

1  
2 that money.

3           Congressman Myers returns. Mr. Johanson  
4 returns. Mr. Criden's son returns.

5           Mr. Criden's son is carrying the money.  
6 And there is a discussion.

7           (Continued on next page.)  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## Summation-Puccio

1  
2           The last minute -- I won't play the tape for  
3 you but you can look at it -- the last minute the  
4 ground rules are changed. Weinberg said originally  
5 \$100,000 and at the last minute it changed to 50.  
6 You heard some testimony on it.

7           In fact, in the second meeting on August 22nd,  
8 the meeting where Myers leaves and Errichetti meets  
9 with Amoroso and Weinberg, at that second meeting  
10 the Mayor says 35 seconds you gave me to change  
11 the figure. The figure is changed and changed  
12 quickly August 22nd, and drops from \$100,000 to  
13 \$50,000.

14           This caused a little bit of a problem. And  
15 let's see if we can see how this problem is resolved.  
16 Mr. Criden comes back and has a conversation with  
17 Cook and apprises Cook -- Mr. Criden says it was  
18 \$50,000 and 15 already went to Mayor Errichetti.  
19 35 left.

20           But if -- they talk about it a little bit,  
21 Myers is coming over here, I have to sit down with  
22 him. If we show him 35, he might take more than  
23 we want him to take. Let's take 10 out and put it  
24 aside and tell him we only got 25. That is what is  
25 done.

## Summation - Puccio

1  
2 Ten thousand is taken out and it's down to  
3 \$25,000.

4 Congressman Myers arrives. He is confronted  
5 with \$25,000 and he was told 25 went to somebody and  
6 it was only 25 left. So he takes 15. And as you  
7 heard from the testimony of Mr. Cook, the 10 that  
8 was left after Myers took 15 and 10 taken out from  
9 Myers, now how much was there? You add them together,  
10 and you get 20, and that is divided among Criden,  
11 Johanson, and Cook.

12 Now, are we dealing here with money that was  
13 received properly? First of all, Mr. Criden, Mr.  
14 Johanson and Mr. Cook don't exactly go down to  
15 Times Square, or whatever the equivalent is in  
16 Philadelphia, and announce to all the world that  
17 the Congressman picked up the package and we all split  
18 up. They don't do that, nor do they go to the bank  
19 and deposit it in the savings account to get interest.  
20 Right away a safe deposit box routine. Mr. Criden  
21 gets his son to open the box, presumably money goes  
22 in there; Johanson has never been a signatory on  
23 the Bell savings box, all of a sudden Johanson is  
24 in need of a box. That makes sense. What is he  
25 going to do? So Mr. Johanson is added to the box.

## Summation - Puccio

1  
2 And Mr. Cook testified he already had a box  
3 and he promptly used that one too.

4 You heard testimony from Mr. Criden's son  
5 that on that evening he wasn't in a meeting, either  
6 was Mr. Cook for that matter, with Congressman  
7 Myers, Mr. Johanson, Mr. Criden, behind closed  
8 doors in Mr. Criden's office. But he was in the  
9 car when Mr. Johanson, as you might recall, and  
10 Mr. Criden drove off, I believe if you recall from  
11 the testimony, Mr. Johanson had a speaking engage-  
12 ment that evening and Mr. Criden and his son were  
13 dropping him off.

14 As you might recall then, Mr. Johanson when  
15 arriving at his destination, said to Michael Criden,  
16 "This is sort of a rough neighborhood, I shouldn't  
17 be carrying all this money around, why don't you  
18 hold it for me, you work in the office this summer,  
19 bring it in the next day."

20 I wonder about that rough neighborhood.

21 In any event, Mr. Johanson had the money and  
22 Mr. Criden's son took custody of it.

23 Now, talking about Congressman Myers, he told  
24 you he took his money and put it in his bureau  
25 drawer and spent that money over a period of weeks.

1  
2 He said it took him two weeks to dispose of it. No  
3 questions asked. Proper or improper?

4 Now, what happened between August 22, 1979  
5 and January 24, 1980? Significantly, around the 24th  
6 of January, 1980, Mr. Criden gets in touch with  
7 Congressman Myers and says the sheik's representatives  
8 are in town; different people, they want to meet.

9 Congressman Myers goes up to the Barclay Hotel  
10 on January 24th.

11 Now, this Barclay Hotel tape, I submit to you,  
12 is extremely interesting. And Congressman Myers'  
13 explanation of it stretches our minds beyond the pale.  
14 It is difficult enough to think up a way around  
15 August 22, 1979 -- I explained to you it was Weinberg's  
16 tape -- Williams, Errichetti speaks to Myers, there  
17 was a script -- blah, blah, blah, and we end up this  
18 wasn't reality.

19 What do you do about January 24, 1980? That  
20 tape runs for about an hour and a half and of course,  
21 let there be no mistake about it, Congressman Myers  
22 has no idea he's being photographed. And during that  
23 meeting he probably tells you in the best possible  
24 way what he was about on August 22, 1979.

25 If you look at January 24, 1980, that resolves

## Summations - Puccio

5 1  
2 any questions in your mind as to what was going on  
3 August 22, 1979.

4 Again, caught red-handed. In need of a story.  
5 Well, it's pretty tough to say you delivered a command  
6 performance August 22, 1979 and be rehired or had  
7 to get your Actors Equity card for January 24, 1980.

8 Again, rational, reasonable people are not  
9 going to believe that. That is really stretching  
10 it to the limit.

11 What does he do? "I was drunk. I was served  
12 tumblers of liquor, McDonald glasses filled with  
13 bourbon and I drank and drank before I got to the  
14 meeting."

15 Just in case we had any doubt as to how much  
16 he said he drank at the Barclay Hotel, "I had beer,  
17 beer, beer before I got there."

18 How do we prove that, or does it matter?  
19 They plied me with liquor. Two drinks. You saw  
20 them. And the proof that he was drunk at one point,  
21 they replayed a tape, and an icecube got stuck and  
22 he spilled something on his tie. I submit that  
23 happens with Coca-Cola.

24 In any event, he was drunk. He was drunk.  
25 And said things that were not true. He wouldn't

6 1  
2 sell the City Council. He wouldn't sell his office  
3 or his influence or the docks with organized crime,  
4 introducing Immigration bills, selling his seat,  
5 selling his office, he wouldn't do any of those  
6 things.

7 How do we prove he would do any of those things?  
8 How do we prove he would use his influence? One way  
9 is we play a movie where he said so. He didn't mean  
10 that, he was drunk. Of course, when one is drunk  
11 one tells nothing but lies. Drinking, as everyone  
12 knows, removes inhibitions.

13 I submit to you the real Michael Myers, the  
14 real United States Congressman, was sitting on the  
15 couch at the Barclay Hotel just the way he sat  
16 there at the Travel Lodge Inn on August 22, 1979.

17 Can we play the tape, please. Your Honor,  
18 can I take two minutes?

19 THE COURT: Why don't we take a five-minute  
20 break.

21 MR. PUCCIO: Thank you, Judge.

22 THE COURT: Don't discuss the case, ladies  
23 and gentlemen.

24 (Recess taken at this time.)

25 THE COURT: Bring in the jury.

7 1  
2 (The jury is in the box.)

3 THE COURT: All right, Mr. Puccio.

4 MR. PUCCIO: Thank you, Judge.

5 Before we play the excerpt of the Barclay  
6 meeting on January 24th, I think it is, I should put  
7 this in context if I may.

8 In the context with Congressman Myers' testi-  
9 mony, which is something you have to scrutinize and  
10 evaluate, as the Judge will tell you.

11 As I said to you before, the Congressman's  
12 position was on the 22nd of July (sic) he was play-  
13 acting. But -- he wasn't entirely play-acting on  
14 the 22nd of August -- 22nd of August I mean, during  
15 cross-examination, to sharpen it further: "I was  
16 talking about investments," he said, "in the City  
17 of Philadelphia, that was for real. I wasn't play-  
18 acting about that."

19 Investments in Philadelphia, perfectly legal  
20 and proper and something that should be encouraged  
21 and should be expected.

22 Of course, if that is the case -- the Congress-  
23 man says, "I was serious" about that." You have almost  
24 a dual personality where to believe Congressman  
25 Myers; on August 22nd he was acting one way at one

1  
2 moment and then switches to the real Congressman  
3 Myers. The real Congressman Myers says, "I want to  
4 invest for the Port of Philadelphia."

5 That is two personalities, two people.

6 When you get into the Barclay Hotel, it gets  
7 more complicated if you credit his testimony because  
8 then you have somebody who's got different person-  
9 alities and he's drunk at one point and sober at  
10 another and crafty one minute and dull at another.

11 You get things like, you might recall just  
12 about every topic, City Council, Mafia, and every-  
13 thing else that he was selling, going to get money  
14 for according to what he said -- and all before he  
15 gets his second drink. All that has been touched  
16 upon.

17 Why is he saying all these things? He tells  
18 you that he was trying to find out what Mr. Wall  
19 was all about. He has mixed emotions about Mr. Wall  
20 and is trying to explore or investigate Mr. Wall.  
21 Flush him out. Do you believe that?

22 And this is while he is drunk. He's not to  
23 be accepted as what -- the way he presents himself,  
24 because he is drunk. He is trying to cat-and-mouse  
25 with Mr. Wall to flush him out. For what reason

## Summation - Puccio

9 1  
2 does he want to flush him out? Why?

3 He said, and this is particularly pertinent  
4 to the part we are going to play right now, you will  
5 recall during the meeting Congressman Myers himself  
6 brings up the incident in New York on August 22,  
7 1979, where he said, "I got screwed."

8 And he said, "I got screwed," because there  
9 was supposed to be \$100,000 and it turned out to  
10 be 50,000.

11 I'm going to play that in a few minutes for  
12 you -- part of it.

13 On cross-examination: "Why did you bring that  
14 up?" "Well, I was trying to find out what Mr. Wall  
15 was doing. Trying to flush him out a little bit."

16 I submit to you, ladies and gentlemen, the  
17 United States Congressman was not trying to flush  
18 anybody out. He brought up the subject at the  
19 Barclay Hotel of what happened in New York for the  
20 same reason he attended at the meeting in New York  
21 on August 22, 1979. Only he wanted more of it. He  
22 wanted more money.

23 Is that consistent with the tape? Of course  
24 it is.

25 Do you accept the explanation he wanted to

10 1  
2 flush Wall out? Do you accept any of that nonsense  
3 about how these people on the one hand are my friends  
4 and interested in investing in Philadelphia, and on  
5 the other hand I am suspicious and I don't trust  
6 them.

7 Do you accept that split personality nonsense?  
8 look at the tape on January 24th, page 115 -- can  
9 you play that, please?

10 (Tape played.)  
11

12 (Continued on next page.)  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2 (The following takes place after the  
3 playing of the video tape.)

4 MR. PUCCIO: Give me a reason is said  
5 minutes throughout these tapes.

6 Congressman Myers says: Now, if you give  
7 me a reason I have the F'n, to use Congressman  
8 Myers' phrase, balls to do whatever has to be done  
9 in congress.

10 Do you believe him when he said that?

11 I submit to you, ladies and gentlemen,  
12 that somebody who takes the stand and tells the  
13 kind of story that hthis gentleman, Mr. Myers, told  
14 you on this witness stand, and lies and lies, and  
15 lies, and somebody who admits to you --

16 MR. CACHERIS: Object to the characteriza-  
17 tion, your Honor.

18 THE COURT: Overruled.

19 MR. PUCCIO: And he admits to you that  
20 he came to New York to lie about taking some  
21 money, I submit to yu that someone in that  
22 category is not going to hesitate one moment to  
23 introduce a private immigration bill or to do any-  
24 thing else that is necessary in congress.  
25

## Puccio-Summaton

2

I also submit it to you because he says it again:and again and again.

How do you get around this? It seems to be impossible toget around this.

Let's put our thinking caps on again.

Well, our explanation about August 22nd was based upon conversations that Errichetti presumably had with Weinberg, and then Weinberg was out of the picture and then Errichetti told me to put on an act.

What do you do in this situation at the Barkley Hotel where Weinberg is not to be found?

Well, what you do if you are Congressman Myers is you somehow try to import Weinberg, interject Weinberg into this situation, hopefully to make the story believable. And it just doesn't wash.

First of all I ask you, ladies and gentlemen, you have seen the videos, you will have an opportunity to see it again and you heard the testimony, and I ask you to consider how much Mr. Weinberg has to do with this case. I submit to you he has very little to do with this

1  
2 case.

3 He is a very interesting red herring, a  
4 smoke screen, something the defense constantly  
5 questions.

6 You have to do things like make stories  
7 up here, cross-examine Mr. Weinberg and drop  
8 pieces of rug on the floor and play with telephones.  
9 You have to do something.

10 Now, let's see if we can put this thing  
11 in context. I asked Mr. Myers on cross-examination  
12 about this conversation. I was trying to flush out  
13 Mr. Wald. I was trying to find out what Mr.  
14 Wald was about. I was trying to find out if  
15 Mr. Wald knew about Mr Weinberg and was he  
16 working with Mr. Weinberg.

17 And did the same act follow?

18 Now, as unbelievable as that may be  
19 it gets more and more unbelievable as we go  
20 along, because there is a meeting the next day at  
21 the Barkley on the 25th, and I asked Congressman  
22 Myers, the next day were you drunk?

23 No. I was recuperating from the night  
24 before.

25 Were you play-acting?

1  
2 Yes, I was play-acting.

3 And again I wanted to find out what Mr.  
4 Wald was all about.

5 Now, Mayor Errichetti is someone that  
6 Mr. Myers knew, someone he associated with  
7 according to the testimony on at least 15 occasions  
8 before these events. Mr. Errichetti is the  
9 link between Weinberg and the sheik or the sheik's  
10 representative.

11 Let's follow along this silly story of  
12 Congressman Myers. If Mr. Errichetti was the  
13 link, the coach, the one who gave him the story  
14 the first time. He goes up to the Barkley  
15 Hotel and forget about the fact that after Criden  
16 called him he went up. And after the first night  
17 he tells you he is probing. He tries to find out  
18 what Mr. Wald is all about.

19 Did you ever hear Congressman Myers say,  
20 Mayor, on the telephone, did he call, is Wald  
21 in kahoots with Weinberg?

22 Why didn't he call Erfichetti? Because  
23 the testimony was established before Errichetti  
24 was out of the case after a certain point, he was  
25 not involved, was not involved in the event, he

1  
2 didn't want to say anything about Mr. Errichetti.  
3 But the fact of the matter is that it makes no  
4 sense if you think about it. It makes no sense  
5 whatsoever that he would try mysteriously trying  
6 to find what these things are about, that his  
7 teacher, his instructor who is sitting next to him  
8 right now, Mr. Errichetti --

9 MR. BROWN: I object, your Honor, the  
10 fact that these people are sitting in the court-  
11 room in a particular place is not an element in  
12 the case. They may sit wherever they wish.

13 MR. PUCCIO: The seating arrangement is  
14 not an element, I submit.

15 MR. BROWN: Why say it then?

16 THE COURT: Ladies and gentlemen, with  
17 respect to where the defendants sit in their  
18 case is largely a matter of convenience. They  
19 like to be near their attorneys so they can confer  
20 with them as the case goes on. The attorneys  
21 may sit at the counsel table. There are not  
22 that many seats there so the choice of the seats  
23 are somewhat limited and it is certainly not  
24 the choice of the defendants.

25 So draw no inference from who is sitting

1  
2 where.

3 Proceed, Mr. Puccio.

4 MR. PUCCIO: Thank you.

5 Show aMr. Errichetti who I am sure is  
6 listed in the phone book, or certainly is someone  
7 Mr. Myers can get in touch with, he was not  
8 called byMr. Myers to find out about Mr. Wald  
9 before Mr. Wald went up there on the 25th  
10 at the Brkley and continued his probing.

11 Now, it gest even more complicated  
12 because on the 29th there is a telephone call  
13 which you heard. And what is that telephone call  
14 about? More money. The \$85,000 which was due  
15 to Mr. Myers from the meeting at the Barkley  
16 on the 24th.

17 As you remember there was 35 addition owed  
18 to him as a result of the meeting on the 22nd.

19 And 50 more to cover all these other  
20 problems in Philadelphia.

21 The 29th, was it play-acting? We don't  
22 know. Was he drunk? We don't know.

23 The 31st, he speaks to him again.  
24 Congressman Myers speaks to Mr. Wald again. What  
25 do they talk about? Money. The congressman

1  
2 wants his money. He wants his \$85,000.

3 As Mr. Wald testified, an arrangement was  
4 made for someone to be at Congressman Myers'  
5 house on February 2, 1980. So on February 2 --  
6 and this person, Congressman Myers, was told by  
7 Mr. Wald, was to deliver to the congressman  
8 \$85,000, as you recall from the testimony.

9 So on the 2nd of February Congressman  
10 Myers is sitting in his Longport home waiting  
11 for money.

12 And what happens? Who arrives?

13 Well, the sheik's emmissary does not  
14 arrive with \$85,000. But instead agent McMullen  
15 arrives with agent Mauer of the FBI. They  
16 tell Congressman Myers that are conducting  
17 an investigation and they want to ask him some  
18 question. And the investigation concerns the  
19 activities of certain people. And he is asked  
20 if he knows Mr. Amoroso, who was using the  
21 name DeVito, does he know Mr. DeVito, does he  
22 know Mr. Wald? The answers were no, no, no.

23 He is asked the second time, do you know  
24 Mr. DeVito, do you know Mr. Weinberg, do you know  
25 Mr. Cohen, I'm sorry, Michael Cohen?

1  
2           No.

3           And a third time. Well, he doesn't know  
4 any of these people.

5           Now, why does Congressman Myers falsely  
6 tell the FBI on February 2, 1980 that he doesn't  
7 know any of these people? Very simply because  
8 he doesn't know about this. He doesn't know about  
9 the video tapes. He doesn't know about the  
10 undercover investigation. So he lies, I submit  
11 to you, once, twice, three times, .

12           Which is the act and which is reality?

13           That question or those questions might  
14 be asked in light of his testimony about this  
15 incident.

16           On page 3022 of the transcript:

17           "Question: By the way, you were interviewed  
18 by the FBI on February 2, 1980, is that correct?

19           "Answer: Yes.

20           "Question: You were asked during that  
21 interview by agents of the FBI if you knew  
22 Michael Wald; is that right?

23           "Answer: Yes."

24           Mr Cacheris corrects me. The question was  
25 Michael Cohen.

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

"Question: Was?

"Answer: I said no "

This is after Mr. McMullen has testified  
of course.

"Question: You were asked if you knew  
Mr. Weinberg?

"Answer; Yes.

"Question: What did you say?

"Answer; I said no.

"Question: You were asked if you knew  
Mr. DeVito. You said no to that too?

"Answer; Yes.

"Question: In fact, you denied knowing  
them on more than one occasion, is that correct?

"Answer: Yes. At that point in time I  
didn't know what he was talking about. The FBI  
agent had not instructed me why he was asking the  
questions."

(Continued on next page.)

1  
2 MR. PUCCIO: So Mr. Myers is saying that  
3 the reason I lied is because I wasn't told why  
4 he was asking the question.

5 "Question: You didn't know who Mr. Cohen  
6 was February 2, 1980?

7 "Answer: I didn't know who he was.

8 "Question: That's right.

9 "Answer: Yes, I knew but I was afraid  
10 at that point in time."

11 Alice in Wonderland.

12 "Question: Afraid of what?

13 "Answer: Michael Cohen was caught by the  
14 Sheik.

15 "Question: I see. Why did that make you  
16 afraid?

17 "Answer: Because these people I took as  
18 legitimate people, as a friend and I didn't want  
19 to see anybody in trouble. I didn't know what  
20 was up. When Michael Wald told me about the  
21 retaliation, Ernie would have to go do something,  
22 I didn't want to see anybody get killed."

23 The Congressman says he didn't want to  
24 see anybody get killed. He testified here he heard  
25 somebody was going to kill Weinberg. I don't remembe:

1  
2 him reporting that to the Police.

3 "Question: You thought admitting to the  
4 FBI you knew the people somebody would get killed?

5 "Answer: They never told me -- I invited  
6 them in. The first question out of the agents  
7 mouth before he said anything was: 'Do you know  
8 Michael Cohen?' If he had explained to me I  
9 was under investigation, explained they were FBI  
10 agents, I would have been happy to answer the  
11 question if I knew more about it.

12 "Question: You wanted him to tell you that  
13 these were FBI agents who you met before you  
14 answered the questions?

15 "Answer: No, I wanted him to tell me things  
16 to properly answer the question.

17 "Question: They told you that they were  
18 conducting an investigation and showed you their  
19 credentials?

20 "Answer: They told me after they first  
21 asked me the questions --

22 "Question: You first said no, I don't  
23 know any of these people?

24 "Answer: Yes. Wait a minute, I told him  
25 I knew Howard Criden, Mayor Erichetti, other names.

1  
2 But the Arab Sheik's representatives I said I  
3 didn't know. I didn't know why he wanted to know.\*

4 So the Congressman only tells the truth  
5 if he knows why the question is being asked.

6 Ladies and gentlemen, I spent more time  
7 than I expected in my remarks to you. I would  
8 just like to close with these few comments, you  
9 are the decision makers in this case not me.

10 You decide the facts. I submit to you  
11 when you are selected as a juror to sit on a  
12 criminal case or any case for that matter, you  
13 don't receive any devine inspiration, no special  
14 power or grace. You are selected to use your  
15 common sense and reason and experiences. I submit  
16 to you if you apply your common sense and use  
17 your reasoning you will arrive at the right  
18 result in this case. And I submit to you based  
19 on the evidence in this case, you should find the  
20 defendants Myers, Criden, Errichetti, and Johanson  
21 guilty on all three counts of the indictment.

\* \* \*

\* \* \*

19 THE COURT: Next, ladies and gentlemen,  
20 you are to hear Mr. Ben-Veniste on behalf of the  
21 Defendant Criden.

22 Proceed, Mr. Ben-Veniste.

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

24 May it please the Court, fellow counsel,  
25 Mr. Puccio, ladies and gentlemen of the jury, it

1  
2 seems like a long time since I addressed you last  
3 when I made my opening remarks and I said no matter  
4 how thin you make a pancake it still got two sides.

5 And I think you know now what I meant by  
6 that. I asked you at that time to hold me to what  
7 I said this case would be about, and I hope you do  
8 that.

9 I am going to run back to that opening a  
10 little bit for you in a few minutes. I told you at  
11 that time that I thought that this case would be  
12 the story of Mel Weinberg. And I think it is, because  
13 Mel Weinberg was the heart and soul of Abscam.

14 If Abscam had a heart, it is Mel Weinberg's  
15 heart. And if it had a soul, it is Mel Weinberg's  
16 soul..

17 Now, this is the only chance I am going to  
18 get to talk to you. And there is a good reason  
19 for that. Mr. Puccio is going to be able to argue  
20 again after all defense counsel has finished.

21 So he has had a chance to get your attention  
22 first and he is going to have the last word before  
23 Judge Pratt instructs you on the law.

24 And it might seem to be a little bit unfair.  
25 But there is a reason for it. And that reason is

1  
2 that under the law in order to convict any  
3 defendant, you must find guilt beyond a reasonable  
4 doubt -- beyond a reasonable doubt.

5 Now, that is a very substantial standard of  
6 proof. And it is a standard that must be complied  
7 with if there is to be a guilty verdict.

8 Now, when I sit down I am going to think of  
9 six things that I forgot to tell you. And when  
10 I go to sleep tonight, I am going to wake up at  
11 two o'clock in the morning and I am going to think  
12 of 42 things that I didn't tell you. So what I  
13 want you to do for me is when you are in the jury  
14 room deliberating and you think up an argument that  
15 I didn't make or some of my more experienced colleagues  
16 didn't make the argument, make it for us.

17 Don't assume that we wouldn't make it.

18 When I opened to you a few weeks ago, I  
19 said that I had a responsibility to defend Howard  
20 Criden. And it is a big responsibility. And in that  
21 connection, I asked you to do something. And in the  
22 course of this trial I've made objections. I have  
23 deported myself in the way that I have. That is the  
24 only way that I know how. What I want you to do is  
25 if I have done something that offends you or that

1  
2 you think is wrong, don't hold it against Howard  
3 Criden. Do that for me. I know that there have  
4 been a lot of objections and side bars. And I  
5 tell you quite truthfully, if I were a juror, it would  
6 be a pain in the neck to me too to see everybody  
7 zipping over to the Side Bar, and you are actually  
8 a little bit out of it. Although I did peek over  
9 there from time to time and sometimes I could see  
10 you were having a pretty good time for yourselves.

11 But it would bother me. And with all  
12 these television sets in the Courtroom, it occurred  
13 to me that since Judge Pratt looks like you know  
14 who, and might have said at one of these Side Bars  
15 we will be right back, but Judge Pratt will tell  
16 you that the objections, and the Side Bars, and all  
17 that stuff are not your concern.

18 Your concern is the evidence and your  
19 evaluation of that evidence is what is important.

20 Now, the essence of this case is the question  
21 of the intent of the defendants, and particularly  
22 from my standpoint, the defendant Howard Criden,  
23 did the Defendants intend that Ozzie Meyers was  
24 going to do something involving his official  
25 position in return for the phoney Sheik's petrol

1  
2 dollars.

3 That is the issue.

4 And I would like you to remember one thing,  
5 and by the end of the day I know you are going to be  
6 real tired from hearing from everybody, but remember  
7 one thing I ask you to do and it is this, don't  
8 compromise on your verdict. There are three counts  
9 in this indictment. And then there is going to be  
10 some sub-divisions of those counts. You will not  
11 be doing Howard Criden a favor if you think, well,  
12 let's convict him on one and not on two others.  
13 If you convict him, you convict him for life as a  
14 felon, and I ask you if you think that he violated  
15 the law, convict him of everything. But if you  
16 don't think he did, then you will hold out and you  
17 say "not guilty."

18 That is all I ask for.

19 Now, in my opening statement, I talked a  
20 little bit about Mel Weinberg.

21 Do you remember Mel Weinberg? After Mr.  
22 Puccio sat down -- I think he mentioned Mel Weinberg  
23 once or twice. And it certainly wasn't clear whether  
24 he was going to call Mel Weinberg. And I said if  
25 he didn't call him we would. And he did eventually

1  
2 call Mr. Weinberg.

3           And I said that Mel Weinberg had pulled a  
4 sting that had so many different facets to it that  
5 it might be a little confusing for you to follow  
6 it. But I think you can follow it up now. I  
7 said, number one, step one of the sting, Weinberg  
8 convinces the FBI to finance him in his old sting  
9 operation, back him up, pay him a salary, knock out  
10 the three-year sentence that he had been sentenced  
11 to, in Pittsburgh; forget about repaying the \$200,000  
12 that he had swindled those people out of; create  
13 Abdul Enterprises as a front; give him limosines  
14 to drive around in; planes to fly around in; and  
15 a fancy townhouse to live in.

16           And you must have thought I was nuts when  
17 I said that. How could that be? How could the FBI  
18 be taken in like that?

19           Well, you saw it. Was it true or was it not  
20 true? And again, he has swindled \$200,000 or more  
21 out of the people; been convicted for it; sentenced  
22 to three years; and he winds up in this courtroom  
23 dressed in three different suits by the FBI because  
24 they paid for the suits; paid \$3,000 to \$5,000 a  
25 month of your tax dollars.

1  
2                   Number two of the sting, make the Arab the  
3 fattest cat there ever was. A billionaire with  
4 untold wealth. Four-hundred million dollars on  
5 deposit. He has made his billions out of oil and  
6 therefore it comes out of the United States tax  
7 dollars. Two-hundred million dollars was going to  
8 be here for them.

9                   And dangled a multi-million dollar casino  
10 deal -- hotel casino deal in front of these defendants.

11                   (Continued next page.)  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2 MR. BEN-VENISTE: While at the same time  
3 saying the sheik would like to meet some more people.  
4 Well, the Sheik was presented as the goose that  
5 laid the golden eggs.

6 I don't think there is any question in any  
7 of your minds about this. This was the scenario.  
8 But, another part of the scenario was this situation  
9 wouldn't last forever and Mel Weinberg was going to  
10 sting the Sheik, take a little money on the side,  
11 make a dollar along with De Vito and if these people  
12 went along, they can share in it too.

13 Mr. De Vito is straight, he was the watchdog,  
14 so be a little careful around here.

15 Step four, the Congressman is located.

16 Step five, get them before the cameras.

17 Step six, because Weinberg can't resist  
18 stinging them again, get gifts out of them, hi fi's,  
19 beta max, whatever it was.

20 Step seven, it sounds like a great movie.  
21 Cash in on making a book deal. You heard it.  
22 And I told you the only thing that these defendants  
23 ever did was take the Arab's money. I said there  
24 would be no question they took the money but would  
25 you -- what you would have to focus on is whether

1 they did anything, whether they intended to do  
2 anything.  
3

4 I suggest to you that if the Government were  
5 really interested in testing to see whether Mr.  
6 Meyers would abuse his office, they would have asked  
7 him to do something. Did they ask him to do something  
8 between July and February? A phone call to the  
9 state department? A letter on official stationery?  
10 Any kind of indication which would show that he  
11 was willing to do something. To do something.  
12 Absolutely not.'

13 And his Honor will tell you that that is  
14 something which you must consider in connection  
15 with arriving at your verdict.

16 Now, let's set the scene for what happens  
17 in this FBI investigation. The honeypot, as Mr.  
18 Weinberg described it, to his biographer, is set  
19 up. Incredibly wealthy Arab shake, Arab oil money.  
20 And you think it's just a coincidence that his  
21 advisor is Jewish? Why did he make an Arab with a  
22 Jewish advisor? To make it all the more plausible,  
23 something wasn't on the up and up, this money can be  
24 extracted from the oil Sheik. Every time they  
25 ran into the problem, something didn't sound exactly

1  
2 right, we are going to build a hotel in six weeks  
3 and break ground, but we don't have a site yet,  
4 we want to give you all this money but you don't  
5 have to do anything -- the Arab mentality is pointed  
6 to, they are paranoid about the Mafia, of getting  
7 things taken care of, they feel better giving money  
8 away. That is a panacea to explain all the incon-  
9 sistencies with their scenarios.

10           What is the honeypot? You have to look at  
11 it from every standpoint. They wanted to make it  
12 as attractive as they could for all the people.  
13 You have to look at it like in the Japanese movie,  
14 Roshamon, everybody has their own point of view.  
15 Mr. Criden, Lou Johanson's point of view, you  
16 are talking about a big hotel in Atlantic City where  
17 they can all make a lot of money, legitimately,  
18 no question about that, but they can make a big fee.

19           You heard Mr. Criden's son testify it was  
20 a dream come true for him.

21           Ellis Cook testified about Mr. Johanson  
22 and the problems he was having in his family in  
23 terms of health and expenses, and this would solve  
24 all the problems.

25           This honeypot is laid out there and it's

1  
2 going to solve everybody's problems. It is an  
3 appeal to human nature, human weaknesses, frailties.

4 From Congressman Meyers, what is the  
5 honeypot to him? Development of the port where his  
6 father and he worked. To put hard-working people  
7 out of work back to work. That was the honey pot.

8 Let's talk about the Government's case.  
9 We start with July 14th, which I think is the first  
10 time anybody in the case gets involved in terms of  
11 this meeting down in Florida.

12 On the 14th, there is a telephone call.  
13 Mr. Johanson talks to Mel Weinberg and says we are  
14 representing some people with property in Atlantic  
15 City, we are interested, you have financing, come  
16 down to Florida. Johanson is asked about himself and  
17 says, "Look, I am practically a graduate of the  
18 Seminary and so is my partner. You'll have no problem  
19 checking us out top to bottom."

20 They come down to Florida and bring with  
21 them the plans for the legitimate project.

22 Architectural plans which you have all  
23 seen, and other books, feasibility studies, and  
24 apparently Mel Weinberg threw them over the side  
25 because they are not there anymore. But they

## Ben-Veniste-Summaton

1 continued to string him on all the way thorough  
2 just like Wenberg writes in the book, when you have  
3 a sucker, keep him there promising the hotel is  
4 okay, going to recommend to the Sheik to go forward.  
5 Go over to London and going to do everything we can  
6 do. The Sheik is interested. This is what he said.

7 Give us a little more time.

8 And so they go down to Florida. They have  
9 a meeting. And on the way back there is a discussion  
10 on the airplane concerning the Sheik meeting some  
11 political figure.

12 Let's go to the Government's own case. Ellis  
13 Cook, I'm going to tell you a little about him.  
14 You have seen him already. I don't think Mr. Puccio  
15 gave you the full picture on Ellis Cook. Mr. Cook  
16 testified that under his agreement with the prosecu-  
17 tion he can't be prosecuted for anything except if  
18 he lies.

19 He said he testified the same way in Court  
20 as he did in the Grand Jury and hasn't been prosecuted  
21 and Mr. Puccio said he's telling the truth. Let's  
22 look at what he said. No quid pro quo. Do you  
23 remember that? They sat around discussing the  
24 proposition, what was the money to be paid for?  
25

1  
2 It was always made very clear that the  
3 Congressman would not have to do anything in return  
4 for the money. No quid pro quo.

5 So they said, gee, this sounds crazy, like  
6 a fantasy. The Sheik has so much money, billions,  
7 \$50,000 or \$100,000 doesn't mean anything to him.  
8 Money means nothing to the man. They said let's go  
9 further.

10 Suppose there is something we should do,  
11 are we violating the law, they ask. Would they have  
12 to register under the foreign registration act.  
13 The answer was no because the Sheik was not a  
14 representative of the Government. So they solved  
15 that problem. And so they go up to the meeting.

16 And Cook testified how Mr. Criden and  
17 Mr. Johanson came back from Florida. They were  
18 like school boys. We can get financing for this  
19 project. This guy has a tremendous amount of  
20 money. This is what they wanted to invest. They  
21 were going to take care of their problems. Children's  
22 education is paid for, they can practically spend the  
23 money.

24 And on top of all that, we can make fees  
25 by introducing the Sheik to this Congressman.

1  
2 Mr. Cook testified, no, he never had been  
3 offered anything like that in his whole career. It  
4 sounded impossible but well, let's go and see.

5 Now, Mr. Puccio said that Mr. Cook indicated  
6 to you that everybody was squirrelling their money  
7 in a safe deposit box. Nobody was going to make  
8 an announcement and tell about what happened.

9 But if we look at Mr. Cook's testimony,  
10 that is not at all what he said.

11 At page 1154, Mr. Puccio.

12 "What happened to that \$4,500?"

13 "Answer: I eventually put it all or most  
14 of it into my Saving's account."

15 Savings account.

16 Then there was a question that Mr. Puccio  
17 asked you to consider, did Mr. Cook ever hear anything  
18 about play acting. Mr. Puccio suggests to you that  
19 Mr. Cook didn't know anything about play acting.  
20 He testified, of course, that the Congressman was  
21 to go up to New York where he would meet with Mr.  
22 Errichetti and Mr. Errichetti would tell him just  
23 what to say and do.

24 That is page 1162, Mr. Puccio.

25 Moreover, when you suggested that Mr. Cook

1  
2 might not have known anything about play acting,  
3 Mr. Puccio must have been on the planet Pinkus when  
4 he played the tapes. You remember Mr. Cook, he was  
5 the play actor. Mario Noto, or Nopo, or whatever,  
6 it was he sure as heck who knew they were play  
7 acting.

8 What was the whole point of the Ellis  
9 Cook -- Mario Noto thing? Mr. Puccio did not play  
10 that day. He was prepared for you not to see. We  
11 put that tape in evidence.

12 And what did it show? It showed beyond any  
13 doubt that these people had in their mind that  
14 nothing would ever -- was ever going to be done  
15 because Mr. Ellis Cook would not do anything. He was  
16 not immigration person. It was quite clear on  
17 evidence that can't be refuted that they all believed  
18 that Weinberg was setting this thing up just so they  
19 could relieve the Sheik of some of his petrol  
20 dollars.

21 Is there any question that that Mario Noto  
22 impersonation thing was on that basis. You saw  
23 Mr. Cook sit in that livingroom furnished by the  
24 Smithsonian Institution in Washington, and say to  
25 Weinberg, once Tony the straight guy had left,

## Ben-Vaniste-Summaton

1  
2 well, how old is Mario Noto supposed to be?

3 Was that how he was going to talk if he was  
4 really Mario Noto?

5 How old is this guy supposed to be?

6 It's quite clear not only that he knew they  
7 were play acting but Mr. Weinberg fully expected a  
8 play act. That shows what these defendants also  
9 expected, and also believed and also had in their  
10 minds about the agent provocateur Mr. Weinberg.

11 Now, let's go further into the Government's  
12 case. Mr. Puccio called to the stand Michael Criden.

13 Forget about calling a man's son to testify  
14 against him in a criminal case and just think about  
15 what the testimony was.

16 Michael Criden testified in the Grand Jury  
17 and the testimony was the same in this Courtroom.  
18 He drove his father up to New York not for any  
19 sinister reason involving Mr. Criden, but because  
20 his father has a serious diabetid condition and  
21 can't be left alone or drive alone.

22 What did he tell you, ladies and gentlemen,  
23 about Mr. Criden's hopes and aspirations? That  
24 this whole proposal was like a dream come true.  
25 They would all make enough money and no matter what

Ben-Veniste-Surmaton

3779

1  
2 happened Mr. Criden's two sons would have their  
3 education taken care of and he would be able to  
4 provide for them.

5 Let's look at the Mario Noto situation from  
6 Mr. Weinberg's point of view. The master con man.

7 He doesn't care if they bring in a ringer  
8 who looks like Mario Noto or not. Really, from the  
9 one standpoint if the ringer passes muster, if  
10 De Vito lets go of the 50 or 25 Grand, he's got a  
11 pay day coming back -- Mr. Weinberg.

12 But, if he's found out to be an imposter,  
13 then Weinberg doesn't know anything about that and  
14 he can prosecute people for impersonating a federal  
15 agent.

16 Either way he's got it covered because he's  
17 got the FBI behind him.

18 And remember the questioning of Mr. Weinberg  
19 on the stand as to why he didn't raise that ruckus.  
20 He said, "I didn't face Mr. Errichetti down because  
21 I wanted to string him along. I did face Mr. Criden  
22 down because -- why did you tell Mr. Errichetti that  
23 I had told you I thought the man came from Mr.  
24 Errichetti's office -- that was his idea of facing  
25 him down."

1  
2 I suggest to you all the conversation after  
3 the meeting had to do with was who was going to  
4 take responsibility to bring a big stiff like  
5 Ellis Cook in who was going to pull off the imperson-  
6 ation. You didn't fool anybody for a minute. That  
7 shows you what state of mind was. Nobody was  
8 ever going to have to do anything.

9 Let's get to the heart of it. Why is Mr.  
10 Weinberg's credibility crucial? I suggest it is in  
11 this case..

12 You won't have to keep those heavy books on  
13 your laps while I talk because you won't have to  
14 turn any pages. I will give you my recollection of  
15 what is on the transcripts. If I am wrong, you've  
16 got them and we supplement them for you with  
17 material we think is relevant.

