

Deffy-cross-Puccio

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. Parst 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 the list here.

Well, there is a total of eight telephone

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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 Right.

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: -- 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

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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? 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

1
2 had.

3 Q You weren't given any of those bills?

4 A No.

5 Q We don't know how many unrecorded calls,
6 if any, were charged to hotels, do we?

7 A No.

8 MR. PUCCIO: No further questions.

9 REDIRECT EXAMINATION

10 BY MR. FURST:

11 Q Mr. Duffy, if a call was for one minute
12 and 59 seconds, what would that be listed as?

13 A A toll would be one minute -- no, the toll
14 call would be two minutes. I'm sorry.

15 Q Did you review the telephone records for
16 the entire year of 1979?

17 A Yes, I did.

18 Q MR. FURST: Thank you.

19 MR. BEN-VENISTE: May I?

20 CROSS EXAMINATION

21 BY MR. BEN-VENISTE:

22 Q Do you know whether the phone companies
23 differs so that a call of two minutes and 59 seconds coming
24 from Florida might be recorded as two minutes by Florida
25 bills?

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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.

Green-direct-Ben-Veniste

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

1
2 sound equipment?

3 A Pictures of something?

4 Q Yes.

5 Photographs.

6 A He said he would -- again, he would have
7 the availability of those things.

8 (Continued on following page.)
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Greene-direct-Ben-Veniste

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

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1 days, February 2nd, within a few days after that, I think I
2 had a telephone conversation with him. And then I don't
3 know whether he came up from down south or what, but I met
4 him in a motel.

5 Q And you discussed the ABSCAM project or the
6 book project?

7 MR. PUCCIO: I object to the form of the
8 question.

9 MR. BEN-VENISTE: Withdrawn.

10 Q Mr. Greene, did there come a time when you had
11 a conversation with John Good of the FBI?

12 A I have had hundreds of conversations with
13 John Good.

14 Q Did there come a time when you had a
15 conversation with Mr. Good in which he told you Mel Weinberg
16 was the heart and soul of the ABSCAM investigation?

17 A At one time, after I had talked with
18 Mr. Weinberg --

19 Q Could you answer yes or no?

20 A I called Mr. Good -- I am answering -- and
21 Mr. Good, I said, Mr. Good -- John, would you do me a favor.
22 I am thinking of doing a book on the guy, can you tell me
23 if the guy is for real with ABSCAM.

24 He said, to those records he was the heart
25

1
2 and soul of the investigation.

3 Q Did Mr. Good also tell you on that occasion
4 without Mel Weinberg there would be no ABSCAM?

5 A Words to that effect. He was really a
6 tremendous part of it.

7 Q Did he also tell you on that occasion that
8 Mr. Weinberg styled ABSCAM and made it come down?

9 A Words to that effect.

10 Q Did Mr. Good tell you that Mr. Weinberg had
11 to create a lure so irresistible that the targets would
12 come to it? .

13 A No, Mr. Good's conversation -- he refused to
14 answer questions. It was two or three lines on Weinberg.
15 Mr. Good did not tell me that.

16 Q Did Mr. Weinberg tell you that?

17 A Right now, I talked to an enormous amount of
18 people before I wrote the proposal. I don't recall
19 Weinberg using words like that.

20 Q Did he tell you that in substance?

21 A Weinberg told me that he was -- and this was
22 after a published report -- that he agreed with the published
23 reports that he was a key person in this and one of the
24 key contact men.

25 Q If you listen to my question I would appreciate

1
2 you answering it.

3 Did Mr. Weinberg tell you in substance that
4 he had to create a lure so irresistible that the targets
5 would come to it?

6 A (No response.)

7 Q Yes or no?

8 A No.

9 Q You are sure of that?

10 A Yes.

11 Q He never said anything like that to you?

12 A No, he doesn't talk in those phrases.

13 Q Is that the substance of what he told you,
14 whether you prettied it up in writing or not?

15 A In discussions for the book, at one point I
16 said I was reading newspapers, they are all screaming
17 entrapment, entrapment, and Weinberg said it was not
18 entrapment, all he did was sit there like the honey pot.

19 MR. BEN-VENISTE: I would ask the witness
20 confine himself to answering questions when he
21 answers, your Honor.

22 THE COURT: He did answer it.

23 Q Mr. Weinberg used the term honey pot?

24 A When I asked him about the entrapment, he said
25 "No, we sat there like a honey pot."

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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

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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

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1
2 one?

3 A I believe that is more enduring, the story
4 of Mel Weinberg's life and who the person is, is more
5 enduring than this particular scandal.

6 Q What are his unique talents that will live
7 long beyond this particular episode?

8 THE COURT: Sustained.

9 A I think --

10 THE COURT: I sustained my own objection,
11 Mr. Greene.

12 Q Can you tell us which agents have agreed,
13 whether they sat down or not, or whatever?

14 MR. PUCCIO: It's been asked and answered.

15 THE COURT: I don't recall that one being
16 asked.

17 Q Which agents?

18 A No, he just said the guys, to my recollection.

19 Q The guys who worked with him?

20 A I said how can we corroborate some of the
21 things you say. He said, "I talked to the guys. They will
22 work with you after the whole thing is over."

23 Q He was referring to the agents that worked
24 with him?

25 A I did not ask him specifically that.

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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?

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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 Pulitzer 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.

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BRUCE EDWARD BRADY, 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: Bruce Edward Brady.

THE CLERK: Please spell your last name.

THE WITNESS: B-r-a-d-y.

THE CLERK: Please be seated.

DIRECT EXAMINATION

BY MR. BEN-VENISTE:

THE COURT: You may proceed, Mr. Ben-Veniste.

MR. BEN-VENISTE: Thank you, your Honor.

Q Mr. Brady, you are an FBI agent?

A Yes.

Q And where were you assigned in the summer of
1979?

A The New York division of the Hauppauge
Resident Agency.

Q Did there come a time when you became involved
in the ABSCAM investigation?

A Yes.

Q And I take it that you know Melvin Weinberg?

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 you 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?

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2 A I believe I asked him once or twice about
3 the photographs.

4 Q What did you ask Mr. Weinberg and what did he
5 tell you?

6 A I would have to paraphrase it but I was down
7 in Florida after February 2nd with him.

8 I asked him did he take any pictures of the
9 town house.

10 Q That is the town house on W Street in
11 Washington that's been referred to in this case?

12 A That's correct.

13 Q And had you received information from some
14 source that he had taken such photographs?

15 A I didn't receive information that he had taken
16 such photographs.

17 The information that I received was to ask
18 him if he took photographs.

19 Q I see.

20 And this conversation took place approximately
21 when between you and Weinberg?

22 A Any time between February 3, 1980 to I
23 believe the end of February.

24 Q Sometime in February.

25 A Right.

1
2 Q Okay.

3 And what did Mr. Weinberg tell you after
4 you asked him whether he had any such photographs?

5 A He stated that he had taken photographs
6 and he reduced a negative, the camera negatives, from like
7 a Kodak or an Instamatic type of film.

8 Q Let me ask you a question.

9 When did he say he had taken the photographs
10 of the W Street town house and the interior thereof?

11 A I didn't ask him that question.

12 Q So you asked him whether he had taken
13 photographs and he said he had and he produced for you a
14 camera that had some film still in the camera?

15 A That's correct.

16 Q Did he attempt to open the camera?

17 A Yes, he did.

18 Q What did you tell him?

19 A I told him he should not advance the film.

20 He was trying to advance the film. And
21 I also told him when you opened it to secure it enough
22 so that the negatives were not exposed.

23 Q Did you have some concern that Mr. Weinberg
24 was trying to expose the film?

25 A I was just taking the proper precautions

because I don't know how to operate a camera.

Q When you 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

1
2 had said that some tapes had been removed from his
3 luggage.

4 Are you familiar with that?

5 A Yes.

6 Q And were you present at the airport on that
7 occasion?

8 A I picked him up on that day.

9 Q And were you present at the luggage retrieval
10 area?

11 A Yes.

12 Q What luggage had been checked on the airplane?

13 A I think there was an overnight bag and there
14 was some sort of a carry bag, a carry valise.

15 Q And what did Mr. Weinberg tell you?

16 A Once again I am just paraphrasing it.

17 Mr. Weinberg didn't say anything at the
18 airport concerning what you are talking about, the tapes.

19 Q When did he tell you that some tapes were
20 removed from the luggage?

21 A We proceeded to the JFK Hilton and Mr.
22 Weinberg likes to smoke his cigars and he went to check
23 for his cigars and at the same time he noticed he lost
24 his cigars.

25 And he says the tapes were stolen.

1
2 Q All right.

3 Where did he tell you that he had placed
4 the tapes?

5 A Inside the briefcase. It was a multi-zippered
6 I should say suitcase.

7 Q And when you say inside did he identify a
8 compartment?

9 A To my recollection I don't think he did.

10 Q And did he say anything about the cigars
11 that were taken?

12 A He was very disappointed that his cigars
13 were stolen.

14 Q How many cigars did he say that was taken?

15 A I think he classified it as a bundle.

16 Q One bundle?

17 A Yes, which was 25 cigars.

18 Q One bundle of 25 cigars.

19 How many tapes did he say were missing?

20 A I believe he said about four or five.

21 Q Four or five he said?

22 A Yes.

23 Q Did you write up a report at that time, sir?

24 A I did not.

25 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 Weinberg?

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?

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A No.

Q Did Joey ever call you 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 the 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?

2 A No.

3 Q Now, you say agent Good -- by the way, he
4 was the boss at Hauppauge, is that correct?

5 A Yes.

6 Q And that is your agency over there?

7 A Yes.

8 Q And when he found out that Mel said some
9 tapes were missing, did he tell you not to do a 302 report
10 on it?

11 A If my recollection is correct, I think he
12 proceeded to all down to a resident agency down in
13 Florida to have them check the airport.

14 Q Would you answer my question, agent Brady,
15 which is, did agent Good tell you not to do a 302 report
16 on the incident with Mel claiming that the tapes were
17 lost?

18 A John Good didn't instruct me either way.

19 Q Well, you were the agent who traveled with
20 him, were you not?

21 A On all occasions?

22 Q No.

23 A I traveled with him now and then, yes.

24 Q And you knew on that occasion that he was
25 claiming some tapes were missing, did you not?

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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 years 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 was up 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 have 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?

1
2 A In March? Yes, he was.

3 MR. BROWN: Thank you.

4 THE COURT: Mr. Puccio, any questions?

5 MR. PUCCIO: Just a couple, Judge.

6 CROSS-EXAMINATION

7 BY MR. PUCCIO:

8 Q Mr. Brady, were you at the Iron House in Cherry
9 Hill on August 7th and 9th, 1979?

10 A In most likelihood I probably was.

11 Q Were you also there September 14th?

12 A I was traveling with special agent Amoroso
13 and Mr. Weinberg extensively at that time so I probably
14 was.

15 Q Would you look at this list and see if it
16 refreshes your recollection as to --

17 MR. PUCCIO: May I approach the witness, sir?

18 THE COURT: Yes.

19 Q -- as to whether or not you were at Cherry
20 Hill in August and September?

21 THE COURT: For the record is the document
22 you have given to the witness the list of tapes?

23 MR. PUCCIO: Yes, your Honor.

24 (Pause.)

25 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 August 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 September?

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.

1
2 Q Were you in charge of actually approving
3 Mr. Weinberg's expenses or was somebody else involved in
4 that?

5 A I was delegated to go over Mr. Weinberg's
6 expenses, and being the accountant and being responsible
7 for monies that were distributed, I did look them over and
8 make a judgment.

9 Q Who made the determination that Weinberg
10 was to be reimbursed for his clothing and his haberdashery?

11 A I would consider that myself and I made
12 my supervisor aware of it.

13 Q So you approved if Weinberg went out and
14 bought a suit that that be considered an expense and you
15 paid him for it?

16 A Providing that I notified my supervisor of
17 what I was going to do.

18 Q So the ultimate decision was Mr. Good's?

19 A Yes.

20 Q And were there other items where you sought
21 Mr. Good's approval before you would pay Mr. Weinberg?

22 A Rather than approval I just made him aware of
23 what I was doing.

24 Q With respect to tax returns, were you aware
25 of the fact that Mr. Weinberg 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,

1
2 you know, things that happen in the office, I became aware
3 of it.

4 Q So I take it there was no indication as far
5 as you know that someone had excused Mr. Weinberg from
6 filing his taxes in 1978?

7 A Definitely not.

8 Q Do you know that he filed any tax returns in
9 1977?

10 A No. I don't know whether he did or he didn't.

11 Q Do you know whether he filed one for '76 or
12 '75?

13 A I don't know one way or another.

14 Q Have you or anybody in the office made any
15 effort to find out --

16 MR. PUCCIO: I object to this, Judge.

17 THE COURT: Sustained.

18 MR. BEN-VENISTE: Nothing further.

19 THE COURT: Any questions for Mr. Brady?

20 (No response.)

