and Lady Evelyn Knight?
10 Is that right?
11 A Yes, sir.
12 Q Now, you became aware that Weinberg had
13 run this scam and you got to work with him in the Abdul
14 Enterprises, is that right?
15 A Yes, sir.
16 Q Would you characterize Weinberg's role in
17 Abdul Enterprises and his role in what we now call the
18 ABSCAM to be the very heart and soul of the scam?
19 A That is hard to say, sir.
20 There were an awful lot of people associated
21 with ABSCAM.
22 Q Did you have some disagreement with Mel
23 along the way particularly before March 31, 1979?
24 A Any disagreement at all?
25

MR. PUCCIO: Same objection, your Honor. Irrelevant.

THE COURT: I will let him answer it. Overruled.

A I don't know what you mean by disagreement.

Q I don't know another word that is more clear, sir.

A I think everybody has disagreements from time to time. No major disagreement, no.

(Continued on next page.)

Q I want you to tell the jury whether you had some disagreements with Mel Weinberg?

A I didn't have any major disagreement with Mr. Weinberg.

Q But you wound up being taken off the investigation?

MR. PUCCIO: I object, your Honor.

THE COURT: That has been asked and answered.

Q Back at that time in '79 were you working closely with any Government lawyers in this investigation?

A Yes, sir.

Q Who was the lawyer who was in charge?

A Mr. Jacobs.

Q Who?

A Mr. John Jacobs.

Q Where does he work?

A Here in the Eastern District.

Q In which office?

A Strike force.

Q Who was his boss?

A Mr. Puccio.

Q Who was in charge of the ABSCAM investigation during all that period of time?

A Do you mean my supervisor?

Q No, who was running it?

What lawywer?

MR. PUCCIO: I object as being irrelevant.

THE COURT: Sustained.

Q Mr. Puccio was the boss, was he not?

MR. PUCCIO: Objection, Judge. Asked and answered.

THE COURT: Sustained.

MR. DUFFY: That is all.

THE COURT: Mr. Brown.

(Continued on next page.)

MR. BROWN: May I question from here, your Honor.

CROSS EXAMINATION

BY MR. BROWN:

Q Mr. McCarthy, you are -- did you have a name in the operation?

A Yes.

Q You had a name in the operation, is that correct?

A Yes.

Q What was that?

A John M. McCloud, M-c C-l-o-u-d.

Q Were you the first agent assigned to commence the operation that became known as ABSCAM?

A Yes.

Q When was that, sir?

A I guess in July, 1978.

Q July '78?

A Around there. We officially began.

Q Was Mr. Weinberg associated with it from the beginning?

A Yes.

Q Actually he started July '78, is that correct?

A Officially, yes.

Q There came a time when you met Mr. Errichetti?

A Yes.

Q What month was it that you met him?

A The first time I met Mr. Errichetti was Decmeber 1, 1978.

Q From then on you came to know him rather well?

A Yes.

Q Until March?

A March 31,1979, yes sir.

Q In that period, you were known to him as Mr. McCloud, of course, in what context, Mr. McCloud representing whom?

A I was the Chairman of the Board of Abdul Enterprise.

Q You represented -- there was a Sheik at the head of it?

A The title was --

Q Let me ask you.

What did you say was the situation?

A Our company represented a Middle Eastern Emir.

Q What is that?

A An Emir is a Middle Eastern Prince or Military

Council or Leader.

Q He had -- was there a gentleman represented as a Sheik during your tenure.

A Yes.

Q In addition to the Emir?

A Yes.

Q What was the name of the Emir?

A Kamine Abdul Ramon.

Q And the Sheik?

A Yassir Abeed.

Q There was an Emir and a Sheik?

A Yes.

Q Did that ever change so we had two Sheiks instead?

A Not to my knowledge.

Q When you represented yourself as being asociated with this Empire, what did you offer to Mayor Errichetti in terms of a transaction to deal with this?

A Bascially we said we were interested in investing in projects which would not only get the money from the Middle East, but once the money was placed to get a good return on this money.

Q Did you also suggest to him, an urge, that the money be used for legitimate City projects, like the

port?

A He suggested that to us.

Q Legitimate?

A He suggested it.

Q What happened to that suggestion?

A That suggestion?

Q Yes.

A We considered it. We made several trips to Camden to see the feasibility of it.

Q All this is as far as the Mayor was concerned, good ernest, good faith and legitimate?

A I guess so.

Q That is what you represent?

A Yes.

Q He was interested in that for his City?

A I don't know what his intention was.

Q He wanted to develop the Port of Camden?

A Yes, he suggested that.

Q During this period, did you in any way infer you were a friend of the Kennedy family?

A No, sir.

Q Didn't you mention the Kennedy family at all?

A I personally mentioned the Kennedy family?

Q You or your fellow operatives in the scheme of thins?

A Did they mention the Kennedy name?

Q Yes.

A I don't recall whether they did or not.

Q You wouldn't say yes or no?

A No.

Q What about Margo Kennedy, she's an FBI lady?

A Yes.

Q Do you know why the Margo Kennedy was selected since that wasn't her true name?

A I believe she used that name before.

Q Used --

A She had identification.

Q Was there any suggestion or inference made to your knowledge that she was in some way associated with the Kennedy family?

A No,sir.

Q That sas just accidental?

A Yes, sir.

Q As time went on, you enjoyed the Mayor's hospitality from time to time?

A Yes.

Q On one instance in January, February, you

stayed at the Hyatt House?

A Yes.

Q That was an incident that involved you and Margo in a particular way, didn't it?

A (No response.)

Q You were supposed to be checked in the same room?

A In the Hyatt House?

No, sir.

Q Was there a hotel where you and she were supposed to be sharing the same room?

MR. PUCCIO: I object to this.

MR. BROWN: I want to go into the issues.

We can have a side bar.

MR. PUCCIO: I will withdraw the objection.

THE COURT: All right. You may answer.

A At Cherry Hill is that?

Q Yes.

A There was a suite, yes. A two bedroom suite.

Q Where was it that you shared -- at Atlantic City or Cherry Hill -- allegedly shared the suite with Margo?

A I never shared a suite with Margo.

Q Allegedly, proposed --

MR. PUCCIO: Objection.

THE COURT: Sustained as to form.

Q Was there an occasion where in the course of the plan or design you on the surface and for appearance sake checked into the same room as Margo at a time when the Mayor paid for the room?

A I was at Atlantic City with Margo Kennedy.

Q You allegedly checked into the same room?

A Yes.

Q Was that designed to deceive the Mayor for some purpose?

A It wasn't a two-bedroom suite. The original plan called for a two-bedroom suite at Atlantic City and Cherry Hill. Unfortunately, in this particular Holiday Inn they didn't put it in.

Q You couldn't take a separate room?

A I stayed with another individual.

Q You snuck down the back stairs?

A No.

Q Was all of this to deceive the Mayor?

A No.

Q You were certainly not going in there dealing with him on the basis that you represented yourself -- withdrawn.

You were under false colors for the purpose of your operation, right?

A There are certain things that I can get into. Actually the Mayor had made representations to me which bordered on Federal violations.

Q You were -- I didn't ask you that.

You were operating under false cover?

A Yes.

Q You had a false name?

A Yes.

Q That is all I am asking. I am not asking why you did it.

This was for your purpose as a Federal Officer?

A Yes.

Q You were continued to masquerade for some time for you purposes as a Federal Officer, is that correct?

A Yes.

Q Throughout the period when you masqueraded, you represented yourself as a legitimate businessman and friend, is that correct?

A As a legitimate businessman and friend.

Q You cultivated his friendship as well?

A Yes.

Q Whatever the reasons as a Federal representative, you operated under false color and name?

A Yes.

Q This was part of the design ultimately to continue this representation, Abdul Enterprise is a legitimate outfit with plenty of money?

MR. PUCCIO: Objection. There are two questions.

THE COURT: Sustained as to form.

Q As long as you were involved up until March, you represented yourself for your purposes as someone you were not, right?

A Not really entirely. A lot of the background we reported to Mr. Errichetti was true.

Q Did you say to him I am really Mr. McCarthy, McCloud, representing a fake Emir and Sheik and I am a Federal Officer doing my job?

A No, I didn't say that.

Q You didn't do that?

A No.

Q To that extent, you did falsely represent --

A To that extent.

Q That was by design or plan?

A (No response.)

Q To continually falsely represent?

A Not continually.

Q When did you not continuously --

A There were certain parts of my background I gave to Mr. Errichetti that were true.

Q Like what?

A I was an attorney, that I had some contacts in the Boston area which was true, my family originally comes from up there.

Q You didn't mention the Kennedys?

A No.

Q What was the relevance of Boston? What was that supposed to --

A A place to come from.

Everybody has to have a home.

Q So you represented yourself as a real person and really came from somewhere, right?

MR. PUCCIO: I object.

Q Beyond that, everybody else was false?

A As far as my association -- yes.

Q Of course.

When you replied to Mr. Duffy, you heard someone saying you were associated with the Kennedys --

A I heard that.

Q Who did you hear that from?

MR. PUCCIO: Objection.

THE COURT: Sustained.

MR. BROWN: This is part of it, if I may.

THE COURT: He didn't object the first time, the second time he objected. I sustained it as irrelevant.

Just because you had one irrelevance in, doesn't let you compound it.

MR. BROWN: I would expect to argue --

THE COURT: I heard it all at side bar so many times. Objection is sustained.

MR. BROWN: Your Honor, you say that I cannot have a side bar?

THE COURT: On that point, it is unnecessary. Go on with the case.

Q As far as the case is concerned, when you left in March, you were still misrepresenting yourself except you were a lawyer and came from somewhere, everything else was --

MR. PUCCIO: Objection.

THE COURT: Sustained as to form.

Q Was it a part of the design to have Mel

Weinberg display his lack of loyalty to his employer, that is to say, Abdul, for the purpose of the scheme or design?

MR. PUCCIO: I object.

THE COURT: On what ground?

MR. PUCCIO: Relevancy.

MR. BROWN: There has been testimony which I can call to your attention.

THE COURT: Overruled.

Do you understand what he is asking?

THE WITNESS: No.

Q Did there come a time when it was part of the scheme that Mr. Weinberg was to represent that he was not entirely loyal to his employer, alleged employer, the Sheik, but was willing to help take some of those Arab dollars away from him?

A I was aware of that, yes.

Q You were aware of that?

A Yes.

Q You were aware of the fact this became a part of the design to sell the objects of the game, Weinberg was to say: I will work with you guys and we will rip off the Sheik a little bit?

A Yes.

Q When was that design put into effect?

A I don't recall.

Q Would you say before you left?

A There was some talk about it, yes.

Q Weinberg did actually put that into effect, did he not?

A I don't know from personal knowledge. I wasn't there when he actually misrepresented or represented or whatever he did in that particular line with others.

Q Let me call it the -- take the goose that laid the golden egg idea --

MR. PUCCIO: I object to the statement.

THE COURT: Sustained.

MR. BROWN: If your Honor pleases, that is part of the evidence.

THE COURT: Ask questions.

MR. BROWN: I am asking.

THE COURT: You're making a statement.

Q Did you ever hear the phrase: "The goose that laid the golden eggs, let's get a piece of it?"

A No.

Q Did you ever hear Weinberg say he is going to say he is disloyal to the Sheik?

A Yes.

Q Where did you hear -- you said you heard it --

before you left?

A From others.

Q You heard it from others?

A Yes.

Q When you finally left ABSCAM in March '78, that particular phrase of the operation had not been put into action, is that correct?

A I don't recall.

I don't recall whether it had or not.

Q You are aware thereafter it was put into action?

A From personal knowledge, I heard about it, yes.

Q So that you know from whatever source --

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q Did you hear these facts that he is doing it this way --

MR. PUCCIO: Same objection.

THE COURT: Sustained.

Q You said you did indeed hear such a plan was put inton effect, is that correct?

MR. PUCCIO: Objection as to what he heard, Judge.

THE COURT: You didn't object before when he asked a question. When he said he heard it.

What is the next question.

MR. BROWN: I beg your pardon?

THE COURT: What is the next question?

Q Did you hear this from Weinberg personally or agents of the FBI or Government?

MR. PUCCIO: I object.

THE COURT: Sustained.

Q From whom did you hear it?

MR. PUCCIO: Same objection.

THE COURT: Sustained.

Q Isn't it a fact that you as the agent, you were the agent in control until March '78?

A Yes, sir.

Q You do know the idea was conceived prior to your leaving?

A I understand that, yes.

Q Weren't you the agent in control?

MR. PUCCIO: I object, asked and answered.

THE COURT: Sustained.

Q As the agent in control, didn't you have anything to do with whether or not this was a proper and decent approach towards the project?

MR. PUCCIO: Objection.

THE COURT: Sustained.

MR. BROWN: I have no further questions.

THE COURT: Do you have any questions, Mr. Puccio?

CROSS EXAMINATION

BY MR. PUCCIO:

Q Mr. McCarthy, were all of your dealings with Mayor Errichetti legitimate ones?

A No, sir.

MR. BROWN: I object. I've asked about nothing but legitimate dealings.

THE COURT: Overruled.

Q Now, on January 20, 1979, did you in fact --

MR. BEN-VENISTE: Objection.

MR. BROWN: May I have a side bar?

THE COURT: Side bar.

(Continued on next page.)

* * *

* * *

(The following took place in open court.)

THE COURT: Any other questions?

MR. PUCCIO: No further questions.

THE COURT: Any other questions of Mr. McCarthy?

MR. DUFFY: My daughter reminded me that I did forget something. I would ask permiss to re-examine.

THE COURT: Proceed.

CROSS-EXAMINATION

BY MR. DUFFY (Cont'd):

Q Agent McCarthy, you answered Mr. Ben-Veniste about Pittsburgh and the meeting with the Judge, do you recall that?

A Yes.

Q Is it your testimony that the Judge -- when was the meeting with the Judge, at which the probation report

was discussed?

A Sometime in December of '77.

Q Can you estimate it in connection with the day he was sentenced? Was it before sentencing or the same day?

A The same day.

Q That day the probation report suggested or recommended imprisonment, did it not?

A I didn't see the probation report.

Q But the Judge told you that he followed the report?

A He said he was going -- indicated he would follow up the report recommended.

Q I think you told the jury that he told you the report recommended incarceration?

A I think so, yes.

Q What you actually did is that you, or the other fellows in the FBI, went to the probation people and got the report changed; is that correct?

A No, sir.

Q Are you saying there was no supplemental report filed?

A I don't know if there was or not, sir. We never approached the Probation Department at all on that.

Except to -- we wrote a letter to the effect that Mr. Weinberg indicated he would cooperate. As far as having a report changed --

Q To whom did you write the letter?

A I think to the Probation Department in Pennsylvania.

Q What was the purpose of writing the letter?

A To indicate that Mr. Weinberg was willing to cooperate with the FBI.

Q This was after the Judge told you that he followed the Probation Department's recommendation?

A I don't think so. It was before.

Q You didn't write the letter to influence their report, did you?

A No, sir.

MR. DUFFY: That is all.

* * *

* * *

21 J O H N M c C A R T H Y, having been previously sworn,
22 resumed the stand and testified further as follows:
23 CROSS-EXAMINATION
24 BY MR. DUFFY (Cont'd):
25 THE COURT: Mr. Duffy, do you have some more

questions?

MR. DUFFY: Yes, I do, in the light of what went on at the side bar.

Q Agent McCarthy --

MR. DUFFY: May I approach the witness?

THE COURT: Yes.

Q -- I want to show you a copy of a letter supplied to us by Mr. Puccio marked Defendants' Exhibit X, and ask you to read that.

A Well, it says --

Q Read it to yourself and then I have some questions to ask you.

THE COURT: You say that is Exhibit X?

MR. DUFFY: Yes, sir.

(Witness examined document.)

Q Have you read it?

A Yes, sir. A Yes, sir

Q Are the contents of that letter familiar toyou?

A Yes, sir.

Q Is this the letter that was sent to Andrew Buckley, Chief United States Probation Officer in Pittsburgh?

A Yes, sir.

Q And was it signed by Supervising Senior Resident Agent John F. Good?

A Yes, sir.

Q And does it touch upon the plight of Melvin Weinberg?

A Yes, sir.

Q Did you also use the name in the letter, J. Wallace Loprade, Assistant Director in Charge?

A Yes, sir.

Q And who was he?

A He was assistant director in charge of the New York office ofthe FBI.

Q All right. Now having read this letter, is your recollection refreshed about what approach was made, to whom, in connection with Mel Weinberg's sentence in Pittsburgh?

A Well, the approach was to point out that Mr. --

Q Answer my question yes or no, and then you can explain.

THE WITNESS: Well, will you repeat the question.

Q Is your recollection refreshed about what went on with the Probation Department in Pittsburgh?

MR. PUCCIO: I object to the form, Judge.

THE COURT: Overruled.

A Yes, sir.

Q Will you tell the jury now what the FBI did and when they did it.

A What we did was to write a letter to the Probation Department pointing out the fact that Mr. Weinberg was cooperating with us in an investigation.

Q Did you write that letter before or after he was sentenced to jail?

A I don't know. I neglected to see what the date of that letter is.

Q Well, suppose you tell this jury what you remember.

A I don't recall when I wrote it. I don't recall whether it was before or after he was sentenced.

Q When was Mel Weinberg sentenced to jail?

A Sometime in December of 1977.

Q Was it December 10th?

A It may have been. I don't recall the exact date.

Q Did you see the date on this letter, December 19th?

A No, I didn't see it. That is why I asked you. I didn't know the date on it.

Q I will show it to you now.

MR. DUFFY: May I approach the witness?

THE COURT: Yes, sir.

Q (Cont'g) My question is, will you tell the jury whether this letter was written before or after Weinberg was sentenced.

A Well, if he was sentenced December 10th and the letter was written December 19th, then obviously it was after.

Q I don't want you to go on any representation from me or the defense. I want your recollections. What is your recollection?

A My recollection is I don't recall when I wrote the letter. The letter says December 19th, and that is when it was written.

Q But you told this jury before the recess that it was written before, didn't you?

A That is what I thought, it was written before. I wasn't sure. My recollection was that it was written before, but I wasn't sure.

Q Oh, did you tell me you were not sure?

A I am not sure whether it was written before. I recall writing the letter. I don't recall what date it was written on.

Q But you didn't write the letter, did you?

A Well, no, Mr. Loprade signed the letter, yes.

Q Did he sign the letter or did John Good?

A Mr. Good signed for Mr. Loprade.

Q Did Mr. Loprade know about the letter?

MR. PUCCIO: I object to this.

THE COURT: Overruled.

A Mr. Loprade? I assume so, yes, sir.

Q But you don't know?

A No.

Q You knew about the letter?

A Yes.

Q Did you tell this jury before the break, before the recess, that the letter was not intended to induce the Probation Department to make a different recommendation?

A Yes, sir.

Q You did tell the jury that?

A I said it was to point out to the Probation Department that the -- the cooperation that Mr. Weinberg had offered to us and continued to offer to us in the investigation.

MR. DUFFY: Your Honor, can we have a stipulation from the Government that the date of this letter followed Weinberg's sentence to imprisonment, sir?

MR. PUCCIO: Well, Judge, I would have to --

do you have a record of it? I will stipulate to it but --

THE COURT: I think the sentence was already in evidence weeks ago.

MR. BROWN: Your Honor, I have a recollection of December 10th, but I have been known to be incorrect sometimes.

MR. PUCCIO: If it is December 10th, we will stipulate this letter was written on the 19th.

MR. DUFFY: Was it December 8th?

THE COURT: The 8th rings a bell with me. I think it is already in evidence. If it is we will work out a stipulation and straighten it out.

MR. DUFFY: Thank you, your Honor.

BY MR. DUFFY:

Q I want to read a portion of this letter to you. You can read all of it if you would like afterward.

THE COURT: Are you offering it in evidence?

MR. DUFFY: Yes, sir. I offer it.

THE COURT: Any objection?

MR. PUCCIO: No objection.

THE COURT: Exhibit X received in evidence.

(A letter to Probation Department, December 19, 1977, was received in evidence as Defendants'

Exhibit X.)

MR. DUFFY: I will read the letter to him.

"Dear Mr. Buckley, Melvin Weinberg pled guilty to a 10-count indictment in connection with an advanced fee scheme wherein he was charged with mail fraud and fraud by wire. Since the entrance of his plea in October 1976, Weinberg has worked continuously with the Federal Bureau of Investigation with the result that information obtained through Weinberg will result in major indictments in the near future. During the time that Weinberg was cooperating with the FBI, he came into contact with individuals whom the FBI is contemplating targeting in the near future. Weinberg has indicated a willingness to continue his cooperation in the future, and his aid will be of invaluable assistance in the successful prosecution of the contemplated targets.

"It is respectfully requested that your department in conjunction with the United States District Court Judge in the Western District of Pennsylvania, William W. Knox, review Mr. Weinberg's file and if you feel Mr. Weinberg can safely associate with former colleagues without defeating the spirit of the law or the purpose of probation, your

consideration in permitting such activity would be greatly appreciated by this Bureau."

Is that the communication that was sent to the Probation Department?

A Yes, sir.

Q Are you telling this jury that the purpose in sending the letter was not to get Mel Weinberg placed on probation, sir?

A My -- the intention of that letter -- that was put in that letter was to ask the judge to do whatever he could so that his continued cooperation -- Mr. Weinberg's continued cooperation could be afforded.

Q Well, was it your understanding of the arrangement with Weinberg that he could safely associate with former colleagues while he was behind bars?

A Excuse me. I don't understand that.

Would you repeat the question?

MR. DUFFY: I don't have any further questions.

THE COURT: Any other questions for Mr. McCarthy?

(No response.)

THE COURT: All right, Mr. McCarthy, you may step down.

(Witness excused.)

THE COURT: Next witness.

MR. BEN-VENISTE: Your Honor, I call Mr. Weiss.

Your Honor, assisting Mr. Weiss will be Professor Aschkenasy, whom I would like to introduce to the Court. Of course he will not be testifying, but just so everybody knows who he is.

M A R K R O B E R T W E I S S, called as a witness, having been first duly sworn by the clerk of the court, took the stand and testified as follows:

THE CLERK: Please state your full name for the record.

THE WITNESS: Mark Robert Weiss.

THE CLERK: Please spell your last name.

THE WITNESS: W-e-i-s-s.

THE CLERK: Please be seated.

MR. BROWN: Your Honor, can we exchange seats?

THE COURT: Yes, as long as you don't block the jury's view.

MR. BROWN: In any special direction?

THE COURT: Can you locate yourselves wherever it is comfortable for you as long as you don't interfere with what the jury can see.

* * *

DIRECT EXAMINATION

BY MR. BEN-VENISTE:

Q Now, Professor Weiss, would you please tell the jury your educational background and your professional affiliations?

A Okay.

I graduated in 1952 with a Bachelor of Electrical Engineering Degree from the City College of New York.

In 1977 I obtained a Master of Science in Electrical Engineering from Columbia University.

My professional affiliations are that I am a member of the Institute of Electrical and Electronics Engineers.

I am a member and Fellow of the Accoustical Society of America.

And I am a member of the American Association for Forensic Sciences. And I believe that is a summary of those affiliations.

Q Are you a member of the Technical Committee on Speech Communications?

A I was a member of that during one term, yes.

Q Now, would you explain to the jury the positions

that you have held since you have completed your schooling?

A Well, in 1952 when I graduated City College I became a staff engineer at the Electronics Research Laboratories at Columbia working on various problems in electronics and accoustical analysis techniques.

MR. PUCCIO: Judge, we will stipulate the Professor's qualifications.

MR. BEN-VENISTE: Your Honor, I would like to have Professor Weiss' background. And I thank Mr. Puccio for the offer, but I would like them to hear Professor Weiss' background.

THE COURT: You may continue.

A (Continuing) In 1957 I joined a newly formed company called The Federal Scientific Corporation which specialized in the manufacture and use of very new and very sensitive electronic analysis devices for which the United States Air Force had an interest at that time, and also some activity in the field of speech accoustic analysis.

In 1961 I was made a Vice President of Accoustics Research and I worked there until, I guess, it was 1974. And in 1974 I left Federal Scientific to join the faculty at Queens College in New York as a Professor in the Department of Computer Science.

Q Now, would you explain for the jury, Professor Weiss, the specialized areas of your experience?

A Well, in particular my experience is primarily in the area of accoustics, speech analysis, and the analysis of tape recordings..

In regard to what is really relevant here, I have had fairly extensive experience in the examination of tape recordings to determine basically how they got to be made, under what conditions they were made, the characteristics that are observed, whether the recordings had been altered in any way, whether there were stops, restarts, or whatever.

Q Now, were you a member of the panel of technical experts in connection with the analysis of the tapes in the Watergate case?

A Yes, I was.

Q And were you selected on the basis of the recommendation by both the Watergate special prosecutors office as well as the White House?

A Yes, as I recall, both the group that you served as a member of, and also the White House team jointly nominated myself and five colleagues on that panel, that is correct.

Q So that when we selected you from the Watergate

side, or the prosecutor's office, the White House had no objection to your appointment either?

A No, in fact to my knowledge, in fact, I was originally nominated by the White House side.

Q Now, have you testified in connection with --

MR. BEN-VENISTE: Strike that.

Q Have you been employed as an expert in the area of forensic analysis of tape recordings by any prosecutorial agencies?

A Oh, yes, quite a number of them.

In fact since 1974 I believe that my services together with Mr. Aschkenasy's have been engaged by over two dozen different prosecutorial offices.

Q And on how many occasions, if you recall, were you engaged by the prosecutor's offices here in New York, the City of New York, sir?

A I think there is about a half a dozen times -- oh, in the City engaged in general?

Q Yes.

A Perhaps eight or ten times.

Q And this is by the prosecutor's offices?

A Yes, sir.

Q And were you paid as an expert consultant?

A Yes,sir.

MR. BEN-VENISTE: I tender the witness, your Honor, as an expert in the field of forensic analysis of tape recordings.

THE COURT: His qualifications have been conceded, and as I said, ladies and gentlemen, in evaluating his testimony that you consider his qualifications by Mr. Ben-Veniste.

Q Now, you have indicated that you were paid a consultant fee when you were retained by the Govenment, sir?

A Yes.

Q And in this case you have been retained by the defense under the exact same conditions?

A Exactly the same.

Q Now, you were asked to review certain tape recordings, were you not?

A Yes,sir.

Q And specifically you were asked to analyze certain questioned areas in two specific tape recordings, were you not?

A That is correct.

Q Now, let me place before you three Exhibits, Exhibit 19-B, Exhibit 21-B and Exhibit 22-B.

I would ask you to open those Exhibits and

to look at the contents inside, (Handing)?

A Yes.

Q Now, sir, have you seen those tape recordings which were inside the Exhibits before?

A Yes, I have. These were among the ones that were to be examined.

Q How can you identify them as the ones which you examined, Professor?

A Well, my initials and those of Mr. Aschkenasy's are inscribed on the labels of the cassettes.

Q Now, will you please tell the jury under what conditions those tape recordings were made available to you?

A Yes. They were brought to my laboratory at Queens College by agents of the Federal Bureau of Investigation, on three occasions, in fact,for our analysis.

Q And do you see that person here today, sir?

A Yes, I do.

Q Who is that?

A Mr. Donald Ritenour sitting over there.

Q Now, were you also provided with tape recorders?

A Yes, sir.

MR. BEN-VENISTE: May we have the tape recorders please, Mr. Puccio.

MR. PUCCIO: The what?

MR. BEN-VENISTE: The tape recorders.

MR. PUCCIO: Did we get them back (addressing Mr. Ritenour)?

I am sorry, I didn't know they weren't in Court.

MR. BEN-VENISTE: We were told this morning that they would be here, your Honor.

THE COURT: How many do you want, Mr. Ben-Veniste?

MR. BEN-VENISTE: We want basically the one that was represented to be the one that Mr. Weinberg was using.

MR. PUCCIO: We will bring up everything, Judge. I am sure we have them.

THE COURT: All right.

Q You were shown a tape recorder, sir?

A Yes, sir.

Q Will you tell the jury what kind of tape recorder it was?

A That was a Lanier Model AL/C.

Q Professor, will you explain to the jury what representation was made to you with respect to that tape recorder?

A Yes, sir. With respect to the particular one

I have in mind, I was told that it was believed that this one was the one that was in use at the time the recordings were made, although they were absolutely certain that this was the case, but that in all probability it was.

MR. BEN-VENISTE: Now perhaps while we are waiting your Honor, the jurors notebooks could be distributed to them containing the transcripts, and I am particularly concerned with the transcripts for Exhibit 19 and I believe 21 -- no 22. I am sorry.

THE COURT: Would you distribute them.

MR. BEN-VENISTE: May we have those please, Mr. Puccio.

(Documents produced for jury.)

Q Now, Professor Weiss, what was the task that was given to you, sir?

A Well, we were told to examine --

Q Will you please speak into the microphone.

A We were told to examine in detail two of the recordings, although we examined a number of others, but particularly to concentrate on two of them on which there were some clicks and audible gaps here in the recording.

The question we were asked was what do they represent and how did they get there.

Shall I go on?

Q Yes, please, Professor.

A All right, now clicks and gaps almost always indicate something abnormal during the process of making a recording. Either it usually means that the tape was stopped and rstarted, or it could conceivably mean that there is an over-recording made on a pre-existing recording, one or the other. It is the usual indication. It doesn't necessarily mean that that is what actually happened. It could certainly be for perfectly innocent reasons in the presence of such events. But the only way one can really determine is not really by listening to the tapes, but by doing a series of analyses and tests of both the tape in question and of course of the recorder that purportedly made the tape to see what its characteristics are and to see what produced the clicks and to see what mode of operation it is in, how it is being used at that time.

Q Professor were you given a particular hypothesis as to the testimony in this case as to what may have caused the gaps?

A Yes. Well, in particular if the analysis showed that the clicks, gaps, whatever, are the result of the recorder having been stopped during the recording process and then turned back on again after it is stopped, the obvious way of doing that is by manual control, pushing

the switch to stop it and then pushing the switch again so that the recorder resumes recording operation.

We were told that an alternative possibility existed, that the record could have fallen off a table and that on impact, hitting the floor, it caused the machine to go out of the record mode, and subsequently when picked up, turned back on again.

Q Now, who provided you with that hypothesis?

A That hypothesis was provided also by Mr. Ritenour.

Q So that you were asked, if I may, to see if you could tell on the basis of the tests that you were to perform whether in fact the clicks, or stops and starts on these questioned tapes were the result of the tape recorder falling off a table and stopping, or whether they were stopped manually?

A That is correct.

Q Now, would you tell us what tests you did perform, just names of the tests?

A Well, broadly there were two tests performed -- actually there really were three. First it was a physical examination of the tapes in the regions in which these gaps occurred to see whether there was in fact a physical splice in evidence that also could have that kind of audible

defect. There were none.

Then there were two other analyses performed. One of them involves -- it is called a magnetic development or image development of the tape. It is a procedure in which you might literally make visible recorded information that is recorded onto the tape, something akin to photograph processing.

And the second one is a method which goes by the name of wave form analysis, and it involves playing the tape recording and examining analytically on a table the signal that comes off the -- the electrical signal that comes from the tape when you play it back.

Q Now, on the basis of the tests that you conducted in your scientific analysis did you reach a conclusion with respect to what occurred on the tape of July 29, 1979?

A Yes.

Q And did you reach a conclusion as to what occurred on the tape of July 31, 1979?

A There were two tapes on that day. The 5:30 P.M. tape, yes.

Q Will you tell the jury what your conclusion was?

A On the tape of July 29,1979 there are two

areas in which a click and gap are audible. The first of these areas, which has a duration of about 1.9 seconds is the result of an over recording on pre-existing recorded material.

The second of these is the result of a manual stopping and restarting of the recording.

By manual I mean that someone during the recording process pressed the switch down to the stop position and then pressed it back up to record and continued.

In the case of the July 31st recording made at 5:30 P.M. there was only one such event that occurred, and it occurs quite close to the end of the conversation. And it too is the result of a manual stop and restart of the recording.

(Continued on next page.)

Q Now, is there any doubt in your mind on the basis of the test you conducted that the stops were not the result of the machine falling off the table?

A None.

Q Let me show you Exhibit EE.

I ask you if you can identify this tape recorder as being the one which was represented to you as the one Mr. Weinberg used in July of 1979?

Professor Weiss, before you explain to the jurors the manner of testing which you employed,would you be kind enough to explain to them the manner in which a tape recording is made?

A Certainly. Your Honor, may I approach the jury? I have a small detail here.

THE COURT: Go ahead.

A I will put into the recorder one of the cassettes but I will not of course turn it on.

MR. BEN-VENISTE: I think we have a blank cassette.

THE COURT: I think that would be better.

Q Incidentally, Professor Weiss, while we are waiting, is there a way in which to guard against altering a tape recording once the recording has been made?

A Yes, you can. If you notice on the back of the

cassette there are two little tab areas.

In order to prevent the tape from being recorded upon after you have made it, all you need do is break off the tab on the left-hand side of the cassette.

Once you do that, then you can no longer make a recording on that particular side of the tape.

If you turn the tape over you can --

Q As far as you know people who deal frequently with the making of recordings know all this information with respect to protecting tapes?

A I certainly hope so.

Q Very well.

Would you go on with your explanation?

A Okay.

In this particular recorder here the cassette fits in like this (indicating) and the tape will move from this side.

It is a supply reel over here, to the take up reel over on this side (indicating).

The tape will move in this direction across the recorder.

As it does so, it will be in contact with a pair of little devices. One is black and the other is another color.

The first of them is the erasing head, an electronic gadget which scrubs the tape clean of any material.

It will go on and essentially clear the tape. Like a pencil eraser. This does the job electronically on the tape.

A little bit further down, a little more than an inch down, further down, we have the recording head.

That is the device that lays down onto the tape the magnetic version of the sounds being received by the microphone of the recorder or being transmitted into the recorder through a jack or plug input on the back of the recorder.

Such a plug would be used if you were recording telephone conversations. And the wire and little plug goes into here (indicating).

That electrical signal received will be transmitted to the recorder head which would be converted into magnetic information which is laid down on the track.

You have the tape moving this way (indicating).

That will be in operation.

Shortly after that has been cleaned, about six tenths of a second for this machine, an area will reach the recorder head and new information will go on the tape.

And this machine,the stop and start is done by pressing the switch down to the stop and back up to the record to restart it. A simple one hand operation (indicating).

Q In this case you mentioned two principal tests that you employed, is that correct?

A Yes.

Q Was one of them the magnetic development?

A The first one that -- yes,one of them was the magnetic development.

Q Which one would you like to discuss?

A That one first. It's easier.

Q Would you do that?

A Okay,school time.

Can you see this, your Honor?

THE COURT: Yes.

A Let this,if you will, represent the tape that is running through the recorder. It's going to be -- you are looking at it this way now (indicating), the face of the recorder -- you are in the position of the recording head.

Here is the head. The tape running past it in this direction from right to left.

Here are the two heads. The tape is moving

in that direction.

Now, first let's consider what the effect of the erasing head is. It is divided into two parts. Upper and lower track area.

This is done to get two recordings on to a single tape.

The recorder head will scrub an area of the tape slightly greater than one half of the tape.

When it does that, it does so in the following manner. It is a little too wide here (indicating).

It will move along -- I can't move the blackboard easily which I would like to do but instead I am going to move the eraser from right to left. This is representing the head in the machine clearing the tape as it does so in this particular machine. It will leave a distinct line of recording across the tape.

This is, of course, invisible on the tape. But there is a line of magnetation.

When you start a recording you first turn on the power, of course, through the machine, and that is there is an electrical surge of current that goes through the erasing head. The effect of that is usually to leave a distinct vertical line in the position the head was in contact with the tape when that surge was felt by the head.

Thereafter the tape continues on its way.

Now, there is a kind -- if this was completely clear and black, there would be kind of a white smudge on here. This is one graphically to show that the head will in fact record a very low level of hissing noise sound on to the tape. When you play back a tape that has no recording on you hear a hissing noise. When the recording ceases, there is a surge of current that goes through the head. You're taking the current away.

As a result, that usually is to leave a line where the head is in contact with the tape where the recording ceases.

Sometimes it does not.

The upper line simply get weaker and weaker and disappears.

What about the recording head that is actually putting the information -- the sound on the tape. In the case of the Lanier machine that one is much narrower than the width of the erasing head. It's less than one half. Its position would be the middle of the tape and goes along in the manner here (indicating).

Now, when you're not putting any sound in the machine, you're just recording, then what you would expect the recording head would record silence,that is what it does.

Silence is represented by a clear barrier on the tape. And it -- you can see that when I will show it to you in the region in which the recording head went through is outlined by a pair of lines representing the upper and lower extent of the tape and continues on until the recorder stops.

That clear area, there is sort of a grayish area here, representing the region in which the erasing head went through and sort of a cleared region, it's not as distinct as this. Sometimes it's very distinct and some times it is not.

If you had recorded all this, you would see a continuous track of information where these vertical lines will represent a magnetic version of the sound recorded.

This is what it will look like (indicating).

If we stop at this point over here, you find this track ceases abruptly. The distance from here to correspond with this (indicating).

Q In terms of the test you performed to determine whether the machine was dropped or manually stopped deliberately, would you explain to the jury what the different signals look like?

A I think it's possibly easier to show the slide at this point.

Q Do you have some photographs as well?

A Yes.

Q Before we get to the slides, we can use the photographs?

A Okay.

Q What we have pre-marked as Exhibits V-1 through 12,your Honor, are eight by ten photographs prepared by Professor Weiss and Professor Aschkenasy.

Is that correct?

A This is, in this photograph here, what you see is the result of the tape.

THE COURT: Are they being offered in evidence?

MR. PUCCIO: No objection.

MR. BEN-VENISTE: Yes.

THE COURT: V-1 through V-12 received in evidence.

(So marked.)

A We took a tape, a test recording made using the Lanier machine.

Q Speak louder, please.

A Yes.

We took the tape that we had, placed in the Lanier machi , recorded a section on to it, stopped the

recorder and started the recorder simulating a stop and restart to see what the characteristics of that sort of procedure were.

We then placed the tape in a special liquid which you take out after a few moments and you find an image. That is representative of the magnetic recorder that was on the tape.

Here you see something like what I drew on the blackboard. This is a highly enlarged segment. Only about ten millimeters long, a quarter of an inch.

The tape is a little larger than one eighth of an inch. This is an enlargement.

Now, this is the lower half on which the recording happens to have been made on this tape. What you see here is this white line, left by the erasure tape before the tape got to the position of the recording head.

In here, you should be able to see a very faint area outlined by a white line here where the recorder head went along.

Is it physical to everybody?

Now, at this point the recorder left a line, an impulse went through, and shortly thereafter we resume the recorder and you can see this scrubbed out area.

There was silence in the recorder. The area

is darker when the eraser head is there between the stop and start.

Again there is an impulse or sharp line representing here the surge of electrical current goes on.

Q Can I interrupt what you are showing the jury?

A Yes.

Q What you are showing the jury are enlargements of the actual tape after they had been dipped in this fluid, is there an analogy to what the jurors may recognize in their own experiences?

A I don't know if you ever played the game with magnetic filings that make a pattern. This is done in exactly the same way. You have very fine iron filings and you dip the tape in and you pull it through and there is a little bit of liquid on the tape.

As it evaporates it moves through the region where magnetization is on the tape and where they stop is where the magnetization was and they move to those portions more or less according to how strong the recorder is. If the recording is strong, or if it were weak, it would be a weaker line.

(Continued on next page.)

Q Do you have an example to show to the jury as to what happens when there is a manual stopping of the tape?

A This is an example right here (indicating.)

Q Do you have others?

A Yes. This is a manual stopping of that particular machine over there (indicating.)

Q You were referring to Exhibit ee?

A This is a manual stop which was obtained from the evidence recording made on July 31, 1979 at six P.M.

And you can see, again, an area here where the edge came up to this point (indicating), cease recording and resumed recording at this position (indicating).

Q Is that the area you particularly focused on?

A Yes. Where the conversation starts on that day.

If you can see the recorder head moves along a straight line, when you stop it there is still nothing disturbing it. The tape is held by a pair of guides so it moves past the head in a continuous motion.

If you drop the machine, it can cause the recording to stop sometimes. The effect of dropping it

falling to the floor with a tremendous smack, the shock can cause the switch to move from the recording position down to the stop position all by itself.

When that happens, this is the result you would observe when you developed the tape and look at the recorder track.

Q You are referring to Exhibit v-5, sir?

A Yes.

Would -- what you see here is again the recorder head moving along up to here and there is a tremendous disturbance in the track, no longer straight, pushed up in a sense.

I -- another example is over here, another recorder dropped, again you see a distinct drop or move from the straight position to a v-shaped valley.

Here is another one where again you see the track moving along straight and at the point which the impact occurs you see the up and down.

Q This is an experiment you conducted when you dropped the machine?

A Yes.

Q These are the reactions produced when the machine is dropped from the height of the table?

A That is correct.

MR. BEN-VENISTE: I would ask your Honor that these -- first the exhibits referred to as the drop be shown to the jury, Exhibit v-5 through seven, I believe.

May I?

THE COURT: Are those the correct numbers, Mr. Weiss?

THE WITNESS: Just a moment, your Honor.

MR. BEN-VENISTE: V-5, 6 and 7.

THE COURT: You may show them to the jury.

Q Would you follow that with the photographs of what it looks like if there is just a manual stop, V-1 and V-3, why don't I pass one to each row.

Professor Weiss, v-8 and 10 are the ones from the evidence tapes themselves, is that correct?

A Correct.

Q Where there is stop on the machine themselves?

A That is correct.

Q On the tapes themselves?

A Yes.

Q Are those consistent with the taping stopped deliberately manually or consistent with being dropped?

A Manually.

Q Is there any question?

A No.

Q Professor Weiss, why don't you go ahead and explain.

A There is one more I would like to pass to the jury. This is the developement of the magnetic image on the record July 29th, 1979, at the point where we detect a very brief, 1.3 second long, overrecord. The recorder was turned off manually and 1.3 seconds later it was started again.

The evidence for that is contained in this image here, it shows the point where the recorder was stopped.

You will see this track coming up this point and the top line.

Then follow that conversation previously recorded becomes audible.

Q I think we can defer that so hopefully we can finish before lunch.

This is in evidence and the jury will have the opportunity to review it.

Has everyone seen those exhibits?

(Pause.)

Q Professor Weiss, were there other tests also employed other than the magnetic development?

A Yes. Tests made using waves. Wave form

analysis in which you play back the recorder and you get from recording an electrical current.

The same current you normally employ to the loudspeaker to hear the sound.

You can take that and put it on to a device which is like a T.V. screen.

We call it an oscilloscope. It produces a sound intensity.

The sort of pattern you got on an electrocardiogram. You see, like this, the beat of the heart, and another beat and so forth (indicating.)

You usually get this on an electrocardiogram or you can get it on a t.v. screen and arrange for this sort of thing to be recorded on to a graph paper.

That is exactly what we did with the sounds obtained by playing back each recorder -- recording.

We obtained representations like this (indicating).

In which the strength of the sound is represented by how high or brief some of these lines appear.

In this region was weaker and stronger. Now, when you do this, when you stop a recorder, what you will see is this kind of thing (indicating). This large jump,

and then you see another large jump further down.

This one corresponds to the impulse that went through the recording head at the moment that the power turned off. This one corresponds with the erasing head, provided the erasing head left a strong line at that notation. If it doesn't, it weakens out slowly.

You get a little bump. In this machine you will always get this click. The click that you hear at the point of the stop.

Q Did you perform an experiment to show what the wave form would look like if the machine were dropped?

A Yes, the same thing that we did in the case of the magnetic development.

Q Show the jury what the wave form looks like if the machine is dropped?

A Yes.

Q I thought you would do it on the blackboard.

A These are actual pictures. Why don't we ste this up? It would be a lot easier.

MR. BEN-VENISTE: At your pleasure, I don't know what we will be able to -- I don't know whether we will be able to finish before lunch.

I don't think there is that much to go.

THE WITNESS: No, I can run it through

quickly.

THE COURT: We still have 15 minutes.

MR. BEN-VENISTE: Thank you.

(Pause)

MR. BEN-VENISTE: Can everyone see the screen?

A This is the point, this is the sound that was laid down by the recording head at the moment the recorder was stopped at the point of impact. This is the wave formed at the same instance in time put down by the erasing head. This represents time over here. Even though laid down simultaneously.

The first thing you get is the point at which it falls.

In any event, what you tend to see on the manual drop is this sort of dense area of activity, a tremendous amount of vibration.

With one exception over here, there is a lot of low-lever noise.

Over here, you get the complex group of pulses occurring. Single one.

Here is a pair of them over there. One up and -- followed by a small dip.

This could be contrasted with the sort of

thing you get -- we have to contrast this with what happens when you manually stop the recording.

This is a manual stop that restarted. This is a stop and restart (indicating.)

In the case of a manual stop what you see is nice clean sharp lines, none of the dense material shown on the other form.

Here you have a distince dip up and down wave form for the erasing click. Here is another one (indicating). In this particular event, the erasing did not produce the single line at the end. Just weakened out.

This is all the same machine which indicates that it's a variable on the machine. It turned out to be a variable on all the linear machiens we used.

On this stop impulse over here, (indicating) we did not always get a strong impulse on this location. Certainly never got that dense material, it sounds like a very brief chirp sound.

Q Would you show the difference between a manual stop and a stop which is produced by the machine dropping?

A Here is the character observed. It's quite different (indicating.)

the evidence tapes on the wave form analysis, that the stop pull were the result of manual as opposed to drop stops?

A No.

The wave form analysis also supports that interpretation.

Q Very well.

Now, you mentioned a point -- I think we can have the lights back on: [illegible]

THE WITNESS: Yes.

Q You mentioned -- why don't you provide the jury with the information you determined with respect to the number of manual stops in the middle of the conversation on the evidence tapes?

A There were two manual stops that we detected.

One of them on the July 29th, 1979 recording, and one of them on the July 31, 5:30 P.M. recording.

Q On the July 29th, do you recall the words at which point the break occurred?

A The break on the July 29th, the phrase preceding it is: "That guy Neifeld." I guess it's spelled N-y-f-e-l-d.

Q That is a portion we will be able to agree

which was not supplied to the jury -- and the portion of the tape offered by the Government.

Were there any other stops?

A The only otherstop on that tape is related to the very brief recording that occurred earlier on in the tape.

Q Where is that?

A That one occurs just at the phrase, after the phrase, something about guaranteeing my friend the Sheik that he -- something like that.

Q Is that the tape that begins, "Beautiful, what's his name, Meyers?"

A Yes.

Q That is Exhibit 19a.

We direct the jury's attention to page 2 in the middle where it says, "Guaranteeing this, my friend, the Sheik -- " [illegible]

A Yes.

Q Is that what you found consistent with the person running the tape, stopping it at a point, and repressing the record button?

A Yes.

Q Now, with respect to the other incident that you found, that was the deliberate depression of the stop

button as opposed to an accident?

A That is correct.

Q With respect to the July 31 conversation, would you indicate the words at the point that the tape was manually stopped?

A The words immediately proceeding the stop is: "They're getting five."

Q That is at apge two of the transcript at the middle of the page. "They're getting five."

On the juror's copy, then, there is an inaudible.

At that point there is a click?

A Yes.

MR. BEN-VENISTE: I would ask, your Honor, if the Court has any question of Professor Weiss or if any of the jurors have any questions of Professor Weiss those questions be relayed through the Court to Professor Weiss.

THE COURT: That is not the way we proceed. I ask questions if I feel so inclined. The Jury does not ask questions.

I have no questions.

MR. BEN-VENISTE: Thank you, sir.

I have no further questions except to ask

in summary whether there is any doubt scientifically or otherwise that on the breaks that occurred on these tapes that they were produced by a drop of the machine?

A No, these were not produced by that.

THE COURT: Mr. Duffy, any questions?

MR. DUFFY: One.

CROSS EXAMINATION

BY MR. DUFFY:

Q It may be obvious, Professor, when a machine is intentionally turned off, and then intentionally turned back on, there is no way of telling us there was conversation that was missed or how long it was?

A None at all.

Q That is all.

THE COURT: Mr. Cacheris?

MR. CACHERIS: No.

THE COURT: Mr. Brown?

MR. BROWN: No.

MR. BEN-VENISTE: I would like to introduce the xerox copies of the wave form analysis which are marked Exhibits W-1 through W-11.

THE COURT: Two of those were shown in transparancy form?

MR. BEN-VENISTE: Yes.

THE COURT: Any objection?

MR. PUCCIO: No objection.

THE COURT: Received in evidence.

DIRECT EXAMINATION

BY MR. BEN-VENISTE: (Continuing)

Q May I ask, while you were conducting your analysis of these tapes, did Mr. Ritenour of the FBI observe you at all times?

A Yes.

Q Did you make available to Mr. Ritenour everything that you were doing in terms of his observation?

A Anything he wanted to see.

MR. BEN-VENISTE: Thank you.

MR. BEN-VENISTE: Very well, no further question.

MR. PUCCIO: May I proceed?

THE COURT: Yes.

MR. PUCCIO: I will be very brief.

CROSS EXAMINATION

BY MR. PUCCIO:

Q Professor Weiss, with respect to both of these tapes, first with respec to the 29th of July, how much information is missing from that tape?

A With respect to --

Q In terms of time?

A With regard to the standard which I term an over-recording occurred there is a total of about 1.9 seconds worth of information obliterated from the tape.

With regard to the second event, a stop and restart, there is no way of knowing how much was not recorded.

Q I assume you took the cassette and timed the entire telephone call?

A Yes.

Q With respect to that call on 7/29, what was total time of that call?

A The total time of that call -- conversation

lasted six minutes four seconds.

Q If you start that tape at the very first word that appears in the transcript and shut it off at the end, wouldn't it be fair to say it's six minutes and fifteen seconds?

A Six minutes four seconds from the time you heard the first word, hear the telephone receiver hang up, that is the duration of the conversation.

Q Did you have occasion to compare the time that you calculated this call took with the final telephone records of the Bell Telephone Company?

A No, I had no evidence of that.

MR. PUCCIO: May I approach the witness, sir?

THE COURT: Yes.

Q Let me show you these records which we will mark as -- your Honor, I don't know --

MR. BEN-VENISTE: Are you showing the witness something in evidence? Your Honor, is --

THE COURT: He is trying to figure out what he will mark it. It's not yet marked.

MR. PUCCIO: Judge, can I deem it marked at this point and --

THE COURT: 26 is the next number.

MR. PUCCIO: 26 for identification.

Q I direct your attention to this entry.

Now, according to th Telephone Company --

MR. BEN-VENISTE: Objection. It's referring to something not in evidence, that this witness has not seen, the practice is improper.

MR. PUCCIO: Will your Honor accept the records of the Telephone Company which are recognizably authentic --

MR. BEN-VENISTE: Objection to the statement of counsel, your Honor.

THE COURT: Sustained.

Is this one of the record we were talking about yesterday?

MR. PUCCIO: Yes, Judge.

MR. BEN-VENISTE: If it is in evidence, I have no objection. I don't know what Mr. Puccio has put in front of the witness.

MR. PUCCIO: May I just find Defendant's Exhibit U.

MR. DUFFY: I object and request it be shown to counsel.

THE COURT: A Defense Exhibit?

MR. DUFFY: He marked a Government Exhibit.

* * *

(The following took place in open Court.)

THE COURT: Is that now Exhibit 26, Mr. Puccio?

MR. PUCCIO: Yes.

THE COURT: Received in evidence.

(So marked.)

MR. PUCCIO: By stipulation.

THE COURT: Agreement of counsel.

CROSS EXAMINATION

BY MR. PUCCIO: (Continued)

Q Professor Weiss, that first call you referred to is recorded by the Telephone Company as seven minutes, is that correct?

A That is correct, from these records.

Q What is the most amount of time that -- the time of information that can be missing from that cassette according to your calculations?

A The duration of the conversation, to the termination of the call, was six minutes four seconds, 56 seconds maximum.

Q That is maximum?

A Yes. Assuming this is exact counting of

seven minutes.

Q Assuming -- well, isn't it a fact the practice of certain phone comanies is to --

MR. DUFFY: Objection.

MR. BEN-VENISTE: Talking about the Bell Telephone Company of South Florida?

THE COURT: Mr. Duffy wants to argue his own objection.

MR. DUFFY: I heard enough of the question to object because he's asking this witness who is not an expert in telephone billing practice what the practice of the phone company is. He is incompetent --

MR. PUCCIO: I will go on.

Q I assume you have seen telephone toll records before?

A My own personal records.

Q Those are the only ones you have seen?

A Yes.

Q With respect to the second call, that you made reference to, the one on the 31st of July, 1979, how long was that call timed by you?

A Again, the conversation from the first word that is audible to the point where they hang up, four minutes, 43 seconds.

Q According to the records of the telephone company, what is recorded as the time of that call?

MR. DUFFY: Objection.

THE COURT: What grounds?

MR. DUFFY: I think he has to tell the witness how many calls are on that bill for that day.

THE COURT: If the witness has any trouble --

A There is a check mark that has been placed on the record here. I assume that is the one you are referring to?

MR. BEN-VENISTE: There are two calls, we will stipulate to the length of both of those calls.

Q What are the two calls?

In terms of length.

A The one with the check mark is six minutes in duration.

THE COURT: There is another one the same date?

THE WITNESS: Yes, from Camden, New Jersey, shows nine minutes in duration.

Q Does the six minute call show the number that was called?

A Yes, it does.

Q Is that the same number as the nine minute call

of is it a different number?

A That is the same number as the nine minute call.

Q What are the times?

A The six minute call originates 5:12 and the other one 5:49.

Q With respect to the six minute call, what is the most amount of information that could be missig?

A (No response.)

Q In terms of time?

MR. DUFFY: Objection.

MR. BEN-VENISTE: Objection. We can stipulate it's either one of two things, depending on the phone company's practice in South Florida.

MR. PUCCIO: I will go on, Judge.

THE COURT: All right.

Q Professor, did you testify concerning all the tests that you made?

A I believe so.

Q Were there any tests that you made with respect to dropping the recording equipment that were not covered in your direct examination?

A With regard to dropping the --

Q You tapped it or dropped it?

A We dropped everyone of the tape recorders provided for the test.

Q Did you drop each one of them a number of times?

A Yes.

Q Did you make reference in your direct testimony this morning to everyone of the drops?

A No, I illustrated some typical ones.

Q Now, is it fair to say that dropping of a tape recorder could have caused a different magnetic pattern than the one you illustrated?

A Could have caused a different one?

Q Yes.

A I am not sure what you mean.

Q Could the dropping of a tape cause a different magnetic pattern then you illustrated?

A The only thing that might be different if it did not cause a disturbance to occur---

Q It could have been a break or stop that would have caused a different magnetic pattern depending on the floor that the recorder was dropped on?

A I am not quite sure what you are referring to.

Q Wasn't the type of service that the recorder

was dropped on -- wouldn't that have some effect on the pattern shown on the screen?

A It might have a slight effect.

Q Did you drop these recorders on various different surfaces?

A I did.

(Continued on next page.)

CONTINUED CROSS EXAMINATION

BY MR. PUCCIO:

Q What kind of surfaces did you drop them on?

A Three. The first was on to a quilt, a thin one that was on an asphalt tile floor. The second one on a piece of indoor-outdoor carpet and the third was on to a thicker piece of outdoor carpeting. We had acquired two samples.

Q Isn't it a fact that even if the tape recorder were dropped, the drop could be totally uneventful insofar as the magnetic display is concerned?

A We saw no examples of that.

Q Every time you drop a recorder, it's going to show up somewhere?

A Those recorders, yes.

Q Now, you were advised that not all the tapes used were brand new tapes, isn't that correct?

A I'm not sure.

MR. BEN-VENISTE: I object. Obviously they were not brand new at the time analyzed.

Q With respect to the tape of 7/29, it became - - it was quite apparent to you that that tape had been used over, is that right?

A No, it's not at all right.

Q Didn't that tape - - were you advised that some of the tapes used had been recorded on before the recording appeared which you examined?

A MR. BEN-VENISTE: I object to the form of the question, and it's contrary to the testimony of the witness who made the tape recording.

THE COURT: Overruled.

You may answer.

A The only thing I - - The only thing I was told to my recollection, is that the witness obtained those recordings, those tapes himself, that occasion he was provided those tapes by the F.B.I. but those particular ones he obtained himself as to whether they had been previously used or not, no one knew.

MR. PUCCIO: I don't think I have anything else.

REDIRECT EXAMINATION

BY MR. BEN-VENISTE:

Q I would like to hand out to the jurors Exhibit T17 Your Honor, which is from the July 29th conversation. It's at Page 3. This was a page that had not been provided originally to the jurors. There is an indication on the exhibit where the break in the conversation occurs. May I, Your Honor?

THE COURT: Yes. T17 was received in evidence.

MR. BEN-VENISTE: I will hand this up to the court, a copy of -

MR. PUCCIO: Your Honor, I don't have any more questions.

Q Professor Weiss, with respect to the questions Mr. Puccio addressed to you concerning the time, the duration of the two tapes, one was 6:04 seconds.

A 6 minutes, 4 seconds.

Q 6 minutes, 4 seconds, and the billing on that was seven minutes.

In terms of what is possible, and assuming that the Phone Company billing is correct, if the Phone Company gives the consumer the benefit of the doubt, how much conversation could be missing - -

MR. PUCCIO: Your Honor, I thought - - Well, I object. The professor has no knowledge of such matters. If he claims he now has knowledge.

THE COURT: The question is whether he can add or subtract. Do we need a professor for that?

MR. BEN-VENISTE: I don't trust my own abilities in that regard, Your Honor.

THE WITNESS: Well, it depends on what you

mean by the benefit.

Q Well, there is a bill for seven minutes.

Suppose the phone company gave the consumer credit for a bill that A, a conversation of seven minutes and 59 seconds and they said let's call that seven minutes.

A In that case, you would have close to two minutes.

Q With respect to the July 31 conversation, which was clocked by you at four minutes and 43 seconds and was billed at, let's take for sake of argument, six minutes.

A Well, then there would be a minute and a quarter.

Q And that would be, at the outside?

A You said six minutes is what the billing was. That would be two minutes 17 seconds.

Q It would be one minute?

A One and a quarter or two and a quarter minutes, roughly.

Q Well, in terms of the length of speech, if a conversation, I take it you're familiar with speech patterns?

A Yes, sir.

Q A conversation such as uttering words, it's

all B.S., it's all play acting, how long does it take for that?