18 Indeed, the transcript of the Ellis Cook  
19 impersonation is in there now. I think you saw  
20 the taps pretty early in the trial when the transcript  
21 hadn't been prepared by the Government. They were  
22 working on it and working on it and yesterday finally  
23 came up and now you have it.

24 Why is Weinberg's credibility crucial?  
25 Will you push that button on, please. Here is

1  
2 Mr. Weinberg. Why is this man's credibility crucial?  
3 This is the man right in the scene on August 22nd  
4 walking out of the meeting and I'm going to dub  
5 this scene: "Every dog has his day."

6 A big smile, a two-dollar cigar. He perpetrates  
7 the sting. He's done what he hoped to do to get  
8 Meyers to act before the cameras in that room so that  
9 he can go back to his FBI supervisors, if you can call  
10 them supervisors in this context, and say I delivered  
11 the man to you.

12 Weinberg's credibility is crucial in this  
13 case because he is not the one that denies saying  
14 to Errichetti, just have Meyers come on strong, he  
15 will never be called on to do anything, it's all  
16 B.S.

17 It's -- if you believe Mr. Weinberg's denial,  
18 then you ought to find Howard Criden guilty. But  
19 if you don't believe him, beyond a reasonable doubt,  
20 that he had that conversation, then I suggest you  
21 ought to find Mr. Criden and all the defendants  
22 not guilty. Because what is crucial here is what  
23 went on off camera. They had great control of what  
24 would happen on camera. What happened off camera?

25 Let's start before this meeting takes place.

## Ben-Veniste-summation

1  
2 what does Weinberg do. He goes downstairs, and  
3 briefs Mayor Errichetti.

4 Now, you remember all the talk about bod-  
5 recorders. Does Weinberg wear a body recorder? No,  
6 he doesn't like them.

7 Why? You recall the testimony of Agent  
8 Amoroso, because on a bod- recorder the Agent can  
9 fix it so that the wearer can't turn it off.

10 So there is no record to present to you,  
11 ladies and gentlemen, about what he told Mayor  
12 Errichetti. If they had said, "Mel, wear this body  
13 recorder and go down there and talk to Errichetti,  
14 then you would know. But they deliberately didn't  
15 do that because Weinberg didn't like body recorders.

16 I think Mr. Amoroso was sort of candid about  
17 what the meeting was all about when Mr. Brown was  
18 questioning him. I am sure other defense counsel  
19 are going to have something to say about it because  
20 it was a very important question and answer, I think  
21 the last question Mr. Brown asked, is it not a fact  
22 what this was all about was that you wanted there to  
23 appear on these video cameras and ultimately on  
24 tape for some future jury a scene which would depict  
25 people like my client performing supposedly for the

1 Ben-Veniste-summation

2 Sheik but actually so that you could say he was  
3 committing a crime, isn't that right? And Mr.  
4 Amoroso admitted he was right.

5 Now, what other evidence do we have to go  
6 on about what Mr. Weinberg said to prepare Mr.  
7 Meyers for that meeting? We have the Williams analogy,  
8 only a few weeks before and we can show you what  
9 Weinberg's methods were to bring Senator Williams  
10 before the camera, what to say and incidentally there  
11 are no charges brought against this Senator Williams.

12 What did Weinberg say? Weinberg said, you  
13 just get in up there, it's 20 minutes, it's all B.S.

14 Have him act like a tiger. Make him come  
15 over strong. It's all play acting. This is on  
16 tape. I suggest to you what happened is somebody  
17 went through the roof when they played that tape and  
18 said, Mel, you can't do that. We can't have that  
19 kind of stuff on tape. ~~kind of stuff on tape~~

20 But do you think a person like Mel Weinberg  
21 would listen to that kind of an instruction? No.  
22 He did something different.

23 I suggest to you he had the same conversation  
24 and we have a part of it, come on strong and so  
25 forth, but in the crucial meeting which is before this.

## Ben-Vaniste--summation

1 August 22nd meeting downstairs in the lobby there  
2 is no tape recording, and in the crucial telephone  
3 calls of July 29th and July 31st, what happens?  
4 You have a conversation that starts: "Congressman  
5 Meyers."

6  
7 It's an interesting start for a conversation.  
8 And you have the conversation and the gap in the tape.

9 Now, I think it's kind of ironic that Mr.  
10 Puccio plays you the first tape. The first tape he  
11 plays you is the one that had a gap in it. The  
12 29th. At least a minute missing, maybe two minutes.  
13 That is according to the phone records compared to  
14 the length of the conversation. You heard that  
15 yesterday.

16 What does this tell us? The taping instructions  
17 given to Mr. Weinberg were unequivocal, they were no  
18 exceptions. He was to tape every conversation from  
19 start to finish, use a new tape, one cassette per  
20 conversation.

21 What happens? He stops the tape recorder  
22 when they came to a part in the conversation. I  
23 suggest to you, ladies and gentlemen, what he did  
24 was stopped the tape recorder. Then, go on when  
25 he got finished talking about the instructions he

1  
2 had to give, then pushed the button again.

3 He testified that the reason there are  
4 stops and starts is because he dropped it.

5 Ladies and gentlemen, to a scientific  
6 certainty which is a very rare thing in a trial, you  
7 heard the evidence which makes Weinberg out to be  
8 a liar, if nothing else, convinces you that he is a  
9 liar.

10 Not only he was a liar all his life, but  
11 he lied in this courtroom to you.

12 The way the tapes are handled with every  
13 other individual in the case, they are logged in  
14 right away and that is why I took some time to show  
15 you as the case was going in but the FBI practice  
16 is. What good practice is. How to deal with evidence.

17 With Weinberg, eight to 10 days before tapes  
18 got turned in. Why? Because he monkeyed with them.

19 Mr. Puccio said, and I have to laugh at it,  
20 is that the one thing that doesn't change in this  
21 case is the tapes. That is the one thing that did  
22 change. And you know it changed because the foremost  
23 expert in the United States told you so. The man  
24 Mark Weiss, together with Mr. Aschkenasy were on the  
25 Watergate tape and all selected from all over the

## Ben-Veniste-Summation

1  
2 United States -- five people -- and he testified  
3 that there was absolutely no doubt in his mind that  
4 those gaps were made as a result of manually deliber-  
5 ately turning the tape recorder off.

6 Is there any question in your minds that Mr.  
7 Weinberg was lying to you when he gave that explana-  
8 tion?

9 Then we have the question of the lost tapes.  
10 Incidentally, all the exhibits will be available  
11 to you to show, for example, what it looks like,  
12 what the difference is between when a tape is dropped  
13 and when it is dropped and when it is stopped man-  
14 ually, so you will have all of these in the jury  
15 room. But there was no serious contention otherwise.

16 Now, let's talk about the lost tapes. This  
17 is so typical of Weinberg because he is a con man.  
18 You also -- you always have to throw something in  
19 that sounds credible. Not only tapes lost but his  
20 cigars were taken. That's what he told the FBI on  
21 the 23rd, supposedly.

22 Someone stole some tapes out of his briefcase.  
23 In a side pouch with two bundles of 25 cigars each.  
24 I know some of you either smoke cigars or have  
25 friends who smoke cigars. Is it believable, forgetting

## Ben-Veniste-Sumnation

2<sup>1</sup>  
2 about everything else, that somebody would check a  
3 bag and in an outside pouch put two bundles of cigars  
4 that would get smashed to smithereens when they're  
5 handled by the baggage handlers at the airport?

6 Go further. Like what happens when they get  
7 there. Supposedly he loses three or four or five  
8 tapes, depending on who you believe. Because there  
9 is no FBI report for this series of events. Nobody  
10 writes up a report. And nobody knows or remembers,  
11 did Weinberg have any other tapes in his possession.  
12 Weinberg didn't remember. He thought he didn't.  
13 Amoroso didn't know. Agent Brady didn't know and  
14 he met him at the airport. Agent Good, in charge  
15 of the whole investigation, didn't know.

16 But I knew. How hard was it for me to know?  
17 I looked at the exhibit. January 23rd, these two  
18 tapes were turned over (indicating).

19 Now, everybody's recollection has been re-  
20 freshed. Yes, I remember he must have had it in  
21 some other place in his suitcase. Is that what you  
22 would expect of the FBI? Is it something fishy about  
23 the lost tapes? Certainly something fishy about the  
24 gaps.

25 The law is that if there are missing or

## Ben-Veniste-Summation

1  
2 altered conversations, tape recordings, and their  
3 absence or alteration has not been satisfactorily  
4 explained to you, then you may legally infer,  
5 ladies and gentlemen --

6 MR. PUCCIO: Your Honor, I object. I under-  
7 stand your Honor turned down this request.

8 MR. BEN-VENISTE: No, your Honor permitted  
9 argument on it.

10 THE COURT: It's not a matter for any instruc-  
11 tion, but I don't think we are talking about the  
12 legal inference.

13 MR. BEN-VENISTE: An inference they may  
14 properly draw.

15 MR. PUCCIO: It's not a legal inference.

16 MR. BEN-VENISTE: They may properly draw it  
17 in this case.

18 THE COURT: All inferences may be drawn from  
19 the evidence, it is up to the jury. I don't think  
20 there is a legal inference.

21 MR. BEN-VENISTE: A proper inference.

22 You may properly infer on the basis of this  
23 record that those missing tapes or unrecorded por-  
24 tions of conversation, which are not produced, would  
25 be unfavorable to the prosecution. And I suggest

## Ben-Veniste-Summmation

1  
4  
2 that on this record, on this evidence you should draw  
3 such an inference.

4 That explains why we don't have evidence of  
5 the instructions given to Mayor Errichetti as to  
6 how Congressman Myers is supposed to behave.

7 First they don't have it because they don't  
8 put a body recorder on that man when he goes down-  
9 stairs; and secondly, Weinberg gets rid of the evi-  
10 dence and that is why he doesn't have it.

11 I suggest he knew, ladies and gentlemen, that  
12 Weinberg's tape recorder was more dangerous than the  
13 Son of Sam's .44. Because he was more accurate with  
14 it. He pointed it only at the words he wanted to  
15 pick up. He only pointed it at what looks incrimi-  
16 nating. But it's just as lethal as far as the men's  
17 lives are concerned.

18 As if it wasn't enough that he altered the  
19 tapes, and that he disposed of others, he went over  
20 the transcript, which I suggest to you in order to  
21 do some individual things -- do you remember I caught  
22 him on one, the word that said Mikey, Mikey said,  
23 I think. Who is Mikey? There is only one Michael  
24 in this case, Michael Myers.

25 What did the tape really say? "Like he said."

## Ben-Veniste-Summatation

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

This gives you an idea of what we are dealing with.

Let's evaluate Mel Weinberg. His past life has been entirely consumed with telling lies to people, with doing people out of things. The London Investors, Swiss Bank Associates, the phony gold contracts, breaking windows in stores, swindling his cousin out of \$50,000. Do you remember that? "Did you swindle your uncle?" "No, I didn't. It was my cousin."

Oh, that makes it okay.

The obtaining of millions of dollars over the years from innocent victims. Illegally bugging his car and his office so that people who wanted to have private conversations there would be overheard. The removal of the "perpetual care" sticker from his own uncle's gravesite:

Ladies and gentlemen, would he take candy from a baby? How far would Mel Weinberg go?

ol.by MM  
(Continued on next page.)

2 MR. BEN-VENISTE: (Continuing) Is there  
3 any limit in your minds, if it was going to help  
4 Mel Weinberg, how far would he go? Is there a limit,  
5 a man who didn't even have a social security number?  
6 A man who told you the truth on one of these tapes,  
7 when he said, I am the worlds biggest liar? But  
8 then, he lied to you when he denied it under oath.

9 Let's talk about the crimes that Melvin  
10 Weinberg confessed to; failure to file his  
11 income taxes, 1978 and '79, both years, when he  
12 was paid huge amounts of money by the United States  
13 Government. He had the brass not even to pay  
14 taxes on the proceeds of the money he had swindled  
15 from people in connection with the London investors  
16 scheme, over \$200,000.00. No taxes, forgetting  
17 about not paying the people back out of the money  
18 he had gotten. Not a cent went back to those  
19 people, those desperate people who he strung along.  
20 Can you say anything other than Melvin Weinberg  
21 is a one-man crime wave and he is still at it?

22 Let's talk about his interest in testifying  
23 in this case. He has already got \$100,000.00  
24 out of the government, more than that, I guess, if  
25 you figure in this month's \$3,000.00, plus expenses.

1  
2 Did you ever hear of an expense account  
3 where all your clothes are paid for? He has some  
4 real suckers here. The \$3,000.00 a month is not  
5 going to last, if you blow him out of the water with  
6 your verdict. He's got an interest in getting you  
7 to convict these men. He's paid no taxes, filed  
8 no tax returns for the last two years, at least.

9 What did he say when I asked him, do you  
10 expect to be prosecuted for that? He said, I guess  
11 so. Did you believe that? And then, there is a  
12 bonus at the end of the case. Here's a bunch of  
13 more money; don't bother to pay taxes on it.

14 Mel, in his shades on the witness stand, three  
15 days, three suits, who paid for them? You did.  
16 Dimond rings on each pinky finger. Sure, America  
17 loves a con man like Mel Weinberg in the abstract,  
18 in a movie, "The Sting", but in real life, you  
19 don't like the guy who breaks your window or who  
20 swindles your neighbors out of their life savings.

21 It makes a great idea for a movie. Can  
22 you see the beginning of the movie of Mel Weinberg,  
23 like this cute little face in the nursery, with the  
24 little frilly hat and the cigar? And in the  
25 crib with thim, there are 42 rattles because he

1  
2 has all the other kids' rattles. That's Mel  
3 Weinberg.

4 It's a great idea for a book, but it's not  
5 a great big human being you have seen here. It's  
6 funny in the abstract, but not in real life when  
7 you have a man like that with the assets of the F.B.I.  
8 behind him, whose got the con man's dream, somebody  
9 who vouches for him to the tune of 400 million  
10 dollars. My God, you don't care if he spells  
11 Zurich wrong on his business card;

12 you don't care what he sounds like. He has 400  
13 million dollars in the bank and he can prove it.

14 Now, you and I, if we meet a guy like this  
15 on the street and you shake hands with him, you  
16 count your fingers afterwards, then you look for  
17 your watch. But this guy was backed up to the  
18 tune of 400 million dollars. That's the only  
19 think that made him real.

20 Let's talk about the missing film. His  
21 own pals at the F.B.I. said you took some photographs,  
22 this is embarrassing to us, you can't use this in  
23 your book. So they send some agents back in  
24 Florida to get the film back, and the first thing he  
25 opens up, the camera, and the camera has some film

4 Ben-Veniste - summation

1  
2 in it that has nothing to do with the pictures  
3 he took. The agent slaps the camera shut and  
4 says leave it to me, puts it in his bookcase,  
5 briefcase, and he gets back to New York. No film.

6 In March, we have Mr. Weinberg's biographer.  
7 Weinberg says I have some photographs of the  
8 inside W. Street townhouse. February, he supposedly  
9 gave the film back. March, he tells his writer  
10 that he has the photographs. Is there any question  
11 but that he stole the film out of the F.B.I. suitcase?  
12 It's just another idea of what we're dealing with.

13 Was the F.B.I. misled by Mr. Weinberg?  
14 He testified he was a stool pidgeon in 1960 and  
15 1970; give a little information and get a few  
16 dollars, but it was an insurance policy so that  
17 big brother would get him out of trouble if he  
18 got caught in one of his real swindles. But all  
19 that time, did he tell the F.B.I. what he was up to?  
20 No, he misled them.

21 Filing the tax returns, supposedly, the  
22 F.B.I. had no idea that he didn't pay his taxes.  
23 Then, the debriefing of Mel Weinberg, up in  
24 Pittsburg, three days, he said I sat down and  
25 told them everything about myself.

1  
2 We put all the F.B.I. agents on the stand  
3 and in no way, no, he did not. We know nothing about  
4 all this other stuff. I called the agent, I think  
5 it was Batwell, the agent in charge of contacting  
6 all the victims on all these frauds he perpetrated.  
7 Did he ever tell you about the franchise holders,  
8 all the other con men, did you prosecute them? Oh,  
9 no, we didn't know about that.

10 What about Weinberg's perjuries, proveable  
11 under oath false statements. Let me give you a par  
12 tial list of where he lied to you and where we  
13 proved he lied under oath.

14 He swore to tell the truth. Swearing to  
15 tell the truth doesn't mean a thing to a Mel  
16 Weinberg. I suggest that to you. First of all,  
17 you heard him testify in Philadelphia only one or  
18 two days at the most went by in terms of turning  
19 over tapes. That was contradicted. No, that's  
20 wrong, it's been to ten. He denies providing any  
21 Abscam information to his writer, Mr. Green. That's  
22 been proved false. He said in Philadelphia that he  
23 filed a 1978 tax return, false. He said the reason  
24 for the gaps in the tape was because the machine  
25 dropped on the floor. False. He testified that he

1  
2 was debriefed by the F.B.I. for three days in  
3 connection with the Pittsburgh case. False. He  
4 testified that he never mentioned Congressman Meyers  
5 to Mr. Criden in January of 1980, to set up the  
6 Barkley Hotel meeting with Cohen. False. He lied  
7 about how much he paid for his house. He said it was  
8 \$25,000.00. False. It was \$30,000.00. He lied  
9 about his involvement in fraudulent activity before  
10 1962. False. He denied having spoken to Agent  
11 Good about a bonus after all these cases were  
12 over. False.

13 Who is Mel Weinberg, ladies and gentlemen?  
14 The heart and soul of Abscam? I suggest to you that  
15 Mel Weinberg makes J. R. Ewing look like Peter Pan.  
16 The man has no conscience. The man would do  
17 anything.

18 This is where you have to apply the legal  
19 standard of reasonable doubt. Do you believe Mel  
20 Weinberg beyond a reasonable doubt, when he denies  
21 saying to Mayor Errichetti for passage to Congressman  
22 Meyers, at this meeting, that it is all an act,  
23 it is just play acting, it's all B.S.; go in there  
24 and talk with the people. That's the standard.  
25 That's what this case come s down to. Do you believe

Mel Weinberg's denial beyond a reasonable doubt?

Now, sometimes courts give juries instructions about circumstantial evidence. I think it is instructive in thinking about how you would regard a person like Mel Weinberg or the real article, Mel Weinberg. Because, if you saw him on the street tomorrow, I will ask you to apply this test; circumstantial evidence is not direct evidence. And sometimes courts use an example where somebody gets on the subway in Brooklyn and the subway goes over to City Hall stop in Manhattan, two or three people get on the subway and when you went into the subway, the sun was shining outside but now at the City Hall Stop, a couple of people get on and they are all rain splattered, one has a wet umbrella. Normally you could draw the conclusion based on circumstantial evidence that in the time it has taken you to travel from Brooklyn to New York, that there was a rain shower and the people who just got on the subway got caught in it.

All right. Fair enough. Now, if tomorrow that happened to you, and you were in the car and Mel Weinberg got in with those other people, and

1 Mel Weinberg said to you, Now, is it raining,  
2 raining outside, do you want to buy an umbrella,  
3 would you believe it was raining or would you have  
4 a reasonable doubt that maybe Mr. Weinberg had a  
5 couple of people walk on to the train whose  
6 clothes were wet for the purpose of selling you  
7 an umbrella? Can you believe Mel Weinberg?

8  
9 Reasonable doubt means a doubt that would  
10 cause you to hesitate in an act of importance to  
11 yourself like let's say buying a car. Or making an  
12 important investment. If Mel Weinberg gave  
13 you advice about a car or an investment, would  
14 you believe him? Would you have a doubt? Would  
15 you follow his advice? Is there any doubt in your  
16 mind?

17 Well, let's talk about the investigation.  
18 They employ Mel Weinberg. You have a scenario where  
19 Mr. Good comes out of the Happaage office in 1977  
20 and he is in charge there and he says, well, I am  
21 going to get involved in something terrific. I  
22 am going to get a hold of Mel Weinberg and this  
23 is just what I need to make my reputation. But,  
24 does he find out about Mel Weinberg, who the real  
25 Weinberg is? No.

Ben-Veniste -summation

1 Nobody, I suggest to you, takes the time  
2 to ask him how have you been living for the past  
3 50 years, Mel. They know he has been convicted in  
4 one case. I suggest to you every F.B.I. agent  
5 who dealt with the answer to the question, No,  
6 I didn't ask him about that. I didn't need to know  
7 that. I didn't want to know that. I suggest to  
8 you that the F.B.I. thought it might be easier  
9 to make a case where you had all this stuff  
10 prearranged where you make the crime happen yourself  
11 than it is to catch the bank robbers that they  
12 can't catch. Instead of making the city safe for  
13 people who ride on the subway, this is what they  
14 are involved with.

15  
16 I think the F.B.I. reacts like a normal  
17 victim of a sting in this case. You know, a con  
18 man thinks that one of the things he has going  
19 for him is when someone gets stung, they are so  
20 embarrassed, they will not go out and say, oh,  
21 my God, I have been taken. That's normal.

22 The F.B.I got taken by Mel Weinberg. Maybe  
23 they just realized in the course of this trial. M  
24 Maybe they knew it before.

25 Let's look at the F.B.I. as a typical mark.

1  
2 Who was the first person who was supposed to  
3 supervise Mel Weinberg? Agent McCarthy. When you  
4 look in the dictionary for policeman, you see a  
5 picture of Mr. McCarthy, because he acts and looks  
6 like a policeman, and that's good, because that's  
7 what the F.B.I. is supposed to be.

8 When he says to Weinberg, look, if you get  
9 involved in any of your scams, if I catch you out  
10 of line, Weinberg, I am going to lock you up.  
11 That's what his testimony is, I am going to lock  
12 you pu again, because he was the one who locked  
13 him up the first time.

14 But before you can say boo to a ghost,  
15 goodbye Mr. McCarthy, hello Mr. Amoroso. Somehow  
16 Mr. Weinberg had gotten Mr. McCarthy out of the  
17 picture.

18 Now, what does Mr. Amoroso know about Mel  
19 Weinberg? Nothing. He had been convicted once.  
20 That's all he knows. He never made an inquiry  
21 about Mr. Weinberg; saw him continuously for six  
22 months. What was his answer? I wasn't interested.  
23 Maybe Mr. Amoroso thought what he didn't know  
24 wouldn't hurt him. But he didn't know anything  
25 about the fraud he had perpetrated. He didn't know

1 that it was the same sting in the London investors  
2 case with the huge amount of Arab oil money that  
3 came to be Abscam, and\*the same thing with the  
4 fictitious Lady Knight and the presents that would  
5 make her happy. Same sting. Same Mel Weinberg.  
6

7 Look at the F.B.I.'s tape expert. He  
8 didn't want to know what happened. Did he  
9 conduct one experiment? Did he do one test himself?  
10 Did the whole F.B.I. not know what to do to test  
11 a tape like this? Do you think Mr. Ritenour was the  
12 one who made the decision, don't test the tapes?  
13 Somebody did. Why?

14 Because they would have agreed with America's  
15 foremost expert, Professor Weiss, if they had done  
16 the test. Instead, they could come on the stand  
17 and say, I don't agree with him, if you drop the  
18 machine and it lands exactly on its side, maybe  
19 it won't warble, but I won't testify to that.

20 The only one who had some candor at all,  
21 I suggest to you, about testifying about Weinberg,  
22 was Agent Best from Philadelphia, who testified  
23 we had no use for Mel Weinberg in Philadelphia.  
24 But even he didn't know that Weinberg had set up  
25 the Ozzi Meyers situation with Mr. Criden until

1  
2 his recollection was refreshed.

3 Agent Good didn't know who was in charge  
4 of the investigation. Agent Amoroso didn't know.  
5 Mr. Weinberg testified, no, I didn't mention  
6 Ozzie Meyers to Mr. Criden. Then you have Mr.  
7 Best finally conceding, yes, he did.

8 Let's talk some more about candor in this  
9 case. Every F.B.I. agent was called except the  
10 one who poured the drinks for Ozzie Meyers. Why?  
11 Ask yourselves.

12 Mr. Puccio talked about one drink. Well,  
13 you're not unsophisticated, ladies and gentlemen.  
14 He has to give you some credit. One drink is  
15 not a tumbler of whiskey, that's not one drink,  
16 that's five drinks. Then another one on top of  
17 that. But, they didn't call the F.B.I. agent who  
18 poured the drink.

19 Agent Amoroso, from the witness stand,  
20 evaluating Mr. Weinberg; he was a skillful con artist.  
21 A question by Mr. Brown, he conned everybody but  
22 you, right? Answer: No, I could be conned just  
23 like anybody else. One of the only quotes, the  
24 only quote I am going to give you today, is from  
25 Will Rogers who is one of my favorite writers, who

Ben-Vaniste - summation

1 said, just be glad you're not getting all the  
2 government you're paying for.  
3

4 Well, this is the case that shows it. It is  
5 sad, it really is, that these men are on trial  
6 and Mel Weinberg in this Mach IV Continentle is  
7 still being chauffeured around by the F.B.I.

8 But as I said to you, when we first started  
9 out a couple of weeks ago, you are going to write  
10 the last scene of this sting. You can give it the  
11 O'Henry touch. It's in your hands. I hope you do.  
12 Sting the stinger. By your verdict, you're going  
13 to determine whether Mr. Weinberg is credible  
14 or whether he is not.

15 When you think these men should go to  
16 jail and Mel Weinberg shouldn't. I started out  
17 saying there was something called an analogy. I  
18 tried to draw an analogy in terms of the old movies  
19 where you see the poor fellow waking up in the  
20 motel room next to a girl he never saw before and  
21 they are both undressed and somebody comes in with  
22 a flash bulb, because he has been given some knockout  
23 drops. A picture is worth a thousand words. If  
24 you don't know the background to this, you would  
25 say, oh my God, what is this? But in that movie,

1  
2 if you don't show the knockout drops, you don't  
3 understand what happened.

4           The intoxication in this case was Mel  
5 Weinberg in this honeypot. Sure, it was a honeypot.  
6 It was the answer to all these peoples' dreams and  
7 it was free money. Too good to be true.

8           You have to prove, if you are Mr. Puccio,  
9 beyond a reasonable doubt, that Mr. Meyers intended  
10 to be influenced in his official capacity.

11           I suggest to you that they can't do that.  
12 Mr. Puccio argued to you about what is proper, the  
13 propriety of Congressman Meyers actions. Well,  
14 first of all, your verdict has to deal with guilt  
15 as to a criminal charge, just the charges that  
16 are here.

17           When we picked you as jurors, you all  
18 promised to do that and I know you are going  
19 to do that. I am not talking about what is  
20 proper. You ought not concern yourselves with  
21 whether Congressman Meyers should be a member  
22 of Congress or whether Mr. Criden should continue  
23 to be an attorney. There are groups that take  
24 care of that. The Bar Association, Congress censors.  
25 Those are things that are not for you, the

1 disciplining of these individuals in their  
2 professions. That is not your concern, and His  
3 Honor will instruct you on that.  
4

5 Howard Criden knows that he's probably  
6 going to lose his profession as a result of all  
7 this.

8 MR. PUCCIO: I object to this.

9 THE COURT: It's improper argument.

10 The jury is not to be concerned with the  
11 consequences of what their verdict may be.

12 MR. BEN-VENISTE: Ask yourselves, why  
13 not a single thing was asked about Ozzie Meyers  
14 to test him, as to whether he really intended to  
15 do anything. Wouldn't that be the fair way?

16 Ozzie, write a letter to the State Department,  
17 just to introduce the sheik. Let's see if you  
18 get anything official on stationary. Not done:  
19 it's too risky. He would have turned them down,  
20 because they knew he wasn't going to do anything.  
21 They knew Weinberg's techniques.

22 I ask you again, not to compromise verdicts.  
23 Don't think you will be doing anybody a favor by  
24 a split decision here. That's a disaster for  
25 Howard Criden. You brand him a felon, if you convict

1  
2 him, convict him of everything.

3           Something on those tapes struck me as I  
4 listened to them. Mr. Cohen or Mr. Wald, whatever  
5 his name is, they talked about the Statue of Liberty.  
6 The shape was like the bypass of the Statue of  
7 Liberty.

8           Ladies and gentlemen, don't you bypass the  
9 Statue of Liberty. This is still America. Now  
10 matter how they make it appear on these tapes, yes,  
11 Mr. Criden appears ridiculous on these tapes; yes  
12 he appears foolish; yes he has been ridiculed in  
13 the press in this courtroom the way he looks.

14           MR. PUCCIO: I object, Your Honor.

15           MR. BEN-VENISTE: Probably he is guilty  
16 of being greedy.

17           I ask you, ladies and gentlemen, to consider  
18 that these are human frailties. This is not the  
19 crime that is charged here. Don't convict Howard  
20 Criden because he's foolish, that he made a mistake,  
21 that he succumbed to the honeypot, that he took  
22 money. Money is not what this is about. This  
23 is about the intent of the people.

24           I ask you not to brand Howard Criden a  
25 felon with a guilty verdict because you think he

1 is a fool or that you think he is avaricious. If  
2 you think that he is guilty, if you think that they  
3 intended for Ozzie Meyers ever to do anything for  
4 this sheik, then find him guilty. If you  
5 believe Mel Weinberg, that he denied how that meeting  
6 was set up, beyond a reasonable doubt, find Howard  
7 Criden guilty.  
8

9 But if you don't believe him, I ask you,  
10 ladies and gentlemen, find him not guilty, on  
11 each of the counts of the indictment.

12 Thank you.

13 THE COURT: Thank you.

14 At this time, we'll take a short recess.

15 Don't discuss the case.

16 (The jury withdrew from the courtroom at  
17 3:10 P.M.)  
18  
19  
20  
21  
22  
23  
24  
25

1  
2 (After recess.)

3 (The following occurred at 3:25 o'clock  
4 p.m.)

5 THE COURT: Bring in the jury.

6 (The jury thereupon returned to the  
7 courtroom at 3:27 o'clock p.m.)

8 THE COURT: Next, ladies and gentlemen,  
9 we are to hear from Mr. Duffy on behalf of  
10 the defendant Johanson.

11 MR. DUFFY: Thank you?

12 Members of the axe squad, Mr. Puccio, ladies  
13 and gentlemen, my mother says I was vaccinated  
14 with a victrola needle, so you can expect me to  
15 be a while. I say that up front because when you  
16 give an Irishman sixteen people and a captive  
17 audience, and the rules say that they have to  
18 listen, you don't know when he is going to finish,  
19 and I have a lot to talk to you about this afternoon.

20 I said before in this courtroom; I don't  
21 know if I said it in your presence, but if I didn't  
22 I will say it now, I have a man's life in my hands.  
23 And I have to argue to you this afternoon to decide  
24 this case the way I see it. I say argue for this  
25 reason -- some lawyers say sum up. I think the

2  
1  
2 Judge put it that way. Some say speech. But it  
3 is really an argument. It is an argument because  
4 this man, and this man (indicating) and all the  
5 rest of the federal agents who are missing now  
6 so I can't point at them today, and I disagree  
7 over whether we should even be here.

8 The stuff of tragedy is in this room. Think  
9 about it.

10 We have had two and a half weeks filled  
11 with buzz words, sting, mark, hustle, swindle.  
12 Words like that. The left hand, the name of the  
13 yacht, tells what this whole case is about. Do  
14 you know what the word is in Latin for left,  
15 sinister. That's what it is about. This case  
16 is about sinister. But there are some other buzz  
17 words that we haven't used in the courtroom and  
18 it is about time that somebody did. Words like  
19 tragedy, disgrace, ruin, frame. Words like that.

20 I want to talk to you first - a little bit  
21 about what your duties are in this case. The  
22 Judge will tell you. But I want to underscore  
23 some of them for you.

24 You have listened attentively. I don't  
25 mean to be patronizing. I do not mean to court

3  
1  
2 your favor with flattery. But whether you know  
3 it or not John Duffy has been watching you for  
4 a couple and a half weeks, and I have never seen  
5 a more attentive jury. I ask you to hear me out  
6 and my two remaining brothers. And I want to  
7 talk about some of the things you are going to  
8 have to grapple with when you get back in the  
9 jury room.

10 It is pretty tough to follow Mr. Ben-Veniste.  
11 I was up all night writing out those cards for  
12 him. I thought he would do a good job and he did.  
13 I'm going to try not to touch the things that I  
14 wrote for him.

15 I want to talk to you first about what your  
16 job is all about. Then I am going to talk to you  
17 about what Mel's job is all about.

18 Concerning your job, when you get in the  
19 jury room, you are going to have to decide who told  
20 the truth.

21 It sounds pretty simple.

22 Maybe the judge will give you some accepted  
23 tests that we apply in the courtroom. I'm going  
24 to give you some that I think are reliable when  
25 you undertake the task to determine credibility.

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

One is the interest of the witness in the outcome of the case. What I am about to talk about applies to every witness who took the stand. The interest of the witness and the outcome of the case. It cannot be gainsaid, we can't deny, that Ozzie Myers, a congressman, has an interest in the outcome of the case. He has got a great deal to win or lose at your hands. The Judge may have something to say about it.

How about the rest of the cast of characters? How about Mel Weinberg? Does he have something to win or lose at your hands? Is ABSCAM over until his book comes out, the Sting Man?

How about the F.B.I. agents, fellows like John Good. Good ran the whole operation. And the Government didn't call him. We had to call him. Does he have an interest in the outcome of this case?

How about Tony Amoroso?

How about John Mc Carthy?

Do they have an interest in the outcome of the case?

Will the Federal Bureau of Investigation have egg on its face if you by your verdict say

1  
2 we have had a belly full. What was done was not  
3 right.

4 Interest. The demeanor of the witness on  
5 to stand.

6 (continued on next page.)  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1                   The demeanor of the witness on the stand.  
2  
3                   How did he act? How did he answer? Think about  
4                   Mel Weinberg for a minute.

5                   That's correct.

6                   If it's in the transcript, I said it. I don't  
7                   know, Mr. Duffy, unless I look at the transcript.

8                   Juxtaposed his reactions on Ozzie Meyers.

9                   Did he hesitate or did he answer every ques-  
10                  tion, not only the questions put on direct examination  
11                  but the questions put on cross examination when the  
12                  interrogator was from the other side.

13                  Think back to the federal agents who took  
14                  the stand. Your FBI. Their reactions. Their  
15                  answers. Their demeanor on cross examination.

16                  Did you see Good sit in that chair and look  
17                  at that man(indicating) when we cross examined him?

18                  Did you see Amoroso do the same thing? Did  
19                  you see McCarthy do the same thing. Did you see the  
20                  fellow who was probably the most -- Ritenour do the  
21                  same thing?

22                  Were they looking for the prosecutor's  
23                  approval? Did they dodge our questions.

24                  When we asked where is the report, did we  
25                  get it?

1  
2 The demeanor of the witness on the stand.

3 Was he forthright or did he seem to parry ?  
4 Did he seem to dodge. These are the kinds of things  
5 you look at.

6 There was a fellow in this town named Louis  
7 Nizer, a lawyer, who wrote a book I read when I was  
8 in law school, or right after I got out, when I got  
9 into this unenviable position that led me in front  
10 of you today.

11 The book was called "My Life in Court."  
12 I always thought it should have been called, "How  
13 great I am."

14 It was a biography. But Louis Nizer had in  
15 that book a little couplet that was printed in italics  
16 and appeared throughout the book. And it stuck with  
17 me throughout my career and practice of law.  
18 Just two lines:

19 "How do I know."

20 The rule of probability tells me so.

21 Maybe that is the best test when you are  
22 determining if Mel Weinberg told the truth as opposed  
23 to whether Ozzie Meyers told the truth, because  
24 that is what this case is all about. This case is  
25 all about Mel versus Ozzie. It boils down to that.

1  
2 When you are determining which of these  
3 persons told the truth ask yourselves, somebody recite  
4 that couplet, "How do I know.

5 The rule of probability tells me so."

6 I don't know if there are any horse racing  
7 fans among the members of the jury, it is not likely  
8 with so many ladies present. They publish a newspaper  
9 called the Telegraph. There's a reason.

10 Do you remember when I told you in my opening  
11 about my father and the Grape Nuts. It said on the  
12 box "there's a reason." And I never knew what it  
13 meant. There's a reason for everything in this  
14 case. In fact, Ozzie said, "Give me a reason."

15 And they publish the Telegraph because  
16 thoroughbreds run to form, you see. They are predictable,  
17 you see. And I argue to you that Mel Weinberg is a  
18 thoroughbred to the first degree.

19 Why do I say that?

20 I say that because I want you to perceive  
21 his testimony in light of the argument of his  
22 entire life, what we have dragged out of him kicking  
23 and screaming from that witness stand.

24 Did he start to tell the truth here? Did  
25 we have a preacher back there and did Mel run up and

1  
2 say, "I have been saved. I'm going to tell the  
3 truth from now on. I have seen the errancy of my  
4 ways and I'm going to keep God's command because I'm  
5 going to tell you 16 people the truth," or did he  
6 run true to form. That is really what you are going  
7 to have to decide.

8 The Judge said earlier today that the Govern-  
9 ment is not on trial. Maybe the system is not on trial  
10 Maybe the establishment is not on trial. And I guess  
11 I could disagree with that.

12 But I would rather characterize it a little  
13 differently. Who is on trial here? Louis Johanson,  
14 Howard Criden, Ozzie Meyers and Angelo Errichetti.

15 But it runs much more deeply than that. I  
16 can't help but remember Peter Finch's line in the  
17 movie, "Network," "I am mad as hell and I am not  
18 going to take it anymore."

19 In your deliberations, you are going to have  
20 to decide the question of Mel Weinberg. The caption  
21 doesn't say it. I don't know if you have seen the  
22 indictment or if you will, but the indictments, as  
23 all indictments starts out with four words, "The  
24 Grand Jury charges."

25 When I was a kid fairy tales started with

1  
2 four words, "Once upon a time."

3 That is what I want to argue to you this  
4 afternoon. All I have to say about your duties  
5 touches really upon who is credible.

6 I think the Judge said to you , lawyer's  
7 arguments are important because they have lived with  
8 the case. And that's true. I have been living  
9 with this case for over six months. I want to share  
10 with you some thoughts that I have.

11 I'm going to try not to -- temptation will  
12 be great -- but I'm going to try not to tell you  
13 what I think. I'm going to try to argue to you  
14 what you should think based only on the evidence or  
15 the lack of it.

16 There was a film clip shown on television  
17 some years ago, a tragic scene, of a Vietnamese  
18 standing in a field, or on a roadway, and I don't  
19 know whether it was a policeman, or soldier, or  
20 what, and I am sure that some of you saw this  
21 film. But he walked up and took a .38 and blew a  
22 hole in his head (indicating.)

23 No, I didn't mean that. I didn't mean to  
24 inject any levity. It is a serious analogy that I  
25 would like to make to this case.

1  
2           When I saw that that stark reality of a murder  
3 was something I could hardly stomach. If any of  
4 you saw it I think you probably would share my  
5 reaction to it. You see I go to the movies and John  
6 Wayne shoots Indians. But you all know, everybody  
7 knows, when you say "cut", the Indian gets up, and it  
8 probably wasn't an Indian anyways.