21 THE COURT: Thanks, Mr. Brady, you may step down.
22 Next witness.

23 MR. BEN-VENISTE: Your Honor, the next witness
24 will probably go on for a bit.

25 THE COURT: Side bar.

I N D E X

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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

<u>DEPENDANT'S</u>	<u>DESCRIPTION</u>	<u>IDEN.</u>	<u>EVID.</u>
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

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Special Counsel
Allen R. Snyder

Hogan & Hartson
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Washington, D.C. 20006

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. :

80 CR 00249

-----X
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 :

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

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Attorneys for the Defendant Howard L. Criden

* * *

* * *

6 You may proceed. We are on Mr. Ben-Veniste's
7 case.

8 MR. BEN-VENISTE: Yes, your Honor.

9 We would call Agent McCarthy.

10 J O H N M c C A R T H Y, called as a witness,
11 having been first duly sworn by the Clerk
12 of the Court, took the stand and testified
13 as follows:

14 THE CLERK: Please state your full name?

15 THE WITNESS: John McCarthy.

16 THE CLERK: Will you spell your last name
17 for the record.

18 THE WITNESS: M-c C-a-r-t-h-y.

19 THE CLERK: Please be seated.

20 THE COURT: All right, Mr. Ben-Veniste, you
21 may proceed.

22 MR. BEN-VENISTE: Thank you, your Honor.

23 DIRECT EXAMINATION

24 BY MR. BEN-VENISTE:

25 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?

2 A On application of the defendant's attorney,
3 yes sir.

4 Q Right.

5 And what I am asking you is whether at the
6 time that he was sentenced to the three years you understood
7 that he was guaranteed a reduction in that sentence?

8 A Well, the way I recall the incident, Mr.
9 Ben-Veniste, was that we had discussed -- we had discussed
10 with the Judge Mr. Weinberg's possible cooperation with
11 us.

12 He said, if I remember correctly, that he
13 was bound by whatever the probation report recommended.
14 And at that time I think the probation report recommended
15 three years imprisonment. He would take into consideration
16 possibly an application for reduction of sentence perhaps
17 a month later. But at the time he was bound by what was
18 said in the probation report.

19 Q So that as of that date that he sentenced
20 Weinberg to the three years he meant three years?

21 A As far as I know he did, yes sir.

22 Q Nobody told Weinberg he didn't mean three
23 years?

24 MR. PUCCIO: I object.

25 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 hesitate 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.

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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

people involved in the London Investors scheme, did you not?

A Yes, sir.

They were tried in other districts.

Q Who were they?

A I'm not aware of them because most of the United States Attorneys throughout the country deferred in favor of prosecution in the Western District of Pennsylvania.

Q And the only two prosecuted in the Western District of Pennsylvania were Mel and Lady Evelyn Knight?

Is that right?

A Yes, sir.

Q Now, you became aware that Weinberg had run this scam and you got to work with him in the Abdul Enterprises, is that right?

A Yes, sir.

Q Would you characterize Weinberg's role in Abdul Enterprises and his role in what we now call the ABSCAM to be the very heart and soul of the scam?

A That is hard to say, sir.

There were an awful lot of people associated with ABSCAM.

Q Did you have some disagreement with Mel along the way particularly before March 31, 1979?

A Any disagreement at all?

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 lawyer?

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.)

McCarthy

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.

McCarthy-cross-Brown

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
December 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

McCarthy-cross-Brown

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 associated with this Empire, what did you offer to Mayor Errichetti in terms of a transaction to deal with this?

A Basically 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 earnest, 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?

McCarthy-cross-Brown

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 was 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

McCarthy-cross-Brown

1 stayed at the Hyatt House?

2 A Yes.

3 Q That was an incident that involved you and
4 Margo in a particular way, didn't it?

5 A (No response.)

6 Q You were supposed to be checked in the same
7 room?

8 A In the Hyatt House?

9 No, sir.

10 Q Was there a hotel where you and she were
11 supposed to be sharing the same room?

12 MR. PUCCIO: I object to this.

13 MR. BROWN: I want to go into the issues.

14 We can have a side bar.

15 MR. PUCCIO: I will withdraw the objection.

16 THE COURT: All right. You may answer.

17 A At Cherry Hill is that?

18 Q Yes.

19 A There was a suite, yes. A two bedroom suite.

20 Q Where was it that you shared -- at Atlantic
21 City or Cherry Hill -- allegedly shared the suite with
22 Margo?

23 A I never shared a suite with Margo.

24 Q Allegedly, proposed --
25

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?

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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 --

McCarthy-cross-Brown

1
2 A I heard that.

3 Q Who did you hear that from?

4 MR. PUCCIO: Objection.

5 THE COURT: Sustained.

6 MR. BROWN: This is part of it, if I may.

7 THE COURT: He didn't object the first time,
8 the second time he objected. I sustained it as
9 irrelevant.

10 Just because you had one irrelevance in,
11 doesn't let you compound it.

12 MR. BROWN: I would expect to argue --

13 THE COURT: I heard it all at side bar so
14 many times. Objection is sustained.

15 MR. BROWN: Your Honor, you say that I cannot
16 have a side bar?

17 THE COURT: On that point, it is unnecessary.

18 Go on with the case.

19 Q As far as the case is concerned, when you
20 left in March, you were still misrepresenting yourself
21 except you were a lawyer and came from somewhere, everything
22 else was --

23 MR. PUCCIO: Objection.

24 THE COURT: Sustained as to form.

25 Q Was it a part of the design to have Mel

McCarthy-cross-Brown

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 into 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

McCarthy-cross/Duffy

1
2 was discussed?

3 A Sometime in December of '77.

4 Q Can you estimate it in connection with the
5 day he was sentenced? Was it before sentencing or the same
6 day?

7 A The same day.

8 Q That day the probation report suggested or
9 recommended imprisonment, did it not?

10 A I didn't see the probation report.

11 Q But the Judge told you that he followed the
12 report?

13 A He said he was going -- indicated he would
14 follow up the report recommended.

15 Q I think you told the jury that he told you the
16 report recommended incarceration?

17 A I think so, yes.

18 Q What you actually did is that you, or the other
19 fellows in the FBI, went to the probation people and got the
20 report changed; is that correct?

21 A No, sir.

22 Q Are you saying there was no supplemental report
23 filed?

24 A I don't know if there was or not, sir. We
25 never approached the Probation Department at all on that.

McCarthy-cross/Duffy

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

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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 to you?

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?

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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 of the 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.

McCarthy-cross/Duffy

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 in-
correct 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'

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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: 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

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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.)

1
2 THE COURT: Next witness.

3 MR. BEN-VENISTE: Your Honor, I call Mr.
4 Weiss.

5 Your Honor, assisting Mr. Weiss will be
6 Professor Aschkenasy, whom I would like to introduce
7 to the Court. Of course he will not be testifying,
8 but just so everybody knows who he is.

9 MARK ROBERT WEISS, called as a
10 witness, having been first duly sworn by the clerk
11 of the court, took the stand and testified as
12 follows:

13 THE CLERK: Please state your full name for
14 the record.

15 THE WITNESS: Mark Robert Weiss.

16 THE CLERK: Please spell your last name.

17 THE WITNESS: W-e-i-s-s.

18 THE CLERK: Please be seated; CLERK: Please be seated.

19 MR. BROWN: Your Honor, can we exchange seats?

20 THE COURT: Yes, as long as you don't block
21 the jury's view.

22 MR. BROWN: In any special direction?

23 THE COURT: Can you locate yourselves wherever
24 it is comfortable for you as long as you don't inter-
25 fere 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 Acoustical 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 acoustic analysis.

In 1961 I was made a Vice President of Acoustics 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 Government, 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

1
2 to look at the contents inside, (Handing)?

3 A Yes.

4 Q Now, sir, have you seen those tape recordings
5 which were inside the Exhibits before?

6 A Yes, I have. These were among the ones that
7 were to be examined.

8 Q How can you identify them as the ones which
9 you examined, Professor?

10 A Well, my initials and those of Mr. Aschkenasy's
11 are inscribed on the labels of the cassettes.

12 Q Now, will you please tell the jury under what
13 conditions those tape recordings were made available to
14 you?

15 A Yes. They were brought to my laboratory at
16 Queens College by agents of the Federal Bureau of Investiga-
17 tion, on three occasions, in fact, for our analysis.

18 Q And do you see that person here today, sir?

19 A Yes, I do.

20 Q Who is that?

21 A Mr. Donald Ritenour sitting over there.

22 Q Now, were you also provided with tape recorders?

23 A Yes, sir.

24 MR. BEN-VENISTE: May we have the tape recorders
25 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

1
2 I have in mind, I was told that it was believed that this
3 one was the one that was in use at the time the recordings
4 were made, although they were absolutely certain that this
5 was the case, but that in all probability it was.

6 MR. BEN-VENISTE: Now perhaps while we are
7 waiting your Honor, the jurors notebooks could be
8 distributed to them containing the transcripts, and
9 I am particularly concerned with the transcripts for
10 Exhibit 19 and I believe 21 -- no 22. I am sorry.

11 THE COURT: Would you distribute them.

12 MR. BEN-VENISTE: May we have those please,
13 Mr. Puccio.

14 (Documents produced for jury.)

15 Q Now, Professor Weiss, what was the task that
16 was given to you, sir?

17 A Well, we were told to examine --

18 Q Will you please speak into the microphone.

19 A We were told to examine in detail two of
20 the recordings, although we examined a number of others,
21 but particularly to concentrate on two of them on which
22 there were some clicks and audible gaps here in the recording.

23 The question we were asked was what do they
24 represent and how did they get there.

25 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 restarted, 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

1 areas in which a click and gap are audible. The first of
2 these areas, which has a duration of about 1.9 seconds is
3 the result of an over recording on pre-existing recorded
4 material.
5

6 The second of these is the result of a manual
7 stopping and restarting of the recording.

8 By manual I mean that someone during the
9 recording process pressed the switch down to the stop
10 position and then pressed it back up to record and continued.

11 In the case of the July 31st recording made
12 at 5:30 P.M. there was only one such event that occurred,
13 and it occurs quite close to the end of the conversation.
14 And it too is the result of a manual stop and restart of
15 the recording.
16

17 (Continued on next page.)
18
19
20
21
22
23
24
25

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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

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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.

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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.

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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

1
2 in that direction.

3 Now, first let's consider what the effect
4 of the erasing head is. It is divided into two parts.
5 Upper and lower track area.

6 This is done to get two recordings on to a
7 single tape.

8 The recorder head will scrub an area of the
9 tape slightly greater than one half of the tape.

10 When it does that, it does so in the following
11 manner. It is a little too wide here (indicating).

12 It will move along -- I can't move the blackboard
13 easily which I would like to do but instead I am going to
14 move the eraser from right to left. This is representing
15 the head in the machine clearing the tape as it does so
16 in this particular machine. It will leave a distinct line
17 of recording across the tape.

18 This is, of course, invisible on the tape.
19 But there is a line of magnetation.

20 When you start a recording you first turn
21 on the power, of course, through the machine, and that is
22 there is an electrical surge of current that goes through the
23 erasing head. The effect of that is usually to leave a
24 distinct vertical line in the position the head was in
25 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.

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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.

1
2 Q Do you have some photographs as well?

3 A Yes.

4 Q Before we get to the slides, we can use the
5 photographs?

6 A Okay.

7 Q What we have pre-marked as Exhibits V-1
8 through 12, your Honor, are eight by ten photographs prepared
9 by Professor Weiss and Professor Aschkenasy.

10 Is that correct?

11 A This is, in this photograph here, what you
12 see is the result of the tape.

13 THE COURT: Are they being offered in
14 evidence?

15 MR. PUCCIO: No objection.

16 MR. BEN-VENISTE: Yes.

17 THE COURT: V-1 through V-12 received in
18 evidence.

19 (So marked.)

20 A We took a tape, a test recording made using
21 the Lanier machine.

22 Q Speak louder, please.

23 A Yes.

24 We took the tape that we had, placed in the
25 Lanier machi , recorded a section on to it, stopped the

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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

1
2 is darker when the eraser head is there between the stop
3 and start.

4 Again there is an impulse or sharp line
5 representing here the surge of electrical current goes
6 on.

7 Q Can I interrupt what you are showing the jury?

8 A Yes.

9 Q What you are showing the jury are enlargements
10 of the actual tape after they had been dipped in this
11 fluid, is there an analogy to what the jurors may recognize
12 in their own experiences?