A A couple of seconds. I will tell you more accurately - - (Pause) that's about ten words, it might be three seconds. It might be four seconds.

Q Clearly within the framework of what is missing in this conversation, is that correct?

A Well -

Q That is it is possible that those words were uttered within the framework of the timing of these conversations?

A Certainly.

Q Now, with respect to the dropping of the tape recorder, why did you use indoor-outdoor carpeting to drop it on?

A We had been informed that that was the condition of the place in which the telephone recording had been made, that there was some indoor-outdoor carpetint on concrete flooring.

Q So you tried to approximate the exact conditions as they were told to you, used by the person making the recording?

A That's correct.

Q Now, is there any question in your mind,

Professor, that when you drop a tape recorder from a surface such as the courtroom table on to a piece of indoor-outdoor carpeting that the results that you get will be inconsistent with those that you get when you simply manually turn off the tape recorder?

A If we make that Lanier A.C. recording, yes.

Q That was the tape recorder used in this case?

A Yes.

Q Is there any doubt in your mind that the stops on the two evidence tapes, 739 and 721 were the result of a deliberate manual stop of the recorder?

A No doubt.

MR. BEN-VENISTE: Nothing further.

MR. PUCCIO: No questions.

MR. DUFFY: I have two that were prompted by the cross examination only.

THE COURT: Proceed.

CROSS EXAMINATION

BY MR. DUFFY:

Q You said we were told sometimes the F.B.I. provided the tapes but in this case he bought the tapes himself, is that what you were told?

A Yes.

Q Who told you that?

A Mr. Ritenour.

Q From the F.B.I.?

A Yes.

Q Hesaid these tapes, the ones in evidence, we didn't provide to Mel, he bought these himself?

A That's correct.

Q Now, so I understand what happens when a tape recorder that is running is dropped, would it be a fair characterization of what you're telling us, that when that tape recorder that is in the record mode is dropped, it leaves the - the head leaves a signature that says I was dropped when I was on?

A We're talking about the Lanier machine, yes.

Q Did you find any such message to you?

A On the test recording, no.

Q On the ones that Mel Weinberg did?

A No.

MR. DUFFY: That's all.

THE WITNESS: May we take a brief recess so I can clear the area?

THE COURT: Can you do it quickly?

THE WITNESS: Yes.

THE COURT: Get it out of here.

D O N A L D V. R I T E N O U R, JR., having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BEN-VENISTE:

Q Mr. Ritenour, you were present when Professor Weiss performed the test that he described here in court?

A Yes, I was.

Q And sir, did you tell Mr. Weiss that Mr. Weinberg had used tapes in making the July 29 and July 31 recordings, that he had purchased himself, as opposed to having received them from the F.B.I.?

A What I specifically told him was, that I had talked with Mr. Weinbert who stated that if the magnetic tape cassettes were of a brand other than Maxwell or Ampex, that they were not furnished by the F.B.I., that they were tapes that he either purchased or had already had in his possession.

Q Do you happen to know of your own knowledge whether that is consistent with his trial testimony here?

A No, I don't know.

MR. PUCCIO: I object, Your Honor.

THE COURT: He doesn't know.

Q Did you tell Professor Weiss that these tapes

tapes had been reused by Mr. Weinberg?

A. I told him that they may have been.

Q. Where did you get that information from, sir?

A. From Mr. Weinberg.

Q. What did Mr. Weinberg tell you and when did he tell you that?

A. Over the period - - this was probably August 7, 1980.

Q. How do you fix that date?

A. Because this is the initial day that I transported five magnetic tape cassettes to Mr. Weiss' office at Queens College for his examination.

Q. All right.

And you had a conversation with Mr. Weinberg?

A. Yes, I did.

Q. And you said Mr.Weinberg, there is an allegation that there is some anomalies on these tapes, we need to understand what happened, in substance?

A. No, there was a request - -

Q. Did you tell Mr. Weinberg that you wanted to know information about how these recordings were made?

A. Yes, I told him that I wanted to know how

he used the recorder in making the report.

Q Did he tellyou how the machinary was set up when he made the recordings in July of 1979?

A I don't specifically - - not specifically at that time. He spoke in generalities as to the way the recorder and the attendant equipment that he used with it were set up during the time he was making the recording.

Q And did you ask him specifically with respect to the July conversation, once you knew that those were in issue, how he had set up his equipment at that time?

A I asked him if he recalled at that time.

Q And what did he say?

A He said that his normal method of operation-

Q Did he say he recalled specifically?

A He said that he recalls specifically on the 29th of having pulled the recorder off of the table on to the floor.

Q And what about on the 31st?

A As I recall, he indicated that this type of event happened any number of times while he was making these recordings and it was very possible that it fell off on that date also.

Q Did he tell you, sir, whether he had the

telephone on the table or on the floor on those occasions?

A I don't recall asking him specivically where the telephone set itself was located.

Q Do you recall him saying where it was located?

A No, I do not.

Q Do you recall asking him whether he purchased the tapes himself or whether the F.B.I. provided them to him?

A I don't recall specivically whether I asked him that question or whether he volunteered the information.

Q When did you obtain the information, whichever way it came out?

A This would have been approximately August 7, 1980.

Q And what did he say?

A He said that if the tapes were not Maxell Tapes or they were not Ampex Tapes, that they were tapes that he either purchased or that he had in his house or wherever from that he had used earlier.

Q And did he tell you that he had recorded - - Strike that.

Did he not tell you that he had been instructed to use a fresh tape for each tape recording he was supposed to make?

A. No, he didn't.

Q. Did he tell you that he had reused tapes in connection with these specific instances?

A. He told me that if it was other than a Maxell or Ampex Tape, that it may have been a previously used tape and he stated that in one instance, he specifically recalls placing the recorder in the record mode to allow it to operate to erase whatever he had previously had on the tape -

Q. Now,does that information throw any light at all on whether the machine was dropped or manually stopped?

A. As far as the stop transients that are observed on the two tapes, it allows the possibility of them having stopped by falling off the table or a means other than manual operation.

Q. Because they are re-recorded?

A. The re-recording - -

Q. That has nothing to do with it, does it?

A. No, this refers to the 7/29 events.

Q. I'm only talking about the re-recording, sir, so that we understand it, as it effects whether the machine was dropped or not dropped?

A. It has absolutely no effect on it.

MR. BEN-VENISTE: I have no further questions.

THE COURT: Mr. Duffy?

MR. DUFFY: Mr. Ben-Veniste reminds me that Mr. Puccio wnet first the last time. I don't want to go out of order.

THE COURT: I don't know what you're talking about.

MR. DUFFY: All right, I'll go.

CROSS EXAMINATION

BY MR. DUFFY:

Q Did Mel Weinberg tell you where the table was on which he had the tape recorder when he made these two tapes, I mean, the position in the room, not the state?

A It's my understand from what Mr. Weinberg told me that this was a screen room outside of a trailer in Florida.

Q Did he tell you where the table was with respect to a wall or anything like that?

A No, he did not.

Q Did he particularize or review how he knocked the tape recorder off or pulled it off?

A Yes, he did.

Q How did he do that?

A He stated that it was his custom to

1 particularly sit in a chair beside the table, of the
2 recorder placed onthe table, with the with an
3 induction coil plugged into the recorder, into the
4 microphone input, the other end being attached to the
5 receiver of the telephone. And that he would frequently
6 lean back in his chair while he was talking or sometimes
7 would lean forward and cross the cord going from the
8 earpiece to the recorder while he was talking on the
9 phone, he made notes, causing the recorder to turn over
10 on the table or turn over on the table and fall on the
11 floor, which sometimes resulted in the cord coming out.
12 He stated that he did not know if the recorder stopped,
13 that he would simply pick the recorder up, place the plug
14 or the jack or the induction coil back into the microphone
15 input and activate the record button to make sure that
16 the unit was continuing to operate.
17 Q Now, you're the F.B.I.'s expert, are you
18 not, audio - -
19 A I am an expert of the F.B.I.
20 Q You testify in court about tapes and their
21 verity and their integrity, do you not?
22 A That's correct.
23 Q You were present when Professor Weiss was
24 conducting the test that he testified to this morning, were
25

you not?

A Yes, I was.

Q That was your job, wasn't it?

A At that time, yes.

Q Well, I don't mean to embrace the entire scope of your employment, but when we made a demand to get the tape recorders and the tapes delivered to our experts, you were the fellow from the F.B.I. picked to go out there with that equipment and with the tapes to observe the testing, were you not?

A Yes, I was. It's not normally part of my job to do this.

Q Whatever your job description, you were in the room with these two gentlemen when they conducted the tests that lead to the testimony this morning, weren't you?

A That's correct.

Q And you talked to Mel Weinberg about it, did you not?

A Yes, I did.

Q And that was before Mel Weinberg went on the stand, wasn't it?

A The time period that I talked to Mel Weinberg in relation to the making of these tape recorders

is between approximately August 7, 1980, and August 14, 1980. I don't recall having any conversations with him after that time.

Q And you said you asked him, Mel, what happened, isnt' that right?

A I asked him how he operated the recorder, what circumstances he remembered regarding its operation.

Q Because you knew what our experts were looking for, isn't that right?

A No, I did not.

Q You had no idea what they were looking for?

A No, I did not.

Q Are you telling this jury, under oath, that you were not told by Mr. Ben-Veniste and me in Mr. Puccio's office on the 6th of August, precisely what we were looking for, whether or not the taps recorder was dropped?

You knew that, didn't you?

A In an authenticity

Q Will you answer my question, sir?

Are you denying, under oath, to this jury that Richard Ben-Veniste and John Duffy told you that we wanted these tapes examined and the machines examined

because we were challenging Weinberg's testimony in Philadelphia that he had dropped the machines?

Do you deny that?

A I was told that you wanted the tapes examined. I was not specifically advised as to the exact events that you were expecting to find or were expecting to have examined on the recordings - -

Q I am going to ask the question once more a little differently.

MR. PUCCIO: If it is a different question, I will withdraw my objection.

Q Do you deny that Richard Ben-Veniste and I told you the day we met you in Mr. Puccio's office that we wanted our experts to examine those tape recorders and the tapes to find out whether Mel Weinberg lied when he dropped them?

MR. PUCCIO: Objection.

THE COURT: Overruled.

Q Do you deny that?

A I don't recall the specific examination of the tapes to determine whether or not the recorders had been dropped.

Q I'll ask the question again.

I am not talking about the tests, sir; I am

talking about your conversation with Ben-Veniste and Duffy.

Do you remember us telling you in Mr. Puccio's office in front of Mr. Puccio and in front of Mr. Sharf, that we wanted the tapes examined to dispute Weinberg's claim that he dropped the recorders when the tapes were on?

Do you remember us telling you that?

A. I don't remember that specific claim.

Q. Do you deny that we told you that?

A. I don't recall it.

Q. But while these experts were making your examination, you got in daily huddles with Mel Weinberg, isn't that true, to tell him what was going on?

A. No.

MR. DUFFY: That's all.

THE COURT: Mr. Cacheris? Mr. Brown?

MR. BROWN: Yes.

CROSS EXAMINATION

BY MR. BROWN:

Q. Did I understand you to say that Mel Weinberg told you that when he played the recordings, you took notes?

A. He said that occasionally he would make notes. He didn't say that he made notes when he made the

recordings.

Q He said occasionally - Would you repeat that?

He didn't say he took notes at the time of the recording, is that correct?

A He said that he would occasionally lean forward to write something down.

Q That's what I thought you said.

He would occasionally lean forward to write something down?

A Right, but he made no indication that he made notes of the phone calls. In fact, on many occasions, he said he had wished he had kept some type of log regarding the incidents that occurred when he made the recordings so that there wouldn't be any question as to what happened with respect to the recordings.

Q But there are such questions because he didn't keep that log, isn't that right; is that what he said?

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q Implicit in that, the fact that he said he wished he had kept such records so there would be no question as to the tapes, isnt' that right?

MR. PUCCIO: Objection.

THE COURT: Sustained.

If it's implicit, then it's argument.

MR. BROWN: Thank you, Your Honor.

Q What was it that Mr. Weinberg told you with respect to the taking of notes and why he wished he had?

Would you repeat that for me, please?

A He stated - - he mentioned taking notes, writing something down as a part of his explanation as to what happened to the recorder, why it was knocked over or why it was knocked to the floor.

It was during my discussions with him during the period of August 7, and then again around August 14, that he had mentioned that he wished he had kept some type of log so that he could better recall or explain any incidents that occurred with respect to the operation of the recorder. We might subsequently raise any type of question.

Q So he specifically referred to the fact that he wasn't taking notes but a log which would record whatever happened at whatever time?

A No, he said he wished he had checked the log, that he had not made any notes regarding the operation of the recorder during these conversations.

Q Then what was it he leaned over to write down

at the time of recording, if he told you?

A He didn't tell me, I have no idea.

Q If he didn't keep a record of the log, then what he was writing would refer to something besides the lob, is that right?

A MR. PUCCIO: Objection.

Q As best you understood his answer.

A It could have been anything.

MR. BROWN: Thank you.

THE COURT: Any questions, Mr. Puccio?

REDIRECT EXAMINATION

BY MR. PUCCIO;

Q Do you accept Professor Weiss' conclusions without reservations?

A No, I don't.

Q What reservations do you have, very briefly?

A An obvious observation was made by Mr. Weiss in my presence regarding the July 29th cassette because one of the safety tabs had been apparently punched out as it was now filled in with some other substance.

Normally, I knock out a safety tab in order to prevent accidental recording on a cassette. For example, if you recorded some music, and you wanted to preserve that music, if your daughter was playing in a

concern, for example, you would punch out the safety tab so you wouldn't accidentally record over that music again.

Now, if you wanted to reuse that cassette for some reason, it would be necessary to fill in that hole where the safety tab had been punched out, so you could again place the recorder in the record mode. It's a safety device.

Mr. Weiss had this problem during his making of the test recordings during the drop process; one of the safety tabs got punched out accidentally and he simply placed a piece of tape over the hole so he could continue recording on the same cassette.

In this case, we had a block placed in this hole so the set could again be recorded on. This, to me, is an obvious indication that the cassette had had information on it previously and for some reason somebody wanted to again record information on this cassette. So they simply blocked the hole and they could not make another recording on the cassette.

This would be consistent with the over-recording which Mr. Weiss described on the 7/29/79 cassette recording.

As far as the recorder stopping, the recorders had a tendency to stop fairly easily, and during the test

that he conducted, I observed Mr. Weiss tap each of the five, each of the five cassette recorders on a table, just like a table tap, indicating, sometimes they would stop and sometimes they would not. Sometimes they would go into the record mode to stop; sometimes from the record mode to the play mode, which means that the tape continued to advance. The recorder would drop from basically table height. Each of the five were dropped from basically table height on to a floor, a very hard surface with a very thin quilting offering almost no protection to the recorder, which caused them to strike the floor very violently.

The five recorders were dropped - - well, four of the recorders were dropped five times each on to the floor by sliding them off of the shelf with a cord, with an "L" shaped jack, similar to the jack on the conduction earpiece that Mr. Weinberg provided to me, which I provided to Mr. Weiss.

The fifth recorder failed to operate after the second drop on the floor. It broke. So that ends the testing of the fifth recorder.

On a subsequent occasion, I again took these recorders plus another one to MR. Weiss for his examination. At this time, he acquired two rug samples.

He then used the four recorders, four of the recorders which were still operative, using the telephone induction pickup withe the angular jack. He slid them off to the floor, at least once on to each carpet sample so we now have an additional series of tests that wexe conducted. So from the tapping on the table, we went to dropping, dropping on the floor.

(Continued on following page)

CROSS EXAMINATION

BY MR. PUCCIO:

Q Mr. Ritenour, do you agree with Professor Weiss' conclusion that the two tapes, that is the 29th and 31st of July tapes, were not dropped, but were intentionally turned off?

Do you agree with that without any reservation?

A No, that is what I was getting at.

MR. PUCCIO: I don't have anything else.

THE COURT: Any other questions?

MR. BEN-VENISTE: Yes, your Honor.

REDIRECT EXAMINATION

BY MR. BEN-VENISTE:

Q Did you perform any tests such as Professor Weiss performed, sir?

A I performed a very simple stop, start test on each of the six Lanier cassette recorders involved and prepared time wave displays of those tests.

I did not have access to the recorders in my laboratory to drop them. We do not conduct an examination unless the tape has previously been examined by someone, the areas which are contested specifically identified, and then we look at the areas which are either confirmed or

rejected in the earlier hypothesis.

In this case I had not --

Q I'm asking you whether you did the tests, sir?

A I didn't drop the recorders, no.

Q You knew from at least August 7th before the trial started from Weinberg that he says that on those tapes what happened was he dropped the machine off the table, right?

A Yes.

Q From that time until today you never tried to duplicate what Weinberg said happened in your own FBI laboratory, is that correct?

A That is correct.

Q With respect to what Professor Weiss did, you say he tapped the machine, isn't it a fact that he slammed the machine on to the table to simulate a drop of a "G" force of one?

A He did not slam the recorder on the table in the manner you demonstrated. If you like to give me the recorder I would be happy to demonstrate.

Q Be my guest.

A I have placed the recorder in the record mode basically by --

Q I'm asking you how he smacked the machine, not

the --

MR. PUCCIO: I object.

THE COURT: Sustained. You asked him to demonstrate how he did it.

MR. BEN-VENISTE: Yes, sir.

Q That is your idea of a tap?

A As compared to a drop on the floor, absolutely.

Q When you tap it like that, did you do a test to show what happens when the trauma is applied to the tape?

A I did not perform this type of test.

Q Even when you performed a test when the machine is banged the way you displayed in the Courtroom what you see on there is not the same as what you see when somebody goes like that (indicating) right?

A Right or wrong, I don't think that is correct.

Q You say that you see the same thing when the machine is slammed on the table as when you simply turn off the switch?

A When this recorder is -- strikes a table or the floor, if it strikes a position, the tape is moving vertically straight up and down, therefore may not be sideways motion which was exhibited on the photograph which is indicative of a recorder falling on its side.

Therefore, it could be dropped in such a manner

as to shut off and not show anything other than a normal stop or start.

Q Let's go back, when you say it could be, did you take that machine into your FBI laboratory, slam it on the table or drop it on the floor so that it landed on the edge and performed the same test?

MR. PUCCIO: Judge, it's been asked and answered. He said he performed no tests.

THE COURT: A long time ago.

Q All you are doing is speculating what may have been as opposed to actually doing the test?

MR. PUCCIO: I object, it's argumentative.

THE COURT: Sustained.

Q Is your testimony based on other than speculation?

MR. PUCCIO: I object.

THE COURT: Overruled.

Q In terms of that speculation --

A It's not mere speculation, it's based on familiarity with the operation of tape recorders and what I observed to be the characteristics of it.

Q You did not do a test to see if your familiarity had any relationship with what actually happened if you had taken the time to drop the recorder?

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q With respect to the hole being punched out and filled back in again, that had nothing to do with the wave forms that would be produced when a machine was dropped is that correct?

A Yes.

Q You are now addressing yourself, whether this was a recording or not, when you talk about that area -- wouldn't the fact that a tape which had been punched out and later filled in again be consistent with a person who after having made a recording punching it out in accordance with the proper procedure so that there is no more recording say if a person didn't like what they heard and then filled in that little tab so that he could erase a portion of the tape --

MR. PUCCIO: I object.

Q Do you understand the question?

THE COURT: Do you?

THE WITNESS: Yes, I do.

THE COURT: Overruled. He may answer.

A Yes, that is always a possibility.

MR. BEN-VENISTE: Thank you. Nothing further.

THE COURT: Any other questions?

MR. DUFFY: It comes from Mr. Puccio, sir.

THE COURT: It's always his fault.

MR. DUFFY: I am not ascribing guilt, your Honor.

THE COURT: I understand, that is your function. Re-recross.

RE-RECROSS EXAMINATION

BY MR. DUFFY:

Q Back to the safety clip, the two little things that the Professor told us you can pull off and block recording on Side A or one --

A Usually it's a plastic tab to punch out.

Q Tab A and Tab B?

A If you like.

Q Tab A controls side A?

A In the upper left hand corner as you are looking front side of the tape.

Q You are an expert in this area?

A Yes.

Q You testified in Court before?

A Yes.

Q How many occasions have you testified involving dropped recorders and how they were turned off?

A (No response.)

Q Ever?

A Ever? None.

Q How many tests have you done to determine what happened on dropped recorders?

A I haven't done any.

Q You didn't do any in this case?

MR. PUCCIO: That has been asked and answered.

MR. DUFFY: Not by me, Judge.

THE COURT: It's argumentative. Isn't it?

MR. DUFFY: Yes, sir.

Q Back to Tab A, if the Professor records his daughter in concert, if he ever gets there, on Tab A, Side A of a brand new cassette -- do you follow me?

A Yes.

Q Then he removed Tab A so that that music is preserved?

A Yes.

Q Then he goes into the second movement where she made a mistake and he wants to erase that part, what does he have to do to get the cassette back in the machine to go through that first four or five minutes and get to the part he wants to erase? Doesn't he have to replace Tab A?

A Not to play the tap, forward it to the place.

Q When he wants to get -- doesn't he have to

replace the --

A He has to block the hole.

Q Replace it with something, a bobbypin, paper clip, scotch tape?

A Something, but not within that realm.

Q He plugs that hole left by the removal of Tab A and now he is able to erase?

A Yes.

Q From the point he commences his erasure, he can record without disturbing what goes before?

A That is correct.

Q Let's parley that into a conversation, if I talk to you on the telephone, and I have a conversation that leads into an area I don't want to perpetuate, but I record the whole conversation and I remove Tab A to preserve it, and later determine that when we come to the part where we are talking about play acting, I want to take that out, can I plug Tab A again and erase from that portion on?

A You can, yes.

Q Then couldn't I get back on the telephone and record right over it?

A (No response.)

Q In another call of six minutes,versus nine minutes -- could I do that?

A Yes.

MR. DUFFY: That is all.

THE COURT: Any other questions?

Thank you, you may step down Mr. Ritenour.

Next witness.

MR. BEN-VENISTE: Agent Boutwell.

J. G A R Y B O U T W E L L, a witness called herein, was sworn by the Clerk of the Court and testified as follows:

DIRECT EXAMINATION

BY MR. BEN-VENISTE:

MR. BEN-VENISTE: May I proceed?

THE COURT: You may proceed.

Q Agent Boutwell, you are a Special Agent with the FBI?

A That is correct.

Q You know Mel Weinberg?

A I do.

Q Were you the case agent in the Pittsburgh fraud investigation?

A Yes.

Q Does that mean you were in charge of that investigation?

A That is true.

Q There came a time when you had enough evidence to arrest Mr. Weinberg, is that correct?

A Yes.

Q He was arrested by agents in New York, is that correct?

A Yes.

Q He was subsequently indicted?

A Yes.

Q He plead guilty to all counts of the indictment, did he not?

A He plead guilty. I can't recall if he plead guilty to all the counts.

Q You were interested in that case in terms of locating victims?

A Yes.

Q I believe in the indictment there is a statement that in excess of $200,000 was swindled out of the victims by Mr. Weinberg?

A That is the total figure, yes.

Q Is that simply on the basis of all the victims you were able to locate?

MR. PUCCIO: I object.

THE COURT: Sustained.

Q With respect to Mr. Weinberg, did there come a

when you learned he was the -- he was supposedly cooperating with the FBI?

A Yes.

Q Did you have a chance to talk with him after his entry of a guilty plea?

A Yes.

Q Did Mr. Weinberg at anytime tell you about other individuals with whom he was cooperating in the perpetration of the London Investors fraud?

A I am sorry, would you repeat that.

Q Let me try it again.

Agent Boutwell, Mr. Weinberg testified in this Courtroom that he was sort of a franchiser of this fraud. Other con men came in and he allowed them to use this fraud in return for some kind of a payment.

Did Mr. Weinberg back in 1977 tell you anything about this?

MR. PUCCIO: I object, your Honor. It's collateral.

MR. BEN-VENISTE: It goes to motive, your Honor.

THE COURT: Sustained.

Q Did you at any point debrief Mr. Weinberg?

MR. PUCCIO: Same objection, Judge.

THE COURT: Overruled.

A My discussions with Mr. Weinberg centered around London Investments which was my interest.

Q Did he at any time provide you with information other than about London Investors?

MR. PUCCIO: Objection, your Honor.

THE COURT: Read the question.

(Last question read by the Reporter.)

THE COURT: Overruled.

A In what context? That is pretty broad.

Q In the context of his either volunteering or you asking him questions?

A About himself?

Q Yes.

Frauds he had been involved with.

A No.

Q Is there any record as far as you know in the FBI of Weinberg sitting down and telling some agent all the frauds he had been involved in?

A Not to my knowledge.

MR. BEN-VENISTE: Nothing further.

(Continued on next page.)

THE COURT: Mr. Duffy?

MR. DUFFY: Yes, your Honor.

CROSS EXAMINATION

BY MR. DUFFY:

Q Agent Boutwell, where were you working then, back when -- when was it '74, '77?

A Seventy-seven, Pittsburgh, Pennsylvania.

Q At that time, did you know John Good ?

A I had some phone conversations with him sometime during 1977.

Q When you were working on the case of Mel Weinberg and the London Investments, were you acquainted with John Good before the arrest?

A I am sure I talked to him on the phone in connection with a case.

Q When you brought Mel Weinberg to PIttsburgh or when he was brought to Pittsburgh, were you in on the Court proceedings?

A Yes.

Q Did you fully expect that he was going to get a jail sentence when he pled guilty?

A I had no understanding other than the fact it was up to the Judge.

Q You were in court the day he was sentenced

to three years in jail?

A Yes.

Q After that, the FBI went to bat for him and got the sentence changed, is that correct?

A That is really not my recollection.

Q You weren't in on that, were you?

A Well, I have no recollection of us going to bat for Mr. Weinberg to get the --

Q When you say us, you are considering the FBi or referring to Pittsburgh and New York --

A Referring to Pittsburgh and New York.

Q Are you saying that the agents from Happhauge didn't go to bat for Mel Weinberg or don't you know?

A I can't answer that in thatform. You will have to be more specific.

Q Did anybody in the Pittsburgh agency of the FBI try to get Mel Weinberg out of going to jail?

A Mr. Weinberg's possible contribution to the FBI was made known to the Judge, yes.

Q And by the Pittsburgh people?

A I was part of that.

Q Who were the rest of --

A Jack McCarthy, John McCarthy.

Q The fellow who testified this morning?

A Yes.

Q How about Mr. Good, John Good?

A Myron Fuller --

Q How about Mr. Good?

A I had no personal contact with Mr. Good.

Q You are aware he wrote a letter?

A I understand there was a letter.

Q This occurred after the Judge refused to put him on probation and sentenced him to jail?

A I don't know the time period. I was not involved in that.

MR. DUFFY: That is all.

THE COURT: Mr. Cacheris?

MR. CACHERIS: No.

THE COURT: Mr. Brown?

MR. BROWN: No.

THE COURT: Mr. Puccio?

MR. PUCCIO: Nothing, your Honor.

THE COURT: Thank you, you may step down. Next witness.

MR. BEN-VENISTE: John Good, your Honor.

J O H N G O O D, called as a witness, having been first duly sworn by the Clerk of the Court and testified as follows:

THE CLERK: State your name for the record?

THE WITNESS: John F. Good. G-o-o-d.

MR. BEN-VENISTE: May I proceed?

THE COURT: Yes.

DIRECT EXAMINATION

BY MR. BEN-VENISTE:

Q Mr. Good, who travelled with Mr. Weinberg to New York on the 23rd of January, 1980, if you know?

A I don't know who travelled with him to New York, he was met by an agent upon his arrival.

Q As far as you know, he did not -- he was not accompanied by an FBI agent on the airplane?

A As far as I know, he wasn't.

Q And the agent who met him was Bruce Brady?

A Yes.

Q He works for you?

A Yes.

Q You supervised Bruce Brady?

A Yes.

Q When did you learn that Mr. Weinberg was missing something?

A Upon his arrival at the hotel.

Q What did he tell you?

A He indicated that his bag was broken into

during transit and cigars and three or four tapes were missing.

Q That his bags were broken into?

A Bag.

Q And thre e or four tapes were missing and cigars were missing?

A Yes.

Q Did he say how many cigars?

A Not to my recollection.

Q Did he say how many bags were broken into?

A One of his bags.

Q Did he say where he had placed the cigars and the tapes which were missing?

A I don't recall where he said they were placed at that time.

Q And was it a matter of concern to you?

A Yes, it was.

Q These tapes were presumably Abscam tapes?

A That is correct.

Q It was a serious matter, is that correct?

A That is correct.

Q This Abscam investigation was still going on in January?

A That's right.

Q And did you write up a report, Agent Good,

with respect to this event?

A No, I did not.

Q Did you specifically direct that someone write up a report regarding this event?

A No, I did not.

Q Was it your decision not to have a report written?

A No, it was not.

Q And whose decision was it?

A There was no decision one way or the other. I made several phone calls in connection with the theft.

Q Are you suggesting that you, as supervisor of this investigation, did not make a decision with respect to the writing of a report concerning this missing tape episode?

A I took waht action I deemed necessary at the time.

Q It was your decision that a report not be written, is that fair to say?

A That is correct.

Q You say three or four tapes, is that what Mr. Weinberg told you?

A Yes, that is correct.

Q Or is that just your recollection?

A That is what he said was his best recollection of what was missing at the time.

Q And you were present when Agent Brady testified in the Court?

A Yes.

Q He testified that Mr. Weinberg said four or five tapes, do you recall that?

A I do.

Q Is he wrong?

A I recall Mr. Weinberg telling me it was three or four tapes.

He wasn't absolutely sure of the number.

Q Do you remember Agent Brady testified that Mr. Weinberg testified he lost one bundle of cigars?

A Yes.

Q Do you recall Mr. Weinberg testifying he lost two bundles of cigars?

A Yes.

Q What do you recall?

A That he lost cigars.

Q Didn't say how many?

A No, he didn't.

Q Did he have any other tapes to produce to you on the 23rd?

A I don't recall.

Q Are you saying, sir, that when he showed up in New York, saying that his bag had been broken into, and some tapes were missing, be it three or four or five, that you don't know whether he, at that time, said at least I salvaged these and here they are?

A I don't recall exactly how many he had with him. If he did, he would have turned them over to one of the agents to be recorded in the usual manner.

Q And wouldn't it make a difference to you in terms of whether Mr. Weinberg was being truthful as to whether he said some tapes were missing but some I managed to keep?

A I believe Mr. Weinberg was being truthful. If he were trying to hide tapes, he would not have reported them missing.

Q Unless somebody knew he made tapes and all of a sudden the tapes disappeared?

A He travelled from Florida by himself. Nobody knew how many tapes he had.

Q Presumably somebody knew something about what Mr. Weinberg was doing in Florida?

A There was not an agent staying with him in Florida at this time.

Q Didn't you have any idea what Mr. Weinberg was doing in Florida?

A Yes, I did.

Q Now, you have absolutely no recollection after this serious event of the tapes being supposedly stolen as to whether he reached in his pocket and said, here are some tapes that weren't stolen?

A I don't recall at this time, no.

Q From the time that Mr. Weinberg first testified about those tapes last week, sometimes, I guess, until today, haven't you made any effort to find out, sir?

A No, I haven't.

Q And wouldn't it have stuck in your mind if Mr. Weinberg had said there were some tapes I had in this suitcase but others I had in my pocket here and here are the ones I had in my pocket?

MR. PUCCIO: Judge, it's been asked and answered at least a few times.

THE COURT: Sustained.

Q Take a look, sir, if you will, to -- may I approach the witness?

THE COURT: Yes.

Q At these two exhibits.

MR. PUCCIO: May I have the numbers, please?

Q Will you provide the numbers, please?

A I don't see any numbers.

Q What are those exhibits? Who will give them some numbers?

A This is a recording of a conversation between Howard Criden and Mel Weinberg January 18th, 1980.

MR. PUCCIO: Are these going to be offered now?

MR. BEN-VENISTE: I object to Mr. Puccio making a comment, your Honor.

THE COURT: First, let's find out what we are talking about.

MR. BEN-VENISTE: Defense Exhibit FF, will be a conversation dated January 18th, 1980, 10:04.

And GG will be a conversation dated January 18th, 1980, with no time indicated.

Q Is that correct?

MR. PUCCIO: If they have been marked, may I be permitted to see who the conversations are --

MR. BEN-VENISTE: Of course, Mr. Puccio.

Why don't we open them up and look -- let Agent Good testify as to who they are between.

THE COURT: 3500 231 and 232?

MR. BEN-VENISTE: Sure, should be, but there

is no mark on the actual exhibit.

THE COURT: 231 and 235.

MR. BEN-VENISTE: They should have 35 markings as well.

Q Look at those Exhibits, Agent Good, and tell the jury whether it is not a fact that those tapes were turned over to you on January 23rd by Mel Weinberg?

A Turned over to Agent Brady on January 23rd.

Q By whom?

A Mel Weinberg.

Q And so in fact, some tapes were salvaged, is that correct?

A That is correct.

Q This refreshes your recollection?

A That is correct.

Q Now, now that your recollection has been refreshed, would you tell the jury how Mr. Weinberg explained to you some tapes had been supposedly stolen and others not stolen?

A Some tapes were taken out of his luggage.

Q Now, do you remember he said some tapes were taken?

A Tapes were taken.

Q Where were the ones that weren't taken?

Where did he have those?

A They apparently were still in his luggage.

Q Did you see them in his luggage?

A No.

Q Did you watch him open the luggage?

A No.

Q In what compartment of the luggage were these tapes?

A I have no idea.

Q Do you know that Mr. Weinberg claimed that he put the cigars and the tapes in an outside pouch of his suitcase?

A I heard him testify to that.

Q And is that the first time you heard that?

A That is correct.

Q If you had written a report up as to what Mr. Weinberg said at the time, all the information would have been in it?

A I --

MR. PUCCIO: Objection, argumemtative.

THE COURT: Sustained.

Q Are you the one who asked Agent Brady to bet Mr. Weinberg to give him the film of photographs he had taken at W street in Washington?

MR. PUCCIO: I object as being collateral.

THE COURT: I'll permit an answer to that question.

A I don't recall whether I specifically requested him to do that or asked someone else to do that.

Q How did you find out that Mr. Weinberg had taken those photographs?

MR. PUCCIO: I Object to that.

THE COURT: Sustained.

Q Do you know that Mr. Weinberg had taken those photographs for use in a book he was planning to write?

MR. PUCCIO: Objection, your Honor.

THE COURT: Side Bar.

(Continued on next page.)

* * *

CONTINUED DIRECT EXAMINATION

BY MR. BEN-VENISTE:

Q Did Mr. Weinberg tell you, sir, that he was planning to write a book about Abscam?

A When?

Q At any time.

A Yes. Sometime after February 2nd, it came to my attention, not from him, but from somebody else.

Q At some point in February, according to Agent Brady, you sent him to Florida to get the film back, is that correct?

A No, that's not correct.

Q Or that he was sent to get the film back?

A That's not correct.

Q MR. PUCCIO: I object to this line of questioning.

MR. BEN-VENISTE: I will rephrase it.

THE COURT: Rephrase it.

Q Do you recall that Agent Brady at some point was asked to get the film from Mr. Weinberg?

A No.

Q Do you recall that somebody was asked to get the film from Mr. Weinberg?

A I didn't know that Mr. Weinberg had any

film to send somebody to get back from him.

Q You had heard he had taken some pictures?

A No, I did not hear he had taken pictures.

THE COURT: Give Mr. Puccio an opportunity to object without answering too quickly.

Objection sustained.

Q Do you take issue with Agent Brady's testimony that -

THE COURT: Sustained.

Q So as far as you know, Agent Brady never went to get any film from Mr. Weinberg?

A MR. PUCCIO: I object.

THE COURT: Objection.

Repeat that.

Q As far as you know, sir, Agent Brady never went to get any film from Mr. Weinberg?

A That's not correct.

Q Did he remember, didn't he?

A He was asked to question Mel concerning some photographs and at that time the film became a matter of subject.

Q Okay.

A I didn't know that until after.

Q When were the photographs supposedly taken?

A MR. PUCCIO: I object.

THE COURT: Sustained.

Q These were supposedly photographs taken in Washington at the W. Street house?

MR. PUCCIO: Same objection, Your Honor. It's a collateral matter.

THE COURT: Hearsay.

MR. BEN-VENISTE: The same exception with regard to Mr. Weinberg's - -

THE COURT: Then put your questions in the form of what Mr. Weinberg may have told him.

Q Did Mr. Weinberg ever admit to you that he had taken such photographs?

A No.

Q Did you ever ask him?

A No.

Q Did you think that was not important, sir?

A He had been- - -

MR. PUCCIO: I object.

THE COURT: Sustained.

Q You were the supervisor of the Abscam investigation, is that correct?

A Yes.

Q When did you become the agent in charge of

the Happauge office?

A It was about August 1st of 1977.

Q When was Mel Weinberg brought to your attention as a possible informer?

A I was aware of Mel Weinberg when I held another position in the New York Office of the F.B.I.

Q In terms of your new job out in Happauge, in the summer of 1977, when did it come to your attention that Mr. Weinberg would be available for some form of service?

A Upon my assignment out there, I suggested to Agent McCarthy that he pursue matters with Mr. Weinberg in an effort to obtain his cooperation.

Q - So that was right when you started in this superviosry job, you said let's get a hold of Mel Weinberg and let's use Mel Weinberg?

A Or shortly thereafter.

Q I think you previously testified that you had supervisory responsibility from the F.B.I. standpoint for both the New York and Philadelphia aspects of that investigation?

A That's correct.

Q Were you the person who was ultimately responsible for giving Mr. Weinberg instructions as to

the methods he was to employ in trying to bring political figures before your videotape cameras?

A I don't think I can answer that question.

Q Did you know in advance that he would try to get Senator Williams before the cameras by promising that the meeting with the sheik was all B.S., that he would only be on stage for 20 minutes?

MR. PUCCIO: I object to the form.

THE COURT: I will permit it.

Overruled.

A Would you repeat the question?

MR. BEN-VENISTE: Would you read it back?

(Question read)

A I knew that - - I knew in advance that Senator Williams would be appearing before camera - -

Q Try to answer my question.

I am talking about Mr. Weinberg's reputation. I want you to answer whether he knew whether he was going to make representations such as the ones I have indicated to you in substance, yes or no?

A Not completely.

Q You did, however, wish to employ Mr. Weinberg in getting Senator Williams to come to a meeting with the ficticious sheik, is that true?

Good direct Ben-Veniste

A I don't follow your question.

Q Wasn't the whole purpose of getting Mr. Weinberg involved to get him to bring the Senator into the meeting before the cameras - - strike that.

Were you interested in getting Senator Williams before your camera?

A You mean after we had contacts -

Q After you had your contacts.

A That's correct.

Q It's true, is it not, that Mr. Weinberg deviated to some extent from your instructions in terms of how to get Senator Williams before those cameras?

A I wouldn't say so, no.

Q In other words, you adopted the methods that Mr. Weinberg used as you sit here testifying today?

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q You don't disagree with Mr. Weinberg's methods?

MR. PUCCIO: Same objection.

THE COURT: Sustained.

* * *

Q Mr. Good, did you make the statement in substance that Mel Weinberg was the heart and soul of Abscam, that without Mel Weinberg there would be no Abscam, he styled it, made it come down, he was incredible?

A No, I did not make that statement.

Q Do you recall that Mr. Robert Green testified that he had a conversation with you in which you made that statement in substance to him?

A I --

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q Did you ever make a statement in substance like that to Mr. Green?

A I confirmed to Mr. Green that Mr. Weinberg was a substantial part of the Abscam investigation.

Q The rest of it you are saying is just Mr. Green's embellishment?

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q Did you ever say that without Mr. Weinberg there would be no Abscam?

MR. PUCCIO: Objection, asked and answered.

THE COURT: Sustained.

MR. BEN-VENISTE: I want to break it down.

I asked about the whole quote that Mr. Green wrote. I hoped to save time.

I will break it down.

Q Did you ever say without Mel Weinberg there would be no Abscam?

A No.

Q Did you ever say that Mel Weinberg was the heart and soul of Abscam?

A No.

Q Did you say that he styled it and made it come down?

A No.

Q Did you ever say he was incredible?

A I never said he was incredible to Mr. Green, I may have described him with that term.

Q You do feel he is incredible?

A In some instances, yes.

Q And not worthy of belief?

A I wouldn't put it that way.

THE COURT: What do you mean by incredible?

THE WITNESS: HIs ability.

Q Acts are incredible?

A At times.

Q Now, I take it at least at the beginning you

felt that Mr. Weinberg was a credible informant?

A That is correct.

Q Now, when you first got hold of Mr. Weinberg in or about the summer of 1977, did you spend some time with him in which you obtained the details of his past life?

A In a general way, yes.

Q Did you find out about the Swiss Bank caper?

A I was not aware of that.

Q That preceded the London Investors?

A I don't know.

Q Did you find out to save time about any of the things Mr. Weinberg had testified to in this courtroom involving the past?

A I was not familiar with those in detail, no.

Q When you say in detail, were you familiar with those specifics that he mentioned, whether you knew the details of them or otherwise?

A What specifics?

Q The business with swindling his relatives, business with --

A No, I was not familiar with any of those details.

Q Was that because you didn't ask him or

because he lied to you?

MR. PUCCIO: Objection, your Honor.

THE COURT: Sustained.

Q Was that because you didn't ask him, sir?

A That is correct.

Q Now, at some point I think it's been testified the Emir Abdul became Sheik Abdul, was that your decision, sir?

MR. PUCCIO: I object.

THE COURT: Sustained.

Q Well, in the Abscam investigation, there was some -- we heard about a Sheik Abdul, is that correct, sir, there was such a person presented as a Sheik?

A Possibly, yes.

Q Don't you know, sir?

A There were a number of differnt descriptions used to describe these two individuals. It was all a matter of what the individuals who were describing him at the time thought he was.

Q It changed from time to time?

A That is correct.

Q So at some point he is an Emir?

A Some people referred to Emir and some people referred to Sheik.

* * *

* * *

DIRECT EXAMINATION

BY MR. BEN-VENISTE:

Q Did you know, Mr. Good, that Mr. Weinberg had been specifically charged with trying to induce individuals in the London Investor's scam to give personal gifts to Ms. Lady Evelyn Knight in order to get favorable action on their loan application?

A No, I did not.

Q Let me show you the indictment in that case

and I ask you to read paragraph F and ask whether that refreshes your recollection, sir?

A This is the first time I've ever seen this indictment.

(Pause)

A That is what it says here.

Q It says that Mr. Weinberg employed that technique in getting people to give gifts to this fictitous lady Evelyn?

A Yes.

Q And you say that you never saw the indictment to which Mr. Weinberg pleaded guilty back in 1977?

A That is correct.

Q Between then and now?

A I have never seen it.

Q I take it you were -- had made no effort to see it?

A That is correct.

Q There came a time when Mr. Weinberg's salary was increased from $1,000 to $3,000 per month, is that correct?

A Yes.

Q That increased from three to $5,000, is that correct?

A That is not correct.

Q Not correct?

A No.

Q He did not receive an increase?

A No, he did not.

Q He received -- strike that.

Were you aware, sir, when you employed Mr. Weinberg to work for you as to whether Mr. Weinberg would be obligted to make restitution in some way, in whole or part, to people he had swindled in the London --

MR. PUCCIO: Objection.

THE COURT: Sustained as to form.

Q Did you ever ask Mr. Weinberg whether he intended to make restitution to the people he swindled now working for the FBI?

A No, I did not.

Q Did you ever ask Mr. Weinberg when he came to work for you in 1977 whether he had declared on his income tax the money he had swindled in the London Investor's caper?

MR. PUCCIO: Objection, your Honor.

THE COURT: Sustained.

Q Did you know at the time that you employed Mr. Weinberg to work undercover in the Abscam investigation,

sir, that he did not file a federal income tax return for the year 1978?

MR. PUCCIO: Objection.

THE COURT: Overruled.

A No, I did not.

Q When did you learn that for the first time sir?

MR. PUCCIO: I object to that, your Honor.

THE COURT: Overruled.

A I don't recall exactly when I learned it for the first time.

Q Approximately?

A Probably in the last five or six months.

Q Was that the result of your asking Mr. Weinberg?

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q Did you ever ask Mr. Weinberg whether he had filed a 1978 tax return?

MR. PUCCIO: Objection.

THE COURT: Overruled.

A No, I did not.

Q When did you learn for the first time that Mr. Weinberg had not filed a tax return for the year 1979?

MR. PUCCIO: Objection.

THE COURT: Overruled.

A I don't recall exactly when I heard that for the first time.

Q Approximately?

A Would have been within the lasat two or three months.

Q Last two or three months?

A Yes.

Q From what source did you learn that information?

MR. PUCCIO: Objection, your Honor.

THE COURT: Overruled.

A I don't recall really how I heard it but I did become aware of the fact he hadn't filed for 1979.

Q Did you have a conversation with him before that, between the time that you learned that he hadn't filed a 1978 return and the time that you learned he hadn't filed a 1979 return wherein you asked him: what are you going to do about your taxes?

A I think I may have suggested at some point to him that he consult with an official of the Internal Revenue Service concerning his 1979 tax when I became aware he hadn't filed.

Q You say you only learned two months ago I am asking you back five or six months ago, when you learned that he hadn't filed for '78.

A I didn't learn that he hadn't filed for '78 until he testified at trial.

Q Pardon me?

A I hadn't learned he hadn't filed for '78 until this trial.

Q I thought you said you learned that five or six months ago?

A I thought you were referring to '79.

Q You learned five or six months ago that he had not filed a tax return for '79, is that correct?

A It would have been right around that time, yes.

THE COURT: Five or six months ago?

It wasn't due until April '80.

THE WITNESS: It was right around the time he should have filed I spoke to him.

Q You said: what about your taxes —

A No, I said: "Have you filed, do you intend to file your tax return this year?"

Q Did he say he intended to file?

A Yes.

Q At the time you asked him that question, you are telling this jury that you didn't know that he had not filed '78's return?

A That is correct. I didn't ask him about '78 then.

Q He didn't say to you: hey, I haven't even filed '78, what are you bugging me about '79?

A No.

Q But he received money from the Government in both of those years?

A Yes.

Q Was it you who made the decision not to withdraw the taxes from that money when you paid him?

A No.

Q Was that Mr. Weinberg's decision?

A No.

Q Who made that decision?

A The usual procedure of paying somebody in Mr. Weinberg's status is not to withhold any tax money from his pay.

He is not a salaried employee of the FBI.

Q Doesn't he get a salary every month?

A He is a paid informant.

Q You heard him testify he was a special

employee?

A No.

Q You didn't hear that in Philadelphia?

A I heard you use that term, Special employee.

Q You didn't hear either Mr. Puccio or Mr. Weinberg use those terms?

A Not to my recollection.

Q In Philadelphia?

Would you find those references, please.

MR. PUCCIO: Judge, I object to this.

THE COURT: Sustained.

Q The FBI was paying Mr. Weinberg through the cover of Abdul Enterprise for some period of time?

A Yes.

Q After February, I take it, that procedure was discontinued, is that correct?

A Procedure of paying him through Abdul Enterprise was discontinued.

Q He has been paid $3,000 per month from February up until today?

A That is correct.

Q And that is a check thatcomes directly from the Government?

A No.

Q Where does it come from?

A I don't know what account he's paid from. Agent Brady handles the monthly payment. I'm not aware --

Q You are saying it comes from some other fictitious company?

A I don't know exactly what account Agent Brady pays him through right now.

Q Bradley was his undercover name?

A That is correct.

Q But, in any event, you know there is no withholding up until today?

A Yes.

Q From the time you learned he hadn't filed the tax return in '78 and '79, you are still not withholding from his salary?

MR. PUCCIO: Objection, asked and answered.

THE COURT: Sustained.

Q Now, you were asked about Mr. Weinberg's bonus when you testified in Philadelphia, were you not?

MR. PUCCIO: Objection, your Honor.

THE COURT: You haven't asked anything about the bonuses yet?

MR. BEN-VENISTE: No.

THE COURT: Sustained.

Q Did you have a conversation with Mr. Weinberg in which you told Mr. Weinberg in substance you were going to put him in for some kind of a bonus when the case was over?

A That's correct.

Q When did you have that conversation?

A I don't recall exactly when.

Q Where was it?

A I don't recall exactly where.

Q I am not asking you for exactly when or where, I am asking you to the best of your recollection when was it and where?

A I don't recall where it was and I can't be sure exactly when it was. It was sometime over the last six months.

Q Did you make some memorandum of that conversation for the files so that someone reading the file would know that you had had such a conversation with Mr. Weinberg?

A No.

Q When you testified in Philadelphia, sir, you did not mention that conversation, did you?

MR. PUCCIO: Objection, your Honor.

THE COURT: Sustained as to form.

Q You were questioned in Philadelphia about

the bonus, were you not?

A I believe so.

Q Did you tell Judge Fuller then that you had made such a promise to Mr. Weinberg?

MR. PUCCIO: Objection, your Honor.

THE COURT: Overruled.

A I don't believe I was asked that question down there.

Q And of course we didn't know about it but we were asking you about bonuses --

MR. PUCCIO: Objection to the statement.

THE COURT: Sustained.

Disregard the statement.

Q Did you or did you not tell Judge Fuller about the promise you had made to Mr. Weinberg about the ultimate bonus?

A No.

MR. PUCCIO: Objection.

Q Thank you.

THE COURT: I will let it stand.

Q Now, you knew that Mr. Weinberg was supposed to make the contact with Mr. Criden to set up the Philadelphia Barclay Hotel meeting, did you not?

A Yes, I was.

Q Did you tell Mr. Weinberg what to say?

A I told him the general information as to who would be contacting Mr. Criden in Philadelphia.

Q That is all you said?

A I gave him the names of the people who would be there and the fact that Agent Haridopolos would be the primary intermediary between --

Q When did you provide that information to Mr. Weinberg?

A I don't recall the exact date.

Q Approximately?

A It would have been the same day, probably that day he called Mr. Criden and advised him of the fact that Agent Haridopolos would be contacting him.

Q Do you know of only one contact by Mr. Weinberg to Mr. Criden concerning setting up the Philadelphi meeting?

A There were one or two, I'm not sure.

Q How about three?

A I would have to check the phone calls to find out.

Q And who -- could you check the one that was lost?

A I don't know that there was one lost.

Q Could you check it if it were lost?

MR. PUCCIO: I object.

THE COURT: Sustained.

Q What did you tell Mr. Weinberg to tell Mr. Criden in that telephone conversation?

A Basically that Agent Haridopolos would be in touch with him and there was another representative of the Sheik who was going to be in Philadelphia and wanted to meet with him.

Q That is all Weinberg was supposed to tell Mr. Criden?

A In general.

Q No other specifics?

A Not that I recall.

Q Did you not instruct Mr. Weinberg to tell Mr. Criden that another Jewish individual would be taking over some responsibility?

A I never made any reference to that at all.

Q Did you tell Mr. Weinberg to specifically mention to Mr. Criden that the individuals in Philadelphia wanted to meet with Ozzie Meyers?

A I don't believe I made that reference, no.

Q If Mr. Weinberg did that, that was contrary to your instructions?

A No, it would not be contrary.

Q Beyond your instructions?

A No, I wouldn't say that either.

Q Did you instruct him to specifically mention Ozzie Mayers?

A I don't think I did. But I am not positive about it.

Q How can you say it wasn't contrary to your instruction if you don't recall your instructions?

A It would be logical for him to do since we met with Congressman Mayers and he was in Philadelphia.

Q You mean to say you left it up to Mr. Weinberg to make those decisions?

A It could have been possible, yes.

Q If you had known, sir, back in July of 1979, that Mr. Weinberg had deliberately altered or deliberately failed to record certain portions of conversations, would you have continued to use him in your investigation?

A I never had any such knowledge.

Q I asked you if you had learned that Mr. Weinberg had altered any tape or deliberately failed to record certain portions of conversations, would you have continued to use him in your investigation?

A I would have had to have all the facts

before I could make a decision on that and wanted to know the reasons why.

Q So it's possible you would have continued even knowing that, sir?

A It depends on the situation that would have been involved.

Q If Mr. Weinberg had deliberately told Mr. Errichetti that in connection with the Meyer's meeting --

THE COURT: Mr. Ben-Veniste, we've got enough trouble with what happened without dealing with hypotheticals.

Sustained.

Q Your answer is, sir, you wouldn't know --

THE COURT: There is no question.

Q Is it fair to say, sir, that if you had known that Mr. Weinberg --

THE COURT: Sustained to the "if."

Q Do you know who Mr. -- strike that.

Had you ever heard of Mr. Criden before the 26th of July, 1979?

A No, I had not.

Q Do you know who Mr. Neifeld was in connection with this investigation, or Nyfeld?

A The first time I heard his name was during

the course of the trial here.

Q Didn't you know Mr. Neifeld was the person who owned the option on the land in Atlantic City that Mr. Criden and Mr. Johansen were interested in?

A I was not familiar with this detail.

Q Does that refresh your recollection?

A I remember hearing it during the course of the trial.

MR. BEN-VENISTE: Nothing further.

THE COURT: Mr. Duffy?

CROSS EXAMINATION

BY MR. DUFFY:

Q Let's stay right in July of last year, Agent Good. Are you telling the jury that you didn't know before the 26th of July, 1979, that Louis Johanson and Howard Criden and the Mayor were coming down to the boat to talk to your man Amoroso and Weinberg?

A I believe I knew about the meeting on the boat.

Q You knew there was a telephone conversation on July 14th, 1979, between Mel Weinberg and Lou Johanson, did you not?

A I became aware of that phone call.

Q Did you listen to the tape of that telephone

call?

A At some time I probably did.

Q Back then, July 1979, did you?

A No, I did not.

Q Tell the jury what happened to tapes when Mel turned them over.

Let's say his week's taping, turning in today, what did you do?

A What did we do?

Q You.

A I never came in contact with the tapes, or very seldom.

Q You are telling the jury that you didn't know until -- a month later what would be on the tapes?

A In some instances that would be correct.

Q How about the tape that we played here in the Courtroom, the thing that occurred last June involving Mel Weinberg talking to Senator Williams? When did you first hear that?

A That probably would have been shortly after that meeting.

Q You heard that one shortly after but you don't know when you heard the others?

A That is correct.

Q Did you take any action in regard to Mel Weinberg's contact in that meeting that we heard on tape?

A Nothing.

Q Did you say: Hey, Mel, you can't do that?

A I don't recall ever saying anything to that effect, no.

Q Did you yourself form a judgment as to the propriety of the remarks or the urging that Weinberg addressed to the --

MR. PUCCIO: Objection, your Honor.

THE COURT: Sustained.

Q You were running this operation, were you not?

A That is correct.

Q Let's make that clear to the jury, you were the boss of Weinberg and Amoroso, McCarthy, and the rest, is that correct?

A That is correct.

Q Back in July you say that you knew Lou Johanson and Howard Criden were going down to the boat before they got there?

A Yes.

Q Did you know something was going to be brought up on the boat about getting help to the Sheik to

get into the country?

A I was not aware of that prior to the meeting.

Q When did you first learn that?

A It would have been probably that day or the next day, whenever it was that Agent Amoroso called me and advised me of the results of that meeting.

Q You didn't control Amoroso and Weinberg as regards the areas they would enter in this scam?

A Not at the initial stages such as that meeting was. We had many, many instances where ideas were thrown out but never pursued. That is one thatdid happen to develop in an area we pursued.

Q You, the boss of the operation, for whom these fellows were working, had no idea on the morning of the 26th that they were going to undertake --

A I knew what they were going to undertake, specific topics of conversations that might come up.

Q You knew what they were going to -- do you mean to say you knew they were going to try to talk to these fellows about getting politicians to help the Sheik?

A I knew they were meeting with Mayor Errichetti, Mr. Johanson, Mr. Criden, Mr. Meiler and we had previous dealings with Mr. Errichetti involving --

Q I'm talking about what was said to the people about this new undertaking, did you know that was going to come up?

A No.

Q You had no idea even though you were the boss?

A I had no idea of the specific conversations that were going to take place on the boat that day.

Q Specifics aside, isn't it true you knew that an approach would be made that day to try to get these men to introduce politicians?

A No, I did not.

Q So that Amoroso came up with that on his own without your prior approval?

A The idea was thrown out at that particular meeting. I was advised subsequently.

Q When Mel Weinberg came up on the 23rd of January and he brought the bag in from the airport, the one from which the tapes were supposed to be missing, did you examine the bag?

A No, I did not.

Q And can you tell the jury whether there were any signs on the bag of forcible entry?

A I didn't examine the bag.

Q Can you tell the jury what kind of bag it was? Can you describe it?

A No, not really, I didn't examine the bag.

Q Was it a suitcase as opposed to something carried on a hanger, or don't you know?

MR. PUCCIO: I object. The question has been asked several times.

THE COURT: He hasn't examined it.

Did you see it?

THE WITNESS: No, I don't recall seeing the bag.

Q Mel Weinberg tell you, John, this was a bag I carried on to the airplane?

A No, he didn't.

Q Did he tell you, John, this is a bag I shipped in the baggage department?

A No.

Q Did you ask him?

A No.

Q Could you have had any idea where to look for the theif?

A I didn't look for the theif.

Q Were you here in Court when Weinberg testified it was a carry on bag?

A Yes.

MR. PUCCIO: Objection, your Honor.

THE COURT: I will permit it, he already answered.

Q You were here in Court?

A Yes.

Q When he gave that testimony?

A Yes.

THE COURT: Did you say it?

MR. DUFFY: It.

THE COURT: It was a carry-on bag, didn't he testify to two bags?

MR. DUFFY: Your Honor, I figure there were tapes stolen out of one if they were stolen.

Q Did he tell you he had two bags?

A Yes. I was aware he had two bags.

Q Did he tell you which bag contained the cigars and tapes?

A I believe he testified here as to which bag contained -- I didn't ask him myself personally as to which bag contained the tapes.

Q Did he say how the theft could have occurred in mid-air on a locked airplane?

A He assumed that had taken place during the

course of the loading of the bags in Florida or unloading them in New York.

We sent out agents to question the baggage handlers in both locations.

Q He said he carried the baggage on to the airplane?

A No, he checked both of his bags, he said.

(Continued on next page)

Q So he told a different story here in the Courtroom didn't he?

A He told the same story here in the Courtroom tht I understood to be the correct one. That both bags were checked.