9           It's there. But nobody really got hurt. But  
10 when I saw the Vietnamese get shot in the head and  
11 collapse it just arrested my emotions. I froze.  
12 I wonder if that feeling would have left me if the  
13 film had gone on and I saw him get up. That is what  
14 we are dealing with in this case. We have a film, and  
15 a Congressman takes money. It is handed to him.  
16 He says that I will promise to do -- he would  
17 promise almost World War Three if they wanted it.  
18 And that is all you have when you get into the case  
19 six months ago. You have the Government with a film.  
20 And you start to ask questions. And at first maybe  
21 like when we opened to you it doesn't make sense.  
22 What do you mean a game? I don't know. Tell me  
23 about it. And they did.

24           And then you start thinking, my God, what  
25 happened here -- let me go look. Let me use the

1  
2 rules. Let me find out if I can dig out anything  
3 to support this because if this happened it's wrong.  
4 If this happened you have got to get some people  
5 from Brooklyn, Queens and Long Island to hear about  
6 it. The day is going to come when you have to go  
7 into Court and show them what they did to these men.  
8 So you work. And you stay up nights. You meet  
9 some good lawyers. And you get on a team. And  
10 you did, and you scrape.

11 You don't take on the United States Government  
12 in a frontal attack. You can't do it, a little  
13 fat guy from Philadelphia, a couple of fellows from  
14 Washington, and the man from Jersey City, as great  
15 as he is. You don't do it. It's a street fight.  
16 You have to conduct Guerilla warfare. You have got  
17 to take a shot here, a shot there. You have got to  
18 try to capture a block because they own everything.  
19 They have got the films. They have got the audio  
20 taps. They have got all the FBI. They have the  
21 Department of Justice. They have got Civiletti and  
22 all the people in Washington talking about the case.  
23 And you take it on. Then you start to find out,  
24 wait a minute, look what they did to Williams. My  
25 God, they are right. And then they start to provide

1  
2 tapes. And transcripts. And you say, hey, look,  
3 look what Mel Weinberg says in front of Tony  
4 Amoroso, "He's going to have to come on strong."  
5 Ozzie is not there. Lou Johanson is not there. Just  
6 Errichetti. You start thinking about Errichetti  
7 telling Meyers, "It's only an act. Mel has got it  
8 fixed. He will go to South America and he will  
9 never have to come here."

10 And he says, "Wow, maybe they are right."  
11 So you dig some more. You have the good fortune  
12 to work with a fellow like Ben-Vanista who knows  
13 some tape people. So you throw some tapes under the  
14 microscope and you find out they have been altered.

15 So you get a hearing cooking in Philadelphia  
16 and you meet Mel Weinberg. And you get him under  
17 oath. And he is Puccio-less. He is in my hometown.  
18 And you start firing questions at him. And he says  
19 he filed his '78 tax return. And he says he did ..  
20 not file a '79. But he's working on it with a  
21 lawyer in Mr. Puccio's office. You write it down,  
22 and you do some checking. And he tells you in  
23 Philadelphia when we are on the boat Criden brought  
24 up the stuff about immigration.

25 And you write that down and you check on

1  
2 that. And you get into your discovery and you find  
3 out, and so does Mel, that Amoroso wrote a report.  
4 And the report says "I" Amoroso wrote that out,  
5 not Howard Criden.

6 Then you find out that Mel didn't know about  
7 the report.

8 So you start sticking those cards up your  
9 sleeve until the right day comes along.

10 Now, I am going to share a thought with you  
11 that may run afoul of what Mr. Ben-Veniste told  
12 you. I do not perceive this case really as turning  
13 on whether or not Mel Weinberg paid his taxes. That  
14 isn't what is important. If you feel repulsed or  
15 indignant that he has been cheating our government,  
16 that's up to you. The fact of the matter as regards  
17 our taxes is that he lied about it under oath.

18 He took the stand in Philadelphia -- do you  
19 know this is a Courtroom story -- this case began  
20 in a courtroom in Pittsburgh. The light was turned  
21 out in a courtroom in Philadelphia and Mel came to  
22 rest in peace in a courtroom in Brooklyn.

23 The reason I raise the taxes question  
24 with you has nothing to do with him cheating our  
25 Government. It has nothing to do with --

1  
2 well, I'll have something to say about our FBI in  
3 that connection -- but it has to do with him  
4 committing flat-out perjury.

5           The judge may tell you -- let me tell you  
6 something about John Duffy. I don't argue the law.  
7 You will hear precious little of it from me because  
8 I learned in 18 years I don't know a hell of a lot  
9 about it. So I leave that up to the Judge. But  
10 the Judge may tell you a maxim in the law. It was  
11 written originally in the Latin, falsus in uno  
12 falsus in omnibus. That is alter boy talk for  
13 false in one thing false in everything. And that is  
14 part of my argument to you.

15           (Continued summation by Mr. Duffy.)

16           Take this question of the tax return, if  
17 Mel Weinberg lied to John Fullam, a federal district  
18 court Judge in Philadelphia, about filing his tax  
19 return in '78 -- before '78 -- in '79, if he lied to  
20 Judge Fullam about that -- and I am only talking about  
21 two episodes, about Howard Criden starting the  
22 immigration or even participating in the immigration  
23 conversation on the yacht Sinister, then you have a  
24 right to believe he lies about everything. But  
25 it doesn't end there. How do I know?

1  
2 The rule of probability tells me so.

3 These people, and you know I say these people,  
4 and maybe it is not the Government of the United  
5 States. Maybe the Government is not on trial here.  
6 Maybe that is carrying it a little too far. But I  
7 argue to you that there is a nest of dangerous and  
8 criminal men at work here, a nest of dangerous and  
9 criminal men, dangerous to the future of our American  
10 Society.

11 I don't usually make political speeches, but  
12 I am worried. I am truly worried, and I think you are  
13 because of what happened in this case.

14 Mr. Puccio used the verb this morning, to  
15 manufacture, when he referred to whether or not  
16 a meeting occurred, whether or not Mel told the  
17 Mayor whatever it was that he was speaking about  
18 at the time. ....

19 And manufacture is a good verb to use in this  
20 case. Let's look at it. I do not use any notes  
21 because I learned long ago that I am lazy, and if  
22 i have notes, I will read to the jury and I will  
23 put them to sleep.

24 Now, Mr. Ben-Veniste said I only get one  
25 chance to stand up in this case before you. It's

1  
2 a pleasure to get up and argue because anything  
3 that -- you see I leave crumbs for Ray Brown and he  
4 will make you a cake before it's over.

5 Take a look at what happened in connection  
6 with manufacturing. I'm not going to point you to  
7 the transcripts because I don't like that. I am  
8 pompous enough not to want what I have to say to be  
9 interrupted. But there is a place in the transcripts  
10 that, and a couple of them in fact, where Mel is  
11 talking and one other place where Tony is talking.  
12 And the question is where are we going to have the  
13 meeting? Where are we going to meet with the Congress-  
14 man.

15 Somebody says Jersey. Mel says okay.

16 And then Mel realizes that he is talking  
17 about one thing -- and it's in there -- and Erichetti  
18 or someone, or whomever is speaking, is talking about  
19 something else, he's talking about the Congressman.  
20 And Mel immediately picks it up and says, oh, no,  
21 not Jersey. Well, why? Why is that important? Wait  
22 until you hear the law. We have a law called the  
23 Travel Act. And if you are in Longport, New Jersey,  
24 and you travel to Camden, New Jersey, or Atlantic  
25 City, New Jersey, to do something, whether it is

1  
2 criminal or not, you do not violate the Travel  
3 Act. You have got to travel to another state.  
4 Manufacture. It is part of the scripted scenario.  
5 I was impressed at the commencement of this trial  
6 when you got your little books, or your big books,  
7 because every time Mr. Puccio was going to do  
8 something, what did he do, he gave you a new script  
9 to follow a la Mel.

10 And I'm going to talk to you about what  
11 happened at the Travel Lodge -- Mel's diner. That  
12 is where they brought him, Mel's diner.

13 What happened at the Travel Lodge? I ask you  
14 to go back to the rule of probability because that  
15 is where you are going to find the answer.

16 What does the Government have up front?  
17 We had a lot of trappings. We had a lot of innuendo.  
18 We had a lot of argument.

19 But what do they really have up front.

20 Turn to the page in your books where someone  
21 says to Angelo Errichetti we want a corrupt congress-  
22 man. Get us someone who is known for committing crimes.  
23 Give us a famous, well-known bribee, not a bit.  
24 Because it is not the way they work. They start  
25 in a courtroom with Mel Weinberg pulling the

1  
2 incipient stage of the greatest scam of his career.  
3 He took the FBI. He took Moe Curley and Larry, and  
4 now he wants to take you.

5 How did he do it? He got arrested by  
6 Agent McCarthy. And he was in trouble. He was a  
7 con man, a man who needed a story.

8 And did he come up with the story. Just like  
9 when he was 17 years old and his father was in the  
10 glass business with the contract with the insurance  
11 company, and he started breaking windows.

12 We didn't learn what underworld figures,  
13 friends of his or otherwise, he turned in, but he  
14 tells you he cracked four cases. And then he started  
15 to sell McCarthy the Brooklyn Bridge. And McCarthy  
16 and Good bought it. It was later sold to Lou, and  
17 Howard, and Angelo and Ozzie. If you come in with  
18 a guilty verdict Lou is going to be out there with  
19 a little toll gate because he'll need it. And this  
20 is where Weinberg really starts to cook. He got  
21 his newfound buddies -- and you see here is the  
22 problem -- in the case as I perceived it in the  
23 beginning the problem I have is not turning Mr.  
24 Weinberg into a folk hero. That is the problem.  
25 I mean he sold the FBI. They thought he was the

1  
2 greatest thing, I think somebody said, since sliced  
3 bread.

4           You started off, you have to remember --  
5 and I would like to dispose of this concept of  
6 Government. We are dealing with people. And we  
7 started off selling people, that people (indicating).  
8 And then he got Good. And then he got Amoroso.  
9 As Mr. Ben-Veniste told you, McCarthy said that if  
10 you step out of bounds I will lean on you. So we  
11 have to get rid of him. He started off making  
12 nothing. That is what he told us from the stand.  
13 And then Weinberg, we uncovered that what he was  
14 getting was \$40,000 in the first four months.  
15 Thirty from the insurance company and \$10,000 and  
16 bonuses from the FBI for some stolen property that  
17 he recovered. He even turned in his own kind, ratted  
18 them out.

19           He had to perpetuate his own existence.  
20 And it must have been titillating to him on a day-  
21 to-day basis to see these "G-men" swallow the bait.  
22 The front had to be better, not Mel has to eat steaks  
23 and smoke two-dollar cigars, no; but we have to do  
24 this in order to reach the marks, the buzz word.

25           I need to have more money.

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

When did he get it?

As soon as he got rid of McCarthy -- I'm not going to call him Charlie McCarthy -- but as soon as he got rid of McCarthy he got a raise to \$3,000 a month. And it went on. Automobiles followed. A townhouse in Washington followed. People. And now he had to do something to earn it. He was really, I argue to you, a commission salesman. You know anyone in this room, if you hired on with the New York Life Insurance Company and got a job, and you have a suit, you could be a life insurance salesman at \$200 a week.

But they only give you that as a draw. After a short period of time you have to produce some products. You have to produce some policies. You have to get customers. And that is what Mel started to do.

When does it begin? It started on a golf course. I'm not going to bore you with the details. I will give you a conclusion, an irrefutable conclusion from the testimony. From their side it was a completely legitimate business proposition.

(Continued next page)

## Duffy-Sumation

1  
2 MR. DUFFY: Why do I bring it up? Because  
3 Amoroso told us and Mel Weinberg told us that  
4 the policy was to discourage, dismiss anyone  
5 who brings you an honest fellow.

6 And that is important for this reason,  
7 Mel Weinberg knew that Lou Johanson was a City  
8 Councilman in Philadelphia and former State  
9 Senator. He told you that.

10 So they had to dangle something. Is there  
11 anything in the evidence? I am going to repeat  
12 myself but it's appropriate in this case, is there  
13 anything in the evidence to show anyone said to  
14 Lou, get us a crooked Senator? Get us a crooked  
15 Senator? No. What they said was, we like your  
16 deal, you're going to make five million dollars.  
17 You're going to get out of that row house on  
18 Franklin Street and you're going to be a rich  
19 man. And they think, the testimony went, we  
20 would like to meet -- Ellis Cook -- we would like  
21 to meet some important people and there is money  
22 in that. And they get checked out. And boy do  
23 they have a friend at Chase Manhattan. Four  
24 hundred million dollars. Someone at Chase Manhattan  
25 lies to people and says they have it.

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

Duffy-Summatton

3820

So the story goes on. Ossie told you the story, Lou calls him. He says you would have to do absolutely nothing. The truthful witness, he says he was truthful (indicating), you decide if it was truthful, Ellis Cook, who used the Latin expression -- we lawyers like to use Latin expressions -- no quid pro quo. That means this for that.

It means you get to do something and when you say no quid pro quo, that means you don't have to do anything.

Then what happens? You see the lure. Just let us meet some important people, the lure is out.

The first thing you got to do to scam somebody is get somebody to scam. So however you get him in, it doesn't matter. Bring him in, and then you work for Mayor Errichetti and tell Mayor Errichetti -- is this probable in the circumstances? This is what you have to look at. You tell Mayor Errichetti, promise them everything. And this is on the Williams tape, ladies and gentlemen. Promise them everything, come on strong. It's bull shit, bull shit, bull shit.

3 1  
2 Start World War III if he says so. You  
3 will never have to do anything. I already arranged  
4 for the Sheik to have asylum in South America.

5 Do you think Ossie made that up? Who is  
6 the maker up here in this case? Does it make  
7 sense? Does it fit into a full pattern? Is it  
8 the kind of thing Mel Weinberg would do?

9 Ray Brown asked him -- I've got a brother-  
10 in-law who wanted to get into the case so he made  
11 this up (indicating).

12 Ray Brown asked the question and here it  
13 is. This is a blow up of it. Let me bring it  
14 up closer. This is a blow up right from the record.  
15 It even has a Court Reporter's mistake in it.  
16 "Is it a fact that what it was all about was --  
17 is that you wanted there to appear on the video  
18 camera and ultimately on tape for some future  
19 jury would depict my client performing supposedly  
20 for the Sheik but actually so that you can say  
21 that he committed a crime, is that correct?

22 "Answer: Yes."

23 And Ray Brown was smart enough to quit there.  
24 He said, "I have no further questions at this  
25 point."

## Duffy-Summaton

1  
2 That is ABSCAM. Because that is what Mel  
3 sold to Tony and that is what brings you people  
4 to Mel and Tony's hump party.

5 That is what brings us to Court today.  
6 I don't know about Amoroso. I am not sure I  
7 can argue to you about Amoroso. I don't know that  
8 you know enough about Amoroso and his involvement.  
9 It's an enigma to me. I have been trying to  
10 figure it out.

11 You look at some evidence and Amoroso is  
12 in up to his teeth. Joey takes three television  
13 sets to the Hyatt House, three, for the Board of  
14 Directors. And who is there? Mel, Tony, and I  
15 think it was Brady. Three guys there. Mel  
16 might be greedy enough to want three, I don't  
17 know.

18 I really can't argue sensibly to you about  
19 Amoroso. A trial is supposed to be a search for  
20 the truth. I don't know if we got it all. I  
21 don't know if you have it all. Even whether it's  
22 there for you to sift out. If Mel is going to  
23 continue with his license to steal, which is what  
24 they gave him, with his own personal private  
25 secret police, which is what they gave him, then

1  
2 he's got to turn out some product. And what better  
3 way then to get someone to think it's all a game.

4 There is nothing wrong with it. You will  
5 never have to act like a Congressman. This fat  
6 cat Arab has so much money we have to take so  
7 much from him a month. I think it's on one of the  
8 tapes, it ain't going to last long, we've got to  
9 get it now.

10 And then you see the rape of a United  
11 States Congressman. That is what happened.

12 Let's go back to the boat down in Florida  
13 and talk about -- that is where I'm going to start.  
14 This might be kind of a shift position, this is  
15 new part of the argument. Enough of the philosophy,  
16 let's talk about the case and the evidence, about  
17 what you heard and about what you didn't hear.

18 Has it struck any of you what is missing?  
19 Are any of you curious? Here is your FBI -- not  
20 my FBI -- your FBI. The college cops of the country.  
21 They are all accountants or lawyers. I asked them  
22 on th stand: "Are you a lawyer? Yes, I am a lawyer.  
23 I am law trained. What is your speciality, account-  
24 ing? Yes, accounting."

25 College cops. They aren't fellows from the

1  
2 neighborhood. These are the creme de la creme  
3 from the American confabulatory and they have rules.  
4 And we wormed some of th rule provisions out of  
5 some of them early in the case.

6           When something significant happens in an  
7 investigation are you supposed to prepare a report?  
8 Yes, Mr. Duffy. Is that report called a 302?  
9 Yes, Mr. Duffy. How many of those are missing?  
10 Let's just go back to the boat. The business  
11 meeting on the boat that was completely legitimate.

12           Any report about that? Also tells us we  
13 filmed it, but we don't have it. The camera broke  
14 down. He produces Mel and Tony's bag of tricks,  
15 the briefcase, the Negra. He says we recorded  
16 the conversation but when we went upstairs to talk  
17 about what really is the genesis of ABSCAM, what  
18 really got the ball rolling, we couldn't take the  
19 briefcase with us.

20           That sounds all right when you first hear  
21 it. When in casual clothes it might look a little  
22 untoward to carry a briefcase up on the top deck.

23           Who says you've got to carry a briefcase  
24 on the top deck. If the conversation went the  
25 way Amoroso said it went, why --and he intended to

## Duffy-Summation

1  
2 bring it up -- why didn't he do it when he knew  
3 he could record it? You don't have a recording  
4 of that conversation. You don't know what Mayor  
5 Errichetti said. But you have the word of an FBI  
6 agent. And that always has the ring of truth,  
7 doesn't it?

8 College cops never commit any lies.

9 We ask each of you -- I beg your pardon,  
10 the Judge asked each of you before you earned the  
11 seat which you are sitting in a question on  
12 the Voir-Dire examination: "Do you think because  
13 a fellow is a cop he is entitled to more belief  
14 than another witness?"

15 I don't recall your specific answers, but  
16 I know none of you would be in the seat you occupy  
17 if you said yes.

18 Because we knew in the beginning that --  
19 these fellows (indicating) named me Burl Ives.  
20 That gets me to thinking. In a role he once  
21 played in a Tennessee Williams film, Cat On A Hot  
22 Tin Roof, he was Big Daddy and he would stalk  
23 around the mansion in the south and harp about  
24 mendacity, mendacity in the room, lying, perjury  
25 in the room. Did you think we didn't know what was

## 'Duffy-Summaton

1  
2 coming? You think we didn't know it was going to  
3 come from our FBI?

4 It's right here in the evidence. Skip  
5 ahead from the beginning of the case on the boat  
6 and know 302 and you've got to believe Tony down  
7 to the 23rd of January this year and you've got  
8 to believe Mel. Mr. Ben-Veniste covered that.  
9 About the two or three tapes then three or four  
10 and then four or five tapes missing. Critical  
11 tapes missing. And where they were stolen. How  
12 they were stolen.

13 Was there any report made of them? Doesn't  
14 it make sense applying the rule of probability?  
15 Doesn't it make sense that somebody in the jury room  
16 to tell the rest of you about the time he got  
17 something stolen from your baggage or lost a  
18 baggage in your travels? Where do you call? What  
19 do you do? Do you call the field office or home  
20 of your friend in Detroit where you just left?  
21 As they called the field office of the FBI? Or  
22 do you call the airline? These are part of our  
23 snippings.

24 Henry Furst laid a subpoena on National  
25 Airlines. And National Airlines wrote to the Court.

## Duffy-Summaton

1  
2 They didn't want to send anybody here like  
3 a Chevrolet dealer from Florida because we can't  
4 fly him up here. They sent a letter, 15 cents  
5 is all they needed from Florida. We don't know  
6 any Mel Weinberg. We found out a Mel Weinberg  
7 bought a ticket -- I read it to you -- for a  
8 flight on the 23rd of January from a travel agency  
9 but there has never been any claim with us  
10 about anything having been stolen.

11 Mr. Puccio didn't even object when I put  
12 that letter in. What does that tell you? What  
13 does that tell you as regards the rule of  
14 probability. It tells you to take a hard look  
15 at John Good's testimony for this reason, your  
16 FBI supervisor took the stand and said, "I  
17 conducted an investigation."

18 Now, the airlines doesn't know about it.  
19 And neither do you. Because he didn't do a report.

20 Do you think it was significant to the  
21 ABSCAM investigation if five or six tapes were  
22 lost? Or was it some sort of cover up? Was there  
23 something said in a conversation between Mel  
24 Weinberg and Howard Criden that no one was allowed  
25 to know about concerning that second meeting? The

## Duffy-Summaton

10 1  
2 game goes on, Howard, get hold of Ozzie, the  
3 goose is still laying. Do your act. God knows  
4 what is on those missing tapes.

5 I like what Mr. Ben-Veniste -- I smoke a  
6 cigar from time to time. You know I'm going to  
7 ask you to use your common sense. That fellow  
8 downstairs at the desk with the uniform on does  
9 not make you check your brains when you walk into  
10 the Courthouse.

11 I ask my daughter Jane, the almost pretty  
12 soon going to be a lawyer's daughter what I should  
13 tell the jury. She said: "Father, they're from  
14 New York," she said, "They got common sense."

15 All I am asking you to do is use it. Did  
16 John Good tell you the truth about the cigars or  
17 is it as we call in Philadelphia: specious  
18 phonous balonous.

19 Has your FBI told you -- I don't know whether  
20 Allen in this Court, when he administers the oath  
21 says tell the truth, the whole truth and nothing  
22 but the truth, we do that in Philadelphia. Have  
23 they told you the truth, the whole truth and nothing  
24 but the truth, or the rule of probabilities tells  
25 me so? They've got egg on their face because they

## Duffy-Summaton

realize that they were Mel's victims as well.

(Continued on next page.)

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

1  
2 Another little kernel, Agent Best, to  
3 whom Lou Johanson confessed. Do you remember  
4 that? Sobbed out his story of guilt? I will  
5 have some things to say about that.

6 Best was asked a question by Mr. Ben-Veniste.  
7 When the scene went to Philadelphia -- boy, I wish  
8 I had blown this one up -- you didn't employ Mel  
9 Weinberg, didn't you? Do you know what Best's  
10 answer was? And if you don't believe me --  
11 people don't believe lawyers and politicians --  
12 get the transcript. I am paraphrasing, but I want  
13 to hit the key word. He said; We had no use for  
14 Mel Weinberg in Philadelphia.

15 Anybody remember that? "We had no use for  
16 Mel Weinberg in Philadelphia."

17 Now, let's play let's pretend, because you  
18 don't have the whole story. When I was a boy about  
19 this high (indicating) I used to listen to a radio  
20 show called "Let's Pretend." Let's Pretend, as  
21 John Good told you on the stand yesterday shortly  
22 after the meeting with Senator Williams, he lis-  
23 tened to that tape and he told you that this man  
24 listened to the tape. This isn't the ordinary  
25 case, this runs from the courtroom in Pittsburgh

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

smack through, I don't know how much is known to all the people, smack through to the adjoining building, the organized crime strike force, Mr. Puccio's office. It can't be denied he was in on it early on. Good told you yesterday: I wasn't spinning my wheel when I asked did Mr. Puccio listen to the tapes -- John Good -- I almost lost my train of thought. John Good told us on the witness stand yesterday -- I got so excited about Mr. Puccio that I lost my train of thought. Give me a second.

(Pause.)

MR. DUFFY: It will come back to me. I just can't remember it. Let me go on to another subject, I am sure it will come back to me.

The meeting at the Barclay and the missing tapes. Why did we make such a big thing of tapes being missing? After all there were how many, 220 or thirty different tapes in this case? The only tapes we put before you with the experts were three or two. Why was it so important if those tapes were altered? Why was it so important something done to those and we didn't establish anything was done to the rest of the tapes? The reason is

3  
1  
2 Mel Weinberg testified under oath in Philadelphia  
3 and here. We got him to repeat the testimony here  
4 so that the testimony of our experts would be --  
5 would have greater impact. He testified to two  
6 critical aspects of the making of the tapes. Aspect  
7 number one was that he recorded everything from  
8 beginning to end. You heard him say that. We  
9 confronted him with what he said in Philadelphia  
10 as well.

11 Aspect number two, was that he recorded  
12 every call. There may be some argument that he  
13 said every call that I could, I'm not sure, I  
14 don't want to talk about the calls when I could,  
15 for example, the ones that may have been made from  
16 a phone booth and there is no toll record and  
17 maybe he didn't have his pocket Negra with him.  
18 But Mr. Brown's office put Mr. Duffy -- no relation,  
19 I never knew the man -- put Mr. Duffy on the case  
20 to track down the telephone billing. You will have  
21 the bills I think they are hardly legible, of the  
22 calls made between the phone registered to Weinberg  
23 and the phone registered to the Mayor representing  
24 conversations that they had. I don't think Mr.  
25 Ben-Veniste covered this. I think it's important

1  
2 for you to remember, think about what Mr. Duffy  
3 said, you may have some notes on it, there were  
4 fifty-seven such calls. Fifty-seven such calls.  
5 I think he also said that six of those telephone  
6 calls occurred at a very critical time in these  
7 proceedings. That would be between -- I don't know.  
8 Some time in late July and end of August. Six  
9 of those calls, none of which was recorded.

10 I think I am getting my train of thought  
11 back. Good. Good and Mr. Puccio, it has come  
12 back to me. I knew if I talked long enough it  
13 would come back.

14 Good and Mr. Puccio listened to the Williams  
15 tape or someone does. I don't want to point to  
16 Mr. Puccio, he's not a witness, he's a prosecutor.  
17 But Good did because he told me and you he did  
18 yesterday or the day before, he listened to the  
19 Williams tape, and now we are back to the "Let's  
20 Pretend." I am arguing to you now by inference.  
21 If you don't make these inferences, flatly reject  
22 the argument but homogenize in your consideration  
23 the rule of probability tells me so. All right.

24 Good hears the Williams tape and hears  
25 Mel Weinberg tell Williams to put on an act to

5  
1  
2 come on strong. It doesn't really matter, it's  
3 all bullshit, you will never see him again --  
4 whatever is on there. You've got that transcript.  
5 Good scratches his head and says, we better talk  
6 about this. Maybe Good goes to a boss or two.  
7 We don't have any evidence of this, but there is  
8 something at the end to tie it up. I think these  
9 gaps -- no pun intended -- could be filled with  
10 inferences. Someone goes to Mel and says: Yo,  
11 Mel, don't do that any more. That is not the right  
12 way. Maybe even this nest of evil men had a  
13 decent one among them and said that is not proper,  
14 we should look for crooks. We shouldn't tell  
15 someone to put on an act that it doesn't matter.

16 What did Weinberg do? He likely doesn't  
17 know any crooked politicians -- inference; likely  
18 doesn't have one to whom he can turn and offer  
19 a bribe. This is in June. Remember that. That  
20 is critical. But he hears Lou is a City Councilman  
21 and former State Senator. He starts off by devious  
22 means. Remember he called the guys that borrow  
23 money DM, desperate men -- devious Mel -- starts  
24 off with Mayor Errichetti. It's like tinkers  
25 to Evers to Chance.

6  
1  
2 Errichetti to Criden to Johanson. There  
3 is nothing, you don't do anything, no quid pro  
4 quo, nothing is required.

5 Did you see the movie The Sting? That  
6 is the hook. Mel threw out the hook. The hook  
7 is out. And they say, you will get your hotel  
8 casino and Lou takes the hook. Lou says if it's  
9 going to get the casino, I could talk to Ozzie.  
10 He's my friend. I backed the election, they had  
11 coffee, the next thing you know Ozzie is going  
12 to help his friend Lou out and he has been told  
13 you don't have to do anything. Nothing about a  
14 private bill, immigration, none of that stuff.  
15 But the hook is now in. It's set.

16 How is Mel Weinberg going to perpetuate  
17 his scam? He can't call Mayor Errichetti and tape  
18 it. Because if he turns the tape in somebody is  
19 going to say, Mel, you're doing it again. So he  
20 doesn't tape it. So that you don't have the tape.  
21 So that we couldn't get the tapes in the discovery  
22 part. Williams was part of the Government's  
23 package and under the rules -- do you remember  
24 we went to great pain with the F.B.I.? There was  
25 a reason. I will just grab one here, 21-B. Here

1  
2 is a tape in there, August 6, 1979. There is  
3 a whole history every time the tape moves it's  
4 logged. You see (indicating)? You can't destroy  
5 a paper trail. None of the good parts of the  
6 F.B.I., they keep paper trails and people like  
7 us can snoop.

8 If Mel started a paper trail he would be  
9 in trouble. The Williams thing got him in trouble.  
10 He either doesn't record or Mayor Errichetti  
11 brings something up in a conversation he's got  
12 to erase. I'm sorry, he's got to drop the machine.  
13 Listen to the tape Mr. Puccio played this morning,  
14 the one where I think it's Mayor Errichetti, the  
15 tape is of course not altered. The Mayor starts  
16 to speak in Arabic clicks, he said five and there  
17 is an interruption. We have to show you every  
18 tape or isn't an example enough? He stops taping.  
19 He alters tapes. And he still accomplished the  
20 same thing.

21 The greatest stroke of genius in the case  
22 was the South America bit. Ozzie wouldn't have  
23 to guess, Mel said I arranged for asylum in South  
24 America. He'll never have to come here, bring  
25 him in and promise World War III. Mel is still

0  
1  
2 hungry. They go further. There is a little bit  
3 of difficulty and I'm going to challenge you to  
4 study two transcripts when you are in the jury  
5 room. My argument to you is, they don't absolve  
6 Mel Weinberg at all, number one and number two,  
7 it really doesn't matter if all the rest is shown  
8 to you -- I'm talking about Mario Noto or Ropo.  
9 Okay?

10 The testimony from Ellis Cook, who told the  
11 truth, was as I recall it, number one, that Mr.  
12 Criden came to him and said, the Mayor and Weinberg  
13 have a thing going. There is twenty-five, \$25,000  
14 in it if we produce someone from immigration. We  
15 would like to -- we would like you to be that  
16 fellow. He told us that Lou Johanson vetoed it.  
17 Lou said that is going too far. To put on an act  
18 is one thing but to put on an act and not be the  
19 fellow who is supposed to be putting on the act is  
20 a little too much.

21 Mr. Criden comes back in a week and says  
22 the Mayor has been calling and the Mayor convinces  
23 Ellis Cook, Mel is in it, he's a friend, we don't  
24 have to have a meeting. The other guy is straight.  
25 A hope has to be sent to the Shiek. Just come down,

9  
1  
2 free money. \$25,000. Stop there and turn to  
3 the tape.

4           What does Amoroso say at the outset of  
5 the tape? My name is Agent Anthony Amoroso, I'm  
6 putting \$50,000 into these briefcases or envelope,  
7 whatever it was. I'm not going to harp on Nopo,  
8 except to say this, the October 3rd and 4th tapes  
9 and what happened in the room, do you remember?  
10 I hope it's in the transcript, if it is not, you  
11 say Duffy is specious phonus-bolonus, then ask  
12 for the tape because my recollection is when  
13 Amoroso gets up and calls the Mayor into the next  
14 room what does Mel Weinberg say to Ellis Cook?  
15 He said, I'm Mel Weinberg. I'm the Mayor's friend.

16           How do I know. The rule of probability  
17 tells me so. You can look at Ellis Cook through  
18 that three minutes and twenty-six seconds in which  
19 he's about as nervous as a long tailed cat in  
20 a room full of rocking chairs and nothing else  
21 counts on the tape but Mel Weinberg saying: "I am  
22 Mel Weinberg, I am the Mayor's friend."

23           He also said, if you recall, look, you're  
24 nervous, we are nervous, do you have any i.d. Mel  
25 was in a bind. Because Tony caught on. The

1  
2 Government's testimony is Amoroso got a picture  
3 the day before and that is fine. Except he  
4 didn't bring the picture in. You have to believe  
5 your F.B.I. agents.

6 It's pretty tough undertaking to tell  
7 twelve or sixteen people, don't believe the  
8 F.B.I. but that is what it comes down to. If they  
9 had the picture in God's name why don't they solve  
10 the thing that exists with the Noto thing and bring  
11 the picture in.

12 Now, the invitation is for you to examine  
13 the two phone calls, transcripts, one between Mel  
14 and Errichetti, and one between Mel and Criden,  
15 and keep in mind that Mel wasn't recording all  
16 the calls.

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

2 MR. DUFFY: (Continuing) I am not talking  
3 about these two calls not being complete. I don't  
4 care about that. Just ask yourselves, if he  
5 really says on this tape, I didn't know that you  
6 were going to bring an imposter, I wasn't in on  
7 it, I had no plan to share any of that money, I  
8 am not running any scam on the sheik, or is he  
9 really covering himself in the fashion of a con  
10 man by turning one against the other.

11 They refer to the fellow on those two tapes,  
12 as a ringer. Ask yourselves the question, no,  
13 I'm Irish, and I'm slow. I read the tapes. I  
14 read the transcripts. You read them and read them  
15 with this thought in mind; maybe John Duffy is  
16 right. Maybe Mel, on these tapes, is just trying  
17 to say to each of them, see, you don't have the  
18 other calls, to each of them, the other guy says  
19 the blunder was yours, as in you shouldn't have  
20 picked Ellis.

21 Take a look at those transcripts when you  
22 get out. Because, Mr. Puccio, if he didn't yet,  
23 he will later argue to you those two tapes  
24 prove to you that Mel wasn't in on it.

25 My position is that they really don't, if

1  
2 you examine them. I said at the top that the stuff  
3 of tradgedy was in this courtroom. It came to a he  
4 head on February 2nd, Lou Johanson was brought into  
5 the office of the P.B.I., your F.B.I., in  
6 Philidelphia. You heard me examine Agent Bess.  
7 The Judge told you at the top of the case, I  
8 brought out from Best that he was a lawyer. The  
9 Judge told you, I think at the top of the case,  
10 that the questions lawyers ask are not evidence.  
11 Do you remember that? It's the answers that count.

12 In fact, when we got in the back row,  
13 everyone was patting Ray Brown on the back for a good  
14 question. He said, any dummy can ask a question,  
15 it's the answer that counts. The alleged  
16 confession from Lou Johanson, listen to the  
17 testimony and in God's name, recall my cross  
18 examination, because that's a buss order.

19 He said something about the question  
20 being whether Lou understood the ramifications  
21 of this kind of an influence peddling. I had  
22 to take him back to his report. I think his  
23 testimony on his direct examination was that Lou  
24 said he understood the ramifications of this type  
25 of influence peddling and he had had sleepless

1  
2 nights because of last July, because of these  
3 dealings.

4 I started with him at the bottom, I said,  
5 did he have videotapes there in the F.B.I. that  
6 night? My God, wasn't he entitled to be  
7 on tape? Everybody else got on. Did you have  
8 videotape equipment there? Oh yes. Did you have  
9 maglers? Oh yes. Well, did you record for a  
10 future jury to see the alleged statement of Louis  
11 Johanson? No, Mr. Duffy, we forgot that.

12 I wish you would have been around that  
13 night. Think about that, too. Pick these  
14 fellows up at 5 o'clock on Saturday. That's  
15 when everybody gets picked up, 5 o'clock on  
16 Saturday. Common sense. Everybody knows where  
17 criminal lawyers are and what they're doing,  
18 drinking whiskey at 5 o'clock on Friday or  
19 Saturday.

20 So Louis doesn't have a lawyer, so he sits  
21 there and what they get out of him is not an  
22 answer, because I went to the report. We had a  
23 302 there. And the report said, not Johanson  
24 said he understood - - Do you remember the agent  
25 said, he said to me he wanted to make telephonic

4 Duffy - summation

1  
2 contact - - I said Louie said that. That's police  
3 language. Then I got him from his report and I  
4 said, wasn't that in fact what you wrote in your  
5 report, a question? It had, I have it memorized  
6 by heart, he was asked, Johanson was asked if he  
7 understood the ramifications of this kind of  
8 influence peddling. The next sentence was, he said  
9 that he had had sleepless nights since last July  
10 over these kinds of dealings.

11 Which leads me down to the end of my  
12 argument, ladies and gentlemen. These four fellows  
13 who are on trial for committing three Federal crimes.  
14 Not on trial as Mr. Ben-Vaniste said, for being  
15 greedy, as I will say to you for being stupid,  
16 for maybe being sucked in by Mel Weinberg to  
17 dishonestly bilking a non-existent sheik of money.  
18 They are on trial for enumerated crimes that is  
19 set forth in statutes in the United States Criminal  
20 Code.

21 Whether Lou Johanson had sleepless nights  
22 over the dealings has nothing to do with whether  
23 Ozzie Meyers intended to violate the law. Maybe  
24 they weren't being - - maybe they weren't acting  
25 like the good nuns might have taught them. Maybe

1 they were, all of them, pretty stupid. Maybe  
2 they did get sucked in by Mel and I guess by  
3 Amoroso.  
4

5 The question you have to decide is whether  
6 they violated these statutes. And that is going  
7 to be tough, because you come into the jury box  
8 filled with our own prejudices. I would be less  
9 than candid if I told you that I believe that none  
10 of you has a prejudice.

11 All I am going to ask you to do on Louie's  
12 behalf is to put it aside and to judge the case  
13 fairly and squarely on the evidence, and on the  
14 lack of evidence.

15 You do get to write the last chapter of  
16 the book, you do get to write the last line  
17 and maybe you get to write the title, instead of  
18 the Sting Man, you can turn it to Close, Mel, But  
19 No Cigar.

20 Find him not guilty.

21 THE COURT: Thank you, Mr. Duffy.

\* \* \*

1  
2 MR. CACHERIS: May it please the Court,  
3 fellow defense counsel, Mr. Puccio, when I first  
4 introduced myself to you some three weeks ago I  
5 told you that I was a stranger here in Brooklyn.  
6 I now feel like I was born here.

7 I appreciate the courtesies and attention  
8 that you have paid to this case because it is an  
9 important case. Ozzie Myers is a congressman.  
10 But just because he is a congressman, he does not  
11 forfeit the right to be tried by you on the same  
12 Principles of law that govern every other human  
13 being. He is entitled to the presumption of  
14 innocence and he can require as the Court will  
15 instruct you that the Government prove its case  
16 beyond a reasonable doubt.

17 The presumption of innocence is an abiding  
18 one. At the end of the arguments of counsel, one  
19 of the important things that will be given to you  
20 will be the instructions of the Court, and I know  
21 you will pay attention.

22 Ozzie Myers is also a human being. He has  
23 displayed himself before you. Indeed his whole  
24 life has come before you. Had there been anything  
25 about him that wasn't right, you can bet that Mr.

1  
2 Puccio would have brought it out. He told you  
3 about his humble beginnings, he was one of eight.  
4 He is the father of three. He is the son of a  
5 longshoreman, and he is a longshoreman himself.

6 He worked his way to being a congressman.

7 Now he is on trial. The Government's burden  
8 of proof is to establish that he took a bribe for  
9 the performance of an official act. It is their  
10 burden.