13 A I don't know if you ever played the game
14 with magnetic filings that make a pattern. This is done
15 in exactly the same way. You have very fine iron filings
16 and you dip the tape in and you pull it through and there is
17 a little bit of liquid on the tape.

18 As it evaporates it moves through the region
19 where magnetization is on the tape and where they stop is
20 where the magnetization was and they move to those portions
21 more or less according to how strong the recorder is.
22 If the recording is strong, or if it were weak, it would be
23 a weaker line.

24
25 (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

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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.

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MR. BEN-VENISTE: I would ask your Honor what 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?

1
2 A No.

3 Q Professor Weiss, why don't you go ahead
4 and explain.

5 A There is one more I would like to pass to
6 the jury. This is the development of the magnetic image
7 on the record July 29th, 1979, at the point where we
8 detect a very brief, 1.3 second long, overrecord. The
9 recorder was turned off manually and 1.3 seconds later
10 it was started again.

11 The evidence for that is contained in this
12 image here, it shows the point where the recorder was stopped.

13 You will see this track coming up this point
14 and the top line.

15 Then follow that conversation previously
16 recorded becomes audible.

17 Q I think we can defer that so hopefully we
18 can finish before lunch.

19 This is in evidence and the jury will have
20 the opportunity to review it.

21 Has everyone seen those exhibits?

22 (Pause.)

23 Q Professor Weiss, were there other tests
24 also employed other than the magnetic development?

25 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,

1
2 and then you see another large jump further down.

3 This one corresponds to the impulse that
4 went through the recording head at the moment that the
5 power turned off. This one corresponds with the erasing
6 head, provided the erasing head left a strong line at
7 that notation. If it doesn't, it weakens out slowly.

8 You get a little bump. In this machine you
9 will always get this click. The click that you hear at
10 the point of the stop.

11 Q Did you perform an experiment to show what
12 the wave form would look like if the machine were dropped?

13 A Yes, the same thing that we did in the
14 case of the magnetic development.

15 Q Show the jury what the wave form looks like
16 if the machine is dropped?

17 A Yes.

18 Q I thought you would do it on the blackboard.

19 A These are actual pictures. Why don't
20 we see this up? It would be a lot easier.

21 MR. BEN-VENISTE: At your pleasure, I don't
22 know what we will be able to -- I don't know whether
23 we will be able to finish before lunch.

24 I don't think there is that much to go.

25 THE WITNESS: No, I can run it through

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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

1
2 thing you get -- we have to contrast this with what happens
3 when you manually stop the recording.

4 This is a manual stop that restarted. This
5 is a stop and restart (indicating.)

6 In the case of a manual stop what you
7 see is nice clean sharp lines, none of the dense material
8 shown on the other form.

9 Here you have a distance dip up and down
10 wave form for the erasing click. Here is another one
11 (indicating). In this particular event, the erasing
12 did not produce the single line at the end. Just weakened
13 out.

14 This is all the same machine which indicates
15 that it's a variable on the machine. It turned out to be
16 a variable on all the linear machiens we used.

17 On this stop impulse over here, (indicating)
18 we did not always get a strong impulse on this location.
19 Certainly never got that dense material, it sounds like
20 a very brief chirp sound.

21 Q Would you show the difference between a
22 manual stop and a stop which is produced by the machine
23 dropping?

24 A Here is the character observed. It's
25 quite different (indicating.)

1
2 the evidence tapes on the wave form analysis, that the stop
3 pull were the result of manual as opposed to drop stops?

4 A No.

5 The wave form analysis also supports that
6 interpretation.

7 Q Very well.

8 Now, you mentioned a point -- I think we
9 can have the lights back on: have the lights back on.

10 THE WITNESS: Yes.

11 Q You mentioned -- why don't you provide the
12 jury with the information you determined with respect to
13 the number of manual stops in the middle of the conversation
14 on the evidence tapes?

15 A There were two manual stops that we
16 detected.

17 One of them on the July 29th, 1979
18 recording, and one of them on the July 31, 5:30 P.M. recor-
19 ding.

20 Q On the July 29th, do you recall the words
21 at which point the break occurred?

22 A The break on the July 29th, the phrase
23 preceding it is: "That guy Neifeld." I guess it's spelled
24 N-y-f-e-l-d.

25 Q That is a portion we will be able to agree

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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 other stop 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 -- "

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

1
2 button as opposed to an accident?

3 A That is correct.

4 Q With respect to the July 31 conversation,
5 would you indicate the words at the point that the tape
6 was manually stopped?

7 A The words immediately proceeding the stop
8 is: "They're getting five."

9 Q That is at page two of the transcript at
10 the middle of the page. "They're getting five."

11 On the juror's copy, then, there is an
12 inaudible.

13 At that point there is a click?

14 A Yes.

15 MR. BEN-VENISTE: I would ask, your Honor,
16 if the Court has any question of Professor Weiss
17 or if any of the jurors have any questions of
18 Professor Weiss those questions be relayed through
19 the Court to Professor Weiss.

20 THE COURT: That is not the way we proceed.
21 I ask questions if I feel so inclined. The Jury
22 does not ask questions.

23 I have no questions.

24 MR. BEN-VENISTE: Thank you, sir.

25 I have no further questions except to ask

1
2 in summary whether there is any doubt scientifically
3 or otherwise that on the breaks that occurred on
4 these tapes that they were produced by a drop of the
5 machine?

6 A No, these were not produced by that.

7 THE COURT: Mr. Duffy, any questions?

8 MR. DUFFY: One.

9 CROSS EXAMINATION

10 BY MR. DUFFY:

11 Q It may be obvious, Professor, when a machine
12 is intentionally turned off, and then intentionally turned
13 back on, there is no way of telling us there was conversation
14 that was missed or how long it was?

15 A None at all.

16 Q That is all.

17 THE COURT: Mr. Cacheris?

18 MR. CACHERIS: No.

19 THE COURT: Mr. Brown?

20 MR. BROWN: No.

21 MR. BEN-VENISTE: I would like to introduce
22 the xerox copies of the wave form analysis which
23 are marked Exhibits W-1 through W-11.

24 THE COURT: Two of those were shown in
25 transparency form?

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2 MR. BEN-VENISTE: Yes.

3 THE COURT: Any objection?

4 MR. PUCCIO: No objection.

5 THE COURT: Received in evidence.

6 DIRECT EXAMINATION

7 BY MR. BEN-VENISTE: (Continuing)

8 Q May I ask, while you were conducting your
9 analysis of these tapes, did Mr. Ritenour of the FBI observe
10 you at all times?

11 A Yes.

12 Q Did you make available to Mr. Ritenour
13 everything that you were doing in terms of his observation?

14 A Anything he wanted to see.

15 MR. BEN-VENISTE: Thank you.

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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 respect 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

1
2 lasted six minutes four seconds.

3 Q If you start that tape at the very first word
4 that appears in the transcript and shut it off at the end,
5 wouldn't it be fair to say it's six minutes and fifteen
6 seconds?

7 A Six minutes four seconds from the time you
8 heard the first word, hear the telephone receiver hang up,
9 that is the duration of the conversation.

10 Q Did you have occasion to compare the time
11 that you calculated this call took with the final telephone
12 records of the Bell Telephone Company?

13 A No, I had no evidence of that.

14 MR. PUCCIO: May I approach the witness,
15 sir?

16 THE COURT: Yes.

17 Q Let me show you these records which we will
18 mark as -- your Honor, I don't know --

19 MR. BEN-VENISTE: Are you showing the witness
20 something in evidence? Your Honor, is --

21 THE COURT: He is trying to figure out what
22 he will mark it. It's not yet marked.

23 MR. PUCCIO: Judge, can I deem it marked at
24 this point and --

25 THE COURT: 26 is the next number.

1
2 MR. PUCCIO: 26 for identification.

3 Q I direct your attention to this entry.

4 Now, according to th Telephone Company --

5 MR. BEN-VENISTE: Objection. It's referring
6 to something not in evidence, that this witness has
7 not seen, the practice is improper.

8 MR. PUCCIO: Will your Honor accept the
9 records of the Telephone Company which are recognizably
10 authentic --

11 MR. BEN-VENISTE: Objection to the statement
12 of counsel, your Honor.

13 THE COURT: Sustained.

14 Is this one of the record we were talking
15 about yesterday?

16 MR. PUCCIO: Yes, Judge.

17 MR. BEN-VENISTE: If it is in evidence, I have
18 no objection. I don't know what Mr. Puccio has
19 put in front of the witness.

20 MR. PUCCIO: May I just find Defendant's
21 Exhibit U.

22 MR. DUFFY: I object and request it be shown
23 to counsel.

24 THE COURT: A Defense Exhibit?

25 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

1
2 seven minutes.

3 Q Assuming -- well, isn't it a fact the
4 practice of certain phone companies is to --

5 MR. DUFFY: Objection.

6 MR. BEN-VENISTE: Talking about the Bell
7 Telephone Company of South Florida?

8 THE COURT: Mr. Duffy wants to argue his
9 own objection.

10 MR. DUFFY: I heard enough of the question
11 to object because he's asking this witness who is
12 not an expert in telephone billing practice what the
13 practice of the phone company is. He is incompetent --

14 MR. PUCCIO: I will go on.

15 Q I assume you have seen telephone toll records
16 before?

17 A My own personal records.

18 Q Those are the only ones you have seen?

19 A Yes.

20 Q With respect to the second call, that you
21 made reference to, the one on the 31st of July, 1979,
22 how long was that call timed by you?

23 A Again, the conversation from the first word
24 that is audible to the point where they hang up, four minutes,
25 43 seconds.

1
2 Q According to the records of the telephone
3 company, what is recorded as the time of that call?

4 MR. DUFFY: Objection.

5 THE COURT: What grounds?

6 MR. DUFFY: I think he has to tell the witness
7 how many calls are on that bill for that day.

8 THE COURT: If the witness has any trouble --

9 A There is a check mark that has been placed
10 on the record here. I assume that is the one you are
11 referring to?

12 MR. BEN-VENISTE: There are two calls, we
13 will stipulate to the length of both of those calls.

14 Q What are the two calls?

15 In terms of length.

16 A The one with the check mark is six minutes
17 in duration.

18 THE COURT: There is another one the same
19 date?

20 THE WITNESS: Yes, from Camden, New Jersey,
21 shows nine minutes in duration.

22 Q Does the six minute call show the number that
23 was called?

24 A Yes, it does.

25 Q Is that the same number as the nine minute call

Weiss-cross-Puccio

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?

1
2 A We dropped everyone of the tape recorders
3 provided for the test.

4 Q Did you drop each one of them a number of
5 times?

6 A Yes.

7 Q Did you make reference in your direct testimony
8 this morning to everyone of the drops?

9 A No, I illustrated some typical ones.

10 Q Now, is it fair to say that dropping of a
11 tape recorder could have caused a different magnetic pattern
12 than the one you illustrated?

13 A Could have caused a different one?

14 Q Yes.

15 A I am not sure what you mean.

16 Q Could the dropping of a tape cause a different
17 magnetic pattern then you illustrated?

18 A The only thing that might be different if it
19 did not cause a disturbance to occur---

20 Q It could have been a break or stop that would
21 have caused a different magnetic pattern depending on the
22 floor that the recorder was dropped on?

23 A I am not quite sure what you are referring
24 to.

25 Q Wasn't the type of service that the recorder

1
2 was dropped on -- wouldn't that have some effect on the
3 pattern shown on the screen?

4 A It might have a slight effect.

5 Q Did you drop these recorders on various
6 different surfaces?

7 A I did.
8
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10 (Continued on next page.)
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2 CONTINUED CROSS EXAMINATION

3 BY MR. PUCCIO:

4 Q What kind of surfaces did you drop them on?

5 A Three. The first was on to a quilt, a thin
6 one that was on an asphalt tile floor. The second one on
7 a piece of indoor-outdoor carpet and the third was on to
8 a thicker piece of outdoor carpeting. We had acquired
9 two samples.

10 Q Isn't it a fact that even if the tape
11 recorder were dropped, the drop could be totally uneventful
12 insofar as the magnetic display is concerned?

13 A We saw no examples of that.

14 Q Every time you drop a recorder, it's going
15 to show up somewhere?

16 A Those recorders, yes.

17 Q Now, you were advised that not all the
18 tapes used were brand new tapes, isn't that correct?

19 A I'm not sure.

20 MR. BEN-VENISTE: I object. Obviously they
21 were not brand new at the time analyzed.

22 Q With respect to the tape of 7/29, it
23 became - - it was quite apparent to you that that tape
24 had been used over, is that right?

25 A No, it's not at all right.

1 Weiss - cross - Puccio

2 Q Didn't that tape - - were you advised that
3 some of the tapes used had been recorded on before the
4 recording appeared which you examined?