Q Did he give you any kind of ticket, any baggage plane number?

A I told you I didn't personally question him concerning the loss at that time.

Q Agent Good, I'm going to leave this with this question, are you telling this Jury that in this Courtroom it is your recollection that Mel Weinberg said he checked the baggage through, not that he carried it on the plane?

A That's correct.

Q Are you friendly with Bob Green, the fellow who testified here yesterday?

A I know Mr. Green.

Q He is the fellow whose going to write The Sting Is Gertrude Man.

MR. PUCCIO: Objection your Honor.

THE COURT: Overruled.

Q (continuing) Is that right?

A I don't know whether that is going to be the title of the book or not. I know he is writing a book.

Q He is going to write a book about Mel Weinberg's escapades? You heard of that.

A I did.

Q Back during this investigation when you were the agent in charge, did you work closely with any lawyers employed by the Government?

A Yes.

Q Wasn't Mr. Puccio the man who was in charge of this investigation?

A That is correct.

Q Did you report to him from time to time?

A I did.

Q Did he listen to tapes as the case progressed?

A He did.

Q Did he hear the Williams tape?

A I don't know whether he did or not.

Q Did you ever get any instructions from Mr. Puccio to tell Mel not to do this or to do that?

A Not really specifically, no.

Q How about unspecifically?

A Yes we did.

Q Guidance for Mel Weinberg in the pursuit of this scam?

A Mel Weinberg and all the agents involved.

Q Now you said, I believe that you didn't go back thoroughly, and maybe I am characterizing it and I shouldn't, but thoroughly into Weinberg's task when you enlisted him or he enlisted you to start the ABSCAM? Is that correct?

A Yes, that is right.

Q Were you aware, however, that he specifically had a charge in Miami of interstate transportation of stolen securities?

MR. PUCCIO: Objection, Judge.

THE COURT: Sustained.

Q You told Mr. Ben-Veniste that Weinberg never got a raise to $5,000 is that correct?

A That is correct.

Q Isn't it true that in February of this year he got a retroactive raise back to the prior November of $2000 a month in a lump sum?

A No. I think one month he got an additional $2,000 for some specific reason.

Q And he is still being paid $3,000 today? Is that correct?

A That is correct.

Q Alright. As an employee of the FBI, a

salaried employee, don't you get a W-2 form every January?

A Yes I do.

Q You are saying that Mel Weinberg was not a salaried employee and therefore no taxes were withheld and therefore he got no W-2 in January?

A That is correct.

Q Did he get a 1099 form, the kind of form that is given to an independent contractor?

A No, he did not.

Q You say Mel Weinberg was not an employee of the FBI.

Was he in business for himself?

A No, he was not.

Q He was employed by Abdul Enterprises?

A He is characterized by the FBI as a paid informant.

Q But no 1099 form was given to him?

A No.

Q So no statement came from our Government to Mel Weinberg saying this is how much he was paid last year so that the Internal Revenue Service would know?

A That is correct.

Q Now, you answered Mr. Ben-Veniste about your knowledge of his filing of returns.

You were in Philadelphia when we conducted the hearings before Judge Fulum, were you not, sir?

A Yes I was.

Q Isn't it true that that is when you became aware when we got it out of Mel Weinberg under oath.

MR. PUCCIO: I object, your Honor.

THE COURT: Overruled.

A That may have been the first time that I heard that he hadn't filed for '78.

Q When I asked him in the Courtroom? Isn't that right?

A It is very possible.

Q Is it may or is it true?

A I am not positive. I may have heard it previously. But I remember hearing it on that occasion also.

Q That was substantially after his '79 return was due, was it not?

A Are you talking about his '78 or '79 return?

Q '79 return.

A No. I knew he hadn't filed for his '79 return right around the time that they were due to be filed.

Q In Philadelphia he lied under oath and told Judge Fulum he filed his '78 return, didn't he?

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q When you conduct an investigation, Agent Good, and an agent who works for you and he is employed by the FBI, let us take Amoroso or any other agent involved in this case, or any other case, and you interview that agent about an episode in that case and he refuses to give a signed statement, what happens to him?

A You will have to give me a specific example. I couldn't answer a hypothetical question like that.

Q Let's say you called him in -- well I have to make it hypothetical, sir. Suppose you call an agent in in connection with the ABSCAM and said tell me what happened thus and so and he said I'm not going to give you a signed statement. What is the Bureau's policy in connection with that.

MR. PUCCIO: I object to this as being irrelevant.

MR. DUFFY: I can tie it in, sir.

THE COURT: Overruled.

A I wouldn't ask him for a signed statement.

Q Well, for my question I want you to ask him for a signed statement.

MR. PUCCIO: Then I object.

THE COURT: You want him to assume something that doesn't happen?

Q If you ask one of your agents to give you a signed statement about a development in an investigation and he categorically refuses to do so, what do you do to him?

MR. PUCCIO: Objection, Your Honor.

THE COURT: Overruled.

A It is not Bureau policy to ask agents for signed statements concerning an investigation.

Q You are aware, are you not, that Mel Weinberg refused to give the FBI investigators a signed statement in this very case.

MR. PUCCIO: Objection your Honor.

THE COURT: Sustained.

Q But you continue to pay him $3000 a month? Is that correct.

MR. PUCCIO: Objection.

THE COURT: Sustained.

MR. DUFFY: That is all.

THE COURT: MR. Cacheris?

Mr. Brown?

MR. BROWN: No questions.

THE COURT: Mr. Puccio, any cross?

MR. PUCCIO: A few questions.

CROSS EXAMINATION

BY MR. PUCCIO:

Q Mr. Good, you have been with the FBI for how many years?

A In excess of 19 years.

Q Now, in your career with the FBI I assume you have been involved in the investigation of various kinds of crimes, is that correct?

A That is correct.

Q Including white collar crime and official corruption?

A That is correct.

Q Now, have you been involved in supervising other undercover investigations apart from ABSCAM?

A Yes I have.

Q And in these other undercover investigations have you made use of paid informants such as Mel Weinberg?

A That is correct.

Q And in your opinion, Agent Good, may I ask you --

MR. BEN-VENISTE: You are opening the door now. I'm just advising the Court that I intend, if Mr. Puccio wants to go into this area, to go into some other areas related to this.

I do not object to him going into it but I am suggesting he is opening the door.

THE COURT: Forewarned.

Q Mr. Good, in your opinion are paid informants essential to undercover investigations?

A Yes they are.

Q Now, during the course of the ABSCAM investigation did you have occasion to give instructions to Mr. Weinberg?

A Yes I did.

Q And did you have occasion to give instructions to Mr. Amoroso and other undercover agents?

A Yes I did.

Q And did any of these instructions deal with things that should be brought up during conversations with any of the targets?

A Yes. The basic instructions were that the people that were coming in should be pre-disposed to take a bribe and to make a promise in return to do something for us, and that we should have good reason to believe that these individuals would do this.

Q And did you give instructions to Mr. Weinberg to say to --

MR. PUCCIO: Withdrawn.

Q Now, you heard the tapes that were made during this investigation in which Mr. Weinberg says things like, "Come on strong"?

A That's correct.

Q Now, was that statement by Mr. Weinberg to "Come on strong" consistent with your instructions?

MR. BROWN: I object to this.

THE COURT: Do I have one objection?

MR. BROWN: You have one.

MR. CACHERIS: You have two.

THE COURT: Alright. Sustained as to form.

Q Well, was Mr. Weinberg ever instructed to ask people with whom he dealt certain questions about people who had come in to meetings?

MR. BROWN: I object to this.

THE COURT: It is very vague.

* * *

(The following takes place in open court.)

THE COURT: Ladies and gentlemen, I will sustain the objection to the last question. You will disregard the question and the answer.

I also want to instruct you to disregard everything you've heard this afternoon relating to any instructions given by the FBI to Mr. Weinberg.

I had a discussion with counsel at the side bar. As a result of that discussion I am just removing that information from your consideration.

I have ruled it is irrelevant to the case and does not bear on any of the issues you have to determine.

Any testimony that you may have in your mind with respect to instructions given by anyone in the FBI to Mr. Weinberg, you have heard this afternoon, just blot it out of your mind and forget it.

You will decide the case based on other evidence closer to the central issue in this case.

You may continue.

MR. PUCCIO: May I approach the witness?

THE COURT: Yes.

MR. PUCCIO: I ask this be marked as Exhibit 27.

* * *

12 (The following took place in open court.)

13 MR. PUCCIO: May I approach the witness?

14 THE COURT: Yes.

15 CROSS-EXAMINATION

16 BY MR. PUCCIO: (continuing)

17 Q Can you identify that exhibit, Mr. Good?

18 A Three watches that Mr. Weinberg turned into

19 me last -- end of July, beginning of August.

20 Q They are Piaget watches?

21 A Yes, three of them.

22 Q What is their approximate value?

23 A Six thousand dollars each.

24 MR. BROWN: I object.

25 THE COURT: Overruled.

A Six thousand dollars each.

MR. PUCCIO: I offer them in evidence.

MR. BROWN: I object. May we question him on the voir dire?

THE COURT: Sure.

MR. BROWN: Thank you.

VOIR DIRE EXAMINATION

BY MR. BROWN:

Q When did you get them from Weinberg?

A Latter part of July, beginning of August.

Q Do you have any 302 or record of that?

A No.

Q Nothing written?

A No.

Q You didn't write down that he turned the watches over?

A I believe Agent Amoroso may have prepared a memorandum.

Q Do you think so?

A Yes.

MR. BROWN: May I please have that memorandum if such a memorandum exists?

THE WITNESS: I have to check to see.

Q When were the watches received by Mr. Weinberg?

A Sometime prior to that, I don't know the exact date.

Q You don't know, two months, three months?

A Shortly before that.

Q Days, weeks?

A I would say within a week or two.

Q You know that to be so?

A I don't know the exact date.

Q Did you check out or is this information coming from Weinberg --

A Mr. Weinberg voluntarily surrendered the watches to us indicating he got them as a gift.

Q From whom?

A Mr. George Katz.

Q Not connected with this case?

A No.

Q Did you check that out and accept Mr. Weinberg's statement?

A I accepted his statement.

Q You had no writing or any other record from Mr. Weinberg whatsoever except his statement?

A That is all.

Q As possibly -- your Honor, may I question from here?

THE COURT: You are beyond voir dire and into cross-examination.

MR. BROWN: I thought it was voir dire with respect to the memorandum.

THE COURT: It's three watches that have been offered in evidence.

MR. BROWN: The memorandum might well confirm --

THE COURT: That is still for cross-examination.

MR. BROWN: Then I will reserve, your Honor.

THE COURT: All right.

MR. DUFFY: May I, strictly on the voir dire?

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MR. DUFFY:

Q Agent Good, do you have a writing here in court that shows the history of movements -- not the watch movements -- but the movement of the watches?

A I don't follow.

Q When the Government has a tape that Mel Weinberg turned over, they have -- I'm looking at 23B, they have David Birch, 19th of September, 1979, evidence transportation and same day gave it to somebody else.

Do you have the same thing with the watches?

A No.

Q Did you keep a careful chronological record similar to what you did with the other evidence? From whom to whom it moved?

A No.

Q You really don't know the date when Weinberg got the watches?

A I already testified to that.

Q You don't know except based on Mr. Weinberg where he was and who actually handed them --

A I was told by Mr.Weinberg they were given to him by Mr. Katz.

Q My question is, all we have is Mel Weinberg's word, right?

A Yes.

MR. DUFFY: That is all.

MR. BEN-VENISTE: May I, your Honor?

THE COURT: Voir dire?

MR. BROWN: Before the voir dire, may I ask a search be made for the memorandum?

MR. PUCCIO: We don't have a memorandum on this. We have the watches.

THE WITNESS: I said there may be, I wasn't sure.

MR. BEN-VENISTE: May I approach the witness

to look at the evidence that is proffered?

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MR. BEN-VENISTE:

Q Is there any indication on the evidence as to the date you received it from Mr. Weinberg?

A No.

Q Is there any indication whether anybody else knew or was present at the time they were given to Mr. Weinberg?

A To my knowledge there was nobody else present.

Q Is there any indication?

A No.

Q All you got to go on is Mr. Weinberg's word?

A Yes.

Q Is there any indication as to whether anything else was given to Weinberg by Mr. Katz that he didn't turn over?

A (No response.)

Q At or about the same time the watches were given such as cash or something else?

A No, there is not.

MR. BEN-VENISTE: The only objection is as to relevancy and chain of custody. There is not

a writing on the exhibit when received --

MR. PUCCIO: I object to the argument.

MR. BEN-VENISTE: I have another question.

Q Is there some point one of the watches were supposedly missing?

A No.

Q Always three?

A Yes.

Q The news stories were inaccurate about that?

MR. PUCCIO: I object.

THE COURT: Sustained. What may have been in any newspaper story is irrelevant.

MR. BEN-VENISTE: I object on the grounds as stated. Relevancy and chain of custody.

THE COURT: Overruled.

MR. DUFFY: I will be overruled too, sir.

THE COURT: Don't make the objection.

MR. DUFFY: I want my objection on the record.

THE COURT: Same objection?

MR. DUFFY: Continuity.

THE COURT: An objection to one is an objection to all.

27 received in evidence.

MR. PUCCIO: I have no other questions at

1 this time, your Honor.

2 THE COURT: All right, back to redirect.

3 MR. BROWN: May I see those exhibits, please?

4 MR. PUCCIO: Yes.

5 (Pause.)

6 MR. BEN-VENISTE: Nothing further except insofar

7 if a report can be located then we would wish to

8 question on it.

9 THE COURT: All right.

10 MR. PUCCIO: Your Honor, may I circulate this

11 exhibit?

12 MR. DUFFY: I may have some questions. I never

13 saw it before.

14 MR. PUCCIO: Maybe I have additional question.

15 CROSS-EXAMINATION BY

16 MR. PUCCIO: (continuing)

17 Q Mr. Good, did Mr Weinberg have a van to your

18 knowledge?

19 A Yes.

20 Q What kind of a van did he have?

21 A Customized van, Chevrolet.

22 Q Was that used in connection with this investi-

23 gation?

24 A Yes, it was.

25 Q Do you remember the color?

A It was tan. I believe a red stripe.

MR. PUCCIO: May I have this marked as the next exhibit?

THE CLERK: The folder?

MR. PUCCIO: Yes.

THE CLERK: So marked as Government's Exhibit 28.

MR. PUCCIO: Your Honor, I would ask to excise -- I am using original documents -- I ask permission to excise several irrelevant terms.

MR. BEN-VENISTE: I haven't seen the documents.

THE COURT: You may proceed.

BY MR. PUCCIO: (continuing)

Q Mr. Good, I show you Exhibit 28 and I ask you if those records pertain to Mel Weinberg's van?

MR. DUFFY: Objection.

THE COURT: What ground?

MR. DUFFY: It's not his van, it's Mel Weinberg's van. Anything he knows is hearsay.

THE COURT: Overruled at this point.

A Yes, they do.

MR. PUCCIO: Thank you, Mr.Good.

I'm calling another witness on this subject.

THE COURT: All right. Is there going to be any further questions of Mr. Good?

1 MR. BROWN: We should see the document to
2 determine whether we have a question.
3 MR. BEN-VENISTE: Yes.
4 THE COURT: They would like to see whatever
5 it is you have marked as Exhibit 28 for identification.
6 You made some reference about a redaction.
7 MR. PUCCIO: I ask to be permitted to redact
8 certain irrelevant material from the exhibit.
9 MR. BEN-VENISTE: May I distribute the exhibits
10 I mentioned at the side bar to the jury?
11 MR. BROWN: I want to ask a question about
12 the watches if it's appropriate at this time.
13 THE COURT: That is the point we are at.
14 MR. BROWN: Is that where we are?
15 THE COURT: Yes.
16 MR. BROWN: May I?
17 THE COURT: Yes.
18 RECROSS-EXAMINATION
19 BY MR. BROWN:
20 Q Did you have the watches appraised?
21 A Yes.
22 Q You have a copy of the appraisal?
23 A We didn't get a written appraisal.
24 Q Who took them up, Weinberg?
25 A No, one of the agents took them to a jeweler.

Q But we don't have any written appraisal?

A No.

Q One last question: Are you sure reasonably that a memorandum exists, if you say no, believe me, I will say no more -- are you?

A I am not sure a memorandum exists.

Q We can say there is no memorandum and I shouldn't press it any further, is that fair?

MR. PUCCIO: I object.

MR. BROWN: Is it fair?

THE COURT: Overruled.

Q Is it fair?

A I am not sure.

Q That I not press anymore because it's reasonable that there isn't a memorandum --

A There may be one, I'm not sure.

Q Where would it be?

A I would have to search the file. I think there are eighteen volumes of files that would have to be searched.

MR. BROWN: I will ask your Honor -- through your Honor, I ask he try to do that tonight for tomorrow.

I have no further questions about the watches,

your Honor. I never had anything so valuable, I wish somebody would take them from me.

THE COURT: Overnight Mr. Good, examine whatever it is that such a memorandum would be in if there is such a memorandum.

I want a report on it in the morning.

THE WITNESS: Yes.

THE COURT: Any more questions for Mr. Good?

Thank you, Mr. Good; you may step down.

Next witness.

MR. BEN-VENISTE: At this time, may I disseminate these transcripts?

THE COURT: Yes.

MR. BEN-VENISTE: Thank you.

THE COURT: What exhibits are these?

MR. BEN-VENISTE: T11 through T16. T16 is the September 19, 1979 meeting with Errichetti, Cook, Weinberg, DeVito and Poulos.

Should I identify for the record --

THE COURT: Yes.

MR. BEN-VENISTE: T11 is the conversation of January 18th between Mr. Criden and Mr. Weinberg.

T12 is a conversation between Mel Weinberg and an individual with the initials A.F. that we haven't

identified, your Honor. Not a defendant in this case.

Exhibit T13 is a conversation June 19, 1979, between Mr. Weinberg and an individual with the initials G.K. who was not identified at the time the materials were testified to.

Defendant Exhibit T14 is a telephone conversation June 24, 1979, between Mr. Weinberg and the individual with initials A.F.

Exhibit T15 is an excerpt of a telephone conversation, June 26, 1979, between Mr. Weinberg and an individual with the initials G.K.

And T16 is a September 19 transcript of the videotape which the defense made for the jury involving Errichetti, Ellis Cook, Weinberg, DeVito, and Poulos.

THE COURT: All right, you may give those to the jury. They are all received in evidence.

MR. DUFFY: Thank you.

(Exhibits given to jury at this time.)

THE COURT: Anything further from the defense? All defendants rest. Any rebuttal?

MR. DUFFY: I think we have exhibits not received in evidence. I don't remember an objection, I move for the admission of all defense exhibits --

MR. PUCCIO: I don't have a list in front of me.

I would like to see what we are talking about.

MR. DUFFY: Mr. Levy has made order out of chaos, maybe he can speak to it.

MR. PUCCIO: May we circulate the watches while this is being done?

THE COURT: Yes.

With respect to defendants' exhibits, I have marked B, I, S, U, D, W, Y, Z. And I think that is all.

What exhibits are you now offering in evidence?

MR. BEN-VENISTE: C -- it is the Pittsburgh indictment.

THE COURT: Any objection?

MR. BEN-VENISTE: I thought it had been admitted but the clerk indicated it had not.

THE COURT: It hadn't been identified.

MR. DUFFY: I used that.

THE COURT: Not by exhibit number.

MR. PUCCIO: I would like to look at it. I haven't seen that document.

THE COURT: How many of these defendants' exhibits have not been shown --

MR. DUFFY: He gave me the copy, he has it.

MR. PUCCIO: If an exhibit is not offered at the time it's questioned about, I wouldn't get interested

THE COURT: Get all your defense exhibits together and give them to Mr. Puccio after we finish this afternoon and he will put them on the record. I will inform the jury in the morning which ones are in evidence.

Except for that, do the defendants rest?

MR. BEN-VENISTE: Yes.

THE COURT: Any rebuttal?

MR. PUCCIO: I have a brief matter.

(Pause.)

S T A N L E Y F O R T N E R, a witness called herein, was sworn by the Clerk of the Court and testified as follows:

THE CLERK: State your name for the record and spell it?

THE WITNESS: Stanley Fortner, F-o-r-t-n-e-r.

MR. PUCCIO: May I proceed?

THE COURT: You may proceed, Mr. Puccio.

MR. PUCCIO: Thank you.

DIRECT EXAMINATION

BY MR. PUCCIO:

Q What is your occupation?

A Consumer manager and sales manager for Roger Dean Chevrolet, D-e-a-n Chevrolet, in West Palm Beach, Florida.

Q Are you familiar with Mel Weinberg?

A Only through the legal papers that I brought up here.

Q You brought up the records concerning the trade-in of a certain van, is that correct?

A Yes.

MR. PUCCIO: May I approach the witness?

THE COURT: Yes.

Q I show you Exhibit 20. Are those records --

MR. DUFFY: Judge, I object, sir. Where I come from we show counsel exhibits before --

MR. BROWN: We have something here -- I'm sorry.

THE COURT: How they may do it in Philadelphia is one thing, but counsel are not entitled to see a document until it is offered in evidence.

MR. BROWN: In all fairness, I may have a copy.

MR. PUCCIO: I gave Mr. Brown a copy.

MR. BROWN: He gave it just to me apparently.

Q Are those records of your dealership?

A Yes.

Q Do they reflect a trade-in of a van?

A That is correct.

Q By Mr. Weinberg?

A Yes.

MR. BROWN: I object. He only knows from the legal papers. They speak for themselves.

He may be the custodian but unless he knew Weinberg and participated, I object.

THE COURT: Overruled.

Q Are those records kept in the ordinary course of business?

A Yes. Each individual car has its own file. And it is all stored away.

This is a legal document as far as Roger Dean Chevrolet is concerned.

Q Is it part of your business to keep these records?

A Yes.

Q What is the date on which the van was traded in?

A 6/23/79.

Q Was the van received by Roger Dean Chevrolet on that date?

A That is correct.

Q Those documents indicate that?

A Yes.

MR. PUCCIO: Your Honor, I offer this in

evidence with the excision, this top document, with the excision indicated on the copy I gave to Mr. Brown, it has to do with an address.

MR. BROWN: We accept it with that excision, your Honor.

MR. BEN-VENISTE: May I see the original?

MR. PUCCIO: I ask your Honor's permission to show only the excised copy as we have done before.

MR. BEN-VENISTE: I presume you are offering an excised copy?

MR. BROWN: I have no problem.

THE COURT: The copy is there.

MR. PUCCIO: I am only offering the top document and the Xerox.

MR. BROWN: Does that complete the examination?

MR. PUCCIO: Yes.

MR. BROWN: Show me which papers? I assume I go first because it affects a witness I produced.

THE COURT: Yes, you may.

CROSS-EXAMINATION

BY MR. BROWN:

Q Mr. Fortner, Judge, is it all right if I question from here?

THE COURT: Yes.

Q Mr. Fortner, you don't know Mr. Weinberg, is that correct, as an individual?

A No.

Q You are the person in -- you have access to records and you were asked to come as custodian and bring certain records from Florida?

A Yes.

Q As far as any individuals involved, you don't have any knowledge?

A I don't know Mr. Weinberg.

Q What you have is a piece of paper? You did have it, where is it?

(Pause.)

Q This piece of paper which I have in my hand, what is it marked?

THE COURT: Twenty-eight.

Q Which is Exhibit 28, represents the records you took out of your files and brought with you; is that correct?

A That is correct.

(continued on next page)

MM fols.

CONTINUED CROSS EXAMINATION

BY MR. BROWN:

Q Now, it shows, in effect, that in June, June 23, 1979, there was a trade in, one van for another, is that correct?

A Well, he traded in the van, yes.

Q For a van?

A Camaro, isn't it?

THE COURT: What kind of a car is that?

THE WITNESS: A Chevrolet.

THE COURT: Sedan? Coupe?

THE WITNESS: He bought a Camaro. If you look on the original, it says Camaro.

Q I will accept your word for it.

It's a code name or serial?

A I assure you it will be on the other.

Q What was traded in was a tan van, is that right?

A Yes.

Q In June, June 23?

A That's correct.

Q So, whoever this gentlemen is and the name Weinberg does appear there, right?

A Yes.

Q So, you don't know whether that was Mr. Weinberg or John Smith, actually, do you, just something on a piece of paper?

A Except Mr. Weinberg is a good customer or our company and they all know him.

Q So you think maybe Mel Weinberg himself did come in?

A I am sure he did because he is a good customer.

Q He did have that tan van?

A Yes.

Q You dont know how many vans Mr. WEinberg had, do you?

A No, they go by the I.D. number.

Q With respect to that piece of paper and the serial number that refers to a Camaro from your records, you are certain a Camaro was bought in June of 1978 - '79?

A June 23, '79.

Q And that a tan van was turned in?

A Yes..

Q You don't know whether or not Mr. Weinberg had or used any other vans, do you, at any given time?

A No, I would have no idea..

Q You don't know whether the F.B.I. leases vans for use of their personal, do you, you don't know anything about that?

A No.

Q What you're really saying, as far as the piece of paper is concerned, June '79, Weinberg assuming that's the same person involved in this case, turned in a tan van, that's it?

A This van right here.

Q Tan van?

A Along with this I.D. number. It says tan, that's the description of it. The I.D. is the main thing you go by.

Q If you knew how to use the I.D. number?

A Yes.

Q But when you look at it, you look at color?

A Yes.

Q He had one up to June anyway?

A Yes.

MR. BROWN: Thank you.

THE COURT: Any other questions?

MR. DUFFY: Just a couple.

CROSS EXAMINATION

BY MR. DUFFY:

Q You told Mr. Brown that what was purchased was a Camaro, is that right?

A That's my understanding.

Q And the van was swapped in for that?

A That's right.

Q It doesn't say Camaro on here, does it?

A Where is the original?

Q Why don't you answer my question?

A I didn't do this. I didn't print this.

Q A fellow called Bode sold the car?

A Yes, but the information is blank here and it wouldn't be blank on the original.

MR. BROWN: That's a blank piece of paper.

MR. DUFFY: I understand that.

I can handle this.

Q What was given to use in evidence doesn't say Camaro on it, does it?

A I had the original, Your Honor. What happened to it?

MR. BROWN: I accept the serial number, Your Honor.

THE COURT: The question that Mr. Duffy is asking you, does the word Camaro appear on that piece of paper?

THE WITNESS: Not on here it doesn't.

THE COURT: This - - There is something on there that says Camaro.

Q The 7Q199 -

A Yes.

MR. DUFFY: I ask Mr. Puccio to show me the original. We don't have anything that says Camaro.

THE COURT: May I see the original, please?

MR. PUCCIO: I will handle hand up something else which we're not offering.

It's a related copy.

MR. BEN-VENISTE: What is that?

MR. PUCCIO: A related copy.

THE COURT: Is this the document, the pink one that says Camaro?

THE WITNESS: That's a bill of sale.

MR. BEN-VENISTE: Did we get that?

THE COURT: Does that have any significance in terms of what the kind of car is?

THE WITNESS: The original there has the description of the car and what it is.

THE COURT: May I see the document that is the exhibit, please?

MR. DUFFY: I don't see a sticker on it, Your Honor.

THE COURT: Is that the document, Mr. Puccio?

MR. PUCCIO: Yes, sir.

THE COURT: Will you mark it, please?

MR. PUCCIO: The photo is already marked.

THE COURT: I know, but you offered the document in evidence.

THE CLERK: So marked, as 28A.

THE COURT: It's 28A that is in evidence and not 28. May I see it?

MR. PUCCIO: Yes.

THE COURT: Mr. Portnoy, were you trying to tell me on this document 28A that I am holding in my hand a portion that is blocked out here has the word Camaro on it.

THE WITNESS: It should have, Your Honor.

THE COURT: May I show you the original of it?

THE WITNESS: Well, being a Chevrolet Dealer - -

THE COURT: It doesn't say that.

THE WITNESS: No, it doesn't.

THE COURT: I show you this document which

is pink, a bill head of Roger Dean Chevrolet, INC. It's labled car invoice and ask you if that helps you in any way tell us what kind of a car we're talking about?

THE WITNESS: Yes, sir, it says Camaro. The bill of sale says Camaro, Your Honor.

THE COURT: All right.

Do you wish to see that, Mr. Duffy.

MR. DUFFY: I don't want to see anything I'm not supposed to see, Your Honor.

THE COURT: I just want to know if you want to see it.

MR. DUFFY: The exhibit doesn't say Camaro.

THE COURT: Exhibit 28A, nor - does not say Camaro in those words, nor does the original of which it is a copy with the address of Mr. MelVin Weinberg deleted say anything about Camaro.

There is a document here which I take it is related to this transaction some way, which does say Camaro, which I can show you by folding over address, if you wish to see it.

MR. DUFFY: May I see the exhibit that has been put into evidence?

THE COURT: Yes.

Q I don't want to go into all the financial figures, I couldn't understand this stuff.

How much was paid when the car was bought?

A Deposit of $1,006.00, and paid $1,000.00 on delivery.

Q Was that paid by cash or check?

A It should be in the file.

Q Could you answer me?

A The whole complete sale of - bill of sale.

Q Draft 679, check number 6095, doesn't it say that?

A Yes, the car was financed.

Q Does it say GMAC on there?

A Yes.

Q Is this the only car that Mel Weinberg bought in 1979?

A No, I don't think so.

Q How many did he buy?

Did he buy lots of cars there?

A Two ro three in how long. I guess in the last year.

Q Two or three cars in the last year.

Did you sell him the Lincoln Continental with all the fancy speakers?

A Not that I know of.

Q So if he has one of those, he didn't get it grom you, he got two or three others?

A He has bought two or three from us.

Q That would be the Camaro, what are the other two?

A I think he bought a truck.

Q A pickup?

A Possibly, yes.

Q I don't know, sir.

A I know he has bought two or three.

Q What is the other one, Camaro, truck?

A I said two or three. I am not sure.

Q Was there another one?

A I don't know.

Q Camaro, a truck and something else?

A I don't know.

Q You don't sell cars, do you?

A No, I don't sell cars.

Q Are you the bookkeeper?

A I am one of the sales managers and comsumer relations manager.

MR. DUFFY: That's all, Your Honor.

THE COURT: Any other questions?

MR. BEN-VENISTE: I just would like to understand what these other documents are.

CROSS EXAMINATION

BY MR. BEN-VENISTE:

Q Is this just the history of this van, sir, these other documents relate to who subsequently got the van and all of that?

A Yes, this is who we sold the van to after it was traded in.

Q Can you testify, under oath, here that Mr. Weinberg didn't own another van just like that?

A I wouldn't know.

MR. BEN-VENISTE: That's all.

MR. BROWN: I have one question, Your Honor.

RECROSS EXAMINATION

BY MR. BROWN:

Q Actually, the record indicates that the Government paid for this, doesn't it, just the best you can do?

A I am sorry, but I'm sure this car is financed through one of the banks.

11 Fortner - recross - Brown

Q May I ask you, this document, which is a photo - -

MR. PUCCIO: I don't believe those are the photos.

Q All right.

You don't know who paid for it?

A I have a copy of the contract itself in the file.

MR. BROWN: Could I see that?

MR. PUCCIO: Here you are.

MR. BROWN: I have no further questions.

MR. BEN-VENISTE: I have one, Your Honor.

THE COURT: Proceed.

CROSS EXAMINATION

BY MR. BEN-VENISTE:

Q You were not asked to bring up all the records as to all of the cars which your company has records of with respect to Mr. Weinberg?

A No.

Q Just this particular folder pertaining to that particular van?

A Yes, sir.

Q As far as any other cars, trucks or cars, you have records down in Florida, do you, sir?

A I didn't bring any with me, no.

Q You weren't asked to, I am not suggesting that you did anything wrong?

A No.

CROSS EXAMINATION

BY MR. DUFFY:

Q Mr. Portnoy, did you come up here under government expense?

Did they pay your way up?

MR. PUCCIO: I object to this.

THE COURT: Sustained.

MR. PUCCIO: The witness is receiving normal subpoena fee.

THE COURT: Thank you, very much.

You're excused.

(Witness excused)

MR. PUCCIO: I call Mr. Houlihan.

THE COURT: All right.

M A R T I N H O U L I H A N, having been duly sworn by the Clerk of the Court, testified as follows:

DIRECT EXAMINATION

BY MR. PUCCIO:

Q Mr. Houlihan, you are a special agent of the F.B.I. assigned to the Newark Division?

A. That's correct.

Q. You had occasionto interview a Mr. Joseph DiLorenzo on June 10, of this year, is that correct?

A. That's correct.

Q. During this interview, you asked Mr. DiLorenzo certain questions concerning gifts, is that correct?

A. Yes.

Q. Did Mr. DiLorenzo mention to you a Betamax Video Cassette Recorder?

A. Yes, that was mentioned.

Q. What did he say about that?

Do you recall?

A. Yes, if I could refer to -

Q. Are you referring to your report?

A. Yes.

Q. I have given a copy to Mr. Brown.

MR. BROWN: That's true. I have one.

A. With regard to that video cassette recorder, he mentioned that it was purchased at Best Products in Morristown, New Jersey, and subsequently delivered to Mel WEinberg.

Q. Did he tell you when - by whom it was delivered to Mel Weinberg?

A. Yes, he said by him and Mr. Errichetti.

Q. Did he tell you when it was delivered to Mr. Weinberg?

A. Yes. He was specific. He said January 19, 1979.

Q. Now, during this interview that you asked Mr. DiLorenzo about any other gifts -

A. Actually, he was the one who brought up the gifts. I wasn't aware of any gifts until he brought it to my attention and obviously I started asking him questions about the various gifts to obtain details of it.

Q. Did you obtain specific information about each one?

A. I obtained specific information about a number of gifts. There were some other gifts he was a little hazy on with regard to specifics.

Q. Did you ask at any time during the interview Mr. DiLorenzo if he had any names of people that he could supply to you who could corroborate the fact that he delivered a gift to Mr. Weinberg other than Mr. Errichetti?

A. Yes, that was -- I was concerned about that, whether or not -

MR. BROWN: Objection.

THE COURT: Sustained. The answer is yes.

Q At any time during the interview, did he, that is, did Mr. DiLorenzo indicate to you that a girlfriend of his was present when a gift was given to Mr. Weinberg?

A No, sir.

Q At any time during the interview, did Mr. DiLorenzo indicate to you that he had taken a trip to Kennedy Airport to the Ionosphere Lounge or anything along those lines.

A No, sir.

Q Did he indicate to you at any time during 1979 he and his girlfriend were present when a Betamax was taken from his car and put into Mr. Weinberg's car?

A No, sir.

Q At any time during the interview did Mr. DiLorenzo indicate to you that he had taken a trip with his girlfriend to LaGuardia Airport and there observed a Lincoln Automobile?

A No, sir.

Q Belonging to Mr. Weinberg?

A No, sir.

Q Did he say anything to you about Mr. Weinberg being in the company of a sister-in-law?

A No, sir.

Q Did he say anything to you about the sister-in-law or anyone else having a dog around, a poodle or anything like that?

A No, sir.

MR. PUCCIO: That's all I have.

THE COURT: Mr. Duffy, any questions?

Mr. Brown?

MR. BROWN: I have, Your Honor.

CROSS EXAMINATION

BY MR. BROWN:

Q Did you make notes of the interview?

A Yes.

Q Do you have them?

A No. I was summond this morning to court. I had no knowledge I was going to be here. I was down in South Jersey and I had to travel from South Jersey non-stop to Brooklyn, but there are notes in my file in the Newark office and, actually, this is a report -

Q That's a summary?

A Right.

MR. BROWN: I would ask to have those notes tomorrow morning.

MR. PUCCIO: We have no objection to having them over here if Mr. Houlihan can have them

over here.

Q Now, this narrative was given to you voluntarily by Joseph DiLorenzo, is that right?

A Yes.

Q And he appeared voluntarily at your office with his attorney, is that right?

A Yes.

Q And he brought up the gifts to you, you didn't ask him about them?

A I wasn't aware of any gifts until he brought them up.

Q Now, the narrative that you have here consists of nine pages, as I count it, I may be wrong?

A I believe it's nine.

Q Now, the questions and answers about - I will withdraw that.

The recitals about the gifts take up roughly - - what would be the equivalent of three quarters of a page, would you say?

A I - -

Q I'm starting at Page 212 at the bottom.

If you examine, I think you will find that 212 and the top of 213 contains the entirety of your records with respect to gifts?

A. Yes, I believe that's correct.

Q. So the vast majority of the records here is concerned with other matters other than the gifts, is that right?

A. Yes.

Q. Would your notes show what questions you directed towards this gentleman as he gave you the information on the gifts?

A. Not necessarily, no.

Q. So that you simply put down what he gave you without going too deeply into the gifts, is that correct?

A. We asked him specific questions and tried to elicit as much information we could about the gifts and he responded.

Q. In your opinion, was he responding voluntarily and clearly as you could observe?

A. Yes.

Q. He wasn't evasive or anything like that?

A. No, I would say he was not.

Q. He does note that in the general preamble that he was not too certain about certain dates, is that right?

A. That's correct.

Q Then he proceeded to give you the information you set down?

A Yes.

Q With respect to the gifts, I will question you about them alone.

He does state he did purchase a video cassette recorder from Best Products, is that right?

A Yes.

Q Do you have any recollection as to whether he delivered to you a receipt for that Betamax?

A Yes.

Q Do you have it with you?

A No.

Q May I show you defense Exhibit Y, and ask you if that would refresh your recollection as to the unit and purchase?

A Yes.

Q Now, what is the date on that receipt?

A March 3, of 1979.

Q And gave you that at the same time he gave you the recital?

A No, he didn't .

Q He brought it to you later?

A I went to his attorney's office, I believe,

about a week, approximately a week later, and his attorney's secretary gave it to me.

Q With respect to that receipt and the Betamax or video cassette recorder, would you tell us whether or not the receipt coincides with the date he said that he dealt with that?

I call your attention to the first paragraph of the section.

A No, it does not.

Q So that the date of the purchase really on the receipt is March?

A March 3, 1979.

Q And at the time he gave you the interview, he didn't have that with him to refresh his recollection?

A No.

Q So that really shows the date he says he actually bought it, is that right?

A Well, this shows the date that something was purchased at Best Products.

Q And he told you at the time of the interview in June that he purchased it at Best Products?

A That's correct.

Q So that at least the item corresponds to the receipt and teh item corresponds to the statement and

the receipt, is that right?

A Yes.

Q So that if that date is accurate, then he was incorrect of giving you the original date without having the receipt with him, is that right?

A I guess you could draw that conclusion.

Q Well, it's logical from the comparison of the two, wouldn't you say?

A Unless he bought two video cassette recorders.

Q Or unless that doesn't apply to the one in q question, that's also possible, is that right?

A Yes.

Q As far as the date is concerned, that gives a different date?

A Yes.

Q He told you he wanted to get the receipt to refresh his recollection, did he not, as to dates?

A I don't recall that, that he said that during our interview that he wanted to get the receipt. I really don't recall that.

Q But he said he wanted to get the receipt and give it to you, is that right?

A I don't recall that, to be honest with you. I don't recall him saying that. I know at a later

time I was called by the attorney and he informed me that he had the receipt.

Q You don't know how it came about that he got the receipt for you?

A No. It may have come up during the interview that he may have, he could produce the receipt. I am not sure but it was a short time after that within a few days that I received the call from the attorney and he gave me the receipt.

Q And he represented that was the receipt pertaining to the product?

A Yes.

Q He told you about the stereo value of $3,300.00, according to him, that had been requested by Weinberg, is that right?

A Yes.

Q He also told you that Weinberg showed Errichetti a piece of paper which contained such.

I am reading from the third line there.

A Yes.

Q He also said that in fact, while it was $3,300.00, he paid $1,200.00 for it, right?

A Yes.

Q And he said that was given to Weinberg

somewhere around March of '79, is that right?

A Yes.

Q By the way, with respect to the Betamax, he gave you the details as to the fact that it cost $900.00 case?

A Yes, sir.

Q And then wehn he came to talking about the colored television, he mentioned to you he had purchased three small colored televisions and delivered them to Weinberg?

A Yes.

Q And he named a man, George Norcross, who he purchased it in conjunction with, he said Norcorss knew somebody who had a discount connection?

A That's right.

Q He told you of the microwave oven?

A Yes.

Q He told you the store which he bought it from which was Straw Bridge , is that a store around Cherry Hill?

A Yes, sir.

Q And he also informed you when he delivered the television sets that Weinberg told him that he said not to let anyone see him put them in Weinberg's van, is

that right?

A That's right.

Q That they would be delivered according to this recital, around March or somewhere around there?

A Not necessarily, he was not too specific on when they were delivered.

The only thing he could tell us was that it was on an occasion when Weinberg was at the Hyatt House, but he couldn't come up with a date on that particular item.

Q Did you ask him if anybody accompanied him on these occasions?

A Yes, sir.

Q What did he say?

A The only one who ever accompanied him was Mr. Errichetti.

Q Did you ask him if he ever went to an airport with a young lady?

A I had no reason to. He never told me that.

Q Do you know whether or not Weinberg has a sister-in-law named Marie?

A I am aware that Weinberg has a relative, I am not sure whether it is a sister or sister-in-law. I am not sure of the name.

Q Are you aware he has a son?

A Yes.

Q Are you aware he has a dog, a poodle?

A I don't know that for a fact.

Q So, as far as you know, - do you know that he has a relative named Marie, whatever her relationship is?

A I don't know the name.

Q But thre is a woman relative in his company from time to time, to your knowledge, is that right?

A No.

Q So you don't know about that.

I'm trying to plumb your uncertainty - -

A I told you what I know about the relative in in that I know it is a female, I know it is a sister or a sister-in-law, but I have no knowledge she ever accompanied him anywhere.

Q You know there is such a person regardless of name, sister or sister-in-law?

A Yes.

Q Have you questioned Mel Weinberg about these gifts?

A No.

Q So he hasn't told you anything with respect

to whether or not he received them, is that right?

A That's correct.

Q And you haven't investigated whether or not these colored televisions were purchased in Cherry Hill?

A Yes, I did.

Q Did you find out?

A They had no record of it at the store.

Q Did they say it was not purchased there?

A No, they did not.

Q What did they tell you about this kind of purchase?

About discount purchases which they don't recall?

A I went there to determine if a stereo outfit had been purchased there and television sets, they were supposed to be purchased. At least this is the story he furnished the name to me. I believe it was Hi-Fi House in Cherry Hill. They had no record of it. They said there may have been a record at their home base somewhere in Pennsylvania, but they couldn't be sure of that.

I then tried to determine who the salesman was and he no longer worked there. I contacted him and he vaguely remembered someone coming in, purchasing a stereo

outfit.

Q Did he remember Georgie Norcross?

A Vaguely.

Q Did you talk to George Norcross?

A Yes.

Q What did he say.

A He said that he had purchased some items there, had a contact ther and was approached by DiLorenzo who was a friend and he referred him to this store and they both went there and purchased the stereo.

Q So Norcorss confirmed it?

A He confirmed that DiLorenzo went there and purchased stereo equipment, but he didn't know who it was for.

I asked him whether or not DiLorenzo stated it was for Mr. Errichetti, whether it was for Mr. Weinberg or who it was for, and he did not know who the item was for.

Q He didn't tell him anything about that?

A I don't know anything about that. He hadn't received any information about that.

Q The fact is, the items were purchased under the circumstances where there was a salesman, a discount and so forth?

A. That's right.

Q. So you did confirm that George Norcross had this contact, took Joe there and they purchased such equipment?

A. That's correct.

Q. With respect to the microwave oven, did you go to Straw Bridge?

A. Yes.

Q. What did you find there?

A. I found that a microwave oven was ordered through Danianise, who is the secretary of Mr. Errichetti and a microwave was ordered over the phone through one salesman and subsequently, within a day or two, it was picked up by someone, the salesman who I spoke to could not recall who picked it up.

It certainly was ordered by the Mayor's secretary, and picked up by someone.

Q. So that you agree it was confirmed?

A. That's right.

Q. Did you go to Best Products about the Betamax?

A. Yes.

Q. What was your investigation there?

A. Best products acknowledged this receipt was

for their store and it was for another video recorder. It was not a Betamax. I believe it was an RCA. I did a report on this and I am not -- without looking at that p - - I can't be specific. It was not a Betamax.

Q Is that the same kind of a video cassette recorder?

A Yes.

Q That is what he told you?

A Yes.

They had - - the only thing that they had was this receipt they presented to them, they kept no records, they had no record of the sale other than this, the only thing he could tell me was that this was a cassette recorder and that it was purchased on that date for that price at his store.

Q It was At Best Company, is that right?

A That's right.

Q Were they able to identify any?

A No.

Q To this degree, you were able to check out the video recorders as stated to you in the reports that you have set down to the extent that there was such a sale?

MR. PUCCIO: I object.

THE COURT: Sustained.

(Continued on following page)

MR. BROWN: I beg your pardon?

THE COURT: Sustained. Argumentative.

BY MR. BROWN:

Q Well, did you confirm the purchase of a video cassette recorder at Best Products on the date given there?

MR. PUCCIO: Objection.

THE COURT: That has been asked and answered.

Q Well, did you examine and confirm the stereo purchase for $1,200?

MR. PUCCIO: Same objection. Asked and answered.

THE COURT: Mr. Brown, your summation will come tomorrow if we ever get there. Save it for later, please.

MR. BROWN: Well, your Honor, I'm not trying to sum up anything, your Honor.

THE COURT: You are going back over everything that you have been doing for the last ten minutes.

MR. BROWN: Well, your Honor, it is agreed that there are certain items, and I would prefer to discuss them at the sidebar.

THE COURT: Next question.

MR. BROWN: I said if you will allow me a sidebar perhaps I can explain it and then of course if not I will not ask the questions. I wanted to tell you what they are.

THE COURT: The questions that you have asked the last two and possibly the last three have been sustained as to objections. They are repetitive. They are argumentative. They belong in summation. They do not belong as questions to a witness on the witness stand.

Next question, please.

Q Have you had an opportunity to speak to a young woman who testified yesterday, Debra Procacci?

A What is the name, sir?

Q Debra Procacci.

A No, sir.

Q You had not heard the name before?

A No, sir.

Q Have you questioned Mr. Di Lorenzo other than on this occasion that noted of June 10th?

A No, that was the only time that I interviewed him.

Q That was the only time.

After you had investigated at the store

you did not go to him again?

A No, sir.

MR. BROWN: All right. No further questions.

CROSS EXAMINATION

BY MR. DUFFY:

Q You know how you go to buy Kleenex but you might get Scott tissues.

MR. PUCCIO: I object to this question.

THE COURT: Sustained.

Q Aren't you aware of people talking about these video recorders and using a brand name to describe all of them, they say I have a Betamax.

MR. PUCCIO: I object.

THE COURT; Sustained.

Q How long have you been an F.B.I. agent?

A Eleven years.

MR. PUCCIO: I object. It has been already asked and answered.

Q In your business do you interview people accused of crime, witnesses, frequently?

A Yes.

Q Have you come across young fellows that you are interviewing who are reluctant to involve a pretty girl in anything?

MR. PUCCIO: Objection.

THE COURT: Sustained.

MR. DUFFY: That is all.

THE COURT: Mr. Ben-Veniste?

MR. BEN-VENISTE: May I ask the questions from here, your Honor (indicating counsel table.)

THE COURT: Yes.

CROSS EXAMINATION

BY MR. BEN-VENISTE:

Q Sir, you said at the time -- when was that interview of Joe Di Lorenzo?

A That was on June 10th of 1980.

Q You said at that time you were not aware of any gifts to Mr. Weinberg? Is that so, sir? Wasn't that your testimony?

A I wasn't aware of -- yes, that's correct.

Q And you had, I take it, some connection with this ABSCAM investigation?

A Yes, sir.

Q So the first you heard of Mr. Weinberg getting any gifts was in June when Mr. Di Lorenzo told you?

A Yes, sir.

Q You did not in the files of the F.B.I. or

in your discussions with other agents learn anything about some wrist watches?

A I did. But I am not sure when that was.

Q Your best recollection is it was subsequent to Mr. Di Lorenzo's appearance?

A Excuse me, sir?

Q Your best recollection is that you learned it some time after Mr. Di Lorenzo told you about these other things?

A No, I may have learned before. I am not sure when. And I am not sure how it came to my attention. But I recall that I did come to know that some wrist watches were given to him.

Q But you don't know when you learned that?

A No.

Q It could have been before or it could have been after?

A I think it probably was before.

Q You say that you never questioned Mr. Weinberg about the gifts that Mr. Di Lorenzo mentioned in June? Is that right?

A That's right.

Q Do you know of anybody asking Mr. Weinberg about it?

MR. PUCCIO: Objection, your Honor.

THE COURT: Sustained.

Q Well, are you familiar with any report wherein it is indicated that someone from the F.B.I. asked Mr. Weinberg whether he received any such gifts?

MR. PUCCIO: Objection.

THE COURT: Sustained.

Q Are you familiar with any request that was circulated in the F.B.I.?

THE COURT: It is irrelevant, Mr. Ben-Veniste.

MR. BEN-VENISTE: I hope this one is relevant, your Honor.

THE COURT: His familiarity with something?

MR. BEN-VENISTE: Well, I want to find, your Honor, whether the F.B.I. asked their own agents whether they saw Mr. Weinberg in possession of any of these items after they had received this information.

THE COURT: It is irrelevant.

MR. BEN-VENISTE: Why would it be irrelevant?

THE COURT: And hearsay.

MR. BEN-VENISTE: Well, if there is such a report, your Honor, to whether Mr. Weinberg

was questioned, I would like to see it. I would like to have it produced if there is any report.

THE COURT: Next question, please.

MR. BEN-VENISTE: May I come to the sidebar, your Honor?

THE COURT: When you have finished your questioning, yes.

BY MR. BEN-VENISTE:

Q My last question would be whether you personally were asked whether you saw any of these items in Mr. Weinberg's possession?

A Asked by who?

Q By anyone in the F.B.I.?

A May I have that question again?

THE COURT: Do you understand the question?

THE WITNESS: I don't fully understand it.

Q Did John Good or anybody else connected with the running of this investigation ask you or any of the other agents who were familiar with Mr. Weinberg whether they had seen any of these items in Mr. Weinberg's possession?

MR. PUCCIO: Objection.

THE COURT: Sustained.

* * *

* * *

2 THE COURT: Mr. Brown, have you some questions?

3 MR. BROWN: May I ask him from here,

4 your Honor?

5 (Indicating defense counsel table.)

6 THE COURT: Yes.

7 BY MR BROWN:

8 Q Agent Houlihan, did you inform the Eastern

9 District, Mr. Puccio, of your interview with Mr. Di Lorenzo

10 in which he voluntarily told you about these gifts?

11 A I sent a communication to the Bureau, to

12 the F.B.I., with a copy of it to the Brooklyn Heights

13 and Queens Strike Force and requested that an investigation

14 be conducted.

15 Q That would be Mr. Puccio's division?

16 A Right. And Mr. Puccio, I am sure was made

17 aware of it by --

18 Q That was immediately after?

19 A Yes.

20 Q You completed your report on the 12th,

21 according to your papers? I mean you dictated it? Is

22 that right?

23 A That is right. I dictated it on the 12th --

24 Q So it would have been shortly after that

25 that you would have communicated to the Eastern District?

A Probably before that.

Q Even before.

Now, you have given a detailed account, and we thank you for it, of your investigation. Have you a written report, a 302 of that investigation of the gifts which you conducted after the interview?

THE COURT: I am sorry but I didn't hear the question.

MR. BROWN: I asked him whether he had a 302 written report of the investigation subsequent to his interview with Mr. Di Lorenzo which would recite at least in part about his going to the Best Company Store. I am asking if he has a written report, a 302 report.

MR. PUCCIO: Objection.

THE COURT: Overruled.

MR. BROWN: I am allowed to ask you that.

THE WITNESS: Yes.

Q You do have it?

A Yes.

Q May I have it?

A I don't have it here.

Q Well, you would have your notes on that delivered by the morning? --

15

MR. BROWN: Is that all right with you, your Honor? I am sorry I misspoke.

MR. PUCCIO: I don't have any objection to it. It doesn't pertain to what this witness was questioned about.

MR. BROWN: Well, it would be his investigation is what I asked.

MR. PUCCIO: It is all hearsay.

THE COURT: But you didn't object to it.

MR. PUCCIO: Well, I thought I would save time.

THE COURT: It would have saved a half an hour if you had.

MR. BROWN: I did not mean to ask directly, your Honor. I apologize.

THE COURT: That's all right. Since you didn't object to the questions; he does have the report. Produce it in the morning.

MR. BROWN: I have no further questions of Agent Houlihan.

THE COURT: Any other questions?

MR. BEN-VENISTE: No.

THE COURT: All right, you may step down, Mr. Houlihan.

THE COURT: That is it for the Government?

MR. PUCCIO: Yes.

* * *

# I N D E X


| WITNESS: | DIRECT | CROSS | REDIRECT | RECROSS |
|---|---|---|---|---|
| JOHN McCARTHY | 3228 | 3259 | | |
| MARK ROBERT WEISS | 3308 | 3345 | 3368 | |
| DONALD V. RITENOUR, JR. | 3374 | 3379 | 3387 | 3396 |
| J. GARY BOUTWELL | 3399 | 3403 | | |
| JOHN GOOD | 3406 | 3364 | | 3509 |
| STANLEY FORTNER | 3514 | 3528 | | 3528 |
| MARTIN HOULIHAN | 3530 | 3534 | | |


# E X H I B I T S


| GOVERNMENT'S: | Description | FOR ID. | IN EV. |
|---|---|---|---|
| 26 | Document | 3352 | |
| 27 | Document | 3497 | |
| 28 | Document | 3508 | |
| **DEFENDANT'S:** | | | |
| T-13 | Document | | 3512 |
| T-14 | Document | | 3512 |
| T-15 | Document | | 3512 |
| T-16 | Transcript | | 3512 |
| X | Letter | | 3305 |
| V-1 to V-12 | Photographs | | 3331 |
| W-1 to W-11 | Wave from Analysis | | 3346 |

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA,

-against-

MICHAEL O. MYERS, ANGELO J. ERRICHETTI,
LOUIS C. JOHANSON, HOWARD L. CRIDEN,

Defendants.

----------x

80 CR 00249

United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

August 28, 1980
9:00 o'clock A.M.

B E F O R E :

HONORABLE GEORGE C. PRATT, U.S.D.J.

MICHAEL PICOZZI
OFFICIAL COURT REPORTER

1 A P P E A R A N C E S .

2

3 EDWARD R. KORMAN, ESQ.,
United States Attorney for the
4 Eastern District of New York

5

6 Department of Justice
Strike Force
7 Brooklyn, New York

8 BY: THOMAS P. PUCCIO, ESQ.,
9 LAWRENCE H. SHARF, ESQ., and

10 Special U.S. Attorneys

11 Attorneys for the Government

12

13 MESSRS. HUNDLEY & CACHERIS, P.C.
1709 New York Avenue, N.W.
14 Washington, D.C. 20006

15 BY: PLATO CACHERIS, ESQ., and
LARRY S. GONDELMAN, ESQ., of Counsel

16 Attorneys for the Defendant Michael O. Myers

17

18 BROWN & BROWN, ESQS.,
26 Journal Square
19 Jersey City, New Jersey

20 BY: RAYMOND A. BROWN, ESQ., and
21 HENRY F. FURST, ESQ., of Counsel

22 Attorneys for the Defendant Angelo J. Erriche

23

24

25

A P P E A R A N C E S : (Continued)

MESSRS. CARROLL, CREAMER, CARROLL & DUFFY
Suite 326 Three Penn Center Plaza
Philadelphia, PA 19102

BY: JOHN J. DUFFY, ESQ., and
JANE DUFFY
Attorney for the Defendant Louis C. Johanson

MESSRS. HELROD, REDMAN & GARTLAN
1801 K. Street, N.W.
Washington, D.C. 20006

BY: RICHARD BEN-VENISTE, ESQ., and
NEIL I. LEVY, ESQ., of Counsel

Attorneys for the Defendant Howard L. Criden

* * *

* * *

14 MR. LEVY: At this time we would like to move
15 into evidence --

* * *

22 MR. LEVY: The following exhibits, Defendants'
23 Exhibit A of transcript 3500-105(a); Defendants'
24 Exhibit C, Mr. Weinberg's Pittsburgh indictment;
25 Defense Exhibit D, the transcript of the Pittsburgh

5 1 sentencing; E, originally prepared schedule of pay-
2 ments to Mr. Weinberg; F, a corrected schedule of
3 the payments to Mr. Weinberg; G, a financial plan --
4 MR. PUCCIO: It's not a corrected version
5 as I understood it. It was the version including
6 the other payments.
7 MR. LEVY: A financial plan concerning the
8 Atlantic City Casino; H, a feasibility study with
9 respect to the Atlantic City Casino; M, Mr. Weinberg's
10 rap sheet.
11 MR. PUCCIO: I don't stipulate into admitting
12 a rap sheet into evidence.
13 THE COURT: I assume you have no objection
14 up to that point?
15 MR. PUCCIO: Yes.
16 THE COURT: Then A, C, D, E, F, G, and H
17 are received in evidence. The rap sheet, M, you
18 object to?
19 MR. PUCCIO: Yes.
20 THE COURT: We will discuss it in a minute.
21 Go on.
22 MR. LEVY: EE, the recorder probably used by
23 Mr. Weinberg; FF, the original tape of January 18th;
24 and GG, the original tape of January 18th with no
25

specified time.

THE COURT: Any objection to EE, FF, GG?

MR. BEN-VENISTE: With respect to the latter two tapes, we are not offering any portion of those tapes beyond the portions played to the jury. The reason for offering them for identification relates only to the testing of the tapes.

MR. PUCCIO: We object unless the whole thing goes in, of course.

THE COURT: I can't hear you.

MR. PUCCIO: We object, your Honor, unless the whole thing is offered.

MR. BEN-VENISTE: Then under the circumstances we will have them marked for identification.

THE COURT: All right.

How about EE, the recorder? It is offered in evidence.

MR. PUCCIO: The recorder itself we have no objection to.

THE COURT: Received in evidence.

So we then have in evidence as Defendants' Exhibits A through I, inclusive. We have yet to discuss M.

We also have another one here, S, T, U, V, W,

Y, Z, and EE.

MR. LEVY: I thought X is also in evidence. If not, we will move it in.

THE COURT: Any objection to X? That's the Probation Department letter.