11 While you will be told that there are three  
12 counts in this indictment, I believe his Honor  
13 is going to explain to you that you should use the  
14 second count, the bribery count as your focal point.  
15 That is really the heart and soul of this case,  
16 and Mr. Myers' testimony on that is the heart and  
17 soul of his defense to that case.

18 It is not your function to determine whether  
19 Ozzie Myers is a good, bad or indifferent congressman.  
20 He was put in office by the voters of Philadelphia.  
21 That is their job to determine.

22 Whatever you may think about his ability as  
23 a congressman, you must put those aside and judge  
24 him on this indictment. The question before you  
25 is did he sell his office with a corrupt intent.

3  
1  
2 That is where the Government's case falls.

3 The indictment which you will be given is  
4 a road map. It is a specific charge that guides  
5 you in assessing all of the evidence to come before  
6 you.

7 Count two charges that money was accepted  
8 for the purpose of being influenced in official  
9 acts and that acceptance was corrupt for the influ-  
10 ence in matters involving immigration and state  
11 department. That is what is charged.

12 The Court will tell you that there are four  
13 elements to bribery, to the bribery count and I  
14 will outline them briefly and remember the Court  
15 will give them to you more specifically.

16 The first element is Mr. Myers was a public  
17 official, and of course we do not dispute that.

18 The second is that money was paid and we  
19 do not dispute that.

20 The third is the criminal intent to be  
21 influenced through an official act and fourth  
22 that he did so corruptly, knowingly and wilfully.

23 We dispute that he had any criminal intent  
24 or that he intended at any time to be corrupt or  
25 sell his office.

1  
2 How do you govern what his intent is?

3 The Court will tell you that words and  
4 actions may afford you some guidance to do that.

5 Mr. Puccio of course wants you to limit  
6 yourselves to what came over these television  
7 screens. I don't think you should do that.

8 You also have the real live person who  
9 appeared and testified before you and took these  
10 tapes head on.

11 Mr. Puccio wants you to limit yourselves  
12 to what came over this tube and not why people  
13 were there or what their motivations were. That  
14 is where we depart in this case, ladies and gentlemen,  
15 and that is what I think you should focus on. What  
16 did Mr. Myers tell you on the witness stand?  
17 I never was going to do anything. I was told I  
18 didn't have to do anything. I never did anything.

19 And while part of the Court's charge will  
20 tell you that the fact that he did nothing is  
21 not necessarily proof of no crime, you may consider  
22 it as proof that he had no intention to ever do  
23 anything.

24 That is what he said consistently. Those  
25 words have run throughout this courtroom. I never

5  
1  
2 intended to do anything.

3 Now, Mr. Puccio in his rather vicious cross  
4 examination and his audacious, facile characteriza-  
5 tion of Mr. Myers as a liar, never, never established  
6 any proof that Mr. Myers intended to do anything.  
7 How did he get involved? How did he get involved  
8 in this affair?

9 He was minding his own business at his  
10 summer home when he was approached by an old friend.  
11 Was he told there was some scheme afoot?

12 He was told by Lou Johanson that I am  
13 about to get involved in a venture totally lawful  
14 involving some hotel, totally lawful whereby my  
15 law firm stands to make a lot of money.

16 In fact Johanson told him it was so appealing  
17 and so rewarding that he was contemplating retire-  
18 ment.

19 He asked Myers to help him.

20 He asked Myers to help him by going up  
21 and meeting this fictitious Shiek. Of course we  
22 can say rather initially now, looking back, he  
23 should not have gone, but he did go. He thought  
24 he was helping a friend and he perceived there  
25 was a chance to make some money for nothing.

1  
2 So he was told he would be given further  
3 instructions by Mayor Errichetti who was familiar  
4 with the situation.

5 On the day in question he went up to Kennedy  
6 Airport and indeed he was given further instructions  
7 and he has testified about them fully before you.

8 Mr. Puccio didn't like them and said, don't  
9 pay attention to what went on off camera.

10 But those words that went on off camera  
11 have a very familiar ring.

12 What did Mr. Myers tell you that Errichetti  
13 told him? He told him come on strong. They're  
14 going to discuss immigration. You remember seeing  
15 me on T.V. and act tough, talk tough. Don't worry  
16 about it, you won't have to do anything. You will  
17 probably never see them again.

18 Doesn't that have the ring of truth to when  
19 you examine the tapes that were played before you  
20 just this morning of a similar import?

21 Of course Mr. Myers never met Mel Weinberg  
22 before that day, but he was lying in wait for him  
23 on August 22nd because of the script and the scene  
24 were set before Ozzie Myers ever got there. On  
25 August 5th De Vito, an F.B.I. agent talking to

1  
7  
2 Errichetti on tape, Exhibit 1-A, speaking of Myers:

3 "He is going to have to, he is going to  
4 have to move through someone in the State Department."

5 Errichetti: "Who?"

6 De Vito: "The Congressman."

7 Errichetti: "He will do anything. He is  
8 going to be your F'ing man. He will do anything  
9 you want."

10 Weinberg: "All he has got to tell Yassir  
11 is when the time comes I will sponsor anything you  
12 want."

13 Is it so incredible that these are the same  
14 words that Errichetti told Ozzie Myers at the  
15 Pan Am Terminal before the meeting?

16 This is what he is given to say to Ozzie  
17 Myers.

18 Errichetti says: "He will say that."

19 Now, August 7, Exhibit 3-A, Mel Weinberg  
20 says, "This, when he meets Yassir, just tell him  
21 to come on strong."

22 This is not the Williams case. This is  
23 the Myers case.

24 "Well, he is going to have to give him a  
25 briefing."

1  
2 Then he says: "I will give him", --  
3 Weinberg says, "The stronger the better. Yassir  
4 probably won't even say a word to him. He is  
5 very conscious on how he speaks English."

6 Isn't that cynical? The man doesn't speak  
7 English, so he has got to come on even stronger  
8 for this charade.

9 And what is Mr. Myers talking about when  
10 he gets to the meeting of August 22nd: "He ought  
11 to learn English."

12 Who planted that on him?

13 Well, Weinberg through Mayor Errichetti.

14 So the script was written back then and  
15 delivered to Ozzie Myers to be repeated on tele-  
16 vision.

17 That is not all.

18 What else was Errichetti told to tell him  
19 to do so the T.V. production would be successful?  
20 On August 8, speaking of Myers, De Vito, the F.B.I.  
21 agent says: "He would have to introduce some kind  
22 of legislation, right, some kind of bill or some-  
23 thing?"

24 Errichetti: "Whatever you say."

25 Now, skipping down, Weinberg says; "Yeah,

1  
2 let him tell Yassir whatever he had to tell him."

3 That is on tape. Those are the instructions  
4 that were issued. That is the performance Ozzie  
5 Myers had to go through.

6 And so when he meets on August 22nd, before  
7 the videotape he is indeed given those instructions  
8 and he is told and he believes, he doesn't have  
9 to do anything.

10 He had been told by Johanson that that  
11 firm stood to make a fee by the mere introduction,  
12 and that they would in turn pay him and that is  
13 exactly what happened.

14 So when he goes in, the first words out of  
15 his mouth, according to the prepared script, are,  
16 how effective and good and functional a congressman  
17 he is and how he is very keen, and I am quoting,  
18 "with immigration matters."

19 (continued on next page.)  
20  
21  
22  
23  
24  
25

1  
2 Why would he say immigration matters unless  
3 he had been prompted in advance and in accordance  
4 with the tapes I have just read to you?

5 Mr. DeVito to make sure the script moves  
6 along, he says, I am sure the Mayor has explained to  
7 you that fact that all this started down on the boat,  
8 all this started down on the boat.

9 The que words, the prompting, this is where  
10 is started, you recite the script, but you don't know  
11 that you are being video recorded.

12 You heard Mr. Myers tell you that his state  
13 of mind when he went to that meeting, and it's not  
14 disputed, was to follow that script, and he followed  
15 it faithfully to the extent of boasting and puffing  
16 about his influence. And that whole meeting involved  
17 itself with that.

18 At one point you recall he asked him about  
19 his State Department connections. And, of course,  
20 he had key people in the State Department. Unfor-  
21 tunately when they pressed him for a name he couldn't  
22 come up with one. But Errichetti bailed him out and  
23 he said, I got that taken care of.

24 When they discussed green cards, that was  
25 also taken care of. And that was the scenerio of

1  
2 the scene that was played in New York.

3 In accordance with the question that you  
4 have before you, this one here, all this was about  
5 is that you wanted them to appear on video cameras,  
6 on tape for a future Jury which would depict people  
7 performing supposedly being chic, but actually you  
8 would say that he committed a crime. That's the  
9 whole purpose of that August 22nd. Brief him, give  
10 him a script and bring him in. And absolutely no  
11 evidence that Ozzie Myers had ever done anything like  
12 this in his life before. Because had there been,  
13 you would have been hearing about it, you would have  
14 heard about it.

15 (continued on next page)  
16  
17  
18  
19  
20  
21

22 allowed by  
23 otes  
24  
25

## Cachoris-Summation

1  
2 After he left the meeting in accordance  
3 with his instructions the envelope was passed.  
4 And you heard later what happened in the law  
5 office. And at that point Mr. Myers is in effect  
6 discarded. No one calls him up and says, how  
7 about a letter. No one calls him up and says  
8 can you really do anything. No one does  
9 anything and he in turn does nothing. Because  
10 from this witness stand you heard it says, he  
11 did absolutely nothing in accordance with what  
12 his instructions were and what is intent was all  
13 along.

14 That was the end of it as far as he was  
15 concerned. Nothing was done. That is a factor  
16 you can consider on hearing whether he ever  
17 intended to do anything. Nothing was done.

18 The next event, ladies and gentlemen,  
19 that involves my client, and in the meantime,  
20 by the way, you have heard and seen the commode  
21 tape, the Noto tape, where a performance was given  
22 to El -- was given by Ellis Cook that just  
23 does not match up to the standards and is  
24 quickly exposed.

25 Let me talk about Ellis Cook for a second.

## Cacheris-Summation

1  
2  
3 Mr. Puccio seemed to talk about him  
4 heavily. He said Ellis Cook did not know anything  
5 about play acting. Ellis Cook play acted himself.  
6 Ellis Cook told you that insofar as he was  
7 concerned, this was all blowing smoke.

8 Is that play acting, blowing smoke?  
9 No intent, never do anything, never have to do  
10 anything, never have to do anything.

11 So the mere performance of television  
12 does not prove any crime about Ozzie Myers; what  
13 his intent was when he got there is the important  
14 focus of your consideration, and that intend has  
15 been put before you and put squarely in issue.

16 Mr. Puccio did not like his testimony.  
17 He has called him a liar, a rather vicious accusa-  
18 tion. We dispute it.

19 Ozzie Myers said, I never have to do  
20 anything and I won't do anything and there is  
21 nothing that contradicts that. That is what the  
22 record stands on before you.

23 The reason Mr. Puccio doesn't like  
24 his testimony, because he knows that the law  
25 requires, although he didn't discuss it with you,

1  
2 that Mr. Myers must have had a criminal intent  
3 to commit this offense, this offense, a specific  
4 intend to be corrupted.

5           And the fact that he had none defeats the  
6 government's case and that is why he doesn't  
7 like his testimony. He would prefer you  
8 concentrate your view on the staged performance out  
9 of Kennedy Airport. That is not what this case is  
10 all about.

11           In January of 1980 Weinberg calls  
12 Criden who calls Myers. And they bring him back  
13 on stage. A new TV production, WKRP in Philadel-  
14 phia.

15           This time they don't want to discuss the  
16 same things. This time they want to discuss  
17 local issues. This time they have a little bar  
18 set up. This time they have FBI agents,  
19 prosecutors, planted in the same next room,  
20 peering through the screen, watching what is  
21 happening. And that whole place is wired for  
22 sound except of course for the telephones that the  
23 prosecutors are using to call instructions in  
24 to the sheik's representatives.

25           Mr. Puccio has criticism and doubts about

1  
2 what is not on films and tapes. Ask yourselves  
3 why they didn't record the instructions that  
4 were given by the prosecutors to the interrogators  
5 in that room. Did they say get rid of him? Did  
6 they say press this issue? Did they say get him to  
7 say this? Did they say get him to say that?  
8 All of which I think we all should know.

9 But the only thing that they can remember  
10 is that it was getting light and get him out of  
11 there.

12 And so the script in Philadelphia  
13 is a little different.

14 By the way, you will be told by the  
15 court that you should consider what Mr. Myers did  
16 in Philadelphia on the screen as bearing on  
17 what his intent was back in August.

18 So what concepts were not thrown at him?  
19 City counsel, Ozzie said I can do that.

20 Zoning, I can do that.

21 Coal, I can do that.

22 Hotel, I can do that.

23 Poconos, I can do that.

24 Atlantic City, I can do that.

25 And so on down the line.

1  
2                   But realizing that something was amiss,  
3 because when they wanted to discuss breaking  
4 ground in a hotel in April, how could they do  
5 it when they didn't have the zoning completed  
6 yet?

7                   And finally, the mafia.

8                   Now they want you to believe that he  
9 brought it up. But they use that in the most  
10 sinister way, darkening this man's reputation before  
11 you. They knew this was all being recorded.  
12 And the only thing Ozzie Myers said about the mafia  
13 was, I don't go to Atlantic City because of the  
14 mafia.

15                   Phone calls. And then Mr. Wald recites  
16 the script. The sheik he sees movies, the  
17 Godfather, he is paranoid, tells about the mafia.  
18 And Myers says there is no mafia problem, there is  
19 none.

20                   They keep pusing and pressing. And  
21 finally as you heard from the witness stand, he  
22 told you since they wanted to hear about it,  
23 I told him about it.

24                   So he mentions some names, names that you  
25 can get out of a newspape, Angelo Bruno, Chickie

1  
2 Narducci and Skinny Razor, who if anything has  
3 happened in this case he has been buried in this  
4 courtroom four times.

5 Obviously they were trying to get him to  
6 discuss his connections with the mafia when he  
7 didn't have any, never had any.

8 But they push, they push, they push.  
9 They push on every single concept in that meeting,  
10 and he tells them that he can do it all. But he  
11 never had any intention of doing any of it.  
12 And he could not do any of it. And that is the  
13 state of mind that you must judge Ozzie Myers on.

14 The one thing that he is interested in,  
15 and it is legitimate, is the Port Authority  
16 in Philadelphia. That has nothing to do with  
17 his job or his office as a congressman.

18 Because of his job, his upbringing, his  
19 upraising, the Port of Philadelphia is important  
20 to him. And if he thinks there is anything  
21 legitimate about this deal that would help the  
22 Port of Philadelphia, he responds to it. And that  
23 is no crime. That is what was in his heart and  
24 soul.  
25

1  
2 They keep pressing him throughout this  
3 meeting for any conceivable thing; Schoolkill  
4 County, ou of the area. Every place you imagine  
5 they put it in.

6 Ladies and gentlemen, you heard him  
7 testify about that. You heard him take that tape  
8 almost line for line and tell you whaat he thought  
9 about it and why he said it and what was going  
10 through his mind.

11 Now, of course, he didn't have to take the  
12 drinks but they were very conveniently there.  
13 And there they were. And you saw him on television,  
14 you saw how his demeanor was, and as Mr. Puccio  
15 has told you, the nuances. You saw it for  
16 yourselves.

17 There will be another charge the court  
18 will give you and that will be called the gratuity  
19 charge. That has basically five elements.  
20 Apublic official who received money otherwise than  
21 provided by law for an official act to be  
22 performed knowingly/ and wilfully to violate the  
23 law.

24 That does not require the specific intent  
25 that the judge will charge you on under the

1  
2 bribery statute. However, the intend under the  
3 gratuity must also be for the performance of  
4 an official act which he never intended to do.  
5 As far as he was concerned there was no official  
6 act to do, and he did not do anything.

7 Ladies and gentlemen, this case  
8 has been presented to you by video tape. Mr. Myers  
9 has come before you personally. I think you  
10 can judge for yourselves that the real Mr. Myers  
11 was the one that appeared before you on this  
12 witness stand, not the one that was play-  
13 acting in New York, having been given  
14 a script that emanated from Mel Weinberg; not  
15 the one that was in Philadelphia pretending a cure  
16 from all ills, but the one that was in this  
17 courtroom who told you, I never intended to do  
18 anything. I was told I would never have to do  
19 anything. And I never did anything. That was  
20 his intention. That was his state of mind. That is  
21 the rason the government has failed to prove  
22 this case beyond a reasonable doubt.

23 Mr. Ben-Veniste reminded you that Wald wanted  
24 to bypass the statue of Liberty that sits not far  
25 from here. I have been seeing it every morning

1  
2 on my way to work. I now call this work and  
3 I call my room my home.

4 I don't think you should let the government  
5 bypass the Statue of Liberty. Your vote on  
6 this case has devastating consequences to Ozzie  
7 Myers.

8 On the evidence that has been put before  
9 you, he did not commit the crimes that are alleged  
10 in this indictment. Whatever else you may think  
11 of him he did not sell his office, he did not take  
12 a bribe, he had no intention of performing an  
13 official act, and he performed no official act.

14 I ask your intelligence to leave him  
15 to the voters of the City of Philadelphia.

16 THE COURT: Thank you, Mr. Cacheris.

\* \* \*

EVENING SESSION

1  
2  
3 THE COURT: Bring in the Jury.

4 (The Jury enters the Courtroom.)

5 THE COURT: We will now hear from Mr. Brown  
6 representing the defendant Errichetti.

7 MR. BROWN: If I may, your Honor.

8 THE COURT: Proceed.

9 MR. BROWN: Your Honor, Judge Pratt,  
10 Mr. Puccio, gentlemen, ladies and gentlemen:

11 Good Evening.

12 You heard so much this evening about play  
13 acting and that sort of thing, I suppose you know  
14 our defense is really routed in Shakespere. You  
15 heard the quotation that all the world is a stage and  
16 all the men and women are players, their exits and  
17 their entrances, and one man plays many parts. And  
18 I suppose you know which man we are really talking  
19 about.

20 But more seriously I think I should perhaps  
21 try to identify the man whom Mr. Puccio refers to as  
22 the Mayor and Senator from New Jersey, Mr. Errichetti.  
23 Before you he is just that, Mr. Errichetti, because  
24 you know by now, I hope, that there is no charge with  
25 respect to him about any misuse of his office, either

2

1 his office as a Mayor of Camden or as the Senator,  
2 a Senator from the State of New Jersey. The charge  
3 against him is that he allegedly entered into a con-  
4 spiracy with Messrs. Johanson and Criden in order to  
5 effectuate Congressman Myers violation of his Con-  
6 gressional responsibility. And in another part of  
7 the indictment you will find where they talk about  
8 money, there is no allegation that he received or  
9 took any money, but that in those counts he aided  
10 and abetted.

11 Now I will not try to tell you what those  
12 legal terms mean. Believe me, words like aiding and  
13 abetting, words like conspiracy are words of art that  
14 have a special meaning in the law. And you know by  
15 now who is supreme and final authority in this Court-  
16 room. If you don't, I do. And from him alone, of  
17 course, the law comes, and in due time during the  
18 course of the charge.

19 So please don't think that I am trying to  
20 tell you what the law is, but I am trying to put my  
21 client's position in this trial in perspective.

22 You heard a great deal, particularly on the  
23 tapes, especially the tapes of January 24th, 25th,  
24 and certainly the tape of August 22nd, which talks  
25 about many things in the context of that encounter.

## SUMMATION-BROWN

1  
2 And you might believe that other things are involved  
3 rather than the charge that the Congressman violated  
4 his oath in terms of other things than naturalization.  
5 That is not so.

6 I may, with your Honor's permission, in order  
7 to establish that perspective I will refer to the  
8 indictment and not in any authoritative way, but  
9 rather in a sense that it was voted by the Grand  
10 Jury I think as an outline of the charges.

11 You know, of course, that it is no proof  
12 whatsoever, but it is the form and manner by which  
13 a citizen of the United States is told what the  
14 charges are so that he may react to them.

15 The language which is essential and which  
16 defines what I am talking about is found after many  
17 of the descriptions which outline the gravamen of  
18 the Government's claim that they have a right to the  
19 faithful and honest service of the defendant Myers  
20 as a member of Congress in relation to matters be-  
21 fore the House of Representatives and so forth. And  
22 then it talks about the offenses it is alleged my  
23 client and others conspired to bring about. And  
24 that is to agree to receive a sum of money for the  
25 defendant Myers and other persons in return for the

4 1  
2 defendant Myers being influenced in his performance  
3 of official acts.

4 And in another charging part it points out  
5 that the issue is whether or not that interference  
6 would be as follows: In return for his assurances  
7 that he would introduce private immigration bills to  
8 enable a foreign businessman to remain in the United  
9 States and would take such other action as would be  
10 necessary to achieve that end.

11 I tell you this in part, and these are  
12 phrases taken out, they are not in total from the in-  
13 dictment. So that it may be clearly understood or  
14 as clearly as I can make it understood that the  
15 charge here deals only with the immigration matters,  
16 not with any violation by my client of his official  
17 duties, not with any other violation of prospective  
18 acts by the Congressman other than the immigration  
19 and the State Department reference.

20 Now, I opened to you in a rather unusual  
21 manner, I thought. I told you this was the first  
22 stage of trials in a new electronic age. And I  
23 think that you have seen that that is to some extent  
24 if not completely, justified. It may have sounded  
25 to you a bit presumptuous.

## SUMMATION-BROWN

1  
2 I may have also talked about some obscenities  
3 there are throughout the transcripts and for which I  
4 don't believe I have a need to apologize because, as  
5 you know, they are part of the warp and wool of the  
6 fabric of this case.

7 I said to you that this case is bullshit.  
8 That, too, has become a word of definition in this  
9 case, very seriously. Although it is considered pro-  
10 fanity by some people and by others just a social  
11 comment. And in the course of my summation if his  
12 Honor permits, I shall play a sequence of the tapes,  
13 some of which you have already heard leading up to  
14 the noto incident, because I believe that if you were  
15 to merely see the electronic marvels as they por-  
16 trayed the scenes that were carefully selected and  
17 put together, we would all be R2 D2's and we would  
18 have a computerized Jury.

19 I don't know if you know what R2 D2 is. I  
20 didn't know until I stumbled over my grandson's toy.  
21 It's a little thing from Star Wars that wobbles  
22 around and always knows where it is going and making  
23 the proper sounds.

24 I rather think that if we were to only con-  
25 sider the tapes and the electronic displays and the

1  
2 fireworks in this case we would have completely  
3 forgotten that there are human beings on trial and  
4 to be judged by human beings.

5 I only differ from Mr. Puccio with respect  
6 to your function in this sense. He says there is no  
7 special grace which a Jury has. It merely uses it's  
8 common sense and experience.

9 I agree that you must use your common sense  
10 and experience, but we all know that in the course  
11 of our travels and our entrances and exits, we do  
12 many things which we know are quite beyond us in the  
13 ordinary sense.

14 For example, you have sat here for days being  
15 exposed to individuals and language and equipment  
16 and attitudes and words which you would not commonly  
17 encounter in a mere three weeks of your life. And  
18 for that reason you have been steadily honed and  
19 quod in to what it is all about.

20 For example, if you were to just now walk  
21 in that door and see the meeting of August 22nd on  
22 the television sets, that's what you would see. You  
23 would see an envelope and you would say, my God,  
24 that's it, this is an atrocity. Why is there a  
25 trial?

1  
2 But there is a great human story here. And  
3 that's why I believe when his Honor charges you he  
4 will talk about something called intent. With res-  
5 pect to bribery he will put it in one frame work.  
6 I think he will say you must have a specific intent.  
7 And I think in terms of another lesser included  
8 offense he will say there is a different kind of in-  
9 tent. But always the words that are so significant  
10 and so meaningful to everyone here, knowledge, know-  
11 ing, wilful, act. That's the human equation in this  
12 case.

13 Actually within a few short weeks, within  
14 a few short weeks there was innauguration of the  
15 events, the introduction of the concept, the develop-  
16 ment of the -- I've been so used to having Judge  
17 Pratt say you better not use "script" I just swol-  
18 lowed that word and I will say account of events as  
19 it developed.

20 You know on television you see lawyers doing  
21 amazing things, but I don't think many have had the  
22 discipline you have seen in this Court. You do what  
23 Judge Pratt lets you do and that's it. And the  
24 framework, of course, is our tradition, that believe  
25 it or not lawyers are a disciplined class.

## SUMMATION-BROWN

1  
2 For example, I had some Army service, but I  
3 don't remember working 16 or 18 hours a day and  
4 meeting the commanding officer 8:00 o'clock at night.  
5 This is just our way of life.

6 But as this theme developed, the players  
7 exited and entered. For example, I wonder if you  
8 have noticed -- and I'm sure you have -- that after  
9 August 22nd the gentleman who played so many parts  
10 exits and is never heard from again. I wonder why.  
11 I wonder why. I wonder why in a very real sense.  
12 Because there is a question that I think must be  
13 answered in this case in the sense of all of our  
14 American experience.

15 I don't dare and I shall not attempt to say  
16 whether the FBI's performance was appropriate, in-  
17 appropriate, proper or improper. But as you saw  
18 these gentlemen come and sit in the witness box, and  
19 as you appraised them, did you ever wonder why they  
20 needed Mr. Weinberg?

21 Riddle me this: If a Congressman is to  
22 be bribed, is there really a need for 182 pages of  
23 colloquy as on the 24th of January incident with  
24 Congressman Myers where there are thrusts and paries  
25 and counterthrusts, or will you do this or give me

1  
2 a reason. Well, is there anything specific? Well,  
3 tell me when. 180 pages. No money passed that  
4 second incident. By the way, you certainly heard  
5 Mr. Weinberg say that after September Mr. Errichetti  
6 was no longer in the ambit or within the scope of  
7 this particular ABSCAM adventure.

8 So literally as of the 24th, the 25th, and  
9 so forth of January, Mr. Errichetti was not there.

10 I think you will learn that those events  
11 after August 22nd had no direct bearing on the  
12 innocence or guilt of the Congressman because they  
13 were not to the heart of this indictment and not  
14 direct proof.

15 You will find, ladies and gentlemen, that  
16 his Honor allowed that to come in again to go to  
17 that very human issue, intent, knowledge and volun-  
18 tary act.

19 The dates are fascinating. July 26th is  
20 the day when there was a group on a boat in Florida,  
21 the Left Hand, I believe it was called.

22 July 25th is the day that Mr. Amoroso con-  
23 ceived the scheme. Time passed and then on August  
24 22nd there was a meeting which you know about so  
25 well. And then on September 19th Mr. Noto walked

1  
2 into the trap which apparently list it's ability to  
3 spring.

4 Now, I know there are many references to  
5 that incident and suggest that it is collateral.  
6 But it is just as important as a meeting of the 24th  
7 if we are to evaluate what those who are here charged  
8 thought and what they did, and indeed what those who  
9 work for the Government thought and did. Because  
10 without the knowledge, without the intent, ladies and  
11 gentlemen, I believe you will hear and beyond that  
12 proof and beyond a reasonable doubt there can be no  
13 conviction under law, without the knowledge, with-  
14 out the intent.

15 Now I want you to understand that when I  
16 say intent I do not mean to tell you the law as  
17 Judge Pratt will tell you because there will be two  
18 versions of that. But there must always be know-  
19 ledge and a willingness to do an official act that  
20 will violate the Congressman's oath. There must be  
21 those elements.

22 How do we arrive at that? We arrive it by  
23 the acts which surround the events, which give you  
24 the guidelines and the ability to judge. Because  
25 without these acts and with that cold picture you

1  
2 don't know what the intent, the knowledge, the pur-  
3 pose was. It is just impossible. It's like watching  
4 a television serial and having it end just as the  
5 husband comes home and finds his wife in someone's  
6 embrace. You have to wait until next week to find  
7 out that she stumbled and fell. And really it comes  
8 very close to precisely that kind of evaluation of  
9 human nature.

10 Now, Mr. Amoroso, of course, is the gentle-  
11 man who succeeded Mr. McCarthy as the Director, the  
12 immediate supervisor of Mr. Weinberg. And Mr. Wein-  
13 berg, of course, is very frank about some things, and  
14 I think his frankness and his candor will guide you  
15 to the understanding that the defendants had no in-  
16 tention, no wilful purpose in breaking the law.

17 For example, there was much debate about  
18 using the words "actor", and restrictions. And yet  
19 Mr. Amoroso says we follow at page 1032.

20 "Question: Well, is it true then that you  
21 did in the course of this operation act out of your  
22 true self and in a sense be an actor or a character?"

23 And the answer is yes.

24 I would think that would end the debate, but  
25 I suppose since one plays many parts it will not end

1  
2 the debate.

3 But I recall, for example, one very inter-  
4 esting fact in this case which must intrigue you.  
5 For example, I shall play some tapes later, but I  
6 shall play them in a much more full sense as you  
7 have heard them from the prosecution. For example,  
8 one of the very critical tapes is a tape that deals  
9 with the statement that 15 has to come back. I think  
10 perhaps you remember that one.

11 Well, I will find that particular tape for  
12 you later, and I hope that you will listen and pick  
13 it out when it is played. But let's have an under-  
14 standing as to what that \$15 back was about.

15 Starting from January 26th, as you know,  
16 Mr. Amcroso had conceived the idea, and as you also  
17 know he on the Left Hand had a Nagra tape running in  
18 a little suitcase, it is here somewhere, but I am  
19 sure you remember it.

20 Then he went up to that side and there he  
21 reports a very crucial conversation. He reports  
22 that because he has read on the 25th about Mr.  
23 Somoza in the Newspaper he conceived the idea about  
24 throwing out the bait, and I will show you where he  
25 says precisely that. Take my word for it at the

## SUMMATION-BROWN

1  
2 moment, if you will. To throw out the bait hoping  
3 someone would bite so that he could proceed with a  
4 man to try to invagle some Congressman to do an  
5 official act which would allow him to offer money,  
6 and so forth.

7 (continued on next page)

1  
2 I know some of you may look at this as  
3 oratory, but I will show you the precise language  
4 in a moment.

5 Then the days roll by and on August 5,  
6 there is a tape played for you, it is Exhibit 1-A.  
7 I will ask you if you would turn to 1-A, please.

8 Now, you will notice August 5th, Northwest  
9 Airlines lounge, Kennedy International Airport.  
10 And on the first page there are references by  
11 Mr. Weinberg cryptically to getting older. I  
12 don't know what preceded that. And, of course,  
13 you will judge later on whether parts of the tape  
14 were left out or whether there was something about  
15 the transmissions that caused them to be left out  
16 or whether it was deliberate. That will be your  
17 judgment ultimately.

18 But I submit to you my cassette that starts  
19 by getting older is a cryptic tape. If you were  
20 to receive a tape from anybody and the first thing  
21 he said was getting older, you would wonder, well,  
22 what is he talking about.

23 Then on the second page we see other language  
24 which is pertinent to the present discussion.

25 Mr. Errichetti, ae, says, and before I

1  
2 forget there is, um, fifteen coming back. All  
3 right. And then laughter.

4 There it hangs unconnected until one  
5 remembers that Mr. Weinberg testified as to how  
6 that fits into things on page 2286.

7 When I call the numbers, it's for the  
8 benefit of the stenographer and for Mr. Puccio  
9 if he dares-- if he cares to look at the transcript.

10 "Question: Mr. Weinberg, directing your  
11 attention to the Myers matter.

12 Was there any discussion with anyone  
13 concerning you or Amoroso receiving a part of  
14 the \$50,000?

15 And this is the \$50,000, of course, that  
16 is concerned with the meeting of the 22nd. And  
17 it is prior to the meeting of the 22nd now. The  
18 meeting is being set up.

19 "Answer: Yes, at the meeting at the airport  
20 Amoroso told me to meet the Mayor and ask for a  
21 ten to fifteen thousand dollar kickback.

22 "Mr. Ben-Veniste: May I have that? I  
23 didn't hear it.

24 "Mr. Puccio: Answer the question again.

25 "Mr. Ben-Veniste: I would rather have

1  
2 the reporter read it.

3 "Answer: Kickback of ten to fifteen thousand,  
4 that he needed money.

5 "Question: Did you in fact meet with the  
6 Mayor before the airport meeting on the 5th of  
7 August and ask him that?

8 "Answer: I met him downstairs on the main  
9 lobby and asked for -- tell him you needed money,  
10 we would like to get \$15,000 kickback."

11 And, of course, this is Weinberg's testimony.  
12 Now, of course, that's the connection. Our actor,  
13 Mr. Weinberg, has said, "Tony and I want \$1,5000  
14 kickback."

15 Now, what you read and heard, this is a  
16 transmission of August 5th. And you read and  
17 heard the words, the laugh and fifteen coming back,  
18 ha ha, you will say that's a brazen chap, fifteen  
19 coming back and he laughs about it.

20 It is Weinberg who wants the fifteen. It  
21 is Amoroso, he says, who wants it. And that's why  
22 in this indictment you don't find one dime attributed  
23 to my client.

24 Now, as you sit in that jury box I ask you  
25 to consider this. If indeed that is so -- and

4 1  
2 apparently it is -- and if indeed as I assure you  
3 it is so, Mr. Puccio brought that out from Mr.  
4 Weinberg on his redirect. How can one say that  
5 Weinberg did not hold himself out as a direct  
6 participant in what we will show you is also  
7 referred to by other actors as the charade, as  
8 the trap.

9 Now, when I say trap, believe me I am not  
10 saying to you that here is the gestapo, that our  
11 F.B.I. has sunk to new lows. I tell you nothing  
12 of that. I talk only about the human interaction.  
13 And I suggest to you that perhaps if I had not  
14 read that in that fashion you will read this and  
15 say Errichetti is asking for \$15,000 just like  
16 that. It is not so.

17 But why, how can he come to that point  
18 unless Weinberg and Amoroso had encouraged pre-  
19 cisely that and insisted on that and so set it  
20 up, that there was no intention for the congressman  
21 to violate his oath and do any official act, but  
22 indeed, but indeed there was this concept of a  
23 projection of the idea that Mr. Weinberg was no  
24 longer loyal to his employer, the Shiek, and was  
25 out to get money in this game.

1  
2 Well, if that isn't a play or an act, I  
3 would ask you what it is. Because I do not infer  
4 and I don't wish to infer and I will not infer  
5 that Mr. Weinberg was pocketing this kind of  
6 money, no way. Although I was shocked to find  
7 that Mr. Amoroso didn't have to sign for this  
8 money, no receipt for this money and that Mr.  
9 Good, who seems to be in sense the whipping boy  
10 of this whole case, was responsible for that  
11 money.

12 I have no proof and no right to suggest  
13 that the F.B.I. was stealing any money or Mr.  
14 Weinberg under these circumstances stole any  
15 money. But I do suggest to you this, that the  
16 only testimony in this case that relates to what  
17 happened after a congressman left that room on  
18 the 22nd was that on the same floor he turned an  
19 envelope over to Mr. Errichetti, forty feet away  
20 from the room where they had all been. That's  
21 the physical situation insofar as any proof in  
22 this case is concerned.

23 Now, if indeed there was the insistence  
24 we want \$15,000 back, I ask you to rack your brains  
25 and try to find out if there was any testimony in

1  
2 here if indeed there was \$15,000 given back to  
3 Mr. Weinberg and Amoroso for Government purposes,  
4 not to steal it, I have no right to suggest that.  
5 But again this is a game, and of course, the  
6 congressman is not expected to do any official  
7 acts.

8           You know, of course, there was nothing done.  
9 There was no execution, agreement or not, there  
10 was nothing ever done.

11           You know, of course, from August to January,  
12 August being the August 22nd meeting that by  
13 everyone's testimony the players left the stage  
14 and went their way and absolutely nothing happened  
15 until there was a phone call in January according  
16 to the tapes, according to the testimony from  
17 Mr. Criden to Mr. Myers, which caused him to come  
18 back again into the stage play. But if there was  
19 no intent to violate his oath and do an official  
20 act, and if indeed this was the kind of thing  
21 that was set up, then I suggest to you that there  
22 can be no guilt of the violation under this charge  
23 in this Federal Court of the crimes charged. Now  
24 let us explore some more of the human conditions,  
25 if you will, because I think some of these words

7  
1  
2 as I bring them back to you may very well prove  
3 a reminder to you.

4 In addition to the play acting which caused  
5 Weinberg to say to Mr. Errichetti, we want \$15,000,  
6 which is reflected in another sense in the August  
7 5th statement, this is what Mr. Weinberg says.

8 2292 is the page.

9 "Question: The second conversation you  
10 mentioned where you say that -- next conversation  
11 you say Mr. Errichetti killed out Mr. Amoroso, do  
12 you recall when that took place?

13 "Answer: Right after the payoff to Congress-  
14 man Myers."

15 Now, apparently the reasonable inference  
16 is right after the payoff and Errichetti went  
17 back and said to Amoroso, you only think of yourself.  
18 You don't think of Mel.

19 Well, in terms of the human condition, what  
20 does that mean? Does that mean that Errichetti  
21 is conniving to take money under false pretenses  
22 or to do other than they tell him to do? And I'm  
23 not suggesting to you that he became an agent of  
24 the United States, but he was certainly following  
25 the directions of a special agent and a special

1  
2 employee.

3           There is much said here about the fact  
4 that there is an expression that has been repeated  
5 and repeated ad nauseum. I know you are sick  
6 of hearing it, but forgive me. It's like using  
7 bullshit, the word is there and the phrase is  
8 there.

9           Come on strong, and there have been many  
10 explanations about that.

11           Page 2293.

12           "Answer: Yes, your Honor."

13           Let me get the question, which will be 2292.  
14 And they were talking about the purpose in telling  
15 Errichetti or someone else to come on strong.

16           "Question: The second conversation you  
17 mentioned where you say that -- next conversation  
18 you say Mr. Errichetti balled out Mr. Amoroso,  
19 do you recall when that took place?

20           "Answer: Right after the payoff to Congress-  
21 man Myers.

22           "Question: Now, on one or another of the  
23 transcripts, Mr. Weinberg, you used the phrase:  
24 'come on strong'. do you recall that?

25           "Answer: I do.

1  
2 "Question: Can you tell us what your  
3 purpose was in telling Mayor Errichetti or anyone  
4 else to have someone come on strong?"

5 There were objections.

6 "Answer: The purpose, we didn't want  
7 to get in a situation like we got into once --"

8 I objected and the Court said, "Can you tell  
9 us without referring to other situations that may  
10 have occurred that are not involved in this trial  
11 what your purpose was in telling someone to come  
12 on strong?"

13 "Answer: Yes, your Honor. Tell them to  
14 come on strong that we get -- we knew that the  
15 man was taking the \$50,000, tell us what he  
16 was going to do.

17 "Question: The public official?"

18 "Answer: The public official.

19 "Question: And you knew, did you not,  
20 that Mr. Errichetti or someone was going to speak  
21 to the public official before the meeting?"

22 "Answer: That is correct.

23 "Question: Now, do you have any idea or  
24 can you approximate for us, how many telephone  
25 conversations you recorded during the course of

10<sup>1</sup>  
2 this entire investigation?

3 "Answer: I think it runs close to a  
4 thousand."

5 I want you to get that in the back of your  
6 mind, if you will, close to a thousand conversations  
7 in the course of this entire investigation. And  
8 I suspect that as to this particular indictment  
9 it wasn't that many, and it was certainly hundreds.  
10 And we shall refer to that later on.