5 A MR. BEN-VENISTE: I object to the form of
6 the question, and it's contrary to the testimony
7 of the witness who made the tape recording.

8 THE COURT: Overruled.

9 You may answer.

10 A The only thing I - - The only thing I was
11 told to my recollection, is that the witness obtained
12 those recordings, those tapes himself, that occasion he
13 was provided those tapes by the F.B.I. but those
14 particular ones he obtained himself as to whether they
15 had been previously used or not, no one knew.

16 MR. PUCCIO: I don't think I have anything
17 else.

18 REDIRECT EXAMINATION

19 BY MR. BEN-VENISTE:

20 Q I would like to hand out to the jurors
21 Exhibit T17 Your Honor, which is from the July 29th
22 conversation. It's at Page 3. This was a page that had
23 not been provided originally to the jurors. There is an
24 indication on the exhibit where the break in the conversation
25 occurs. May I, Your Honor?

1 Weiss - redirect - Ben-Veniste

2 THE COURT: Yes. T17 was received in
3 evidence.

4 MR. BEN-VENISTE: I will hand this up to
5 the court, a copy of -

6 MR. PUCCIO: Your Honor, I don't have any
7 more questions.

8 Q Professor Weiss, with respect to the
9 questions Mr. Puccio addressed to you concerning the time,
10 the duration of the two tapes, one was 6.04 seconds.

11 A 6 minutes, 4 seconds.

12 Q 6 minutes, 4 seconds, and the billing on that
13 was seven minutes.

14 In terms of what is possible, and assuming
15 that the Phone Company billing is correct, if the Phone
16 Company gives the consumer the benefit of the doubt,
17 how much conversation could be missing - -

18 MR. PUCCIO: Your Honor, I thought - -
19 Well, I object. The professor has no knowledge of
20 such matters. If he claims he now has knowledge.

21 THE COURT: The question is whether he can
22 add or subtract. Do we need a professor for that?

23 MR. BEN-VENISTE: I don't trust my own
24 abilities in that regard, Your Honor.

25 THE WITNESS: Well, it depends on what you

1 Weiss - redirect Ben-Veniste

2 mean by the benefit.

3 Q Well, there is a bill for seven minutes.

4 Suppose the phone company gave the consumer
5 credit for a bill that A, a conversation of seven minutes
6 and 59 seconds and they said let's call that seven minutes.

7 A In that case, you would have close to two
8 minutes.

9 Q With respect to the July 31 conversation,
10 which was clocked by you at four minutes and 43 seconds
11 and was billed at, let's take for sake of argument, six
12 minutes.

13 A Well, then there would be a minute and a
14 quarter.

15 Q And that would be, at the outside?

16 A You said six minutes is what the billing was.
17 That would be two minutes 17 seconds.

18 Q It would be one minute?

19 A One and a quarter or two and a quarter
20 minutes, roughly.

21 Q Well, in terms of the length of speech,
22 if a conversation, I take it you're familiar with speech
23 patterns?

24 A Yes, sir.

25 Q A conversation such as uttering words, it's

Weiss - redirect - Ben-Veniste

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 carpeting 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,

Weiss - redirect - Ben Veniste

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.

Weiss - cross - Duffy

Q Who told you that?

A Mr. Ritenour.

Q From the F.B.I.?

A Yes.

Q He said 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.

Ritenour - direct - Ben-Veniste

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

Ritenour direct Ben-Veniste

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

Ritenour - direct - Ben-Veniste

he used the recorder in making the report.

Q Did he tell you how the machinery 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 specifically 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 specifically 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?

1 Ritenour - direct - Ben-Veniste

2 A No, he didn't.

3 Q Did he tell you that he had reused tapes
4 in connection with these specific instances?

5 A He told me that if it was other than a
6 Maxell or Ampex Tape, that it may have been a previously
7 used tape and he stated that in one instance, he specifically
8 recalls placing the recorder in the record mode to allow it
9 to operate to erase whatever he had previously had on the
10 tape -

11 Q Now, does that information throw any light at
12 all on whether the machine was dropped or manually stopped?

13 A As far as the stop transients that are
14 observed on the two tapes, it allows the possibility of
15 them having stopped by falling off the table or a means
16 other than manual operation.

17 Q Because they are re-recorded?

18 A The re-recording - -

19 Q That has nothing to do with it, does it?

20 A No, this refers to the 7/29 events.

21 Q I'm only talking about the re-recording,
22 sir, so that we understand it, as it effects whether the,
23 machine was dropped or not dropped?

24 A It has absolutely no effect on it.

25 MR. BEN-VENISTE: I have no further questions.

THE COURT: Mr. Duffy?

MR. DUFFY: Mr. Ben-Veniste reminds me that Mr. Puccio went 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

Ritenour -cross Duffy

particularly sit in a chair beside the table, of the recorder placed on the table, with the with an induction coil plugged into the recorder, into the microphone input, the other end being attached to the receiver of the telephone. And that he would frequently lean back in his chair while he was talking or sometimes would lean forward and cross the cord going from the earpiece to the recorder while he was talking on the phone, he made notes, causing the recorder to turn over on the table or turn over on the table and fall on the floor, which sometimes resulted in the cord coming out. He stated that he did not know if the recorder stopped, that he would simply pick the recorder up, place the plug or the jack or the induction coil back into the microphone input and activate the record button to make sure that the unit was continuing to operate.

Q Now, you're the F.B.I.'s expert, are you not, audio - -

A I am an expert of the F.B.I.

Q You testify in court about tapes and their verity and their integrity, do you not?

A That's correct.

Q You were present when Professor Weiss was conducting the test that he testified to this morning, were

Ritenour cross - Duffy

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, isn't 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 tape 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

Ritenour - cross - Duffy

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

Ritenour - cross Duffy

1 talking about your conversation with Ben-Veniste and
2 Duffy.
3

4 Do you remember us telling you in Mr. Puccio's
5 office in front of Mr. Puccio and in front of Mr. Sharf,
6 that we wanted the tapes examined to dispute Weinberg's
7 claim that he dropped the recorders when the tapes were on?

8 Do you remember us telling you that?

9 A I don't remember that specific claim.

10 Q Do you deny that we told you that?

11 A I don't recall it.

12 Q But while these experts were making your
13 examination, you got in daily huddles with Mel Weinberg,
14 isn't that true, to tell him what was going on?

15 A No.

16 MR. DUFFY: That's all.

17 THE COURT: Mr. Cacheris? Mr. Brown?

18 MR. BROWN: Yes.

19 CROSS EXAMINATION

20 BY MR. BROWN:

21 Q Did I understand you to say that Mel Weinberg
22 told you that when he played the recordings, you took
23 notes?

24 A He said that occasionally he would make
25 notes. He didn't say that he made notes when he made the

Ritenour - cross Brown

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, isn't 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 log, 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

Ritanour - redirect - Puccio

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.

1 He then used the four recorders, four of the recorders
2 which were still operative, using the telephone induction
3 pickup with the angular jack. He slid them off to the
4 floor, at least once on to each carpet sample so we now
5 have an additional series of tests that were conducted.
6 So from the tapping on the table, we went to dropping,
7 dropping on the floor.
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Ritenour-cross-Puccio

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

Ritenour-redirect-Ben-Veniste

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

Ritenour-redirect-Ben-Veniste

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

Ritenour-redirect-Ben-Veniste

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?

Ritenour-redirect-Ben-Veniste

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?

Ritenour-redirect-Ben-Veniste

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.)

1
2 Q Ever?

3 A Ever? None.

4 Q How many tests have you done to determine
5 what happened on dropped recorders?

6 A I haven't done any.

7 Q You didn't do any in this case?

8 MR. PUCCIO: That has been asked and answered.

9 MR. DUFFY: Not by me, Judge.

10 THE COURT: It's argumentative. Isn't it?

11 MR. DUFFY: Yes, sir.

12 Q Back to Tab A, if the Professor records his
13 daughter in concert, if he ever gets there, on Tab A, Side
14 A of a brand new cassette -- do you follow me?

15 A Yes.

16 Q Then he removed Tab A so that that music
17 is preserved?

18 A Yes.

19 Q Then he goes into the second movement where
20 she made a mistake and he wants to erase that part, what
21 does he have to do to get the cassette back in the machine
22 to go through that first four or five minutes and get to the
23 part he wants to erase? Doesn't he have to replace Tab A?

24 A Not to play the tap, forward it to the place.

25 Q When he wants to get -- doesn't he have to

1
2 replace the --

3 A He has to block the hole.

4 Q Replace it with something, a bobbypin, paper
5 clip, scotch tape?

6 A Something, but not within that realm.

7 Q He plugs that hole left by the removal of
8 Tab A and now he is able to erase?

9 A Yes.

10 Q From the point he commences his erasure, he
11 can record without disturbing what goes before?

12 A That is correct.

13 Q Let's parley that into a conversation, if I
14 talk to you on the telephone, and I have a conversation that
15 leads into an area I don't want to perpetuate, but I
16 record the whole conversation and I remove Tab A to preserve
17 it, and later determine that when we come to the part where
18 we are talking about play acting, I want to take that out,
19 can I plug Tab A again and erase from that portion on?

20 A You can, yes.

21 Q Then couldn't I get back on the telephone
22 and record right over it?

23 A (No response.)

24 Q In another call of six minutes, versus nine
25 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. GARY BOUTWELL, 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.

Boutwell-direct-Ben-Veniste

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

Boutwell-direct-Ben-Veniste

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.

Boutwell-direct-Ben-Veniste

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.)

Boutwell-cross-Duffy

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

Boutwell-cross-Duffy

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 Happhaug didn't go to bat for Mel Weinberg or don't you know?

A I can't answer that in that form. 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?

1
2 A Yes.

3 Q How about Mr. Good, John Good?

4 A Myron Fuller --

5 Q How about Mr. Good?

6 A I had no personal contact with Mr. Good.

7 Q You are aware he wrote a letter?

8 A I understand there was a letter.

9 Q This occurred after the Judge refused to put
10 him on probation and sentenced him to jail?

11 A I don't know the time period. I was not
12 involved in that.

13 MR. DUFFY: That is all.

14 THE COURT: Mr. Cacheris?

15 MR. CACHERIS: No.

16 THE COURT: Mr. Brown?

17 MR. BROWN: No.

18 THE COURT: Mr. Puccio?

19 MR. PUCCIO: Nothing, your Honor.

20 THE COURT: Thank you, you may step down.

21 Next witness.

22 MR. BEN-VENISTE: John Good, your Honor.

23 J O H N G O O D, called as a witness, having
24 been first duly sworn by the Clerk of the Court
25 and testified as follows:

Good

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? ~~Supervised him.~~

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

1 during transit and cigars and three or four tapes were missing.

2 Q That his bags were broken into?

3 A Bag.

4 Q And three or four tapes were missing and
5 cigars were missing?

6 A Yes.

7 Q Did he say how many cigars?

8 A Not to my recollection.

9 Q Did he say how many bags were broken into?

10 A One of his bags.

11 Q Did he say where he had placed the cigars
12 and the tapes which were missing?

13 A I don't recall where he said they were
14 placed at that time.

15 Q And was it a matter of concern to you?

16 A Yes, it was.

17 Q These tapes were presumably Abscam tapes?

18 A That is correct.

19 Q It was a serious matter, is that correct?

20 A That is correct.

21 Q This Abscam investigation was still going
22 on in January?

23 A That's right.

24 Q And did you write up a report, Agent Good,
25

1
2 with respect to this event?

3 A No, I did not.

4 Q Did you specifically direct that someone
5 write up a report regarding this event?

6 A No, I did not.

7 Q Was it your decision not to have a report
8 written?

9 A No, it was not.

10 Q And whose decision was it?

11 A There was no decision one way or the other.
12 I made several phone calls in connection with the theft.

13 Q Are you suggesting that you, as supervisor
14 of this investigation, did not make a decision with respect
15 to the writing of a report concerning this missing tape
16 episode?

17 A I took waht action I deemed necessary at
18 the time.

19 Q It was your decision that a report not be
20 written, is that fair to say?

21 A That is correct.

22 Q You say three or four tapes, is that what
23 Mr. Weinberg told you?

24 A Yes, that is correct.

25 Q Or is that just your recollection?

1
2 A That is what he said was his best recollection
3 of what was missing at the time.

4 Q And you were present when Agent Brady testified
5 in the Court?

6 A Yes.

7 Q He testified that Mr. Weinberg said four or
8 five tapes, do you recall that?

9 A I do.

10 Q Is he wrong?

11 A I recall Mr. Weinberg telling me it was three
12 or four tapes.

13 He wasn't absolutely sure of the number.

14 Q Do you remember Agent Brady testified
15 that Mr. Weinberg testified he lost one bundle of cigars?

16 A Yes.

17 Q Do you recall Mr. Weinberg testifying he
18 lost two bundles of cigars?

19 A Yes.

20 Q What do you recall?

21 A That he lost cigars.

22 Q Didn't say how many?

23 A No, he didn't.

24 Q Did he have any other tapes to produce to
25 you on the 23rd?

Good-direct-Ben-Veniste

1
2 A I don't recall.