MR. PUCCIO: No objection. I thought that was received.

THE COURT: Perhaps it was, but it is now.

Now, with respect to M, what is the objection to M?

MR. PUCCIO: Is M the identification record, sir?

THE COURT: The FBI rap sheet.

MR. PUCCIO: It contains arrests which are inadmissible to impeachment.

THE COURT: This pertains to Mr. Weinberg?

MR. PUCCIO: Yes.

If I knew the purpose for which it is offered, I might withdraw my objection. I don't understand it.

THE COURT: What is the purpose of the offer?

MR. BEN-VENISTE: It shows the jeopardy of Weinberg at the time that he made his deal with the FBI. It goes to his motive and state of mind in working for them.

8

THE COURT: Is that all it shows?

MR. BEN-VENISTE: It confirms the information to which he testified.

THE COURT: It is nothing but corroborative to what he has testified to and what a lot of other witnesses have testified to.

MR. BEN-VENISTE: Basically, yes.

THE COURT: I will sustain the objection.

So much for the exhibits.

MR. PUCCIO: Judge, on the question of the Pittsburgh indictment, I know I agreed to have it received, but may I inquire what the use of the indictment will be?

THE COURT: I suppose any proper use you can make of something that is in evidence.

MR. PUCCIO: We have a stipulation that we arrived at.

(Continued on next page.)

MR. FURST: Yes, sir.

We will stipulate that B-19, which is marked as Exhibit BB to defense Exhibit U should be removed from the list. And that's on Page 4, your Honor, the call of August 20th, 2:32 P.M., for two minutes.

THE COURT: How is it going to be removed?

MR. FURST: We will cross it off on the Exhibit.

MR. PUCCIO: Why don't we just say we have stipulated --

MR. FURST: In front of the jury I will agree to stipulate that one phone call, B-19, has been deleted by stipulation.

MR. PUCCIO: If Mr. Furst announces that stipulation when the jury comes in, that will satisfy me, Judge.

THE COURT: All right.

Is there going to be any other testimony this morning?

MR. PUCCIO: Not from us, your Honor.

MR. BROWN: No, your Honor, I have had access to the FBI's notes with respect to the testimony yesterday, and I am satisfied that they

are accurate.

THE COURT: Then all parties rest?

MR. PUCCIO: Yes.

MR. BROWN: Yes.

THE COURT: Did you have something further?

MR. BROWN: Just, your Honor, I will ask your permission to read Page 3.120, which was discussed with respect to Mr. Weinberg and the gifts.

THE COURT: 3.120?

MR. BROWN: 3.120 of the Philadelphia testimony.

THE COURT: Yes, I'm sorry. I'm premature on all parties resting.

There is testimony going to be read and the the stipulation will be read to the jury?

MR. BROWN: That's all.

THE COURT: All right.

* * *

THE COURT: Good morning, ladies and gentlemen.

Before the evidence is officially closed I should tell you that I have admitted into evidence a number of the defendant's Exhibits which were referred to through the course of the testimony, but which were not formally offered into evidence until this morning. I don't think there is any need for enumerate them to you. The exhibits will be made available to you during your deliberations.

Secondly, before we begin the summations, I think it is Mr. Furst or Mr. Brown who want to read to you a brief except from some testimony that was takne before another Federal Judge in Philadelphia on another matter, and it's testimony I believe by Mr. Weinberg.

MR. BROWN: Yes, sir.

THE COURT: Which you may accept if it were testimony given by him here on this trial.

Then there is also a stipulation about a particular exhibit that will be called to your attention.

Yes, Mr. Brown.

MR. BROWN: May I, your Honor.

THE COURT: Yes.

MR. BROWN: This is an excerpt of the testimony of Mr. Weinberg given in Philadelphia and incorporated into his testimony.

"Question: Did you personally receive any gifts?

"Answer: No.

"Question: None whatsoever?

"Answer: Except the wallet.

"Question: Just the wallet?

"Answer: Yes.

"Question: Did it have money in it?

"Answer: No.

"Question: Did you receive a watch from anybody?

"Answer: Yes, we received three watches.

"Question: When you say we --

"Answer: Well, I received three watches which I turned over the day I received them to the FBI.

"Question: Who at the FBI?

"Answer: John Good."

The end of the exerpt. Thank you.

Thank you, your Honor.

THE COURT: Now the stipulation.

MR. FURST: Your Honor, we would stipulate that on Defense Exhibit U, Exhibit B-20, a phone call on August 20th, should be deleted and it is so removed on the Exhibit.

THE COURT: What that means ladies and gentlemen, is that Exhibit U is the analysis of all the phone calls, and so forth,that one of the witnesses discussed with you. And on one of those you will find that there has been a call that has been crossed out. That has been done pursuant to this stipulation. Apparently it just doesn't belong there or it's an error or in some way it does not relate to this case. I don't know of the reason, but counsel are satisfied and that is good enough for me, it should be good enough for you. It's not on the telephone call list that you should be concerned with, nor should you wonder why it is crossed out. It shoulnd't concern you.

With that, all parties rest.

* * *

* * *

(Mr. Puccio makes a closing summation to the jury as follows:

MR. PUCCIO: Your Honor, Judge Pratt, defense counsel, ladies and gentlemen:

First of all, I would like to thank you for your attention and patience during the last almost three weeks of this trial.

As Judge Pratt has indicated to you, it is now the time of the case when the attorneys get up and discuss the case with you and make arguments based on the evidence.

I would like to reiterate one thing that Judge Pratt said, which is very important, especially

in a case of this kind where there is quite a bit of physical evidence, tapes and sound recordings which you can hear.

I have a recollection of some of the evidence. I will try to refer to some of it. I will even have some of it played to you. But if in any way my recollection differs from yours, you follow your recollection and not mine.

In addition, you have available to you the opportunity to have any exhibit or any tape or any recording of any kind played back to you to check a point, to recall in your mind what was said and what happened.

Of course, that goes for the testimony of the witnesses who appeared on the witness stand. That all can be read back to you if necessary.

And also, as I said, during the course of my summation, let us call it, I will make arguments to you based on the evidence. I will ask you to draw certain inferences about this case.

Now, if I make any argument that doesn't make any sense to you, that you don't agree with it, just reject that argument.

One of the things that I think should be said at the outset or one question that I think should be answered is who are the four defendants in this case that sit before you? And I would like to go over that for a moment.

First of all, Michael Myers is a United States Congressman, a representative of the United States, of his District in the House of Representatives, as you have heard from South Philadelphia, Pennyslvania.

Louis Johanson, a City Councilman who sits in the City Council of the City of Philadelphia.

Angelo Errichetti, a Mayor of the City of Camden, a State Senator.

All three of these gentlemen are public officials, people who hold positions of trust, of power, of respect, of influence.

Howard Criden, a lawyer, a member of the bar of the State of Pennsylvania. As you have heard on the tapes, a former prosecutor. Again a person of trust and respect, of influence.

Now, one of the questions, and there are certain themes or certain issues or idea that run through the case. I think one of the most

significant issues that you should consider, and I want to mention it at this point because it will recur throughout my discussion of the evidence. I think it's one of the central things that has to be focused on, and it is simply this: What is real and what is not? What is true and what is false? What is acting? What is play acting as you have heard from the testimony of a witness in this case, Congressman Myers? And what is reality.

Was the act that was played on the video tapes or was that reality? Or was in fact the act that was played, that you heard from the witness stand as Congressman Myers testified in this Courtroom.

Did the act occur when no one knew that the cameras were recording every picture and the microphones were taking down every word? Is that when the act occurred or did the act occur when Congressman Myers took the witness stand fully prepared with the benefit of listening to all the recordings and looking at all the tapes?

When did this all begin?

Ladies and gentlemen,you heard testimony from Ellis Cook, a junior partner in Mr. Criden's

law firm, a person who considers his relationship with Mr. Criden that more of a father and son than senior partner and junior partner. Mr. Cook told you that in the spring of 1979, the Criden, Johanson law firm had received a proposal from a Mr. Neifeld to see if they could finance or sell a piece of property in Atlantic City. And you heard Mr. Cook tell you that in connection with that proposal the law firm undertook to see if they could make a substantial fee.

You might further recall,ladies and gentlemen, that during early July of 1979 Councilman Johanson spoke to a friend of his at his country club in Longport, a Mr. James Meiler, if you recall, and Meiler indicated that he had a friend who had a friend who might be interested in this property in Atlantic City.

And as the facts occurred,we find out that the friend who had a friend was Mr. Errichetti, the Mayor of Camden. And the friend that he had was unfortunately for him Mel Weinberg and Anthony Amoroso.

And you might recall from Cook's testimony there was ultimately a meeting, Mr. Meiler, Mr.

Errichetti, Mr. Johanson, Mr. Criden, they met a Longport, New Jersey, to discuss the possible financing from the fictitious Arabs.

And as you might further recall, as a result of this meeting in Longport, New Jersey, there was a scheduled appointment with Weinberg and Amoroso on a yacht in Fort Lauderdale, Florida on July 26, 1979.

Now, a lot has been said about this meeting on he boat. I think you must have heard several hours of testimony about where everybody was when they said this and where everybody was when they said that and whether it was below decks or above decks. But the fact remains that there was a meeting. There was a discussion about this casino proposal, this piece of property of Mr. Neifeld's. And in addition, as Agent Amoroso testified, there was a brief discussion about a potential problem that lurked in the minds of his employers, the Arab Sheiks. And that was simply this: If perchance, and as Agent Amoroso testified, this just came out, it was something that was thrown out to Mr. Errichetti whom he had known for several months and whom he had prior dealings with which are not

relevant here, but it was something he threw out to Mr. Errichetti and said very simply, they are concerned that they might be in the same problem as Mr. Somoza, former President Somoza, they might have the same kind of difficulty. Is there anything you can do? Can you provide us with any help? Do you know any politicians?

Mr. Errichetti readily accepted that proposal and said, I think I can help you, or words to that effect. There was discussion then as to how much it would cost.

Mr. Cook tells you that when Mr. Criden and Mr. Johanson returned to Philadelphia, they discussed with him the details of their trip to Fort Lauderdale. And Mr. Criden said, well, on the way back I was sitting next to Mayor Errichetti in the plane and he told me that if we could provide politicians, if we could provide people there might be some money in it for us.

And Mr. Cook told you that Mr. Johanson was dispatched to contact his friend, Mr.Myers, and see if Mr. Myers was interested in meeting with the Sheik or his representatives in order to solve this immigration problem.

Now, ladies and gentlemen, I would like to play to you at this time some of the early telephone conversations which pick up this story and show you how it developed.

Would you play the first one, please, and that is Exhibit 9-A -- I'm sorry Exhibit 20-A -- I'm sorry again, Exhibit 19-A, July 29th.

JUROR NO. 10: I don't have 19-A.

JUROR NO. 3: I don't have it either.

(Whereupon, the completed notebooks are distributed to the jury.)

MR. PUCCIO: All right, your Honor, we are ready to proceed.

(Whereupon, the tape recording referred to was played.)

MR. PUCCIO: The next one now is July 30, 1979. Play the next one, please.

(Whereupon, the tape recording referred to was played for the jury.)

MR. PUCCIO: Now, the next day, July 31st.

(Whereupon, the tape recording referred to was played for the jury.)

MR. PUCCIO: Mr. Weinberg says, good. What price are we using?

Mayor Errichetti says, one.

Mr. Weinberg told you that meant $100,000.

Weinberg says, one. Do you think we should cut it down to 50?

Errichetti says no.

And then we will play the next one later on the same day, the 31st.

(Whereupon, tape recording referred to is played for the jury.)

(Continued on next page.)

MR. PUCCIO: Now, ladies and gentlement, you heard four conversations between Mel Weinberg and Mr. Errichetti, the Mayor from Camden, New Jersey.

I ask you, as you think about the conversations, as you heard what was said, more than a year ago and what was captured on tape,are those conversations consistent or inconsistent with the other evidence in the case?

Are they consistent or inconsistent with the video tapes that later I will talk about and that you've seen during the course of this trial?

Are those conversations consistent or inconsistent with Mr Cook's testimony?

You recall Mr. Cook, he testified, as I just pointed out or reminded you, that he had this meeting with Mr. Criden and Mr. Johanson and a decision was made to reach out and speak to Congressman Myers and get him to come to the meeting with the Sheik or his representative.

And that money was involved. A hundred thousand dollars was involved. And that money was to be split among the people involved in this venture.

Were these conversations between Mr. Errichetti and Mr. Weinberg play acting?

You know that Weinberg was an agent for the United States Government, a paid informant, part of an undercover operation.

Was Mr. Errichetti play acting? Was this for real? These conversations really depict the necessary preparation leading up to the pay-off meeting on August 22, 1979 in New York City.

Mr. Cook was on the witness stand for several hours. An insider, someone that Mr. Criden treated as a son. A son who with knowledge of the intimate details, a co-conspirator, a co-partner in this enterprise to pay Mr. Myers.

Did Mr. Cook at anytime during his testimony before you say that he had ever heard from anyone that this was play acting? That this was not real.

Now, as you might recall from Agent Amoroso's testimony, there was a meeting on August 5, 1979, among Mayor Errichetti, Agent Amoroso, and Mr. Weinberg at Kennedy Airport. I believe that was the first Exhibit that was played, Exhibit 1. I would like to play it for you now.

(Tape played.)

MR. PUCCIO: I think I said at the beginning of this case there is one thing that won't change. The recollection of witnesses may change, many things may change, but the words that were spoken that were taken down by a recorder in 1979, 1980, on the video tapes, are going to be the same today as they were back at the time they were said.

On the next day, you heard from Agent Amoroso that there was a meeting in Cherry Hill, New Jersey at which there was further conversation about the proposed meeting with Congressman Myers. And you further heard from Agent Amoroso there were additional meetings on August 7th and 8th where the proposal was discussed in detail.

May I play August 7th, this is Exhibit 3-A.

(Tape played.)

MR. PUCCIO: Mr. Weinberg in talking about the Sheik, "He's a shrewdy. In his own way. He sat on the yacht there that day and he didn't speak to no one. The Interpreter spoke, you know. But he understood every fucking word they said. You hit it right on the head."

And Errichetti says: "Sure did."

Play the next one, August 8th.

(Tape played.)

MR. PUCCIO: Now, you've heard seven different conversations in the last few minutes involving Mayor Errichetti, Mr. Criden, Mr. Amoroso, Mr. Weinberg. What were the conversations all about? What were they directed towards? They were directed, I submit to you, towards the ultimate meeting on August 22nd, which Congressman Myers would come in and take the money which would be split with everyone else.

Now, some statements were made to you in openings by counsel for the defense. There has been cross examination during the trial designed to convince you that an act was being played.

Now, it's clear tha Amoroso and Weinberg were in fact acting. They were acting in the context of an FBI undercover investigation which Judge Pratt will charge you is a perfectly proper method of law enforcement.

Was Mr. Errichetti acting? Was Mr. Criden acting? Does the Mayor of a major City of New Jersey, and a State Senator spend their time lulling away the hours having conversations with people

that are meaningless?

Does a lawyer from Philadelphia travel to New York and sit around and talk about things that make absolutely no sense?

Does that makes sense to you?

Or were Mr. Errichetti and Mr. Criden directed towards the very profitable objective that was more than worth the time they had to spend speaking to the Sheik's representative?

I submit to you they had many reason, many, many reasons to sit around and converse with Mel Weinberg and Tony Amoroso. They had at least fifty thousands reasons as you will see in the tape of August 22nd.

But let's move on. While all this is going on,what is Mr. Cook telling us about the happenings in the law firm in Philadelphia?

What are the discussions? Essentially, are there any discussions about play acting? Things like the Congressman is going to tell the Sheik he can come to this country if he has to leave his native land and the Sheik is going to pay a hundred thousand dollars at that point. And what would happen as a result of the payment of this

2 hundred thousand dollars as Mr. Cook put it,
3 the Congressman would owe the Sheik a favor. As
4 he put it another time on the witness stand, the
5 Sheik would have the Congressman beholding to
6 him.
7 MR. BEN-VENISTE: Objection, your Honor.
8 That was striken I thought as a characterization
9 by the witness.
10 MR. PUCCIO: Your Honor, the record will
11 speak for itself.
12 THE COURT: If your recollection is not
13 that precise, we do have a record on it and it can
14 be determined. If you bring it to my attention,
15 I will so instruct the jury.
16 MR. PUCCIO: Now, what is this all about?
17 August 22, 1979, what happens on that day? Does
18 the story of what happened on that day appear in
19 the video screen? Does it appear in the testimony
20 of Agent Amoroso? Or does the story of August 22,
21 1979 appear in the testimony, the true testimony,
22 through the testimony of the United States Congress-
23 man?
24 Before we get to that meeting at the Travel
25 Lodge Hotel,what is happening? Well, early that

day as you heard from the testimony of Mr. Cook and Mr. Criden's son and through other evidence, three different automobiles are converging from various different locations throughout the Northeast in the United States on Kennedy Airport for one reason, one reason spelled, m-o-n-e-y.

What Congressman Myers, during his summer vacation in Longport, New Jersey, is getting in an automobile early in the morning with Mr. Johanson the City Councilman and driving all the way to Kennedy Airport for.

What is Mr. Criden doing? He's having his son take him from his law office in Philadelphia to the Pan Am Terminal at the same airport.

Mr. Cook told us about this. Other witnesses told us about this. And where is Mr. Errichetti? Mr.Errichetti is taking some time off from his official duties as Mayor and State Senator from New Jersey, Mayor of the City of Camden, and has his nephew, the Administrator of the Department of Energy and chauffeur, et cetera, driving him from Camden, New Jersey to Kennedy Airport.

Now, what happens at Kennedy Airport? Does everyone walk into a room like businessmen and

conduct a meeting? No. What happens at Kennedy Airport is there are several different meetings. A meeting over at the Pan Am Terminal with Mr. Criden and Mr. Johanson, as Mr. Criden's son so testified, and Congressman Myers and Mr. DiLorenzo and Mr. Errichetti, and then there is a transfer from that scene to the Travel Lodge Motel. And you saw in the video tape what happened up in the room at the Travel Lodge Motel.

I submit to you that what happened in the room at the Travel Lodge Motel is very, very explicit. The Congressman walks in. He sits down and goes right into the business at hand. Well,first of all, a private immigration bill can be introduced. No question about that. It's right in the video tape.

A discussion during which he promises to intervene with the State Department and perform any other act that the Sheik wants to perform.

Now, let me stop for a moment. You heard all the Government's case, all the tapes were presented, video tapes, audio tapes of conversations. No question that the Congressman was there, said those things and the money was passed.

Then we get to the defense case and we hear from the Congressman. Now, after all this evidence is presented, after all of this electronic display, as Mr. Brown called it, after you see with your own eyes what happened August 22, 1979, what is Congressman Myers going to do when he testifys? What choice does he have?

I submit to you that as soon as it became apparent that video tape recording, audio tape recordings had captured what happened here, Congressman Myers became a man in need of a story. It's almost hard to be critical of that.

What do you do if you're caught redhanded on video tape? What do you do? Congressman was a man in need of a story. And what a story he told.

You heard him testify here for the better part of four days. Is that testimony worthy of any belief? Oh, that was proper, Mr. Cacheris, I'm sorry, it was improper, Mr. Cacheris -- got me confused. I believe it was improper. No, Mr. Puccio, that was proper. Which was it? Was it improper or proper?

It's a pretty big pill to swallow. This is

a United States Congressman in a hotel room in JFK Airport who takes $50,000 in a paper bag. It's a pretty big pill to swallow.

The moon is not made of green cheese.

May we play that video?

(Video tape played at this time.)

MR. PUCCIO: 5-A. Exhibit 5-A.

(Tape played.)

(Continued on next page.)

(After the recording the following occurred.)

MR. PUCCIO: If I may for one second interrupt the tape.

As I said before, this is extremely explicit as I said to you before, ladies and gentlemen.

There is no question what happened here. Absolutely caught cold. Money talks. Bull-shit walks. Is that an act? Was the congressman acting when he said that?

You saw it with your own eyes. You saw it with the video caption. Did he feel uncomfortable saying that? Or did he feel as comfortable as he felt sitting there next to the mayor of Camden, New Jersey.

Ladies and gentlemen, one of the main issues in this case is: Is that an act on the screen or did Congressman Myers put on the act up there?

I submit to you, ladies and gentlemen, the act by Congressman Myers, the command performance was right there.

Patronage doesn't exist in politics any more in the United States. Do you believe that? Do you believe some of the other things Congress-

man Myers said to you?

Now, let's analyze this a little bit. As I said to you before it's a pretty tough thing to swallow. We have to take leave of our senses if we were to swallow that this were an act.

I certainly wouldn't criticize Congressman Myers for his industry and ingenuity. He was a man in need for a story. Of course, once you start to tell this story, you take one step and you take another step and you take another step and after awhile it gets so preposterous it gets totally unbelievable as it did when he told it to you on the witness stand.

Now, what do you do when you need a story? And you have access to all these materials. It's not like you are coming in here cold.

Congreesman Myers didn't walk into this room and get up on that --

MR. BROWN: I object, if your Honor please. I object. This is a reference to an inference that is totally unwarranted as to what anybody did with these materials given to us on discovery.

THE COURT: Overruled.

MR. PUCCIO: Now, Congressman Myers didn't know as we all remember, he didn't know about this. But of course he knew who was going to hear what he said, namely, you, ladies and gentlemen, when he got up on the witness stand. And there was an awful lot riding on his testimony in this trial. It is only $50,000. It's a lot to most of us, I guess to all of us, perhaps, at that meeting, but there is a lot more riding on it when you are up there on this witness stand.

Now, you have access to all these materials. As you have heard, the government had conducted a lengthy investigation for a couple of yeasr involving all sorts of people not relevant here and which you are not to consider as Judge Pratt will charge you.

So what do you do? You start to take apart tapes. Obviously anyone could have offered the whole take in evidence, it was marked or not marked or whatever. But you start to pull apart these little excerpts. Weinberg says here, come on strong. And Mayor Errichetti says script.

Let me see if I can start to put these together.

A conversation with a public official, senator Williams, who was not here, not here before you. It is taken out of context. It is part of another partner having nothing to do about what you have to consider, about which you heard nothing, and let's take this one conversation where Weinberg says you are on tape, and twist that into this acting, ladies and gentlemen, oh, I was just play acting.

Of course there is another problem, even if you accept that, which is pretty hard to swallow. Congressman Myers never with with Weinberg. He has to think about that one a little bit. He never met with Weinberg. That can be established. The only time was in this room and it was on tape. So if Weinberg is the master acting coach, it is not going to do Myers a darn bit of good. He never met with Myers. So what does he do?

Oh, I have an idea. Errichetti was at this meeting with this senator who has nothing to do with this case, so he had to know about

it, and we will play the tape, show he knew it, about it, and then I have an acting coach. Errichetti is my acting coach.

So you have the manufacture of these two brief meetings, on August 22, 1979, one at the Pan Am Terminal as the Congressman testified, "As I got there Errichetti says, 'Well, are you all set to get into your act.' All right."

You have that meeting manufactured and you have the other meeting where the sheik is not going to be there, but the whole thing is going to be the same, manufactured at the Travelodge.

Now, who has told us other than Congressman Myers that these two meetings took place with Errichetti? No one.

Come on strong, come on strong.

Now, if we analyze that for a minute, what does that mean?

Mr. Weinberg, as you heard from him and from agents of the FBI his having conversations in which he is trying to set up meetings. And these meetings presumably will be recorded. And these meetings are ones in which the FBI

will make a determination as to whether or not money is to be paid to a public official.

Does the FBI, when a public official -- want a public official to walk into that room who has been brought there by a middleman, who knows absolutely nothing about what is going on and from whose lips one cannot determine that he knows anything -- isn't it fairer and doesn't it make more sense for the FBI to tell these people when they get to the meeting, to tell them, come on strong or to say, we want to know what they are about. We want to know if they are willing to take money. We want to know if they are corrupt. We want to know that they are going to do for the money. We want to know if they will take money.

As you will hear from Judge Pratt, the methods used in this case were perfectly proper. It is a legitimate method of investigation. And if the United States Government has to expend some oonies to determine --

MR. BROWN: I object, your Honor. This is something that your Honor has set for another time. I object to this.

THE COURT: I think it is inappropriate, at least in ths part of your summation, Mr. Puccio.

MR. PUCCIO: I will reserve it, your Honor.

MR. BROWN: I object to it as part of the summation due to your Honor's orders to us.

THE COURT: If my orders are obeyed it will be improper in his rebuttal summation.

MR. BROWN: Yes, thatnk you.

THE COURT: Before you proceed, Mr. Puccio, perhaps I should explain to the jury:

Your function in this case, ladies and gentlemen, is to determine what the facts are and whether those facts as you find them to be established beyond a reasonable doubt, the essential elements of, of particular crimes as I will explain them to you.

The government is not on trial in this case. The method of investigation is not before you. The propriety of what the government did is not before you. These are questions of law that I have to determine. Other courts may have to determine them. But they are not issues before you.

1
2 That is the reason I have instructed counsel
3 that this question of the propriety of the govern-
4 ment's conduct, this investigation method of
5 having undercover operatives pretending to be
6 something that they are not really, whether that
7 is a proper way in proceeding with enforcement
8 of laws in this country, these are questions of
9 law for judges to determine.
10 What the jury has to determine in this
11 case are the specific facts as to what happened
12 here. You have to determine what happened and
13 whether under the circumstances of what happened
14 here does it meet the standards which we call
15 the essential elements of the three crimes, of
16 the crimes that are charged in the three counts
17 of the indictment.
18 I wanted you to understand that.
19 Proceed, Mr. Puccio.
20 MR. PUCCIO: Thank you, Judge.
21 Now, whose idea was it to mention the
22 introduction of a private immigration bill. I
23 asked Congressman Myers:
24 "Question: Congressman Myers, is it
25 true it sas your idea of bringing up the matter

to introduce a private immigration bill at the meeting with DeVito and Weinberg and Mayor Errichetti on August 22, 1979?

"Answer; No, it is not true. I started off with my explanation of how powerful I was. I just covered that area. But it wasn't my intent when I walked into the room to bring it up.

"Question: Let me ask you a question again: Wasit your idea, Congressman Myers, to bring up the introduction of a private immigration bill at the meeting of August 22nd?

"Answer; No, it was not my idea.

"Question: You said those words, did you not? You proposed to introduce a private immigration bill?

"Answer: I promised to introduce a private immigration bill after I was asked to introduce one.

"Question: Will you point that out to me in the exhibit, that is Exhibit 5A.

"Answer; I'll have to read it through to find it. But he brings it up first."

Meaning Amoroso.

"Question: Let me point out page 3 where you say a little down, absolutely where I could be of assistance in this type of matter, first of all is private bills that can be introduced.

"Answer; Page 3?

"Question: Yes. Do you see that?

"Answer; Yes, I say they can be introduced. I don't say that I am going to introduce one."

Ladies and gentlemen, I ask you to examine that video tape and examine in your own minds whether or not Congressman Myers says he is going to introduce a private immigration bill.

Congressman Myers told you during cross-examination that he went to this meeting and made false statements to obtain money, made false statements to obtain money.

Well, for one thing Weinberg pleaded guilty to several counts of doing that.

MR. BEN-VENISTE: I object, your Honor. This is most improper argument.

THE COURT: Overruled.

1 MR. PUCCIO: False statements to obtain
2 money.
3 This is the United States Congressman
4 getting into his car and traveling 90 or 100
5 miles, whatever it is, to a hotel room and making
6 false statements to obtain money.
7 Is that proper?
8 Well, first Congressman Myers said it was
9 improper and then he had said it sas proper.
10 Do you think it is proper?
11 Now, let me pose this:
12 Would a man, a representative of the United
13 States, a United States representative from
14 Philadelphia, would a man in that position, who
15 would travel all that way, accepting his story,
16 to make false statements to obtain money,
17 something that I would submit to you if it were
18 true lacked some candor and honesty, let's say,
19 perhaps. Would a man like that hesitate for
20 one second to lie on this witness stand to get off
21 the hook?
22 By his own admission he lied and lied and
23 lied and lied, he tells us. He said he lied here
24 and we say he lied there. We submit that to you.
25

1
2 Would a man who would take these actions,
3 can you believe him? Can you believe him when he
4 tells you I was putting on an act?
5 United States Congress, ladies and
6 gentlemen, does not act as equity, I would assume.
7 Why did he go there? Why did the sheik
8 want him there? Why did he think the sheik
9 wanted him there?
10 Now, we have not taken leave of our senses.
11 United States Congressman Myers has not taken
12 leave of his senses. Would he believe that some
13 sheik or anyone else is going to dole out money
14 to a United States Congressman for absolutely
15 nothing?
16 Money talks. I submit to you that it was
17 the money that was talking and it was the money
18 that got them up there on August 22, 1979.
19 Where would we be, ladies and gentlemen,
20 if we we didn't have these cameras ? Matters
21 of witnesses' recollections, be they big or small,
22 were examined and cross-examined properly, I
23 would assume, for hours and hours and hours.
24 Can you imagine if they didn't have these cameras?
25

The cameras, I submit to you, not only give you the words, they give you the sense, they give you the atmosphere. They give you the nuances. They tell you where the truth lies, ladies and gentlemen.

And if something else is proferred to you that is not on that camera, I submit to you that you have to scrutinize from where that comes and scrutinize it very carefully and see if it stands up the way this video tape stands up to scrutiny.

Now, you heard Mr. Cook testify that on August 22, 1979, he was eagerly awaiting back in his law office in Philadelphia the return of this band of public officials accompanied by his father figure, Howard Criden.

And what sas Mr. Cook waiting for?

With all due respect to Mr. Cook, who I submit to you tried to tell you the truth from this witness stand, with all due respect to Mr. Cook, he was waiting back at the office because he was getting a piece of the pie, to use one of Congressman Myers' phrases. He was waiting for

that money.

Congressman Myers returns. Mr. Johanson returns. Mr. Criden's son returns.

Mr. Criden's son is carrying the money. And there is a discussion.

(Continued on next page.)

The last minute -- I won't play the tape for you but you can look at it -- the last minute the ground rules are changed. Weinberg said originally $100,000 and at the last minute it changed to 50. You heard some testimony on it.

In fact, in the second meeting on August 22nd, the meeting where Myers leaves and Errichetti meets with Amoroso and Weinberg, at that second meeting the Mayor says 35 seconds you gave me to change the figure. The figure is changed and changed quickly August 22nd, and drops from $100,000 to $50,000.

This caused a little bit of a problem. And let's see if we can see how this problem is resolved. Mr. Criden comes back and has a conversation with Cook and apprises Cook -- Mr. Criden says it was $50,000 and 15 already went to Mayor Errichetti. 35 left.

But if -- they talk about it a little bit, Myers is coming over here, I have to sit down with him. If we show him 35, he might take more than we want him to take. Let's take 10 out and put it aside and tell him we only got 25. That is what is done.

Ten thousand is taken out and it's down to $25,000.

Congressman Myers arrives. He is confronted with $25,000 and he was told 25 went to somebody and it was only 25 left. So he takes 15. And as you heard from the testimony of Mr. Cook, the 10 that was left after Myers took 15 and 10 taken out from Myers, now how much was there? You add them together, and you get 20, and that is divided among Criden, Johanson, and Cook.

Now, are we dealing here with money that was received properly? First of all, Mr. Criden, Mr. Johanson and Mr. Cook don't exactly go down to Times Square, or whatever the equivalent is in Philadelphia, and announce to all the world that the Congressman picked up the package and we all split up. They don't do that, nor do they go to the bank and deposit it in the savings account to get interest. Right away a safe deposit box routine. Mr. Criden gets his son to open the box, presumably money goes in there; Johnanson has never been a signatory on the Bell savings box, all of a sudden Johanson is in need of a box. That makes sense. What is he going to do? So Mr. Johanson is added to the box.

And Mr. Cook testified he already had a box and he promptly used that one too.

You heard testimony from Mr. Criden's son that on that evening he wasn't in a meeting, either was Mr. Cook for that matter, with Congressman Myers, Mr. Johanson, Mr. Criden, behind closed doors in Mr. Criden's office. But he was in the car when Mr. Johanson, as you might recall, and Mr. Criden drove off, I believe if you recall from the testimony, Mr. Johanson had a speaking engagement that evening and Mr. Criden and his son were dropping him off.

As you might recall then, Mr. Johanson when arriving at his destination, said to Michael Criden, "This is sort of a rough neighborhood, I shouldn't be carrying all this money around, why don't you hold it for me, you work in the office this summer, bring it in the next day."

I wonder about that rough neighborhood.

In any event, Mr. Johanson had the money and Mr. Criden's son took custody of it.

Now, talking about Congressman Myers, he told you he took his money and put it in his bureau drawer and spent that money over a period of weeks.

He said it took him two weeks to dispose of it. No questions asked. Proper or improper?

Now, what happened between August 22, 1979 and January 24, 1980? Significantly, around the 24th of January, 1980, Mr. Criden gets in touch with Congressman Myers and says the sheik's representatives are in town, different people, they want to meet.

Congressman Myers goes up to the Barclay Hotel on January 24th.

Now, this Barclay Hotel tape, I submit to you, is extremely interesting. And Congressman Myers' explanation of it stretches our minds beyond the pale. It is difficult enough to think up a way around August 22, 1979 -- I explained to you it was Weinberg's tape -- Williams, Errichetti speaks to Myers, there was a script -- blah, blah, blah, and we end up this wasn't reality.

What do you do about January 24, 1980? That tape runs for about an hour and a half and of course, let there be no mistake about it, Congressman Myers has no idea he's being photographed. And during that meeting he probably tells you in the best possible way what he was about on August 22, 1979.

If you look at January 24, 1980, that resolves

any questions in your mind as to what was going on August 22, 1979.

Again, caught red-handed. In need of a story. Well, it's pretty tough to say you delivered a command performance August 22, 1979 and be rehired or had to get your Actors Equity card for January 24, 1980.

Again, rational, reasonable people are not going to believe that. That is really stretching it to the limit.

What does he do? "I was drunk. I was served tumblers of liquor, McDonald glasses filled with bourbon and I drank and drank before I got to the meeting."

Just in case we had any doubt as to how much he said he drank at the Barclay Hotel, "I had beer, beer, beer before I got there."

How do we prove that, or does it matter? They plied me with liquor. Two drinks. You saw them. And the proof that he was drunk at one point, they replayed a tape, and an icecube got stuck and he spilled something on his tie. I submit that happens with Coca-Cola.

In any event, he was drunk. He was drunk. And said things that were not true. He wouldn't

sell the City Council. He wouldn't sell his office or his influence or the docks with organized crime, introducing Immigration bills, selling his seat, selling his office, he wouldn't do any of those things.

How do we prove he would do any of those things? How do we prove he would use his influence? One way is we play a movie where he said so. He didn't mean that, he was drunk. Of course, when one is drunk one tells nothing but lies. Drinking, as everyone knows, removes inhibitions.

I submit to you the real Michael Myers, the real United States Congressman, was sitting on the couch at the Barclay Hotel just the way he sat there at the Travel Lodge Inn on August 22, 1979.

Can we play the tape, please. Your Honor, can I take two minutes?

THE COURT: Why don't we take a five-minute break.

MR. PUCCIO: Thank you, Judge.

THE COURT: Don't discuss the case, ladies and gentlemen.

(Recess taken at this time.)

THE COURT: Bring in the jury.

2 (The jury is in the box.)

3 THE COURT: All right, Mr. Puccio.

4 MR. PUCCIO: Thank you, Judge.

5 Before we play the excerpt of the Barclay
6 meeting on January 24th, I think it is, I should put
7 this in context if I may.

8 In the context with Congressman Myers' testi-
9 mony, which is something you have to scrutinize and
10 evaluate, as the Judge will tell you.

11 As I said to you before, the Congressman's
12 position was on the 22nd of July (sic) he was play-
13 acting. But -- he wasn't entirely play-acting on
14 the 22nd of August -- 22nd of August I mean, during
15 cross-examination, to sharpen it further: "I was
16 talking about investments," he said, "in the City
17 of Philadelphia, that was for real. I wasn't play-
18 acting about that."

19 Investments in Philadelphia, perfectly legal
20 and proper and something that should be encouraged
21 and should be expected.

22 Of course, if that is the case -- the Congress-
23 man says, "I was serious about that." You have almost
24 a dual personality where to believe Congressman
25 Myers, on August 22nd he was acting one way at one

moment and then switches to the real Congressman Myers. The real Congressman Myers says, "I want to invest for the Port of Philadelphia."

That is two personalities, two people.

When you get into the Barclay Hotel, it gets more complicated if you credit his testimony because then you have somebody who's got different personalities and he's drunk at one point and sober at another and crafty one minute and dull at another.

You get things like, you might recall just about every topic, City Council, Mafia, and everything else that he was selling, going to get money for according to what he said -- and all before he gets his second drink. All that has been touched upon.

Why is he saying all these things? He tells you that he was trying to find out what Mr. Wall was all about. He has mixed emotions about Mr. Wall and is trying to explore or investigate Mr. Wall. Flush him out. Do you believe that?

And this is while he is drunk. He's not to be accepted as what -- the way he presents himself, because he is drunk. He is trying to cat-and-mouse with Mr. Wall to flush him out. For what reason

9 1 does he want to flush him out? Why?

2 He said, and this is particularly pertinent

3 to the part we are going to play right now, you will

4 recall during the meeting Congressman Myers himself

5 brings up the incident in New York on August 22,

6 1979, where he said, "I got screwed."

7 And he said, "I got screwed," because there

8 was supposed to be $100,000 and it turned out to

9 be 50,000.

10 I'm going to play that in a few minutes for

11 you -- part of it.

12 On cross-examination: "Why did you bring that

13 up?" "Well, I was trying to find out what Mr. Wall

14 was doing. Trying to flush him out a little bit."

15 I submit to you, ladies and gentlemen, the

16 United States Congressman was not trying to flush

17 anybody out. He brought up the subject at the

18 Barclay Hotel of what happened in New York for the

19 same reason he attended at the meeting in New York

20 on August 22, 1979. Only he wanted more of it. He

21 wanted more money.

22 Is that consistent with the tape? Of course

23 it is.

24 Do you accept the explanation he wanted to

25

2 flush Wall out? Do you accept any of that nonsense
3 about how these people on the one hand are my friends
4 and interested in investing in Philadelphia, and on
5 the other hand I am suspicious and I don't trust
6 them.
7 Do you accept that split personality nonsense?
8 Look at the tape on January 24th, page 115 -- can
9 you play that, please?
10 (Tape played.)
11
12 (Continued on next page.)
13
14
15
16
17
18
19
20
21
22
23
24
25

(The following takes place after the playing of the video tape.)

MR. PUCCIO: Give me a reason is said minutes throughout these tapes.

Congressman Myers says: Now, if you give me a reason I have the F'n,to use Congressman Myers' phrase, balls to do whatever has to be done in congress.

Do you believe him when he said that?

I submit to you, ladies and gentlemen, that somebody who takes the stand and tells the kind of story that hthis gentleman, Mr. Myers, told you on this witness stand, and lies and lies, and lies, and somebody who admits to you --

MR. CACHERIS: Object to the characterization, your Honor.

THE COURT: Overruled.

MR. PUCCIO: And he admits to you that he came to New York to lie about taking some money, I submit to yu that someone in that category is not going to hesitate one moment to introduce a private immigration bill or to do anything else that is necessary in congress.

2

I also submit it to you because he says it again and again and again.

How do you get around this? It seems to be impossible toget around this.

Let's put our thinking caps on again.

Well, our explanation about August 22nd was based upon conversations that Errichetti presumably had with Weinberg, and then Weinberg was out of the picture and then Errichetti told me to put on an act.

What do you do in this situation at the Barkley Hotel where Weinberg is not to be found?

Well, what you do if you are Congressman Myers is you somehnow try to import Weinberg, interject Weinberg into this situation, hopefully to make the story believable. And it just doesn't wash.

First of all I ask you, ladies and gentlemen, you have seen the videos, you will have an opportunity to see it again and you heard the testimony, and I ask you to consider how much Me. Weinberg has to do with this case. I submit to you he has very little to do with this

case.

He is a very interesting red herring, a smoke screen, something the defense constantly questions.

You have to do things like make stories up here, cross-examine Me. Weinberg and drop pieces of rug on the floor and play with telephones. You have to do something.

Now, let's see if we can put this thing in context. I asked Mr. Myers on cross-examination about this conversation. I was trying to flush out Mr. Wald. I was trying to find out what Mr. Wald was about. I was trying to find out if Mr. Wald knew about Mr Weinberg and was he working with Mr. Weinberg.

And did the same act follow?

Now, as unbelievable as that may be it gets more and more unbelievable as we go along, because there is a meeting the next day at the Barkley on the 25th, and I asked Congressman Myers, the next day were you drunk?

No. I was recuperating from the night before.

Were you play-acting?

Yes, I was play-acting.

And again I wanted to find out what Mr. Wald was all about.

Now, Mayor Errichetti is someone that Mr. Myers knew, someone he associated with according to the testimony on at least 15 occasions before these events. Mr. Errichetti is the link between Weinberg and the sheik or the sheik's representative.

Let's follow along this silly story of Congressman Myers. If Mr. Errichetti was the link, the coach, the one who gave him the story the first time. He goes up to the Barkley Hotel and forget about the fact that after Criden called him he went up. And after the first night he tells you he is probing. He tries to find out what Mr. Wald is all about.

Did you ever hear Congressman Myers say, Mayor, on the telephone, did he call, is Wald in kahoots with Weinberg?

Why didn't he call Erfichetti? Because the testimony was established before Errichetti was out of the case after a certain point, he was not involved, was not involved in the event, he

didn't want to say anything about Mr. Errichetti. But the fact of the matter is that it makes no sense if you think about it. It makes no sense whatsoever that he would try mysteriously trying to find what these things are about, that his teacher, his instructor who is sitting next to him right now, Mr. Errichetti --

MR. BROWN: I object, your Honor, the fact that these people are sitting in the courtroom in a particular place is not an element in the case. They may sit wherever they wish.

MR. PUCCIO: The seating arrangement is not an element, I submit.

MR. BROWN: Why say it then?

THE COURT: Ladies and gentlemen, with respect to where the defendants sit in their case is largely a matter of convenience. They like to be near their attorneys so they can confer with them as the case goes on. The attorneys may sit at the counsel table. There are not that many seats there so the choice of the seats are somewhat limited and it is certainly not the choice of the defendants.

So draw no inference from who is sitting

where.

Proceed, Mr. Puccio.

MR. PUCCIO: Thank you.

Show aMr. Errichetti who I am sure is listed in the phone book, or certainly is someone Mr. Myers can get in touch with, he was not called byMr. Myers to find out about Mr. Wald before Mr. Wald went up there on the 25th at the Brkley and continued his probing.

Now, it gest even more complicated because on the 29th there is a telephone call which you heard. And what is that telephone call about? More money. The $85,000 which was due to Mr. Myers from the meeting at the Barkley on the 24th.

As you remember there was 35 addition owed to him as a result of the meeting on the 22nd.

And 50 more to cover all these other problems in Philadelphia.

The 29th, was it play-acting? We don't know. Was he drunk? We don't know.

The 31st, he speaks to him again. Congressman Myers speaks to Mr. Wald again. What do they talk about? Money. The congressman

wants his money. He wants his $85,000.

As Mr. Wald testified, an arrangement was made for someone to be at Congressman Myers' house on February 2, 1980. So on February 2 -- and this person, Congressman Myers, was told by Mr. Wald, was to deliver to the congressman $85,000, as you recall from the testimony.

So on the 2nd of February Congressman Myers is sitting in his Longport home waiting for money.

And what happens? Who arrives?

Well, the sheik's emmissary does not arrive with $85,000. But instead agent McMullen arrives with agent Mauer of the FBI. They tell Congressman Myers that are conducting an investigation and they want to ask him some question. And the investigation concerns the activities of certain people. And he is asked if he knows Mr. Amoroso, who was using the name DeVito, does he know Mr. DeVito, does he know Mr. Wald? The answers were no, no, no.

He is asked the second time, do you know Mr. DeVito, do you know Mr. Weinberg, do you know Mr. Cohen, I'm sorry, Michael Cohen?

No.

And a third time. Well, he doesn't know any of these people.

Now, why does Congressman Myers falsely tell the FBI on February 2, 1980 that he doesn't know any of these people? Very simply because he doesn't know about this. He doesn't know about the video tapes. He doesn't know about the undercover investigation. So he lies, I submit to you, once, twice, three times.

Which is the act and which is rality?

That question or those questions might be asked in light of his testimony about this incident.

On page 3022 of the transcript:

"Question: By the way, you were interviewed by the FBI on February 2, 1980, is that correct?

"Answer: Yes.

"Question: You were asked during that interview by agents of the FBI if you knew Michael Wald; is that right?

"Answer: Yes."

Mr Cacheris corrects me. The question was Michael Cohen.

"Question: Was?

"Answer: I said no "

This is after Mr. McMullen has testified of course.

"Question: You were asked if you knew Mr. Weinberg?

"Answer; Yes.

"Question: What did you say?

"Answer; I said no.

"Question: You were asked if you knew Mr. DeVito. You said no to that too?

"Answer; Yes.

"Question: In fact, you denied knowing them on more than one occasion, is that correct?

"Answer: Yes. At that point in time I didn't know what he was talking about. The FBI agent had not instructed me why he was asking the questions."

(Continued on next page.)

MR. PUCCIO: So Mr. Myers is saying that the reason I lied is because I wasn't told why he was asking the question.

"Question: You didn't know who Mr. Cohen was February 2,1980?

"Answer: I didn't know who he was.

"Question: That's right.

"Answer: Yes, I knew but I was afraid at that point in time."

Alice in Wonderland.

"Question: Afraid of what?

"Answer: Michael Cohen was caught by the Sheik.

"Question: I see. Why did that make you afraid?

"Answer: Because these people I took as legitimate people, as a friend and I didn't want to see anybody in trouble. I didn't know what was up. When Michael Wald told me about the retaliation, Ernie would have to go do something, I didn't want to see anybody get killed."

The Congressman says he didn't want to see anybody get killed. He testified here he heard somebody was going to kill Weinberg. I don't remembe:

him reporting that to the Police.

"Question: You thought admitting to the FBI you knew the people somebody would get killed?

"Answer: They never told me -- I invited them in. The first question out of the agents mouth before he said anything was: 'Do you know Michael Cohen?' If he had explained to me I was under investigation, explained they were FBI agents, I would have been happy to answer the question if I knew more about it.

"Question: You wanted him to tell you that these were FBI agents who you met before you answered the questions?

"Answer: No, I wanted him to tell me things to properly answer the question.

"Question: They told you that they were conducting an investigation and showed you their credentials?

"Answer: They told me after they first asked me the questions --

"Question: You first said no, I don't know any of these people?

"Answer: Yes. Wait a minute, I told him I knew Howard Criden, Mayor Erichetti, other names.

But the Arab Sheik's representatives I said I didn't know. I didn't know why he wanted to know.

So the Congressman only tells the truth if he knows why the question is being asked.

Ladies and gentlemen, I spent more time then I expected in my remarks to you. I would just like to close with these few comments, you are the decision makers in this case not me.

You decide the facts. I submit to you when you are selected as a juror to sit on a criminal case or any case for that matter, you don't receive any devine inspiration, no special power or grace. You are selected to use your common sense and reason and experiences. I submit to you if you apply your common sense and use your reasoning you will arrive at the right result in this case. And I submit to you based on the evidence in this case, you should find the defendants Myers, Criden, Errichetti, and Johanson guilty on all three counts of the indictment.

* * *

* * *

THE COURT: Next, ladies and gentlemen, you are to hear Mr. Ben-Veniste on behalf of the Defendant Criden.

Proceed, Mr. Ben-Veniste.

MR. BEN-VENISTE: Thank you, your Honor.

May it please the Court, fellow counsel, Mr. Puccio, ladies and gentlemen of the jury, it

82-077 0—81——148 (Pt. 1) BLR

seems like a long time since I addressed you last when I made my opening remarks and I said no matter how thin you make a pancake it still got two sides.

And I think you know now what I meant by that. I asked you at that time to hold me to what I said this case would be about, and I hope you do that.

I am going to run back to that opening a little bit for you in a few minutes. I told you at that time that I thought that this case would be the story of Mel Weinberg. And I think it is, because Mel Weinberg was the heart and soul of Abscam.

If Abscam had a heart, it is Mel Weinberg's heart. And if it had a soul, it is Mel Weinberg's soul..

Now, this is the only chance I am going to get to talk to you. And there is a good reason for that. Mr. Puccio is going to be able to argue again after all defense counsel has finished.

So he has had a chance to get your attention first and he is going to have the last word before Judge Pratt instructs you on the law.

And it might seem to be a little bit unfair. But there is a reason for it. And that reason is

that under the law in order to convict any defendant, you must find guilt beyond a reasonable doubt -- beyond a reasonable doubt.

Now, that is a very substantial standard of proof. And it is a standard that must be complied with if there is to be a guilty verdict.

Now, when I sit down I am going to think of six things that I forgot to tell you. And when I go to sleep tonight, I am going to wake up at two o'clock in the morning and I am going to think of 42 things that I didn't tell you. So what I want you to do for me is when you are in the jury room deliberating and you think up an argument that I didn't make or some of my more experienced colleagues didn't make the argument, make it for us.

Don't assume that we wouldn't make it.

When I opened to you a few weeks ago, I said that I had a responsibility to defend Howard Criden. And it is a big responsibility. And in that connection, I asked you to do something. And in the course of this trial I've made objections. I have deported myself in the way that I have. That is the only way that I know how. What I want you to do is if I have done something that offends you or that

you think is wrong, don't hold it against Howard Criden. Do that for me. I know that there have been a lot of objections and side bars. And I tell you quite truthfully, if I were a juror, it would be a pain in the neck to me too to see everybody zipping over to the Side Bar, and you are actually a little bit out of it. Although I did peek over there from time to time and sometimes I could see you were having a pretty good time for yourselves.

But it would bother me. And with all these television sets in the Courtroom, it occurred to me that since Judge Pratt looks like you know who, and might have said at one of these Side Bars we will be right back, but Judge Pratt will tell you that the objections, and the Side Bars, and all that stuff are not your concern.

Your concern is the evidence and your evaluation of that evidence is what is important.

Now, the essence of this case is the question of the intent of the defendants, and particularly from my standpoint, the defendant Howard Criden, did the Defendants intend that Ozzie Meyers was going to do something involving his official position in return for the phoney Sheik's petrol

dollars.

That is the issue.

And I would like you to remember one thing, and by the end of the day I know you are going to be real tired from hearing from everybody, but remember one thing I ask you to do and it is this, don't compromise on your verdict. There are three counts in this indictment. And then there is going to be some sub-divisions of those counts. You will not be doing Howard Criden a favor if you think, well, let's convict him on one and not on two others. If you convict him, you convict him for life as a felon, and I ask you if you think that he violated the law, convict him of everything. But if you don't think he did, then you will hold out and you say "not guilty."

That is all I ask for.

Now, in my opening statement, I talked a little bit about Mel Weinberg.

Do you remember Mel Weinberg? After Mr. Puccio sat down -- I think he mentioned Mel Weinberg once or twice. And it certainly wasn't clear whether he was going to call Mel Weinberg. And I said if he didn't call him we would. And he did eventually

call Mr. Weinberg.

And I said that Mel Weinberg had pulled a sting that had so many different facets to it that it might be a little confusing for you to follow it. But I think you can follow it up now. I said, number one, step one of the sting, Weinberg convinces the FBI to finance him in his old sting operation, back him up, pay him a salary, knock out the three-year sentence that he had been sentenced to, in Pittsburgh; forget about repaying the $200,000 that he had swindled those people out of; create Abdul Enterprises as a front; give him limosines to drive around in; planes to fly around in; and a fancy townhouse to live in.

And you must have thought I was nuts when I said that. How could that be? How could the FBI be taken in like that?

Well, you saw it. Was it true or was it not true? And again, he has swindled $200,000 or more out of the people; been convicted for it; sentenced to three years; and he winds up in this courtroom dressed in three different suits by the FBI because they paid for the suits; paid $3,000 to $5,000 a month of your tax dollars.

Number two of the sting, make the Arab the fattest cat there ever was. A billionaire with untold wealth. Four-hundred million dollars on deposit. He has made his billions out of oil and therefore it comes out of the United States tax dollars. Two-hundred million dollars was going to be here for them.

And dangled a multi-million dollar casino deal -- hotel casino deal in front of these defendants.

(Continued next page.)

MR. BEN-VENISTE: While at the same time saying the sheik would like to meet some more people. Well, the Sheik was presented as the goose that laid the golden eggs.

I don't think there is any question in any of your minds about this. This was the scenario. But, another part of the scenario was this situation wouldn't last forever and Mel Weinberg was going to sting the Sheik, take a little money on the side, make a dollar along with De Vito and if these people went along, they can share in it too.

Mr. De Vito is straight, he was the watchdog, so be a little careful around here.

Step four, the Congressman is located.

Step five, get them before the cameras.

Step six, because Weinberg can't resist stinging them again, get gifts out of them, hi fi's, beta max, whatever it was.

Step seven, it sounds like a great movie. Cash in on making a book deal. You heard it. And I told you the only thing that these defendants ever did was take the Arab's money. I said there would be no question they took the money but would you -- what you would have to focus on is whether

they did anything, whether they intended to do anything.

I suggest to you that if the Government were really interested in testing to see whether Mr. Meyers would abuse his office, they would have asked him to do something. Did they ask him to do something between July and February? A phone call to the state department? A letter on official stationery? Any kind of indication which would show that he was willing to do something. To do something. Absolutely not.'

And his Honor will tell you that that is something which you must consider in connection with arriving at your verdict.

Now, let's set the scene for what happens in this FBI investigation. The honeypot, as Mr. Weinberg described it, to his biographer, is set up. Incredibly wealty Arab shake, Arab oil money. And you think it's just a coincidence that his advisor is Jewish? Why did he make an Arab with a Jewish advisor? To make it all the more plausible, something wasn't on the up and up, this money can be extracted from the oil Sheik. Every time they ran into the problem, something didn't sound exactly

right, we are going to build a hotel in six weeks and break ground, but we don't have a site yet, we want to give you all this money but you don't have to do anything -- the Arab mentality is pointed to, they are paranoid about the Mafia, of getting things taken care of, they feel better giving money away. That is a panacea to explain all the inconsistencies with their scenarios.

What is the honeypot? You have to look at it from every standpoint. They wanted to make it as attractive as they could for all the people. You have to look at it like in the Japanese movie, Roshamon, everybody has their own point of view. Mr. Criden, Lou Johanson's point of view, you are talking about a big hotel in Atlantic City where they can all make a lot of money, legitimately, no question about that, but they can make a big fee.

You heard Mr. Criden's son testify it was a dream come true for him.

Ellis Cook testified about Mr. Johanson and the problems he was having in his family in terms of health and expenses, and this would solve all the problems.

This honeypot is laid out there and it's

going to solve everybody's problems. It is an appeal to human nature, human weaknesses, frailties.

From Congressman Meyers, what is the honeypot to him? Development of the port where his father and he worked. To put hard-working people out of work back to work. That was the honey pot.

Let's talk about the Government's case. We start with July 14th, which I think is the first time anybody in the case gets involved in terms of this meeting down in Florida.

On the 14th, there is a telephone call. Mr. Johanson talks to Mel Weinberg and says we are representing some people with property in Atlantic City, we are interested , you have financing, come down to Florida. Johanson is asked about himself and says, "Look, I am practically a graduate of the Seminary and so is my partner. You'll have no problem checking us out top to bottom."

They come down to Florida and bring with them the plans for the legitimate project.

Architectural plans which you have all seen, and other books, feasibility studies, and apparently Mel Weinberg threw them over the side because they are not there anymore. But they

continued to string him on all the way thorugh just like Wenberg writes in the book, when you have a sucker, keep him there promising the hotel is okay, going to recommend to the Sheik to go forward. Go over to London and going to do everything we can do. The Sheik is interested. This is what he said.

Give us a little more time.

And so they go down to Florida. They have a meeting. And on the way back there is a discussion on the airplane concerning the Sheik meeting some political figure.

Let's go to the Government's own case. Ellis Cook, I'm going to tell you a little about him. You have seen him already. I don't think Mr. Puccio gave you the full picture on Ellis Cook. Mr. Cook testified that under his agreement with the prosecution he can't be prosecuted for anything except if he lies.

He said he testified the same way in Court as he did in the Grand Jury and hasn't been prosecuted and Mr. Puccio said he's telling the truth. Let's look at what he said. No quid pro quo. Do you remember that? They sat around discussing the proposition, what was the money to be paid for?

It was always made very clear that the Congressman would not have to do anything in return for the money. No quid pro quo.

So they said, gee, this sounds crazy, like a fantasy. The Sheik has so much money, billions, $50,000 or $100,000 doesn't mean anything to him. Money means nothing to the man. They said let's go further.

Suppose there is something we should do, are we violating the law, they ask. Would they have to register under the foreign registration act. The answer was no because the Sheik was not a representative of the Government. So they solved that problem. And so they go up to the meeting.

And Cook testified how Mr. Criden and Mr. Johanson came back from Florida. They were like school boys. We can get financing for this project. This guy has a tremendous amount of money. This is what they wanted to invest. They were going to take care of their problems. Children's education is paid for, they can practically spend the money.

And on top of all that, we can make fees by introducing the Sheik to this Congressman.

Mr. Cook testified, no, he never had been offered anything like that in his whole career. It sounded impossible but well, let's go and see.

Now, Mr. Puccio said that Mr. Cook indicated to you that everybody was squirrelling their money in a safe deposit box. Nobody was going to make an announcement and tell about what happened.

But if we look at Mr. Cook's testimony, that is not at all what he said.

At page 1154, Mr. Puccio.

"What happened to that $4,500?"

"Answer: I eventually put it all or most of it into my Saving's account."

Savings account.

Then there was a question that Mr. Puccio asked you to consider, did Mr. Cook ever hear anything about play acting. Mr. Puccio suggests to you that Mr. Cook didn't know anything about play acting. He testified, of course, that the Congressman was to go up to New York where he would meet with Mr. Errichetti and Mr. Errichetti would tell him just what to say and do.

That is page 1162, Mr. Puccio.

Moreover, when you suggested that Mr. Cook

might not have known anything about play acting, Mr. Puccio must have been on the planet Pinkus when he played the tapes. You remember Mr. Cook, he was the play actor. Mario Noto, or Nopo, or whatever, it was he sure as heck who knew they were play acting.