11 But to go back to the point is that here  
12 Weinberg admits that he knew that Errichetti would  
13 speak to the public official and tell them to say  
14 what they thought he would say.

15 But the problem with that is this: If you  
16 will examine with me, please, 5-A, which is the  
17 August 22nd meeting at Travel Lodge International  
18 Hotel at Kennedy Airport, you will find interesting  
19 things there.

20 For example, you will find that Mr. Amoroso  
21 in the legend says that placed in front of me is  
22 \$50,000 in \$100 denominations, ten packages in all,  
23 placing them in an envelope, I am not sealing the  
24 envelope, placing the envelope in a briefcase to  
25 my immediate right.

11  
1  
2 I think if you remember that T.V. scene  
3 you will notice that indeed he does lick it and  
4 then doesn't seal it.

5 Well, \$15,000 coming back. Maybe that  
6 was part of the technique.

7 Then they go on to talk about the congressman  
8 from Philly and there are pages and pages and  
9 pages. And on page 3 there is a reference there  
10 that relates to something that you have heard many  
11 times as well. You have heard, of course, that  
12 Mr. Weinberg said, don't worry about a thing because  
13 the gentleman from abroad is not coming here anyway,  
14 he is going to South America.

15 And if you read there where Myers says  
16 absolutely, where I can be of assistance in this  
17 type of matter, first of all is private bills that  
18 can be introduced. Now, when you, when you are  
19 coming from a third world nation, and you have  
20 no political support in this country, unless somebody  
21 is in saying you don't need, hum, you wouldn't  
22 introduce a bill to protect your interests if you  
23 had to go in exile somewhere. Now, what you need  
24 is the influence to have that done. And then there  
25 is more language.

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

Now, this is clearly a reference to the fact that no private bill ever be introduced. However, I must say this to you, that in dealing with the question of intent, the impossibility of introducing the bill, and you will hear from his Honor, I believe is not the point. The point I want to make is that for thirty pages there, and please place it open for a moment, for thirty pages there is conversation back and forth, which never comes to a head as far as any official act being done. It is the old, old story of a kind of fencing act which reflects what Mr. Amoroso said.

He said, look, don't continue to ask me about a script. I really don't have a written script. I kind of played it by ear.

And look it, it looks it. The only problem with it is that it misses the mark. This man wants to take \$50,000, ladies and gentlemen, it would take five minutes to say, introduce the bill, will you introduce the bill.

Yes.

Here is \$50,000.

Walk out and turn the cameras off.

1 We wasted more electricity in this particular  
2 incident.

3 Now, if you go on you come to the point  
4 where on page 7 Mr. Errichetti says, well, there  
5 is no case at this point.

6 Mr. De Vito, Mr. Amoroso says, that's in  
7 the middle, if you please, on page 7. Well, yeah,  
8 what we are saying is we are insuring that when,  
9 when.

10 Mr. Myers says, when the time comes, if  
11 it comes.

12 Again I must tell you, because it will be  
13 unfair to mislead you that mere impossibility if  
14 the thing never happens is not a defense in this  
15 case. If you hear his Honor charge you will  
16 find that just because it didn't happen and,  
17 however, in assessing the fact that there was  
18 an intent to really do the official act, in one  
19 instance the bribery, a corrupt motive, and the  
20 second instance, with full knowledge that you  
21 were really going to do it as opposed to a misun-  
22 derstanding or a crossing of ideas, that I believe  
23 you will be told you can consider.

24 (continued on next page.)  
25

1  
2           And if I misstate this you must know that  
3 I am only allowed to give you certain elements  
4 of the law so I may talk to you in a framework.  
5 I have no authority. What I say to you is not  
6 in any sense what you must accept. I give it  
7 to you in the framework of this lawsuit because  
8 otherwise you will have no anchor, no boundaries.

9           One of the fascinating things about it  
10 is, and I want to call your attention to another  
11 page on page 29 or 30. And you will have these  
12 books with you and so I am sure you know you  
13 will feel free to study them.

14           There is a phrase that rings, like come  
15 on strong, bullshit and others which become  
16 critical words.

17           Page 30 is the page where Mr. Weinberg says,  
18 this is all within the 5-a, if you please. I  
19 assume everybody has 5-a. On page 30, if you  
20 be so good, there is a sentence which again is  
21 one of the phrases you have heard again many, many  
22 times ad nauseum but it is so significant I think  
23 you can pick it out.

24           Now Weinberg says, we got like the goose  
25 that lays the golden egg. We all like to make a

1  
2 buck.

3           Now, go back to August 5, when they say  
4 to him, we want fifteen back. And tie this  
5 in with, we got the goose, we all like to make  
6 a buck. Is there any way in the human condition  
7 that you cannot then believe that Mel Weinberg  
8 is saying, look, nothing is to happen here, no  
9 official acts, nothing. Walk in, we will rip  
10 off the millionaire, or whoever he may be and  
11 that's it. No official act, nothing is extended.  
12 Come on in, we will rip it off.

13           Now, in the sense the Government wants  
14 you to accept it as a finished and complete and  
15 very sophisticated, I think we call it a sting  
16 operation, I think you must consider whether  
17 in fact it's true or whether this was an amateurish  
18 event and whether there were misunderstandings  
19 in all parts and no meeting of the mind and no  
20 design to do what is called a violation of a  
21 congressman's oath to do an official act contrary  
22 to the public.

23           One of the things I talked about Congressman  
24 Myers is this: And I do it with the permission  
25 of his counsel because this is a conspiracy, and

3 1  
2 in a very real sense, in a very real sense. That  
3 which effects Congressman Myers effects Mr. Erri-  
4 chetti. I think you will be told if you find  
5 this was a misunderstanding, it was not a situation  
6 where there was a knowledgeable intent to do wrong  
7 and that Congressman Myers never had the knowledge  
8 and will to do it, I think you will hear from his  
9 Honor that you must acquit all. And that's why  
10 you will hear me talk about Congressman Myers  
11 because there is no question but that Mr. Errichetti,  
12 who took no money and is not charged with taking  
13 any money even, no suggestion that he did, has  
14 a fate which is tied in inextricably with Mr.  
15 Myers.

16 My people have an old spiritual that says  
17 that sometimes I feel like a motherless child.  
18 And that's Errichetti. He is a long way from home  
19 because Myers, Myers, that's all we hear. Read  
20 the indictment. It's the congressman, it's the  
21 congressman's act.

22 Well, if you lump them altogether you have  
23 to consider what the total ideas are and what  
24 happened. And that's why this tube is an abomination  
25 because it represents to be the full and complete

4  
1  
2 truth and it can never be, not ever. Just as one  
3 man's pulse may be meaningless in another or one  
4 woman's feelings at certain times is curious and  
5 individual to her so that in this courtroom I know  
6 I need not plead for you, with you in this fashion.  
7 But because it is so serious I do, that you please  
8 consider the human condition.

9 And we are all actors, and Mr. Weinberg,  
10 too. And bless his conning heart, he is just  
11 as human and just as subject and just as entitled  
12 to decent consideration as any.

13 But in this particular endeavor I will ask  
14 you to riddle again, why did the F.B.I. need a  
15 Mel Weinstein -- Weinberg, I beg your pardon--  
16 in order to carry out a so-called sting to get a  
17 congressman? Why? He had to be there for a reason.

18 The only reason he could be there is because  
19 he was a con man and the only reason his con was  
20 good is because they had to give this idea, this  
21 is all a con, he is disloyal to this employer and  
22 nothing is happening there and stumbles in, oh  
23 boy.

24 When Myers stumbles in it's not a crime unless  
25 he has the knowledge and has the intent. Perhaps

1  
2 so sophisticated and complicated is this celebrated  
3 king that has book contracts, movie contracts,  
4 God knows what, because it's sensational, because  
5 it's unusual. They may have overlooked the simple  
6 problem that simple is best and simple works.  
7 It's like having one of those fancy English cars.  
8 It's beautiful to see and will do 180 and runs  
9 about twice a month.

10 This is not a horse and buggy. This is  
11 a space aged design to eliminate common sense.  
12 If you were placed in control or a supervisor  
13 capacity, I ask you to ask yourselves, would you  
14 not on the assignment of a celebrated con man  
15 want to know something about him so you would  
16 know how to relate to him?

17 On page 953 Mr. Ben-Veniste's cross  
18 examination of Mr. Amoroso.

19 "Question: Did you ever ask Mr. Weinberg  
20 what is all of this now about all this criminal  
21 activity that you had been involved in in the  
22 60's or 70's?

23 "Answer: No.

24 "Question: Never did?

25 "Answer: No.

1  
2 "Question: Isn't it fair to say that you  
3 dn't want to know?

4 "Answer: I don't care. It has nothing  
5 to do with this case."

6 Well, ladies and gentlemen, that's like  
7 petting a polar bear. He is beautiful, he is  
8 statuesque, but you better know what you are doing.

9 In this instance the very fact that Mr.  
10 Amoroso says that he didn't care indicates that  
11 there was no control and that what happened here  
12 was indeed a space age venture tumbling in orbit.

13 Let's examine further what has been said  
14 because the trial has been long and you no doubt  
15 have heard that restrictions on the use of the  
16 word "script". But let's read what Mr. Amoroso  
17 replies to the gentlest of our counsel, Mr.  
18 Cacheris.

19 Page 981.

20 "Question: In fact, when you used the name  
21 Tony De Vito, you were acting?

22 "Answer: Correct.

23 "Question: When you said you were working  
24 for a Shiek, you were acting?

25 "Answer: Yes.

7 1

2           "Question: So when Mr. Myers came in, you  
3 had a script that you were following, didn't you?

4           "Answer: Well not a script, just -- just  
5 how I felt the thing was going.

6           "Question: You didn't have any idea what  
7 you were going to ask him?

8           "Answer: Basically I knew what I wanted  
9 from him.

10          "Question: That's correct. You knew what  
11 you wanted from him?

12          "Answer: Correct.

13          "Question: And so that you asked him about  
14 the introduction of private bills, didn't you?

15          "Answer: Correct.

16          "Question: And that's what your suggestion  
17 was, wasn't it?

18          "Answer: Offhand, I have to look at the  
19 transcripts.

20          "Question: You don't have any doubt about  
21 it, do you, sir?

22          "Answer: I don't know who brought it up.  
23 That is what I was referring to."

24                 So you see, with respect to private bills,  
25 he said, "I don't know who brought it up."

8  
1  
2 "Question: That's what you were referring  
3 to. And you also asked him about the State Depart-  
4 ment; you brought that up?

5 "Answer: Correct.

6 "Question: Isn't that correct?

7 "Answer: Sure.

8 "Question: And that was part of your  
9 script, wasn't it?

10 "Answer: Correct.

11 "Question: And you also asked him if he  
12 knew any key people in the State Department, didn't  
13 you?

14 "Answer: I don't know if I mentioned any  
15 key people. I just mentioned the State Department,  
16 I think.

17 "Question: You brought up the State Depart-  
18 ment?

19 "Answer: Yes. I said I just mentioned  
20 the State Department."

21 I read this to you to give you the flavor  
22 of what had happened, that these people stumbled  
23 through this tragedy.

24 Page 984, again Mr. Amoroso being questioned  
25 by Mr. Cacheris.

9  
1  
2 "Question: And didn't you say to Mr.  
3 Errichetti, 'He'd have to introduce some kind  
4 of legislation, right, some kind of bill or  
5 something'?

6 "Answer: Correct.

7 "Question: And didn't Errichetti say,  
8 'Whatever you say'?

9 "Answer: Correct, that's what he said.

10 "Question: And didn't Weinberg say, skipping  
11 on down, 'Yes, let him tell Yassir whatever he  
12 had to tell him'?

13 "Answer: That was the conversation, yes.

14 "Question: Is that right?

15 "Answer: Yes.

16 "Question: That was what you subsequently  
17 wanted to get on T.V.?"

18 And the answer is, "Correct."

19 (continued on next page.)

1  
2           You may say, well, we have heard these  
3 things before and indeed we have. But I do  
4 not believe that you heard them quite in the  
5 context of which I am presenting them to you.

6           Now, we heard about, for example, the  
7 earlier incidents, just to leave this for a  
8 moment and to go to something I believe less  
9 intense. At the beginning of all this you now  
10 know, I believe it was early in '78 and about  
11 December of '78 Mr. McCloud, Mr. Mc Carthy first  
12 got in touch with my client. And you heard them  
13 talk about the Port of Camden and that sort of  
14 thing.

15           But more fascinating is the fact that Margo  
16 Kennedy and all the Kennedy references who one  
17 witness refers to as things he heard about, that  
18 is to say Mr. Weinberg, and to which Mr. Mc Carthy  
19 disavowed, nonetheless seem to be a fact in this  
20 case.

21           As a matter of fact, I will read you and  
22 you have your books and I will call it to your  
23 attention soon the fact that there were many  
24 congressman and senators mentioned and apparently  
25 there was no wish, no wish to enforce the law

2 1  
2 2  
3 3  
4 4  
5 5  
6 6  
7 7  
8 8  
9 9  
10 10

without distinction. And some of these things just never were paid any attention to.

11 11  
12 12  
13 13  
14 14  
15 15  
16 16  
17 17  
18 18  
19 19  
20 20  
21 21

I suggest when you consider that Errichetti was paying the bills for the hotel where Mr. Mc Cloud and Margo according to one story were in the same room and he sneaked down the back stairs, according to Mr. Mc Carthy were never really in room, but Mr. Mc Carthy was very interesting. He said that's the only suite they had.

22 22  
23 23  
24 24  
25 25

Well, that's the style of ABSCAM. You don't sleep in ordinary rooms. It's suites and yachts and planes. But doesn't that suggest something about the inexact, the looseness, the bumbling of it all, and much of it exasperated and to the extreme you bring in a Weinberg.

Why a Weinberg? If there are congressmen that are going to be bribed, called them in and offer them "50,000. And somebody suggested an abominable idea, why not get those who have already committed a crime rather than create it?

But I am sure that that answer and that question anathema to the people in ABSCAM.

Now, I mentioned before about the money. I am going to document everything I say. It is

1  
2 sworn testimony.

3 I mentioned the curious things that Amoroso  
4 didn't have to account for the money.

5 Petty cash in the cafeteria has to be  
6 accounted for by the cashier.

7 But on page 994 the question was asked  
8 about, about the money. Page 993, my cross examina-  
9 tion.

10 "Question: Did you make a note in a 302  
11 about obtaining the money and what you did with  
12 it and what happened to it?

13 "Answer: Did I make a notation?

14 "Question: Yes.

15 "Answer: No.

16 "Question: You were not responsible as  
17 an agent to make a precise report as to what  
18 happened with the money that is turned over to  
19 you?

20 "Answer: What I did when I received it,  
21 I counted it and then I placed it in that envelope.

22 "Question: Do you sign out for that  
23 money or do they just give it to you?

24 "Answer: No. Another agent probably signed  
25 for it.

4  
1  
2 "Question: What agent would probably have  
3 signed?

4 "Answer: I have no idea. That would be  
5 the responsibility of Mr. Good.

6 "Question: But as far as you were concerned  
7 the money would not be accounted for in writing  
8 or in any receipt of my kind?

9 "Answer: Not by me. By someone.

10 "Question: I am asking as far as you were  
11 concerned, you would not have accounted for the  
12 money by a writing or a receipt of any kind?

13 "Answer: No."

14 I am suggesting if the con were so wide  
15 open that you are selling the goose that laid  
16 the golden egg, which you didn't account for the  
17 money, if you said, give me \$15,000 back and left  
18 an envelope and walk out of the room, how can you,  
19 the jury, decide that these involved culpable acts  
20 by these defendants?

21 Proof beyond a reasonable doubt is not  
22 invented for this trial. It means quite simply  
23 that when a Government brings the charge they  
24 don't prove by tipping the scale. They prove  
25 by much more than that. And his Honor will give

5 1  
2 you the definition.

3 If there is a lack of proof the defendants  
4 are entitled to an acquittal. If there is a lack  
5 of proof that does not allow you to reach a decision  
6 that rises to that great of height of proof beyond  
7 a reasonable doubt, you find them not guilty on  
8 that phrase, on that phrase. That phrase is one  
9 that is sometimes misleading.

10 The Skotch have a different phrase which  
11 I think explains it better. When a Scotch jury  
12 acquits, they say not proved. Because the word  
13 sometimes unfortunately convey to a juror when  
14 I say not guilty I am saying completely innocent,  
15 exonerated, go forth and do it again.

16 That is not so. You sit as judges and  
17 you must be as stern as Judge Pratt. And I will  
18 bet my life that if his mortal enemy was in front  
19 of him and if that evidence did not rise to proof  
20 beyond a reasonable doubt he would say, not proved.  
21 And that's your model. And that's what the law  
22 requires and that's why I say you have a special  
23 grace.

24 We are not ordinary human beings this  
25 night and tomorrow until this over. We are not

1  
2 ordinary humans because we have to be above our-  
3 selves.

4 Do you think that at this hour of the night,  
5 and you know how long we have been here, and you  
6 know how long we were here last night and the night  
7 before and the night before, that I feel like doing  
8 what I have to do?

9 Well, I will die trying to do it because  
10 there is a special grace and there has to be the  
11 special courage that says not proved if it is not.

12 And when a Weinberg is needed by the F.B.I.  
13 to trick and trap, ladies and gentlemen, I say  
14 you must be so critical in your estimation of that  
15 fine body that you have to say they tried something  
16 new, they tried it in a bumbling and inexact way,  
17 and there is no proof that this man said, I will  
18 violate my oath. There is not one scintilla of  
19 evidence to that effect. And read in your book  
20 these two enormous meetings, and you will find  
21 that. It is 180 pages, the second meeting. Thirty  
22 pages the first meeting. The final page we have  
23 a goose, let's pluck him.

24 One of the analogies to what has to be  
25 done here, I think is found sometimes in taking

7  
1  
2 examinations. Examinations frequently don't pass  
3 anything. Examinations are frequently not gaited  
4 to the individual. It doesn't measure their  
5 respective opportunity to education. It doesn't  
6 respect their cultural differences, where I may  
7 speak Swahili and someone else speaks German.  
8 But flunk the exam and you are a failure and you  
9 have to know in your heart that you are not a  
10 failure because it wasn't fit for you, it wasn't  
11 designed for you, it didn't add up to the truth.  
12 And that's what the test is in this case.

13 It is a common thing on a job to have a  
14 supervisor say, why did you do such and such, and  
15 you turn to the person over you and he says he  
16 told me not to do it. And that person shrugs his  
17 shoulders and you have had it because unless you  
18 examine the background and go into the reasons for  
19 what you did, then the mere act for your not having  
20 done it leaves you guilty, you don't have a chance  
21 to explain. If you don't have a chance to describe  
22 it, you have had it. And that's what is true in  
23 this case. I heard it said about Mr. Cook that  
24 he told us the truth, but that he never said  
25 anything about a charade.

0  
1  
2 Well, let us see. On page 1298, Noto.

3 In a few minutes after I have set the stage,  
4 I am going to play the tapes and I want you to  
5 listen to them in the prospective I have tried  
6 to impart to you. But this is on Noto. That's  
7 the business of the immigration man.

8 (continued on next page.)

1  
2 On page 1298, and the questions are of  
3 Mr. Cook, the honest man.

4 "Question: You knew from the beginning it  
5 was a total charade?

6 "Answer: Yes, sir.

7 "Question: And it was your understanding  
8 that Mr. Weinberg was aware of the fact that you  
9 were not indeed Mario Noto?

10 "Answer: Yes, sir.

11 "Question: When he sat and talked to you  
12 did he give you any indication that he was aware  
13 of the fact that you weren't Mario Noto except  
14 for your age?

15 "Answer: No, sir.

16 "Question: And he was the one who remained  
17 with you?

18 "Answer: Yes, sir.

19 "Question: That person we were referring  
20 to was offscreen?

21 "Answer: Yes, sir.

22 "Question: You watched the play here on  
23 the screen?

24 "Answer: Yes, sir.

25 "Question: He was off screen, wasn't he?

2  
1  
2 "Answer: Yes, sir.

3 "Question: Now, what was he doing? Can you  
4 tell us physically, was he standing, sitting, was  
5 he giving you any signals or anything?

6 "Answer: He was sitting in a chair talking  
7 to me.

8 "Question: Just talking to you straight?

9 "Answer: Yes, sir.

10 "Question: And did he tell you that there  
11 would be any consequences of your not being the  
12 Mario Noto in question, the difference in age?

13 "Answer: No, sir.

14 "Question: Did he say anything to you about  
15 the fact that your purpose was to come there to put  
16 on this act?

17 "Answer: I never talked to him other than  
18 on the tapes.

19 "Question: That's all.

20 "Answer: Yes, sir."

21 And then what did he then say?

22 A 1300. Remember now, this is the Noto  
23 situation. Mr. Amoroso has called Mr. Errichetti  
24 outside and in the room sit Weinberg and Mr. Cook.  
25 And this is the language. And Judge this, if you

3  
1  
2 will.

3 "Question: Can you tell us what Mr.  
4 Weinberg said to you?

5 "Answer: He said he is sure we can work  
6 this out, get it all straightened out, that Tony  
7 is just afraid that you are not whom you say you  
8 are.

9 "Question: He never said, "Look, you are  
10 not Noto, you have tried to pull a game on us.  
11 He never said that to you, did he?

12 "Answer: No.

13 "Question: In fact, he had said it's going  
14 to be okay, we will work it out; is that right?

15 "Answer: Yes, sir.

16 "Question: Was that in keeping with the  
17 concepts given you that he knew all about it and  
18 was going along with it?

19 "Answer: Yes, sir."

20 Now, what does that language mean in terms  
21 of Noto to you?

22 I would suggest to you that a reasonable  
23 interpretation is that in this situation where he  
24 is known to be an imposter, and Weinberg says that  
25 everything is going to be all right, don't worry

1  
2 about it, that it suggests that Weinberg knew  
3 all about it and was in on it. That's a very  
4 reasonable deduction which can be drawn.

5 And there are many other such words here  
6 which lead inevitably to that deduction.

7 Now, on page 1305 they talk about the Casino  
8 matter.

9 You remember on July 26th on the trip to  
10 Fort Lauderdale in the boat, it was by Mr.  
11 Johanson, Mr. Criden and Mr. Errichetti in terms  
12 of a casino matter which was described as legitimate  
13 and in fact Amoroso said it was. And down they  
14 went with their maps and their feasibility studies  
15 and their dreams of four million dollars.

16 Cook knew about it. And now Mr. Honest  
17 Cook testified for the Government.

18 "Question: And you also testified that  
19 it was your understanding that Tony and Mel, the  
20 representatives and the employees of the Shiek  
21 were themselves to receive some money in the casino  
22 matter; is that right?

23 "Answer: They indicated they wanted a part  
24 of it, yes, sir.

25 "Question: It was your understanding, was

5 1  
2 it not, that the Shiek was going to supply the  
3 money for the casino venture?

4 "Answer: Yes, sir.

5 "Question: And the money transaction was  
6 to be negotiated for the Shiek by Tony and Mel;  
7 is that right?

8 "Answer: Yes, sir."

9 And Mr. Puccio then asked if he thought  
10 it proper, and so forth.

11 Now, from the very beginning it will appear,  
12 and I suggest you have a right to accept it as  
13 fact or reject it, that from the very beginning  
14 Tony and Mel were going to share.

15 Now, if they were going to share the money  
16 and if they gave this impression from the beginning,  
17 why isn't it absolutely plausible and reasonable  
18 that Errichetti the congressman there is no  
19 official act contemplated, there is nothing to  
20 it?

21 Reasonable? I submit to you it is.

22 Now, I want to just give you a few other  
23 matters to put this entire matter in prospective  
24 because I think it's the only way to really explain  
25 it.

6 1  
2 You do recall an interesting thing about  
3 the business of the \$50,000. Noto was only supposed  
4 to get twenty-five. It's just a note as you look  
5 at the film and remark how that worked out.

6 Excuse me just a moment. In the document  
7 before you that refreshes your recollection,  
8 may I ask you if it is not a fact when Mr. Weinberg  
9 reported the name to you he allegedly got it from  
10 Mr. Errichetti that it was Mopo and he was the  
11 Commissioner of Immigration.

12 Enough for Mr. Cook because I think it  
13 suggests to you that the honest Mr. Cook gave  
14 some very honest answers and they might not have  
15 been as conducive to some of the ideas that Mr.  
16 Puccio wanted them, but there they are.

17 Now, one or two more references to Mr.  
18 Amcroso before we play the tapes that I have  
19 referred to.

20 We talk again about the acting performances  
21 and he said they were correct.

22 And with respect to that activity which  
23 came later, about an hour elapsed between the  
24 time you had the money, that's the 22nd and the  
25 time you went through the prologue, which is the

7  
1  
2 sealing and the not sealing of the envelope and  
3 the time of the actual activities, would that be  
4 correct?

5 And in that interim who was in the room,  
6 Weinberg and Good. What happened to the money?

7 But this is more precisely to the point.

8 And is it not so that as a result of this  
9 idea that formed in your mind on the 25th you  
10 then projected this idea on the 26th and advanced  
11 it, right?

12 Correct.

13 And you advanced it for the purpose of  
14 advising somebody to respond; is that right?

15 Correct.

16 And you advanced it specifically for the  
17 purpose of inducing Errichetti to respond, is  
18 that right?

19 Yes.

20 Now that you baited the trap with the idea,  
21 that's a correct statement, is it not?

22 Yes.

23 You expected my client to bite?

24 It could be, yes.

25 That would be the purpose of your doing it,

1  
2 I would assume.

3 Again a part of a design.

4 I will tell you what he thought he did to  
5 my client. Let's read what he said on page 1042.  
6 We are referring to Weinberg, and he says as  
7 follows:

8 "Question: And he conned everybody but  
9 you, is that right?

10 "Answer: I can be conned just like every-  
11 body else.

12 "Question: Did he con you?

13 "Answer: I don't think so.

14 He conned everybody else though.

15 "Question: By everybody else whom do you  
16 mean? Let's take my client. He conned my client,  
17 didn't he?

18 "Answer: I would say so.

19 "Question: He conned him in a superb fashion,  
20 is that right?

21 "Answer: Yes, I would think so."

22 Now, I don't know how you react to that,  
23 but that to me is something which goes to state  
24 of mind. If a person is subject to being conned  
25 or convinced or persuaded by what Mr. Weinberg

1  
2 describes as a mixture of the truth and fiction,  
3 whom are we to blame? The victim that is conned?

4 Well, that's what you're being asked to  
5 do. You are being asked to convict Mr. Errichetti  
6 by proof beyond a reasonable doubt that through  
7 this entire enterprise when Mr. Amoroso says that  
8 he was superbly conned that he, the victim, should  
9 pay the price.

10 Well, that is so contrary to a sense of  
11 justice that I ask you to consider that as a theme  
12 running through this entire matter. And these  
13 are not my words and it is not just rhetoric. It  
14 is that which has been adduced from Mr. Amoroso's  
15 mouth himself.

16 Now, Mr. Cook. Let's go again to the 22nd,  
17 Congressman Myers, the key event. A question by  
18 Mr. Puccio to his witness, the honest Mr. Cook.

19 "Question: Now, Mr. Cook, were you ever  
20 told anything by anyone about a script that Congress-  
21 man Myers would have to read for the Shiek's  
22 representatives?

23 "Answer: No.

24 "Question: Were you ever told by anyone that  
25 at the August 22nd meeting, Congressman Myers would

0  
1  
2 put on an act for the Shiek's representative?

3 "Answer: What I was told is: He had to  
4 meet with Mayor Errichetti beforehand where they  
5 would prepare him for what he would have to say  
6 and then he would meet.

7 "Question: Were you ever told that he  
8 would put on an act and say things he really  
9 didn't mean, were you ever told that?

10 "Answer: No, sir."

11 Now, if Mr, Cook, the honest man, the  
12 witness produced by the Government, says that  
13 he was told that Myers had to meet with Errichetti  
14 beforehand, where they would prepare him; and  
15 then let us take that honest man and believe him.  
16 You were asked to believe everything he said,  
17 why not that?

18 Now, with respect to the events that led  
19 up to and through the 22nd of August, starting  
20 in June, June 16th.

21 Mr. Furst, if you will.

22 Starting June 16th you have in the back  
23 of your books T-1 through 11, and I ask you to  
24 turn to that, please.

25 Now I will give you a brief rundown

1  
2 on that and bring you right up to August, while  
3 Mr. Furst prepares to play the tapes for you.

4 Please don't put your earphones on yet,  
5 please.

6 On June 16th you will see that Mayor  
7 Errichetti on the phone says, you know what we  
8 got to do with Pete.

9 This is in part. I am just giving you  
10 a running sequence so that they fall into line.

11 Mel says to Errichetti, Eric, give me the  
12 proper speech that Mel gives you. June 28th,  
13 fitting in the sequence, is what I call the  
14 bullshit on stage command performance, but please  
15 you will hear it and you will read it so that  
16 you will be able to judge rather than my giving you  
17 a conclusion.

18 (Continued on next page.)

## Brown-summation

1  
2 July 29th. July 29th, by the way, I shall  
3 return to because it is one of those tapes made  
4 by the so-called dropped cassette, which Professor  
5 Weiss says was never dropped but stopped and started,  
6 and part was left out by the Government in our  
7 estimation, but in that you will find the key expres-  
8 sion that the naturalization guy is key one. So as  
9 early as July 29th the naturalization guy was a part  
10 of the scenario.

11 August 15th you will find there is a conver-  
12 sation about the wet and dry closing. And everybody  
13 who closes a house, you know you go through the  
14 rehearsal, and that's a dry run when you rehearse it.  
15 and the wet one when you finally close.

16 September 2nd, there is a telephone call  
17 referring to Immigration.

18 September 5 refers to green cards and my  
19 guy Errichetti.

20 September 12th, Errichetti doesn't know his  
21 game and Fester Detorintini(ph), and somebody called  
22 him Tetrizini(ph), but that's an Italian dish.

23 September 14th, Mr. Noto.

24 And on the 18th, Errichetti tells of the  
25 preparations on the 19th and then there is the video

## Brown-summation

1  
2 tape of Mario Noto.

3 The point we are making is that in the middle  
4 of this is August 22nd.

5 So the conversation throughout deals with the  
6 business of the con, the business of the false  
7 appearance. Because when you see the No Po view  
8 once more, you will know, you will know in the first  
9 place that it was a con, and in the second place that  
10 Mr. No Po could never have violated the law, or  
11 Mr. Cook. And that's exactly what happened on the  
12 22nd meeting.

13 The dates are extremely important to our  
14 concepts of the case. And I want to apologize to  
15 you for the length of my address to you. And I  
16 would do it in a quicker and shorter time if I knew  
17 how. I assure you of that. I know you are tired  
18 and I know after a meal it will be much more pleasant  
19 to have beer, slippers and t.v. than an old man  
20 trying to talk to you about lines in a book. But  
21 please forgive me. We all know how serious it is,  
22 I am sure.

23 Would you run it, please.

24 The first one is a telephone call, June  
25 16th, please. I'm sorry, I was drinking water and

Brown-summation

3931

1  
2 didn't hear it. I beg your pardon. It's June 20th,  
3 which is a telephone call.

4 .(Whereupon tape recording referred to is  
5 played.)

6 MR. BROWN: The next date is June 28th, which  
7 I opened to you and which is so prominent, which  
8 deals with the on-stage and most expensive t.v.  
9 star ever paid and the language in those instances  
10 is Mr. Weinberg.

11 There is a second page on June 20th that was  
12 not played and we will play it later.

13 We are now going to Exhibit T-3.

14 (Whereupon, tape recording referred to is  
15 played.)

16 MR. BROWN: That's the end of that particular  
17 tape. And it's June 28th, two months from the  
18 August meeting. And we will go on with the next  
19 tape, but I want to ask you when the leopard changes  
20 his spots, the Government wants to say to you that  
21 in June Mel Weinberg was a different man than in  
22 August. Although I read to you where Cook said he  
23 had Errichetti to prepare. I read to you where  
24 he is doing a superb con. But the Government says  
25 to you, well, that was in June. Another thing.

Brown-summation

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

When would Mel Weinberg change his technique I asked you? The answer has to be never, because this is his life, this is his way, this is his personality. This is an actor with many parts and the same technique, within the same technique.

The reason this is important is because you will see there is a reference to the immigration official, Mr. Noto, ultimately; and that doesn't come to September 19th, but it's all part of the same relationship and attitude with people, the same attempt for people to do which according to Mr. Weinberg in his curious and convoluted and complex mind was designed to bring you in and say he is a party to it, there is nothing to it, nothing is going to happen.

Why did the FBI need this space better technology? And the FBI has my respect as I know it has yours. But why this, why this?

And they would say to you that the Weinberg giving this bullshit directions in June was not the Weinberg involved in August, August 22nd, or September 19th, where there was a complete farce.

But remember this, just remember this; if he could change his spots and be a different man

1  
2 in July then he was in June, and a different man  
3 in August than he was in June, then perhaps in the  
4 human relationship you might say it. But this is  
5 where the special grace comes in. In addition to  
6 your experience, in addition to your common sense,  
7 you have to apply to the sense of whether Meyers  
8 actually was totally conned and didn't intend to  
9 violate his act and had no desire to have knowledge  
10 of that kind of action or not.

11 Now, we will go on to the next tape which  
12 is right in sequence where again you will hear the  
13 references to the naturalization guy who was the key  
14 one. Remember, this is July 29th and Noto doesn't  
15 come in until September 19th.

16 Would you play it please, T-4?

17 (Whereupon, tape recording referred to  
18 is played.)

19 (Continued on next page.)  
20

Brown-summation

(The tape thereupon continued to play)

(Tape playing completed)

MR. BROWN: Now, I would call to your attention before I ask Mr. Furst to play the next tape, but in the sequence, and this is July 29th, and that you mark that date in your mind or down because I will come back to it later, to the tapes, and the time, the length of the telephone conversation. And you will recall when Mr. Duffy talked about these things, and I would like to have the thing fixed in your mind. Now the next tape, T-5 would be August 15th, but we know that in the interim between July 29th and August 15th there were other tapes.

So would you turn in your books please -- remember we are going from July 29th now to 2-A, which is August -- there is one just before 2-A if you please, August 5th. I think it is 1-A. If you will start with 1-A, and remember we just heard on July 29th about the naturalization guys, the key one.

You are reading August 5, I think. You will notice on August 5 that there are references to the naturalization. And I would call your attention, if I may, to several references which show the

1  
2 continuing relationship.

3 On the first page Weinberg says "He can get  
4 Senator Talmadge."

5 And Errichetti says, "I'm working on that so  
6 far, okay, Congressman Ozzie Meyers, okay?"

7 And that is the 15 coming back tape I called  
8 your attention to.

9 And down that page it is "Lederer" and  
10 "...haven't gotten to that point yet, okay."

11 And "... two Congressmen from Georgia."

12 And then down towards the bottom Angelo  
13 Errichetti says "... there's gonna be two congress-  
14 men from Florida being set up to talk to..." in fact  
15 they were approached, ... they have to meet with me  
16 on time, place, logistics... what I expect them to  
17 do... friendship, they've gotta say and what they've  
18 gotta prove, guarantees; you know, whatever they say.

19 Haven't met them yet."

20 Then you go over to the next, and as you  
21 read it, you find references to this State Department,  
22 and Congress, and Mel Weinberg saying, "All he's  
23 got is to tell Yassir is that ah when the time  
24 comes... I will sponsor anything you want."

25 And that was that August 5th.

1  
2 Now, the 29th would be next. And that again  
3 refers to Congressman Meyers. And August 2 is next.  
4 And on the third page of that there is a reference  
5 to Yassir, this is when he meets Yassir, that just  
6 to tell him to come on strong. Well, he's going to  
7 give him a briefing. The stronger the better.  
8 And Yassir probably won't even say a word to him  
9 because he is very conscious how he speaks English.  
10 And then we will go from there to August -- we are  
11 on August 7th -- and then we go to August 8th.

12 And there again dealing with Congressman  
13 Meyers, push it as fast as possible. All right.  
14 What is it, Meyers, Congressman. He is ready  
15 willing and able tomorrow morning. He called me.

16 De Vito: You have to introduce some kind of  
17 legislation.

18 Whatever you say.

19 Tell him.

20 And then of course he says yeah, let him  
21 tell Yassir whatever he has to tell him. Now, that  
22 is still the theme. And the leopard has not changed  
23 his spots.

24 Now, if you go back to T-5, which is August  
25 15th, the wet and dry closing.

1  
2 (Tape played)

3 MR. BROWN: There you heard the words  
4 "script." And "wet and dry closing."

5 The leopard has not changed his spots.

6 We are coming right up to August 22nd. Now  
7 the August 22nd tape is quite long, of course. You  
8 have seen it and I won't play that. But you will  
9 notice that there has already been a reference to the  
10 Immigration official.

11 We have come through from the June 29th,  
12 which is the on-stage command performance. July  
13 29th, the same thing. Naturalization guy is the  
14 key, and right on through August 8th, "tell him what  
15 to say."

16 And right on up to August 15th "wet and dry  
17 closing."

18 Now we will go right by August 22nd deliber-  
19 ately because you have seen it and can put it in  
20 perspective, I am sure, to T-6, which is September  
21 2nd.

22 Now remember this is a continuing relation-  
23 ship.

24 THE COURT: Mr. Brown?

25 MR. BROWN: Yes, your Honor.

1  
2 THE COURT: The 90 minutes that you had request-  
3 ted has expired.

4 MR. BROWN: Will you give me a grace of  
5 15?

6 THE COURT: You have got it.

7 MR. BROWN: Thank you.

8 Will you run it please, sir?

9 (Tape played)

10 MR. BROWN: And now we will go to the next  
11 tape, which is T-7, September 5. This too refers to  
12 "green cards" and "my guy".

13 We are progressing towards September 19th.

14 (Tape played.)

15 MR. BROWN: That was T-7.

16 The next will be T-8, September 12th, a  
17 telephone call when he tells him who the investigator  
18 Torrentine is, to relate it to Noto.

19 (Tape played)

20 MR. BROWN: Thank you.

21 The next is T-9, telephone, where you will  
22 see the name referred to. I call your attention to  
23 the fact that the name ultimately agreed on was Mario  
24 Noto. If you listen to this you will see and you  
25 will find the difference which would have been if

1  
2 Mr. Weinberg weren't in on the scam, certainly.

3 I believe about eleven minutes, your Honor.

4 Is that in accord with yours?

5 (Tape played)

6 MR. BROWN: The next will be T-10 on which  
7 we will have the final preparation for the Noto  
8 meeting on the 19th.

9 (Tape played)

10 MR. BROWN: These are the two men still in  
11 the same relationship they had in June. Indeed in  
12 May. Indeed before that.

13 And the reason we know that is that Mr.  
14 Weinberg made certainly hundreds -- literally  
15 hundreds of calls to Mr. Errichetti, and many of them  
16 not taped, and many for reasons which he explained as  
17 his being in other areas and unable to do the taping.