3 Q Are you saying, sir, that when he showed
4 up in New York, saying that his bag had been broken into,
5 and some tapes were missing, be it three or four or five,
6 that you don't know whether he, at that time, said at least
7 I salvaged these and here they are?

8 A I don't recall exactly how many he had
9 with him. If he did, he would have turned them over to
10 one of the agents to be recorded in the usual manner.

11 Q And wouldn't it make a difference to you in
12 terms of whether Mr. Weinberg was being truthful as to
13 whether he said some tapes were missing but some I managed
14 to keep?

15 A I believe Mr. Weinberg was being truthful.
16 If he were trying to hide tapes, he would not have reported
17 them missing.

18 Q Unless somebody knew he made tapes and
19 all of a sudden the tapes disappeared?

20 A He travelled from Florida by himself. Nobody
21 knew how many tapes he had.

22 Q Presumably somebody knew something about what
23 Mr. Weinberg was doing in Florida?

24 A There was not an agent staying with him in
25 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, or at least a few days.

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

Good-direct-Ben-Veniste

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?

Good-direct-Ben-Veniste

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, argumentative.

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.)

* * *

Good - direct - Ben-Veniste

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

1 Good - direct Ben-Venista

2 film to send somebody to get back from him.

3 Q You had heard he had taken some pictures?

4 A No, I did not hear he had taken pictures.

5 THE COURT: Give Mr. Puccio an opportunity
6 to object without answering too quickly.

7 Objection sustained.

8 Q Do you take issue with Agent Brady's testimony
9 that -

10 THE COURT: Sustained.

11 Q So as far as you know, Agent Brady never
12 went to get any film from Mr. Weinberg?

13 A MR. PUCCIO: I object.

14 THE COURT: Objection.

15 Repeat that.

16 Q As far as you know, sir, Agent Brady never went
17 to get any film from Mr. Weinberg?

18 A That's not correct.

19 Q Did he remember, didn't he?

20 A He was asked to question Mel concerning
21 some photographs and at that time the film became a
22 matter of subject.

23 Q Okay.

24 A I didn't know that until after.

25 Q When were the photographs supposedly taken?

1 Good - direct Ben-Veniste

2 A MR. PUCCIO: I object.

3 THE COURT: Sustained.

4 Q These were supposedly photographs taken in
5 Washington at the W. Street house?

6 MR. PUCCIO: Same objection, Your Honor.

7 It's a collateral matter.

8 THE COURT: Hearsay.

9 MR. BEN-VENISTE: The same exception with
10 regard to Mr. Weinberg's - -

11 THE COURT: Then put your questions in the
12 form of what Mr. Weinberg may have told him.

13 Q Did Mr. Weinberg ever admit to you that he
14 had taken such photographs?

15 A No.

16 Q Did you ever ask him?

17 A No.

18 Q Did you think that was not important, sir?

19 A He had been- - -

20 MR. PUCCIO: I object.

21 THE COURT: Sustained.

22 Q You were the supervisor of the Abscam
23 investigation, is that correct?

24 A Yes.

25 Q When did you become the agent in charge of

the Happaug 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 Happaug, 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 supervisory 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

1 Good - direct - Ben-Veniste

2 the methods he was to employ in trying to bring political
3 figures before your videotape cameras?

4 A I don't think I can answer that question.

5 Q Did you know in advance that he would try
6 to get Senator Williams before the cameras by promising
7 that the meeting with the sheik was all B.S., that he
8 would only be on stage for 20 minutes?

9 MR. PUCCIO: I object to the form.

10 THE COURT: I will permit it.

11 Overruled.

12 A Would you repeat the question?

13 MR. BEN-VENISTE: Would you read it back?

14 (Question read)

15 A I knew that - - I knew in advance that
16 Senator Williams would be appearing before camera - -

17 Q Try to answer my question.

18 I am talking about Mr. Weinberg's reputation.
19 I want you to answer whether he knew whether he was going
20 to make representations such as the ones I have indicated
21 to you in substance, yes or no?

22 A Not completely.

23 Q You did, however, wish to employ Mr. Weinberg
24 in getting Senator Williams to come to a meeting with
25 the fictitious sheik, is that true?

1 Good direct Ben-Veniste

2 A I don't follow your question.

3 Q Wasn't the whole purpose of getting Mr.
4 Weinberg involved to get him to bring the Senator into
5 the meeting before the cameras - - strike that.

6 Were you interested in getting Senator
7 Williams before your camera?

8 A You mean after we had contacts -

9 Q After you had your contacts.

10 A That's correct.

11 Q It's true, is it not, that Mr. Weinberg
12 deviated to some extent from your instructions in terms
13 of how to get Senator Williams before those cameras?

14 A I wouldn't say so, no.

15 Q In other words, you adopted the methods
16 that Mr. Weinberg used as you sit here testifying today?

17 MR. PUCCIO: Objection.

18 THE COURT: Sustained.

19 Q You don't disagree with Mr. Weinberg's
20 methods?

21 MR. PUCCIO: Same objection.

22 THE COURT: Sustained.

* * *

1
2 Q Mr. Good, did you make the statement in
3 substance that Mel Weinberg was the heart and soul of Abscam,
4 that without Mel Weinberg there would be no Abscam, he
5 styled it, made it come down, he was incredible?

6 A No, I did not make that statement.

7 Q Do you recall that Mr. Robert Green testified
8 that he had a conversation with you in which you made that
9 statement in substance to him?

10 A I --

11 MR. PUCCIO: Objection.

12 THE COURT: Sustained.

13 Q Did you ever make a statement in substance
14 like that to Mr. Green?

15 A I confirmed to Mr. Green that Mr. Weinberg
16 was a substantial part of the Abscam investigation.

17 Q The rest of it you are saying is just
18 Mr. Green's embellishment?

19 MR. PUCCIO: Objection.

20 THE COURT: Sustained.

21 Q Did you ever say that without Mr. Weinberg
22 there would be no Abscam?

23 MR. PUCCIO: Objection, asked and answered.

24 THE COURT: Sustained.

25 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

1
2 felt that Mr. Weinberg was a credible informant?

3 A That is correct.

4 Q Now, when you first got hold of Mr. Weinberg
5 in or about the summer of 1977, did you spend some time with
6 him in which you obtained the details of his past life?

7 A In a general way, yes.

8 Q Did you find out about the Swiss Bank caper?

9 A I was not aware of that.

10 Q That preceded the London Investors?

11 A I don't know.

12 Q Did you find out to save time about any of
13 the things Mr. Weinberg had testified to in this courtroom
14 involving the past?

15 A I was not familiar with those in detail,
16 no.

17 Q When you say in detail, were you familiar
18 with those specifics that he mentioned, whether you knew the
19 details of them or otherwise?

20 A What specifics?

21 Q The business with swindling his relatives,
22 business with --

23 A No, I was not familiar with any of those
24 details.

25 Q Was that because you didn't ask him or

1 because he lied to you?

2 MR. PUCCIO: Objection, your Honor.

3 THE COURT: Sustained.

4 Q Was that because you didn't ask him, sir?

5 A That is correct.

6 Q Now, at some point I think it's been testified
7 the Emir Abdul became Sheik Abdul, was that your decision,
8 sir?

9 MR. PUCCIO: I object.

10 THE COURT: Sustained.

11 Q Well, in the Abscam investigation, there was
12 some -- we heard about a Sheik Abdul, is that correct, sir,
13 there was such a person presented as a Sheik?

14 A Possibly, yes.

15 Q Don't you know, sir?

16 A There were a number of differnt descriptions
17 used to describe these two individuals. It was all a matter
18 of what the individuals who were describing him-at the time
19 thought he was.

20 Q It changed from time to time?

21 A That is correct.

22 Q So at some point he is an Emir?

23 A Some people referred to Emir and some people
24 referred to Sheik.

25 * * *

* * *

17 DIRECT EXAMINATION

18 BY MR. BEN-VENISTE:

19 Q Did you know, Mr. Good, that Mr. Weinberg
20 had been specifically charged with trying to induce indi-
21 viduals in the London Investor's scam to give personal
22 gifts to Ms. Lady Evelyn Knight in order to get favorable
23 action on their loan application?

24 A No, I did not.

25 Q Let me show you the indictment in that case

1
2 and I ask you to read paragraph F and ask whether that
3 refreshes your recollection, sir?

4 A This is the first time I've ever seen this
5 indictment.

6 (Pause)

7 A That is what it says here.

8 Q It says that Mr. Weinberg employed that
9 technique in getting people to give gifts to this fictitious
10 lady Evelyn?

11 A Yes.

12 Q And you say that you never saw the indictment
13 to which Mr. Weinberg pleaded guilty back in 1977?

14 A That is correct.

15 Q Between then and now?

16 A I have never seen it.

17 Q I take it you were -- had made no effort
18 to see it?

19 A That is correct.

20 Q There came a time when Mr. Weinberg's
21 salary was increased from \$1,000 to \$3,000 per month, is
22 that correct?

23 A Yes.

24 Q That increased from three to \$5,000, is
25 that correct?

Good-direct-Ben-Veniste

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 obliged 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,

1
2 sir, that he did not file a federal income tax return for
3 the year 1978?

4 MR. PUCCIO: Objection.

5 THE COURT: Overruled.

6 A No, I did not.

7 Q When did you learn that for the first time
8 sir?

9 MR. PUCCIO: I object to that, your Honor.

10 THE COURT: Overruled.

11 A I don't recall exactly when I learned it
12 for the first time.

13 Q Approximately?

14 A Probably in the last five or six months.

15 Q Was that the result of your asking Mr.
16 Weinberg?

17 MR. PUCCIO: Objection.

18 THE COURT: Sustained.

19 Q Did you ever ask Mr. Weinberg whether he had
20 filed a 1978 tax return?

21 MR. PUCCIO: Objection.

22 THE COURT: Overruled.

23 A No, I did not.

24 Q When did you learn for the first time that
25 Mr. Weinberg had not filed a tax return for the year 1979?

Good-direct-Ben-Veniste

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 last 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.

Good-direct-Ben-Veniste

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.

Good-direct-Ben-Veniste

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 that comes 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.

Good-direct-Ben-Veniste

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.

Good-direct-Ben-Veniste

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 Philadelphia 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.

14
1 Good-direct-Den-Veniste

2 Q Could you check it if it were lost?

3 MR. PUCCIO: I object.

4 THE COURT: Sustained.

5 Q What did you tell Mr. Weinberg to tell Mr.
6 Criden in that telephone conversation?

7 A Basically that Agent Haridopolos would be
8 in touch with him and there was another representative of
9 the Sheik who was going to be in Philadelphia and wanted
10 to meet with him.

11 Q That is all Weinberg was supposed to tell
12 Mr. Criden?

13 A In general.

14 Q No other specifics?

15 A Not that I recall.

16 Q Did you not instruct Mr. Weinberg to tell
17 Mr. Criden that another Jewish individual would be taking
18 over some responsibility?

19 A I never made any reference to that at all.

20 Q Did you tell Mr. Weinberg to specifically
21 mention to Mr. Criden that the individuals in Philadelphia
22 wanted to meet with Ozzie Meyers?

23 A I don't believe I made that reference, no.

24 Q If Mr. Weinberg did that, that was contrary
25 to your instructions?

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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 Meyers?

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 Meyers 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

Good-direct-Ben-Veniste

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

Good-direct-Ben-Veniste

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.

Good-Cross-Duffy

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

1
2 get into the country?

3 A I was not aware of that prior to the meeting.

4 Q When did you first learn that?

5 A It would have been probably that day or the
6 next day, whenever it was that Agent Amoroso called me
7 and advised me of the results of that meeting.

8 Q You didn't control Amoroso and Weinberg as
9 regards the areas they would enter in this scam?

10 A Not at the initial stages such as that
11 meeting was. We had many, many instances where ideas were
12 thrown out but never pursued. That is one that did happen
13 to develop in an area we pursued.

14 Q You, the boss of the operation, for whom
15 these fellows were working, had no idea on the morning of
16 the 26th that they were going to undertake --

17 A I knew what they were going to undertake,
18 specific topics of conversations that might come up.

19 Q You knew what they were going to -- do . . .
20 you mean to say you knew they were going to try to talk
21 to these fellows about getting politicians to help the
22 Sheik?