What was the whole point of the Ellis Cook -- Mario Noto thing? Mr. Puccio did not play that day. He was prepared for you not to see. We put that tape in evidence.

And what did it show? It showed beyond any doubt that these people had in their mind that nothing would ever -- was ever going to be done because Mr. Ellis Cook would not do anything. He was not immigration person. It was quite clear on evidence that can't be refuted that they all believed that Weinberg was setting this thing up just so they could relieve the Sheik of some of his petrol dollars.

Is there any question that that Mario Noto inpersonation thing was on that basis. You saw Mr. Cook sit in that livingroom furnished by the Smithsonian Institution in Washington, and say to Weinberg, once Tony the straight guy had left,

1 well, how old is Mario Noto supposed to be?
2 Was that how he was going to talk if he was
3 really Mario Noto?
4 How old is this guy supposed to be?
5 It's quite clear not only that he knew they
6 were play acting but Mr. Weinberg fully expected a
7 play act. That shows what these defendants also
8 expected, and also believed and also had in their
9 minds about the agent provacateur Mr. Weinberg.
10 Now, let's go further into the Government's
11 case. Mr. Puccio called to the stand Michael Criden.
12 Forget about calling a man's son to testify
13 against him in a criminal case and just think about
14 what the testimony was.
15 Michael Criden testified in the Grand Jury
16 and the testimony was the same in this Courtroom.
17 He drove his father up to New York not for any
18 sinister reason involving Mr. Criden, but because
19 his father has a serious diabedic condition and
20 can't be left alone or drive alone.
21 What did he tell you, ladies and gentlemen,
22 about Mr. Criden's hopes and aspirations? That
23 this whole proposal was like a dream come true.
24 They would all make enough money and no matter what
25

happened Mr. Criden's two sons would have their education taken care of and he would be able to provide for them.

Let's look at the Mario Noto situation from Mr. Weinberg's point of view. The master con man.

He doesn't care if they bring in a ringer who looks like Mario Noto or not. Really, from the one standpoint if the ringer passes muster, if De Vito lets go of the 50 or 25 Grand, he's got a pay day coming back -- Mr. Weinberg.

But, if he's found out to be an imposter, then Weinberg doesn't know anything about that and he can prosecute people for impersonating a federal agent.

Either way he's got it covered because he's got the FBI behind him.

And remember the questioning of Mr. Weinberg on the stand as to why he didn't raise that ruckus. He said, "I didn't face Mr. Ericchetti down because I wanted to string him along. I did face Mr. Criden down because -- why did you tell Mr. Errichetti that I had told you I thought the man came from Mr. Errichetti's office -- that was his idea of facing him down."

I suggest to you all the conversation after the meeting had to do with was who was going to take responsibility to bring a big stiff like Ellis Cook in who was going to pull off the impersonation. You didn't fool anybody for a minute. That shows you what state of mind was. Nobody was ever going to have to do anything.

Let's get to the heart of it. Why is Mr. Weinberg's credibility crucial? I suggest it is in this case.

You won't have to keep those heavy books on your laps while I talk because you won't have to turn any pages. I will give you my recollectionof what is on the transcripts. If I am wrong, you've got them and we supplement them for you with material we think is relevant.

Indeed, the transcript of the Ellis Cook impersonation is in there now. I think you saw the tape pretty early in the trial when the transcript hadn't been prepared by the Government. They wre working on it and working on it and yesterday finally came up and now you have it.

Why is Weinberg's credibility crucial? Will you push that button on, please. Here is

Mr. Weinberg. Why is this man's credibility crucial? This is the man right in the scene on August 22nd walking out of the meeting and I'm going to dub this scene: "Every dog has his day."

A big smile, a two-dollar cigar. He perpetrate the sting. He's done what he hoped to do to get Meyers to act before the cameras in that room so that he can go back to his FBI supervisors, if you can call them supervisors in this context, and say I delivered the man to you.

Weinberg's credibility is crucial in this case because he is not the one that denies saying to Errichetti, just have Meyers come on strong, he will never be called on to do anything, it's all B.S.

It's -- if you believe Mr. Weinberg's denial, then you ought to find Howard Criden guilty. But if you don't believe him, beyond a reasonable doubt, that he had that conversation, then I suggest you ought to find Mr. Criden and all the defendants not guilty. Because what is crucial here is what went on off camera. They had great control of what would happen on camera. What happened off camera?

Let's start before this meeting takes place,

what does Weinberg do. He goes downstairs, and breifs Mayor Errichetti.

Now, you remember all the talk about bod- recorders. Does Weinberg wear a body recorder? No, he doesn't like them.

Why? You recall the testimony of Agent Amoroso, because on a bod- recorder the Agent can fix it so that the wearer can't turn it off.

So there is no record to present to you, ladies and gentlemen, about what he told Mayor Errichetti. If they had said, "Mel, wear this body recorder and go down there and talk to Errichetti, then you would know. But they deliberately didn't do that because Weinberg didn't like body recorders.

I think Mr. Amoroso was sort of candid about what the meeting was all about when Mr. Brown was questioning him. I am sure other defense counsel are going to have something to say about it because it was a very important question and answer, I think the last question Mr. Brown asked, is it not a fact what this was all about was that you wanted there to appear on these video cameras and ultimately on tape for some future jury a scene which would depict people like my client performing supposedly for the

Sheik but actually so that you could say he was committing a crime, isn't that right? And Mr. Amoroso admitted he was right.

Now, what other evidence do we have to go on about what Mr. Weinberg said to prepare Mr. Meyers for that meeting? We have the Williams analogy, only a few weeks before and we can show you what Weinberg's methods were to bring Senator Williams before the camera, what to say and incidentally there are no charges brought against this Senator Williams.

What did Weinberg say? Weinberg said, you just get in up there, it's 20 minutes, it's all B.S.

Have him act like a tiger. Make him come over strong. It's all play acting. This is on tape. I suggest to you what happened is somebody went through the roof when they played that tape and said, Mel, you can't do that. We can't have that kind of stuff on tape. [illegible]

But do you think a person like Mel Weinberg would listen to that kind of an instruction? No. He did something different.

I suggest to you he had the same conversation and we have a part of it, come on strong and so forth, but in the crucial meeting which is before this,

August 22nd meeting downstairs in the lobby there is no tape recording, and in the crucial telephone calls of July 29th and July 31st, what happens? You have a conversation that starts: "Congressman Meyers."

It's an interesting start for a conversation. And you have the conversation and the gap in teh tape.

Now, I think it's kind of ironic that Mr. Puccio plays you the first tape. The first tape he plays you is the one that had a gap in it. The 29th. At least a minute missing, maybe two minutes. That is according to the phone records compared to the length of the conversation. You heard that yesterday.

What does this tell us? The taping instructions given to Mr. Weinberg were unequivocal, they were no exceptions. He was to tape every conversation from start to finish, use a new tape, one cassette per conversation.

What happens? He stops the tape recorder when they came to a part in the conversation. I suggest to you, ladies and gentlemen, what he did was stopped the tape recorder. Then, go on when he got finished talking about the instructions he

had to give, then pushed the button again.

He testified that the reason there are stops and starts is because he dropped it.

Ladies and gentlemen, to a scientific certainty which is a very rare thing in a trial, you heard the evidence which makes Weinberg out to be aliar, if nothing else, convinces you that he is a liar.

Not only he was a liar all his life, but he lied in this courtroom to you.

The way the tapes are handled with every other individual in the case, they are logged in right away and that is why I took some time to show you as the case was going in but the FBI practice is. What good practice is. How to deal with evidence.

With Weinberg, eight to 10 days before tapes got turned in. Why? Because he monkeyed with them.

Mr. Puccio said, and I have to laugh at it, is that the one thing that doesn't change in this case is the tapes. That is the one thing that did change. And you know it changed because the foremost expert in the United States told you so. The man Mark Weiss, together with Mr. Aschkenasy were on the Watergate tape and all selected from all over the

United States -- five people -- and he testified that there was absolutely no doubt in his mind that those gaps were made as a result of manually deliberately turning the tape recorder off.

Is there any question in your minds that Mr. Weinberg was lying to you when he gave that explanation?

Then we have the question ofthe lost tapes. Incidentally, all the exhibits will be available to you to show, for example, what it looks like, what the difference is between when a tape is dropped and when it is dropped and when it is stopped manually, so you will have all of these in the jury room. But there was no serious contention otherwise.

Now, let's talk about the lost tapes. This is so typical of Weinberg because he is a con man. You also -- you always have to throw something in that sounds credible. Not only tapes lost but his cigars were taken. That's what he told the FBI on the 23rd, supposedly.

Someone stole some tapes out of his briefcase. In a side pouch with two bundles of 25 cigars each. I know some of you either smoke cigars or have friends who smoke cigars. Is it believable, forgetting

2 about everything else, that somebody would check a
3 bag and in an outside pouch put two bundles of cigars
4 that would get smashed to smithereens when they're
5 handled by the baggage handlers at the airport?
6 Go further. Like what happens when they get
7 there. Supposedly he loses three or four or five
8 tapes, depending on who you believe. Because there
9 is no FBI report for this series of events. Nobody
10 writes up a report. And nobody knows or remembers,
11 did Weinberg have any other tapes in his possession.
12 Weinberg didn't remember. He thought he didn't.
13 Amoroso didn't know. Ag ent Brady didn't know and
14 he met him at the airport. Agent Good, in charge
15 of the whole investigation, didn't know.
16 But I knew. How hard was it for me to know?
17 I looked at the exhibit. January 23rd, these two
18 tapes were turned over (indicating).
19 Now, everybody's recollection has been re-
20 freshed. Yes, I remember he must have had it in
21 some other place in his suitcase.. Is that what you
22 would expect of the FBI? Is it something fishy about
23 the lost tapes? Certainly something fishy about the
24 gaps.
25 The law is that if there are missing or

altered conversations, tape recordings, and their absence or alteration has not been satisfactorily explained to you, then you may legally infer, ladies and gentlemen --

MR. PUCCIO: Your Honor, I object. I understand your Honor turned down this request.

MR. BEN-VENISTE: No, your Honor permitted argument on it.

THE COURT: It's not a matter for any instruction, but I don't think we are talking about the legal inference.

MR. BEN-VENISTE: An inference they may properly draw.

MR. PUCCIO: It's not a legal inference.

MR. BEN-VENISTE: They may properly draw it in this case.

THE COURT: All inferences may be drawn from the evidence, it is up to the jury. I don't think there is a legal inference.

MR. BEN-VENISTE: A proper inference.

You may properly infer on the basis of this record that those missing tapes or unrecorded portions of conversation, which are not produced, would be unfavorable to the prosecution. And I suggest

that on this record, on this evidence you should draw such an inference.

That explains why we don't have evidence of the instructions given to Mayor Errichetti as to how Congressman Myers is supposed to behave.

First they don't have it because they don't put a body recorder on that man when he goes downstairs; and secondly, Weinberg gets rid of the evidence and that is why he doesn't have it.

I suggest he knew, ladies and gentlemen, that Weinberg's tape recorder was more dangerous than the Son of Sam's .44. Because he was more accurate with it. He pointed it only at the words he wanted to pick up. He only pointed it at what looks incriminating. But it's just as lethal as far as the men's lives are concerned.

As if it wasn't enough that he altered the tapes, and that he disposed of others, he went over the transcript, which I suggest to you in order to do some individual things -- do you remember I caught him on one, the word that said Mikey, Mikey said, I think. Who is Mikey? There is only one Michael in this case, Michael Myers.

What did the tape really say? "Like he said."

This gives you an idea of what we are dealing with.

Let's evaluate Mel Weinberg. His past life has been entirely consumed with telling lies to people, with doing people out of things. The London Investors, Swiss Bank Associates, the phony gold contracts, breaking windows in stores, swindling his cousin out of $50,000. Do you remember that? "Did you swindle your uncle?" "No, I didn't. It was my cousin."

Oh, that makes it okay.

The obtaining of millions of dollars over the years from innocent victims. Illegally bugging his car and his office so that people who wanted to have private conversations there would be overheard. The removal of the "perpetual care" sticker from his own uncle's gravesite.

Ladies and gentlemen, would he take candy from a baby? How far would Mel Weinberg go?

(Continued on next page.)

MR. BEN-VENISTE: (Continuing) Is there any limit in your minds, if it was going to help Mel Weinberg, how far would he go? Is there a limit, a man who didn't even have a social security number? A man who told you the truth on one of these tapes, when he said, I am the worlds biggest liar? But then, he lied to you when he denied it under oath.

Let's talk about the crimes that Melvin Weinberg confessed to; failure to file his income taxes, 1978 and '79, both years, when he was paid huge amounts of money by the United States Government. He had the brass not even to pay taxes on the proceeds of the money he had swindled from people in connection with the London investors scheme, over $200,000.00. No taxes, forgetting about not paying the people back out of the money he had gotten. Not a cent went back to those people, those desperate people who he strung along. Can you say anythong other than Melvin Weinberg is a one-man crime wave and he is still at it?

Let's talk about his interest in testifying in this case. He has already got $100,000.00 out of the government, more than that, I guess, if you figure in this month's $3,000.00, plus expenses.

Did you ever hear of an expense account where all your clothes are paid for? He has some real suckers here. The $3,000.00 a month is not going to last, if you blow him out of the water with your verdict. He's got an interest in getting you to convict these men. He's paid no taxes, filed no tax returns for the last two years, at least.

What did he say when I asked him, do you expect to be prosecuted for that? He said, I guess so. Did you believe that? And then, there is a bonus at the end of the case. Here's a bunch of more money; don't bother to pay taxes on it.

Mel, in his shades on the witness stand, three days, three suits, who paid for them? You did. Dimond rings on each pinky finger. Sure, America loves a con man like Mel Weinberg in the abstract, in a movie, "The Sting", but in real life, you don't like the guy who breaks your window or who swindles your neighbors out of their life savings.

It makes a great idea for a movie. Can you see the beginning of the movie of Mel Weinberg, like this cute little face in the nursery, with the little frilly hat and the cigar? And in the crib with thim, there are 42 rattles because he

has all the other kids' rattles. That's Mel Weinberg.

It's a great idea for a book, but it's not a great big human being you have seen here. It's funny in the abstract, but not in real life when you have a man like that with the assets of the F.B.I. behind him, whose got the con man's dream, somebody who vouches for him to the tune of 400 million dollars. My God, you don't care if he spells Zurich wrong on his business card; you don't care what he sounds like. He has 400 million dollars in the bank and he can prove it.

Now, you and I, if we meet a guy like this on the street and you shake hands with him, you count your fingers afterwards, then you look for your watch. But this guy was backed up to the tune of 400 million dollars. That's the only think that made him real.

Let's talk about the missing film. His own pals at the F.B.I. said you took some photographs, this is embarrassing to us, you can't use this in your book. So they send some agents back in Florida to get the film back, and the first thing he opens up, the camera, and the camera has some film

in it that has nothing to do with the pictures he took. The agent slaps the camera shut and says leave it to me, puts it in his bookcase, briefcase, and he gets back to New York. No film.

In March, we have Mr. Weinberg's biographer. Weinberg says I have some photographs of the inside W. Street townhouse. February, he supposedly gave the film back. March, he tells his writer that he has the photographs. Is there any question but that he stole the film out of the F.B.I. suitcase? It's just another idea of what we're dealing with.

Was the F.B.I. mislead by Mr. Weinberg? He testified he was a stool pidgeon in 1960 and 1970; give a little information and get a few dollars, but it was an insurance policy so that big brother would get him out of trouble if he got caught in one of his real swindles. But all that time, did he tell the F.B.I. what he was up to? No, he mislead them.

Filing the tax returns, supposedly, the F.B.I. had no idea that he didn't pay his taxes. Then, the debriefing of Mel Weinberg, up in Pittsburg, three days, he said I sat down and told them everything about myself.

We put all the F.B.I. agents on the stand and in no way, no, he did not. We know nothing about all this other stuff. I called the agent, I think it was Batwell, the agent in charge of contacting all the victims on all these frauds he perpetrated. Did he ever tell you about the franchise holders, all the other con men, did you prosecute them? Oh, no, we didn't know about that.

What about Weinberg's perjuries, proveable under oath false statements. Let me give you a par partial list of where he lied to you and where we proved he lied under oath.

He swore to tell the truth. Swearing to tell the truth doesn't mean a thing to a Mel Weinberg. I suggest that to you. First of all, you heard him testify in Philadelphia only one or two days at the most went by in terms of turning over tapes. That was contradicted. No, that's wrong, it's been to ten. He denies providing any Abscam information to his writer, Mr. Green. That's been proved false. He said in Philadelphia that he filed a 1978 tax return, false. He said the reason for the gaps in the tape was because the machine dropped on the floor. False. He testified that he

was debriefed by the F.B.I. for three days in connection with the Pittsburg case. False. He testified that he never mentioned Congressman Meyers to Mr. Criden in January of 1980, to set up the Barkley Hotel meeting with Cohen. False. He lied about how much he paid for his house. He said it was $25,000.00. False. It was $30,000.00. He lied about his involvement in fraudulent activity before 1962. False. He denied having spoken to Agent Good about a bonus after all these cases were over. False.

Who is Mel Weinberg, ladies and gentlemen? The heart and soul of Abscam? I suggest to you that Mel Weinberg makes J. R. Ewing look like Peter Pan. The man has no conscience. The man would do anything.

This is where you have to apply the legal standard of reasonable doubt. Do you believe Mel Weinberg beyond a reasonable doubt, when he denies saying to Mayor Errichetti for passage to Congressman Meyers, at this meeting, that it is all an act, it is just play acting, it's all B.S.; go in there and talk with the people. That's the standard. That's what this case come s down to. Do you believe

Mel Weinberg's denial beyond a reasonable doubt?

Now, sometimes courts give juries instructions about circumstantial evidence. I think it is instructive in thinking about how you would regard a person like Mel Weinberg or the real article, Mel Weinberg. Because, if you saw him on the street tomorrow, I will ask you to apply this test; circumstantial evidence is not direct evidence. And sometimes courts use an example where somebody gets on the subway in Brooklyn and the subway goes over to City Hall stop in Manhattan, two or three people get on the subway and when you went into the subway, the sun was shining outside but now at the City Hall Stop, a couple of people get on and they are all rain splattered, one has a wet umbrella. Normally you could draw the conclusion based on circumstantial evidence that in the time it has taken you to travel from Brooklyn to New York, that there was a rain shower and the people who just got on the subway got caught in it.

All right. Fair enough. Now, if tomorrow that happened to you, and you were in the car and Mel Weinberg got in with those other people, and

Mel Weinberg said to you, Now, is it raining outside, do you want to buy an umbrella, would you believe it was raining or would you have a reasonable doubt that maybe Mr. Weinberg had a couple of people walk on to the train whose clothes were wet for the purpose of selling you an umbrella? Can you believe Mel Weinberg?

Reasonable doubt means a doubt that would cause you to hesitate in an act of importance to yourself like let's say buying a car. Or making an important investment. If Mel Weinberg gave you advice about a car or an investment, would you believe him? Would you have a doubt? Would you follow his advice? Is there any doubt in your mind?

Well, let's talk about the investigation. They employ Mel Weinberg. You have a scenario where Mr. Good comes out of the Happauge office in 1977 and he is in charge there and he says, well, I am going to get involved in something terrific. I am going to get a hold of Mel Weinberg and this is just what I need to make my reputation. But, does he find out about Mel Weinberg, who the real Weinberg is? No.

Nobody, I suggest to you, takes the time to ask him how have you been living for the past 50 years, Mel. They know he has been convicted in one case. I suggest to you every F.B.I. agent who dealt with the answer to the question, No, I didn't ask him about that. I didn't need to know that. I didn't want to know that. I suggest to you that the F.B.I. thought it might be easier to make a case where you had all this stuff prearranged where you make the crime happen yourself than it is to catch the bank robbers that they can't catch. Instead of making the city safe for people who ride on the subway, this is what they are involved with.

I think the F.B.I. reacts like a normal victim of a sting in this case. You know, a con man thinks that one of the things he has going for him is when someone gets stung, they are so embarrassed, they will not go out and say, oh, my God, I have been taken. That's normal.

The F.B.I got taken by Mel Weinberg. Maybe they just realized in the course of this trial. M Maybe they knew it before.

Let's look at the F.B.I. as a typical mark.

Who was the first person who was supposed to supervise Mel Weinberg? Agent McCarthy. When you look in the dictionary for policeman, you see a picture of Mr. McCarthy, because he acts and looks like a policeman, and that's good, because that's what the F.B.I. is supposed to be.

When he says to Weinberg, look, if you get involved in any of your scams, if I catch you out of line, Weinberg, I am going to lock you up. That's what his testimony is, I am going to lock you pu again, because he was the one who locked him up the first time.

But before you can say boo to a ghost, goodbye Mr. McCarthy, hello Mr. Amoroso. Somehow Mr. Weinberg had gotten Mr. McCarthy out of the picture.

Now, what does Mr. Amoroso know about Mel Weinberg? Nothing. He had been convicted once. That's all he knows. He naver made an inquiry about Mr. Weinberg; saw him continuously for six months. What was his answer? I wasn't interested. Maybe Mr. Amoroso thought what he didn't know wouldn't hurt him. But he didn't know anything about the fraud he had perpetrated. He didn't know

that it was the same sting in the London investors case with the huge amount of Arab oil money that came to be Abscam, and the same thing with the ficticious Lady Knight and the presents that would make her happy. Same sting. Same Mel Weinberg.

Look at the F.B.I.'s tape expert. He didn't want to know what happened. Did he conduct one experiment? Did he do one test himself? Did the whole F.B.I. not know what to do to test a tape like this? Do you think Mr. Ritenour was the one who made the decison, don't test the tapes? Somebody did. Why?

Because they would have agreed with America's formost expert, Professor Weiss, if they had done the test. Instead, they could come on the stand and say, I don't agree with him, if you drop the machine and it lands exactly on its side, maybe it won't warble, but I won't testify to that.

The only one who had some candor at all, I suggest to you, about testifying about Weinberg, was Agent Best from Philadelphia, who testified we had no use for Mel Weinberg in Philadelphia. But even he didn't know that Weinberg had set up the Ozzi Meyers situation with Mr. Criden until

his recollection was refreshed.

Agent Good didn't know who was in charge of the investigation. Agent Amoroso didn't know. Mr. Weinberg testified, no, I didn't mention Ozzie Meyers to Mr. Criden. Then you have Mr. Best finally conceding, yes, he did.

Let's talk some more about candor in this case. Every F.B.I. agent was called except the one who poured the drinks for Ozzie Meyers. Why? Ask yourselves.

Mr. Puccio talked about one drink. Well, you're not unsophisticated, ladies and gentlemen. He has to give you some credit. One drink is not a tumbler of whiskey, that's not one drink, that's five drinks. Then another one on top of that. But, they didn't call the F.B.I. agent who poured the drink.

Agent Amoroso, from the witness stand, evaluating Mr. Weinberg; he was a skillful con artist. A question by Mr. Brown, he conned everybody but you, right? Answer: No, I could be conned just like anybody else. One of the only quotes, the only quote I am going to give you today, is from Will Rogers who is one of my favorite writers, who

said, just be glad you're not getting all the government you're paying for.

Well, this is the case that shows it. It is sad, it really is, that these men are on trial and Mel Weinberg in this Mach IV Continentle is still being chauffeured around by the F.B.I.

But as I said to you, when we first started out a couple of weeks ago, you are going to write the last scene of this sting. You can give it the O'Henry touch. It's in your hands. I hope you do. Sting the stinger. By your verdict, you're going to determine whether Mr. Weinberg is credible or whether he is not.

When you think these men should go to jail and Mel Weinberg shouldn't. I started out saying there was something called an anology. I tried to draw an anology in terms of the old movies where you see the poor fellow waking up in the motel room next to a girl he never saw before and they are both undressed and somebody comes in with a flash bulb, because he has been given some knockout drops. A picture is worth a thousand words. If you don't know the background to this, you would say, oh my God, what is this? But in that movie,

if you don't show the knockout drops, you don't understand what happened.

The intoxication in this case was Mel Weinberg in this honeypot. Sure, it was a honeypot. It was the answer to all these peoples' dreams and it was free money. Too good to be true.

You have to prove, if you are Mr. Puccio, beyond a reasonable doubt, that Mr. Meyers intended to be influenced in his official capacity.

I suggest to you that they can't do that. Mr. Puccio argued to you about what is proper, the propriety of Congressman Meyers actions. Well, first of all, your verdict has to deal with guilt as to a criminal charge, just the charges that are here.

When we picked you as jurors, you all promised to do that and I know you are going to do that. I am not talking about what is proper. You ought not concern yourselves with whether Congressman Meyers should be a member of Congress or whether Mr. Criden should continue to be an attorney. There are groups that take care of that. The Bar Association, Congress censors. Those are things that are not for you, the

disciplining of these individuals in their professions. That is not your concern, and His Honor will instruct you on that.

Howard Criden knows that he's probably going to lose his profession as a result of all this.

MR. PUCCIO: I object to this.

THE COURT: It's improper argument.

The jury is not to be concerned with the consequences of what their verdict may be.

MR. BEN-VENISTE: Ask yourselves, why not a single thing was asked about Ozzie Meyers to test him, as to whether he really intended to do anything. Wouldn't that be the fair way?

Ozzie, write a letter to the State Department, just to introduce the sheik. Let's see if you get anything official on stationary. Not done: it's too risky. He would have turned them down, because they knew he wasn't going to do anything. They knew Weinberg's techniques.

I ask you again, not to compromise verdicts. Don't think you will be doing anybody a favor by a split decision here. That's a disaster for Howard Criden. You brand him a felon, if you convict

him, convict him of everything.

Something on those tapes struck me as I listened to them. Mr. Cohen or Mr. Wald, whatever his name is, they talked about the Statue of Liberty. The shape was like the bypass of the Statue of Liberty.

Ladies and gentlemen, don't you bypass the Statue of Liberty. This is still America. Now matter how they make it appear on these tapes, yes, Mr. Criden appears ridiculous on these tapes; yes he appears foolish; yes he has been ridiculed in the press in this courtroom the way he looks.

MR. PUCCIO: I object, Your Honor.

MR. BEN-VENISTE: Probably he is guilty of being greedy.

I ask you, ladies and gentlemen, to consider that these are human frailties. This is not the crime that is charged here. Don't convict Howard Criden because he's foolish, that he made a mistake, that he succumbed to the honeypot, that he took money. Money is not what this is about. This is about the intent of the people.

I ask you not to brand Howard Criden a felon with a guilty verdict because you think he

is a fool or that you think he is avaricious. If you think that he is guilty, if you think that they intended for Ozzie Meyers ever to do anything for this sheik, then find him guilty. If you believe Mel Weinberg, that he denied how that meeting was set up, beyond a reasonable doubt, find Howard Criden guilty.

But if you don't believe him, I ask you, ladies and gentlemen, find him not guilty, on each of the counts of the indictment.

Thank you.

THE COURT: Thank you.

At this time, we'll take a short recess.

Don't discuss the case.

(The jury withdrew from the courtroom at 3:10 P.M.)

(After recess.)

(The following occurred at 3:25 o'clock p.m.)

THE COURT: Bring in the jury.

(The jury thereupon returned to the courtroom at 3:27 o'clock p.m.)

THE COURT: Next, ladies and gentlemen, we are to hear from Mr. Duffy on behalf of the defendant Johanson.

MR. DUFFY: Thank you?

Members of the axe squad, Mr. Puccio, ladies and gentlemen, my mother says I was vacciniated with a victrola needle, so you can expect me to be a while. I say that up front because when you give an Irishman sixteen people and a captive audience, and the rules say that they have to listen, you don't know when he is going to finish, and I have a lot to talk to you about this afternoon.

I said before in this courtroom; I don't know if I said it in your presence, but if I didn't I will say it now, I have a man's life in my hands. And I have to argue to you this afternoon to decide this case the way I see it. I say argue for this reason -- some lawyers say sum up. I think the

Judge put it that way. Some say speech. But it is really an argument. It is an argument because this man, and this man (indicating) and all the rest of the federal agents who are missing now so I can't point at them today, and I disagree over whether we should even be here.

The stuff of tragedy is in this room. Think about it.

We have had two and a half weeks filled with buzz words, sting, mark, hustle, swindle. Words like that. The left hand, the name of the yacht, tells what this whole case is about. Do you know what the word is in Latin for left, sinister. That's what it is about. This case is about sinister. But there are some other buzz words that we haven't used in the courtroom and it is about time that somebody did. Words like tragedy, disgrace, ruin, frame. Words like that.

I want to talk to you first a little bit about what your duties are in this case. The Judge will tell you. But I want to underscore some of them for you.

You have listened attentively. I don't mean to be patronizing. I do not mean to court

your favor with flattery. But whether you know it or not John Duffy has been watching you for a couple and a half weeks, and I have never seen a more attentive jury. I ask you to hear me out and my two remaining brothers. And I want to talk about some of the things you are going to have to grapple with when you get back in the jury room.

It is pretty tough to follow Mr. Ben-Veniste. I was up all night writing out those cards for him. I thought he would de a good job and he did. I'm going to try not to touch the things that I wrote for him.

I want to talk to you first about what your job is all about. Then I am going to talk to you about what Mel's job is all about.

Concerning your job, when you get in the jury room, you are going to have to decide who told the truth.

It sounds pretty simple.

Maybe the judge will give you some accepted tests that we apply in the courtroom. I'm going to give you some that I think are reliable when you undertake the task to determine credibility.

One is the interest of the witness in the outcome of the case. What I am about to talk about applies to every witness who took the stand. The interest of the witness and the outcome of the case. It cannot be gainsaid, we can't deny, that Ozzie Myers, a congressman, has an interest in the outcome of the case. He has got a great deal to win or lose at your hands. The Judge may have something to say about it.

How about the rest of the cast of characters? How about Mel Weinberg? Does he have something to win or lose at your hands? Is ABSCAM over until his book comes out, the Sting Man?

How about the F.B.I. agents, fellows like John Good. Good ran the whole operation. And the Government didn't call him. We had to call him. Does he have an interest in the outcome of this case?

How about Tony Amoroso?

How about John Mc Carthy?

Do they have an interest in the outcome of the case?

Will the Federal Bureau of Investigation have egg on its face if you by your verdict say

4A we have had a belly full. What was done was not right.

Interest. The demeanor of the witness on the stand.

(continued on next page.)

The demeanor of the witness on the stand. How did he act? How did he answer? Think about Mel Weinberg for a minute.

That's correct.

If it's in the transcript, I said it. I don't know, Mr. Duffy, unless I look at the transcript.

Juxtaposed his reactions on Ozzie Meyers.

Did he hesitate or did he answer every question, not only the questions put on direct examination but the questions put on cross examination when the interrogator was from the other side.

Think back to the federal agents who took the stand. Your FBI. Their reactions. Their answers. Their demeanor on cross examination.

Did you see Good sit in that chair and look at that man(indicating) when we cross examined him?

Did you see Amoroso do the same thing? Did you see McCarthy do the same thing. Did you see the fellow who was probably the most -- Ritenour do the same thing?

Were they looking for the prosecutor's approval? Did they dodge our questions.

When we asked where is the report, did we get it?

The demeanor of the witness on the stand.

Was he forthright or did he seem to parry ? Did he seem to dodge. These are the kinds of things you look at.

There was a fellow in this town named Louis Nizer, a lawyer, who wrote a book I read when I was in law school, or right after I got out, when I got into this unenviable position that led me in front of you today.

The book was called "My Life in Court." I always thought it should have been called, "How great I am."

It was a biography. But Louis Nizer had in that book a little cuplet that was printed in italics and appeared throughout the book. And it stuck with me thoughtout my career and practice of law. Just two lines:

"How do I know."

The rule of probability tells me so.

Maybe that is the best test when you are determining if Mel Weinberg told the truth as opposed to whether Ozzie Meyers told the truth, because that is what this case is all about. This case is all about Mel versus Ozzie. It boils down to that.

When you are determining which of these persons told the truth ask yourselves, somebody recite that cuplet, "How do I know.

The rule of probability tells me so."

I don't know if there are any horse racing fans among the members of the jury, it is not likely with so many ladies present. They puclish a newspaper called the Telegraph. There's a reason.

Do you remember when I told you in my opening about my father and the Grape Nuts. It said on the box "there's a reason." And I never knew what it meant. There's a reason for everything in this case. In fact, Ozzie said, "Give me a reason."

And they publish the Telegraph because thorobreds run to form, you see. They are predictable, you see. And I argue to you that Mel Weinberg is a thorobred to the first degree.

Why do I say that?

I say that because I want you to perceive his testimony in light of the argument of his entire life, what we have dragged out of him kicking and screaming from that witness stand.

Did he start to tell the truth here? Did we have a preacher back there and did Mel run up and

say, "I have been saved. I'm going to tell the truth from now on. I have seen the errancy of my ways and I'm going to keep God's command because I'm going to tell you 16 people the truth," or did he run true to form. That is really what you are going to have to decide.

The Judge said earlier today that the Government is not on trial. Maybe the system is not on trial Maybe the establishment is not on trial. And I guess I could disagree with that.

But I would rather characterize it a little differently. Who is on trial here? Louis Johanson, Howard Criden, Ozzie Meyers and Angelo Errichetti.

But it runs much more deeply than that. I can't help but remember Peter Finch's line in the movie, "Network," "I am mad as hell and I am not going to take it anymore."

In your deliberations, you are going to have to decide the question of Mel Weinberg. The caption doesn't say it. I don't know if you have seen the indictment or if you will, but the indictments, as all indictments starts out with four words, "The Grand Jury charges."

When I was a kid fairy tales started with

four words, "Once upon a time."

That is what I want to argue to you this afternoon. All I have to say about your duties touches really upon who is credible.

I think the Judge said to you , lawyer's arguments are important because they have lived with the case. And that's true. I have been living with this case for over six months. I want to share with you some thoughts that I have.

I'm going to try not to -- temptationwill be great -- but I'm going to try not to tell you what I think. I'm going to try to argue to you what you should think based only on the evidence or the lack of it.

There was a film clip shown on television some years ago, a tragic scene, of a Vietnamese standing in a field, or on a roadway, and I don't know whether it was a policeman, or soldier, or what, and I am sure that some of you saw this film. But he walked up and took a .38 and blew a hole in his head (indicating.)

No, I didn't mean that. I didn't mean to inject any levity. It is a serious analogy that I would like to make to this case.

When I saw that that stark reality of a murder was something I could hardly stomach. If any of you saw it I think you probably would share my reaction to it. You see I go to the movies and John Wayne shoots Indians. But you all know, everybody knows, when you say "cut", the Indian gets up, and it probably wasn't an Indian anyways.

It's there. But nobody really got hurt. But when I saw the Vietnamese get shot in the head and collapse it just arrested my emotions. I froze. I wonder if that feeling would have left me if the film had gone on and I saw him get up. That is what we are dealing with in this case. We have a film, and a Congressman takes money. It is handed to him. He says that I will promise to do -- he would promise almost World War Three if they wanted it. And that is all you have when you get into the case six months ago. You have the Government with a film. And you start to ask questions. And at first maybe like when we opened to you it doesn't make sense. What do you mean a game? I don't know. Tell me about it. And they did.

And then you start thinking, my God, what happened here -- let me go look. Let me use the

rules. Let me find out if I can dig out anything to support this because if this happened it's wrong. If this happened you have got to get some people from Brooklyn, Queens and Long Island to hear about it. The day is going to come when you have to go into Court and show them what they did to these men. So you work. And you stay up nights. You meet some good lawyers. And you get on a team. And you did, and you scrape.

You don't take on the United States Government in a frontal attack. You can't do it, a little fat guy from Philadelphia, a couple of fellows from Washington, and the man from Jersey City, as great as he is. You don't do it. It's a street fight. You have to conduct Guerilla warfare. You have got to take a shot here, a shot there. You have got to try to capture a block because they own everything. They have got the films. They have got the audio tape. They have got all the FBI. They have the Department of Justice. They have got Civiletti and all the people in Washington talking about the case. And you take it on. Then you start to find out, wait a minute, look what they did to Williams. My God, they are right. And then they start to provide

tapes. And transcripts. And you say, hey, look, look what Mel Weinberg says in front of Tony Amoroso, "He's going to have to come on strong." Ozzie is not there. Lou Johanson is not there. Just Errichetti. You start thinking about Errichetti telling Meyers, "It's only an act. Mel has got it fixed. He will go to South America and he will never have to come here."

And he says, "Wow, maybe they are right." So you dig some more. You have the good fortune to work with a fellow like Ben-Veniste who knows some tape people. So you throw some tapes under the microscope and you find out they have been altered.

So you get a hearing cooking in Philadelphia and you meet Mel Weinberg. And you get him under oath. And he is Puccio-less. He is in my hometown. And you start firing questions at him. And he says he filed his '78 tax return. And he says he did not file a '79. But he's working on it with a lawyer in Mr. Puccio's office. You write it down, and you do some checking. And he tells you in Philadelphia when we are on the boat Criden brought up the stuff about immigration.

And you write that down and you check on

that. And you get into your discovery and you find out, and so does Mel, that Amoroso wrote a report. And the report says "I" Amoroso wrote that out, not Howard Criden.

Then you find out that Mel didn't know about the report.

So you start sticking those cards up your sleeve until the right day comes along.

Now, I am going to share a thought with you that may run afoul of what Mr. Ben-Veniste told you. I do not perceive this case really as turning on whether or not Mel Weinberg paid his taxes. That isn't what is important. If you feel repulsed or indignant that he has been cheating our government, that's up to you. The fact of the matter as regards our taxes is that he lied about it under oath.

He took the stand in Philadelphia -- do you know this is a Courtroom story -- this case began in a courtroom in Pittsburgh. The light was turned out in a courtroom in Philadelphia and Mel came to rest in peace in a courtroom in Brooklyn.

The reason I raise the taxes question with you has nothing to do with him cheating our Government. It has nothing to do with --

well, I'll have something to say about our FBI in that connection -- but it has to do with him committing flat-out perjury.

The judge may tell you -- let me tell you something about John Duffy. I don't argue the law. You will hear precious little of it from me because I learned in 18 years I don't know a hell of a lot about it. So I leave that up to the Judge. But the Judge may tell you a maxim in the law. It was written originally in the Latin, falsus in uno falsus in omnibus. That is alter boy talk for false in one thing false in everything. And that is part of my argument to you.

(Continued summation by Mr. Duffy.)

Take this question of the tax return, if Mel Weinberg lied to John Fullam, a federal district court Judge in Philadelphia, about filing his tax return in '78 -- before '78 -- in '79, if he lied to Judge Fullam about that -- and I am only talking about two episodes, about Howard Criden starting the immigration or even participating in the immigration conversation on the yacht Sinister, then you have a right to believe he lies about everything. But it doesn't end there. How do I know?

The rule of probability tells me so.

These people, and you know I say these people, and maybe it is not the Government of the United States. Maybe the Government is not on trial here. Maybe that is carrying it a little too far. But I argue to you that there is a nest of dangerous and criminal men at work here, a nest of dangerous and criminal men, dangerous to the future of our American Society.

I don't usually make political speeches, but I am worried. I am truly worried, and I think you are because of what happened in this case.

Mr. Puccio used the verb this morning, to manufacture, when he referred to whether or not a meeting occurred, whether or not Mel told the Mayor whatever it was that he was speaking about at the time.

And manufacture is a good verb to use in this case. Let's look at it. I do not use any notes because I learned long ago that I am lazy, and if i have notes, I will read to the jury and I will put them to sleep.

Now, Mr. Ben-Veniste said I only get one chance to stand up in this case before you. It's

a pleasure to get up and argue because anything that -- you see I leave crumbs for Ray Brown and he will make you a cake before it's over.

Take a look at what happened in connection with manufacturing. I'm not going to point you to the transcripts because I don't like that. I am pompous enough not to want what I have to say to be interrupted. But there is a place in the transcripts that, and a couple of them in fact, where Mel is talking and one other place where Tony is talking. And the question is where are we going tohave the meeting? Where are we going to meet with the Congressman.

Somebody says Jersey. Mel says okay.

And then Mel realizes that he is talking about one thing -- and it's in there -- and Erichetti or someone, or whomever is speaking, is talking about something else, he's talking about the Congressman. And Mel immediately picks it up and says, oh, no, not Jersey. Well, why? Why is that important? Wait until you hear the law. We have a law called the Travel Act. And if you are in Longport, New Jersey, and you travel to Camden, New Jersey, or Atlantic City, New Jersey, to do something, whether it is

criminal or not, you do not violate the Travel Act. You have got to travel to another state. Manufacture. It is part of the scripted scenario. I was impressed at the commencement of this trial when you got your little books, or your big books, because every time Mr. Puccio was going to do something, what did he do, he gave you a new script to follow a la Mel.

And I'm going to talk to you about what happened at the Travel Lodge -- Mel's diner. That is where they brought him, Mel's diner.

What happened at the Travel Lodge? I ask you to go back to the rule of probability because that is where you are going to find the answer.

What does the Government have up front? We had a lot of trappings. We had a lot of innuendo. We had a lot of argument.

But what do they really have up front.

Turn to the page in your books where someone says to Angelo Errichetti we want a corrupt congressman. Get us someone who is known for committing crimes. Give us a famous, well-known bribee, not a bit. Because it is not the way they work. They start in a courtroom with Mel Weinberg pulling the

incipient stage of the greatest scam of his career. He took the FBI. He took Moe Curley and Larry, and now he wants to take you.

How did he do it? He got arrested by Agent McCarthy. And he was in trouble. He was a con man, a man who needed a story.

And did he come up with the story. Just like when he was 17 years old and his father was in the glass business with the contract with the insurance company, and he started breaking windows.

We didn't learn what underworld figures, friends of his or otherwise, he turned in, but he tells you he cracked four cases. And then he started to sell McCarthy the Brooklyn Bridge. And McCarthy and Good bought it. It was later sold to Lou, and Howard, and Angelo and Ozzie. If you come in with a guilty verdict Lou is going to be out there with a little toll gate because he'll need it. And this is where Weinberg really starts to cook. He got his newfound buddies -- and you see here is the problem -- in the case as I perceived it in the beginning the problem I have is not turning Mr. Weinberg into a folk hero. That is the problem. I mean he sold the FBI. They thought he was the

greatest thing, I think somebody said, since sliced bread.

You started off, you have to remember -- and I would like to dispose of this concept of Government. We are dealing with people. And we started off selling people, that people (indicating). And then he got Good. And then he got Amoroso. As Mr. Ben-Veniste told you, McCarthy said that if you step out of bounds I will lean on you. So we have to get rid of him. He started off making nothing. That is what he told us from the stand. And then Weinberg, we uncovered that what he was getting was $40,000 in the first four months. Thirty from the insurance company and $10,000 and bonuses from the FBI for some stolen property that he recovered. He even turned in his own kind, ratted them out.

He had to perpetuate his own existence. And it must have been titillating to him on a day-to-day basis to see these "G-men" swallow the bait. The front had to be better, not Mel has to eat steaks and smoke two-dollar cigars, no, but we have to do this in order to reach the marks, the buzz word.

I need to have more money.

When did he get it?

As soon as he got rid of McCarthy -- I'm not going to call him Charlie McCarthy -- but as soon as he got rid of McCarthy he got a raise to $1,000 a month. And it went on. Automobiles followed. A townhouse in Washington followed. People. And now he had to do something to earn it. He was really, I argue to you, a commission salesman. You know anyone in this room, if you hired on with the New York Life Insurance Company and got a job, and you have a suit, you could be a life insurance salesman at $200 a week.

But they only give you that as a draw. After a short period of time you have to produce some products. You have to produce some policies. You have to get customers. And that is what Mel started to do.

When does it begin? It started on a golf course. I'm not going to bore you with the details. I will give you a conclusion; an irrefutable conclusion from the testimony. From their side it was a completely legitimate business proposition.

(Continued next page)

MR. DUFFY: Why do I bring it up? Because Amoroso told us and Mel Weinberg told us that the policy was to discourage, dismiss anyone who brings you an honest fellow.

And that is important for this reason, Mel Weinberg knew that Lou Johanson was a City Councilman in Philadelphia and former State Senator. He told you that.

So they had to dangle something. Is there anything in the evidence? I am going to repeat myself but it's appropriate in this case, is there anything in the evidence to show anyone said to Lou, get us a crooked Senator? Get us a crooked Senator? No. What they said was, we like your deal, you're going to make five million dollars. You're going to get out of that row house on Franklin Street and you're going to be a rich man. And they think, the testimony went, we would like to meet -- Ellis Cook -- we would like to meet some important people and there is money in that. And they get checked out. And boy do they have a friend at Chase Manhattan. Four hundred million dollars. Someone at Chase Manhattan lies to people and says they have it.

So the story goes on. Ossie told you the story, Lou calls him. He says you would have to do absolutely nothing. The truthful witness, he says he was truthful (indicating), you decide if it was truthful, Ellis Cook, who used the Latin expression -- we lawyers like to use Latin expressions -- no quid pro quo. That means this for that.

It means you get to do something and when you say no quid pro quo, that means you don't have to do anything.

Then what happens? You see the lure. Just let us meet some important people, the lure is out.

The first thing you got to do to scam somebody is get somebody to scam. So however you get him in, it doesn't matter. Bring him in, and then you work for Mayor Errichetti and tell Mayor Errichetti -- is this probable in the circumstances? This is what you have to look at. You tell Mayor Errichetti, promise them everything. And this is on the Williams tape, ladies and gentlemen. Promise them everything, come on strong. It's bull shit, bull shit, bull shit.

Start World War III if he says so. You will never have to do anything. I already arranged for the Sheik to have asylum in South America.

Do you think Ozzie made that up? Who is the maker up here in this case? Does it make sense? Does it fit into a full pattern? Is it the kind of thing Mel Weinberg would do?

Ray Brown asked him -- I've got a brother-in-law who wanted to get into the case so he made this up (indicating).

Ray Brown asked the question and here it is. This is a blow up of it. Let me bring it up closer. This is a blow up right from the record. It even has a Court Reporter's mistake in it. "Is it a fact that what it was all about was -- is that you wanted there to appear on the video camera and ultimately on tape for some future jury would depict my client performing supposedly for the Sheik but actually so that you can say that he committed a crime, is that correct?

"Answer: Yes."

And Ray Brown was smart enough to quit there. He said, "I have no further questions at this point."

That is ABSCAM. Because that is what Mel sold to Tony and that is what brings you people to Mel and Tony's hump party.

That is what brings us to Court today. I don't know about Amoroso. I am not sure I can argue to you about Amoroso. I don't know that you know enough about Amoroso and his involvement. It's an enigma to me. I have been trying to figure it out.

You look at some evidence and Amoroso is in up to his teeth. Joey takes three television sets to the Hyatt House, three, for the Board of Directors. And who is there? Mel, Tony, and I think it was Brady. Three guys there. Mel might be greedy enough to want three, I don't know.

I really can't argue sensibly to you about Amoroso. A trial is supposed to be a search for the truth. I don't know if we got it all. I don't know if you have it all. Even whether it's there for you to sift out. If Mel is going to continue with his license to steal, which is what they gave him, with his own personal private secret police, which is what they gave him, then

he's got to turn out some product. And what better way then to get someone to think it's all a game.

There is nothing wrong with it. You will never have to act like a Congressman. This fat cat Arab has so much money we have to take so much from him a month. I think it's on one of the tapes, it ain't going to last long, we've got to get it now.

And then you see the rape of a United States Congressman. That is what happened.

Let's go back to the boat down in Florida and talk about -- that is where I'm going to start. This might be kind of a shift position, this is new part of the argument. Enough of the philosophy, let's talk about the case and the evidence, about what you heard and about what you didn't hear.

Has it struck any of you what is missing? Are any of you curious? Here is your FBI -- not my FBI -- your FBI. The college cops of the country. They are all accountants or lawyers. I asked them on th stand: "Are you a lawyer? Yes, I am a lawyer. I am law trained. What is your speciality, accounting? Yes, accounting."

College cops. They aren't fellows from the

neighborhood. These are the creme de la creme from the American confabulory and they have rules. And we wormed some of th rule provisions out of some of them early in the case.

When something significant happens in an investigation are you supposed to prepare a report? Yes, Mr. Duffy. Is that report called a 302? Yes, Mr. Duffy. How many of those are missing? Let's just go back to the boat. The business meeting on the boat that was completely legitimate.

Any report about that? Also tells us we filmed it,but we don't have it. The camera broke down. He produces Mel and Tony's bag of tricks, the briefcase, the Negra. He says we recorded the conversation but when we went upstairs to talk about what really is the genesis of ABSCAM, what really got the ball rolling, we couldn't take the briefcase with us.

That sounds all right when you first hear it. When in casual clothes it might look a little untoward to carry a briefcase up on the top deck.

Who says you've got to carry a briefcase on the top deck. If the conversation went the way Amoroso said it went, why --and he intended to

bring it up -- why didn't he do it when he knew he could record it? You don't have a recording of that conversation. You don't know what Mayor Errichetti said. But you have the word of an FBI agent. And that always has the ring of truth, doesn't it?

College cops never commit any lies.

We ask each of you -- I beg your pardon, the Judge asked each of you before you earned the seat which you are sitting in a question on the Voir-Dire examination: "Do you think because a fellow is a cop he is entitled to more belief than another witness?"

I don't recall your specific answers, but I know none of you would be in the seat you occupy if you said yes.

Because we knew in the beginning that -- these fellows (indicating) named me Burl Ives. That gets me to thinking. In a role he once played in a Tennessee Williams film, Cat On A Hot Tin Roof, he was Big Daddy and he would stalk around the mansion in the south and harp about mendacity, mendacity in the room, lying, perjury in the room. Did you think we didn't know what was

coming? You think we didn't know it was going to come from our FBI?

It's right here in the evidence. Skip ahead from the beginning of the case on the boat and know 302 and you've got to believe Tony down to the 23rd of January this year and you've got to believe Mel. Mr.Ben-Veniste covered that. About the two or three tapes then three or four and then four or five tapes missing. Critical tapes missing. And where they were stolen. How they were stolen.

Was there any report made of them? Doesn't it make sense applying the rule of probability? Doesn't it make sense that somebody in the jury room to tell the rest of you about the time he got something stolen from your baggage or lost a baggage in your travels? Where do you call? What do you do? Do you call the field office or home of your friend in Detroit where you just left? As they called the field office of the FBI? Or do you call the airline? These are part of our snippings.

Henry Furst laid a subpoena on National Airlines. And National Airlines wrote to the Court.

They didn't want to send anybody here like a Chevrolet dealer from Florida because we can't fly him up here. They sent a letter, 15 cents is all they needed from Florida. We don't know any Mel Weinberg. We found out a Mel Weinberg bought a ticket -- I read it to you -- for a flight on the 23rd of January from a travel agency but there has never been any claim with us about anything having been stolen.

Mr. Puccio didn't even object when I put that letter in. What does that tell you? What does that tell you as regards the rule of probability. It tells you to take a hard look at John Good's testimony for this reason, your FBI supervisor took the stand and said, "I conducted an investigation."

Now, the airlines doesn't know about it. And neither do you. Because he didn't do a report.

Do you think it was significant to the ABSCAM investigation if five or six tapes were lost? Or was it some sort of cover up? Was there something said in a conversation between Mel Weinberg and Howard Criden that no one was allowed to know about concerning that second meeting? The

2 game goes on, Howard, get hold of Ozzie, the
3 goose is still laying. Do your act. God knows
4 what is on those missing tapes.
5 I like what Mr. Ben-Veniste -- I smoke a
6 cigar from time to time. You know I'm going to
7 ask you to use your common sense. That fellow
8 downstairs at the desk with the uniform on does
9 not make you check your brains when you walk into
10 the Courthouse.
11 I ask my daughter Jane, the almost pretty
12 soon going to be a lawyer's daughter what I should
13 tell the jury. She said: "Father, they're from
14 New York," she said, "They got common sense."
15 All I am asking you to do is use it. Did
16 John Good tell you the truth about the cigars or
17 is it as we call in Philadelphia: specious
18 phonous balonous.
19 Has your FBI told you -- I don't know whether
20 Allen in this Court, when he administers the oath
21 says tell the truth, the whole truth and nothing
22 but the truth, we do that in Philadelphia. Have
23 they told you the truth, the whole truth and nothing
24 but the truth, or the rule of probabilities tells
25 me so? They've got egg on their face because they

realize that they were Mel's victims as well.

(Continued on next page.)

Another little kernel, Agent Best, to whom Lou Johanson confessed. Do you remember that? Sobbed out his story of guilt? I will have some things to say about that.

Best was asked a question by Mr. Ben-Veniste. When the scene went to Philadelphia -- boy, I wish I had blown this one up -- you didn't employ Mel Weinberg, didn't you? Do you know what Best's answer was? And if you don't believe me -- people don't believe lawyers and politicians -- get the transcript. I am paraphrasing, but I want to hit the key word. He said; We had no use for Mel Weinberg in Philadelphia.

Anybody remember that? "We had no use for Mel Weinberg in Philadelphia."

Now, let's play let's pretend, because you don't have the whole story. When I was a boy about this high (indicating) I used to listen to a radio show called "Let's Pretend." Let's Pretend, as John Good told you on the stand yesterday shortly after the meeting with Senator Williams, he listened to that tape and he told you that this man listened to the tape. This isn't the ordinary case, this runs from the courtroom in Pittsburgh

smack through, I don't know how much is known to all the people, smack through to the adjoining building, the organized crime strike force, Mr. Puccio's office. It can't be denied he was in on it early on. Good told you yesterday: I wasn't spinning my wheel when I asked did Mr. Puccio listen to the tapes -- John Good -- I almost lost my train of thought. John Good told us on the witness stand yesterday -- I got so excited about Mr. Puccio that I lost my train of thought. Give me a second.

(Pause.)

MR. DUFFY: It will come back to me. I just can't remember it. Let me go on to another subject, I am sure it will come back to me.

The meeting at the Barclay and the missing tapes. Why did we make such a big thing of tapes being missing? After all there were how many, 220 or thirty different tapes in this case? The only tapes we put before you with the experts were three or two. Why was it so important if those tapes were altered? Why was it so important something done to those and we didn't establish anything was done to the rest of the tapes? The reason is

Mel Weinberg testified under oath in Philadelphia and here. We got him to repeat the testimony here so that the testimony of our experts would be -- would have greater impact. He testified to two critical aspects of the making of the tapes. Aspect number one was that he recorded everything from beginning to end. You heard him say that. We confronted him with what he said in Philadelphia as well.

Aspect number two, was that he recorded every call. There my be some argument that he said every call that I could, I'm not sure, I don't want to talk about the calls when I could, for example, the ones that may have been made from a phone booth and there is no toll record and maybe he didn't have his pocket Nagra with him. But Mr. Brown's office put Mr. Duffy -- no relation, I never knew the man -- put Mr. Duffy on the case to track down the telephone billing. You will have the bills I think they are hardly legible, of the calls made between the phone registered to Weinberg and the phone registered to the Mayor representing conversations that they had. I don't think Mr. Ben-Veniste covered this. I think it's important

for you to remember, think about what Mr. Duffy said, you may have some notes on it, there were fifty-seven such calls. Fifty-seven such calls. I think he also said that six of those telephone calls occurred at a very critical time in these proceedings. That would be between -- I don't know. Some time in late July and end of August. Six of those calls, none of which was recorded.

I think I am getting my train of thought back. Good. Good and Mr. Puccio, it has come back to me. I knew if I talked long enough it would come back.

Good and Mr. Puccio listened to the Williams tape or someone does. I don't want to point to Mr. Puccio, he's not a witness, he's a prosecutor. But Good did because he told me and you he did yesterday or the day before, he listened to the Williams tape, and now we are back to the "Let's Pretend." I am arguing to you now by inference. If you don't make these inferences, flatly reject the argument but homogenize in your consideration the rule of probability tells me so. All right.

Good hears the Williams tape and hears Mel Weinberg tell Williams to put on an act to

5

1 come on strong. It doesn't really matter, it's
2 all bullshit, you will never see him again --
3 whatever is on there. You've got that transcript.
4 Good scratches his head and says, we better talk
5 about this. Maybe Good goes to a boss or two.
6 We don't have any evidence of this, but there is
7 something at the end to tie it up. I think these
8 gaps -- no pun intended -- could be filled with
9 inferences. Someone goes to Mel and says: Yo,
10 Mel, don't do that any more. That is not the right
11 way. Maybe even this nest of evil men had a
12 decent one among them and said that is not proper,
13 we should look for crooks. We shouldn't tell
14 someone to put on an act that it doesn't matter.
15 What did Weinberg do? He likely doesn't
16 know any crooked politicians -- inference; likely
17 doesn't have one to whom he can turn and offer
18 a bribe. This is in June. Remember that. That
19 is critical. But he hears Lou is a City Councilman
20 and former State Senator. He starts off by devious
21 means. Remember he called the guys that borrow
22 money DM, desperate men -- devious Mel -- starts
23 off with Mayor Errichetti. It's like Tinkers
24 to Evers to Chance.
25

6

1 Errichetti to Criden to Johanson. There
2 is nothing, you don't do anything, no quid pro
3 quo, nothing is required.
4 Did you see the movie The Sting? That
5 is the hook. Mel threw out the hook. The hook
6 is out. And they say, you will get your hotel
7 casino and Lou takes the hook. Lou says if it's
8 going to get the casino, I could talk to Ozzie.
9 He's my friend. I backed the election, they had
10 coffee,the next think you know Ozzie is going
11 to help his friend Lou out and he has been told
12 you don't have to do anything. Nothing about a
13 private bill, immigration, none of that stuff.
14 But the hook is now in. It's set.
15 How is Mel Weinberg going to perpetuate
16 his scam? He can't call Mayor Errichetti and tape
17 it. Because if he turns the tape in somebody is
18 going to say, Mel, you're doing it again. So he
19 doesn't tape it. So that you don't have the tape.
20 So that we couldn't get the tapes in the discovery
21 part. Williams was part of the Government's
22 package and under the rules -- do you remember
23 we went to great pain with the F.B.I.? There was
24 a reason. I will just grab one here, 21-B. Here
25

is a tape in there, August 6, 1979. There is a whole history every time the tape moves it's logged. You see (indicating)? You can't destroy a paper trail. None of the good parts of the F.B.I., they keep paper trails and people like us can snoop.