18 Now, I don't intend to quarrel with that,  
19 but I would like to call to your attention that  
20 there is in evidence Exhibit U, which you all have,  
21 and it shows, in summation, that there were 71 calls  
22 made totalling 227 minutes, or three hours and  
23 47 minutes in that year that were made by Mr. Wein-  
24 berg.

25 Now, prior to August 22nd there were four

1  
2 calls totalling ten minutes where he made his kind  
3 of calls and apparently he didn't make contact, or  
4 for other reasons did not recall it.

5 Now, the importance of that is this, that  
6 in the con technique that Mr. Weinberg talks about,  
7 this was an important element, and this continued  
8 right from May and June, right on to August, and  
9 right on through September.

10 And no spots changed on that leopard.

11 Page 2202: "Q Right after Noto you sort of  
12 cut off from Errichetti, is that correct?

13 "A That is correct.

14 "Q For eight months prior you talked to  
15 him?

16 "A Yes.

17 "Q How many phone calls do you reckon you  
18 made to Mr. Errichetti?

19 "A I have no idea.

20 "Q Many?

21 "A Many.

22 "Q Would this be consistent with the theme  
23 of a confidence man, which was to stay right on the  
24 sucker?

25 "A Keep in touch.

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

"Q At all times?

"A At all times.

"Q Why was this a cardinal principal of a con man's -- "

I withdrew it.

"Q You have stated that this is a cardinal principal of being a successful con man, staying on the mark?

"A Keep in touch.

"Q Constantly?

"A That is correct.

"Q Why would you want to keep in touch constantly? So he doesn't get away?

"A That is correct."

Now, there is one observation here by Mr. Weinberg that I think has to excite your consideration of the very demands on your judgment that I talked to you about.

It goes to the question of intent and weighing words.

221B:

"Q And you do know that within that same time period that you were soliciting Mr. Errichetti to get Meyers, the Noto thing was going on, the

1  
2 Scam within the Scam?

3 "A That's correct. "

4 That is the answer. That is what I have tried  
5 to demonstrate to you.

6 "Q And you didn't know to this day whether  
7 or not Mr. Meyers, who came in within the same  
8 sense as the Noto thing, intended to do anything  
9 that he said he was going to do; is that right? "

10 And his answer:

11 "A I do not know."

12 You were not there. How would you be able  
13 to say that he intends to do the wrong thing.

14 And the next question --and I really believe  
15 that from this con man skilled in the use of words  
16 and in his relationships with people we have a touch-  
17 stone.

18 "Q So the words that he employed are words,  
19 but the intent to carry them out is something you  
20 didn't know to this day; isn't that right?

21 "A That's correct."

22 Now, there is no proof in this case that  
23 would support a finding beyond a reasonable doubt  
24 that Mr. Meyers intended to carry out this crime and  
25 offense, or that Mr. Errichetti did.

1  
2 I do not cite Mr. Weinberg as an authority,  
3 believe me. I cannot in one sense call him a con  
4 man and criticize him, and in another sense exult  
5 his wisdom. But I do suggest to you that when  
6 Minnesota Fats gets on a pool table, you know he  
7 knows what to do with a cue.

8 And when Weinberg brings people in and uses  
9 words, he knows how to evaluate them because that is  
10 his specialty.

11 "Q So the words that he employed are words  
12 but the intent to carry them out is something you  
13 didn't know to this day; is that right?

14 "A That's correct."

15 Now, there is one last area I would like to  
16 call to your attention, and that is the area of  
17 Weinberg the con man, the man who wants what he can  
18 get from others.

19 Mr. Di Lorenzo testified here, and the  
20 young lady named Deborah Procacci. Their testimony  
21 was backed by a very impressive Special Agent, except  
22 that he also confirmed the purchases of the items,  
23 and that in effect everything was true. A gentleman  
24 came in from Florida to say that in June Mr. Weinberg  
25 traded in a brown van, though he said he put the

1  
2 gifts in a brown van most of them before June, but  
3 he did say in late summer he put some in a brown van.

4 He did say it was a brown van used by  
5 Abdul Enterprises.

6 Now, I'm not going to quarrel about a van or  
7 no van. But I submit to you this, that a man who  
8 would turn in three \$6,000 watches is not the same  
9 man who would ask for a microwave and dishes, and  
10 three 22-inch Sonys for the board of directors of  
11 Abdul.

12 This is a different man. And this is a  
13 person who knows how to play the game. The reason  
14 the gifts would be important is because first he  
15 denies them absolutely, and second, that it shows  
16 a continuing relationship, the con of Errichetti,  
17 who to his never-ending regret considered this man  
18 a friend, because they were in a sense confederates.  
19 They combined together for the 'Notto scam,' for the  
20 Meyers scam, and for the other scams that you heard  
21 referred to where he used the now so important  
22 words.

23 Ladies and gentlemen, I've been privileged  
24 by his Honor to go even beyond the allotted time.  
25 But I would like to leave with you just a sense of

1  
2 appreciation.

3 I can tell you sincerely, and you can bet  
4 if I didn't mean it I wouldn't tell you, that you  
5 have undoubtedly given the kind of attention to this  
6 case that every lawyer in this room -- and for once  
7 I will speak for Mr. Puccio, because he expressed  
8 his appreciation with your attention -- it has been  
9 incredible.

10 There is one complaint I make, and you must  
11 take this very seriously, I am concerned because you  
12 are so inscrutable that as we sit and watch you we  
13 know that you by design have made every effort to  
14 remain neutral and open-minded as you have been told  
15 by his Honor until after all these addresses, however  
16 tedious, however onerous, however the repetitive they  
17 are, and until His Honor gives the charge.

18 Following me later will come Mr. Puccio  
19 in what is called the rebuttal.

20 I haven't deliberately been this long to  
21 make it impossible for him to have a most attentive  
22 audience. But I hope it works out that way.

23 But having watched you I know that is not  
24 possible because you will make every effort. And  
25 I know you will give to him exactly the same

1  
2 consideration that you have so graciously given me.  
3 He is entitled to it. And please, please, do just  
4 that. I have a deep appreciation for Mr. Puccio  
5 and Mr. Sharf as professional antagonists.

6 But they ceratinly are -- while they represent  
7 one side in this lawsuit, not enemies, and as I say,  
8 I do believe that in this room there has been a  
9 desperate sweaty search for truth.

10 And I know when you wrestle with these items  
11 in evidence, and wrestle with the charge, and try  
12 to put it altogether, there will only be one thought  
13 in your mind, and that is to do justice no matter  
14 how it comes out.

15 That you'll not let sympathy interfere from  
16 my defendant. I do not ask it. I ask only that you  
17 apply rigorously the law. I ask you to remember  
18 that presumption of innocence until his Honor tells  
19 you it is time to deliberate.

20 I ask you to remember proof beyond a  
21 reasonable doubt above all else because nowhere  
22 else in the world is a man given a trial where he is  
23 presumed innocent, and where the requirement is  
24 a strict and religious adherence to the idea that if  
25 the Government had not proved it beyond a reasonable

1  
2 doubt, whatever your believe, whatever your  
3 speculation, whatever your thoughts, you must find  
4 not proved and dismiss these charges.

5 Again, I want to thank you.

6 THE COURT: Thank you Mr. Brown.

7 MR. BROWN: Thank you for the extention,  
8 your Honor.

9 THE COURT: We will take a short recess and  
10 then we will continue.

11 (The jury thereupon retired from the court-  
12 room at 9:30 o'clock P.M.)

13 (Continued next page)  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2 THE COURT: Mr. Puccio, how long do you need  
3 for your rebuttal?

4 MR. PUCCIO: Judge, I would say a half hour,  
5 possibly 45 minutes. I won't go longer than that.

6 THE COURT: All right. Bring in the jury.

7 MR. PUCCIO: Maybe less.

8 (The jury is in the box.)

9 THE COURT: All right, Mr. Puccio, you may  
10 proceed.

11 MR. PUCCIO: Thank you, your Honor.

12 Your Honor, Judge Pratt, defense counsel,  
13 ladies and gentlemen. It's astonishing to believe  
14 we started the proceedings about nine o'clock in the  
15 morning and here we are ten o'clock in the evening.

16 I realize that the hour is late and I have  
17 spoken to you at length before, prior to your listening  
18 to the summations of various counsel for the defense.

19 Ladies and gentlemen, I tried this morning  
20 to marshal the evidence for you, and to chronologically  
21 review with you the tapes and the testimony that you've  
22 heard over the last couple of weeks.

23 At this point, I won't do that again, but what  
24 I would like to do is discuss certain questions that  
25 were raised by Mr. Brown, Mr. Cacheris, Mr. Ben-Veniste,

## Rebuttal-Puccio

1  
2 and Mr. Duffy, and suggest to you answers to the  
3 questions they raised which are somewhat different.

4           Again, the arguments made by counsel, the  
5 arguments made by me, are based upon inferences we  
6 asked you to draw from the evidence. If I draw any  
7 inferences which you do not wish to draw or cannot  
8 draw or think don't make any sense, reject them.

9           I don't plan to go into every single argument  
10 that has been raised in the last six or seven hours  
11 or we would be here for a couple of days more.

12           I plan to answer certain arguments, the  
13 others I submit to you the answers are contained in  
14 the record of this case.

15           I think there are certain general questions,  
16 general issues, that are raised here that need  
17 answering at the outset.

18           One thing struck me as I listened to Mr. Brown  
19 and others, phrases like "inveigled the Congressman,"  
20 "push the Congressman." The inference that someone  
21 is doing something that he does not want to do.  
22 "Coach the Congressman. Entice the Congressman.  
23 Trap the Congressman."

24           Ladies and gentlemen, do you really believe  
25 that people really do what they don't want to do?

## Rebuttal - Puccio

1  
2 Do you really believe that a United States Congress-  
3 man took \$50,000 in an envelope in a motel in New York  
4 City a little more than a year ago when he really  
5 didn't want to do it?

6 Do you really believe what you saw on the  
7 videotape was an act portrayed by an actor who was  
8 coached by a con man?

9 What is a con? That is a word that has been  
10 bandied about and has come up several times during  
11 defense counsels' closing arguments. What is a con?  
12 What does it mean in the context of this case?

13 Surely if I were to walk outside this building  
14 tomorrow morning with a loaded gun and walk into the  
15 First National City Bank and put the gun to the  
16 teller's head and say "Give me the money," and all of  
17 a sudden the teller reveals himself to be an FBI  
18 agent and I was placed under arrest and the building  
19 was surrounded -- I would have been conned.

20 I would have attempted to commit a crime in  
21 a place where I suspected no law enforcement present.  
22 I would have been duped into dealing with a teller  
23 who is really an FBI agent.

24 What happened here? Was this a con? As  
25 Amoroso said, "Sure Errichetti was conned."

4 1  
2 I submit to you Myers was conned in this sense,  
3 Errichetti was conned, Criden was conned, Johanson was  
4 conned. They were conned by -- they believed that  
5 the corrupt businessmen with whom they dealt, the  
6 corrupt businessmen to whom Congressman Myers sold his  
7 office -- they believed that those people were corrupt  
8 businessmen. What they didn't know is they were  
9 dealing with an FBI agent.

10 So they surely were conned. As Mr. Brown puts  
11 it, are they victims? Certainly not. Victims of what,  
12 victims of the fact that your government, the FBI,  
13 was too diligent? Victims of the fact a technique  
14 was used here? A technique that resulted in giving  
15 you definitive uncontroverted evidence of a bribe  
16 taken by a United States Congressman?

17 Perhaps one of the complaints, as Mr. Duffy  
18 put it, is that the FBI isn't out chasing bank robbers,  
19 or one would see very clearly, that these defendants  
20 would feel much better off if the FBI were out chasing  
21 bank robbers and not politicians.

22 Now, you've heard a lot about Mel Weinberg.  
23 And you've heard a lot about the FBI. Ladies and  
24 gentlemen, Mel Weinberg, for all his human frailties,  
25 as it was put, is not on trial in this case.

## Rebuttal - Puccio

1  
2 Ladies and gentlemen, the FBI is not on trial  
3 in this case.

4 Ladies and gentlemen, the Government of the  
5 United States is not on trial in this case. The  
6 people on trial in this case are seated right here  
7 (indicating).

8 Now, why was Weinberg needed? Mr. Brown asked  
9 that question. Mr. Good testified to you yesterday  
10 he had been working with the FBI a number of years  
11 and conducted many investigations. Many undercover  
12 investigations. And he told you in his opinion  
13 informants such as Mel Weinberg are essential.

14 You heard the tapes. You heard the conversa-  
15 tions that Mr. Weinberg had with Mr. Errichetti. Did  
16 it strike you in listening to those tapes that Mr.  
17 Weinberg and Mr. Errichetti did not have a relationship  
18 that gained confidence for the undercover operation?

19 Didn't it strike you that Mr. Weinberg and  
20 Mr. Errichetti were able to speak one another's  
21 language, perhaps not as well as Mr. Amoroso would be  
22 able to speak that language.

23 When you start to delve into the evidence of  
24 this case: you have videotapes of what happened, so  
25 you are told, don't pay any attention to the videotapes,

61  
2 it's what is not on the tapes that counts.

3 As Mr. Brown put it, if a man comes home and  
4 finds his wife in the arms of another man, maybe that  
5 is not what it seems to be, she fell into the position.  
6 You can believe that Congressman Myers stumbled into  
7 that room and took that \$50,000 by accident, but I  
8 suggest you are stretching the limits of your imagin-  
9 ation.

10 What about Mr. Weinberg and all these  
11 tapes? You've seen stacks and stacks of tapes in  
12 this courtroom.

13 MR. BROWN: I object. That is one of the  
14 techniques, to have stacks that are not in evidence.

15 I object to that. He pointed to the stack.

16 MR. PUCCIO: I will make reference to the  
17 testimony that there were thousands of tapes made.

18 MR. BROWN: Not in this case.

19 THE COURT: Your objection is overruled. The  
20 tapes have been here primarily for the convenience of  
21 the defendants. They have called upon them from time  
22 to time to have them produced.

23 MR. BROWN: Only those that are relevant.  
24 Many are not.

25 THE COURT: It has been made apparent how many

## Rebuttal - Puccio

1  
2 tapes were made in the case. Whether downstairs,  
3 upstairs, or here, I don't see any significance what-  
4 soever.

5 MR. BROWN: If they are in evidence, but they  
6 are not.

7 THE COURT: The tapes that are in evidence  
8 are marked as exhibits. The fact of the existence  
9 of other tapes is also in evidence properly before  
10 the Court and jury.

11 Objection overruled.

12 MR. PUCCIO: Ladies and gentlemen, you've  
13 heard testimony that hundreds and hundreds of tapes  
14 were made during the so-called Abscam investigation.  
15 You've seen tapes, hours and hours of tapes, that  
16 have been heard. You've seen tapes displayed in the  
17 courtroom. What is missing?

18 Well, we hear testimony that three tapes were  
19 lost and we hear testimony that 50 seconds or one  
20 minute and 50 seconds was missing from another tape.  
21 All to suggest to you that somehow something is being  
22 kept from you.

23 We are told for instance that the agent who  
24 poured the drinks at the Barclay Hotel was never sub-  
25 poenaed by the Government when he could have been

8 1  
2 subpoenaed by anyone from either side.

3 Do you believe that Mr. Weinberg, if you  
4 deem the absence of those three tapes that were stolen  
5 on an airplane, is so important -- do you believe  
6 Mr. Weinberg would suggest to the FBI or anyone else  
7 that his tapes were stolen on a plane flight when  
8 he could have said he never made the recordings?

9 You had evidence of toll records from Mr.  
10 Weinberg's telephone indicating certain calls were  
11 not recorded. Doesn't it make sense to you if Mr.  
12 Weinberg wished to deceive anybody, couldn't he have  
13 gone to an outside phone and made a call that there  
14 wouldn't be any record of?

15 You are told by the absence of this evidence  
16 it means something. I submit to you that the absence  
17 of these insignificant pieces is meant to distract  
18 your attention from the substantial amount of evidence  
19 on the critical issue of the tapes that you've seen  
20 on the TV and heard through the audio recordings.

21 Now, you've heard about this conversation  
22 that Mr. Weinberg had with a Senator who was not  
23 involved in this case. I mentioned it to you this  
24 morning. You heard it again. It was played by Mr.  
25 Brown during his closing argument.

## Rebuttal - Puccio

1  
2 I ask you to think about that for a moment.  
3 You don't know all the facts of that case, you heard  
4 very little. But do you believe that Mel Weinberg  
5 could get a United States Senator or anyone to do  
6 something that he really didn't want to do?

7 Do you think Mel Weinberg is capable of that?  
8 Do you think anyone is capable of that? "Stress the  
9 influence you have, Senator, to get contracts."  
10 What does that say to you? Does that indicate to you  
11 that Mel Weinberg is capable of getting a United  
12 States Senator or any other public official to do  
13 something that he didn't want to do? This matter  
14 wasn't pursued because it's not part of this case.

15 I submit to you, it's taken out of context  
16 but to follow it up a little bit, if the United States  
17 Senator walked into a room and told someone he was  
18 willing to sell his office, do you think it's Mel  
19 Weinberg that got him to do that? Do you think that  
20 happens in the real world? Do you think men of power,  
21 men of position, men of influence, are going to let  
22 Mel Weinberg coach them and tell them what to do?  
23 Turn them into actors? Does that make sense to you?

24 I submit to you, it is ridiculous, ladies and  
25 gentlemen, and you saw when you observed Congressman

## Rebuttal - Puccio

10 1  
2 Myers. Congressman Myers wasn't handed a script. It  
3 wasn't a play in which he was portraying a role or  
4 playing a part. He said things because he meant them.  
5 He said things to get the money. He sold his office  
6 for \$50,000.

9/2 7 Very interesting, this is all a play. It's  
8 all a stage, all make-believe. And Mr. Johanson tells  
9 the FBI that he had many sleepless nights since it all  
10 began.

11 Why couldn't Mr. Johanson, why couldn't  
12 Congressman Johanson, sleep, ladies and gentlemen?  
13 Why couldn't he sleep? He couldn't sleep because he  
14 had sold himself.

15 MR. DUFFY: Objection.

16 THE COURT: Overruled.

17 MR. DUFFY: It's not in evidence. No claim  
18 of that here.

19 THE COURT: Overruled.

20 MR. PUCCIO: You've heard an argument astonish-  
21 ingly that Mr. Errichetti never received any money.  
22 The acting coach himself did it for free. Do you  
23 believe that?

24 What about Mr. Cook? Back at the Criden law  
25 firm in Philadelphia, sitting there with Mr. Criden

## Rebuttal - Puccio

11 1  
2 talking about how it's all split up. Do you think  
3 that Mr. Errichetti showed up at the hotel room for  
4 nothing?

5 \$15,000. Let it not confuse you, \$15,000  
6 coming back. On the tape I played to you this morn-  
7 ing, it was explained by Mr. Weinberg, it was a device  
8 to get Mr. Errichetti's conversation and find out  
9 who else was involved. The undercover people struck  
10 a bargain with Mr. Errichetti, pretended to be  
11 friendly with Mr. Errichetti, to find out who else  
12 was involved. Only the figure was cut from 100 to 50,  
13 so there was no 15 coming back.

14 I won't play it, but if you listen to the  
15 tape after the Congressman leaves, you'll hear about  
16 the fact there was money that was to come back when  
17 the figure was higher.

18 Mr. Ben-Veniste played to you -- or showed  
19 you a picture of Mel Weinberg standing on this screen  
20 with a cigar in his mouth. And it is so indicative  
21 of what you've heard from the defense counsel. He  
22 showed you the scene, pointing you to Mr. Weinberg  
23 after the Congressman left the screen with the cash.

24 In other words, you are to believe what is  
25 important is Mel Weinberg with a cigar in his mouth

## Rebuttal - Puccio

1  
2 and what is not important is Congressman Myers stuff-  
3 ing his pockets.

4 Mr. Weinberg was the recipient of all these  
5 gifts. Even if Mr. Weinberg received the gifts, I  
6 submit to you the evidence shows he did not. How  
7 they have any effect on this case, what the relevance  
8 is, escapes me. But Mr. Weinberg, super con man,  
9 con man par excellence -- whatever that means -- keeps  
10 a \$350 oven and gives the FBI three, \$6,000 Piaget  
11 watches that they didn't even know existed.

12 MR. BEN-VENISTE: Objection. That is --  
13 there is absolutely no evidence of that.

14 THE COURT: The jury's recollection will  
15 control as to what evidence there is on the point.

16 MR. PUCCIO: Mr. DiLorenzo. Do you remember  
17 Mr. DiLorenzo, the Mayor's chauffeur, testified he  
18 was on the scene on August 22, 1979? He had chauffeured  
19 Mayor Errichetti to the International Inn. He wasn't  
20 on duty at this time, he indicated he worked his 30  
21 hours other times of the week. Do you remember him?  
22 He was the fellow who couldn't remember. He couldn't  
23 remember whether or not he held a package that day.  
24 I wonder why?

25 Well, he tells you that he made all these

## Rebuttal - Puccio

1  
2 deliveries and gifts to Mr. Weinberg in late summer  
3 1979 -- by the way, all of this comes to light, told  
4 to the FBI, after the indictment is returned in this  
5 case. And it's not told to the FBI or anyone else  
6 or the grand jury conducting its investigation --  
7 their testimony is being heard, he tells you at the  
8 end of the summer, late summer of 1979, he put three  
9 television sets in Mel Weinberg's van.

10 The only trouble is Mel Weinberg's van, used  
11 during the investigation, the records of which Mr.  
12 Good identified, was sold in June of that year and  
13 therefore the three television sets never went into  
14 that van.

15 Do you remember those three television sets?  
16 Those are the three TV sets that Mr. Duffy would have  
17 you believe went to agents of the FBI along with  
18 Mr. Weinberg, Mr. Brady, and Mr. Amoroso, and Mr.  
19 Weinberg each kept a Sony TV delivered at the end  
20 of the summer, 1979.

21 The FBI is accused of misconduct. FBI agents  
22 accused of breaking the law. And that's supposed to  
23 get you to center on the real issues in this case.

24 I submit to you, it's nothing but a smoke-  
25 screen.

## Rebuttal - Puccio

1  
2 Another smokescreen, the Nopo or Noto inci-  
3 dent. Now, Mr. Brown would have you believe that  
4 this Nopo incident, this episode with the Mayor of  
5 a major city attempting to rip off a businessman,  
6 that this incident somehow demonstrates the innocence  
7 of Congressman Myers and the others for bribery and  
8 conspiracy to commit bribery.

9 What do we know about this Nopo situation?  
10 We know Mr. Cook testified it wasn't until late  
11 September or at least the middle of September that  
12 he was approached to play Mario Noto or Nopo.

13 If you recall Mr. Cook's testimony, he never  
14 heard about any play-acting in connection with Mr.  
15 Myers.

16 As much as defense counsel would like you to  
17 believe Mr. Cook was the actor supreme and said some-  
18 thing else, I direct you to the record, Mr. Cook  
19 didn't know about any play-acting with Congressman  
20 Myers because there was no play-acting. But what  
21 Mr. Cook was asked to do was portray an official of  
22 the Immigration Service in September, when according  
23 to Mr. Cook, September they tried to get an official  
24 but couldn't.

25 You listened to those tapes or recall that

1  
15 2 tape that Mr. Brown played. They were talking about  
3 an Immigration official during the summer. But Mr.  
4 Cook wasn't approached until later on.

5 What does this all mean? It's brought in to  
6 demonstrate to you or get you to believe that Weinberg  
7 was in on it. Weinberg was part of this. The better  
8 part of an hour of this day has been spent trying to  
9 convince you that Weinberg was part of the Nopo episode.

10 I submit to you that that argument falls on  
11 the tapes that Mr. Brown played to you. Now, if  
12 Weinberg and Errichetti are conspiring in another  
13 crime, that is a ripoff of the businessmen by using  
14 a fictitious Immigration official, why when they are  
15 having private telephone conversations do they not  
16 talk about that? Why does Mr. Errichetti say, Well, --  
17 on the telephone -- I have to go over to the official's  
18 office. Weinberg is in on it? He would have said,  
19 "What are you, crazy?"

20 It doesn't make any sense. Mr. Brown said to  
21 you that Weinberg was in on it. And there was cross-  
22 examination during the trial for I would say a couple  
23 of hours ,cross-examination of Mr. Cook, designed to  
24 get Mr. Cook to say that Weinberg was in on it. To  
25 establish through Mr. Cook that Weinberg was in on it.

## Rebuttal - Puccio

1  
2 And this episode in a series of questions  
3 went on and on until it was established beyond any  
4 doubt that Weinberg was not in on it.

5 We played that tape during the Government's  
6 case to lay the foundation to rest because it is a  
7 smokescreen, ladies and gentlemen.

8 How can Weinberg be in on it in light of the  
9 conversation Mr. Brown played to you tonight? How  
10 can Mr. Weinberg be in on it if he told Mr. Criden  
11 that he suspected Mayor Errichetti of pulling this  
12 deal and Mr. Criden went to Errichetti and told  
13 Errichetti and Errichetti and Weinberg have an argu-  
14 ment on the telephone, wherein it's absolutely clear  
15 that they weren't together on this, and Mr. Errichetti  
16 is enraged about the fact -- playing a role.

17 Would you play that, please? October 3rd.

18 (Tape played.)

19 MR. PUCCIO: As you can hear, Weinberg was  
20 obviously in on it.

21 Mr. Brown and I do agree sometimes. He struck  
22 me with something he said, struck me as being entirely  
23 accurate. Mr. Brown said at one point, referring to  
24 the television, the tube is an abomination.

25 Well, that is certainly true in this case.

## Rebuttal - Puccio

17 1  
2  
3 Congressman Myers can be the first witness  
4 to that. The tube is an abomination. But that camera  
5 recorded with punishing accuracy everything that went  
6 on. And it was that camera that the Congressman  
7 couldn't get around when he testified.

8 When you're behind the eight ball to the extent  
9 that Congressman Myers was after the playing of the  
10 tapes, no one can blame him for taking a shot. But  
11 I submit to you the shot wasn't even close.

12 But he said constantly, mindful of the day  
13 the Judge would charge the jury, "I intended to do  
14 nothing. I intended to do nothing."

15 State of mind and intention are relevant,  
16 as you will learn from the Judge, on certain aspects  
17 of this case. Do you really believe the Congressman  
18 intended to do nothing but says he would do everything?  
19 Was he ever asked to do anything? During the under-  
20 cover investigation, which extended all the way to  
21 February 2nd, it's clear that he was not.

22 Do you have any doubt, and of course the Judge  
23 will charge you it is not necessary that he actually  
24 did anything -- do you have any doubt that if he were  
25 asked to do something that he would have done it?  
Do you have any doubt in your minds? Six months later

1  
18 2 he's asked to go to the Barclay Hotel and he goes up  
3 there and spends half the night selling everything  
4 under the sun, using his influence, using his office.  
5 What did Congressman Myers believe, if you listen  
6 to his story and try to analyze it, when he was told  
7 on August 22nd, supposedly by Mayor Errichetti, that  
8 the Sheik had gone to South America -- what was his  
9 state of mind? What would a rational person have  
10 concluded, the Sheik had gone to South America and  
11 I'm going up to a room to talk about immigration and  
12 to promise to introduce a bill for a man who is not  
13 coming to the United States?

14 Do you think he really believed that? Alice  
15 in Wonderland. That is the only way to describe his  
16 testimony.

17 Ladies and gentlemen, I think I've covered  
18 all that I wanted to cover and really all that time  
19 permits. It's gotten quite late. The final word  
20 is you, and the evidence is here for you to consider  
21 and to draw the inferences that are proper to draw.

22 But I would like to close by telling you that  
23 I also agree with the words of Mr. Duffy when he says  
24 the stuff of tragedy is in this room. I mean this  
25 very seriously when I tell you there is tragedy in

## Rebuttal - Puccio

19 1  
2 this room. There is a lot of tragedy. There is  
3 tragedy for the citizens of Philadelphia that the  
4 Congressman represents. And there is tragedy for  
5 the City of Camden, New Jersey that Mayor Errichetti

6 MR. BROWN: I object. He's not on trial for  
7 any official act. Mr. Errichetti is --

8 THE COURT: Overruled.

9 MR. PUCCIO: There is tragedy for the Congress  
10 of the United States, in which Mr. Myers sits. And  
11 there is tragedy on the screen.

12 Thank you, Judge.

13 THE COURT: Thank you, Mr. Puccio.

\* \* \*

I N D E X

3976

WITNESSES

none

E X H I B I T S

<u>DEFENDANT'S</u>	<u>Description</u>	<u>For Id.</u>	<u>In Evid.</u>
Exhibit A,C ,D,E,F,G,H	docs.		3647
Exhibit EE	doc.		3648

\* \* \* \* \*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

3977

-----X  
UNITED STATES OF AMERICA, :  
 :  
 -against- :  
MICHAEL O. MYERS, ANGELO J. ERRICHETTI, :  
LOUIS C. JOHANSON, HOWARD L. CRIDEN, :  
 :  
 Defendants. :  
-----X

80 CR 00249

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

August 29, 1980  
9:00 o'clock a.m.

B E F O R E :

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

MICHAEL PICCZZI  
OFFICIAL COURT REPORTER

EDWARD R. KOZMAN, ESQ.,  
United States Attorney for the  
Eastern District of New York

Department of Justice  
Strike Force  
Brooklyn, New York

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

Special U.S. Attorneys  
Attorneys for the Government

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

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

Attorneys for the Defendant Michael C. Myers

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

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

Attorneys for the Defendant Angelo J. Errichetti

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

BY: JOHN J. DUFFY, ESQ., and  
JANE DUFFY

Attorney for the Defendant Louis C. Johanson

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

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

Attorneys for the Defendant Howard L. Criden

\* \* \*

4 THE COURT: Good morning, ladies and gentlemen.

5 Since I spoke to you yesterday morning, has  
6 anyone talked to you about the case or made any  
7 attempt to talk to you about the case? If so, raise  
8 your hands.

9 Have any of you talked about the case among  
10 yourselves?

11 Have you read or seen anything on television  
12 or heard anything on radio outside the courtroom about  
13 the case?

14 Very good.

15 We are now at the stage of the trial where you  
16 are about to undertake your final function as jurors.  
17 Your duty is a serious and important one. In perform-  
18 ing it you actively share with me the responsibility  
19 of administering justice according to law and the  
20 evidence in this case. Your oath as jurors obliges  
21 you to discharge this final task in an attitude of  
22 complete fairness and impartiality -- and, as was  
23 emphasized by me when you were selected as jurors --  
24 without bias or prejudice, for or against the Govern-  
25 ment or the defendant as parties to this controversy.

2 You must not permit yourselves to be governed by  
3 sympathy, prejudice or public opinion, or any other  
4 consideration which is not founded in the evidence  
5 and in these instructions on the law. The Government,  
6 the defendant, and the public all expect that you will  
7 carefully and impartially consider all the evidence in  
8 the case, follow the law as stated by me and reach a  
9 just verdict, regardless of the consequences.

10 This case is important to the Government, since  
11 the enforcement of the criminal laws is of prime  
12 importance to the welfare of the community.

13 Obviously, it is equally important to the  
14 defendants, who are charged with serious crimes and  
15 have the right to receive a fundamentally fair trial,  
16 and the community has an interest in that, too.

17 The fact that the Government is a party  
18 entitles it to no greater consideration than that  
19 accorded to any other party to a litigation.

20 By the same token, it is entitled to no less  
21 consideration.

22 All parties, the Government and individuals  
23 alike, stand as equals before the bar of justice.

24 In these instructions I shall describe for  
25 you first the general principles applicable to all

## Charge of the Court

2 criminal trials, and the nature of the charges in this  
3 case, next the specific rules of law which are appli-  
4 cable to those charges, and finally something about  
5 how you should reach a verdict.

6 First, as to the general principals applicable  
7 to all criminal trials.

8 To begin with, keep in mind that I have no  
9 view whatsoever of the guilt or innocence of these  
10 defendants. My function now is to instruct you as  
11 to the law.

12 And it is your duty to accept these instruc-  
13 tions as to the law and to apply them to the facts as  
14 you may find them.

15 With respect to any fact matter, it is your  
16 recollection, and yours alone that governs. Anything  
17 that counsel, either for the Government or the defense  
18 may have said with respect to matters in evidence --  
19 whether during the trial, in a question, in argument,  
20 or in summation -- is not to be substituted for your  
21 own recollection of the evidence.

22 So, too, as to any matter in evidence, any-  
23 thing that I may have said during the trial, or may  
24 refer to during the course of these instructions, is  
25 not to be taken in place of your recollection.

## Charge of the Court

1  
2 Your final role in this case is to decide and  
3 pass upon the fact issues in the case.

4 You are the sole and exclusive judges of the  
5 facts.

6 You determine the weight of the evidence;  
7 you appraise the credibility of the witnesses; you  
8 draw the reasonable inferences from the evidence.

9 You finally determine the guilt or innocence  
10 of these defendants.

11 The indictment is merely an accusation -- a  
12 charge. It is not evidence of the defendants' guilt.

13 Since the defendants have pleaded "not guilty",  
14 the Government has the burden of proving the charges  
15 against the defendants beyond a reasonable doubt.

16 A defendant does not have to prove his inno-  
17 cence. On the contrary, a defendant is presumed to  
18 be innocent of the accusations contained in the in-  
19 dictment.

20 As to each defendant, this presumption of  
21 innocence was in his favor at the beginning of the  
22 trial; it continued in his favor throughout the entire  
23 trial. It is in his favor even as I instruct you now,  
24 and it remains in his favor during the course of your  
25 deliberations in the jury room.

1  
2           The presumption of innocence is removed only  
3 if and when you are satisfied that the Government has  
4 sustained its burden of proving the defendant's guilt  
5 beyond a reasonable doubt. If the Government has  
6 failed to sustain its burden, then the presumption  
7 of innocence alone is sufficient to acquit him.

8           I have used the term "reasonable doubt." What  
9 is a reasonable doubt?

10           The words almost define themselves -- that  
11 there is a doubt founded in reason and arising out of  
12 the evidence in the case, or the lack of evidence.

13           It is a doubt which a reasonable person has  
14 after carefully weighing all the evidence.

15           Reasonable doubt is a doubt which appeals to  
16 your reason; to your judgment; to your common sense  
17 and your experience.

18           It is not caprice, whim, speculation, con-  
19 jecture or suspicion; it is not an excuse to avoid the  
20 performance of an unpleasant duty; it is not sympathy  
21 for a defendant.

22           If, after a fair and impartial consideration  
23 of all the evidence, you can, candidly and honestly,  
24 say you are not satisfied of the guilt of a defendant--  
25 that you do not have an abiding conviction of his

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

guilt --

In sum, if you have such a doubt as would cause you, as prudent persons, to hesitate before acting in matters of importance to yourselves, --

Then you have a reasonable doubt, and in that circumstance it is your duty to acquit.

On the other hand, if after such an impartial and fair consideration of all the evidence, you can, candidly and honestly, say you do have an abiding conviction of a defendant's guilt -- such a conviction as you would be willing to act upon, in important and weighty matters in the personal affairs of your life, than you have no reasonable doubt, and under such circumstances, it is your duty to convict.

Reasonable doubt does not mean a positive certainty, or beyond all possible doubt.

If that were the rule, few persons, however guilty they might be, would be convicted.

Since it is practically impossible for a person to be absolutely and completely convinced of any controverted fact, the law in a criminal case is that it is sufficient if the guilt of a defendant is established beyond a reasonable doubt -- not beyond all possible doubt.

## Charge of the Court

1  
2 Nor is it the Government's burden to prove  
3 each and every bit of evidence to be true beyond a  
4 reasonable doubt. Its burden is to prove beyond a  
5 reasonable doubt each and every essential element  
6 of the crime charged, and I will say more about the  
7 essential elements of these crimes in a moment.

8 Although reasonable doubt may arise from the  
9 failure of the Government to produce evidence, the  
10 law does not require the prosecution to call as wit-  
11 nesses all persons who may have been present at any  
12 time or place involved in the case, or who may appear  
13 to have some knowledge of the matters in issue at this  
14 trial. Nor does the law require the prosecution to  
15 produce as exhibits all papers and things mentioned  
16 in the evidence.

17 A defendant is not obligated to present evidence  
18 in his favor. He had the right to rely on the failure  
19 by the Government to prove its case. He may also rely  
20 on evidence brought out on cross-examination of wit-  
21 nesses called by the Government. On the other hand,  
22 a defendant has the power to subpoena anyone in support  
23 of his position if he so chooses, and he may exercise  
24 that power, if he chooses.

25 I have used the term "inference". An inference

## Charge of the Court

1  
2 is a conclusion which reason and common sense lead you  
3 to draw from the facts which have been established by  
4 the evidence in the case. Always it is for you the  
5 jury to draw whatever inferences may be called for by  
6 the evidence.

7 Evidence may be either direct or circumstan-  
8 tial.

9 Direct evidence is that which is given of  
10 actual or personal knowledge of the fact in question.  
11 One, who with his own eyes sees a man fire a gun at  
12 another man, and then tells what he saw, has given  
13 direct evidence of the shooting.

14 In the absence of direct evidence, however,  
15 reliance is often placed upon circumstantial evidence  
16 which does not tend to establish the fact in question  
17 directly, but rather does so indirectly by establishing  
18 surrounding circumstances from which the fact in ques-  
19 tion can be inferred.

20 Thus, if our witness to the shooting had not  
21 actually been there to see it, but after hearing a  
22 shot, arrived moments later, and saw one man holding  
23 a smoking gun and the other lying on the ground,  
24 bleeding, his testimony would tend to prove the shoot-  
25 ing. But it would be indirect or circumstantial

## Charge of the Court

evidence since it would be evidence of surrounding facts from which the fact in question, the actual shooting, might be inferred.

As a general rule, the law makes no distinction between direct and circumstantial evidence, but simply requires, that, before convicting, the jury be satisfied of a defendant's guilt beyond a reasonable doubt from all the evidence, both direct and circumstantial.

What is the evidence in the case which you may consider? It consists of:

1. Sworn testimony of witnesses regardless of who may have called them;
2. Exhibits received in evidence regardless of who may have produced them;
3. Facts which may have been admitted or stipulated.

What is not evidence?

1. Statements or arguments of counsel in opening, summation or made during the trial are not evidence.
2. Any statements I may have made are not evidence.
3. Any testimony I may have stricken from the

## Charge of the Court

1  
2 record and told you to disregard is not evidence.

3  
4 4. Questions to which objection has been sus-  
5 tained are not evidence, and you must not speculate  
6 on what the answer might have been had I permitted  
7 the answer to be given.

8 As you noticed, during the trial, objections  
9 were made and rulings on evidence given. You should  
10 draw no inferences from the comparative frequency of  
11 objections of one or the other side or from the  
12 comparative record in having objections sustained.  
13 Where an objection to a question was sustained, of  
14 course you must disregard the question and draw no  
15 inferences from its wording about the answer that  
16 might have been given. Where an objection was over-  
17 ruled, the evidence then received has no special  
18 weight just because it was not unsuccessfully objected  
19 to.

20 A difficult aspect of any jury's duty is to  
21 determine the credibility of the witnesses and to  
22 weigh their testimony.

23 You, the jurors, are the sole judges of the  
24 credibility of the witnesses. Credibility refers to  
25 the believability of their testimony and the weight  
their testimony deserves.