23 A I knew they were meeting with Mayor Errichetti,
24 Mr. Johanson, Mr. Criden, Mr. Meiler and we had previous
25 dealings with Mr. Errichetti involving --

Good-cross-Duffy

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 thief?

A I didn't look for the thief.

Q Were you here in Court when Weinberg testified it was a carry on bag?

Good-cross-Duffy

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

Good-cross-Duffy

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?

Good-cross-Duffy

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

1
2 salaried employee, don't you get a W-2 form every January?

3 A Yes I do.

4 Q You are saying that Mel Weinberg was not
5 a salaried employee and therefore no taxes were withheld and
6 therefore he got no W-2 in January?

7 A That is correct.

8 Q Did he get a 1099 form, the kind of form
9 that is given to an independent contractor?

10 A No, he did not.

11 Q You say Mel Weinberg was not an employee
12 of the FBI.

13 Was he in business for himself?

14 A No, he was not.

15 Q He was employed by Abdul Enterprises?

16 A He is characterized by the FBI as a paid
17 informant.

18 Q But no 1099 form was given to him?

19 A No.

20 Q So no statement came from our Government
21 to Mel Weinberg saying this is how much he was paid last year
22 so that the Internal Revenue Service would know?

23 A That is correct.

24 Q Now, you answered Mr. Ben-Veniste about
25 your knowledge of his filing of returns.

Good-cross-Duffy

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.

1 Good-cross-Duffy

2 THE COURT: You want him to assume some-
3 thing that doesn't happen?

4 Q If you ask one of your agents to give
5 you a signed statement about a development in an investigation
6 and he categorically refuses to do so, what do you do to him?

7 MR. PUCCIO: Objection, Your Honor.

8 THE COURT: Overruled.

9 A It is not Bureau policy to ask agents
10 for signed statements concerning an investigation.

11 Q You are aware, are you not, that Mel
12 Weinberg refused to give the FBI investigators a signed state-
13 ment in this very case.

14 MR. PUCCIO: Objection your Honor.

15 THE COURT: Sustained.

16 Q But you continue to pay him \$3000 a month?
17 Is that correct.

18 MR. PUCCIO: Objection.

19 THE COURT: Sustained.

20 MR. DUFFY: That is all.

21 THE COURT: MR. Cacheris?

22 Mr. Brown?

23 MR. BROWN: No questions.

24 THE COURT: MR. Puccio, any cross?

25 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.

Good-cross-Puccio

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 investi-
gation did you have occasion to give instructions to Mr.
Weinberg?

A Yes I did.

Q And did you have occasion to give instruc-
tions 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.

1 Good-cross-Puccio

2 Q Now, you heard the tapes that were made
3 during this investigation in which Mr. Weinberg says things
4 like, "Come on strong"?

5 A That's correct.

6 Q Now, was that statement by Mr. Weinberg to
7 "Come on strong" consistent with your instructions?

8 MR. BROWN: I object to this.

9 THE COURT: Do I have one objection?

10 MR. BROWN: You have one.

11 MR. CACHERIS: You have two.

12 THE COURT: Alright. Sustained as to form.

13 Q Well, was Mr. Weinberg ever instructed to
14 ask people with whom he dealt certain questions about people
15 who had come in to meetings?

16 MR. BROWN: I object to this.

17 THE COURT: It is very vague.

* * *

Good-cross/Puccio

(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.

* * *

(The following took place in open court.)

MR. PUCCIO: May I approach the witness?

THE COURT: Yes.

CROSS-EXAMINATION

BY MR. PUCCIO: (continuing)

Q Can you identify that exhibit, Mr. Good?

A Three watches that Mr. Weinberg turned into
me last -- end of July, beginning of August.

Q They are Piaget watches?

A Yes, three of them.

Q What is their approximate value?

A Six thousand dollars each.

MR. BROWN: I object.

THE COURT: Overruled.

1
2 A Six thousand dollars each.

3 MR. PUCCIO: I offer them in evidence.

4 MR. BROWN: I object. May we question him
5 on the voir dire?

6 THE COURT: Sure.

7 MR. BROWN: Thank you.

8 VOIR DIRE EXAMINATION

9 BY MR. BROWN:

10 Q When did you get them from Weinberg?

11 A Latter part of July, beginning of August.

12 Q Do you have any 302 or record of that?

13 A No.

14 Q Nothing written?

15 A No.

16 Q You didn't write down that he turned the
17 watches over?

18 A I believe Agent Amoroso may have prepared
19 a memorandum.

20 Q Do you think so?

21 A Yes.

22 MR. BROWN: May I please have that memorandum
23 if such a memorandum exists?

24 THE WITNESS: I have to check to see.

25 Q When were the watches received by Mr. Weinberg?

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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?

Good-voir dire/Brown

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

Good-voir dire/Ben-Veniste

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

1 Good-voir dire/Ben-Veniste

2 a writing on the exhibit when received --

3 MR. PUCCIO: I object to the argument.

4 MR. BEN-VENISTE: I have another question.

5 Q Is there some point one of the watches were
6 supposedly missing?

7 A No.

8 Q Always three?

9 A Yes.

10 Q The news stories were inaccurate about that?

11 MR. PUCCIO: I object.

12 THE COURT: Sustained. What may have been
13 in any newspaper story is irrelevant.

14 MR. BEN-VENISTE: I object on the grounds as
15 stated. Relevancy and chain of custody.

16 THE COURT: Overruled.

17 MR. DUFFY: I will be overruled too, sir.

18 THE COURT: Don't make the objection.

19 MR. DUFFY: I want my objection on the record.

20 THE COURT: Same objection?

21 MR. DUFFY: Continuity.

22 THE COURT: An objection to one is an objection
23 to all.

24 27 received in evidence.

25 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?

Good-cross/Puccio

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.

Good-recross/Brown

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,

1 Good-recross/Brown

2 your Honor. I never had anything so valuable, I
3 wish somebody would take them from me.

4 THE COURT: Overnight Mr. Good, examine whatever
5 it is that such a memorandum would be in if there
6 is such a memorandum.

7 I want a report on it in the morning.

8 THE WITNESS: Yes.

9 THE COURT: Any more questions for Mr. Good?

10 Thank you, Mr. Good; you may step down.

11 Next witness.

12 MR. BEN-VENISTE: At this time, may I disseminate
13 these transcripts?

14 THE COURT: Yes.

15 MR. BEN-VENISTE: Thank you.

16 THE COURT: What exhibits are these?

17 MR. BEN-VENISTE: T11 through T16. T16 is
18 the September 19, 1979 meeting with Errichetti, Cook,
19 Weinberg, DeVito and Poulos.

20 Should I identify for the record --

21 THE COURT: Yes.

22 MR. BEN-VENISTE: T11 is the conversation of
23 January 18th between Mr. Criden and Mr. Weinberg.

24 T12 is a conversation between Mel Weinberg
25 and an individual with the initials A.F. that we haven't

1 identified, your Honor. Not a defendant in this case

2 Exhibit T13 is a conversation June 19, 1979,
3 between Mr. Weinberg and an individual with the
4 initials G.K. who was not identified at the time the
5 materials were testified to.

6 Defendant Exhibit T14 is a telephone conversation
7 June 24, 1979, between Mr. Weinberg and the individual
8 with initials A.F.

9 Exhibit T15 is an excerpt of a telephone
10 conversation, June 26, 1979, between Mr. Weinberg
11 and an individual with the initials G.K.

12 And T16 is a September 19 transcript of the
13 videotape which the defense made for the jury involv-
14 ing Errichetti, Ellis Cook, Weinberg, DeVito, and
15 Poulos.

16 THE COURT: All right, you may give those to
17 the jury. They are all received in evidence.

18 MR. DUFFY: Thank you.

19 (Exhibits given to jury at this time.)

20 THE COURT: Anything further from the defense?

21 All defendants rest. Any rebuttal?

22 MR. DUFFY: I think we have exhibits not received
23 in evidence. I don't remember an objection, I move
24 for the admission of all defense exhibits --

25 MR. PUCCIO: I don't have a list in front of me.

1 I would like to see what we are talking about.

2 MR. DUFFY: Mr. Levy has made order out of chaos,
3 maybe he can speak to it.

4 MR. PUCCIO: May we circulate the watches
5 while this is being done?

6 THE COURT: Yes.

7 With respect to defendants' exhibits, I have
8 marked B, I, S, U, D, W, Y, Z. And I think that is
9 all.

10 What exhibits are you now offering in evidence?

11 MR. BEN-VENISTE: C -- it is the Pittsburgh
12 indictment.

13 THE COURT: Any objection?

14 MR. BEN-VENISTE: I thought it had been admitted
15 but the clerk indicated it had not.

16 THE COURT: It hadn't been identified.

17 MR. DUFFY: I used that.

18 THE COURT: Not by exhibit number.

19 MR. PUCCIO: I would like to look at it. I
20 haven't seen that document.

21 THE COURT: How many of these defendants' exhibits
22 have not been shown --

23 MR. DUFFY: He gave me the copy, he has it.

24 MR. PUCCIO: If an exhibit is not offered at
25 the time it's questioned about, I wouldn't get interested

1 THE COURT: Get all your defense exhibits
2 together and give them to Mr. Puccio after we finish
3 this afternoon and he will put them on the record.
4 I will inform the jury in the morning which ones are
5 in evidence.

6 Except for that, do the defendants rest?

7 MR. BEN-VENISTE: Yes.

8 THE COURT: Any rebuttal?

9 MR. PUCCIO: I have a brief matter.

10 (Pause.)

11 S T A N L E Y F O R T N E R , a witness
12 called herein, was sworn by the Clerk of the Court
13 and testified as follows:

14 THE CLERK: State your name for the record
15 and spell it?

16 THE WITNESS: Stanley Fortner, F-o-r-t-n-e-r.

17 MR. PUCCIO: May I proceed?

18 THE COURT: You may proceed, Mr. Puccio.

19 MR. PUCCIO: Thank you.

20 DIRECT EXAMINATION

21 BY MR. PUCCIO:

22 Q What is your occupation?

23 A Consumer manager and sales manager for Roger
24 Dean Chevrolet, D-e-a-n Chevrolet, in West Palm Beach,
25 Florida.

Portner-direct

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 28. 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: Now 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

Fortner-direct

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.

Fortner-cross/Brown

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)

2 CONTINUED CROSS EXAMINATION

3 BY MR. BROWN:

4 Q Now, it shows, in effect, that in June, June 23,
5 1979, there was a trade in, one van for another, is that
6 correct?

7 A Well, he traded in the van, yes.

8 Q For a van?

9 A Camaro, isn't it?

10 THE COURT: What kind of a car is that?

11 THE WITNESS: A Chevrolet.

12 THE COURT: Sedan? Coupe?

13 THE WITNESS: He bought a Camaro. If
14 you look on the original, it says Camaro.

15 Q I will accept your word for it.

16 It's a code name or serial?

17 A I assure you it will be on the other.

18 Q What was traded in was a tan van, is that
19 right?

20 A Yes.

21 Q In June, June 23?

22 A That's correct.

23 Q So, whoever this gentlemen is and the
24 name Weinberg does appear there, right?

25 A Yes.

2 Portner - cross Brown

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 don't 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..

3 Fortner - cross - Brown

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:

4 Fortner cross - 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?

5

Fortner - cross Duffy

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?

6

Fortner cross - Duffy

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 labeled 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 or 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 from 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
consumer relations manager.

10 Fortner -cross Duffy

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.

1 11 Fortner - regross - Brown

2 Q May I ask you, this document, which is a
3 photo - -

4 MR. PUCCIO: I don't believe those are the
5 photos.

6 Q All right.

7 You don't know who paid for it?

8 A I have a copy of the contract itself in the
9 file.

10 MR. BROWN: Could I see that?

11 MR. PUCCIO: Here you are.

12 MR. BROWN: I have no further questions.

13 MR. BEN-VENISTE: I have one, Your Honor.

14 THE COURT: Proceed.

15 CROSS EXAMINATION

16 BY MR. BEN-VENISTE:

17 Q You were not asked to bring up all the
18 records as to all of the cars which your company has
19 records of with respect to Mr. Weinberg?

20 A No.

21 Q Just this particular folder pertaining to
22 that particular van?

23 A Yes, sir.

24 Q As far as any other cars, trucks or cars,
25 you have records down in Florida, do you, sir?

12 Portner - cross Ben-Veniste

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. Portney, 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?

1 13 Houlihan - direct - Puccio

2 A That's correct.

3 Q You had occasion to interview a Mr. Joseph

4 DiLorenzo on June 10, of this year, is that correct?

5 A That's correct.

6 Q During this interview, you asked Mr.

7 DiLorenzo certain questions concerning gifts, is that

8 correct?