If Mel started a paper trail he would be in trouble. The Williams thing got him in trouble. He either doesn't record or Mayor Errichetti brings something up in a conversation he's got to erase. I'm sorry, he's got to drop the machine. Listen to the tape Mr. Puccio played this morning, the one where I think it's Mayor Errichetti, the tape is of course not altered. The Mayor starts to speak in Arabic clicks, he said five and there is an interruption. We have to show you every tape or isn't an example enough? He stops taping. He alters tapes. And he still accomplished the same thing.

The greatest stroke of genius in the case was the South America bit. Ozzie wouldn't have to guess, Mel said I arranged for asylum in South America. He'll never have to come here, bring him in and promise World War III. Mel is still

hungry. They go further. There is a little bit of difficulty and I'm going to challenge you to study two transcripts when you are in the jury room. My argument to you is, they don't absolve Mel Weinberg at all, number one and number two, it really doesn't matter if all the rest is shown to you -- I'm talking about Mario Noto or Nopo. Okay?

The testimony from Ellis Cook, who told the truth, was as I recall it, number one, that Mr. Criden came to him and said, the Mayor and Weinberg have a thing going. There is twenty-five, $25,000 in it if we produce someone from immigration. We would like to -- we would like you to be that fellow. He told us that Lou Johanson vetoed it. Lou said that is going too far. To put on an act is one thing but to put on an act and not be the fellow who is supposed to be putting on the act is a little too much.

Mr. Criden comes back in a week and says the Mayor has been calling and the Mayor convinces Ellis Cook, Mel is in it, he's a friend, we don't have to have a meeting. The other guy is straight. A hope has to be sent to the Shiek. Just come down,

free money. $25,000. Stop there and turn to the tape.

What does Amoroso say at the outset of the tape? My name is Agent Anthony Amoroso, I'm putting $50,000 into these briefcases or envelope, whatever it was. I'm not going to harp on Nopo, except to say this, the October 3rd and 4th tapes and what happened in the room, do you remember? I hope it's in the transcript, if it is not, you say Duffy is specious phonus-bolonus, then ask for the tape because my recollection is when Amoroso gets up and calls the Mayor into the next room what does Mel Weinberg say to Ellis Cook? He said, I'm Mel Weinberg. I'm the Mayor's friend.

How do I know. The rule of probability tells me so. You can look at Ellis Cook through that three minutes and twenty-six seconds in which he's about as nervous as a long tailed cat in a room full of rocking chairs and nothing else counts on the tape but Mel Weinberg saying: "I am Mel Weinberg, I am the Mayor's friend."

He also said, if you recall, look, you're nervous, we are nervous, do you have any i.d. Mel was in a bind. Because Tony caught on. The

Government's testimony is Amoroso got a picture the day before and that is fine. Except he didn't bring the picture in. You have to believe your F.B.I. agents.

It's pretty tough undertaking to tell twelve or sixteen people, don't believe the F.B.I. but that is what it comes down to. If they had the picture in God's name why don't they solve the thing that exists with the Noto thing and bring the picture in.

Now, the invitation is for you to examine the two phone calls, transcripts, one between Mel and Errichetti, and one between Mel and Criden, and keep in mind that Mel wasn't recording all the calls.

(continued on next page.)

MR. DUFFY: (Continuing) I am not talking about these two calls not being complete. I don't care about that. Just ask yourselves, if he really says on this tape, I didn't knot that you were going to bring an imposter, I wasn't in on it, I had no plan to share any of that money, I am not running any scam on the sheik, or is he really covering himself in the fashion of a con man by turning one against the other.

They refer to the fellow on those two tapes, as a ringer. Ask yourselves the question, no, I'm Irish, and I'm slow. I read the tapes. I read the transcripts. You read them and read them with this thought in mind; maybe John Duffy is right. Maybe Mel, on these tapes, is just trying to say to each of them, see, you don't have the other calls, to each of them, the other guy says the blunder was yours, as in you shouldn't have picked Ellis.

Take a look at those transcripts when you get out. Because, Mr. Puccio, if he didn't yet, he will later argue to you those two tapes prove to you that Mel wasn't in on it.

My position is that they really don't, if

you examine them. I said at the top that the stuff of tradgedy was in this courtroom. It came to a he head on February 2nd, Lou Johanson was brought into the office of the F.B.I., your F.B.I., in Philidelphia. You heard me examine Agent Bess. The Judge told you at the top of the case, I brought out from Best that he was a lawyer. The Judge told you, I think at the top of the case, that the questions lawyers ask are not evidence. Do you remember that? It's the answers that count.

In fact, when we got in the back row, everyone was patting Ray Brown on the back for a good question. He said, any dummy can ask a question, it's the answer that counts. The alleged confession from Lou Johanson, listen to the testimony and in God's name, recall my cross examination, because that's a buss order.

He said something about the question being whether Lou understood the ramifications of this kind of an influence peddling. I had to take him back to his report. I think his testimony on his direct examination was that Lou said he understood the ramifications of this type of influence peddling and he had had sleepless

nights because of last July, because of these dealings.

I started with him at the bottom, I said, did he have videotapes there in the F.B.I. that night? My God, wasn't he entitled to be on tape? Everybody else got on. Did you have videotape equipment there? Oh yes. Did you have maglers? Oh yes. Well, did you record for a future jury to see the alleged statement of Louie Johanson? No, Mr. Duffy, we forgot that.

I wish you would have been around that night. Think about that, too. Pick these fellows up at 5 o'clock on Saturday. That's when everybody gets picked up, 5 o'clock on Saturday. Common sense. Everybody knows where criminal lawyers are and what they're doing, drinking whiskey at 5 o'clock on Friday or Saturday.

So Louie doesn't have a lawyer, so he sits there and what they get out of him is not an answer, because I went to the report. We had a 302 there. And the report said, not Johanson said he understood - - Do you remember the agent said, he said to me he wanted to make telephonic

contact - - I said Louie said that. That's police language. Then I got him from his report and I said, wasn't that in fact what you wrote in your report, a question? It had, I have it memorized by heart, he was asked, Johanson was asked if he understood the ramifications of this kind of influence peddling. The next sentence was, he said that he had had sleepless nights since last July over these kinds of dealings.

Which leads me down to the end of my argument, ladies and gentlemen. These four fellows who are on trial for committing three Federal crimes. Not on trial as Mr. Ben-Veniste said, for being greedy, as I will say to you for being stupid, for maybe being sucked in by Mel Weinberg to dishonestly bilking a non-existent sheik of money. They are on trial for enumerated crimes that is set forth in statutes in the United States Criminal Code.

Whether Lou Johanson had sleepless nights over the dealings has nothing to do with whether Ozzie Meyers intended to violate the law. Maybe they weren't being - - maybe they weren't acting like the good nuns might have taught them. Maybe

they were, all of them, pretty stupid. Maybe they did get sucked in by Mel and I guess by Amoroso.

The question you have to decide is whether they violated these statutes. And that is going to be tough, because you come into the jury box filled with our own prejudices. I would be less than candid if I told you that I believe that none of you has a prejudice.

All I am going to ask you to do on Louie's behalf is to put it aside and to judge the case fairly and squarely on the evidence, and on the lack of evidence.

You do get to write the last chapter of the book, you do get to write the last line and maybe you get to write the title, instead of the Sting Man, you can turn it to Close, Mel, But No Cigar.

Find him not guilty.

THE COURT: Thank you, Mr. Duffy.

* * *

MR. CACHERIS: May it please the Court, fellow defense counsel, Mr. Puccio, when I first introduced myself to you some three weeks ago I told you that I was a stranger here in Brooklyn. I now feel like I was born here.

I appreciate the courtesies and attention that you have paid to this case because it is an important case. Ozzie Myers is a congressman. But just because he is a congressman, he does not forefeit the right to be tried by you on the same principles of law that govern every other human being. He is entitled to the presumption of innocence and he can require as the Court will instruct you that the Government prove its case beyond a reasonable doubt.

The presumption of innocence is an abiding one. At the end of the arguments of counsel, one of the important things that will be given to you will be the instructions of the Court, and I know you will pay attention.

Ozzie Myers is also a human being. He has displayed himself before you. Indeed his whole life has come before you. Had there been anything about him that wasn't right, you can bet that Mr.

Puccio would have brought it out. He told you about his humble beginnings, he was one of eight. He is the father of three. He is the son of a longshoreman, and he is a longshoreman himself.

He worked his way to being a congressman.

Now he is on trial. The Government's burden of proof is to establish that he took a bribe for the performance of an official act. It is their burden.

While you will be told that there are three counts in this indictment, I believe his Honor is going to explain to you that you should use the second count, the bribery count as your focal point. That is really the heart and soul of this case, and Mr. Myers' testimony on that is the heart and soul of his defense to that case.

It is not your function to determine whether Ozzie Myers is a good, bad or indifferent congressman. He was put in office by the voters of Philadelphia. That is their job to determine.

Whatever you may think about his ability as a congressman, you must put those aside and judge him on this indictment. The question before you is did he sell his office with a corrupt intent.

That is where the Government's case falls.

The indictment which you will be given is a road map. It is a specific charge that guides you in assessing all of the evidence to come before you.

Count two charges that money was accepted for the purpose of being influenced in official acts and that acceptance was corrupt for the influence in matters involving immigration and state department. That is what is charged.

The Court will tell you that there are four elements to bribery, to the bribery count and I will outline them briefly and remember the Court will give them to you more specifically.

The first element is Mr. Myers was a public official, and of course we do not dispute that.

The second is that money was paid and we do not dispute that.

The third is the criminal intent to be influenced through an official act and fourth that he did so corruptly, knowingly and wilfully.

We dispute that he had any criminal intent or that he intended at any time to be corrupt or sell his office.

How do you govern what his intent is?

The Court will tell you that words and actions may afford you some guidance to do that.

Mr. Puccio of course wants you to limit yourselves to what came over these television screens. I don't think you should do that.

You also have the real live person who appeared and testified before you and took these tapes head on.

Mr. Puccio wants you to limit yourselves to what came over this tube and not why people were there or what their motivations were. That is where we depart in this case, ladies and gentlemen, and that is what I think you should focus on. What did Mr. Myers tell you on the witness stand? I never was going to do anything. I was told I didn't have to do anything. I never did anything.

And while part of the Court's charge will tell you that the fact that he did nothing is not necessarily proof of no crime, you may consider it as proof that he had no intention to ever do anything.

That is what he said consistently. Those words have run throughout this courtroom. I never

intended to do anything.

Now, Mr. Puccio in his rather vicious cross examination and his audacious, facile characterization of Mr. Myers as a liar, never, never established any proof that Mr. Myers intended to do anything. How did he get involved? How did he get involved in this affair?

He was minding his own business at his summer home when he was approached by an old friend. Was he told there was some scheme afoot?

He was told by Lou Johanson that I am about to get involved in a venture totally lawful involving some hotel, totally lawful whereby my law firm stands to make a lot of money.

In fact Johanson told him it was so appealling and so rewarding that he was contemplating retirement.

He asked Myers to help him.

He asked Myers to help him by going up and meeting this fictitious Shiek. Of course we can say rather initially now, looking back, he should not have gone, but he did go. He thought he was helping a friend and he perceived there was a chance to make some money for nothing.

So he was told he would be given further instructions by Mayor Errichetti who was familiar with the situation.

On the day in question he went up to Kennedy Airport and indeed he was given further instructions and he has testified about them fully before you.

Mr. Puccio didn't like them and said, don't pay attention to what went on off camera.

But those words that went on off camera have a very familiar ring.

What did Mr. Myers tell you that Errichetti told him? He told him come on strong. They're going to discuss immigration. You remember seeing me on T.V. and act tough, talk tough. Don't worry about it, you won't have to do anything. You will probably never see them again.

Doesn't that have the ring of truth to when you examine the tapes that were played before you just this morning of a similar import?

Of course Mr. Myers never met Mel Weinberg before that day, but he was lying in wait for him on August 22nd because of the script and the scene were set before Ozzie Myers ever got there. On August 5th De Vito, an F.B.I. agent talking to

Errichetti on tape, Exhibit 1-A, speaking of Myers:

"He is going to have to, he is going to have to move through someone in the State Department."

Errichetti: "Who?

De Vito: "The Congressman.

Errichetti: He will do anything. He is going to be your F'ing man. He will do anything you want."

Weinberg: "All he has got to tell Yassir is when the time comes I will sponsor anything you want."

Is it so incredible that these are the same words that Errichetti told Ozzie Myers at the Pan Am Terminal before the meeting?

This is what he is given to say to Ozzie Myers.

Errichetti says: "He will say that."

Now, August 7, Exhibit 3-A, Mel Weinberg says, "This, when he meets Yassir, just tell him to come on strong."

This is not the Williams case. This is the Myers case.

"Well, he is going to have to give him a briefing."

Then he says: "I will give him", -- Weinberg says, "The stronger the better. Yassir probably won't even say a word to him. He is very conscious on how he speaks English."

Isn't that cynical? The man doesn't speak English, so he has got to come on even stronger for this charade.

And what is Mr. Myers talking about when he gets to the meeting of August 22nd: "He ought to learn English."

Who planted that on him?

Well, Weinberg through Mayor Errichetti.

So the script was written back then and delivered to Ozzie Myers to be repeated on television.

That is not all.

What else was Errichetti told to tell him to do so the T.V. production would be successful? On August 8, speaking of Myers, De Vito, the F.B.I. agent says: "He would have to introduce some kind of legislation, right, some kind of bill or something?"

Errichetti: "Whatever you say."

Now, skipping down, Weinberg says; "Yeah,

let him tell Yassir whatever he had to tell him."

That is on tape. Those are the instructions that were issued. That is the performance Ozzie Myers had to go through.

And so when he meets on August 22nd, before the videotape he is indeed given those instructions and he is told and he believes, he doesn't have to do anything.

He had been told by Johanson that that firm stood to make a fee by the mere introduction, and that they would in turn pay him and that is exactly what happened.

So when he goes in, the first words out of his mouth, according to the prepared script, are, how effective and good and functional a congressman he is and how he is very keen, and I am quoting, "with immigration matters."

(continued on next page.)

Why would he say immigration matters unless he had been prompted in advance and in accordance with the tapes I have just read to you?

Mr. DaVito to make sure the script moves along, he says, I am sure the Mayor has explained to you that fact that all this started down on the boat, all this started down on the boat.

The que words, the prompting, this is where is started, you recite the script, but you don't know that you are being video recorded.

You heard Mr. Myers tell you that his state of mind when he went to that meeting, and it's not disputed, was to follow that script, and he followed it faithfully to the extent of boasting and puffing about his influence. And that whole meeting involved itself with that.

At one point you recall he asked him about his State Department connections. And, of course, he had key people in the State Department. Unfortunately when they pressed him for a name he couldn't come up with one. But Errichetti bailed him out and he said, I got that taken care of.

When they discussed green cards, that was also taken care of. And that was the scenerio of

the scene that was played in New York.

In accordance with the question that you have before you, this one here, all this was about is that you wanted them to appear on video cameras, on tape for a future Jury which would depict people performing supposedly being chic, but actually you would say that he committed a crime. That's the whole purpose of that August 22nd. Brief him, give him a script and bring him in. And absolutely no evidence that Ozzie Myers had ever done anything like this in his life before. Because had there been, you would have been hearing about it, you would have heard about it.

(continued on next page)

After he left the meeting in accordance with his instructions the envelope was passed. And you heard later what happened in the law office. And at that point Mr. Myers is in effect discarded. No one calls him up and says, how about a letter. No one calls him up and says can you really do anything. No one does anything and he in turn does nothing. Because from this witness stand you heard it says, he did absolutely nothing in accordance with what his instructions were and what is intent was all along.

That was the end of it as far as he was concerned. Nothing was done. Thatis a factor you can consider on hearing whether he ever intended to do anything. Nothing was done.

The next event, ladies and gentlemen, that involves my client, and in the meantime, by the way, you have heard and seen the commode tape, the Noto tape, where a performance was given to El -- was given by Ellis Cook that just does not match up to the standards and is quickly exposed.

Let me talk about Ellis Cook for a second.

Mr. Puccio seemed to talk about him heavily. He said Ellis Cook did not know anything about play acting. Ellis Cook play acted himself. Ellis Cook told you that insofar as he was concerned, this was all blowing smoke.

Is that play acting, blowing smoke? No intent, never do anything, never have to do anything, never have to do anything.

So the mere performance of television does not prove any crime about Ozzie Myers; what his intent was when he got there is the important focus of your consideration, and that intend has been put befors you and put squarely in issue.

Mr. Puccio did not like his testimony. He has called him a liar, a rather vicious accusation. We dispute it.

Ozzie Myers said, I never have to do anything and I won't do anything and there is nothing that contradicts that. That is what the record stands on before you.

The reason Mr. Puccio doesn't like his testimony, because he knows that the law requires, although he didn't discuss it with you,

that Mr. Myers must have had a criminal intent to commit this offense, this offense, a specific intend to be corrupted.

And the fact that he had none defeats the government's case and that is why he doesn't like his testimony. He would prefer you concentrate your view on the staged performance out of Kennedy Airport. That is not what this case is all about.

In January of 1980 Weinberg calls Criden who calls Myers. And they bring him back on stage. A new TV producsion, WKRP in Philadelphia.

This time they don't want to discuss the same things. This time they want to discuss local issues. This time they have a little bar set up. This time they have FBI agents, prosecutors, planted in the same next room, peering through the screen, watching what is happening. And that whole place is wired for sound except of course for the telephones that the prosecutors are using to call instructions in to the sheik's representatives.

Mr. Puccio has criticism and doubts about

what is not on films and tapes. Ask yourselves why they didn't record the instructions that were given by the prosecutors to the interrogators in that room. Did they say get rid of him? Did they say press this issue? Did they say get him to say this? Did they say get him to say that? All of which I think we all should know.

But the only thing rhat they can remember is that it was getting light and get him out of there.

And so the script in Philadelphia is a little different.

By the way, you will be told by the court that you should consider what Mr. Myers did in Philadelphia on the screen as bearing on what his intent was back in August.

So what concepts were not thrown at him? City counsel, Ozzie said I can do that.

Zoning, I can do that.

Coal, I can do that.

Hotel, I can do that.

Poconos, I can do that.

Atlantic City, I can do that.

And so on down the line.

But realizing that something was amiss, because when they wanted to discuss breaking ground in a hotel in April, how could they do it when they didn't have the zoning completed yet?

And finally, the mafia.

Now they want you to believe that he brought it up. But they use that in the most sinister way, darkening this man's reputation before you. They knew this was all being recorded. And the only thing Ozzie Myers said about the mafia was, I don't go to Atlantic City because of the mafia.

Phone calls. And then Mr. Wald recites the script. The sheik he sees movies, the Godfather, he is paranoid, tells about the mafia. And Myers says there is no mafia problem, there is none.

They keep pusing and pressing. And finally as you heard from the witness stand, he told you since they wanted to hear about it, I told him about it.

So he mentions some names, names that you can get out of a newspape, Angelo Bruno, Chickie

Narducci and Skinny Razor, who if anything has happened in this case he has been buried in this courtroom four times.

Obviously they were trying to get him to discuss his connections with the mafia when he didn't have any, never had any.

But they push, they push, they push. They push on every single concept in that meeting, and he tells them that he can do it all. But he never had any intention of doing any of it. And he could not do any of it. And that is the state of mind that you must judge Ozzie Myers on.

The one thing that he is interested in, and it is legitimate, is the Port Authority in Philadelphia. That has nothing to do with his job or his office as a congressman.

Because of his job, his upbringing, his upraising, the Port of Philadelphia is important to him. And if he thinks there is anything legitimate about this deal that would help the Port of Philadelphia, he responds to it. And that is no crime. That is what was in his heart and soul.

They keep pressing him throughout this meeting for any conceivable thing; Schoolkill County, ou of the area. Every place you imagine they put it in.

Ladies and gentlemen, you heard him testify about that. You heard him take that tape almost line for line and tell you whaat he thought about it and why he said it and what was going through his mind.

Now, of course,he didn't have to take the drinks but they were very conveniently there. And there they were. And you saw him on television, you saw how his demeanor was, and as Mr. Puccio has told you, the nuances. You saw it for yourselves.

There will be another charge the court will give you and that will be called the gratuity charge. That has basically five elements. Apublic official who received money otherwise than provided by law for an official act to be performed knowingly and wilfully to violate the law.

That does not require the specific intent that the judge will charge you on under the

bribery statute. However, the intend under the gratuity must also be for the performance of an official act which he never intended to do. As far as he was concerned there was no official act to do, and he did not do anything.

Ladies and gentlemen, this case has been presented to you by video tape. Mr. Myers has come before you personally. I think you can judge for yourselves that the real Mr. Myers was the one that appeared before you on this witness stand, not the one that was play-acting in New York, having been given a script that eminated from Mel Weinberg; not the one that was in Philadelphia pretending a cure from all ills, but the one that was in this courtroom who told you, I never intended to do anything. I was told I would never have to do anything. And I never did anything. That was his intention. That was his state of mind. That is the rason the government has failed to prove this case beyond a reasonable doubt.

Mr. Ben-Veniste reminded you that Wald wanted to bypass the statue of Liberty that sits not far from here. I have been seeing it every morning

on my way to work. I now call this work and I call my room my home.

I don't think you should let the government bypass the Statue of Liberty. Your vote on this case has devastating consequences to Ozzie Myers.

On the evidence that has been put before you, he did not commit the crimes that are alleged in this indictment. Whatever else you may think of him he did not sell his office, he did not take a bribe, he had no intention of performing an official act, and he performed no official act.

I ask your intelligence to leave him to the voters of the City of Philadelphia.

THE COURT: Thank you, Mr. Cacheris.

* * *

EVENING SESSION

THE COURT: Bring in the Jury.

(The Jury enters the Courtroom.)

THE COURT: We will now hear from Mr. Brown representing the defendant Errichetti.

MR. BROWN: If I may, your Honor.

THE COURT: Proceed.

MR. BROWN: Your Honor, Judge Pratt, Mr. Puccio, gentlemen, ladies and gentlemen:

Good Evening.

You heard so much this evening about play acting and that sort of thing, I suppose you know our defense is really routed in Shakespere. You heard the quotation that all the world is a stage and all the men and women are players, their exits and their entrances, and one man plays many parts. And I suppose you know which man we are really talking about.

But more seriously I think I should perhaps try to identify the man whom Mr. Puccio refers to as the Mayor and Senator from New Jersey, Mr. Errichetti. Before you he is just that, Mr. Errichetti, because you know by now, I hope, that there is no charge with respect to him about any misuse of his office, either

2

1 his office as a Mayor of Camden or as the Senator,
2 a Senator from the State of New Jersey. The charge
3 against him is that he allegedly entered into a con-
4 spiracy with Messrs. Johanson and Criden in order to
5 effectuate Congressman Myers violation of his Con-
6 gressional responsibility. And in another part of
7 the indictment you will find where they talk about
8 money, there is no allegation that he received or
9 took any money, but that in those counts he aided
10 and abetted.
11 Now I will not try to tell you what those
12 legal terms mean. Believe me, words like aiding and
13 abetting, words like conspiracy are words of art that
14 have a special meaning in the law. And you know by
15 now who is supreme and final authority in this Court-
16 room. If you don't, I do. And from him alone, of
17 course, the law comes, and in due time during the
18 course of the charge.
19 So please don't think that I am trying to
20 tell you what the law is, but I am trying to put my
21 client's position in this trial in perspective.
22 You heard a great deal, particularly on the
23 tapes, especially the tapes of January 24th, 25th,
24 and certainly the tape of August 22nd, which talks
25 about many things in the context of that encounter.

And you might believe that other things are involved rather than the charge that the Congressman violated his oath in terms of other things than naturalization. That is not so.

I may, with your Honor's permission, in order to establish that perspective I will refer to the indictment and not in any authoritative way, But rather in a sense that it was voted by the Grand Jury I think as an outline of the charges.

You know, of course, that it is no proof whatsoever, but it is the form and manner by which a citizen of the United States is told what the charges are so that he may react to them.

The language which is essential and which defines what I am talking about is found after many of the descriptions which out line the gravamen of the Government's claim that they have a right to the faithful and honest service of the defendant Myers as a member of Congress in relation to matters before the House of Representatives and so forth. And then it talks about the offenses it is alleged my client and others conspired to bring about. And that is to agree to receive a sum of money for the defendant Myers and other persons in return for the

2 defendant Myers being influenced in his performance
3 of official acts.
4 And in another charging part it points out
5 that the issue is whether or not that interference
6 would be as follows: In return for his assurances
7 that he would introduce private immigration bills to
8 enable a foreign businessman to remain in the United
9 States and would take such other action as would be
10 necessary to achieve that end.
11 I tell you this in part, and these are
12 phrases taken out, they are not in total from the in-
13 dictment. So that it may be clearly understood or
14 as clearly as I can make it understood that the
15 charge here deals only with the immigration matters,
16 not with any violation by my client of his official
17 duties, not with any other violation of prospective
18 acts by the Congressman other than the immigration
19 and the State Department reference.
20 Now, I opened to you in a rather unusual
21 manner, I thought. I told you this was the first
22 stage of trials in a new electronic age. And I
23 think that you have seen that that is to some extent
24 if not completely, justified. It may have sounded
25 to you a bit presumptuous.

I may have also talked about some obscenities there are throughout the transcripts and for which I don't believe I have a need to apologize because, as you know, they are part of the warf and woof of the fabric of this case.

I said to you that this case is bullshit. That, too, has become a word of definition in this case, very seriously. Although it is considered profanity by some people and by others just a social comment. And in the course of my summation if his Honor permits, I shall play a sequence of the tapes, some of which you have already heard leading up to the noto incident, because I believe that if you were to merely see the electronic marvels as they portrayed the scenes that were carefully selected and put together, we would all be R2 D2's and we would have a computerized Jury.

I don't know if you know what R2 D2 is. I didn't know until I stumbled over my grandson's toy. It's a little thing from Star Wars that wobbles around and always knows where it is going and making the proper sounds.

I rather think that if we were to only consider the tapes and the electronic displays and the

fireworks in this case we would have completely forgotten that there are human beings on trial and to be judged by human beings.

I only differ from Mr. Puccio with respect to your function in this sense. He says there is no special grace which a Jury has. It merely uses it's common sense and experience.

I agree that you must use your common sense and experience, but we all know that in the course of our travels and our entrances and exits, we do many things which we know are quite beyond us in the ordinary sense.

For example, you have sat here for days being exposed to individuals and language and equipment and attitudes and words which you would not commonly encounter in a mere three weeks of your life. And for that reason you have been steadily honed and qued in to what it is all about.

For example, if you were to just now walk in that door and see the meeting of August 22nd on the television sets, that's what you would see. You wouls see an envelope and you would say, my God, that's it, this is an attrocity. Why is there a trial?

But there is a great human story here. And that's why I believe when his Honor charges you he will talk about something called intent. With respect to bribery he will put it in one frame work. I think he will say you must have a specific intent. And I think in terms of another lesser included offense he will say there is a different kind of intent. But always the words that are so significant and so meaningful to everyone here, knowledge, knowing, wilful, act. That's the human equation in this case.

Actually within a few short weeks, within a few short weeks there was innauguration of the events, the introduction of the concept, the development of the -- I've been so used to having Judge Pratt say you better not use "script" I just swollowed that word and I will say account of events as it developed.

You know on television you see lawyers doing amazing things, but I don't think many have had the discipline you have seen in this Court. You do what Judge Pratt lets you do and that's it. And the framework, of course, is our tradition, that believe it or not lawyers are a disciplined class.

For example, I had some Army service, but I don't remember working 16 or 18 hours a day and meeting the commanding officer 8:00 o'clock at night. This is just our way of life.

But as this theme developed, the players exited and entered. For example, I wonder if you have noticed -- and I'm sure you have -- that after August 22nd the gentleman who played so many parts exits and is never heard from again. I wonder why. I wonder why. I wonder why in a very real sense. Because there is a question that I think must be answered in this case in the sense of all of our American experience.

I don't dare and I shall not attempt to say whether the FBI's performance was appropriate, inappropriate, proper or improper. But as you saw these gentlemen come and sit in the witness box, and as you appraised them, did you ever wonder why they needed Mr. Weinberg?

Riddle me this: If a Congressman is to be bribed, is there really a need for 182 pages of colloquy as on the 24th of January incident with Congressman Myers where there are thrusts and paries and counterthrusts, or will you do this or give me

a reason. Well, is there anything specific? Well, tell me when. 180 pages. No money passed that second incident. By the way, you certainly heard Mr. Weinberg say that after September Mr. Errichetti was no longer in the ambit or within the scope of this particular ABSCAM adventure.

So literally as of the 24th, the 25th, and so forth of January, Mr. Errichetti was not there.

I think you will learn that those events after August 22nd had no direct bearing on the innocence or guilt of the Congressman because they were not to the heart of this indictment and not direct proof.

You will find, ladies and gentlemen, that his Honor allowed that to come in again to go to that very human issue, intent, knowledge and voluntary act.

The dates are fascinating. July 26th is the day when there was a group on a boat in Florida, the Left Hand, I believe it was called.

July 25th is the day that Mr. Amoroso conceived the scheme. Time passed and then on August 22nd there was a meeting which you know about so well. And then on September 19th Mr. Noto walked

2 into the trap which apparently list it's ability to
3 spring.
4 Now, I know there are many references to
5 that incident and suggest that it is collateral.
6 But it is just as important as a meeting of the 24th
7 if we are to evaluate what those who are here charged
8 thought and what they did, and indeed what those who
9 work for the Government thought and did. Because
10 without the knowledge, without the intent, ladies and
11 gentlemen, I believe you will hear and beyond that
12 proof and beyond a reasonable doubt there can be no
13 conviction under law, without the knowledge, with-
14 out the intent.
15 Now I want you to understand that when I
16 say intent I do not mean to tell you the law as
17 Judge Pratt will tell you because there will be two
18 versions of that. But there must always be know-
19 ledge and a willingness to do an official act that
20 will violate the Congressman's oath. There must be
21 those elements.
22 How do we arrive at that? We arrive it by
23 the acts which surround the events, which give you
24 the guidelines and the ability to judge. Because
25 without these acts and with that cold picture you

don't know what the intent, the knowledge, the purpose was. It is just impossible. It's like watching a television serial and having it end just as the husband comes home and finds his wife in someone's embrace. You have to wait until next week to find out that she stumbled and fell. And really it comes very close to precisely that kind of evaluation of human nature.

Now, Mr. Amoroso, of course, is the gentleman who succeeded Mr. McCarthy as the Director, the immediate supervisor of Mr. Weinberg. And Mr. Weinberg, of course, is very frank about some things, and I think his frankness and his candor will guide you to the understanding that the defendants had no intention, no wilful purpose in breaking the law.

For example, there was much debate about using the words "actor", and restrictions. And yet Mr. Amoroso says we follow at page 1032.

"Question: Well, is it true then that you did in the course of this operation act out of your true self and in a sense be an actor or a character?"

And the answer is yes.

I would think that would end the debate, but I suppose since one plays many parts it will not end

2 the debate.

3 But I recall, for example, one very inter-
4 esting fact in this case which must intrigue you.
5 For example, I shall play some tapes later, but I
6 shall play them in a much more full sense as you
7 have heard them from the prosecution. For example,
8 one of the very critical tapes is a tape that deals
9 with the statement that 15 has to come back. I think
10 perhaps you remember that one.

11 Well, I will find that particular tape for
12 you later, and I hope that you will listen and pick
13 it out when it is played. But let's have an under-
14 standing as to what that $15 back was about.

15 Starting from January 26th, as you know,
16 Mr. Amoroso had conceived the idea, and as you also
17 know he on the Left Hand had a Nagra tape running in
18 a little suitcase, it is here somewhere, but I am
19 sure you remember it.

20 Then he went up to that side and there he
21 reports a very crucial conversation. He reports
22 that because he has read on the 25th about Mr.
23 Somoza in the Newspaper he conceived the idea about
24 throwing outthe bait,and I will show you where he
25 says precisely that. Take my word for it at the

moment, if you will. To throw out the bait hoping someone would bite so that he could proceed with a man to try to invagle some Congressman to do an official act which would allow him to offer money, and so forth.

(continued on next page)

I know some of you may look at this as oratory, but I will show you the precise language in a moment.

Then the days roll by and on August 5, there is a tape played for you, it is Exhibit 1-A. I will ask you if you would turn to 1-A, please.

Now, you will notice August 5th, Northwest Airlines lounge, Kennedy International Airport. And on the first page there are references by Mr. Weinberg cryptically to getting older. I don't know what preceded that. And, of course, you will judge later on whether parts of the tape were left out or whether there was something about the transmissions that caused them to be left out or whether it was deliberate. That will be your judgment ultimately.

But I submit to you my cassette that starts by getting older is a cryptic tape. If you were to receive a tape from anybody and the first thing he said was getting older, you would wonder, well, what is he talking about.

Then on the second page we see other language which is pertinent to the present discussion.

Mr. Errichetti, ae, says, and before I

forget there is, um, fifteen coming back. All right. And then laughter.

There it hangs unconnected until one remembers that Mr. Weinberg testified as to how that fits into things on page 2286.

When I call the numbers, it's for the benefit of the stenographer and for Mr. Puccio if he dares-- if he cares to look at the transcript.

"Question: Mr. Weinberg, directing your attention to the Myers matter.

Was there any discussion with anyone concerning you or Amoroso receiving a part of the $50,000?

And this is the $50,000, of course, that is concerned with the meeting of the 22nd. And it is prior to the meeting of the 22nd now. The meeting is being set up.

"Answer: Yes, at the meeting at the airport Amoroso told me to meet the Mayor and ask for a ten to fifteen thousand dollar kickback.

"Mr. Ben-Veniste: May I have that? I didn't hear it.

"Mr. Puccio: Answer the question again.

"Mr. Ben-Veniste: I would rather have

the reporter read it.

"Answer: Kickback of ten to fifteen thousand, that he needed money.

"Question: Did you in fact meet with the Mayor before the airport meeting on the 5th of August and ask him that?

"Answer: I met him downstairs on the main lobby and asked for -- tell him you needed money, we would like to get $15,000 kickback."

And, of course, this is Weinberg's testimony. Now, of course, that's the connection. Our actor, Mr. Weinberg, has said, "Tony and I want $1,5000 kickback."

Now, what you read and heard, this is a transmission of August 5th. And you read and heard the words, the laugh and fifteen coming back, ha ha, you will say that's a brazen chap, fifteen coming back and he laughs about it.

It is Weinberg who wants the fifteen. It is Amoroso, he says, who wants it. And that's why in this indictment you don't find one dime attributed to my client.

Now, as you sit in that jury box I ask you to consider this. If indeed that is so -- and

4 1 apparently it is -- and if indeed as I assure you
2 it is so, Mr. Puccio brought that out from Mr.
3 Weinberg on his redirect. How can one say that
4 Weinberg did not hold himself out as a direct
5 participant in what we will show you is also
6 referred to by other actors as the charade, as
7 the trap.
8 Now, when I say trap, believe me I am not
9 saying to you that here is the gestapo, that our
10 F.B.I. has sunk to new lows. I tell you nothing
11 of that. I talk only about the human interaction.
12 And I suggest to you that perhaps if I had not
13 read that in that fashion you will read this and
14 say Errichetti is asking for $15,000 just like
15 that. It is not so.
16 But why, how can he come to that point
17 unless Weinberg and Amoroso had encouraged pre-
18 cisely that and insisted on that and so set it
19 up, that there was no intention for the congressman
20 to violate his oath and do any official act, but
21 indeed, but indeed there was this concept of a
22 projection of the idea that Mr. Weinberg was no
23 longer loyal to his employer, the Shiek, and was
24 out to get money in this game.
25

Well, if that isn't a play or an act, I would ask you what it is. Because I do not infer and I don't wish to infer and I will not infer that Mr. Weinberg was pocketing this kind of money, no way. Although I was shocked to find that Mr. Amoroso didn't have to sign for this money, no receipt for this money and that Mr. Good, who seems to be in sense the whipping boy of this whole case, was responsible for that money.

I have no proof and no right to suggest that the F.B.I. was stealing any money or Mr. Weinberg under these circumstances stole any money. But I do suggest to you this, that the only testimony in this case that relates to what happened after a congressman left that room on the 22nd was that on the same floor he turned an envelope over to Mr. Errichetti, forty feet away from the room where they had all been. That's the physical situation insofar as any proof in this case is concerned.

Now, if indeed there was the insistence we want $15,000 back, I ask you to rack your brains and try to find out if there was any testimony in

here if indeed there was $15,000 given back to Mr. Weinberg and Amoroso for Government purposes, not to steal it, I have no right to suggest that. But again this is a game, and of course, the congressman is not expected to do any official acts.

You know, of course, there was nothing done. There was no execution, agreement or not, there was nothing ever done.

You know, of course, from August to January, August being the August 22nd meeting that by everyone's testimony the players left the stage and went their way and absolutely nothing happened until there was a phone call in January according to the tapes, according to the testimony from Mr. Criden to Mr. Myers, which caused him to come back again into the stage play. But if there was no intent to violate his oath and do an official act, and if indeed this was the kind of thing that was set up, then I suggest to you that there can be no guilt of the violation under this charge in this Federal Court of the crimes charged. Now let us explore some more of the human conditions, if you will, because I think some of these words

as I bring them back to you may very well prove a reminder to you.

In addition to the play acting which caused Weinberg to say to Mr. Errichetti, we want $15,000, which is reflected in another sense in the August 5th statement, this is what Mr. Weinberg says.

2292 is the page.

"Question: The second conversation you mentioned where you say that -- next conversation you say Mr. Errichetti milled out Mr. Amoroso, do you recall when that took place?

"Answer: Right after the payoff to Congressman Myers."

Now, apparently the reasonable inference is right after the payoff and Errichetti went back and said to Amoroso, you only think of yourself. You don't think of Mel.

Well, in terms of the human condition, what does that mean? Does that mean that Errichetti is conniving to take money under false pretenses or to do other than they tell him to do? And I'm not suggesting to you that he became an agent of the United States, but he was certainly following the directions of a special agent and a special

employee.

There is much said here about the fact that there is an expression that has been repeated and repeated ad nauseum. I know you are sick of hearing it, but forgive me. It's like using bullshit, the word is there and the phrase is there.

Come on strong, and there have been many explanations about that.

Page 2293.

"Answer: Yes, your Honor."

Let me get the question, which will be 2292. And they were talking about the purpose in telling Errichetti or someone else to come on strong.

"Question: The second conversation you mentioned where you say that -- next conversation you say Mr. Errichetti balled out Mr. Amoroso, do you recall when that took place?

"Answer: Right after the payoff to Congressman Myers.

"Question: Now, on one or another of the transcripts, Mr. Weinberg, you used the phrase: 'come on strong'. do you recall that?

"Answer: I do.

"Question: Can you tell us what your purpose was in telling Mayor Errichetti or anyone else to have someone come on strong?"

There were objections.

"Answer: The purpose, we didn't want to get in a situation like we got into once --"

I objected and the Court said,"Can you tell us without referring to other situations that may have occurred that are not involved in this trial what your purpose was in telling someone to come on strong?

"Answer: Yes, your Honor. Tell them to come on strong that we get -- we knew that the man was taking the $50;000, tell us what he was going to do.

"Question: The public official?

"Answer: The public official.

"Question: And you knew, did you not, that Mr. Errichetti or someone was going to speak to the public official before the meeting?

"Answer: That is correct.

"Question: Now, do you have any idea or can you approximate for us, how many telephone conversations you recorded during the course of

this entire investigation?

"Answer: I think it runs close to a thousand."

I want you to put that in the back of your mind, if you will, close to a thousand conversations in the course of this entire investigation. And I suspect that as to this particular indictment it wasn't that many, and it was certainly hundreds. And we shall refer to that later on.

But to go back to the point is that here Weinberg admits that he knew that Errichetti would speak to the public official and tell them to say what they thought he would say.

But the problem with that is this: If you will examine with me, please, 5-A, which is the August 22nd meeting at Travel Lodge International Hotel at Kennedy Airport, you will find interesting things there.

For example, you will find that Mr. Amoroso in the legend says that placed in front of me is $50,000 in $100 denominations, ten packages in all, placing them in an envelope, I am not sealing the envelope, placing the envelope in a briefcase to my immediate right.

I think if you remember that T.V. scene you will notice that indeed he does lick it and then doesn't seal it.

Well, $15,000 coming back. Maybe that was part of the technique.

Then they go on to talk about the congressman from Philly and there are pages and pages and pages. And on page 3 there is a reference there that relates to something that you have heard many times as well. You have heard, of course, that Mr. Weinberg said, don't worry about a thing because the gentleman from abroad is not coming here anyway, he is going to South America.

And if you read there where Myers says absolutely, where I can be of assistance in this type of matter, first of all is private bills that can be introduced. Now, when you, when you are coming from a third world nation, and you have no political support in this country, unless somebody is in saying you don't need, hum, you wouldn't introduce a bill to protect your interests if you had to go in exile somewhere. Now, what you need is the influence to have that done. And then there is more language.

12 1 Now, this is clearly a reference to the
2 fact that no private bill ever be introduced.
3 However, I must say this to you, that in dealing
4 with the question of intent, the impossibility
5 of introducing the bill, and you will hear from
6 his Honor, I believe is not the point. The point
7 I want to make is that for thirty pages there,
8 and please place it open for a moment, for thirty
9 pages there is conversation back and forth, which
10 never comes to a head as far as any official act
11 being done. It is the old, old story of a kind
12 of fencing act which reflects what Mr. Amoroso
13 said.
14 He said, look, don't continue to ask me
15 about a script. I really don't have a written
16 script. I kind of played it by ear.
17 And look it, it looks it. The only problem
18 with it is that it misses the mark. This man
19 wants to take $50,000, ladies and gentlemen, it
20 would take five minutes to say, intorduce the
21 bill, will you introduce the bill.
22 Yes.
23 Here is $50,000.
24 Walk out and turn the cameras off.
25

We wasted more electricity in this particular incident.

Now, if you go on you come to the point where on page 7 Mr. Errichetti says, well, there is no case at this point.

Mr. De Vito, Mr. Amoroso says, that's in the middle, if you please, on page 7. Well, yeah, what we are saying is we are insuring that when, when.

Mr. Myers says, when the time comes, if it comes.

Again I must tell you, because it will be unfair to mislead you that mere impossibility if the thing never happens is not a defense in this case. If you hear his Honor charge you will find that just because it didn't happen and, however, in assessing the fact that there was an intent to really do the official act, in one instance the bribery, a corrupt motive, and the second instance, with full knowledge that you were really going to do it as opposed to a misunderstanding or a crossing of ideas, that I believe you will be told you can consider.

(continued on next page.)

And if I misstate this you must know that I am only allowed to give you certain elements of the law so I may talk to you in a framework. I have no authority. What I say to you is not in any sense what you must accept. I give it to you in the framework of this lawsuit because otherwise you will have no anchor, no boundaries.

One of the fascinating things about it is, and I want to call your attention to another page on page 29 or 30. And you will have these books with you and so I am sure you know you will feel free to study them.

There is a phrase that rings, like come on strong, bullshit and others which become critical words.

Page 30 is the page where Mr. Weinberg says, this is all within the 5-a, if you please. I assume everybody has 5-a. On page 30, if you be so good, there is a sentence which again is one of the phrases you have heard again many, many times ad nauseum but it is so significant I think you can pick it out.

Now Weinberg says, we got like the goose that lays the golden egg. We all like to make a

buck.

Now, go back to August 5, when they say to him, we want fifteen back. And tie this in with, we got the goose, we all like to make a buck. Is there any way in the human condition that you cannot then believe that Mel Weinberg is saying, look, nothing is to happen here, no official acts, nothing. Walk in, we will rip off the millionaire, or whoever he may be and that's it. No official act, nothing is extended. Come on in, we will rip it off.

Now, in the sense the Government wants you to accept it as a finished and complete and very sophisticated, I think we call it a sting operation, I think you must consider whether in fact it's true or whether this was an amateurish event and whether there were misunderstandings in all parts and no meeting of the mind and no design to do what is called a violation of a congressman's oath to do an official act contrary to the public.

One of the things I talked about Congressman Myers is this: And I do it with the permission of his counsel because this is a conspiracy, and

in a very real sense, in a very real sense. That which effects Congressman Myers effects Mr. Errichetti. I think you will be told if you find this was a misunderstanding, it was not a situation where there was a knowledgeable intent to do wrong and that Congressman Myers never had the knowledge and will to do it, I think you will hear from his Honor that you must acquit all. And that's why you will hear me talk about Congressman Myers because there is no question but that Mr. Errichetti, who took no money and is not charged with taking any money even, no suggestion that he did, has a fate which is tied in inextricably with Mr. Myers.

My people have an old spiritual that says that sometimes I feel like a motherless child. And that's Errichetti. He is a long way from home because Myers, Myers, that's all we hear. Read the indictment. It's the congressman, it's the congressman's act.

Well, if you lump them altogether you have to consider what the total ideas are and what happened. And that's why this tube is an abomination because it represents to be the full and complete

truth and it can never be, not ever. Just as one man's pulse may be meaningless in another or one woman's feelings at certain times is curious and individual to her so that in this courtroom I know I need not plead for you, with you in this fashion. But because it is so serious I do, that you please consider the human condition.

And we are all actors, and Mr. Weinberg, too. And bless his conning heart, he is just as human and just as subject and just as entitled to decent consideration as any.

But in this particular endeavor I will ask you to riddle again, why did the F.B.I. need a Mel Weinstein -- Weinberg, I beg your pardon-- in order to carry out a so-called sting to get a congressman? Why? He had to be there for a reason.

The only reason he could be there is because he was a con man and the only reason his con was good is because they had to give this idea, this is all a con, he is disloyal to this employer and nothing is happening there and stumbles in, oh boy.

When Myers stumbles in it's not a crime unless he has the knowledge and has the intent. Perhaps

so sophisticated and complicated is this celebrated king that has book contracts, movie contracts, God knows what, because it's sensational, because it's unusual. They may have overlooked the simple problem that simple is best and simple works. It's like having one of those fancy English cars. It's beautiful to see and will do 180 and runs about twice a month.

This is not a horse and buggy. This is a space aged design to eliminate common sense. If you were placed in control or a supervisor capacity, I ask you to ask yourselves, would you not on the assignment of a celebrated con man want to know something about him so you would know how to relate to him?

On page 953 Mr. Ben-Veniste's cross examination of Mr. Amoroso.

"Question: Did you ever ask Mr. Weinberg what is all of this now about all this criminal activity that you had been involved in in the 60's or 70's?

"Answer: No.

"Question: Never did?

"Answer: No.

"Question: Isn't it fair to say that you don't want to know?

"Answer: I don't care. It has nothing to do with this case."

Well, ladies and gentlemen, that's like petting a polar bear. He is beautiful, he is statuesque, but you better know what you are doing.

In this instance the very fact that Mr. Amoroso says that he didn't care indicates that there was no control and that what happened here was indeed a space age venture tumbling in orbit.

Let's examine further what has been said because the trial has been long and you no doubt have heard that restrictions on the use of the word "script". But let's read what Mr. Amoroso replies to the gentlest of our counsel, Mr. Cacheris.

Page 981.

"Question: In fact, when you used the name Tony De Vito, you were acting?

"Answer: Correct.

"Question: When you said you were working for a Shiek, you were acting?

"Answer: Yes.

"Question: So when Mr. Myers came in, you had a script that you were following, didn't you?

"Answer; Well not a script, just -- just how I felt the thing was going.

"Question: You didn't have any idea what you were going to ask him?

"Answer: Basically I knew what I wanted from him.

"Question: That's correct. You knew what you wanted from him?

"Answer: Correct.

"Question: And so that you asked him about the introduction of private bills, didn't you?

"Answer: Correct.

"Question: And that's what your suggestion was, wasn't it?

"Answer: Offhand, I have to look at the transcripts.

"Question: You don't have any doubt about it, do you, sir?

"Answer: I don't know who brought it up. That is what I was referring to."

So you see, with respect to private bills, he said, "I don't know who brought it up."

"Question: That's what you were referring to. And you also asked him about the State Department; you brought that up?

"Answer: Correct.

"Question: Isn't that correct?

"Answer: Sure.

"Question: And that was part of your script, wasn't it?

"Answer: Correct.

"Question: And you also asked him if he knew any key people in the State Department, didn't you?

"Answer: I don't know if I mentioned any key people. I just mentioned the State Department, I think.

"Question: You brought up the State Department?

"Answer: Yes. I said I just mentioned the State Department."

I read this to you to give you the flavor of what had happened, that these people stumbled through this tragedy.

Page 984, again Mr. Amoroso being questioned by Mr. Cacheris.

"Question: And didn't you say to Mr. Errichetti, 'He'd have to introduce some kind of legislation, right, some kind of bill or something'?

"Answer: Correct.

"Question: And didn't Errichetti say, 'Whatever you say'?

"Answer: Correct, that's what he said.

"Question: And didn't Weinberg say, skipping on down, 'Yes, let him tell Yassir whatever he had to tell him'?

"Answer: That was the conversation, yes.

"Question: Is that right?

"Answer: Yes.

"Question: That was what you subsequently wanted to get on T.V.?"

And the answer is, "Correct."

(continued on next page.)

You may say, well, we have heard these things before and indeed we have. But I do not believe that you heard them quite in the context of which I am presenting them to you.

Now, we heard about, for example, the earlier incidents, just to leave this for a moment and to go to something I believe less intense. At the beginning of all this you now know, I believe it was early in '78 and about December of '78 Mr. McCloud, Mr. Mc Carthy first got in touch with my client. And you heard them talk about the Port of Camden and that sort of thing.

But more fascinating is the fact that Margo Kennedy and all the Kennedy references who one witness refers to as things he heard about, that is to say Mr. Weinberg, and to which Mr. Mc Carthy disavowed, nonetheless seem to be a fact in this case.

As a matter of fact, I will read you and you have your books and I will call it to your attention soon the fact that there were many congressman and senators mentioned and apparently there was no wish, no wish to enforce the law

without distinction. And some of these things just never were paid any attention to.

I suggest when you consider that Errichetti was paying the bills for the hotel where Mr. Mc Cloud and Margo according to one story were in the same room and he sneaked down the back stairs, according to Mr. Mc Carthy were never really in room, but Mr. Mc Carthy was very interesting. He said that's the only suite they had.

Well, that's the style of ABSCAM. You don't sleep in ordinary rooms. It's suites and yachts and planes. But doesn't that suggest something about the inexact, the looseness, the bumbling of it all, and much of it exasperated and to the extreme you bring in a Weinberg.

Why a Weinberg? If there are congressmen that are going to be bribed, called them in and offer them "50,000. And somebody suggested an abominable idea, why not get those who have already committed a crime rather than create it?

But I am sure that that answer and that question anathema to the people in ABSCAM.

Now, I mentioned before about the money. I am going to document everything I say. It is

sworn testimony.

I mentioned the curious things that Amoroso didn't have to account for the money.

Petty cash in the cafeteria has to be accounted for by the cashier.

But on page 994 the question was asked about, about the money. Page 993, my cross examination.

"Question: Did you make a note in a 302 about obtaining the money and what you did with it and what happened to it?

"Answer: Did I make a notation?

"Question: Yes.

"Answer: No.

"Question: You were not responsible as an agent to make a precise report as to what happened with the money that is turned over to you?

"Answer: What I did when I received it, I counted it and then I placed it in that envelope.

"Question: Do you sign out for that money or do they just give it to you?

"Answer: No. Another agent probably signed for it.

"Question: What agent would probably have signed?

"Answer: I have no idea. That would be the responsibility of Mr. Good.

"Question: But as far as you were concerned the money would not be accounted for in writing or in any receipt of any kind?

"Answer: Not by me. By someone.

"Question: I am asking as far as you were concerned, you would not have accounted for the money by a writing or a receipt of any kind?

"Answer: No."

I am suggesting if the con were so wide open that you are selling the goose that laid the golden egg, which you didn't account for the money, if you said, give me $15,000 back and left an envelope and walk out of the room, how can you, the jury, decide that these involved culpable acts by these defendants?

Proof beyond a reasonable doubt is not invented for this trial. It means quite simply that when a Government brings the charge they don't prove by tipping the scale. They prove by much more than that. And his Honor will give

you the definition.

If there is a lack of proof the defendants are entitled to an acquittal. If there is a lack of proof that does not allow you to reach a decision that rises to that great of height of proof beyond a reasonable doubt, you find them not guilty on that phrase, on that phrase. That phrase is one that is sometimes misleading.

The Skotch have a different phrase which I think explains it better. When a Scotch jury acquits, they say not proved. Because the word sometimes unfortunately convey to a juror when I say not guilty I am saying completely innocent, exonerated, go forth and do it again.

That is not so. You sit as judges and you must be as stern as Judge Pratt. And I will bet my life that if his mortal enemy was in front of him and if that evidence did not rise to proof beyond a reasonable doubt he would say, not proved. And that's your model. And that's what the law requires and that's why I say you have a special grace.

We are not ordinary human beings this night and tomorrow until this over. We are not

ordinary humans because we have to be above ourselves.

Do you think that at this hour of the night, and you know how long we have been here, and you know how long we were here last night and the night before and the night before, that I feel like doing what I have to do?

Well, I will die trying to do it because there is a special grace and there has to be the special courage that says not proved if it is not.

And when a Weinberg is needed by the F.B.I. to trick and trap, ladies and gentlemen, I say you must be so critical in your estimation of that fine body that you have to say they tried something new, they tried it in a bumbling and inexact way, and there is no proof that this man said, I will violate my oath. There is not one scintilla of evidence to that effect. And read in your book these two enormous meetings, and you will find that. It is 180 pages, the second meeting. Thirty pages the first meeting. The final page we have a goose, let's pluck him.

One of the analogies to what has to be done here, I think is found sometimes in taking

examinations. Examinations frequently don't pass anything. Examinations are frequently not gaited to the individual. It doesn't measure their respective opportunity to education. It doesn't respect their cultural differences, where I may speak Swahili and someone else speaks German. But flunk the exam and you are a failure and you have to know in your heart that you are not a failure because it wasn't fit for you, it wasn't designed for you, it didn't add up to the truth. And that's what the test is in this case.

It is a common thing on a job to have a supervisor say, why did you do such and such, and you turn to the person over you and he says he told me not to do it. And that person shrugs his shoulders and you have had it because unless you examine the background and go into the reasons for what you did, then the mere act for your not having done it leaves you guilty, you don't have a chance to explain. If you don't have a chance to describe it, you have had it. And that's what is true in this case. I heard it said about Mr. Cook that he told us the truth, but that he never said anything about a charade.

Well, let us see. On page 1298, Noto.

In a few minutes after I have set the stage, I am going to play the tapes and I want you to listen to them in the prospective I have tried to impart to you. But this is on Noto. That's the business of the immigration man.

(continued on next page.)

On page 1298, and the questions are of Mr. Cook, the honest man.

"Question: You knew from the beginning it was a total charade?

"Answer: Yes, sir.

"Question: And it was your understanding that Mr. Weinberg was aware of the fact that you were not indeed Mario Noto?

"Answer: Yes, sir.

"Question: When he sat and talked to you did he give you any indication that he was aware of the fact that you weren't Mario Noto except for your age?

"Answer: No, sir.

"Question: And he was the one who remained with you?

"Answer: Yes, sir.

"Question: That person we were referring to was offscreen?

"Answer: Yes, sir.

"Question: You watched the play here on the screen?

"Answer: Yes, sir.

"Question: He was off screen, wasn't he?

"Answer: Yes, sir.

"Question: Now, what was he doing? Can you tell us physically, was he standing, sitting, was he giving you any signals or anything?

"Answer: He was sitting in a chair talking to me.

"Question: Just talking to you straight?

"Answer: Yes, sir.

"Question: And did he tell you that there would be any consequences of your not being the Mario Noto in question, the difference in age?

"Answer: No, sir.

"Question: Did he say anything to you about the fact that your purpose was to come there to put on this act?

"Answer: I never talked to him other than on the tapes.

"Question: That's all.

"Answer: Yes, sir."

And then what did he then say?

A 1300. Remember now, this is the Noto situation. Mr. Amoroso has called Mr. Errichetti outside and in the room sit Weinberg and Mr. Cook. And this is the language. And Judge this, if you

will.

"Question: Can you tell us what Mr. Weinberg said to you?

"Answer: He said he is sure we can work this out, get it all straightened out, that Tony is just afraid that you are not whom you say you are.

"Question: He never said, "Look, you are not Noto, you have tried to pull a game on us. He never said that to you, did he?

"Answer: No.

"Question: In fact, he had said it's going to be okay, we will work it out; is that right?

"Answer: Yes, sir.

"Question: Was that in keeping with the concepts given you that he knew all about it and was going along with it?

"Answer: Yes, sir."

Now, what does that language mean in terms of Noto to you?

I would suggest to you that a reasonable interpretation is that in this situation where he is known to be an imposter, and Weinberg says that everything is going to be all right, don't worry

about it, that it suggests that Weinberg knew all about it and was in on it. That's a very reasonable deduction which can be drawn.

And there are many other such words here which lead inevitably to that deduction.

Now, on page 1305 they talk about the Casino matter.

You remember on July 26th on the trip to Fort Lauderdale in the boat, it was by Mr. Johanson, Mr. Criden and Mr. Errichetti in terms of a casino matter which was described as legitimate and in fact Amoroso said it was. And down they went with their maps and their feasibility studies and their dreams of four million dollars.

Cook knew about it. And now Mr. Honest Cook testified for the Government:

"Question: And you also testified that it was your understanding that Tony and Mel, the representatives and the employees of the Shiek were themselves to receive some money in the casino matter; is that right?

"Answer: They indicated they wanted a part of it, yes, sir.

"Question: It was your understanding, was

it not, that the Shiek was going to supply the money for the casino venture?

"Answer: Yes, sir.

"Question: And the money transaction was to be negotiated for the Shiek by Tony and Mel; is that right?

"Answer: Yes, sir."

And Mr. Puccio then asked if he thought it proper, and so forth.

Now, from the very beginning it will appear, and I suggest you have a right to accept it as fact or reject it, that from the very beginning Tony and Mel were going to share.

Now, if they were going to share the money and if they gave this impression from the beginning, why isn't it absolutely plausible and reasonable that Errichetti the congressman there is no official act contemplated, there is nothing to it?

Reasonable? I submit to you it is.

Now, I want to just give you a few other matters to put this entire matter in prospective because I think it's the only way to really explain it.

You do recall an interesting thing about the business of the $50,000. Noto was only supposed to get twenty-five. It's just a note as you look at the film and remark how that worked out.