## Charge of the Court

1  
2           Your determination of the issue of credibility  
3 very largely must depend upon the impression that a  
4 witness makes upon you as to whether or not he is  
5 telling the truth or giving you an accurate version  
6 of what occurred.

7           When you come into a courtroom and sit in the  
8 jury box, while the trial is going on, when you are  
9 deliberating in the jury room, you have your common  
10 sense, your good judgment, and your experience with  
11 you.

12           You decide whether or not a witness was  
13 straightforward and truthful; whether the witness  
14 attempted to conceal anything; whether the witness  
15 had a motive to testify falsely; whether there was  
16 any reason why the witness might color his testimony.

17           In other words, what you try to do, to use  
18 the vernacular, is to size a person up just as you  
19 would do in any important matter where you were under-  
20 taking to determine whether or not a person is truth-  
21 ful, candid and straightforward.

22           Scrutinize the testimony given, and the cir-  
23 cumstances under which each witness testified, and  
24 every matter in evidence which tends to show whether  
25 the witness was worthy of belief.

## Charge of the Court

1  
2  
3 Consider each witness' (1) intelligence; (2)  
4 motive and state of mind; (3) demeanor and manner  
5 while on the witness stand; (4) the witness' own  
6 ability to observe the matters as to which he testifies  
7 -- whether he shall impress you as having an accurate  
8 recollection of these matters; (5) the relation each  
9 witness might bear to either side of the case; (6)  
10 the manner in which each witness might be affected  
11 by the verdict, and (7) the extent to which, if at  
12 all, each witness is either supported or contradicted  
13 by other evidence.

14 If you find that any witness -- and this  
15 applies alike to Government and Defense -- wilfully  
16 testified falsely as to any material fact, you have  
17 a right to reject the testimony of that witness in  
18 its entirety, or you may accept that part or portion  
19 which you believe to be credible.

20 The fact that some government witnesses may  
21 be government employees does not entitle their testi-  
22 mony to any greater weight or consideration than that  
23 afforded to any other witness in the case.

24 You will evaluate their credibility the same  
25 way you do that of any other witness.

The weight of the evidence is not necessarily

## Charge of the Court

determined by the number of witnesses testifying on either side. You should consider all the facts and circumstances in evidence to determine which of the witnesses are worthy of greater credence. You may find that the testimony of a smaller number of witnesses on one side is more credible than the testimony of a greater number of witnesses on the other side.

Inconsistencies or discrepancies within a witness' testimony or between the testimony of different witnesses may or may not cause the jury to discredit such testimony. Two or more persons witnessing an incident or a transaction may see or hear it differently. Innocent misrecollection, like vague recollection, is not an uncommon experience. In weighing the effect of a discrepancy, consider whether it pertains to a matter of importance or unimportant detail and whether the discrepancy results from innocent error or intentional falsehood.

The ultimate question for you to decide in passing upon the credibility of any witness is: Did the witness tell the truth here before you as to essential matters?

A few words about prior statements. This causes some special problems in the law.

## Charge of the Court

1  
2 Generally speaking, evidence comes to you  
3 from the witnesses who testify here in the courtroom.  
4 Under some circumstances, however, prior statements  
5 which a witness has made may also be admissible.

6 In this trial there have been many references  
7 to statements which various witnesses have made before  
8 they testified here. Some of those prior statements  
9 have been oral, some were in the form of reports made  
10 by government officers, some were written and had  
11 been signed by the witnesses, and some had been given  
12 under oath in the course of another trial or in grand  
13 jury or other proceedings.

14 Now I must discuss with you what use you may  
15 make of such statements, for the proper use of a prior  
16 statement may vary with who the witness is, with the  
17 particular statement, with its relationship to the  
18 witness' testimony, with what the witness says about  
19 it, and with the purpose for which it was presented  
20 to you.

21 In the first place, all of a witness' prior  
22 statements which you have heard may be weighed and  
23 considered by you in evaluating the truth or falsity  
24 of what that witness said here in the courtroom --  
25 that is, in determining the credibility of the witness'

1  
2 testimony.

3           In evaluating any witness' prior statement,  
4 you may take into consideration both the nature of  
5 the examination here, and the purpose of the statement  
6 on the prior occasion. You may also take into consider-  
7 ation normal variations in retelling an event in order  
8 to determine whether the statements are truly incon-  
9 sistent or merely a difference in describing an  
10 occurrence.

11           If you find an inconsistency it is for you  
12 and you alone to determine whether the inconsistency  
13 is to a material or immaterial fact, and what effect  
14 the inconsistency may have on the witness' credibility.

15           A witness, however, may be inaccurate, contra-  
16 dictory, or even untruthful in some respects, and yet  
17 be entirely credible in the essentials of his testi-  
18 mony.

19           Now, in addition to helping you determine  
20 credibility, some prior statements of a witness may  
21 also be considered and weighed by you as substantive  
22 evidence in the case. This is permitted by the appli-  
23 cable rules in three circumstances:

24           1. If the witness acknowledged here that he  
25 made the statement and that it was true;

## Charge of the Court

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

2. If the statement was inconsistent with the witness' trial testimony and was made under oath in a trial, hearing, deposition or other proceeding such as a grand jury proceeding;

3. If the statement was made by a defendant it may be used as substantive evidence against him although not against a codefendant unless you make some specific findings in connection with the conspiracy count which I will discuss later .

Whether a prior statement is consistent or inconsistent is a fact question solely for your determination. You also determine whether a witness' prior failure to disclose information, when the opportunity to do so presented itself, is inconsistent with his present testimony. In making that determination you should consider all the facts and circumstances attendant at the time of making the prior statement or the omission of information.

In summary, with respect to prior statements, all the prior statements you have heard may be considered by you in determining the credibility of the witness who made the statement.

In addition to its use on credibility, however, a prior statement may be given substantive weight:

## Charge of the Court

1  
2 1. If the witness testified that he made it  
3 and it was true.

4 2. If the statement was inconsistent with  
5 the trial testimony and was made under oath as part  
6 of another proceeding.

7 3. If the witness was a defendant.

8 In the last analysis, of course, it is for  
9 you to determine in the light of these and my other  
10 instructions what weight you will give to the testi-  
11 mony of each witness.

12 The day before yesterday I explained to you  
13 about expert witnesses, how they differ from other  
14 witnesses. I said at the time I would repeat it in  
15 my instructions now. It was only a short time ago  
16 and I will not repeat it. If any of you feel you want  
17 that instruction repeated, you may request it by a  
18 note. I will be happy to outline it for you again.

19 Ellis Cook acknowledged that he had been  
20 granted immunity from prosecution in connection with  
21 his testimony here.

22 One who testifies under a grant of immunity  
23 with a promise from the Government that he will not be  
24 prosecuted is a competent witness. His testimony may  
25 be received in evidence and considered by the jury

## Charge of the Court

1  
2 even though not corroborated or supported by other  
3 evidence.

4           Such testimony, however, should be examined  
5 by you with greater care than the testimony of an  
6 ordinary witness. You should consider whether the  
7 testimony may be colored in such a way as to further  
8 the witness's own interest, for a witness who realizes  
9 that he may procure his own freedom by incriminating  
10 another has a motive to falsify. After such consider-  
11 ation, you may give the testimony of an immunized  
12 witness such weight as you feel it deserves.

13           The testimony of a witness may be discredited  
14 or impeached by showing that the witness has been  
15 convicted of a felony, that is, of a crime punishable  
16 by imprisonment for a term of one year or more. Prior  
17 conviction does not render a witness incompetent to  
18 testify, but is merely a circumstance which you may  
19 consider in determining the credibility of the witness.  
20 It is the job of the jury to determine the weight to  
21 be given to any prior conviction as impeachment.

22           Some of the testimony in this case comes from  
23 the witness Melvin Weinberg, who after he was arrested  
24 and indicted in Pittsburgh agreed to cooperate with  
25 the Government and become an informer for the F.B.I.

## Charge of the Court

1  
2 An informer is someone who provides evidence against  
3 a defendant in return for some personal benefit given  
4 him by the Government.

5 Here, you will recall Mr. Weinberg's testimony  
6 that in return for his cooperation his sentence  
7 was reduced from imprisonment to probation and he  
8 has been paid substantial sums of money by the  
9 Government.

10 If informers could never be used, of course,  
11 there would be many cases involving real and  
12 serious guilt in which convictions would not be  
13 obtainable. Their testimony, however, must be  
14 received with caution and weighed with care and  
15 given such weight as you deem it entitled to receive  
16 under all of the circumstances of the entire case.

17 The law does not prohibit the use of an  
18 informer, and whether you approve of their use  
19 is not to enter into your consideration of this  
20 case. In certain types of crime, the Government,  
21 of necessity, is frequently compelled to rely  
22 upon the testimony of persons with criminal  
23 records, or informers, otherwise, it would be  
24 difficult to detect or prosecute some wrongdoers,  
25 and this is particularly true in bribery cases.

## Charge of the Court

1  
2  
3           The law does not compel a defendant in a  
4 criminal case to take the witness stand and testify,  
5 and no presumption of guilt may be raised, and no  
6 inference of any kind may be drawn, from the fact  
7 that three of the defendants in this case did not  
8 testify. Therefore, the jury should not even discuss  
9 the fact that the three defendants did not testify.

10           The law never imposes upon a defendant in a  
11 criminal case the burden or duty of producing any  
12 evidence. But a defendant may present himself as a  
13 witness, as the defendant Myers did in this case.  
14 In that event, the defendant is subject to cross-  
15 examination. As you have observed, and his credi-  
16 bility is for you, the jury, to determine, in the  
17 same manner as other witnesses.

18           Obviously, a defendant has a deep personal  
19 interest in the result of his prosecution; indeed, it  
20 is fair to say he has the greatest interest in its  
21 outcome.

22           Interest creates a motive for false testimony,  
23 and a defendant's interest in the result of his trial  
24 is of a character possessed by no other witness.

25           In appraising his credibility, you may consider

## Charge of the Court

1  
2 that a defendant has a strong motive to lie to protect  
3 himself, but you may also consider that he takes a  
4 real risk by subjecting himself to cross-examination.

5 In addition, simply because a person has a  
6 vital interest in the end result, it by no means  
7 follows that he is not capable of telling a truthful  
8 and straightforward story.

9 It is for you to decide to what extent, if  
10 at all, defendant's interest has affected or colored  
11 his testimony.

12 We turn now to the specific charges against  
13 these defendants as set forth in the indictment.

14 Keep in mind that the defendants are on trial  
15 only for the crimes alleged in the indictment and for  
16 no other crimes.

17 Thus, we are dealing with the three crimes  
18 or counts of the indictment. The first one is con-  
19 spiracy, the second bribery, and the third interstate  
20 travel. Those are loose descriptions for them.

21 You are free to discuss and decide the issues  
22 in any order you choose. But I suggest to you your  
23 work might be easier if you would take up first the  
24 bribery count, that is, Count Two of the indictment,  
25 then the interstate travel count, Count Three, and

1  
2 finally the conspiracy count, Count One.

3 For reasons of convenience and helping you  
4 to understand the issues, that is the order in which  
5 I will discuss these counts.

6 With each of the charges I will review with  
7 you the statute, the indictment, and the essential  
8 elements of the crime.

9 The statute, of course, is the law passed by  
10 Congress, that the defendants are charged with viola-  
11 ting.

12 The indictment sets forth the specific crimes  
13 of which the defendants are accused.

14 The essential elements are those factors  
15 which must be established beyond a reasonable doubt  
16 for a defendant to be guilty of a charged crime.  
17 Each of the essential elements of the three crimes  
18 I will discuss with you in some detail.

19 With respect to Count Two of the indictment,  
20 each of these counts by the way has an introductory  
21 paragraph, and I will give a copy of the indictment  
22 to you for your deliberations. There is an introduc-  
23 tory paragraph with respect to each of the three  
24 counts and that identifies who is who in this case.  
25 It describes the defendant Myers as a member of the

1  
2 United States House of Representatives, representing  
3 the First Congressional District of Pennsylvania;  
4 the defendant Errichetti as Mayor of Camden, New  
5 Jersey, and a member of the State Senate of the State  
6 of New Jersey; the defendant Johanson, a member of  
7 the City Council of Philadelphia and a member of the  
8 law firm of Criden, Johanson, Dolan, Morrissey &  
9 Cook; it identifies the defendant Criden as a member  
10 of the law firm; Anthony Amoroso, Jr., Ernest Haridopoulos,  
11 and Michael Wall as special agents of the FBI  
12 acting in an undercover capacity, using the names  
13 respectively Tony DeVito, Ernie Poulos, and Michael  
14 Cohen, who purported to represent foreign business  
15 men from the Middle East who were seeking to invest  
16 money in the United States and planned to emigrate  
17 to the United States. It identifies Mel Weinberg  
18 as a private citizen assisting the FBI, who purported  
19 to be an employee of the aforesaid foreign business  
20 men.

21 All that is incorporated by reference in  
22 Count Two. The body of Count Two is set forth in  
23 the second paragraph which I would read to you.  
24 This is the bribery count. It reads as follows:  
25 On or about and between the 26th day of July, 1979

1 and the 2nd day of February, 1980, within the Eastern  
2 District of New York and elsewhere, the defendant  
3 Michael O. Myers, aided and abetted by the defendants  
4 Angelo J. Errichetti, Louis C. Johanson and Howard L.  
5 Criden, unlawfully, wilfully and knowingly did directly  
6 and indirectly corruptly ask, demand, exact, solicit,  
7 seek, accept, receive and agree to receive a sum of  
8 money from Special Agents Amoroso, Haridopolos and  
9 Wall for himself and other persons and entities in  
10 return for the defendant Michael O. Myers being  
11 influenced in his performance of official acts as  
12 a member of Congress, to wit, his decisions and  
13 actions in a matter involving immigration, residency  
14 and citizenship of foreign nationals, which might at  
15 any time be ending or which might by law be brought  
16 before the House of Representatives and departments,  
17 agencies, and branches of the Government of the  
18 United States, and in return for the defendant  
19 Michael O. Myers being influenced to commit, aid,  
20 in committing, collude in and allow fraud, and to  
21 make opportunity for the commission of fraud on the  
22 United States.  
23

24 That is all alleged to be in violation of two  
25 sections of Title 18 of the United States Code,

34R

## Charge of the Court

Sections 2 and 201 subdivision (c).

Section 2 covers aiding and abetting. That is a section which involves defendants Errichetti, Johanson, and Criden.

(Continued on next page.)

## Charge

1  
2 Now, I'll discuss that section two with you  
3 in a moment.

4 First, however, we must focus upon Section  
5 201(c), the bribery section which the defendant  
6 Myers is charged with violating. Now, Section  
7 201(c) provides that:

8 "Whoever, being a public official, directly  
9 or indirectly corruptly asks, demands, exacts,  
10 solicits, seeks, accepts, receives or agrees to  
11 receive anything of value for himself or for any  
12 other person or entity in return for being influenced  
13 in his performance of any official acts" shall be  
14 guilty of a crime.

15 To prove the defendant Myers guilty under  
16 this charge of Count 2, the Government must  
17 establish four essential elements; one, that on  
18 August 22, 1979, the defendant Myers received a  
19 sum of money; two, that when he did so, he was  
20 a public official; three, that he received the  
21 money in return for being influenced in his  
22 performance of an official act; and four, that he  
23 so acted knowingly, wilfully and corruptly. Each  
24 of these elements must be established beyond a  
25 reasonable doubt. The law never imposes on a

## Charge

1  
2 defendant in a criminal case the burden or duty  
3 of presenting any evidence or calling any witnesses.

4 Now, let us discuss each of these essential  
5 elements. The first is that on August 22, 1979,  
6 the defendant Myers received a sum of money. The  
7 Government contends that on August 22, 1979, at  
8 the International Inn at Kennedy Airport, the  
9 defendant Myers received from FBI Agent Amoroso,  
10 posing as Tony DeVito, an envelope containing  
11 \$50,000. Defendants do not contest this element.  
12 It is for you to determine, based on the evidence,  
13 whether it has been established beyond a reasonable  
14 doubt.

15 The second essential element is that, at  
16 the time he received the money, that is, on August  
17 22, 1979, the defendant Myers was a public  
18 official. The statute specifically defines a  
19 public official as including a member of Congress.  
20 It is not contested that, at the time in question,  
21 defendant Myers was a member of the House of  
22 Representatives, representing the First Congressional  
23 District of Pennsylvania, and was therefore a  
24 public official within the meaning of the statute.

25 The third essential element is that the

31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

defendant Myers received the money in return for being influenced in his performance of an official act. And official act is defined by the statute to be, "Any decision or action on any question, matter, cause, suit, proceeding or controversy which may at anytime be pending or which may by law be brought before any public official in his official capacity, or in his place of trust or profit."

Here, the Government alleges that the official acts were decisions and actions of defendant Myers as a member of Congress in a matter involving immigration, residency and citizenship of foreign nationals which might at some time be pending or which by law may brought before the House of Representatives and departments, agencies and branches of the United States. Specifically, the Government claims that defendant Myers agreed, in return for the money, to assist a "Sheik" -- let me put that in quotation marks -- whom Amoroso claimed to represent in coming to or remaining in this country by introducing into Congress a private immigration bill and by using his influence as a Congressman with officials in

1  
2 State Department to favorable affect the Sheik's  
3 residency status here.

4 A promise by a Congressman to introduce  
5 or support a private immigration bill would be a  
6 promise to perform an official act within the  
7 meaning of this Federal Bribery Statute. A  
8 promise by a Congressman to use the influence of  
9 his position and office to affect decisions of  
10 departments and agencies of the Government of the  
11 United States could also be a promise to perform  
12 an official act; and this could include a promise  
13 to intervene before the Executive Branch of the  
14 Government to facilitate an alien's entry into  
15 this country, to stay his deportation, or to  
16 procure permanent resident status for him.

17 Defendants do not deny that defendant Myers  
18 said the things that you have seen and heard him  
19 say on the video tapes. They contend, however,  
20 that he did not intend to be influenced in any  
21 official acts for the Sheik , and that he was  
22 only pretending to acquiesce in the bargain with  
23 Amoroso. The charge of bribery under Section 201(c)  
24 focuses directly upon what was defendant Myers'  
25 intent when he took the money. Did he intend, when

## Charge

5  
1  
2 the time came, to help the Sheik, to introduce a  
3 private bill into Congress, to intervene with State  
4 Department officials? Or did he merely pretend  
5 that he would do so without actually intending to  
6 follow through on his promise? This matter of  
7 defendant Myers' intent when he took the money is  
8 the central issue on this element.

9 How do you determine what was his intent?  
10 Intent is a state of mind and, of course, it is  
11 not possible to look directly into a man's mind  
12 to see what went on. The only way you have of  
13 arriving at the intent of the defendant in this  
14 case is for you to take into consideration all the  
15 facts and circumstances shown by the evidence,  
16 including the video tapes and the other exhibits,  
17 and determine from them what was Myers' intent.  
18 Thus, a defendant's intent may not be proved directly  
19 but maybe inferred from his words, and acts, and  
20 from such inferences as may arise from a combination  
21 of words and acts, even though anyone of them,  
22 taken by itself, might seem unimportant.

23 Not every payment or contribution received  
24 by a Congressman constitute bribery. To violate  
25 Section 201(c), the payment received must be

1 accompanied by a specific intent on the part of  
2 the Congressman to be influenced in the manner  
3 specified in the indictment. That intent is not  
4 supplied merely by the fact that the payment was  
5 received with some generalized understanding  
6 or expectation of benefit or good will to the donor.  
7 In order to establish the offense of bribery, the  
8 Government must show that the money was received  
9 by Congressman Myers with the intent to pursue  
10 a specific course of conduct. The Government is  
11 not required, however, to show either that  
12 defendant Myers actually carried out his promise  
13 or that he performed any acts in an attempt to  
14 do so; nor is the Government required to show that the  
15 promised official acts would have been accomplished.  
16 The promise does not cease to relate to an official  
17 act simply because the undercover agent offering  
18 the bribe knows that the subject of the promised  
19 legislative action is fictitious and that the  
20 promise will not actually be performed.

21           What the statute focuses upon is the  
22 Congressman's actions and the state of mind. Thus, the  
23 fact that the Sheik did not exist but was a  
24 fictitious person is not material to this case.  
25

## Charge

1  
2 It is enough if defendant Myers believed that the  
3 Sheik existed and accepted the money in return for  
4 being influenced in his future official acts on  
5 the Sheik's immigration, residency or citizenship  
6 status.

7 Moreover, in considering the guilt or  
8 innocence of a defendant who is accused of bribery,  
9 it makes no difference that the object of the  
10 bribe itself may be lawful activity. The purpose  
11 of the law is to protect the integrity of official  
12 acts against the possible temptation to act in  
13 other than a proper manner which may result from  
14 the payment of money to influence such an official  
15 act. While it is not necessary, as I said earlier,  
16 for the Government to show that Myers actually  
17 carried out the acts which were the subject of  
18 his promise, you may, however, consider the absence  
19 of any evidence showing that Congressman Myers  
20 performed any act to implement the promises charged  
21 in the indictment as bearing on the question of  
22 whether, when he took the money, he intended to  
23 use influence in his performance of official acts.

24 Similarly, in determining what was defendant  
25 Myers' intent when he took the money on August 22,

## Charge

1  
2 1979, you may weigh and consider, along with the  
3 other evidence in the case, his subsequent words  
4 and conduct at the Barclay Hotel on January 24th,  
5 and 25, 1980, as recorded on the video tapes,  
6 Government's Exhibits 7 and 8. After weighing  
7 all these considerations and the evidence in the  
8 case, you must determine whether the Government  
9 has established beyond a reasonable doubt this  
10 third essential element, that defendant Myers  
11 took the money in return for being influenced  
12 in his performance of an official act.

13 The fourth essential element is that  
14 defendant Myers acted knowingly, wilfully and  
15 corruptly. An act is done knowingly when done  
16 voluntarily and purposely and not because of  
17 mistake, accident, misunderstanding or other  
18 innocent reason. An act is done wilfully when  
19 done voluntarily and intentionally and in violation  
20 of a known legal duty. An act by a public  
21 official is done corruptly when done voluntarily  
22 and intentionally and with the bad purpose of  
23 accomplishing either an unlawful end or result or  
24 a lawful end or result by some unlawful means.

25 The motive to act corruptly ordinarily is

## Charge

1  
2 with the hope or expectation of, or in return for,  
3 either financial gain or other benefit to one's  
4 self or some aid, profit or benefit to another.  
5 So, a public official acts corruptly whenever he  
6 wilfully solicits or accepts money in return for  
7 being influenced in his official action. It does  
8 not matter that he intends to turn over all or  
9 part of it to others.

10 In short, on this element, you must determine  
11 on all the evidence whether defendant Myers acted  
12 knowingly, wilfully and corruptly. In summary,  
13 up to this point, in order to determine whether  
14 defendant Myers is guilty of violating Section  
15 201(c) under Count 2 of the indictment, you must  
16 decide whether the Government has established  
17 beyond a reasonable doubt each of the four essential  
18 elements; one, that on August 22, 1979, he received  
19 a sum of money; two, that when he did so, he was  
20 a public official; three, that he received the  
21 money in return for being influenced in his  
22 performance of an official act; and four, that he  
23 so acted knowingly, wilfully and corruptly.

24 If the Government has established each of  
25 these elements beyond a reasonable doubt, you must

## Charge:

1  
2 find defendant Myers guilty, on Count 2, of  
3 receiving a bribe. If you determine that defendant  
4 Myers is not guilty of this bribery charge, then  
5 you must consider whether defendant Myers is  
6 guilty under Count 2 of the crime of receiving  
7 a criminal gratuity in violation of Section 201(g).

8 Now, this is a lesser offense that is  
9 included in the charge that is alleged under  
10 Count 2; that is, receiving a criminal gratuity is  
11 a lesser offense with different elements than receiv-  
12 ing a bribe. I will instruct you as to the  
13 elements of the crime of receiving a criminal  
14 gratuity in a moment, but keep in mind that you  
15 are to consider the criminal gratuity charge only  
16 if you decide to acquit defendant Myers on the  
17 bribery charge. He can be convicted of one crime  
18 or the other, not both. You may, of course,  
19 decide to acquit defendant Myers on both the  
20 bribery and gratuity charges. You should not  
21 compromise on the lesser charge because you  
22 can't reach an agreement. Unless 12 of you  
23 determine that the defendant is guilty of a crime,  
24 he cannot be found guilty.

25 Excuse me just a moment.

## Charge

(Pause.)

THE COURT: Now, let's talk about this charge of receiving a criminal gratuity. Section 201(g), dealing with receiving gratuities, provides in pertinent part that:

"Whoever, being a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly receives anything of value for himself, for or because of any official act performed or to be performed by him" shall be guilty of a crime.

Now, there are five essential elements that are necessary to establish defendant Myers' guilt of the crime of receiving a criminal gratuity under this Section 201(g). Those five elements are, one, that on August 22, 1979, defendant Myers received a sum of money; two, that at the time, he was a public official; three, that he received the money otherwise than as provided by law for the proper discharge of his official duty; four, that he received the money for or because of an official act to be performed by him; and five, that he so acted knowingly and wilfully. These gratuity elements can be understood perhaps

## Charge

1  
2 a little better by comparing them with the elements  
3 under the bribery statute that I discussed with  
4 you a moment ago.

5 Now, the first and second elements are the  
6 same as those that I discussed with you under the  
7 bribery charge and I don't have to repeat those  
8 instructions again. The third element here is that  
9 defendant Myers received the money, "Otherwise  
10 than as provided by law for the proper discharge  
11 of his official duty." This element is included  
12 in order to make it clear that lawful fees, properly  
13 paid to public officials, such as salary, expense  
14 reimbursement, filing fees and things of that  
15 sort, are not payments forbidden by the statute.  
16 There is no suggestion by either side that the  
17 \$50,000 payment to the defendant Myers was salary,  
18 expense money or a fee or other kind of payment  
19 authorized by law.

20 You will recall that under the bribery  
21 charge, payment must have been received corruptly.  
22 Here, it need only have been a payment not provided  
23 by law for the discharge of official duty.

24 The fourth element is that the defendant  
25 Myers received the money for or because of an

## Charge

1  
2 official act to be performed by him. The law  
3 that prohibits receiving gratuities, as I have  
4 said, is called a lesser included offense under  
5 the law that prohibits receiving bribes. Its  
6 purpose is to prohibit a public official in the  
7 course of his official duties from receiving  
8 additional compensation as a tip or gratuity for  
9 or because of an official act. This requires you  
10 to consider why the payment was made and received.  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(Continued on next page.)

## Charge

1  
2 From the point of view of Government agents,  
3 of course, no official acts were actually expected  
4 to be done by defendant Myers. But as I have  
5 already explained the fact that the Sheik was  
6 a mythical person and that his representatives were  
7 Government agents engaged in a sting operation is  
8 immaterial to your decision. What you must do,  
9 then, is to view what happened from Congressman  
10 Myers' point of view, for what you must determine  
11 is whether he committed this crime. Thus, you must  
12 determine whether this payment was received by  
13 Myers because of an official act. This requires  
14 you to evaluate his knowledge at the time from  
15 his point of view. Was he paid because he was a  
16 Congressman? From his point of view, were the  
17 matters to which the payment related ones which  
18 were within the scope of his official functions  
19 as a Congressman? From his point of view, was  
20 the payment made because of some official act  
21 the Sheik might ask him to perform in the future?

22 To find a violation on the charge of receiv-  
23 ing a bribe, as I instructed you earlier, you must  
24 find that a public official had a specific intent  
25 to be influenced in the performance of his official

## Charge

1  
2 acts.

3           In order to find a violation on this charge  
4 of receiving a gratuity, it is not necessary to  
5 find such a specific intent. The Government  
6 must prove that the purpose of receiving the payment  
7 was to receive an additional reward, gratuity or  
8 tip because of an official act performed or to be  
9 performed by the Congressman. The payments may be  
10 a violation even in the absence of evidence that  
11 the giver sought a particular preference or that the  
12 receiver specifically intended to give one. Again,  
13 it is not necessary under this Section that the  
14 Government prove that the payment actually caused  
15 or prompted or affected any official act, nor  
16 need the Government prove the extent or the manner  
17 or exact means by which the official acts might  
18 have been done. But the Government must establish  
19 beyond a reasonable doubt that the payment was  
20 received because defendant Myers was a Congressman  
21 and because of some official act to be performed  
22 by him in his position as a Congressman.

23           In addition to promises made by defendant  
24 Myers on the tapes to introduce a private immigra-  
25 tion bill to the Sheik, if it was to be needed,

## Charge

1  
2 and otherwise to assist him in his immigration  
3 problems here, defendant Myers also promised to  
4 use his influence on the Sheik's behalf in  
5 connection with a variety of other matters; the  
6 hotel, the Atlantic City casino, port development  
7 in Philadelphia, and so forth. These other matters,  
8 of course, are State or local, but not Federal  
9 matters and, therefore, activity by Myers in  
10 connection with them would not be an official  
11 act by him as a Congressman. Thus, if you find that  
12 the payment was received by Myers because of the  
13 local matters and not because of the immigration  
14 matter, or if you find it was not because of any  
15 of them, then it would not be because of an official  
16 act. If, however, you find that the payment  
17 was received by Congressman Myers because of a  
18 combination of things, including the immigration  
19 matter, then you may find that it was because of  
20 an official act. The fact that the Federal  
21 Immigration matter was combined with other non-federal  
22 promises does not prevent the payment from being  
23 because of an official act.

24 In your deliberations, you should first  
25 determine the guilt or innocence of defendant Myers

## Charge

1  
2 on the charge of violating the law against receiving  
3 a bribe. If you find him guilty on that bribery  
4 charge, then there is no need for you to consider  
5 the lesser included offense, receiving a criminal  
6 gratuity. However, if you determine that defendant  
7 Myers is not guilty of the bribery charge, then  
8 you should go on to consider whether he is guilty  
9 or not guilty on the criminal gratuity charge.

10 Thus far, I have only talked about  
11 defendant Myers. Now, let's consider the other  
12 three defendants, Angelo Errichetti, Louis  
13 Johanson and Howard Criden. As I said before, they  
14 come in under Section 2 of the statute, the aiding  
15 and abetting section. We'll talk first about  
16 Count 2 of the indictment, although this also  
17 applies to Count 3.

18 Since those three gentlemen are not public  
19 officials as defined in the statute -- keep in  
20 mind that this is a Federal Statute and it defines  
21 public officials as Federal Public Officials --  
22 these three cannot be guilty of violating Section  
23 201(c) or 201(g) directly. However, the indictment  
24 does charge that defendant Myers was aided and  
25 abetted by the other three defendants in doing the

1 acts that Myers was charged with doing; and aiding  
2 and abetting someone else to commit a crime may  
3 in itself be a crime.

4 Thus, if you have found defendant Myers  
5 not guilty under Count 2 of both charges, that is,  
6 receiving a bribe and receiving a criminal gratuity,  
7 then you'd have to find the other three defendants  
8 also not guilty. But if you find defendant  
9 Myers guilty of either receiving a bribe or  
10 receiving a criminal gratuity, then you have to  
11 consider the charge against the other three  
12 defendants for aiding and abetting Myers criminal  
13 conduct.

14 The aiding and abetting charge is brought  
15 under 18 U.S. Code Section 2, which provides in  
16 part that:

17 "Whoever commits an offense against the United  
18 States or aids, abets, counsels, commands, induces  
19 or procures its commission, is punishable as a  
20 principal."

21 Where, as in the present case, two or more  
22 persons are charged together with the commission  
23 of an offense, the Government is not required  
24 to prove that one of the defendants alone did all  
25

1 of the things required to make out the offense.  
2 On the contrary, under Section 2 that I just read,  
3 all those who aid and abet the commission of an  
4 offense or cause anything to be done which, if  
5 directly performed, would be an offense, are  
6 treated as equally guilty of the crime; that is,  
7 they are punishable as principal offenders.  
8 Hence, if a person wilfully unites his efforts with  
9 one or more others to bring about the commission  
10 of a crime, he is equally guilty with the others  
11 and they with him, provided that he is conscious  
12 of the nature of the criminal venture and intention-  
13 ally associates himself in its furtherance and  
14 actively participates in bring about the accomplish-  
15 ment of the criminal venture.  
16

17         Keep in mind, however, that mere association  
18 is not a crime. There is no such thing under our  
19 laws as guilt merely by association. The mere  
20 presence of a defendant where a crime may have  
21 occurred, even coupled with that defendant's  
22 knowledge that a crime is being committed, or mere  
23 negative acquiescence by a defendant in the criminal  
24 conduct of others, even with guilty knowledge,  
25 is insufficient to establish his guilt. An aider a-

## Charge

1  
2 abettor must have some interest in the criminal  
3 venture. In order to convict any of the defendants  
4 as an aider and abettor, you must be convinced  
5 beyond a reasonable doubt that he voluntarily  
6 and intentionally participated in the criminal  
7 venture in an effort to make it succeed.

8 You have heard the evidence relating to the  
9 participation of the defendants Errichetti, Crigen  
10 and Johnson in the events of August 22, 1979,  
11 and leading up to that day. You must separately  
12 evaluate the evidence as to each of them and for  
13 each, you must determine whether the Government  
14 had established beyond a reasonable doubt that he  
15 voluntarily and intentionally participated with  
16 Congressman Myers in the receipt of a bribe or  
17 criminal gratuity in an effort to make the venture  
18 succeed. If so, you will find that defendant  
19 guilty. If not, you will find him not guilty.

20 Now, let's consider Count 3 of the indictment  
21 which charges the defendants with violating what  
22 is called the Travel Act, 18 U.S. Code Section  
23 1952. Unless you found defendant Myers guilty  
24 under Count 2, that is, the receipt of a bribe or  
25 receipt of a criminal gratuity, unless you find

## Charge

1  
2 him guilty of one or the other of those, you must  
3 find all four of the defendants not guilty on  
4 this Count 3. If, however, you have found  
5 defendant Myers guilty on Count 2, then you must  
6 consider each defendant under this Count 3.

7 Now, Section 1952 of the Code provides  
8 in part that:

9 "Whoever travels in interstate commerce  
10 with intent to distribute the proceeds of any  
11 unlawful activity, or otherwise to promote or  
12 carry on any unlawful activity, and who thereafter  
13 distributes the proceeds or promotes or carries  
14 on the unlawful activity," is guilty of a crime.

15 The term, "unlawful activity," in this  
16 section is defined and includes a number of things,  
17 but one of the things that it includes is bribery.

18 Now, under that Section 1952, as well as  
19 under Section 2, which I discussed with you a  
20 moment ago, the aiding and abetting section,  
21 all four defendants are charged in Count 3 of the  
22 indictment as follows:

23 First, there is the general allegation that  
24 identifies the various participants. It is incorporated  
25 by reference. Then, part two of Count 3 alleges

## Charge

1  
2 that:

3 "On or about the 22nd day of August 1979,  
4 within the Eastern District of New York and else-  
5 where, Michael O. Myers, Angelo J. Errichetti,  
6 Louis C. Johanson and Howard L. Criden, the  
7 defendants, unlawfully, wilfully and knowingly  
8 did travel in interstate commerce from the States  
9 of New Jersey and Pennsylvania into the Eastern  
10 District of New York and did use facilities in  
11 interstate commerce with intent to promote, manage,  
12 establish, carry on and facilitate the promotion,  
13 management, establishment and carrying on of unlaw-  
14 ful activity, said unlawful activity being bribery,  
15 in violation of Title 18, United States Code,  
16 Section 201, and did thereafter perform and attempt  
17 to perform acts to promote, manage, establish,  
18 carry on and facilitate the promotion, management,  
19 establishment and carrying on of said unlawful  
20 activity, and to distribute the proceeds of said  
21 unlawful activity.

22 "3. It was a part of said unlawful activity  
23 that the defendant Michael O. Myers, aided and  
24 abetted by the defendants Angelo J. Errichetti,  
25 Louis C. Johanson and Howard L. Criden, would and

10 1

## Charge

2 did directly and indirectly corruptly ask, demand,  
3 exact, solicit, seek, accept, receive and agree  
4 to receive a sum of money for himself and other  
5 persons and entities in return for the defendant  
6 Michael O. Myers being influenced in his performance  
7 of official acts as a member of Congress and being  
8 influenced to commit and collude in the commission  
9 of fraud on the United States."

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Now, for a violation of this Travel Act  
count as charged in the indictment, there are  
two essential elements that must be established  
beyond a reasonable doubt. They are, one, that  
on August 22, 1979, the defendants whom you are  
considering -- you have to consider each of them  
separately -- the defendant traveled in interstate  
commerce; two, that he did so with intent to  
promote or carry on the unlawful activity of  
defendant Myers, that is, his receipt either of  
a bribe or a criminal gratuity; three, that there-  
after, that is, after he traveled with the intent,  
he performed an act either to carry on or promote  
the unlawful activity, or to distribute its  
proceeds; and four, that the defendant acted  
knowingly and wilfully. Again, the Government

## Charge

1  
2 establish each of these elements beyond a reasonable  
3 doubt. The law never imposes on a defendant in a  
4 criminal case the burden or duty of calling any  
5 witnesses or producing any evidence.

6 Now, let us consider each of the elements  
7 separately and remember that you must determine them  
8 separately for each defendant. The first element  
9 is that on August 22, 1979, defendant traveled  
10 in interstate commerce. It is charged, and there  
11 is evidence that on that date, each of the four  
12 defendants traveled from either Pennsylvania or  
13 New Jersey to the vicinity of Kennedy Airport  
14 in New York State. Such travel would be in  
15 interstate commerce, and, if you find it occurred,  
16 it would satisfy this element.

17 The second element is that the defendants'  
18 interstate travel was with intent to carry on or  
19 promote the unlawful activity of defendant Myers.  
20 The unlawful activity referred to is that which is  
21 the subject of Count 2 of the indictment; that is,  
22 either receiving a bribe or the lesser included  
23 offense of receiving a criminal gratuity.

24 As to the defendant Myers, this second  
25 element presents no special problems, since it was

## Charge

1  
2 his own unlawful activity in New York that was  
3 the basis of the charge. As to the other three  
4 defendants, however, you must analyze separately  
5 the circumstances of each one's travel to New York  
6 on that occasion and determine whether he made  
7 the trip with intent to carry on or promote  
8 defendant Myers' unlawful activity. You will  
9 determine a defendant's intent from all of the  
10 evidence which bears on his own knowledge and  
11 conduct.