9 A Yes.

10 Q Did Mr. DiLorenzo mention to you a Betamax

11 Video Cassette Recorder?

12 A Yes, that was mentioned.

13 Q What did he say about that?

14 Do you recall?

15 A Yes, if I could refer to -

16 Q Are you referring to your report?

17 A Yes.

18 Q I have given a copy to Mr. Brown.

19 MR. BROWN: That's true. I have one.

20 A With regard to that video cassette recorder,

21 he mentioned that it was purchased at Best Products in

22 Morristown, New Jersey, and subsequently delivered to

23 Mel Weinberg.

24 Q Did he tell you when - by whom it was

25 delivered to Mel Weinberg?

14 Houlihan direct - Puccio

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.

15 Houlihan - direct - Puccio

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.

16 Houlihan direct - Puccio

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 summonsed 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?

18 Houlihan - cross - Brown

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.

19 Boulihan - cross-- Brown

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,

20 Houlihan - cross Brown

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 the 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 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

22 Houlihan - cross Brown

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

23 Houlihan - cross - Brown

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 when 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 Norcross 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

24 Houlihan - cross Brown

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.

1 25 Houlihan - cross Brown

2 Q Are you aware he has a son?

3 A Yes.

4 Q Are you aware he has a dog, a poodle?

5 A I don't know that for a fact.

6 Q So, as far as you know, - do you know

7 that he has a relative named Marie, whatever her

8 relationship is?

9 A I don't know the name.

10 Q But there is a woman relative in his company

11 from time to time, to your knowledge, is that right?

12 A No.

13 Q So you don't know about that.

14 I'm trying to plumb your uncertainty - -

15 A I told you what I know about the relative in

16 in that. I know it is a female, I know it is a sister

17 or a sister-in-law, but I have no knowledge she ever

18 accompanied him anywhere.

19 Q You know there is such a person regardless

20 of name, sister or sister-in-law?

21 A Yes.

22 Q Have you questioned Mel Weinberg about

23 these gifts?

24 A No.

25 Q So he hasn't told you anything with respect

26. Houlihan - cross Brown

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?

A 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.

A 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

27 Houlihan - cross - Brown

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?

28 Houlihan cross Brown

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

29 Houlihan cross - Brown

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)

Houlihan cross Brown

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?

Houlihan cross - Duffy

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

1
2 in your discussions with other agents learn anything
3 about some wrist watches?

4 A I did. But I am not sure when that was.

5 Q Your best recollection is it was subsequent
6 to Mr. Di Lorenzo's appearance?

7 A Excuse me, sir?

8 Q Your best recollection is that you learned
9 it some time after Mr. Di Lorenzo told you about these
10 other things?

11 A No, I may have learned before. I am not
12 sure when. And I am not sure how it came to my attention.
13 But I recall that I did come to know that some wrist
14 watches were given to him.

15 Q But you don't know when you learned that?

16 A No.

17 Q It could have been before or it could have
18 been after?

19 A I think it probably was before.

20 Q You say that you never questioned Mr. Weinberg
21 about the gifts that Mr. Di Lorenzo mentioned in June?
22 Is that right?

23 A That's right.

24 Q Do you know of anybody asking Mr. Weinberg
25 about it?

Houlihan - cross Ben-Veniste

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

Houlihan - cross - Ben-Veniste

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.

* * *

* * *

THE COURT: Mr. Brown, have you some questions?

MR. BROWN: May I ask him from here,
your Honor?

(Indicating defense counsel table.)

THE COURT: Yes.

BY MR. BROWN:-

Q Agent Houlihan, did you inform the Eastern
District, Mr. Puccio, of your interview with Mr. Di Lorenzo
in which he voluntarily told you about these gifts?

A I sent a communication to the Bureau, to
the F.B.I., with a copy of it to the Brooklyn Heights
and Queens Strike Force and requested that an investigation
be conducted.

Q That would be Mr. Puccio's division?

A Right. And Mr. Puccio, I am sure was made
aware of it by --

Q That was immediately after?

A Yes.

Q You completed your report on the 12th,
according to your papers? I mean you dictated it? Is
that right?

A That is right. I dictated it on the 12th --

Q So it would have been shortly after that
that you would have communicated to the Eastern District?

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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? --

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.

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THE COURT: That is it for the Government?

MR. PUCCIO: Yes.

* * *

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I N D E X

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<u>WITNESS:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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

<u>GOVERNMENT'S:</u>	<u>Description</u>	<u>FOR ID.</u>	<u>IN EV.</u>
26	Document	3352	
27	Document	3497	
28	Document	3508	
<u>DEFENDANT'S:</u>			
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- :

80 CR 00249

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

Defendants. :

-----X
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

A P P E A R A N C E S .

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Eastern District of New York

Department of Justice
Strike Force
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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
2 sentencing; E, originally prepared schedule of pay-
3 ments to Mr. Weinberg; F, a corrected schedule of
4 the payments to Mr. Weinberg; G, a financial plan --

5 MR. PUCCIO: It's not a corrected version
6 as I understood it. It was the version including
7 the other payments.

8 MR. LEVY: A financial plan concerning the
9 Atlantic City Casino; H, a feasibility study with
10 respect to the Atlantic City Casino; M, Mr. Weinberg's
11 rap sheet.

12 MR. PUCCIO: I don't stipulate into admitting
13 a rap sheet into evidence.

14 THE COURT: I assume you have no objection
15 up to that point?

16 MR. PUCCIO: Yes.

17 THE COURT: Then A, C, D, E, F, G, and H
18 are received in evidence. The rap sheet, M, you
19 object to?

20 MR. PUCCIO: Yes.

21 THE COURT: We will discuss it in a minute.
22 Go on.

23 MR. LEVY: EE, the recorder probably used by
24 Mr. Weinberg; FF, the original tape of January 18th;
25 and GG, the original tape of January 18th with no

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.

1
2 THE COURT: Is that all it shows?

3 MR. BEN-VENISTE: It confirms the information
4 to which he testified.

5 THE COURT: It is nothing but corroborative
6 to what he has testified to and what a lot of other
7 witnesses have testified to.

8 MR. BEN-VENISTE: Basically, yes.

9 THE COURT: I will sustain the objection.

10 So much for the exhibits.

11 MR. PUCCIO: Judge, on the question of the
12 Pittsburgh indictment, I know I agreed to have it
13 received, but may I inquire what the use of the in-
14 dictment will be?

15 THE COURT: I suppose any proper use you can
16 make of something that is in evidence.

17 MR. PUCCIO: We have a stipulation that we
18 arrived at.

19
20 (Continued on next page.)
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1
2 MR. FURST: Yes, sir.

3 We will stipulate that B-19, which is
4 marked as Exhibit BB to defense Exhibit U should
5 be removed from the list. And that's on Page 4,
6 your Honor, the call of August 20th, 2:32 P.M.,
7 for two minutes.

8 THE COURT: How is it going to be removed?

9 MR. FURST: We will cross it off on the
10 Exhibit.

11 MR. PUCCIO: Why don't we just say we
12 have stipulated --

13 MR. FURST: In front of the jury I will
14 agree to stipulate that one phone call, B-19,
15 has been deleted by stipulation.

16 MR. PUCCIO: If Mr. Furst announces that
17 stipulation when the jury comes in, that will
18 satisfy me, Judge.

19 THE COURT: All right.

20 Is there going to be any other testimony
21 this morning?

22 MR. PUCCIO: Not from us, your Honor.

23 MR. BROWN: No, your Honor, I have had
24 access to the FBI's notes with respect to the
25 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.

* * *

1
2 THE COURT: Good morning, ladies and
3 gentlemen.

4 Before the evidence is officially closed
5 I should tell you that I have admitted into
6 evidence a number of the defendant's Exhibits
7 which were referred to through the course of the
8 testimony, but which were not formally offered
9 into evidence until this morning. I don't think
10 there is any need for enumerate them to you. The
11 exhibits will be made available to you during your
12 deliberations.

13 Secondly, before we begin the summations,
14 I think it is Mr. Furst or Mr. Brown who want to
15 read to you a brief except from some testimony
16 that was taken before another Federal Judge in
17 Philadelphia on another matter, and it's testimony
18 I believe by Mr. Weinberg.

19 MR. BROWN: Yes, sir.

20 THE COURT: Which you may accept if it were
21 testimony given by him here on this trial.

22 Then there is also a stipulation about
23 a particular exhibit that will be called to your
24 attention.

25 Yes, Mr. Brown.

1
2 MR. BROWN: May I, your Honor.

3 THE COURT: Yes.

4 MR. BROWN: This is an excerpt of the
5 testimony of Mr. Weinberg given in Philadelphia
6 and incorporated into his testimony.

7 "Question: Did you personally receive
8 any gifts?

9 "Answer: No.

10 "Question: None whatsoever?

11 "Answer: Except the wallet.

12 "Question: Just the wallet?

13 "Answer: Yes.

14 "Question: Did it have money in it?

15 "Answer: No.

16 "Question: Did you receive a watch from
17 anybody?

18 "Answer: Yes, we received three watches.

19 "Question: When you say we --

20 "Answer: Well, I received three watches
21 which I turned over the day I received them to
22 the FBI.

23 "Question: Who at the FBI?

24 "Answer: John Good."

25 The end of the excerpt. Thank you.

1
2 Thank you, your Honor.

3 THE COURT: Now the stipulation.

4 MR. FURST: Your Honor, we would stipulate
5 that on Defense Exhibit U, Exhibit B-20, a phone
6 call on August 20th, should be deleted and it is
7 so removed on the Exhibit.

8 THE COURT: What that means ladies and
9 gentlemen, is that Exhibit U is the analysis of
10 all the phone calls, and so forth, that one of the
11 witnesses discussed with you. And on one of those
12 you will find that there has been a call that has
13 been crossed out. That has been done pursuant
14 to this stipulation. Apparently it just doesn't
15 belong there or it's an error or in some way it
16 does not relate to this case. I don't know of
17 the reason, but counsel are satisfied and that
18 is good enough for me, it should be good enough
19 for you. It's not on the telephone call list that
20 you should be concerned with, nor should you
21 wonder why it is crossed out. It shouldn't concern
22 you.

23 With that, all parties rest.

* * *

* * *

13 {Mr. Puccio makes a closing summation
14 to the jury as follows:

15 MR. PUCCIO: Your Honor, Judge Pratt,
16 defense counsel, ladies and gentlemen:

17 First of all, I would like to thank you
18 for your attention and patience during the last
19 almost three weeks of this trial.

20 As Judge Pratt has indicated to you, it is
21 now the time of the case when the attorneys get
22 up and discuss the case with you and make arguments
23 based on the evidence.

24 I would like to reiterate one thing that
25 Judge Pratt said, which is very important, especially

1
2 in a case of this kind where there is quite a bit
3 of physical evidence, tapes and sound recordings
4 which you can hear.

5 I have a recollection of some of the evidence.
6 I will try to refer to some of it. I will even
7 have some of it played to you. But if in any way
8 my recollection differs from yours, you follow
9 your recollection and not mine.

10 In addition, you have available to you
11 the opportunity to have any exhibit or any tape
12 or any recording of any kind played back to you
13 to check a point, to recall in your mind what was
14 said and what happened.

15 Of course, that goes for the testimony
16 of the witnesses who appeared on the witness stand.
17 That all can be read back to you if necessary.

18 And also, as I said, during the course
19 of my summation, let us call it, I will make
20 arguments to you based on the evidence. I will
21 ask you to draw certain inferences about this
22 case.

23 Now, if I make any argument that doesn't
24 make any sense to you, that you don't agree with
25 it, just reject that argument.

Puccio-Summation

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, Pennsylvania.

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

1
2 law firm, a person who considers his relationship
3 with Mr. Criden that more of a father and son than
4 senior partner and junior partner. Mr. Cook told
5 you that in the spring of 1979, the Criden,
6 Johanson law firm had received a proposal from a
7 Mr. Neifeld to see if they could finance or sell
8 a piece of property in Atlantic City. And you
9 heard Mr. Cook tell you that in connection with
10 that proposal the law firm undertook to see if
11 they could make a substantial fee.

12 You might further recall, ladies and
13 gentlemen, that during early July of 1979
14 Councilman Johanson spoke to a friend of his at
15 his country club in Longport, a Mr. James Meiler,
16 if you recall, and Meiler indicated that he had
17 a friend who had a friend who might be interested
18 in this property in Atlantic City.

19 And as the facts occurred, we find out that
20 the friend who had a friend was Mr. Errichetti,
21 the Mayor of Camden. And the friend that he had
22 was unfortunately for him Mel Weinberg and Anthony
23 Amoroso.