Excuse me just a moment. In the document before you that refreshes your recollection, may I ask you if it is not a fact when Mr. Weinberg reported the name to you he allegedly got it from Mr. Errichetti that it was Hopo and he was the Commissioner of Immigration.

Enough for Mr. Cook because I think it suggests to you that the honest Mr. Cook gave some very honest answers and they might not have been as condusive to some of the ideas that Mr. Puccio wanted them, but there they are.

Now, one or two more references to Mr. Amoroso before we play the tapes that I have referred to.

We talk again about the acting performances and he said they were correct.

And with respect to that activity which came later, about an hour elapsed between the time you had the money, that's the 22nd and the time you went through the prologue, which is the

sealing and the not sealing of the envelope and the time of the actual activities, would that be correct?

And in that interim who was in the room, Weinberg and Good. What happened to the money?

But this is more precisely to the point.

And is it not so that as a result of this idea that formed in your mind on the 25th you then projected this idea on the 26th and advanced it, right?

Correct.

And you advanced it for the purpose of advising somebody to respond; is that right?

Correct.

And you advanced it specifically for the purpose of inducing Errichetti to respond, is that right?

Yes.

Now that you baited the trap with the idea, that's a correct statement, is it not?

Yes.

You expected my client to bite?

It could be, yes.

That would be the purpose of your doing it,

I would assume.

Again a part of a design.

I will tell you what he thought he did to my client. Let's read what he said on page 1042. We are referring to Weinberg, and he says as follows:

"Question: And he conned everybody but you, is that right?

"Answer: I can be conned just like everybody else.

"Question: Did he con you?

"Answer: I don't think so.

He conned everybody else though.

"Question: By everybody else whom do you mean? Let's take my client. He conned my client, didn't he?

"Answer: I would say so.

"Question: He conned him in a superb fashion, is that right?

"Answer: Yes, I would think so."

Now, I don't know how you react to that, but that to me is something which goes to state of mind. If a person is subject to being conned or convinced or persuaded by what Mr. Weinberg

describes as a mixture of the truth and fiction, whom are we to blame? The victim that is conned?

Well, that's what you're being asked to do. You are being asked to convict Mr. Errichetti by proof beyond a reasonable doubt that through this entire enterprise when Mr. Amoroso says that he was superbly conned that he, the victim, should pay the price.

Well, that is so contrary to a sense of justice that I ask you to consider that as a theme running through this entire matter. And these are not my words and it is not just rhetoric. It is that which has been adduced from Mr. Amoroso's mouth himself.

Now, Mr. Cook. Let's go again to the 22nd, Congressman Myers, the key event. A question by Mr. Puccio to his witness, the honest Mr. Cook.

"Question: Now, Mr. Cook, were you ever told anything by anyone about a script that Congressman Myers would have to read for the Shiek's representatives?

"Answer: No.

"Question: Were you ever told by anyone that at the August 22nd meeting, Congressman Myers would

put on an act for the Shiek's representative?

"Answer: What I was told is: He had to meet with Mayor Errichetti beforehand where they would prepare him for what he would have to say and then he would meet.

"Question: Were you ever told that he would put on an act and say things he really didn't mean, were you ever told that?

"Answer: No, sir."

Now, if Mr. Cook, the honest man, the witness produced by the Government, says that he was told that Myers had to meet with Errichetti beforehand, where they would prepare him; and then let us take that honest man and believe him. You were asked to believe everything he said, why not that?

Now, with respect to the events that led up to and through the 22nd of August, starting in June, June 16th.

Mr. Furst, if you will.

Starting June 16th you have in the back of your books T-1 through 11, and I ask you to turn to that, please.

Now I will give you a brief rundown

on that and bring you right up to August, while Mr. Furst prepares to play the tapes for you.

Please don't put your earphones on yet, please.

On June 16th you will see that Mayor Errichetti on the phone says, you know what we got to do with Pete.

This is in part. I am just giving you a running sequence so that they fall into line.

Mel says to Errichetti, Eric, give me the proper speech that Mel gives you. June 28th, fitting in the sequence, is what I call the bullshit on stage command performance, but please you will hear it and you will read it so that you will be able to judge rather than my giving you a conclusion.

(Continued on next page.)

July 29th. July 29th, by the way, I shall return to because it is one of those tapes made by the so-called dropped cassette, which Professor Weiss says was never dropped but stopped and started, and part was left out by the Government in our estimation, but in that you will find the key expression that the naturalization guy is key one. So as early as July 29th the naturalization guy was a part of the scenario.

August 15th you will find there is a conversation about the wet and dry closing. And everybody who closes a house, you know you go through the rehersal, and that's a dry run when you rehearse it and the wet one when you finally close.

September 2nd, there is a telephone call referring to Immigration.

September 5 refers to green cards and my guy Errichetti.

September 12th, Errichetti doesn't know his game and Fester Detorintini(ph), and somebody called him Tetrizini(ph), but that's an Italian dish.

September 14th, Mr. Noto.

And on the 18th, Errichetti tells of the preparations on the 19th and then there is the video

tape of Mario Noto.

The point we are making is that in the middle of this is August 22nd.

So the conversation throughout deals with the business of the con, the business of the false appearance. Because when you see the No Po view once more, you will know, you will know in the first place that it was a con, and in the second place that Mr. No Po could never have violated the law, or Mr. Cook. And that's exactly what happened on the 22nd meeting.

The dates are extremely important to our concepts of the case. And I want to apologize to you for the length of my address to you. And I would do it in a quicker and shorter time if I knew how. I assure you of that. I know you are tired and I know after a meal it will be much more pleasant to have beer, slippers and t.v. than an old man trying to talk to you about lines in a book. But please forgive me. We all know how serious it is, I am sure.

Would you run it, please.

The first one is a telephone call, June 16th, please. I'm sorry, I was drinking water and

didn't hear it. I beg your pardon. It's June 20th, which is a telephone call.

(Whereupon tape recording referred to is played.)

MR. BROWN: The next date is June 28th, which I opened to you and which is so prominant, which deals with the on-stage and most expensive t.v. star ever paid and the language in those instances is Mr. Weinberg.

There is a second page on June 20th that was not played and we will play it later.

We are now going to Exhibit T-3.

(Whereupon, tape recording referred to is played.)

MR. BROWN: That's the end of that particular tape. And it's June 28th, two months from the August meeting. And we will go on with the next tape, but I want to ask you when the leopard changes his spots, the Government wants to say to you that in June Mel Weinberg was a different man than in August. Although I read to you where Cook said he had Errichetti to prepare. I read to you where he is doing a supurb con. But the Government says to you, well, that was in June. Another thing.

When would Mel Weinberg change his technique I asked you? The answer has to be never, because this is his life, this is his way, this is his personality. This is an actor with many parts and the same technique, within the same technique.

The reason this is important is because you will see there is a reference to the immigration official, Mr. Noto, ultimately; and thatdoesn't come to September 19th, but it's all part of the same relationship and additude with people, the same attempt for people to do which according to Mr. Weinberg in his curious and convoluted and complex mind was designed to bring you in and say he is a party to it, there is nothing to it, nothing is going to happen.

Why did the FBI need this space better technology? And the FBI has my respect as I know it has yours. But why this, why this?

And they would say to you that the Weinberg giving this bullshit directions in June was not the Weinberg involved in August, August 22nd, or September 19th, where there was a complete farce.

But remember this, just remember this; if he could change his spots and be a different man

in July then he was in June, and a differnet man in August than he was in June, then perhaps in the human relationship you might say it. But this is where the special grace comes in. In addition to your experience, in addition to your common sense, you have to apply to the sense of whether Meyers actually was totally conned and didn't intend to violate his act and had no desire to have knowledge of that kind of action or not.

Now, we will go on to the next tape which is right in sequence where again you will hear the references to the naturalization guy who was the key one. Remember, this is July 29th and Noto doesn't come in until September 19th.

Would you play it please, T-4?

(Whereupon, tape recording referred to is played.)

(Continued on next page.)

(The tape thereupon continued to play)

(Tape playing completed)

MR. BROWN: Now, I would call to your attention before I ask Mr. Furst to play the next tape, but in the sequence, and this is July 29th, and that you mark that date in your mind or down because I will come back to it later, to the tapes, and the time, the length of the telephone conversation. And you will recall when Mr. Duffy talked about these things, and I would like to have the thing fixed in your mind. Now the next tape, T-5 would be August 15th, but we know that in the interim between July 29th and August 15th there were other tapes.

So would you turn in your books please -- remember we are going from July 29th now to 2-A, which is August -- there is one just before 2-A if you please, August 5th. I think it is 1-A. If you will start with 1-A, and remember we just heard on July 29th about the naturalization guys, the key one.

You are reading August 5, I think. You will notice on August 5 that there are references to the naturalization. And I would call your attention, if I may, to several references which show the

continuing relationship.

On the first page Weinberg says "He can get Senator Talmadge."

And Errichetti says, "I'm working on that so far, okay, Congressman Ozzie Meyers, okay?"

And that is the 15 coming back tape I called your attention to.

And down that page it is "Lederer" and "...haven't gotten to that point yet, okay." And "... two Congressmen from Georgia."

And then down towards the bottom Angelo Errichetti says "... there's gonna be two congressmen from Florida being set up to talk to... in fact they were approached, ... they have to meet with me on time, place, logistics... what I expect them to do... friendship, they've gotta say and what they've gotta prove, guarantees, you know, whatever they say.

Haven't met them yet."

Then you go over to the next, and as you read it, you find references to this State Department, and Congress, and Mel Weinberg saying, "All he's got is to tell Yassir is that ah when the time comes... I will sponsor anything you want."

And that was that August 5th.

Now, the 29th would be next. And that again refers to Congressman Meyers. And August 2 is next. And on the third page of that there is a reference to Yassir, this is when he meets Yassir, that just to tell him to come on strong. Well, he's going to give him a briefing. The stronger the better. And Yassir probably won't even say a word to him because he is very conscious how he speaks English. And then we will go from there to August -- we are on August 7th -- and then we go to August 8th.

And there again dealing with Congressman Meyers, push it as fast as possible. All right. What is it, Meyers, Congressman. He is ready willing and able tomorrow morning. He called me.

De Vito: You have to introduce some kind of legislation.

Whatever you say.

Tell him.

And then of course he says yeah, let him tell Yassir whatever he has to tell him. Now, that is still the theme. And the leopard has not changed his spots.

Now, if you go back to T-5, which is August 15th, the wet and dry closing.

(Tape played)

MR. BROWN: There you heard the words "script." And "wet and dry closing."

The leopard has not changed his spots.

We are coming right up to August 22nd. Now the August 22nd tape is quite long, of course. You have seen it and I won't play that. But you will notice that there has already been a reference to the Immigration official.

We have come through from the June 28th, which is the on-stage command performance. July 29th, the same thing. Naturalization guy is the key, and right on through August 8th, "tell him what to say."

And right on up to August 15th "wet and dry closing."

Now we will go right by August 22nd deliberately because you have seen it and can put it in perspective, I am sure, to T-6, which is September 2nd.

Now remember this is a continuing relationship.

THE COURT: Mr. Brown?

MR. BROWN: Yes, your Honor.

THE COURT: The 90 minutes that you had requested has expired.

MR. BROWN: Will you give me a grace of 15?

THE COURT: You have got it.

MR. BROWN: Thank you.

Will you run it please, sir?

(Tape played)

MR. BROWN: And now we will go to the next tape, which is T-7, September 5. This too refers to "green cards" and "my guy".

We are progressing towards September 19th.

(Tape played.)

MR. BROWN: That was T-7.

The next will be T-8, September 12th, a telephone call when he tells him who the investigator Torrentine is, to relate it to Nobo.

(Tape played)

MR. BROWN: Thank you.

The next is T-9, telephone, where you will see the name referred to. I call your attention to the fact that the name ultimately agreed on was Mario Noto. If you listen to this you will see and you will find the difference which would have been if

Mr. Weinberg weren't in on the scam, certainly.

I believe about eleven minutes, your Honor. Is that in accord with yours?

(Tape played)

MR. BROWN: The next will be T-10 on which we will have the final preparation for the Noto meeting on the 19th.

(Tape played)

MR. BROWN: These are the two men still in the same relationship they had in June. Indeed in May. Indeed before that.

And the reason we know that is that Mr. Weinberg made certainly hundreds -- literally hundreds of calls to Mr. Errichetti, and many of them not taped, and many for reasons which he explained as his being in other areas and unable to do the taping.

Now, I don't intend to quarrel with that, but I would like to call to your attention that there is in evidence Exhibit U, which you all have, and it shows, in summation, that there were 71 calls made totalling 227 minutes, or three hours and 47 minutes in that year that were made by Mr. Weinberg.

Now, prior to August 22nd there were four

calls totalling ten minutes where he made his kind of calls and apparently he didn't make contact, or for other reasons did not recall it.

Now, the importance of that is this, that in the con technique that Mr. Weinberg talks about, this was an important element, and this continued right from May and June, right on to August, and right on through September.

And no spots changed on that leopard.

Page 2202: "Q Right after Noto you sort of cut off from Errichetti, is that correct?

"A That is correct.

"Q For eight months prior you talked to him?

"A Yes.

"Q How many phone calls do you reckon you made to Mr. Errichetti?

"A I have no idea.

"Q Many?

"A Many.

"Q Would this be consistent with the theme of a confidence man, which was to stay right on the sucker?

"A Keep in touch.

"Q At all times?

"A At all times.

"Q Why was this a cardinal principal of a con man's -- "

I withdrew it.

"Q You have stated that this is a cardinal principal of being a successful con man, staying on the mark?

"A Keep in touch.

"Q Constantly?

"A That is correct.

"Q Why would you want to keep in touch constantly? So he doesn't get away?

"A That is correct."

Now, there is one observation here by Mr. Weinberg that I think has to excite your consideration of the very demands on your judgment that I talked to you about.

It goes to the question of intent and weighing words.

2218:

"Q And you do know that within that same time period that you were soliciting Mr. Errichetti to get Meyers, the Noto thing was going on, the

Scam within the Scam?

"A That's correct."

That is the answer. That is what I have tried to demonstrate to you.

"Q And you didn't know to this day whether or not Mr. Meyers, who came in within the same sense as the Noto thing, intended to do anything that he said he was going to do; is that right?"

And his answer:

"A I do not know."

You were not there. How would you be able to say that he intends to do the wrong thing.

And the next question --and I really believe that from this con man skilled in the use of words and in his relationships with people we have a touchstone.

"Q So the words that he employed are words, but the intent to carry them out is something you didn't know to this day; isn't that right?

"A That's correct."

Now, there is no proof in this case that would support a finding beyond a reasonable doubt that Mr. Meyers intended to carry out this crime and offense, or that Mr. Errichetti did.

I do not cite Mr. Weinberg as an authority, believe me. I cannot in one sense call him a con man and criticize him, and in another sense exult his wisdom. But I do suggest to you that when Minnesota Fats gets on a pool table, you know he knows what to do with a cue.

And when Weinberg brings people in and uses words, he knows how to evaluate them because that is his specialty.

"Q So the words that he employed are words but the intent to carry them out is something you didn't know to this day; is that right?

"A That's correct."

Now, there is one last area I would like to call to your attention, and that is the area of Weinberg the con man, the man who wants what he can get from others.

Mr. Di Lorenzo testified here, and the young lady named Deborah Procacci. Their testimony was backed by a very impressive Special Agent, except that he also confirmed the purchases of the items, and that in effect everything was true. A gentleman came in from Florida to say that in June Mr. Weinberg traded in a brown van, though he said he put the

gifts in a brown van most of them before June, but he did say in late summer he put some in a brown van.

He did say it was a brown van used by Abdul Enterprises.

Now, I'm not going to quarrel about a van or no van. But I submit to you this, that a man who would turn in three $6,000 watches is not the same man who would ask for a microwave and dishes, and three 22-inch Sonys for the board of directors of Abdul.

This ia a different man. And this is a person who knows how to play the game. The reason the gifts would be important is because first he denies them absolutely, and second, that it shows a continuing relationship, the con of Errichetti, who to his never-ending regret considered this man a friend, because they were in a sense confederates. They combined together for the Noto scam, for the Meyers scam, and for the other scams that you heard referred to where he used the now so important words.

Ladies and gentlemen, I've been privileged by his Honor to go even beyond the allotted time. But I would like to leave with you just a sense of

appreciation.

I can tell you sincerely, and you can bet if I didn't mean it I wouldn't tell you, that you have undoubtedly given the kind of attention to this case that every lawyer in this room -- and for once I will speak for Mr. Puccio, because he expressed his appreciation with your attention -- it has been incredible.

There is one complaint I make, and you must take this very seriously, I am concerned because you are so inscrutable that as we sit and watch you we know that you by design have made every effort to remain neutral and open-minded as you have been told by his Honor until after all these addresses, however tedious, however onerous, however the repetitive they are, and until His Honor gives the charge.

Following me later will come Mr. Puccio in what is called the rebuttal.

I haven't deliberately been this long to make it impossible for him to have a most attentive audience. But I hope it works out that way.

But having watched you I know that is not possible because you will make every effort. And I know you will give to him exactly the same

consideration that you have so graciously given me. He is entitled to it. And please, please, do just that. I have a deep appreciation for Mr. Puccio and Mr. Sharf as professional antagonists.

But they ceratinly are -- while they represent one side in this lawsuit, not enemies, and as I say, I do believe that in this room there has been a desperate sweaty search for truth.

And I know when you wrestle with these items in evidence, and wrestle with the charge, and try to put it altogether, there will only be one thought in your mind, and that is to do justice no matter how it comes out.

That you'll not let sympathy interfere from my defendant. I do not ask it. I ask only that you apply rigorously the law. I ask you to remember that presumption of innocence until his Honor tells you it is time to deliberate.

I ask you to remember proof beyond a reasonable doubt above all else because nowhere else in the world is a man given a trial where he is presumed innocent, and where the requirement is a strict and religous adherence to the idea that if the Government had not proved it beyond a reasonable

doubt, whatever your believe, whatever your speculation, whatever your thoughts, you must find not proved and dismiss these charges.

Again, I want to thank you.

THE COURT: Thank you Mr. Brown.

MR. BROWN: Thank you for the extention, your Honor.

THE COURT: We will take a short recess and then we will continue.

(The jury thereupon retired from the courtroom at 9:30 o'clock P.M.)

(Continued next page)

THE COURT: Mr. Puccio, how long do you need for your rebuttal?

MR. PUCCIO: Judge, I would say a half hour, possibly 45 minutes. I won't go longer than that.

THE COURT: All right. Bring in the jury.

MR. PUCCIO: Maybe less.

(The jury is in the box.)

THE COURT: All right, Mr. Puccio, you may proceed.

MR. PUCCIO: Thank you, your Honor.

Your Honor, Judge Pratt, defense counsel, ladies and gentlemen. It's astonishing to believe we started the proceedings about nine o'clock in the morning and here we are ten o'clock in the evening.

I realize that the hour is late and I have spoken to you at length before, prior to your listening to the summations of various counsel for the defense.

Ladies and gentlemen, I tried this morning to marshal the evidence for you, and to chronologically review with you the tapes and the testimony that you've heard over the last couple of weeks.

At this point, I won't do that again, but what I would like to do is discuss certain questions that were raised by Mr. Brown, Mr. Cacheris, Mr. Ben-Veniste,

and Mr. Duffy, and suggest to you answers to the questions they raised which are somewhat different.

Again, the arguments made by counsel, the arguments made by me, are based upon inferences we asked you to draw from the evidence. If I draw any inferences which you do not wish to draw or cannot draw or think don't make any sense, reject them.

I don't plan to go into every single argument that has been raised in the last six or seven hours or we would be here for a couple of days more.

I plan to answer certain arguments, the others I submit to you the answers are contained in the record of this case.

I think there are certain general questions, general issues, that are raised here that need answering at the outset.

One thing struck me as I listened to Mr. Brown and others, phrases like "inveigled the Congressman," "push the Congressman." The inference that someone is doing something that he does not want to do. "Coach the Congressman. Entice the Congressman. Trap the Congressman."

Ladies and gentlemen, do you really believe that people really do what they don't want to do?

Do you really believe that a United States Congressman took $50,000 in an envelope in a motel in New York City a little more than a year ago when he really didn't want to do it?

Do you really believe what you saw on the videotape was an act portrayed by an actor who was coached by a con man?

What is a con? That is a word that has been bandied about and has come up several times during defense counsels' closing arguments. What is a con? What does it mean in the context of this case?

Surely if I were to walk outside this building tomorrow morning with a loaded gun and walk into the First National City Bank and put the gun to the teller's head and say "Give me the money," and all of a sudden the teller reveals himself to be an FBI agent and I was placed under arrest and the building was surrounded -- I would have been conned.

I would have attempted to commit a crime in a place where I suspected no law enforcement present. I would have been duped into dealing with a teller who is really an FBI agent.

What happened here? Was this a con? As Amoroso said, "Sure Errichetti was conned."

I submit to you Myers was conned in this sense, Errichetti was conned, Criden was conned, Johanson was conned. They were conned by -- they believed that the corrupt businessmen with whom they dealt, the corrupt businessmen to whom Congressman Myers sold his office -- they believed that those people were corrut businessmen. What they didn't know is they were dealing with an FBI agent.

So they surely were conned. As Mr. Brown puts it, are they victims? Certainly not. Victims of what, victims of the fact that your government, the FBI, was too diligent? Victims of the fact a technique was used here? A technique that resulted in giving you definitive uncontroverted evidence of a bribe taken by a United States Congressman?

Perhaps one of the complaints, as Mr. Duffy put it, is that the FBI isn't out chasing bank robbers, or one would see very clearly, that these defendants would feel much better off if the FBI were out chasing bank robbers and not politicians.

Now, you've heard a lot about Mel Weinberg. And you've heard a lot about the FBI. Ladies and gentlemen, Mel Weinberg, for all his human frailties, as it was put, is not on trial in this case.

Ladies and gentlemen, the FBI is not on trial in this case.

Ladies and gentlemen, the Government of the United States is not on trial in this case. The people on trial in this case are seated right here (indicating).

Now, why was Weinberg needed? Mr. Brown asked that question. Mr. Good testified to you yesterday he had been working with the FBI a number of years and conducted many investigations. Many undercover investigations. And he told you in his opinion informants such as Mel Weinberg are essential.

You heard the tapes. You heard the conversations that Mr. Weinberg had with Mr. Errichetti. Did it strike you in listening to those tapes that Mr. Weinberg and Mr. Errichetti did not have a relationship that gained confidence for the undercover operation?

Didn't it strike you that Mr. Weinberg and Mr. Errichetti were able to speak one another's language, perhaps not as well as Mr. Amoroso would be able to speak that language.

When you start to delve into the evidence of this case: you have videotapes of what happened, so you are told, don't pay any attention to the videotapes,

it's what is not on the tapes that counts.

As Mr. Brown put it, if a man comes home and finds his wife in the arms of another man, maybe that is not what it seems to be, she fell into the position. You can believe that Congressman Myers stumbled into that room and took that $50,000 by accident, but I suggest you are stretching the limits of your imagination.

What about Mr. Weinberg and all these tapes? You've seen stacks and stacks of tapes in this courtroom.

MR. BROWN: I object. That is one of the techniques, to have stacks that are not in evidence.

I object to that.. He pointed to the stack.

MR. PUCCIO: I will make reference to the testimony that there were thousands of tapes made.

MR. BROWN: Not in this case.

THE COURT: Your objection is overruled. The tapes have been here primarily for the convenience of the defendants. They have called upon them from time to time to have them produced.

MR. BROWN: Only those that are relevant. Many are not.

THE COURT: It has been made apparent how many

tapes were made in the case. Whether downstairs, upstairs, or here, I don't see any significance whatsoever.

MR. BROWN: If they are in evidence, but they are not.

THE COURT: The tapes that are in evidence are marked as exhibits. The fact of the existence of other tapes is also in evidence properly before the Court and jury.

Objection overruled.

MR. PUCCIO: Ladies and gentlemen, you've heard testimony that hundreds and hundreds of tapes were made during the so-called Abscam investigation. You've seen tapes, hours and hours of tapes, that have been heard. You've seen tapes displayed in the courtroom. What is missing?

Well, we hear testimony that three tapes were lost and we hear testimony that 50 seconds or one minute and 50 seconds was missing from another tape. All to suggest to you that somehow something is being kept from you.

We are told for instance that the agent who poured the drinks at the Barclay Hotel was never subpoenaed by the Government when he could have been

subpoenaed by anyone from either side.

Do you believe that Mr. Weinberg, if you deem the absence of those three tapes that were stolen on an airplane, is so important -- do you believe Mr. Weinberg would suggest to the FBI or anyone else that his tapes were stolen on a plane flight when he could have said he never made the recordings?

You had evidence of toll records from Mr. Weinberg's telephone indicating certain calls were not recorded. Doesn't it make sense to you if Mr. Weinberg wished to deceive anybody, couldn't he have gone to an outside phone and made a call that there wouldn't be any record of?

You are told by the absence of this evidence it means something. I submit to you that the absence of these insignificant pieces is meant to distract your attention from the substantial amount of evidence on the critical issue of the tapes that you've seen on the TV and heard through the audio recordings.

Now, you've heard about this conversation that Mr. Weinberg had with a Senator who was not involved in this case. I mentioned it to you this morning. You heard it again. It was played by Mr. Brown during his closing argument.

I ask you to think about that for a moment. You don't know all the facts of that case, you heard very little. But do you believe that Mel Weinberg could get a United States Senator or anyone to do something that he really didn't want to do?

Do you think Mel Weinberg is capable of that? Do you think anyone is capable of that? "Stress the influence you have, Senator, to get contracts." What does that say to you? Does that indicate to you that Mel Weinberg is capable of getting a United States Senator or any other public official to do something that he didn't want to do? This matter wasn't pursued because it's not part of this case.

I submit to you, it's taken out of context but to follow it up a little bit, if the United States Senator walked into a room and told someone he was willing to sell his office, do you think it's Mel Weinberg that got him to do that? Do you think that happens in the real world? Do you think men of power, men of position, men of influence, are going to let Mel Weinberg coach them and tell them what to do? Turn them into actors? Does that make sense to you?

I submit to you, it is ridiculous, ladies and gentlemen, and you saw when you observed Congressman

Myers. Congressman Myers wasn't handed a script. It wasn't a play in which he was portraying a role or playing a part. He said things because he meant them. He said things to get the money. He sold his office for $50,000.

9/2 Very interesting, this is all a play. It's all a stage, all make-believe. And Mr. Johanson tells the FBI that he had many sleepless nights since it all began.

Why couldn't Mr. Johanson, why couldn't Congressman Johanson, sleep, ladies and gentlemen? Why couldn't he sleep? He couldn't sleep because he had sold himself.

MR. DUFFY: Objection.

THE COURT: Overruled.

MR. DUFFY: It's not in evidence. No claim of that here.

THE COURT: Overruled.

MR. PUCCIO: You've heard an argument astonishingly that Mr. Errichetti never received any money. The acting coach himself did it for free. Do you believe that?

What about Mr. Cook? Back at the Criden law firm in Philadelphia, sitting there with Mr. Criden

talking about how it's all split up. Do you think that Mr. Errichetti showed up at the hotel room for nothing?

$15,000. Let it not confuse you, $15,000 coming back. On the tape I played to you this morning, it was explained by Mr. Weinberg,it was a device to get Mr. Errichetti's conversation and find out who else was involved. The undercover people struck a bargain with Mr. Errichetti, pretended to be friendly with Mr. Errichetti, to find out who else was involved. Only the figure was cut from 100 to 50, so there was no 15 coming back.

I won't play it, but if you listen to the tape after the Congressman leaves, you'll hear about the fact there was money that was to come back when the figure was higher.

Mr. Ben-Veniste played to you -- or showed you a picture of Mel Weinberg standing on this screen with a cigar in his mouth. And it is so indicative of what you've heard from the defense counsel. He showed you the scene, pointing you to Mr. Weinberg after the Congressman left the screen with the cash.

In other words, you are to believe what is important is Mel Weinberg with a cigar in his mouth

and what is not important is Congressman Myers stuffing his pockets.

Mr. Weinberg was the recipient of all these gifts. Even if Mr. Weinberg received the gifts, I submit to you the evidence shows he did not. How they have any effect on this case, what the relevance is, escapes me. But Mr. Weinberg, super con man, con man par excellence -- whatever that means -- keeps a $350 oven and gives the FBI three, $6,000 Piaget watches that they didn't even know existed.

MR. BEN-VENISTE: Objection. That is -- there is absolutely no evidence of that.

THE COURT: The jury's recollection will control as to what evidence there is on the point.

MR. PUCCIO: Mr. DiLorenzo. Do you remember Mr. DiLorenzo, the Mayor's chauffeur, testified he was on the scene on August 22, 1979? He had chauffered Mayor Errichetti to the International Inn. He wasn't on duty at this time, he indicated he worked his 30 hours other times of the week. Do you remember him? He was the fellow who couldn't remember. He couldn't remember whether or not he held a package that day. I wonder why?

Well, he tells you that he made all these

deliveries and gifts to Mr. Weinberg in late summer 1979 -- by the way, all of this comes to light, told to the FBI, after the indictment is returned in this case. And it's not told to the FBI or anyone else or the grand jury conducting its investigation -- their testimony is being heard, he tells you at the end of the summer, late summer of 1979, he put three television sets in Mel Weinberg's van.

The only trouble is Mel Weinberg's van, used during the investigation, the records of which Mr. Good identified, was sold in June of that year and therefore the three television sets never went into that van.

Do you remember those three television sets? Those are the three TV sets that Mr. Duffy would have you believe went to agents of the FBI along with Mr. Weinberg, Mr. Brady, and Mr. Amoroso, and Mr. Weinberg each kept a Sony TV delivered at the end of the summer, 1979.

The FBI is accused of misconduct. FBI agents accused of breaking the law. And that's supposed to get you to center on the real issues in this case.

I submit to you, it's nothing but a smoke-screen.

Another smokescreen, the Nopo or Noto incident. Now, Mr. Brown would have you believe that this Nopo incident, this episode with the Mayor of a major city attempting to rip off a businessman, that this incident somehow demonstrates the innocence of Congressman Myers and the others for bribery and conspiracy to commit bribery.

What do we know about this Nopo situation? We know Mr. Cook testified it wasn't until late September or at least the middle of September that he was approached to play Mario Noto or Nopo.

If you recall Mr. Cook's testimony, he never heard about any play-acting in connection with Mr. Myers.

As much as defense counsel would like you to believe Mr. Cook was the actor supreme and said something else, I direct you to the record, Mr. Cook didn't know about any play-acting with Congressman Myers because there was no play-acting. But what Mr. Cook was asked to do was portray an official of the Immigration Service in September, when according to Mr. Cook, September they tried to get an official but couldn't.

You listened to those tapes or recall that

tape that Mr. Brown played. They were talking about an Immigration official during the summer. But Mr. Cook wasn't approached until later on.

What does this all mean? It's brought in to demonstrate to you or get you to believe that Weinberg was in on it. Weinberg was part of this. The better part of an hour of this day has been spent trying to convince you that Weinberg was part of the Nopo episode.

I submit to you that that argument falls on the tapes that Mr. Brown played to you. Now, if Weinberg and Errichetti are conspiring in another crime, that is a ripoff of the businessmen by using a fictitious Immigration official, why when they are having private telephone conversations do they not talk about that? Why does Mr. Errichetti say, Well, -- on the telephone -- I have to go over to the official's office. Weinberg is in on it? He would have said, "What are you, crazy?"

It doesn't make any sense. Mr. Brown said to you that Weinberg was in on it. And there was cross-examination during the trial for I would say a couple of hours ,cross-examination of Mr. Cook, designed to get Mr. Cook to say that Weinberg was in on it. To establish through Mr. Cook that Weinberg was in on it.

And this episode in a series of questions went on and on until it was established beyond any doubt that Weinberg was not in on it.

We played that tape during the Government's case to lay the foundation to rest because it is a smokescreen, ladies and gentlemen.

How can Weinberg be in on it in light of the conversation Mr. Brown played to you tonight? How can Mr. Weinberg be in on it if he told Mr. Criden that he suspected Mayor Errichetti of pulling this deal and Mr. Criden went to Errichetti and told Errichetti and Errichetti and Weinberg have an argument on the telephone, wherein it's absolutely clear that they weren't together on this, and Mr. Errichetti is enraged about the fact -- playing a role.

Would you play that, please? October 3rd.

(Tape played.)

MR. PUCCIO: As you can hear, Weinberg was obviously in on it.

Mr. Brown and I do agree sometimes. He struck me with something he said, struck me as being entirely accurate. Mr. Brown said at one point, referring to the television, the tube is an abomination.

Well, that is certainly true in this case.

Congressman Myers can be the first witness to that. The tube is an abomination. But that camera recorded with punishing accuracy everything that went on. And it was that camera that the Congressman couldn't get around when he testified.

When you're behind the eight ball to the extent that Congressman Myers was after the playing of the tapes, no one can blame him for taking a shot. But I submit to you the shot wasn't even close.

But he said constantly, mindful of the day the Judge would charge the jury, "I intended to do nothing. I intended to do nothing."

State of mind and intention are relevant, as you will learn from the Judge, on certain aspects of this case. Do you really believe the Congressman intended to do nothing but says he would do everything? Was he ever asked to do anything? During the undercover investigation, which extended all the way to February 2nd, it's clear that he was not.

Do you have any doubt, and of course the Judge will charge you it is not necessary that he actually did anything -- do you have any doubt that if he were asked to do something that he would have done it? Do you have any doubt in your minds? Six months later

18

he's asked to go to the Barclay Hotel and he goes up there and spends half the night selling everything under the sun, using his influence, using his office. What did Congressman Myers believe, if you listen to his story and try to analyze it, when he was told on August 22nd, supposedly by Mayor Errichetti, that the Sheik had gone to South America -- what was his state of mind? What would a rational person have concluded, the Sheik had gone to South America and I'm going up to a room to talk about immigration and to promise to introduce a bill for a man who is not coming to the United States?

Do you think he really believed that? Alice in Wonderland. That is the only way to describe his testimony.

Ladies and gentlemen, I think I've covered all that I wanted to cover and really all that time permits. It's gotten quite late. The final word is you, and the evidence is here for you to consider and to draw the inferences that are proper to draw.

But I would like to close by telling you that I also agree with the words of Mr. Duffy when he says the stuff of tragedy is in this room. I mean this very seriously when I tell you there is tragedy in

this room. There is a lot of tragedy. There is tragedy for the citizens of Philadelphia that the Congressman represents. And there is tragedy for the City of Camden, New Jersey that Mayor Errichetti --

MR. BROWN: I object. He's not on trial for any official act. Mr. Errichetti is --

THE COURT: Overruled.

MR. PUCCIO: There is tragedy for the Congress of the United States, in which Mr. Myers sits. And there is tragedy on the screen.

Thank you, Judge.

THE COURT: Thank you, Mr. Puccio.

* * *

# I N D E X

## WITNESSES

none

## E X H I B I T S

| DEFENDANT'S | Description | For Id. | In Evd. |
|---|---|---|---|
| Exhibit A,C ,D,E,F,G,H | docs. | | 3647 |
| Exhibit EE | doc. | | 3643 |

* * * *

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA,

-against-

MICHAEL O. MYERS, ANGELO J. ERRICHETTI, LOUIS C. JOHANSON, HOWARD L. CRIDEN,

Defendants.

----------x

80 CR 00249

United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

August 29, 1980
9:00 o'clock a.m.

B E F O R E :

HONORABLE GEORGE C. PRATT, U.S.D.J.

MICHAEL PICCZZI
OFFICIAL COURT REPORTER

A P P E A R A N C E S :

EDWARD R. KORMAN, ESQ.,
United States Attorney for the
Eastern District of New York

Department of Justice
Strike Force
Brooklyn, New York

BY: THOMAS P. PUCCIO, ESQ.,
LAWRENCE H. SHARF, ESQ., and

Special U.S. Attorneys

Attorneys for the Government

MESSRS. HUNDLEY & CACHERIS, P.C.
1709 New York Avenue, N.W.
Washington, D.C. 20006

BY: PLATO CACHERIS, ESQ., and
LARRY S. GONDELMAN, ESQ., of Counsel

Attorneys for the Defendant Michael O. Myers

BROWN & BROWN, ESQS.,
26 Journal Square
Jersey City, New Jersey

BY: RAYMOND A. BROWN, ESQ., and
HENRY F. FURST, ESQ., of Counsel

Attorneys for the Defendant Angelo J. Errichetti

A P P E A R A N C E S : (Continued)

MESSRS. CARROLL, CREAMER, CARROLL & DUFFY
Suite 326 Three Penn Center Plaza
Philadelphia, PA 19102

BY: JOHN J. DUFFY, ESQ., and
JANE DUFFY

Attorney for the Defendant Louis C. Johanson

MESSRS. MELROD, REDMAN & GARTLAN
1801 K. Street, N.W.
Washington, D.C. 20006

BY: RICHARD BEN-VENISTE, ESQ., and
NEIL I. LEVY, ESQ., of Counsel

Attorneys for the Defendant Howard L. Criden

* * *

4 THE COURT: Good morning, ladies and gentlemen.

5 Since I spoke to you yesterday morning, has

6 anyone talked to you about the case or made any

7 attempt to talk to you about the case? If so, raise

8 your hands.

9 Have any of you talked about the case among

10 yourselves?

11 Have you read or seen anything on television

12 or heard anything on radio outside the courtroom about

13 the case?

14 Very good.

15 We are now at the stage of the trial where you

16 are about to undertake your final function as jurors.

17 Your duty is a serious and important one. In perform-

18 ing it you actively share with me the responsibility

19 of administering justice according to law and the

20 evidence in this case. Your oath as jurors obliges

21 you to discharge this final task in an attitude of

22 complete fairness and impartiality -- and, as was

23 emphasized by me when you were selected as jurors --

24 without bias or prejudice, for or against the Govern-

25 ment or the defendant as parties to this controversy.

You must not permit yourselves to be governed by sympathy, prejudice or public opinion, or any other consideration which is not founded in the evidence and in these instructions on the law. The Government, the defendant, and the public all expect that you will carefully and impartially consider all the evidence in the case, follow the law as stated by me and reach a just verdict, regardless of the consequences.

This case is important to the Government, since the enforcement of the criminal laws is of prime importance to the welfare of the community.

Obviously, it is equally important to the defendants, who are charged with serious crimes and have the right to receive a fundamentally fair trial, and the community has an interest in that, too.

The fact that the Government is a party entitles it to no greater consideration than that accorded to any other party to a litigation.

By the same token, it is entitled to no less consideration.

All parties, the Government and individuals alike, stand as equals before the bar of justice.

In these instructions I shall describe for you first the general principles applicable to all

criminal trials, and the nature of the charges in this case, next the specific rules of law which are applicable to those charges, and finally something about how you should reach a verdict.

First, as to the general principals applicable to all criminal trials.

To begin with, keep in mind that I have no view whatsoever of the guilt or innocence of these defendants. My function now is to instruct you as to the law.

And it is your duty to accept these instructions as to the law and to apply them to the facts as you may find them.

With respect to any fact matter, it is your recollection, and yours alone that governs. Anything that counsel, either for the Government or the defense may have said with respect to matters in evidence -- whether during the trial, in a question, in argument, or in summation -- is not to be substituted for your own recollection of the evidence.

So, too, as to any matter in evidence, anything that I may have said during the trial, or may refer to during the course of these instructions, is not to be taken in place of your recollection.

Your final role in this case is to decide and pass upon the fact issues in the case.

You are the sole and exclusive judges of the facts.

You determine the weight of the evidence; you appraise the credibility of the witnesses; you draw the reasonable inferences from the evidence.

You finally determine the guilt or innocence of these defendants.

The indictment is merely an accusation -- a charge. It is not evidence of the defendants' guilt.

Since the defendants have pleaded "not guilty", the Government has the burden of proving the charges against the defendants beyond a reasonable doubt.

A defendant does not have to prove his innocence. On the contrary, a defendant is presumed to be innocent of the accusations contained in the indictment.

As to each defendant, this presumption of innocence was in his favor at the beginning of the trial; it continued in his favor throughout the entire trial. It is in his favor even as I instruct you now, and it remains in his favor during the course of your deliberations in the jury room.

The presumption of innocence is removed only if and when you are satisfied that the Government has sustained its burden of proving the defendant's guilt beyond a reasonable doubt. If the Government has failed to sustain its burden, then the presumption of innocence alone is sufficient to acquit him.

I have used the term "reasonable doubt." What is a reasonable doubt?

The words almost define themselves -- that there is a doubt founded in reason and arising out of the evidence in the case, or the lack of evidence.

It is a doubt which a reasonable person has after carefully weighing all the evidence.

Reasonable doubt is a doubt which appeals to your reason; to your judgment; to your common sense and your experience.

It is not caprice, whim, speculation, conjecture or suspicion; it is not an excuse to avoid the performance of an unpleasant duty; it is not sympathy for a defendant.

If, after a fair and impartial consideration of all the evidence, you can, candidly and honestly, say you are not satisfied of the guilt of a defendant--that you do not have an abiding conviction of his

guilt --

In sum, if you have such a doubt as would cause you, as prudent persons, to hesitate before acting in matters of importance to yourselves, --

Then you have a reasonable doubt, and in that circumstance it is your duty to acquit.

On the other hand, if after such an impartial and fair consideration of all the evidence, you can, candidly and Honestly, say you do have an abiding conviction of a defendant's guilt -- such a conviction as you would be willing to act upon, in important and weighty matters in the personal affairs of your life, then you have no reasonable doubt, and under such circumstances, it is your duty to convict.

Reasonable doubt does not mean a positive certainty, or beyond all possible doubt.

If that were the rule, few persons, however guilty they might be, would be convicted.

Since it is practically impossible for a person to be absolutely and completely convinced of any controverted fact, the law in a criminal case is that it is sufficient if the guilt of a defendant is established beyond a reasonable doubt -- not beyond all possible doubt.

Nor is it the Government's burden to prove each and every bit of evidence to be true beyond a reasonable doubt. Its burden is to prove beyond a reasonable doubt each and every essential element of the crime charged, and I will say more about the essential elements of these crimes in a moment.

Although reasonable doubt may arise from the failure of the Government to produce evidence, the law does not require the prosecution to call as witnesses all persons who may have been present at any time or place involved in the case, or who may appear to have some knowledge of the matters in issue at this trial. Nor does the law require the prosecution to produce as exhibits all papers and things mentioned in the evidence.

A defendant is not obligated to present evidence in his favor. He had the right to rely on the failure by the Government to prove its case. He may also rely on evidence brought out on cross-examination of witnesses called by the Government. On the other hand, a defendant has the power to subpoena anyone in support of his position if he so chooses, and he may exercise that power, if he chooses.

I have used the term "inference". An inference

is a conclusion which reason and common sense lead you to draw from the facts which have been established by the evidence in the case. Always it is for you the jury to draw whatever inferences may be called for by the evidence.

Evidence may be either direct or circumstantial.

Direct evidence is that which is given of actual or personal knowledge of the fact in question. One, who with his own eyes sees a man fire a gun at another man, and then tells what he saw, has given direct evidence of the shooting.

In the absence of direct evidence, however, reliance is often placed upon circumstantial evidence which does not tend to establish the fact in question directly, but rather does so indirectly by establishing surrounding circumstances from which the fact in question can be inferred.

Thus, if our witness to the shooting had not actually been there to see it, but after hearing a shot, arrived moments later, and saw one man holding a smoking gun and the other lying on the ground, bleeding, his testimony would tend to prove the shooting. But it would be indirect or circumstantial

evidence since it would be evidence of surrounding facts from which the fact in question, the actual shooting, might be inferred.

As a general rule, the law makes no distinction between direct and circumstantial evidence, but simply requires, that, before convicting, the jury be satisfied of a defendant's guilt beyond a reasonable doubt from all the evidence, both direct and circumstantial.

What is the evidence in the case which you may consider? It consists of:

1. Sworn testimony of witnesses regardless of who may have called them;

2. Exhibits received in evidence regardless of who may have produced them;

3. Facts which may have been admitted or stipulated.

What is not evidence?

1. Statements or arguments of counsel in opening, summation or made during the trial are not evidence.

2. Any statements I may have made are not evidence.

3. Any testimony I may have stricken from the

record and told you to disregard is not evidence.

4. Questions to which objection has been sustained are not evidence, and you must not speculate on what the answer might have been had I permitted the answer to be given.

As you noticed, during the trial, objections were made and rulings on evidence given. You should draw no inferences from the comparative frequency of objections of one or the other side or from the comparative record in having objections sustained. Where an objection to a question was sustained, of course you must disregard the question and draw no inferences from its wording about the answer that might have been given. Where an objection was overruled, the evidence then received has no special weight just because it was not unsuccessfully objected to.

A difficult aspect of any jury's duty is to determine the credibility of the witnesses and to weigh their testimony.

You, the jurors, are the sole judges of the credibility of the witnesses. Credibility refers to the believability of their testimony and the weight their testimony deserves.

Your determination of the issue of credibility very largely must depend upon the impression that a witness makes upon you as to whether or not he is telling the truth or giving you an accurate version of what occurred.

When you come into a courtroom and sit in the jury box, while the trial is going on, when you are deliberating in the jury ro om, you have your common sense, your good judgment, and your experience with you.

You decide whether or not a witness was straightforward and truthful; whether the witness attempted to conceal anything; whether the witness had a motive to testify falsely; whether there was any reason why the witness might color his testimony.

In other words, what you try to do, to use the vernacular, is to size a person up just as you would do in any important matter where you were undertaking to determine whether or not a person is truthful, candid and straightforward.

Scrutinize the testimony given, and the circumstances under which each witness testified, and every matter in evidence which tends to show whether the witness was worthy of belief.

Consider each witnes' (1) intelligence; (2) motive and state of mind; (3) demeanor and manner while on the witness stand; (4) the witness' own ability to observe the matters as to which he testifies -- whether he shall impress you as having an accurate recollection of these matters; (5) the relation each witness might bear to either side of the case; (6) the manner in which each witness might be affected by the verdict, and (7) the extent to which, if at all, each witness is either supported or contradicted by other evidence.

If you find that any witness -- and this applies alike to Government and Defense -- wilfully testified falsely as to any material fact, you have a right to reject the testimony of that witness in its entirety, or you may accept that part or portion which you believe to be credible.

The fact that some government witnesses may be government employees does not entitle their testimony to any greater weight or consideration than that afforded to any other witness in the case.

You will evaluate their credibility the same way you do that of any other witness.

The weight of the evidence is not necessarily

determined by the number of witnesses testifying on either side. You should consider all the facts and circumstances in evidence to determine which of the witnesses are worthy of greater credence. You may find that the testimony of a smaller number of witnesses on one side is more credible than the testimony of a greater number of witnesses on the other side.

Inconsistencies or discrepancies within a witness' testimony or between the testimony of different witnesses may or may not cause the jury to discredit such testimony. Two or more persons witnessing an incident or a transaction may see or hear it differently. Innocent misrecollection, like vague recollection, is not an uncommon experience. In weighing the effect of a discrepancy, consider whether it pertains to a matter of importance or unimportant detail and whether the discrepancy results from innocent error or intentional falsehood.

The ultimate question for you to decide in passing upon the credibility of any witness is: Did the witness tell the truth here before you as to essential matters?

A few words about prior statements. This causes some special problems in the law.

Generally speaking, evidence comes to you from the witnesses who testify here in the courtroom. Under some circumstances, however, prior statements which a witness has made may also be admissible.

In this trial there have been many references to statements which various witnesses have made before they testified here. Some of those prior statements have been oral, some were in the form of reports made by government officers, some were written and had been signed by the witnesses, and some had been given under oath in the course of another trial or in grand jury or other proceedings.

Now I must discuss with you what use you may make of such statements, for the proper use of a prior statement may vary with who the witness is, with the particular statement, with its relationship to the witness' testimony, with what the witness says about it, and with the purpose for which it was presented to you.

In the first place, all of a witness' prior statements which you have heard may be weighed and considered by you in evaluating the truth or falsity of what that witness said here in the courtroom -- that is, in determining the credibility of the witness'

testimony.

In evaluating any witness' prior statement, you may take into consideration both the nature of the examination here, and the purpose of the statement on the prior occasion. You may also take into consideration normal variations in retelling an event in order to determine whether the statements are truly inconsistent or merely a difference in describing an occurrence.

If you find an inconsistency it is for you and you alone to determine whether the inconsistency is to a material or immaterial fact, and what effect the inconsistency may have on the witness' credibility.

A witness, however, may be inaccurate, contradictory, or even untruthful in some respects, and yet be entirely credible in the essentials of his testimony.

Now, in addition to helping you determine credibility, some prior statements of a witness may also be considered and weighed by you as substantive evidence in the case. This is permitted by the applicable rules in three circumstances:

1. If the witness acknowledged here that he made the statement and that it was true;

2. If the statement was inconsistent with the witness' trial testimony and was made under oath in a trial, hearing, deposition or other proceeding such as a grand jury proceeding;

3. If the statement was made by a defendant it may be used as substantive evidence against him although not against a codefendant unless you make some specific findings in connection with the conspiracy count which I will discuss later .

Whether a prior statement is consistent or inconsistent is a fact question solely for your determination. You also determine whether a witness' prior failure to disclose information, when the opportunity to do so presented itself, is inconsistent with his present testimony. In making that determination you should consider all the facts and circumstances attendant at the time of making the prior statement or the omission of information.

In summary, with respect to prior statements, all the prior statements you have heard may be considered by you in determining the credibility of the witness who made the statement.

In addition to its use on credibility, however, a prior statement may be given substantive weight:

1. If the witness testified that he made it and it was true.

2. If the statement was inconsistent with the trial testimony and was made under oath as part of another proceeding.

3. If the witness was a defendant.

In the last analysis, of course, it is for you to determine in the light of these and my other instructions what weight you will give to the testimony of each witness.

The day before yesterday I explained to you about expert witnesses, how they differ from other witnesses. I said at the time I would repeat it in my instructions now. It was only a short time ago and I will not repeat it. If any of you feel you want that instruction repeated, you may request it by a note. I will be happy to outline it for you again.

Ellis Cook acknowledged that he had been granted immunity from prosecution in connection with his testimony here.

One who testifies under a grant of immunity with a promise from the Government that he will not be prosecuted is a competent witness. His testimony may be received in evidence and considered by the jury

even though not corroborated or supported by other evidence.

Such testimony, however, should be examined by you with greater care than the testimony of an ordinary witness. You should consider whether the testimony may be colored in such a way as to further the witness's own interest, for a witness who realizes that he may procure his own freedom by incriminating another has a motive to falsify. After such consideration, you may give the testimony of an immunized witness such weight as you feel it deserves.

The testimony of a witness may be discredited or impeached by showing that the witness has been convicted of a felony, that is, of a crime punishable by imprisonment for a term of one year or more. Prior conviction does not render a witness incompetent to testify, but is merely a circumstance which you may consider in determining the credibility of the witness. It is the job of the jury to determine the weight to be given to any prior conviction as impeachment.

Some of the testimony in this case comes from the witness Melvin Weinberg, who after he was arrested and indicted in Pittsburgh agreed to cooperate with the Government and become an informer for the F.B.I.

An informer is somone who provides evidence against a defendant in return for some personal benefit given him by the Government.

Here, you will recall Mr. Weinberg's testimony that in return for his cooperation his sentence was reduced from imprisonment to probation and he has been paid substantial sums of money by the Government.

If informers could never be used, of course, there would be many cases involving real and serious guilt in which convictions would not be obtainable. Their testimony, however, must be received with caution and weighed with care and given such weight as you deem it entitled to receive under all of the circumstances of the entire case.

The law does not prohibit the use of an informer, and whether you approve of their use is not to enter into your consideration of this case. In certain types of crime, the Government, of necessity, is frequently compelled to rely upon the testimony of persons with criminal records, or informers, otherwise, it would be difficult to detect or prosecute some wrongdoers, and this is particularly true in bribery cases.

The law does not compel a defendant in a criminal case to take the witness stand and testify, and no presumption of guilt may be raised, and no inference of any kind may be drawn, from the fact that three of the defendants in this case did not testify. Therefore, the jury should not even discuss the fact that the three defendants did not testify.

The law never imposes upon a defendant in a criminal case the burden or duty of producing any evidence. But a defendant may present himself as a witness, as the defendant Myers did in this case. In that event, the defendant is subject to cross-examination. As you have observed, and his credibility is for you, the jury, to determine, in the same manner as other witnesses.

Obviously, a defendant has a deep personal interest in the result of his prosecution; indeed, it is fair to say he has the greatest interest in its outcome.

Interest creates a motive for false testimony, and a defendant's interest in the result of his trial is of a character possessed by no other witness.

In appraising his credibility, you may consider

that a defendant has a strong motive to lie to protect himself, but you may also consider that he takes a real risk by subjecting himself to cross-examination.

In addition, simply because a person has a vital interest in the end result, it by no means follows that he is not capable of telling a truthful and straightforward story.

It is for you to decide to what extent, if at all, defendant's interest has affected or colored his testimony.

We turn now to the specific charges against these defendants as set forth in the indictment.

Keep in mind that the defendants are on trial only for the crimes alleged in the indictment and for no other crimes.

Thus, we are dealing with the three crimes or counts of the indictment. The first one is conspiracy, the second bribery, and the third instertate travel. Those are loose descriptions for them.

You are free to discuss and decide the issues in any order you choose. But I suggest to you your work might be easier if you would take up first the bribery count, that is, Count Two of the indictment, then the interstate travel count, Count Three, and

finally the conspiracy count, Count One.

For reasons of convenience and helping you to understand the issues, that is the order in which I will discuss these counts.

With each of the charges I will review with you the statute, the indictment, and the essential elements of the crime.

The statute, of course, is the law passed by Congress, that the defendants are charged with violating.

The indictment sets forth the specific crimes of which the defendants are accused.

The essential elements are those factors which must be established beyond a reasonable doubt for a defendant to be guilty of a charged crime. Each of the essential elements of the three crimes I will discuss with you in some detail.

With respect to Count Two of the indictment, each of these counts by the way has an introductory paragraph, and I will give a copy of the indictment to you for your deliberations. There is an introductory paragraph with respect to each of the three counts and that identifies who is who in this case. It describes the defendant Myers as a member of the

United States House of Representatives, representing the First Congressional District of Pennsylvania; the defendant Errichetti as Mayor of Camden, New Jersey, and a member of the State Senate of the State of New Jersey; the defendant Johanson, a member of the City Council of Philadelphia and a member of the law firm of Criden, Johanson, Dolan, Morrissey & Cook; it identifies the defendant Criden as a member of the law firm; Anthony Amoroso, Jr., Ernest Haridopolos, and Michael Wall as special agents of the FBI acting in an undercover capacity, using the names respectively Tony DeVito, Ernie Poulos, and Michael Cohen, who purported to represent foreign business men from the Middle East who were seeking to invest money in the United States and planned to emigrate to the United States. It identifies Mel Weinberg as a private citizen assisting the FBI, who purported to be an employee of the aforesaid foreign business men.

All that is incorporated by reference in Count Two. The body of Count Two is set forth in the second paragraph which I would read to you. This is the bribery count. It reads as follows: On or about and between the 26th day of July, 1979

and the 2nd day of February, 1980, within the Eastern District of New YOrk and elsewhere, the defendant Michael O. Myers, aided and abetted by the defendants Angelo J. Errichetti, Louis C. Johanson and Howard L. Criden, unlawfully, wilfully and knowingly did directly and indirectly corruptly ask, demand, exact, solicit, seek, accept, receive and agree to receive a sum of money from Special Agents Amoroso, Haridopolos and Wall for himself and other persons and entities in return for the defendant Michael O. Myers being influenced in his performance of official acts as a member of Congress, to wit, his decisions and actions in a matter involving immigration, residency and citizenship of foreign nationals, which might at any time be ending or which might by law be brought before the House of Representatives and departments, agencies, and branches of the Government of the United States, and in return for the defendant Michael O. Myers being influenced to commit, aid, in committing, collude in and allow fraud, and to make opportunity for the commission of fraud on the United States.

That is all alleged to be in violation of two sections of Title 18 of the United States Code,

Sections 2 and 201 subdivision (c).

Section 2 covers aiding and abetting. That is a section which involves defendants Errichetti, Johanson, and Criden.

(Continued on next page.)

Now, I'll discuss that section two with you in a moment.

First, however, we must focus upon Section 201(c), the bribery section which the defendant Myers is charged with violating. Now, Section 201(c) provides that:

"Whoever, being a public official, directly or indirectly corruptly asks, demands, exacts, solicits, seeks, accepts, receives or agrees to receive anything of value for himself or for any other person or entity in return for being influenced in his performance of any official acts" shall be guilty of a crime.

To prove the defendant Myers guilty under this charge of Count 2, the Government must establish four essential elements: one, that on August 22, 1979, the defendant Myers received a sum of money; two, that when he did so, he was a public official; three, that he received the money in return for being influenced in his performance of an official act; and four, that he so acted knowingly, wilfully and corruptly. Each of these elements must be established beyond a reasonable doubt. The law never imposes on a

defendant in a criminal case the burden or duty of presenting any evidence or calling any witnesses.

Now, let us discuss each of these essential elements. The first is that on August 22, 1979, the defendant Myers received a sum of money. The Government contends that on August 22, 1979, at the International Inn at Kennedy Airport, the defendant Myers received from FBI Agent Amoroso, posing as Tony DeVito, an envelope containing $50,000. Defendants do not contest this element. It is for you to determine, based on the evidence, whether it has been established beyond a reasonable doubt.

The second essential element is that, at the time he received the money, that is, on August 22, 1979, the defendant Myers was a public official. The statute specifically defines a public official as including a member of Congress. It is not contested that, at the time in question, defendant Myers was a member of the House of Representatives, representing the First Congressional District of Pennsylvania, and was therefore a public official within the meaning of the statute.

The third essential element is that the

defendant Myers received the money in return for being influenced in his performance of an official act. And official act is defined by the statute to be, "Any decision or action on any question, matter, cause, suit, proceeding or controversy which may at anytime be pending or which may by law be brought before any public official in his official capacity, or in his place of trust or profit."

Here, the Government alleges that the official acts were decisions and actions of defendant Myers as a member of Congress in a matter involving immigration, residency and citizenship of foreign nationals which might at some time be pending or which by law may brought before the House of Representatives and departments, agencies and branches of the United States. Specifically, the Government claims that defendant Myers agreed, in return for the money, to assist a "Sheik" -- let me put that in quotation marks -- whom Amoroso claimed to represent in coming to or remaining in this country by introducing into Congress a private immigration bill and by using his influence as a Congressman with officials in

State Department to favorable affect the Sheik's residency status here.

A promise by a Congressman to introduce or support a private immigration bill would be a promise to perform an official act within the meaning of this Federal Bribery Statute. A promise by a Congressman to use the influence of his position and office to affect decisions of departments and agencies of the Government of the United States could also be a promise to perform an official act; and this could include a promise to intervene before the Executive Branch of the Government to facilitate an alien's entry into this country, to stay his deportation, or to procure permanent resident status for him.

Defendants do not deny that defendant Myers said the things that you have seen and heard him say on the video tapes. They contend, however, that he did not intend to be influenced in any official acts for the Sheik , and that he was only pretending to acquiesce in the bargain with Amoroso. The charge of bribery under Section 201(c) focuses directly upon what was defendant Myers' intent when he took the money. Did he intend, when

the time came, to help the Sheik, to introduce a private bill into Congress, to intervene with State Department officials? Or did he merely pretend that he would do so without actually intending to follow through on his promise? This matter of defendant Myers' intent when he took the money is the central issue on this element.

How do you determine what was his intent? Intent is a state of mind and, of course, it is not possible to look directly into a man's mind to see what went on. The only way you have of arriving at the intent of the defendant in this case is for you to take into consideration all the facts and circumstances shown by the evidence, including the video tapes and the other exhibits, and determine from them what was Myers' intent. Thus, a defendant's intent may not be proved directly but maybe inferred from his words, and acts, and from such inferences as may arise from a combination of words and acts, even though anyone of them, taken by itself, might seem unimportant.

Not every payment or contribution received by a Congressman constitute bribery. To violate Section 201(c), the payment received must be

accompanied by a specific intent on the part of the Congressman to be influenced in the manner specified in the indictment. That intent is not supplied merely by the fact that the payment was received with some generalized understanding or expectation of benefit or good will to the donor. In order to establish the offense of bribery, the Government must show that the money was received by Congressman Myers with the intent to pursue a specific course of conduct. The Government is not required, however, to show either that defendant Myers actually carried out his promise or that he performed any acts in an attempt to do so: nor is the Government required to show that the promised official acts would have been acomplished. The promise does not cease to relate to an official act simply because the undercover agent offerring the bribe knows that the subject of the promised legislative action is fictitious and that the promise will not actually be performed.

What the statute focuses upon is the Congressman's actions and the state of mind. Thus, the fact that the Sheik did not exist but was a fictitious person is not material to this case.

It is enough if defendant Myers believed that the Sheik existed and accepted the money in return for being influenced in his future official acts on the Sheik's immigration, residency or citizenship status.

Moreover, in considering the guilt or innocence of a defendant who is accused of bribery, it makes no difference that the object of the bribe itself may be lawful activity. The purpose of the law is to protect the integrity of official acts against the possible temptation to act in other than a proper manner which may result from the payment of money to influence such an official act. While it is not necessary, as I said earlier, for the Government to show that Myers actually carried out the acts which were the subject of his promise, you may, however, consider the absence of any evidence showing that Congressman Myers performed any act to implement the promises charged in the indictment as bearing on the question of whether, when he took the money, he intended to use influence in his performance of official acts.

Similarly, in determining what was defendant Myers' intent when he took the money on August 22,

1979, you may weigh and consider, along with the other evidence in the case, his subsequent words and conduct at the Barclay Hotel on January 24th, and 25, 1980, as recorded on the video tapes, Government's Exhibits 7 and 8. After weighing all these considerations and the evidence in the case, you must determine whether the Government has established beyond a reasonable doubt this third essential element, that defendant Myers took the money in return for being influenced in his performance of an official act.

The fourth essential element is that defendant Myers acted knowingly, wilfully and corruptly. An act is done knowingly when done voluntarily and purposely and not because of mistake , accident, misunderstanding or other innocent reason. An act is done wilfully when done voluntarily and intentionally and in violation of a known legal duty. An act by a public official is done corruptly when done voluntarily and intentionally and with the bad purpose of accomplishing either an unlawful end or result or a lawful end or result by some unlawful means.

The motive to act corruptly ordinarily is

with the hope or expectation of, or in return for, either financial gain or other benefit to one's self or some aid, profit or benefit to another. So, a public official acts corruptly whenever he wilfully solicits or accepts money in return for being influenced in his official action. It does not matter that he intends to turn over all or part of it to others.

In short, on this element, you must determine on all the evidence whether defendant Myers acted knowingly, wilfully and corruptly. In summary, up to this point, in order to determine whether defendant Myers is guilty of violating Section 201(c) under Count 2 of the indictment, you must decide whether the Government has established beyond a reasonable doubt each of the four essential elements; one, that on August 22, 1979, he received a sum of money; two, that when he did so, he was a public official; three, that he received the money in return for being influenced in his performance of an official act; and four, that he so acted knowingly, wilfully and corruptly.

If the Government has established each of these elements beyond a reasonable doubt, you must

find defendant Myers guilty, on Count 2, of receiving a bribe. If you determine that defendant Myers is not guilty of this bribery charge, then you must consider whether defendant Myers is guilty under Count 2 of the crime of receiving a criminal gratuity in violation of Section 201(g).

Now, this is a lesser offense that is included in the charge that is alleged under Count 2; that is, receiving a criminal gratuity is a lesser offense with different elements than receiving a bribe. I will instruct you as to the elements of the crime of receiving a criminal gratuity in a moment, but keep in mind that you are to consider the criminal gratuity charge only if you decide to acquit defendant Myers on the bribery charge. He can be convicted of one crime or the other, not both. You may, of course, decide to acquit defendant Myers on both the bribery and gratuity charges. You should not compromise on the lesser charge because you can't reach an agreement. Unless 12 of you determine that the defendant is guilty of a crime, he cannot be found guilty.

Excuse me just a moment.

(Pause.)

THE COURT: Now, let's talk about this charge of receiving a criminal gratuity. Section 201(g), dealing with receiving gratuities, provides in pertinent part that:

"Whoever, being a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly receives anything of value for himself, for or because of any official act performed or to be performed by him" shall be guilty of a crime.

Now, there are five essential elements that are necessary to establish defendant Myers' guilt of the crime of receiving a criminal gratuity under this Section 201(g). Those five elements are, one, that on August 22, 1979, defendant Myers received a sum of money; two, that at the time, he was a public official; three, that he received the money otherwise than as provided by law for the proper discharge of his official duty; four, that he received the money for or because of an official act to be performed by him; and five, that he so acted knowingly and wilfully. These gratuity elements can be understood perhaps

a little better by comparing them with the elements under the bribery statute that I discussed with you a moment ago.

Now, the first and second elements are the same as those that I discussed with you under the bribery charge and I don't have to repeat those instructions again. The third element here is that defendant Myers received the money, "Otherwise than as provided by law for the proper discharge of his official duty." This element is included in order to make it clear that lawful fees, properly paid to public officials, such as salary, expense reimbursement, filing fees and things of that sort, are not payments forbidden by the statute. There is no suggestion by either side that the $50,000 payment to the defendant Myers was salary, expense money or a fee or other kind of payment authorized by law.

You will recall that under the bribery charge, payment must have been received corruptly. Here, it need only have been a payment not provided by law for the discharge of official duty.

The fourth element is that the defendant Myers received the money for or because of an

official act to be performed by him. The law that prohibits receiving gratuities, as I have said, is called a lesser included offense under the law that prohibits receiving bribes. Its purpose is to prohibit a public official in the course of his official duties from receiving additional compensation as a tip or gratuity for or because of an official act. This requires you to consider why the payment was made and received.

(Continued on next page.)

Charge

From the point of view of Government agents, of course, no official acts were actually expected to be done by defendant Myers. But as I have already explained the fact that the Sheik was a mythical person and that his representatives were Government agents engaged in a sting operation is immaterial to your decision. What you must do, then, is to view what happened from Congressman Myers' point of view, for what you must determine is whether he committed this crime. Thus, you must determine whether this payment was received by Myers because of an official act. This requires you to evaluate his knowledge at the time from his point of view. Was he paid because he was a Congressman? From his point of view, were the matters to which the payment related ones which were within the scope of his official functions as a Congressman? From his point of view, was the payment made because of some official act the Sheik might ask him to perform in the future?

To find a violation on the charge of receiving a bribe, as I instructed you earlier, you must find that a public official had a specific intent to be influenced in the performance of his official

acts.

In order to find a violation on this charge of receiving a gratuity, it is not necessary to find such a specific intent. The Government must prove that the purpose of receiving the payment was to receive an additional reward, gratuity or tip because of an official act performed or to be performed by the Congressman. The payments may be a violation even in the absence of evidence that the giver sought a particular preference or that the receiver specifically intened to give one. Again, it is not necessary under this Section that the Government prove that the payment actually caused or prompted or affected any official act, nor need the Government prove the extent or the manner or exact means by which the official acts might have been done. But the Government must establish beyond a reasonable doubt that the payment was received because defendant Myers was a Congressman and because of some official act to be performed by him in his position as a Congressman.

In addition to promises made by defendant Myers on the tapes to introduce a private immigration bill to the Sheik, if it was to be needed,

and otherwise to assist him in his immigration problems here, defendant Myers also promised to use his influence on the Sheik's behalf in connection with a variety of other matters; the hotel, the Atlantic City casino, port development in Philadelphia, and so forth. These other matters, of course, are State or local, but not Federal matters and, therefore, activity by Myers in connection with them would not be an official act by him as a Congressman. Thus, if you find that the payment was received by Myers because of the local matters and not because of the immigration matter, or if you find it was not because of any of them, then it would not be because of an official act. If, however, you find that the payment was received by Congressman Myers because of a combination of things, including the immigration matter, then you may find that it was because of an official act. The fact that the Federal Immigration matter was combined with other non-federal promises does not prevent the payment from being because of an official act.

In your deliberations, you should first determine the guilt or innocence of defendant Myers

on the charge of violating the law against receiving a bribe. If you find him guilty on that bribery charge, then there is no need for you to consider the lesser included offense, receiving a criminal gratuity. However, if you determine that defendant Myers is not guilty of the bribery charge, then you should go on to consider whether he is guilty or not guilty on the criminal gratuity charge.

Thus far, I have only talked about defendant Myers. Now, let's consider the other three defendants, Angelo Errichetti, Louis Johanson and Howard Criden. As I said before, they come in under Section 2 of the statute, the aiding and abetting section. We'll talk first about Count 2 of the indictment, although this also applies to Count 3.

Since those three gentlemen are not public officials as defined in the statute -- keep in mind that this is a Federal Statute and it defines public officials as Federal Public Officials -- these three cannot be guilty of violating Section 201(c) or 201(g) directly. However, the indictment does charge that defendant Myers was aided and abetted by the other three defendants in doing the

acts that Myers was charged with doing; and aiding and abetting someone else to commit a crime may in itself be a crime.

Thus, if you have found defendant Myers not guilty under Count 2 of both charges, that is, receiving a bribe and receiving a criminal gratuity, then you'd have to find the other three defendants also not guilty. But if you find defendant Myers guilty of either receiving a bribe or receiving a criminal gratuity, then you have to consider the charge against the other three defendants for aiding and abetting Myers criminal conduct.

The aiding and abetting charge is brought under 18 U.S. Code Section 2, which provides in part that:

"Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal."

Where, as in the present case, two or more persons are charged together with the commission of an offense, the Government is not required to prove that one of the defendants alone did all

of the things required to make out the offense. On the contrary, under Section 2 that I just read, all those who aid and abet the commission of an offense or cause anything to be done which, if directly performed, would be an offense, are treated as equally guilty of the crime; that is, they are punishable as principal offenders. Hence, if a person wilfully units his efforts with one or more others to bring about the commission of a crime, he is equally guilty with the others and they with him, provided that he is conscious of the nature of the criminal venture and intentionally associates himself in its furtherance and actively participates in bring about the accomplishment of the criminal venture.

Keep in mind, however, that mere association is not a crime. There is no such thing under our laws as guilt merely by association. The mere presence of a defendant where a crime may have occurred, even coupled with that defendant's knowledge that a crime is being committed, or mere negative acquiscence by a defendant in the criminal conduct of others, even with guilty knowledge, is insufficient to establish his guilt. An aider a

abettor must have some interest in the criminal venture. In order to convict any of the defendants as an aider and abettor, you must be convinced beyond a reasonable doubt that he voluntarily and intentionally participated in the criminal venture in an effort to make it succeed.

You have heard the evidence relating to the participation of the defendants Errichetti, Criden and Johanson in the events of August 22, 1979, and leading up to that day. You must separately evaluate the evidence as to each of them and for each, you must determine whether the Government had established beyond a reasonable doubt that he voluntarily and intentionally participated with Congressman Myers in the receipt of a bribe or criminal gratuity in an effort to make the venture succeed. If so, you will find that defendant guilty. If not, you will find him not guilty.

Now, let's consider Count 3 of the indictment which charges the defendants with violating what is called the Travel Act, 18 U.S. Code Section 1952. Unless you found defendant Myers guilty under Count 2, that is, the receipt of a bribe or receipt of a criminal gratuity, unless you find

him guilty of one or the other of those, you must find all four of the defendants not guilty on this Count 3. If, however, you have found defendant Myers guilty on Count 2, then you must consider each defendant under this Count 3.

Now, Section 1952 of the Code provides in part that:

"Whoever travels in interstate commerce with intent to distribute the proceeds of any unlawful activity, or otherwise to promote or carry on any unlawful activity, and who thereafter distributes the proceeds or promotes or carries on the unlawful activity," is guilty of a crime.

The term, "unlawful activity," in this section is defined and includes a number of things but one of the things that it includes is bribery.

Now, under that Section 1952, as well as under Section 2, which I discussed with you a moment ago, the aiding and abetting section, all four defendants are charged in Court 3 of the indictment as follows:

First, there is the general allegation that identifies the various participants. It is incorporated by reference. Then, part two of Count 3 alleges

Charge

that:

"On or about the 22nd day of August 1979, within the Eastern District of New York and elsewhere, Michael O. Myers, Angelo J. Errichetti, Louis C. Johanson and Howard L. Criden, the defendants, unlawfully, wilfully and knowingly did travel in interstate commerce from the States of New Jersey and Pennsylvania into the Eastern District of New York and did use facilities in interstate commece with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of unlawful activity, said unlawful activity being bribery, in violation of Title 18, United States Code, Section 201, and did theraftor perform and attempt to perform acts to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of said unlawful activity, and to distribute the proceeds of said unlawful activity.

"3. It was a part of said unlawful activity that the defendant Michael O. Myers, aided and abetted by the defendants Angelo J. Errichetti, Louis C. Johanson and Howard L. Criden, would and

did directly and indirectly corruptly ask, demand, exact, solicit, seek, accept, receive and agree to receive a sum of money for himself and other persons and entities in return for the defendant Michael O. Myers being influenced in his performance of official acts as a member of Congress and being influenced to commit and collude in the commission of fraud on the United States."

Now, for a violation of this Travel Act count as charged in the indictment, there are two essential elements that must be established beyond a reasonable doubt. They are, one, that on August 22, 1979, the defendants whom you are considering -- you have to consider each of them separately -- the defendant traveled in interstate commerce; two, that he did so with intent to promote or carry on the unlawful activity of defendant Myers, that is, his receipt either of a bribe or a criminal gratuity; three, that thereafter, that is, after he traveled with the intent, he performed an act either to carry on or promote the unlawful activity, or to distribute its proceeds; and four, that the defendant acted knowingly and wilfully. Again, the Government has

establish each of these elements beyond a reasonable doubt. The law never imposes on a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence.

Now, let us consider each of the elements separately and remember that you must determine them separately for each defendant. The first element is that on August 22, 1979, defendant traveled in interstate commerce. It is charged, and there is evidence that on that date, each of the four defendants traveled from either Pennsylvania or New Jersey to the vicinity of Kennedy Airport in New York State. Such travel would be in interstate commerce, and, if you find it occurred, it would satisfy this element.

The second element is that the defendants' interstate travel was with intent to carry on or promote the unlawful activity of defendant Myers. The unlawful activity referred to is that which is the subject of Count 2 of the indictment; that is, either receiving a bribe or the lesser included offense of receiving a criminal gratuity.

As to the defendant Myers, this second element presents no special problems, since it was

his own unlawful activity in New York that was the basis of the charge. As to the other three defendants, however, you must analyze separately the circumstances of each one's travel to New York on that occasion and determine whether he made the trip with intent to carry on or promote defendant Myers' unlawful activity. You will determine a defendant's intent from all of the evidence which bears on his own knowledge and conduct.

The third element is that, after traveling to New York, the defendant performed an act either to carry on or promote defendant Myers' unlawful activity, or to distribute its proceeds. Under this element, it is necessary that, after traveling to New York, the defendant did some additional act. The additional act may be one which carried on or promoted defendant Myers' unlawful activity of receiving a bribe or a criminal gratuity, or it may be that he received or agreed to receive part of the money that was paid to defendant Myers. You have heard evidence with respect to each defendants' participation in the events of the day, and as to his sharing in the $50,000

12A

gift. It is for you to determine from that evidence whether the Government has established this third element beyond a reasonable doubt.

(Continued on next page.)

The fourth element is that the defendant acted knowingly and wilfully, terms that I earlier defined for you. In the context of this charge, these requirements mean that, when the defendant traveled in interstate commerce, intending to promote Defendant Myers' unlawful activity, and then performed an addition act to that end and shared in the $50,000 payment, did the defendant act voluntarily and intentionally and in violation of a known legal duty? Did he know what he was doing? Did he know that Myers was to receive a payment? Did he act freely and without compulsion? Did he come to New York to participate in the transaction? Did he know that the money he received was part of the payment to Myers and was received by Myers either as a bribe or as a criminal gratuity? For a participating defendant, if the answers to these questions are yes beyond a reasonable doubt, then this fourth element would be satisfied.

In summary of Count three, the Travel Act count, therefore, you must find for each defendant four essential elements before you can find that defendant guilty; one, that on August 22 of 1979 he traveled in interstate commerce; two, that he

did so with intent to promote or carry on the unlawful activity of defendant Myers; three, that thereafter he performed an act either to promote or carry on the unlawful activity or to distribute its proceeds; and four, that he acted knowingly and wilfully.

Now, let's turn to count one of the indictment, the conspiracy count. Again, the first paragraph is the introductory identifying paragraph.

"Paragraph two: On or about and between the 26th day of July, 1979 and the 2nd day of February, 1980, within the Eastern District of New York and elsewhere, Michael O. Myers, Angelo J. Errichetti, Louis C. Johanson and Howard L. Cirden, the defendants, unlawfull, wilfully and knowingly did combine, conspire, confederate and agree together and with each other and with others known and unknown to the grand jury to defraud the United States and agencies and departments thereof of the Government's right,

"a. To the faithful and honest service of the Defendant Myers as a member of Congress in relation to matters before the House of Representatives, performed

free from corruption and fraud and uninfluenced by payments of money and other valuable consideration to himself and others;

"b. To have the official acts of the Defendant Myers as a member of Congress, in attempting to influence decisions of departments and agencies of the United States in relation to matters of immigration and residency, performed free from corruption, fraud and dishonesty, and uninfluenced by considerations of personal advantage and private financial gain to himself and others;

"c. To have the immigration and citizenship laws administered honestly and impartially, free from improper and undue pressure and influence;

"d. To have its officials and employees charged with enforcing the immigration and citizenship laws perform their official duties free from impairment and obstruction by the exercise upon them of corrupt, fraudulent, dishonest, unlawful, improper and undue pressure and influence;

"And did further conspire and agree to commit

an offense against the United States in violation of Title 18, United States Code, Section 201; to wit: The defendants Myers, Errichetti, Johansen and Criden, did conspire and agree together and with others, directly and indirectly corruptly to ask, demand, exact, solicit, seek, accept, receive and agree to receive a sum of money for the defendant Myers and other persons and entities in return for the Defendant Myers being influenced in the performance of official acts and being influenced to commit, aid in committing, collude in and allow fraud, and to make opportunity for the commission of fraud on the United States.

"Paragraph three: It was a part of the conspiracy that the Defendant Angelo J. Errichetti did advise Special Agent Amoroso and Melvin Weinberg that the Defendant Michael O. Myers would assist the aforesaid foreign businessman to enter and remain in the United States in return for a cash payment of $100,000.

"Four: It was further a part of the conspiracy that the defendant Michael O. Myers would agree to assist the foreign businessmen to enter and remain in the United States in return for the

cash payment of $100,000.

"Five, it was further a part of the conspiracy that the defendant Michael O. Myers would give a portion of the aforesaid cash payment to the defendants Angelo J. Errichetti, Louis C. Johanson and Howard L. Criden.

"Six: It was further a part of the conspiracy that the Defendants Michael O. Myers and Angelo J. Errichetti did meet with Special Agent Amorosso and Melvin Weinberg and Defendant Michael O. Myers did receive a cash payment of $50,000 in return for his assurances that he would introduce private immigration bills to enable the foreign businessmen to remain in the United States and would take such other action as would be necessary to achieve that end, including intervention with the Department of State.

"Seven: It was further a part of the conspiracy that the Defendant Michael O. Myers did share the proceeds of the $50,000 payment with the Defendants Angelo J. Errichetti, Louis C. Johanson and Howard L. Criden and another individual known to the grand jury, and that the Defendant Myers did retain $15,000 for his own

use and benefit.

"Eight: It was further a part of the conspiracy that the Defendant Michael O. Myers did subsequently solicit, demand and agree to receive an additional $35,000 from Special Agents Wald and Haridopolos in return for his assistance to the foreign businessmen in the aforesaid immigration matter because the defendant Myers had received $15,000 for his own use and benefit instead of the $50,000 which he had been told by the defendants Angelo J. Errichetti, Louis C. Johanson and Howard L. Criden that he would receive for his own use and benefit.

"In furtherance of the conspiracy and to effect the objects thereof, the Defendants committed the following overt acts, among others, within the Eastern District of New York."

The indictment then lists some twelve overt acts which I'm not going to read to you now, but I will shortly, when I get to that portion of the charge. All of this is alleged to be in violation of Title 18 United States Code Section 371, which provides:

"If two or more persons conspire either to

commit any offense against the United States, or to defraud the United States or any agency thereof in any manner or for any purpose, and one or more of such persons do any acts to effect the object of the conspiracy, each is guilty of the crime."

Thus, in effect, the defendants are charged with conspiracy to commit the crime we have already discussed under count two, having a Congressman receive a bribe or a criminal gratuity. If you have found Defendant Myers not guilty under count two, then you must find all defendants not guilty under count one.

Four essential elements are required to be proved in order to establish the offense of conspiracy charged in the indictment:

1, that the conspiracy described in the indictment was wilfully formed and was existing at or about the time alleged;

2, that the accused -- and you have to evaluate each of the four defendants separately-- that the accused wilfully became a member of the conspiracy;

3, that one of the conspirators thereafter knowingly committed at least one of the overt acts

charged in the indictment at or about the time and place alleged; and four, that such overt act was knowingly done in furtherance of some object or purpose of the conspiracy as charged.

If the jury should find beyond a reasonable doubt from the evidence in the case that existence of the conspiracy charged in the indictment has been proved and that, during the existence of the conspiracy, one of the overt acts alleged was knowingly done by one of the conspirators in furtherance of some object or purpose of the conspiracy, then proof of the conspiracy offense charged is complete and it is complete as to every member found by the jury to have been wilfully a member of the conspiracy at the time the overt act was committed, regardless of which of the conspirators did the overt act.

As I stated before, the burden is always upon the prosecution to prove beyond a reasonable doubt every essential element of the crime charged. The law never imposes on a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence.

Now, let's consider each of the essential

elements in turn.

After the first element, that the conspiracy described in the indictment was wilfully formed and was existing at or about the time alleged, a conspiracy is a combination of two or more persons by concerted action to accomplish some unlawful purpose or to accomplish some lawful purpose by unlawful means; so a conspiracy is a kind of partnership in criminal purposes in which each member becomes the agent of every other member. The gist of the offense is a combination or agreement to disobey or to disregard the law. Mere similarity of conduct among various persons and the fact that they may have associated with each other and may have assembled together and discussed common aims and interests does not necessarily establish proof of the existence of a conspiracy. However, the evidence in the case need not show that the members entered into any express or formal agreements, or that they directly by words spoken or in writing, stated between themselves what their object and purpose was to be, or the details thereof, or the means by which the object or purpose was to be accomplished.

Common sense will tell you that when people undertake to enter into a criminal conspiracy, much is left to unexpressed understanding. Explicit language and words are not required to indicate assent or involvement in a conspiracy.

What the evidence in the case must show beyond a reasonable doubt in order to establish that a conspiracy existed is that the members in some way or manner or through some contrivance positively or tacitly came to a mutual understanding to try to accomplish a common and unlawful plan.

The evidence in the case need not establish that all the manners or methods set forth in the indictment were agreed upon to carry out the alleged conspiracy, nor that all means or methods which were agreed upon were actually used or put into operation, nor that all of the persons charged to have been members of the alleged conspiracy were such. What the evidence in the case must establish beyond a reasonable doubt is that the alleged conspiracy was knowingly formed and that one or more of the means or methods described in the indictment were agreed upon to be used in an effort to effect or accomplish some object of

the conspiracy as charged, and that two or more persons, including one or more of the accused, were knowing members of the conspiracy as charged in the indictment.

As to the time of the conspiracy, it is not essential that the Government establish that the conspiracy began or ended on a specific date.

It is sufficient for this element if you find that in fact, the conspiracy was formed and existed for some time within the period set forth in the indictment; that is, at some time between July 26th, 1979 and February 2, 1980.

As to the essential elements, that the accused wilfully became a member of the conspiracy, one may become a member of a conspiracy without full knowledge of all the details of the conspiracy. A defendant need not know the identities of or the precise number of all of the other members, nor the entire scope of the conspiracy, nor all of the means by which the objects or purpose of the conspiracy were to be accomplished. Each member of the conspiracy may perform separate and distinct acts. There must, however, be agreement by the conspirators on the essential

nature of the plan and on the time of criminal conduct in fact contemplated. On the other hand, a person who has no knowledge of the conspiracy but simply happens to act in a way which furthers some object or purpose of the conspiracy does not thereby become a conspirator. It is necessary, therefore, that the Government prove beyond a reasonable doubt that the particular defendant was aware of the common criminal purpose and was a willing participant with intent to advance the purpose of the conspiracy.

(continued on next page.)

Before the jury may find that a defendant, any other person, has become a member of a conspira the evidence in the case must show beyond a reasonal doubt that the conspiracy was knowingly formed, and that the defendant, or other person who is claimed t have been a member, wilfully participated in the unlawful plan, with the intent to advance or further some object or purpose of the conspiracy.

To act or participate wilfully means to act or participate voluntarily and intentionally, in violation of a known legal duty. So, if a defendant, or any other person, with understanding of the unlawfu character of a plan, knowingly encourages, advises or assists, for the purpose of furthering the undertaking or scheme, he thereby becomes a willful participant -- a conspirator.

One who wilfully joins an existing conspiracy is charged with the same responsibility as if he had been one of the originators or instigators of the conspiracy.

In determining whether a conspiracy existed, the jury should consider the actions and declarations of all of the alleged participants. However, in determining whether a particular defendant was a member

of the conspiracy, if any, the jury should consider only his own acts and statements. He cannot be bound by the acts or declarations of other participants unt it is established that a conspiracy existed, and that he was one of its members.

It is this rule that required many of the limiting instructions during the trial. You will recall that as to many of the conversations and tapes I instructed you that until I gave you further instructions you should consider those statements and actions only against the defendant who made them. Now I want to broaden that instruction. All of such statements may be weighed by you, as I originally instructed, in determining whether that defendant was a member of the conspiracy. If you find beyond a reasonable doubt, however, that a defendant was a member of the conspiracy, then all of his acts and statements made during and in furtherance of the conspiracy may be used and weighed against every other defendant whom you also find to have then been a member of the conspiracy.

Similarly, the acts and statements of the other members could also be weighed against him.

The indictment charges that the four defendants

2 conspired among themselves and with others. Under
3 the evidence you may find that Ellis Cook was also
4 a member of the conspiracy if he meets the standards
5 I have described for you. If you make that finding,
6 then you may also weigh his statements and acts during
7 the conspiracy as binding upon those defendants who
8 were also members at the time.
9 Ordinarily an act done or an admission or
10 incriminatory statement made outside of court, by one
11 person, may not be considered as evidence against any
12 person who was not present and did not hear the state-
13 ment made, or see the act done.
14 However, when it appears beyond a reasonable
15 doubt from the evidence in the case that a conspiracy
16 existed, and that a defendant was one of its members,
17 then the statements thereafter knowingly made and the
18 acts thereafter knowingly done, by any person likewise
19 found to be a member, may be considered by the jury
20 as evidence in the case as to the defendant found to
21 have been a member, even though the statements and
22 acts may have occurred in the absence and without the
23 knowledge of the defendant, provided that such state-
24 ments and acts were knowingly made and done during
25 the continuance of the conspiracy, and in furtherance

of some object or purpose of the conspiracy.

Of course, a statement of a conspirator, which is not in furtherance of the conspiracy, or which is made before its existence, or after its termination, may be considered as evidence only against the person making it. Nor may a statement of one conspirator made after another conspirator has withdrawn from the conspiracy be considered against the withdrawn conspirator.

As to the third element: that one of the conspirators thereafter knowingly committed at least one of the overt acts charged in the indictment, at or about the time and place alleged... the indictment alleges twelve overt acts and I will read them to you.

1. On or about July 29, 1979, the defendant ERRICHETTI told Melvin Weinberg during a telephone conversation between Florida and New Jersey that the defendant MYERS was prepared to meet with Special Agent Amoroso and Weinberg.

2. On or about August 5, 1979, at John F. Kennedy International Airport, within the Eastern District of New York, the defendant ERRICHETTI met with Amoroso and Weinberg and told them that the defendant MYERS would assist the foreign businessmen

in an immigration matter in return for a payment of money.

3. On or about August 7, 1979, in Cherry Hill, New Jersey, the defendants ERICHETTI and CRIDEN had a meeting with Amoroso and Weinberg.

4. On or about August 22, 1979, the defendant CRIDEN travelled by automobile from Philadelphia, Pennsylvania, to John F. Kennedy International Airport accompanied by Michael Criden.

5. On or about August 22, 1979, the defendants MYERS and JOHANSON travelled by automobile from New Jersey to John F. Kennedy International Airport.

6. On or about August 22, 1979, the defendant ERRICHETTI travelled by automobile from New Jersey to John F. Kennedy International Airport accompanied by Joseph DiLorenzo.

7. On or about August 22, 1979, the defendants MYERS, ERRICHETTI, JOHANSON and CRIDEN had a meeting at John F. Kennedy International Airport.

8. On or about August 22, 1979, at the Travelodge International Motel, within the Eastern District of New York, the defendants MYERS and ERRICHETTI had a meeting with Amoroso and Weinberg during which the defendant MYERS received Fifty Thousand Dollars

($50,000.00) in return for being influenced in his performance of official acts in an immigration matter on behalf of the foreign businessmen.

9. On or about August 22, 1979, the defendants ERRICHETTI and CRIDEN had another meeting at John F. Kennedy International Airport, said meeting being different from the meeting referred to in Overt Act 7.

10. On or about August 22, 1979, in Philadelphia, Pennsylvania, the defendants MYERS, JOHANSON and CRIDEN held a meeting at which a portion of the Fifty Thousand Dollars ($50,000.00) was divided among themselves.

11. On or about January 24, 1980, at the Barclay Hotel, Philadelphia, Pennsylvania, the defendants MYERS and CRIDEN had a meeting with Special Agents Wald and Haridopolos during which the defendant MYERS complained of his failure to receive Fifty Thousand Dollars ($50,000.00) for his exclusive use and benefit as a result of the August 22, 1979 meeting, and solicited, demanded and agreed to receive an additional Thirty-Five Thousand Dollars ($35,000.00) in return for his assistance in the immigration matter.

12. On or about January 25, 1980, at the Barclay Hotel, Philadelphia, Pennsylvania, the

defendant MYERS had a meeting with Special Agents Wald and Haridopolos.

Those are the overt acts alleged in the indictment.

It is not essential that the Government prove performance of all twelve of these overt acts. All that is required to satisfy this element of the crime is that the Government prove beyond a reasonable doubt that at least one of them occurred while the conspiracy was in existence. And, as to each defendant found to be a member of the conspiracy, there must be proof that an overt act occurred during the time he was a member.

As to the fourth element: "That such overt act was knowingly done in furtherance of some object or purpose of the conspiracy charged."

An "overt act" is any act that is knowingly committed by one of the conspirators, in an effort to effect or accomplish some object or purpose of the conspiracy. The overt act itself need not be criminal in nature, if considered separately and apart from the conspiracy. It may be as innocent as the act of a man walking across the street, or driving an automobile, or using a telephone. It must, however,

be an act which follows and tends toward accomplishment of the plan or scheme, and must be knowingly done in furtherance of some object or purpose of the conspiracy charged in the indictment.

In your consideration of the evidence in the case, you should first determine whether or not the conspiracy existed, as alleged in the indictment. If you conclude that the conspiracy did exist, you should next separately determine whether or not each of the accused wilfully became a member of the conspiracy, and, if he did, during what time was he a member.

If it appears beyond a reasonable doubt from the evidence in the case that the conspiracy alleged in the indictment was wilfully formed, and that a defendant wilfully became a member of the conspiracy either at its inception or afterwards, and that thereafter, while the defendant was a member, one or more of the conspirators knowingly committed one or more of the overt acts charged in furtherance of some object or purpose of the conspiracy, then there may be a conviction of that defendant even though the conspirators may not have succeeded in accomplishing their common object or purpose, and in fact may have failed of so doing.

Charge of the Court

A defendant's guilt or innocence of the crime of conspiracy is not determined by the extent or degree of his participation. A defendant may be convicted as a conspirator even though he may have played only a minor part in the conspiracy.

You are further instructed, with regard to the alleged conspiracy offense, that proof of other conspiracies involving some of these defendants is not proof of the single conspiracy charged in the indictment. What you must do is determine whether the single conspiracy charged in the indictment existed between two or more conspirators. If you find that no such conspiracy existed, then you must acquit the defendants as to that charge. However, if you are satisfied that such a conspiracy existed, you must determine who were the members of that conspiracy.

If you find that a particular defendant was a member of another consiracy, but not the one charged in the indictment, then you must acquit that defendant on the conspiracy count. In other words, to find a defendant guilty of conspiracy you must find that he was a member of the particular conspiracy charged in the indictment and not some other separate conspiracy.

2 Now, applying these general considerations to
3 the conspiracy charged in Count One of the indictment,
4 you must keep in mind the particular conspiracy with
5 which these defendants are charged. It is to defraud
6 the United States of the faithful and honest service
7 of Congressman Myers and to have him receive money --
8 as a bribe or gratuity -- in connection with certain
9 matters pertaining to the immigration, residency and
10 citizenship of a fictitious Middle Eastern business
11 man.
12 In short, the def endants are charged with a
13 conspiracy relating to Congressman Myers and the
14 immigration, residency and citizenship status of
15 the Sheik. They are not, repeat not, charged here
16 with any conspiracy with respect to: any other
17 Congressmen; any Senators; any hotel projects or
18 zoning problems in Philadelphia; any gambling casino
19 projects in Atlantic City; any port development
20 projects in Philadelphia; any dealings with organized
21 crime unions, or local or state officials, or any
22 other matters.
23 I have permitted you to hear evidence of
24 discussions and meetings pertaining to these other
25 matters, not because they were part of the conspiracy

11

charged here, but only because that evidence might help you determine three certain things:

1. Defendant MYERS' state of mind when he accepted the $50,000 payment. Did he take the money in return for being influenced in immigration and residency problems the Sheik might have in the future? Did he take it because of an official act? Or was he only pretending that he would help the Sheik, without actually intending to do so?

2. Whether there was a common plan or scheme in the actions of Mr. Weinberg that was followed with these defendants.

3. The state of mind of the other three defendants -- ERRICHETTI, JOHANSON and CRIDEN -- from their statements and conduct on such of those other occasions that any of them participated in. You may better be able to determine each of the participants' knowledge and intent with respect to the events charged here -- that is, whether each one acted in this conspiracy knowingly and wilfully.

Of course, with respect to each of those other matters, since they were outside the conspiracy charged in this indictment, you should consider the acts and statements made, to be evidence only against the

defendant who made them.

There are a few more comments I have to give you about limiting instructions. I mentioned them once before. I had given you limiting instructions with respect to the many tapes and conversations that you heard. In evaluating them, you should focus upon who participated, when did it occur, and then looking at the overall picture, who was in the conspiracy at that particular time. And any statements we are talking about of that nature you may weigh only against members of the conspiracy at the time the statements were made. Or against those people who actually made the statements.

You heard tapes and other testimony with respect to events pertaining to Senator Williams. Senator Williams is not prt of this case. That is a separate transaction. It involves some parallels to what happened in the transactions that we are concerned with here. And the evidence there was offered for your consideration on the question of whether or not there was a common plan or scheme in the actions of Mr. Weinberg, so that you can determine whether or not what happened there did happen in the situation here.

2 Thirdly, the statement that was made by the
3 defendant JOHANSON to the FBI agent, that was made
4 after the conspiracy ended. And that statement may
5 be used only in connection with your deliberations
6 on Mr. Johanson. You may not use it against the other
7 defendants.
8 Similarly, the false statement made by the
9 defendant MYERS to Agent McMullen with respect to
10 not knowing the Sheik's representatives, that also
11 was made after the conspiracy was over and you may
12 use that only in connection with weighing the conduct
13 and state of mind of the defendant MYERS and not that
14 of the other defendants.
15 I just want to get this organized here.
16 Now, with respect to the events at the Barclay
17 Hotel on January 24, 25, Mr. Myers, Mr. Criden, and
18 just MYERS on another occasion, you will recall there
19 is some testimony that the defendant ERRICHETTI was
20 out of the MYERS' transaction as of October or November
21 and if you find that to be so, of course, whatever
22 happened at the Barclay Hotel will be after he ceased
23 to be a member of the conspiracy, if you find a
24 conspiracy to have existed, and if you find he was
25 a member of it at an earlier date.

2 You may not weigh the events at the Barclay
3 as bearing against the defendant ERRICHETTI if you
4 find that he was no longer a member of a conspiracy
5 there.
6
7 (Continued on next page.)
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Also, with respect to what happened at the Barkley, that evidence I admitted to assist in determining what was the defendant Myers' state of mind back in August. Was he pretending? Did he take the money in return for being influenced in an official act? Did he take it because of an official act? Did he act knowingly and corruptly? Those are, as I indicated, issues which you must determine.

And you may weigh his conduct and statements in January in determining what his state of mind may have been back in August.

All right, in summary on the conspiracy count, based on the foregoing instructions and all the evidence in the case, you must determine for each defendant whether the Government has established beyond a reasonable doubt: One, that a conspiracy as described in the indictment was wilfully formed; two, that the defendant wilfully became a member; three, that at least one of the overt acts was committed by one of the conspirators while the defendant was a member; four, that the overt act was knowingly done in furtherance of the conspiracy.

Aiding and abetting versus conspiracy

with overt act.

You may have wondered what is the difference between conspiracy under Count 1 and aiding and abetting under Count 2 that I discussed with you. How do you distinguish between a conspiracy to receive a bribe or criminal gratuity as charged in Count 1 and aiding and abetting their commission as charged in Count 2?

The two concepts are indeed similar, but there is an essential difference.

In conspiracy, the essence of the crime is the agreement. Once a person has agreed with another to engage in criminal conduct, and one overt act by any of the conspirators has been committed, then the crime of conspiracy has been committed, even if nothing further is done.

With aiding and abetting, however, it is necessary not only that the substantive crime, that is the receipt of a bribe or a criminal gratuity actually occurred, but also that the aider and abettor do some affirmative act himself in furtherance of the substantive crime. That is, that he assist and actively participate in some way to accomplish the criminal venture.

It is important, ladies and gentlemen, that you focus on the precise issues before you. The defendants are on trial in this case for the three counts in the indictment,

(1) Conspiracy to defraud the United States by agreeing to deprive the Government of the faithful and honest service of Michael O. Myes, and agreeing to receive money as a bribe or as a gratuity.

(2) Receiving money as a bribe or as a gratuity; and

(3) Traveling interstate with the intent to promote and thereafter promoting the unlawful activity of receiving money as a bribe or as a gratuity.

Defendants are not on trial for any other crimes. Their guilt or innocence must be determined solely on the basis of whether the Government has established beyond a reasonable doubt the essential elements of the particular crimes charged.

Nor is the Government, or the FBI, or Melvin Weinberg on trial here. You have heard a great deal of evidence and argument about the

FBI's ABSCAM operation and Mr. Weinberg.

As I explained to you earlier this week you are not to be concerned with whether the prosecution, or the FBI agents or Mr. Weinberg acted or whether the ABSCAM investigation was conducted legally or illegally, properly or improperly. Those are questions which must be decided by me at an appropriate time. But they are not questions which should affect your determination of the facts in this case and the guilt or innocence of the defendants. Your concern must be with what the defendants did or what they thought.

What the FBI agents and Mr. Weinberg did should concern you only to the extent that you find it affected the conduct and state of mind of a defendant or the credibility of any witnesses as to those matters.

You should also keep in mind that a trial is not a popularity contest.

Whether you like or dislike, or approve or disapprove of any of the participants - the attorneys, the defendants, Mr. Weinberg, Mr. DiLorenzo or any other witness -- should not enter

into your evaluation of the evidence, your weighing of the testimony and your determining of the issues. You must fairly and impartially evaluate all the evidence in the case, and determine if the Government has established beyond a reasonable doubt evidence of the essential elements of the crime charged.

You are to draw no unfavorable inference against the defendants or any of them because of because of the fact that they were tried together. You must give separate consideration, and render a separate verdict with respect to each defendant. And each is entitled to have his guilt or innocence determined from his own conduct, and from the evidence which applies to him, as if he were being tried alone. Guilt or innocence is an individual matter, and when you deliberate upon the verdicts in this case, you must determine the guilt or innocence of each defendant separately and individually.

As I have told you, however, unless you find defendant Myers guilty under Count 2, of receiving either a bribe or a gratuity, you may not find him guilty under Count 1 or 3, nor may you

find any other defendant guilty on any of the charges. If you do find the defendant Myers guilty under Count 2, however, then you may find any of the defendants either guilty or not guilty on any and all of the counts in the indictment.

With respect to each crime charged against the defendant, the Government must prove every element of the crime charged beyond a reasonable doubt. If the Government fails as to any element, you must acquit as to that crime.

The fact that one element of the crime may or may not exist has no bearing upon any other element.

If you conclude that one element of the crim has been established, you may not infer solely from the existence of that element the existence of any other element of the crime.

If any element of the crime has not been established beyond a reasonable doubt, your verdict must be "not guilty". On the other hand, you must convict the defendant if each of the elements of the crime has been proved beyond a reasonable doubt.

I have sought not to comment on the evidence

in any detail or to give any impression as to my own view, if I have one, of the relative weight of the evidence. However, if I have done so inadvertently, I ask you to disregard it entirely, because you are the sole judges of the facts.

Under your oath as jurors, you cannot allow a consideration of the sentence which may be imposed upon a defendant, if he is convicted, to enter into your deliberations, or to influence your verdict in any way. In the event of a conviction, the duty of imposing sentence rests soley with me.

In your deliberations, you are not to consider whether you approve or disapprove of the statutes which the defendants are charged with violating. The only question for you to consider is whether the Government has proved beyond a reasonable doubt the essential elements of the crimes as I have explained them.

Now, let us discuss your deliberations -- how you should go about reaching your verdict.

When you retire to the jury room, your first duty will be to elect your foreman or forelady, who will preside over your deliberations.

Charge

During your deliberations, you should assume the attitude of judges of the facts rather than partisans or advocates.

Some of you have kept notes during the trial. You may take those notes with you to the jury room for your deliberations. Of course, just because one juror may have written down a note as to some bit of evidence does not necessarily mean his notation is correct. We all make mistakes in note taking, and in your deliberations you each should weigh carefully your own recollections and notes as well as those of your fellow jurors. When you consider evidence to be found in the exhibits, as a precaution against possible inaccurate note taking, you should check the exhibits themselves in order to be satisfied that they actually show what your notes reflect.

Notes are simply an aid to memory and may not be given any greater weight or influence in the determination of this case than the recollection or impression of other jurors with respect to the facts or the conclusions to be drawn from the facts. Any controversy between such a recollection and a juror's notes should, in any

event, be settled by asking to have the Court Reporter's transcript on the point read back to yo for it is the Court record rather than any juror's notes upon which you must base your determination of the facts and ultimately your verdict.

Your duty is to weigh the evidence in the case, and to determine the guilt or innocence of the defendant solely upon the basis of the evidence and these instructions.

Each of you, as jurors, is entitled to your own opinion, but each of you should exchange views with your fellow jurors.

That is the very purpose of jury deliberation to discuss and to consider the evidence; to listen to the arguments of fellow jorors;

To presnt your individual views;

To consult with one another; and

To reach an agreement based solely and wholly on the evidence, if you can do so without violence to your own individual judgment.

Each of you must decide the case for yourself after consideration with your fellow jurors.

But you should not hestitate to change an opinion which, after discussion with your fellow

jurors, appears to you to be erroneous.

However, if after carefully considering all the evidence, and the arguments of your fellow jurors, you entertain a conscientious view that differs from others, you are not to yield your judgment simply because you are outnumbered.

Your final vote must reflect your conscientious view as to how the issues should be decided.

The charges here are most serious.

A just determination of this case is important to the public;

It is equally important to these defendants.

Under your oath as jurors, you must decide this case without fear or favor, and solely in accordance with the evidence and the law.

If the Government has failed to carry its burden as to a defendant, your sowrn duty is to acquit;

If it has carried its burden as to a defendant, you must not flinch from your sworn duty -- you must convict.

Shortly after you retire to deliberate, I will send into your a copy of the indictment and

each of the exhibits which has been admitted into evidence.

If you wish to have some portion so the testimony repeated, I will call you back into the Courtroom and have it read to you. When the Court Reporters have completed typing up my instructions to you, which probably will be within an hour or so, I will have a copy of my instructions sent to you so that it won't be necessary for you to come out and read it back to you if there is some portion you wish to hear.

With respect to the part about expert witnesses, I did not cover that. If you want that, send out a note and I will take care of that for you.

You must report a verdict as to each defendant on all counts of the indictment. You may find a defendant guilty or not guilty with the exceptions I have given you. You may find a defendant guilty or not guilty on any and all of the counts. A verdict on each count must be unanimous. I have prepared a form of verdict which you may find helpful in keeping track of your verdicts as you reach them. The Marshal

will give it to you along with the indictment and the exhibits.

The Marshal will be available outside the jury room to report when you have reached your verdict or to let me know if there are any questions which you wish to have answered.

When you have arrived at your verdict, ready to report something, tell the Marshal but do not disclose what your verdicts are. I will have the Foreperson announce them orally back in the Court.

Take a short recess during which counsel will review the charge with me to make certain I haven't misspoken or omitted something.

Don't discuss the case.

[The jury left the Courtroom.]

(Continued on next page.)

* * *

* * * *

(The jury thereupon returned to the Courtroom at 11:45 o'clock A.M.)

THE COURT: There are just a couple of things on the charge, ladies and gentlemen. You will recall in connection with the events of the Barclay, I have told you that your consideration of those events should be limited to ascertaining what was the defendant Myers' state of mind back in August.

However, counsel have pointed to me that I also read them to you as overt acts numbers 11 and 12. In view of the limitation that I placed upon their use in evidence, I will strike overt acts numbered 11 and 12 and you should just consider that they are not part of the indictment as overt acts. And you will recall that I told you that with respect to the overt acts it is only necessary that one overt act be established beyond a reasonable doubt and all the other circumstances that related to that, that it has to be an overt act during the time that a particular person was a member. In other words, if your conclusion is that there was a conspiracy and the membership

varied from time to time, in order to find that a particular member of the conspiracy was guilty of conspiracy, you would have to find that there had been an overt act committed during the time that he was a member. Assuming that there was only one overt act and it occurred before someone joined or after he withdrew, then he wouldn't have been guilty of conspiracy. If it occurred while he was a member then he would be. So then the only effect that has on anything that has happened here is when you read the indictment just pretend that overt acts 11 and 12 aren't there. Everything else is the same.

With respect to the expert witness charge I said I was not going to read it to you. What I will do is when I have the written charge sent in to you I will have copies of the transcript of what I said before so that will also be in front of you and itself will be a refrehesher.

There is one other thing. In talking about the various crimes that are charged here I apparently referred on various occasions to when the crime was committed, or the conspiracy began, or this conspiracy had ended, or something happened

after the conspiracy ended. You of course understand that is just a manner of speech. Whether or not any crime is committed is your determination. Whether or not there was a conspiracy is your determination. Every fact in this case is for your determination. And to the extent that I may have spoken as if there were crimes, as if there were conspiracies, and so forth, that is just a means of talking about or getting into a discussion as to the various matters that we had to cover. And it was not in any way to imply that I had made a determination, or there had been a crime committed, or there was a conspiracy, or that any of the facts that I had talked about are actually facts. These are all matters for your decision and for your decision only.

All right. We are now at the stage that I spoke to you about almost three weeks ago. We started with 16 jurors. We are still very fortunate to have all 16 of you ready to go to work. Unfortunately, as I explained at the beginning, only 12 of you are going to have that duty and privilege, which means Barnetta Shefrin, Reginald

Allen, Patricia Langford and Hyman Wattenberg, your services as jurors in this case is at an end.

I told you at the beginning that you should not feel that this in any way -- that your participation in the case is of any less importance than if you were on the deliberating jury. It is just under the rules it is 12 and it is not 16. Your part of this case has been just as important a part as that of any of the other 12 jurors. I want to thank you for the near heroic labors that you have put in here with what I am told is a rather stiff hand. You have put in a lot of work. You have been very attentative. I want to thank you for what you have done. You have made a significant contribution to the case because your presence here has made it possible at this point to have the case reassured of going on to a just conclusion. When the other jurors retire to deliberate you are excused and relieved of all strictures that I have placed upon you.

Now, your oaths sum up your duties, ladies and gentlemen, and that is without fear or favor to anyone you will well and truly try the issues

between these parties according to the evidence given to you here in Court and according to the laws of the United States.

You may now retire to the jury room and begin your deliberations.

(The following occurred at 11:52 o'clock A.M. in open Court.)

THE CLERK: Ladies and gentlemen of the jury, take your pens and pencils with you.

The four alternates, I would like to see you on the side. You can bring me back your pads and pencils.

Now, counsel, I will be out in a minute to collect all of your Exhibits.

(The jury thereupon retired from the Courtroom at 11:53 o'clock A.M. to begin their deliberations.)

* * *

* * *

13 THE COURT: Ladies and gentlemen, I have your
14 notes.
15 Take the second one first, Court's Exhibit
16 21, which says:
17 "Also, we requested a copy of your instructions
18 of this morning two to three hours ago and still
19 have not received them. Receipt of them is
20 imperitive to further our deliberations."
21 I can appreciate your frustration. The delay
22 has been due to the fact that the Court reporters
23 did not get them typed quite as quickly as I had
24 hoped they would be able to. They had them for
25 perhaps 35 minutes. They are being proofread.

I had just this minute finished reading them. There were a couple of changes I had to make, where a typographical error could probably create some problems, which we will correct in longhand for you. There are a few typlgraphical errors which are obviously seen.

One admonition I should give you with respect to the instructions: you should not single out any instruction or find a line here and say that solves the problem. You must consider the instructions as a whole and apply them in the way that I gave them overall.

Now, with respect to Court's Exhibit 20, which is your note about, first, "may we be provided with Court stenographer's transcript of the Ellis Cook testimony."

I answered that to you, saying:

"I cannot send you the trahscript. However, I will have any part or all part of it read to you here in the Courtroom. Please let me know what part or parts you wish to hear."

"Yes! Testimony of August 14th of direct examination of the conversation between Myers and Johanson."

Now, counsel and I have conferred about this, and if I understand your request correctly, it is that you want only the testimony of Ellis Cook on his direct examination, what he said about a conversationbetween Congressman Myers and Mr. Johanson.

We find that at page 1151 of the record.

The question is:

"Then what happened?"

"A Congressman Myers came back in with Mr. Johanson. They introduced me to Congressman Myers and I went back to my own office. I was in Mr. Criden's office at that time. A few minutes later they called me in. Apparently, Congressman Myers had left."

Counsel and I are agreed there is nothing more in the direct testimony of Mr. Cook that pertains to conversations or dealings in the presence of Mr. Cook between Myers and Johanson.

My question to you, is that what you wanted to hear or do you have reference to something else?

THE FOREPERSON: Something else?

THE COURT: If you can tell me what it is, fine. If you want to go back and phrase it for me precisely in a note, you can do that, too.

(Pause)

THE FOREPERSON: Your Honor, the jury has selected me to be foreman.

The conversation that we requested is the one with Congressman Myers and Mr. Johanson in Mr. Johanson's home in Longport prior to the August 22nd meeting.

THE COURT: Was that in the testimony of Congressman Myers?

THE FOREPERSON: It was also in the testimony of Congressman Myers; but we belive we have reference to it in the testimony of Mr. Cook as well.

THE COURT: Is it Mr. Cook's version that you want to hear?

THE FOREPERSON: Yes.

THE COURT: Not Congressman Myers'?

THE FOREPERSON: Yes.

THE COURT: Yes, meaning no, not Congressman Myers'?

THE FOREPERSON: Yes, you are correct. WE want Mr. Cook's and not Mr. Myer's.

THE COURT: All right. I understand what it is you wish to hear. Give me a chance to find it with counsel and we will call you back in when we

1 can locate it, and I will have the charge for you
2 very shortly.
3 THE FOREPERSON: Thank you very much.
4

* * *

THE COURT: Ladies and gentlemen, from the direct testimony of Mr. Cook, page 1135;

"Q Did you have occasion to discuss this matter with Mr. Cridan and Mr. Johanson again?

"A At a later time. And, I would say, within a week or so, Mr. Johanson had indicated he had talked with Congressman Myers and he would be willing to meet with the Sheik or the Sheik's reprseentatives. I don't remember which one it was.

"Q And did Mr. Johanson say anything else?

"A At that point, no, sir."

That's all we can find that fits into the category of what you gave to us. So it's the answer to the question you haveasked.

I don't mean to say you can't hear anything else. You can have the whole thing read back to you, the whole transcript, I suppose if necessary; but I have tried to answer the question that you have asked.

Now, you may have to ask a different question if you are looking for something else. That's all for the moment.

I will have the transcript and the business on the charge sent into you in a minute. You may resume your deliberations.

* * *

10 THE COURT: Ladies and gentlemen, I have
11 your note. It indicates that you have reached
12 a verdict.
13 Would you take the verdict, please?
14 THE CLERK: Yes, your Honor.
15 Madam Forelady, would you please rise?
16 Madam Forelady, ladies and gentlemen of
17 the jury, have you agreed upon a verdict?
18 JUROR NUMBER ONE: Yes, we have.
19 THE CLERK: I refer to the form of verdict.
20 How do you find the defendant Myers on
21 Count One?
22 JUROR NUMBER ONE: Guilty.
23 THE CLERK: How do you find the defendant
24 Errichetti on Count One?
25 JUROR NUMBER ONE: Guilty.

THE CLERK: How do you find the defendant Johanson on Count One?

JUROR NUMBER ONE: Guilty.

THE CLERK: How do you find the defendant Criden on Count One?

JUROR NUMBER ONE: Guilty.

THE CLERK: How do you find the defendant Myers on Count Two?

(Bribery)

JUROR NUMBER ONE: Guilty.

THE CLERK: How do you find the defendant Errichetti on Count Two?

(Bribery.)

JUROR NUMBER ONE: Guilty.

THE CLERK: How do you find the Defendant Johanson on Count Two?

(Bribery.)

JUROR NUMBER ONE: Guilty.

THE CLERK: How do you find the Defendant Criden on Count Two?

(Bribery)

JUROR NUMBER ONE: Guilty.

THE CLERK: How do you find the Defendant Myers on Count Three?

JUROR NUMBER ONE: Guilty.

THE CLERK: How do you find the defendant Errichetti on Count Three?

JUROR NUMBER ONE: Guilty.

THE CLERK: How do you find the Defendant Johanson on Count Three?

JUROR NUMBER ONE: Guilty.

THE CLERK: How do you find the Defendant Criden on Count Three?

JUROR NUMBER ONE: Guilty.

THE CLERK: The Court having received your verdict you the jury say you find the defendants Myers, Errichetti, Johanson and Criden guilty on counts one, two on bribery and count three, so say you all?

JURORS: We do.

THE CLERK: Please be seated. Thank you.

THE COURT: Ladies and gentlemen, that concludes not only three long weeks of work but your obligations in connection with this trial.

Does someone wish to have the jury polled?

MR. DUFFY: Yes.

MR. BROWN: Yes.

THE COURT: Poll the jury.

THE CLERK: Juror number one, is that your verdict?

Starting on this side, Juror Number One, is that your verdict?

JUROR NUMBER ONE: Yes.

THE CLERK: Juror number two, is that your verdict?

JUROR NUMBER TWO: Yes.

THE CLERK: Juror number three, is that your verdict?

JUROR NUMBER THREE: Yes.

THE CLERK: Juror number four, is that your verdict?

JUROR NUMBER FOUR: Yes.

THE CLERK: Juror number five, is that your verdict?

JUROR NUMBER FIVE: Yes.

THE CLERK: Juror number six, is that your verdict?

JUROR NUMBER SIX: Yes.

THE CLERK: Juror number seven, is that your verdict?

JUROR NUMBER SEVEN: Yes.

THE CLERK: Juror number eight, is that

your verdict?

JUROR NUMBER EIGHT: Yes.

THE CLERK: Juror number nine, is that your verdict?

JUROR NUMBER NINE: Yes.

THE CLERK: Juror number ten, is that your verdict?

JUROR NUMBER TEN: Yes.

THE CLERK: Juror number eleven, is that your verdict?

JUROR NUMBER ELEVEN: Yes.

THE CLERK: And juror number twelve, is that your verdict?

JUROR NUMBER TWELVE: Yes.

THE CLERK: Thank you.

* * *

○