24 And you might recall from Cook's testimony
25 there was ultimately a meeting, Mr. Meiler, Mr.

Puccio-Sumination

1 Errichetti, Mr. Johanson, Mr. Criden, they met
2 a Longport, New Jersey, to discuss the possible
3 financing from the fictitious Arabs.
4

5 And as you might further recall, as a result
6 of this meeting in Longport, New Jersey, there was
7 a scheduled appointment with Weinberg and Amoroso
8 on a yacht in Fort Lauderdale, Florida on July
9 26, 1979.

10 Now, a lot has been said about this meeting
11 on the boat. I think you must have heard several
12 hours of testimony about where everybody was when
13 they said this and where everybody was when they
14 said that and whether it was below decks or above
15 decks. But the fact remains that there was a meeting.
16 There was a discussion about this casino proposal,
17 this piece of property of Mr. Neifeld's. And in
18 addition, as Agent Amoroso testified, there was
19 a brief discussion about a potential problem that
20 lurked in the minds of his employers, the Arab
21 Sheiks. And that was simply this: If perchance,
22 and as Agent Amoroso testified, this just came
23 out, it was something that was thrown out to Mr.
24 Errichetti whom he had known for several months
25 and whom he had prior dealings with which are not

1 relevant here, but it was something he threw out
2 to Mr. Errichetti and said very simply, they are
3 concerned that they might be in the same problem
4 as Mr. Somoza, former President Somoza, they
5 might have the same kind of difficulty. Is there
6 anything you can do? Can you provide us with
7 any help? Do you know any politicians?

8 Mr. Errichetti readily accepted that proposal
9 and said, I think I can help you, or words to that
10 effect. There was discussion then as to how much
11 it would cost.
12

13 Mr. Cook tells you that when Mr. Criden
14 and Mr. Johanson returned to Philadelphia, they
15 discussed with him the details of their trip to
16 Fort Lauderdale. And Mr. Criden said, well, on
17 the way back I was sitting next to Mayor Errichetti
18 in the plane and he told me that if we could
19 provide politicians, if we could provide people
20 there might be some money in it for us.

21 And Mr. Cook told you that Mr. Johanson
22 was dispatched to contact his friend, Mr. Myers,
23 and see if Mr. Myers was interested in meeting
24 with the Sheik or his representatives in order
25 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.

JUPOR 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.)

1
2 MR. PUCCIO: Now, ladies and gentlemen,
3 you heard four conversations between Mel Weinberg
4 and Mr. Errichetti, the Mayor from Camden, New
5 Jersey.

6 I ask you, as you think about the conversa-
7 tions, as you heard what was said, more than a year
8 ago and what was captured on tape, are those
9 conversations consistent or inconsistent with the
10 other evidence in the case?

11 Are they consistent or inconsistent with the
12 video tapes that later I will talk about and that
13 you've seen during the course of this trial?

14 Are those conversations consistent or
15 inconsistent with Mr Cook's testimony?

16 You recall Mr. Cook, he testified, as I
17 just pointed out or reminded you, that he had this
18 meeting with Mr. Criden and Mr. Johanson and a
19 decision was made to reach out and speak to
20 Congressman Myers and get him to come to the
21 meeting with the Sheik or his representative.

22 And that money was involved. A hundred
23 thousand dollars was involved. And that money was
24 to be split among the people involved in this
25 venture.

Puccio-Summatton

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.

Puccio-Summation

(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 J-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."

Puccio-Summary

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 that 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

Puccio-Summation

hundred thousand dollars as Mr. Cook put it, the Congressman would owe the Sheik a favor. As he put it another time on the witness stand, the Sheik would have the Congressman beholding to him.

MR. BEN-VENISTE: Objection, your Honor. That was stricken I thought as a characterization by the witness.

MR. PUCCIO: Your Honor, the record will speak for itself.

THE COURT: If your recollection is not that precise, we do have a record on it and it can be determined. If you bring it to my attention, I will so instruct the jury.

MR. PUCCIO: Now, what is this all about? August 22, 1979, what happens on that day? Does the story of what happened on that day appear in the video screen? Does it appear in the testimony of Agent Amoroso? Or does the story of August 22, 1979 appear in the testimony, the true testimony, through the testimony of the United States Congressman?

Before we get to that meeting at the Travel Lodge Hotel, what is happening? Well, early that

Puccio-Summaton

1
2 day as you heard from the testimony of Mr. Cook
3 and Mr. Criden's son and through other evidence,
4 three different automobiles are converging from
5 various different locations throughout the Northeast
6 in the United States on Kennedy Airport for one
7 reason, one reason spelled, m-o-n-e-y.

8 What Congressman Myers, during his summer
9 vacation in Longport, New Jersey, is getting in
10 an automobile early in the morning with Mr.
11 Johanson the City Councilman and driving all the
12 way to Kennedy Airport for.

13 What is Mr. Criden doing? He's having his
14 son take him from his law office in Philadelphia
15 to the Pan Am Terminal at the same airport.

16 Mr. Cook told us about this. Other witnesses
17 told us about this. And where is Mr. Errichetti?
18 Mr. Errichetti is taking some time off from his
19 official duties as Mayor and State Senator from
20 New Jersey, Mayor of the City of Camden, and has
21 his nephew, the Administrator of the Department of
22 Energy and chauffeur, et cetera, driving him from
23 Camden, New Jersey to Kennedy Airport.

24 Now, what happens at Kennedy Airport? Does
25 everyone walk into a room like businessmen and

Puccio-Sumnation

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.

Puccio-Summation

1
2 Then we get to the defense case and we hear
3 from the Congressman. Now, after all this evidence
4 is presented, after all of this electronic display,
5 as Mr. Brown called it, after you see with your
6 own eyes what happened August 22, 1979, what is
7 Congressman Myers going to do when he testifies?
8 What choice does he have?

9 I submit to you that as soon as it became
10 apparent that video tape recording, audio tape
11 recordings had captured what happened here,
12 Congressman Myers became a man in need of a story.
13 It's almost hard to be critical of that.

14 What do you do if you're caught redhanded
15 on video tape? What do you do? Congressman was
16 a man in need of a story. And what a story he
17 told.

18 You heard him testify here for the better
19 part of four days. Is that testimony worthy of
20 any belief? Oh, that was proper, Mr. Cacheris,
21 I'm sorry, it was improper, Mr. Cacheris -- got
22 me confused. I believe it was improper. No, Mr.
23 Puccio, that was proper. Which was it? Was it
24 improper or proper?

25 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-

1
2 man Myers said to you?

3 Now, let's analyze this a little bit. As
4 I said to you before it's a pretty tough thing to
5 swallow. We have to take leave of our senses if
6 we were to swallow that this were an act.

7 I certainly wouldn't criticize Congressman
8 Myers for his industry and ingenuity. He was
9 a man in need for a story. Of course, once
10 you start to tell this story, you take one step and
11 you take another step and you take another step
12 and after awhile it gets so preposterous it gets
13 totally unbelievable as it did when he told
14 it to you on the witness stand.

15 Now, what do you do when you need a story?
16 And you have access to all these materials. It's
17 not like you are coming in here cold.

18 Congressman Myers didn't walk into this
19 room and get up on that --

20 MR. BROWN: I object, if your Honor please.
21 I object. This is a reference to an inference
22 that is totally unwarranted as to what anybody
23 did with these materials given to us on discovery.

24 THE COURT: Overruled.
25

1
2 MR. PUCCIO: Now, Congressman Myers
3 didn't know as we all remember, he didn't know about
4 this. But of course he knew who was going to
5 hear what he said, namely, you, ladies and
6 gentlemen, when he got up on the witness stand.
7 And there was an awful lot riding on his testi-
8 mony in this trial. It is only \$50,000. It's
9 a lot to most of us, I guess to all of us,
10 perhaps, at that meeting, but there is a lot
11 more riding on it when you are up there on this
12 witness stand.

13 Now, you have access to all these
14 materials. As you have heard, the government had
15 conducted a lengthy investigation for a couple
16 of years involving all sorts of people not
17 relevant here and which you are not to consider
18 as Judge Pratt will charge you.

19 So what do you do? You start to take
20 apart tapes. Obviously anyone could have offered
21 the whole tape in evidence, it was marked or
22 not marked or whatever. But you start to
23 pull apart these little excerpts. Weinberg says
24 here, come on strong. And Mayor Errichetti says
25 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

1
2 will make a determination as to whether or not
3 money is to be paid to a public official.

4 Does the FBI, when a public official --
5 want a public official to walk into that room
6 who has been brought there by a middleman,
7 who knows absolutely nothing about what is going
8 on and from whose lips one cannot determine
9 that he knows anything -- isn't it fairer and
10 doesn't it make more sense for the FBI to tell
11 these people when they get to the meeting, to
12 tell them, come on strong or to say, we want
13 to know what they are about. We want to know
14 if they are willing to take money. We want
15 to know if they are corrupt. We want to know
16 that they are going to do for the money. We
17 want to know if they will take money.

18 As you will hear from Judge Pratt,
19 the methods used in this case were perfectly
20 proper. It is a legitimate method of investiga-
21 tion. And if the United States Government has
22 to expend some oonies to determine --

23 MR. BROWN: I object, your Honor. This
24 is something that your Honor has set for another
25 time. I object to this.

1
2 THE COURT: I think it is inappropriate,
3 at least in this part of your summation, Mr. Puccio.

4 MR. PUCCIO: I will reserve it, your
5 Honor.

6 MR. BROWN: I object to it as part of
7 the summation due to your Honor's orders to us.

8 THE COURT: If my orders are obeyed
9 it will be improper in his rebuttal summation.

10 MR. BROWN: Yes, thank you.

11 THE COURT: Before you proceed, Mr.
12 Puccio, perhaps I should explain to the jury:

13 Your function in this case, ladies
14 and gentlemen, is to determine what the facts
15 are and whether those facts as you find them
16 to be established beyond a reasonable doubt,
17 the essential elements of, of particular crimes
18 as I will explain them to you.

19 The government is not on trial in this
20 case. The method of investigation is not before
21 you. The propriety of what the government did
22 is not before you. These are questions of law
23 that I have to determine. Other courts may
24 have to determine them. But they are not issues
25 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 was your idea of bringing up the matter

1
2 to introduce a private immigration bill at the
3 meeting with DeVito and Weinberg and Mayor
4 Errichetti on August 22, 1979?

5 "Answer: No, it is not true. I
6 started off with my explanation of how powerful
7 I was. I just covered that area. But it
8 wasn't my intent when I walked into the room to
9 bring it up.

10 "Question: Let me ask you a question
11 again: Was it your idea, Congressman Myers, to
12 bring up the introduction of a private immigra-
13 tion bill at the meeting of August 22nd?

14 "Answer: No, it was not my idea.

15 "Question: You said those words, did you
16 not? You proposed to introduce a private
17 immigration bill?

18 "Answer: I promised to introduce a
19 private immigration bill after I was asked to
20 introduce one.

21 "Question: Will you point that out to me
22 in the exhibit, that is Exhibit 5A.

23 "Answer: I'll have to read it through
24 to find it. But he brings it up first."
25

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
2 MR. PUCCIO: False statements to obtain
3 money.

4 This is the United States Congressman
5 getting into his car and traveling 90 or 100
6 miles, whatever it is, to a hotel room and making
7 false statements to obtain money.

8 Is that proper?

9 Well, first Congressman Myers said it was
10 improper and then he had said it was proper.

11 Do you think it is proper?

12 Now, let me pose this:

13 Would a man, a representative of the United
14 States, a United States representative from
15 Philadelphia, would a man in that position, who
16 would travel all that way, accepting his story,
17 to make false statements to obtain money,
18 something that I would submit to you if it were
19 true lacked some candor and honesty, let's say,
20 perhaps. Would a man like that hesitate for
21 one second to lie on this witness stand to get off
22 the hook?

23 By his own admission he lied and lied and
24 lied and lied, he tells us. He said he lied here
25 and we say he lied there. We submit that to you.

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?

1 The cameras, I submit to you, not only
2 give you the words, they give you the sense, they
3 give you the atmosphere. They give you the nuances.
4 They tell you where the truth lies, ladies and
5 gentlemen.
6

7 And if something else is proffered to you
8 that is not on that camera, I submit to you that
9 you have to scrutinize from where that comes
10 and scrutinize it very carefully and see if it
11 stands up the way this video tape stands up to
12 scrutiny.

13 Now, you heard Mr. Cook testify
14 that on August 22, 1979, he was eagerly awaiting
15 back in his law office in Philadelphia the
16 return of this band of public officials accompanied
17 by his father figure, Howard Criden.

18 And what sas Mr. Cook waiting for?

19 With all due respect to Mr. Cook, who
20 I submit to you tried to tell you the truth from
21 this witness stand, with all due respect to Mr.
22 Cook, he was waiting back at the office because
23 he was getting a piece of the pie, to use one of
24 Congressman Myers' phrases. He was waiting for
25