12 The third element is that, after traveling  
13 to New York, the defendant performed an act either  
14 to carry on or promote defendant Myers' unlawful  
15 activity, or to distribute its proceeds. Under  
16 this element, it is necessary that, after traveling  
17 to New York, the defendant did some additional  
18 act. The additional act may be one which carried  
19 on or promoted defendant Myers' unlawful activity  
20 of receiving a bribe or a criminal gratuity, or  
21 it may be that he received or agreed to receive  
22 part of the money that was paid to defendant  
23 Myers. You have heard evidence with respect  
24 to each defendants' participation in the events  
25 of the day, and as to his sharing in the \$50,000

1  
2 gift. It is for you to determine from that  
3 evidence whether the Government has established  
4 this third element beyond a reasonable doubt.  
5  
6  
7  
8

9 (Continued on next page.)  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2           The fourth element is that the defendant  
3 acted knowingly and wilfully, terms that I earlier  
4 defined for you. In the context of this charge,  
5 these requirements mean that, when the defendant  
6 traveled in interstate commerce, intending to  
7 promote Defendant Myers' unlawful activity, and  
8 then performed an addition act to that end and  
9 shared in the \$50,000 payment, did the defendant  
10 act voluntarily and intentionally and in violation  
11 of a known legal duty? Did he know what he was  
12 doing? Did he know that Myers was to receive a  
13 payment? Did he act freely and without compulsion?  
14 Did he come to New York to participate in the  
15 transaction? Did he know that the money he received  
16 was part of the payment to Myers and was received  
17 by Myers either as a bribe or as a criminal gratuity?  
18 For a participating defendant, if the answers to  
19 these questions are yes beyond a reasonable doubt,  
20 then this fourth element would be satisfied.

21           In summary of Count three, the Travel Act  
22 count, therefore, you must find for each defendant  
23 four essential elements before you can find that  
24 defendant guilty; one, that on August 22 of 1979,  
25 he traveled in interstate commerce; two, that he

1  
2 did so with intent to promote or carry on the  
3 unlawful activity of defendant Myers; three, that  
4 thereafter he performed an act either to promote  
5 or carry on the unlawful activity or to distribute  
6 its proceeds; and four, that he acted knowingly  
7 and wilfully.

8 Now, let's turn to count one of the indict-  
9 ment, the conspiracy count. Again, the first para-  
10 graph is the introductory identifying paragraph.

11 "Paragraph two: On or about and between  
12 the 26th day of July, 1979 and the 2nd day of  
13 February, 1980, within the Eastern District of  
14 New York and elsewhere, Michael O. Myers, Angelo  
15 J. Errichetti, Louis C. Johanson and Howard L.  
16 Cirden, the defendants, unlawfull, wilfully and  
17 knowingly did combine, conspire, confederate and  
18 agree together and with each other and with others  
19 known and unknown to the grand jury to defraud the  
20 United States and agencies and departments thereof  
21 of the Government's right,

22 "a. To the faithful and honest  
23 service of the Defendant Myers as a member  
24 of Congress in relation to matters before  
25 the House of Representatives, performed

3  
1  
2 free from corruption and fraud and uninfluenced  
3 by payments of money and other valuable  
4 consideration to himself and others;

5 "b. To have the official acts of  
6 the Defendant Myers as a member of Congress,  
7 in attempting to influence decisions of  
8 departments and agencies of the United States  
9 in relation to matters of immigration and  
10 residency, performed free from corruption,  
11 fraud and dishonesty, and uninfluenced by  
12 considerations of personal advantage and  
13 private financial gain to himself and others;

14 "c. To have the immigration and  
15 citizenship laws administered honestly and  
16 impartially, free from improper and undue  
17 pressure and influence;

18 "d. To have its officials and em-  
19 ployees charged with enforcing the immigration  
20 and citizenship laws perform their official  
21 duties free from impairment and obstruction  
22 by the exercise upon them of corrupt, fraudu-  
23 lent, dishonest, unlawful, improper and  
24 undue pressure and influence;

25 "And did further conspire and agree to commit

4  
1  
2 an offense against the United States in violation  
3 of Title 18, United States Code, Section 201; to  
4 wit: The defendants Myers, Errichetti, Johanson  
5 and Criden, did conspire and agree together and  
6 with others, directly and indirectly corruptly to  
7 ask, demand, exact, solicit, seek, accept, receive  
8 and agree to receive a sum of money for the defen-  
9 dant Myers and other persons and entities in  
10 return for the Defendant Myers being influenced  
11 in the performance of official acts and being  
12 influenced to commit, aid in committing, collude  
13 in and allow fraud, and to make opportunity for  
14 the commission of fraud on the United States.

15 "Paragraph three: It was a part of the  
16 conspiracy that the Defendant Angelo J. Errichetti  
17 did advise Special Agent Amoroso and Melvin  
18 Weinberg that the Defendant Michael O. Myers  
19 would assist the aforesaid foreign businessmen  
20 to enter and remain in the United States in return  
21 for a cash payment of \$100,000.

22 "Four: It was further a part of the con-  
23 spiracy that the defendant Michael O. Myers would  
24 agree to assist the foreign businessmen to enter  
25 and remain in the United States in return for the

5 1  
2 cash payment of \$100,000.

3 "Five, it was further a part of the conspiracy  
4 that the defendant Michael O. Myers would give  
5 a portion of the aforesaid cash payment to the  
6 defendants Angelo J. Errichetti, Louis C. Johanson  
7 and Howard L. Criden.

8 "Six: It was further a part of the conspiracy  
9 that the Defendants Michael O. Myers and Angelo  
10 J. Errichetti did meet with Special Agent Amoroso  
11 and Melvin Weinberg and Defendant Michael O. Myers  
12 did receive a cash payment of \$50,000 in return  
13 for his assurances that he would introduce private  
14 immigration bills to enable the foreign businessmen  
15 to remain in the United States and would take such  
16 other action as would be necessary to achieve that  
17 end, including intervention with the Department of  
18 State.

19 "Seven: It was further a part of the  
20 conspiracy that the Defendant Michael O. Myers  
21 did share the proceeds of the \$50,000 payment  
22 with the Defendants Angelo J. Errichetti, Louis  
23 C. Johanson and Howard L. Criden and another  
24 individual known to the grand jury, and that the  
25 Defendant Myers did retain \$15,000 for his own

6 1  
2 use and benefit.

3 "Eight: It was further a part of the  
4 conspiracy that the Defendant Michael O. Myers  
5 did subsequently solicit, demand and agree to  
6 receive an additional \$35,000 from Special Agents  
7 Wald and Haridopolos in return for his assistance  
8 to the foreign businessmen in the aforesaid  
9 immigration matter because the defendant Myers  
10 had received \$15,000 for his own use and benefit  
11 instead of the \$50,000 which he had been told  
12 by the defendants Angelo J. Errichetti, Louis  
13 C. Johanson and Howard L. Criden that he would  
14 receive for his own use and benefit.

15 "In furtherance of the conspiracy and to  
16 affect the objects thereof, the Defendants committed  
17 the following overt acts, among others, within  
18 the Eastern District of New York."

19 The indictment then lists some twelve overt  
20 acts which I'm not going to read to you now, but  
21 I will shortly, when I get to that portion of the  
22 charge. All of this is alleged to be in violation  
23 of Title 18 United States Code Section 371, which  
24 provides:

25 "If two or more persons conspire either to

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

commit any offense against the United States, or to defraud the United States or any agency thereof in any manner or for any purpose, and one or more of such persons do any acts to effect the object of the conspiracy, each is guilty of the crime."

Thus, in effect, the defendants are charged with conspiracy to commit the crime we have already discussed under count two, having a Congressman receive a bribe or a criminal gratuity. If you have found Defendant Myers not guilty under count two, then you must find all defendants not guilty under count one.

Four essential elements are required to be proved in order to establish the offense of conspiracy charged in the indictment:

1, that the conspiracy described in the indictment was wilfully formed and was existing at or about the time alleged;

2, that the accused -- and you have to evaluate each of the four defendants separately-- that the accused wilfully became a member of the conspiracy;

3, that one of the conspirators thereafter knowingly committed at least one of the overt acts

67

8  
1  
2 charged in the indictment at or about the time  
3 and place alleged; and four, that such overt act  
4 was knowingly done in furtherance of some object  
5 or purpose of the conspiracy as charged.

6 If the jury should find beyond a reasonable  
7 doubt from the evidence in the case that existence  
8 of the conspiracy charged in the indictment has  
9 been proved and that, during the existence of the  
10 conspiracy, one of the overt acts alleged was  
11 knowingly done by one of the conspirators in fur-  
12 therance of some object or purpose of the con-  
13 spiracy, then proof of the conspiracy offense  
14 charged is complete and it is complete as to every  
15 member found by the jury to have been wilfully  
16 a member of the conspiracy at the time the overt  
17 act was committed, regardless of which of the  
18 conspirators did the overt act.

19 As I stated before, the burden is always  
20 upon the prosecution to prove beyond a reasonable  
21 doubt every essential element of the crime charged.  
22 The law never imposes on a defendant in a criminal  
23 case the burden or duty of calling any witnesses  
24 or producing any evidence.

25 Now, let's consider each of the essential

1  
2 elements in turn.

3 After the first element, that the conspiracy  
4 described in the indictment was wilfully formed  
5 and was existing at or about the time alleged,  
6 a conspiracy is a combination of two or more  
7 persons by concerted action to accomplish some  
8 unlawful purpose or to accomplish some lawful  
9 purpose by unlawful means; so a conspiracy is  
10 a kind of partnership in criminal purposes in which  
11 each member becomes the agent of every other  
12 member. The gist of the offense is a combination  
13 or agreement to disobey or to disregard the law.  
14 Mere similarity of conduct among various persons  
15 and the fact that they may have associated with  
16 each other and may have assembled together and  
17 discussed common aims and interests does not  
18 necessarily establish proof of the existence of  
19 a conspiracy. However, the evidence in the case  
20 need not show that the members entered into any  
21 express or formal agreements, or that they directly  
22 by words spoken or in writing, stated between  
23 themselves what their object and purpose was to be,  
24 or the details thereof, or the means by which the  
25 object or purpose was to be accomplished.

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

Common sense will tell you that when people undertake to enter into a criminal conspiracy, much is left to unexpressed understanding. Explicit language and words are not required to indicate assent or involvement in a conspiracy.

What the evidence in the case must show beyond a reasonable doubt in order to establish that a conspiracy existed is that the members in some way or manner or through some contrivance positively or tacitly came to a mutual understanding to try to accomplish a common and unlawful plan.

The evidence in the case need not establish that all the manners or methods set forth in the indictment were agreed upon to carry out the alleged conspiracy, nor that all means or methods which were agreed upon were actually used or put into operation, nor that all of the persons charged to have been members of the alleged conspiracy were such. What the evidence in the case must establish beyond a reasonable doubt is that the alleged conspiracy was knowingly formed and that one or more of the means or methods described in the indictment were agreed upon to be used in an effort to effect or accomplish some object of

1 the conspiracy as charged, and that two or more  
2 persons, including one or more of the accused,  
3 were knowing members of the conspiracy as charged  
4 in the indictment.  
5

6 As to the time of the conspiracy, it is not  
7 essential that the Government establish that the  
8 conspiracy began or ended on a specific date.

9 It is sufficient for this element if you  
10 find that in fact, the conspiracy was formed and  
11 existed for some time within the period set forth  
12 in the indictment; that is, at some time between  
13 July 26th, 1979 and February 2, 1980.

14 As to the essential elements, that the  
15 accused wilfully became a member of the conspiracy,  
16 one may become a member of a conspiracy without  
17 full knowledge of all the details of the conspiracy.  
18 A defendant need not know the identities of or  
19 the precise number of all of the other members,  
20 nor the entire scope of the conspiracy, nor all  
21 of the means by which the objects or purpose  
22 of the conspiracy were to be accomplished. Each  
23 member of the conspiracy may perform separate  
24 and distinct acts. There must, however, be  
25 agreement by the conspirators on the essential

1 nature of the plan and on the time of criminal  
2 conduct in fact contemplated. On the other hand,  
3 a person who has no knowledge of the conspiracy  
4 but simply happens to act in a way which furthers  
5 some object or purpose of the conspiracy does not  
6 thereby become a conspirator. It is necessary,  
7 therefore, that the Government prove beyond a  
8 reasonable doubt that the particular defendant  
9 was aware of the common criminal purpose and  
10 was a willing participant with intent to advance  
11 the purpose of the conspiracy.

12 (continued on next page.)  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## Charge of the Court

1  
2 Before the jury may find that a defendant,  
3 any other person, has become a member of a conspiracy  
4 the evidence in the case must show beyond a reasonable  
5 doubt that the conspiracy was knowingly formed, and  
6 that the defendant, or other person who is claimed to  
7 have been a member, wilfully participated in the un-  
8 lawful plan, with the intent to advance or further  
9 some object or purpose of the conspiracy.

10 To act or participate wilfully means to act  
11 or participate voluntarily and intentionally, in  
12 violation of a known legal duty. So, if a defendant,  
13 or any other person, with understanding of the unlawful  
14 character of a plan, knowingly encourages, advises or  
15 assists, for the purpose of furthering the undertaking  
16 or scheme, he thereby becomes a willful participant --  
17 a conspirator.

18 One who wilfully joins an existing conspiracy  
19 is charged with the same responsibility as if he had  
20 been one of the originators or instigators of the  
21 conspiracy.

22 In determining whether a conspiracy existed,  
23 the jury should consider the actions and declarations  
24 of all of the alleged participants. However, in  
25 determining whether a particular defendant was a member

## Charge of the Court

of the conspiracy, if any, the jury should consider only his own acts and statements. He cannot be bound by the acts or declarations of other participants until it is established that a conspiracy existed, and that he was one of its members.

It is this rule that required many of the limiting instructions during the trial. You will recall that as to many of the conversations and tapes I instructed you that until I gave you further instructions you should consider those statements and actions only against the defendant who made them. Now I want to broaden that instruction. All of such statements may be weighed by you, as I originally instructed, in determining whether that defendant was a member of the conspiracy. If you find beyond a reasonable doubt, however, that a defendant was a member of the conspiracy, then all of his acts and statements made during and in furtherance of the conspiracy may be used and weighed against every other defendant whom you also find to have then been a member of the conspiracy.

Similarly, the acts and statements of the other members could also be weighed against him.

The indictment charges that the four defendants

3 1  
2       conspired among themselves and with others. Under  
3       the evidence you may find that Ellis Cook was also  
4       a member of the conspiracy if he meets the standards  
5       I have described for you. If you make that finding,  
6       then you may also weigh his statements and acts during  
7       the conspiracy as binding upon those defendants who  
8       were also members at the time.

9               Ordinarily an act done or an admission or  
10       incriminatory statement made outside of court, by one  
11       person, may not be considered as evidence against any  
12       person who was not present and did not hear the state-  
13       ment made, or see the act done.

14               However, when it appears beyond a reasonable  
15       doubt from the evidence in the case that a conspiracy  
16       existed, and that a defendant was one of its members,  
17       then the statements thereafter knowingly made and the  
18       acts thereafter knowingly done, by any person likewise  
19       found to be a member, may be considered by the jury  
20       as evidence in the case as to the defendant found to  
21       have been a member, even though the statements and  
22       acts may have occurred in the absence and without the  
23       knowledge of the defendant, provided that such state-  
24       ments and acts were knowingly made and done during  
25       the continuance of the conspiracy, and in furtherance

## Charge of the Court

1  
4  
2 of some object or purpose of the conspiracy.

3 Of course, a statement of a conspirator,  
4 which is not in furtherance of the conspiracy, or  
5 which is made before its existence, or after its  
6 termination, may be considered as evidence only against  
7 the person making it. Nor may a statement of one  
8 conspirator made after another conspirator has with-  
9 drawn from the conspiracy be considered against the  
10 withdrawn conspirator.

11 As to the third element: that one of the  
12 conspirators thereafter knowingly committed at least  
13 one of the overt acts charged in the indictment, at  
14 or about the time and place alleged... the indictment  
15 alleges twelve overt acts and I will read them to you.

16 1. On or about July 29, 1979, the defendant  
17 ERRICHETTI told Melvin Weinberg during a telephone  
18 conversation between Florida and New Jersey that the  
19 defendant MYERS was prepared to meet with Special  
20 Agent Amoroso and Weinberg.

21 2. On or about August 5, 1979, at John F.  
22 Kennedy International Airport, within the Eastern  
23 District of New York, the defendant ERRICHETTI met  
24 with Amoroso and Weinberg and told them that the  
25 defendant MYERS would assist the foreign businessmen

## Charge of the Court

1  
2 in an immigration matter in return for a payment of  
3 money.

4 3. On or about August 7, 1979, in Cherry  
5 Hill, New Jersey, the defendants ERICHETTI and CRIDEN  
6 had a meeting with Amoroso and Weinberg.

7 4. On or about August 22, 1979, the defendant  
8 CRIDEN travelled by automobile from Philadelphia,  
9 Pennsylvania, to John F. Kennedy International Airport  
10 accompanied by Michael Criden.

11 5. On or about August 22, 1979, the defend-  
12 ants MYERS and JOHANSON travelled by automobile from  
13 New Jersey to John F. Kennedy International Airport.

14 6. On or about August 22, 1979, the defendant  
15 ERICHETTI travelled by automobile from New Jersey to  
16 John F. Kennedy International Airport accompanied by  
17 Joseph DiLorenzo.

18 7. On or about August 22, 1979, the defendants  
19 MYERS, ERICHETTI, JOHANSON and CRIDEN had a meeting  
20 at John F. Kennedy International Airport.

21 8. On or about August 22, 1979, at the Travel-  
22 edge International Motel, within the Eastern District  
23 of New York, the defendants MYERS and ERICHETTI had  
24 a meeting with Amoroso and Weinberg during which the  
25 defendant MYERS received Fifty Thousand Dollars

## Charge of the Court

1  
2 (\$50,000.00) in return for being influenced in his  
3 performance of official acts in an immigration matter  
4 on behalf of the foreign businessmen.

5 9. On or about August 22, 1979, the defendants  
6 ERRICHETTI and CRIDEN had another meeting at John F.  
7 Kennedy International Airport, said meeting being  
8 different from the meeting referred to in Overt Act 7.

9 10. On or about August 22, 1979, in Philadel-  
10 phia, Pennsylvania, the defendants MYERS, JOHANSON and  
11 CRIDEN held a meeting at which a portion of the Fifty  
12 Thousand Dollars (\$50,000.00) was divided among  
13 themselves.

14 11. On or about January 24, 1980, at the  
15 Barclay Hotel, Philadelphia, Pennsylvania, the defend-  
16 ants MYERS and CRIDEN had a meeting with Special Agents  
17 Wald and Haridopolos during which the defendant MYERS  
18 complained of his failure to receive Fifty Thousand  
19 Dollars (\$50,000.00) for his exclusive use and benefit  
20 as a result of the August 22, 1979 meeting, and  
21 solicited, demanded and agreed to receive an addi-  
22 tional Thirty-Five Thousand Dollars (\$35,000.00) in  
23 return for his assistance in the immigration matter.

24 12. On or about January 25, 1980, at the  
25 Barclay Hotel, Philadelphia, Pennsylvania, the

## Charge of the Court

1  
2 defendant MYERS had a meeting with Special Agents  
3 Wald and Haridopolos.

4 Those are the overt acts alleged in the in-  
5 dictment.

6 It is not essential that the Government prove  
7 performance of all twelve of these overt acts. All  
8 that is required to satisfy this element of the crime  
9 is that the Government prove beyond a reasonable  
10 doubt that at least one of them occurred while the  
11 conspiracy was in existence. And, as to each defend-  
12 ant found to be a member of the conspiracy, there  
13 must be proof that an overt act occurred during the  
14 time he was a member.

15 As to the fourth element: "That such overt  
16 act was knowingly done in furtherance of some object  
17 or purpose of the conspiracy charged."

18 An "overt act" is any act that is knowingly  
19 committed by one of the conspirators, in an effort  
20 to effect or accomplish some object or purpose of  
21 the conspiracy. The overt act itself need not be  
22 criminal in nature, if considered separately and  
23 apart from the conspiracy. It may be as innocent as  
24 the act of a man walking across the street, or driving  
25 an automobile, or using a telephone. It must, however,

## Charge of the Court

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

be an act which follows and tends toward accomplishment of the plan or scheme, and must be knowingly done in furtherance of some object or purpose of the conspiracy charged in the indictment.

In your consideration of the evidence in the case, you should first determine whether or not the conspiracy existed, as alleged in the indictment. If you conclude that the conspiracy did exist, you should next separately determine whether or not each of the accused wilfully became a member of the conspiracy, and, if he did, during what time was he a member.

If it appears beyond a reasonable doubt from the evidence in the case that the conspiracy alleged in the indictment was wilfully formed, and that a defendant wilfully became a member of the conspiracy either at its inception or afterwards, and that thereafter, while the defendant was a member, one or more of the conspirators knowingly committed one or more of the overt acts charged in furtherance of some object or purpose of the conspiracy, then there may be a conviction of that defendant even though the conspirators may not have succeeded in accomplishing their common object or purpose, and in fact may have failed of so doing.

## Charge of the Court

1  
2 A defendant's guilt or innocence of the crime  
3 of conspiracy is not determined by the extent or  
4 degree of his participation. A defendant may be  
5 convicted as a conspirator even though he may have  
6 played only a minor part in the conspiracy.

7 You are further instructed, with regard to  
8 the alleged conspiracy offense, that proof of other  
9 conspiracies involving some of these defendants is  
10 not proof of the single conspiracy charged in the  
11 indictment. What you must do is determine whether  
12 the single conspiracy charged in the indictment  
13 existed between two or more conspirators. If you  
14 find that no such conspiracy existed, then you must  
15 acquit the defendants as to that charge. However, if  
16 you are satisfied that such a conspiracy existed,  
17 you must determine who were the members of that  
18 conspiracy.

19 If you find that a particular defendant was a  
20 member of another conspiracy, but not the one charged  
21 in the indictment, then you must acquit that defendant  
22 on the conspiracy count. In other words, to find a  
23 defendant guilty of conspiracy you must find that he  
24 was a member of the particular conspiracy charged in  
25 the indictment and not some other separate conspiracy.

1  
2 Now, applying these general considerations to  
3 the conspiracy charged in Count One of the indictment,  
4 you must keep in mind the particular conspiracy with  
5 which these defendants are charged. It is to defraud  
6 the United States of the faithful and honest service  
7 of Congressman Myers and to have him receive money --  
8 as a bribe or gratuity -- in connection with certain  
9 matters pertaining to the immigration, residency and  
10 citizenship of a fictitious Middle Eastern business  
11 man.

12 In short, the defendants are charged with a  
13 conspiracy relating to Congressman Myers and the  
14 immigration, residency and citizenship status of  
15 the Sheik. They are not, repeat not, charged here  
16 with any conspiracy with respect to: any other  
17 Congressmen; any Senators; any hotel projects or  
18 zoning problems in Philadelphia; any gambling casino  
19 projects in Atlantic City; any port development  
20 projects in Philadelphia; any dealings with organized  
21 crime unions, or local or state officials, or any  
22 other matters.

23 I have permitted you to hear evidence of  
24 discussions and meetings pertaining to those other  
25 matters, not because they were part of the conspiracy

## Charge of the Court

11 1  
2 charged here, but only because that evidence might  
3 help you determine three certain things:

4 1. Defendant MYERS' state of mind when he  
5 accepted the \$50,000 payment. Did he take the money  
6 in return for being influenced in immigration and  
7 residency problems the Sheik might have in the future?  
8 Did he take it because of an official act? Or was he  
9 only pretending that he would help the Sheik, without  
10 actually intending to do so?

11 2. Whether there was a common plan or scheme  
12 in the actions of Mr. Weinberg that was followed with  
13 these defendants.

14 3. The state of mind of the other three  
15 defendants -- ERRICETTI, JOHANSON and CRIDEN -- from  
16 their statements and conduct on such of those other  
17 occasions that any of them participated in. You may  
18 better be able to determine each of the participants'  
19 knowledge and intent with respect to the events  
20 charged here -- that is, whether each one acted in  
21 this conspiracy knowingly and wilfully.

22 Of course, with respect to each of those other  
23 matters, since they were outside the conspiracy charged  
24 in this indictment, you should consider the acts and  
25 statements made, to be evidence only against the

1  
2 defendant who made them.

3           There are a few more comments I have to give  
4 you about limiting instructions. I mentioned them  
5 once before. I had given you limiting instructions  
6 with respect to the many tapes and conversations that  
7 you heard. In evaluating them, you should focus upon  
8 who participated, when did it occur, and then looking  
9 at the overall picture, who was in the conspiracy at  
10 that particular time. And any statements we are  
11 talking about of that nature you may weigh only  
12 against members of the conspiracy at the time the  
13 statements were made. Or against those people who  
14 actually made the statements.

15           You heard tapes and other testimony with  
16 respect to events pertaining to Senator Williams.  
17 Senator Williams is not prt of this case. That is  
18 a separate transaction. It involves some parallels  
19 to what happened in the transactions that we are  
20 concerned with here. And the evidence there was  
21 offered for your consideration on the question of  
22 whether or not there was a common plan or scheme in  
23 the actions of Mr. Weinberg, so that you can determine  
24 whether or not what happened there did happen in the  
25 situation here.

1  
2 Thirdly, the statement that was made by the  
3 defendant JOHANSON to the FBI agent, that was made  
4 after the conspiracy ended. And that statement may  
5 be used only in connection with your deliberations  
6 on Mr. Johanson. You may not use it against the other  
7 defendants.

8 Similarly, the false statement made by the  
9 defendant MYERS to Agent McHullen with respect to  
10 not knowing the Sheik's representatives, that also  
11 was made after the conspiracy was over and you may  
12 use that only in connection with weighing the conduct  
13 and state of mind of the defendant MYERS and not that  
14 of the other defendants.

15 I just want to get this organized here.

16 Now, with respect to the events at the Barclay  
17 Hotel on January 24, 25, Mr. Myers, Mr. Criden, and  
18 just MYERS on another occasion, you will recall there  
19 is some testimony that the defendant ERICHETTI was  
20 out of the MYERS' transaction as of October or November  
21 and if you find that to be so, of course, whatever  
22 happened at the Barclay Hotel will be after he ceased  
23 to be a member of the conspiracy, if you find a  
24 conspiracy to have existed, and if you find he was  
25 a member of it at an earlier date.

13a 1

84a

## Charge of the Court

2           You may not weigh the events at the Barclay  
3 as bearing against the defendant ERICHETTI if you  
4 find that he was no longer a member of a conspiracy  
5 there.

6

7

(Continued on next page.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## Charge

1  
2 THE COURT: Also, with respect to what  
3 happened at the Barkley, that evidence I admitted  
4 to assist in determining what was the defendant  
5 Myers' state of mind back in August. Was he  
6 pretending? Did he take the money in return for  
7 being influenced in an official act? Did he take  
8 it because of an official act? Did he act knowingly  
9 and corruptly? Those are, as I indicated, issues  
10 which you must determine.

11 And you may weigh his conduct and statements  
12 in January in determining what his state of mind  
13 may have been back in August.

14 All right, in summary on the conspiracy  
15 count, based on the foregoing instructions and all  
16 the evidence in the case, you must determine for  
17 each defendant whether the Government has established  
18 beyond a reasonable doubt: One, that a conspiracy  
19 as described in the indictment was wilfully formed;  
20 two, that the defendant wilfully became a member;  
21 three, that at least one of the overt acts was  
22 committed by one of the conspirators while the  
23 defendant was a member; four, that the overt act  
24 was knowingly done in furtherance of the conspiracy.

25 Aiding and abetting versus conspiracy

1  
2 with overt act.

3           You may have wondered what is the differ-  
4           ence between conspiracy under Count 1 and aiding  
5           and abetting under Count 2 that I discussed with  
6           you. How do you distinguish between a conspiracy  
7           to receive a bribe or criminal gratuity as charged  
8           in Count 1 and aiding and abetting their commission,  
9           as charged in Count 2?

10           The two concepts are indeed similar, but  
11           there is an essential difference.

12           In conspiracy, the essence of the crime  
13           is the agreement. Once a person has agreed with  
14           another to engage in criminal conduct, and one overt  
15           act by any of the conspirators has been committed,  
16           then the crime of conspiracy has been committed,  
17           even if nothing further is done.

18           With aiding and abetting, however, it is  
19           necessary not only that the substantive crime, that  
20           is the receipt of a bribe or a criminal gratuity  
21           actually occurred, but also that the aider and abettor  
22           do some affirmative act himself in furtherance of  
23           the substantive crime. That is, that he assist  
24           and actively participate in some way to accomplish  
25           the criminal venture.

1  
2 It is important, ladies and gentlemen, that  
3 you focus on the precise issues before you. The  
4 defendants are on trial in this case for the three  
5 counts in the indictment,

6 (1) Conspiracy to defraud the United  
7 States by agreeing to deprive the Government of  
8 the faithful and honest service of Michael O.  
9 Myes, and agreeing to receive money as a bribe or  
10 as a gratuity.

11 (2) Receiving money as a bribe or as a  
12 gratuity; and

13 (3) Traveling interstate with the intent  
14 to promote and thereafter promoting the unlawful  
15 activity of receiving money as a bribe or as a  
16 gratuity.

17 Defendants are not on trial for any other  
18 crimes. Their guilt or innocence must be  
19 determined solely on the basis of whether the  
20 Government has established beyond a reasonable  
21 doubt the essential elements of the particular  
22 crimes charged.

23 Nor is the Government, or the FBI, or  
24 Melvin Weinberg on trial here. You have heard  
25 a great deal of evidence and argument about the

## Charge

1  
2 FBI's ABSCAM operation and Mr. Weinberg.

3           As I explained to you earlier this week  
4 you are not to be concerned with whether the  
5 prosecution, or the FBI agents or Mr. Weinberg  
6 acted or whether the ABSCAM investigation was  
7 conducted legally or illegally, properly or  
8 improperly. Those are questions which must be  
9 decided by me at an appropriate time. But they  
10 are not questions which should affect your  
11 determination of the facts in this case and the  
12 guilt or innocence of the defendants. Your concern  
13 must be with what the defendants did or what they  
14 thought.

15           What the FBI agents and Mr. Weinberg did  
16 should concern you only to the extent that you  
17 find it affected the conduct and state of mind  
18 of a defendant or the credibility of any witnesses  
19 as to those matters.

20           You should also keep in mind that a trial  
21 is not a popularity contest.

22           Whether you like or dislike, or approve or  
23 disapprove of any of the participants - the  
24 attorneys, the defendants, Mr. Weinberg, Mr.  
25 DiLorenzo or any other witness -- should not enter

## Charge

5 1  
2 into your evaluation of the evidence, your weighing  
3 of the testimony and your determining of the issues.  
4 You must fairly and impartially evaluate all the  
5 evidence in the case, and determine if the Govern-  
6 ment has established beyond a reasonable doubt  
7 evidence of the essential elements of the crime  
8 charged.

9 You are to draw no unfavorable inference  
10 against the defendants or any of them because of  
11 because of the fact that they were tried together.  
12 You must give separate consideration, and render  
13 a separate verdict with respect to each defendant.  
14 And each is entitled to have his guilt or innocence  
15 determined from his own conduct, and from the  
16 evidence which applies to him, as if he were  
17 being tried alone. Guilt or innocence is an  
18 individual matter, and when you deliberate upon  
19 the verdicts in this case, you must determine  
20 the guilt or innocence of each defendant separately  
21 and individually.

22 As I have told you, however, unless you  
23 find defendant Myers guilty under Count 2, of  
24 receiving either a bribe or a gratuity, you may not  
25 find him guilty under Count 1 or 3, nor may you

## Charge

1  
2 find any other defendant guilty on any of the  
3 charges. If you do find the defendant Myers  
4 guilty under Count 2, however, then you may find  
5 any of the defendants either guilty or not guilty  
6 on any and all of the counts in the indictment.

7 With respect to each crime charged against  
8 the defendant, the Government must prove every  
9 element of the crime charged beyond a reasonable  
10 doubt. If the Government fails as to any element,  
11 you must acquit as to that crime.

12 The fact that one element of the crime may  
13 or may not exist has no bearing upon any other  
14 element.

15 If you conclude that one element of the crime  
16 has been established, you may not infer solely  
17 from the existence of that element the existence  
18 of any other element of the crime.

19 If any element of the crime has not been  
20 established beyond a reasonable doubt, your  
21 verdict must be "not guilty". On the other hand,  
22 you must convict the defendant if each of the  
23 elements of the crime has been proved beyond a  
24 reasonable doubt.

25 I have sought not to comment on the evidence

## Charge

1  
2 in any detail or to give any impression as to my  
3 own view, if I have one, of the relative weight  
4 of the evidence. However, if I have done so  
5 inadvertently, I ask you to disregard it entirely,  
6 because you are the sole judges of the facts.

7 Under your oath as jurors, you cannot allow  
8 a consideration of the sentence which may be  
9 imposed upon a defendant, if he is convicted, to  
10 enter into your deliberations, or to influence  
11 your verdict in any way. In the event of a  
12 conviction, the duty of imposing sentence rests  
13 solely with me.

14 In your deliberations, you are not to  
15 consider whether you approve or disapprove of the  
16 statutes which the defendants are charged with  
17 violating. The only question for you to consider  
18 is whether the Government has proved beyond a  
19 reasonable doubt the essential elements of the  
20 crimes as I have explained them.

21 Now, let us discuss your deliberations --  
22 how you should go about reaching your verdict.

23 When you retire to the jury room, your  
24 first duty will be to elect your foreman or forelady,  
25 who will preside over your deliberations.

## Charge

1  
2           During your deliberations, you should assume  
3 the attitude of judges of the facts rather than  
4 partisans or advocates.

5           Some of you have kept notes during the trial.  
6 You may take those notes with you to the jury  
7 room for your deliberations. Of course, just  
8 because one juror may have written down a note  
9 as to some bit of evidence does not necessarily  
10 mean his notation is correct. We all make  
11 mistakes in note taking, and in your deliberations  
12 you each should weigh carefully your own recollec-  
13 tions and notes as well as those of your fellow  
14 jurors. When you consider evidence to be found  
15 in the exhibits, as a precaution against possible  
16 inaccurate note taking, you should check the  
17 exhibits themselves in order to be satisfied that  
18 they actually show what your notes reflect.

19           Notes are simply an aid to memory and may  
20 not be given any greater weight or influence in  
21 the determination of this case than the recollec-  
22 tion or impression of other jurors with respect  
23 to the facts or the conclusions to be drawn from  
24 the facts. Any controversy between such a  
25 recollection and a juror's notes should, in any

## Charge

1  
2 event, be settled by asking to have the Court  
3 Reporter's transcript on the point read back to you  
4 for it is the Court record rather than any juror's  
5 notes upon which you must base your determination  
6 of the facts and ultimately your verdict.

7 Your duty is to weigh the evidence in the  
8 case, and to determine the guilt or innocence of  
9 the defendant solely upon the basis of the evidence  
10 and these instructions.

11 Each of you, as jurors, is entitled to  
12 your own opinion, but each of you should exchange  
13 views with your fellow jurors.

14 That is the very purpose of jury deliberation  
15 to discuss and to consider the evidence; to listen  
16 to the arguments of fellow jurors;

17 To present your individual views;

18 To consult with one another; and

19 To reach an agreement based solely and  
20 wholly on the evidence, if you can do so without  
21 violence to your own individual judgment.

22 Each of you must decide the case for yourself  
23 after consideration with your fellow jurors.

24 But you should not hesitate to change an  
25 opinion which, after discussion with your fellow

## Charge

jurors, appears to you to be erroneous.

However, if after carefully considering all the evidence, and the arguments of your fellow jurors, you entertain a conscientious view that differs from others, you are not to yield your judgment simply because you are outnumbered.

Your final vote must reflect your conscientious view as to how the issues should be decided.

The charges here are most serious.

A just determination of this case is important to the public;

It is equally important to these defendants.

Under your oath as jurors, you must decide this case without fear or favor, and solely in accordance with the evidence and the law.

If the Government has failed to carry its burden as to a defendant, your sworn duty is to acquit;

If it has carried its burden as to a defendant, you must not flinch from your sworn duty -- you must convict.

Shortly after you retire to deliberate, I will send into your a copy of the indictment and

11 1

## Charge

2

each of the exhibits which has been admitted into  
evidence.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

If you wish to have some portion so the  
testimony repeated, I will call you back into the  
Courtroom and have it read to you. When the  
Court Reporters have completed typing up my  
instructions to you, which probably will be within  
an hour or so, I will have a copy of my instructions  
sent to you so that it won't be necessary for  
you to come out and read it back to you if there  
is some portion you wish to hear.

With respect to the part about expert  
witnesses, I did not cover that. If you want  
that, send out a note and I will take care of that  
for you.

You must report a verdict as to each  
defendant on all counts of the indictment. You  
may find a defendant guilty or not guilty with  
the exceptions I have given you. You may find  
a defendant guilty or not guilty on any and all  
of the counts. A verdict on each count must be  
unanimous. I have prepared a form of verdict  
which you may find helpful in keeping track  
of your verdicts as you reach them. The Marshal

## Charge

1  
2 will give it to you along with the indictment  
3 and the exhibits.

4           The Marshal will be available outside the  
5 jury room to report when you have reached your  
6 verdict or to let me know if there are any  
7 questions which you wish to have answered.

8           When you have arrived at your verdict,  
9 ready to report something, tell the Marshal but  
10 do not disclose what your verdicts are. I will  
11 have the Foreperson announce them orally back  
12 in the Court.

13           Take a short recess during which counsel  
14 will review the charge with me to make certain  
15 I haven't misspoken or omitted something.

16           Don't discuss the case.

17           (The jury left the Courtroom.)

18  
19 (Continued on next page.)

20           \* \* \*

\* \* \* \*

(The jury thereupon returned to the Courtroom at 11:45 o'clock A.M.)

THE COURT: There are just a couple of things on the charge, ladies and gentlemen. You will recall in connection with the events of the Barclay, I have told you that your consideration of those events should be limited to ascertaining what was the defendant Myers' state of mind back in August.

However, counsel have pointed to me that I also read them to you as overt acts numbers 11 and 12. In view of the limitation that I placed upon their use in evidence, I will strike overt acts numbered 11 and 12 and you should just consider that they are not part of the indictment as overt acts. And you will recall that I told you that with respect to the overt acts it is only necessary that one overt act be established beyond a reasonable doubt and all the other circumstances that related to that, that it has to be an overt act during the time that a particular person was a member. In other words, if your conclusion is that there was a conspiracy and the membership

1  
2 varied from time to time, in order to find that  
3 a particular member of the conspiracy was guilty  
4 of conspiracy, you would have to find that there  
5 had been an overt act committed during the time  
6 that he was a member. Assuming that there was  
7 only one overt act and it occurred before someone  
8 joined or after he withdrew, then he wouldn't  
9 have been guilty of conspiracy. If it occurred  
10 while he was a member then he would be. So then  
11 the only effect that has on anything that has  
12 happened here is when you read the indictment just  
13 pretend that overt acts 11 and 12 aren't there.  
14 Everything else is the same.

15 With respect to the expert witness charge  
16 I said I was not going to read it to you. What  
17 I will do is when I have the written charge sent  
18 in to you I will have copies of the transcript  
19 of what I said before so that will also be in  
20 front of you and itself will be a refresher.

21 There is one other thing. In talking about  
22 the various crimes that are charged here I  
23 apparently referred on various occasions to when  
24 the crime was committed, or the conspiracy began,  
25 or this conspiracy had ended, or something happened

1  
2 after the conspiracy ended. You of course  
3 understand that is just a manner of speech.  
4 Whether or not any crime is committed is your  
5 determination. Whether or not there was a  
6 conspiracy is your determination. Every fact in  
7 this case is for your determination. And to the  
8 extent that I may have spoken as if there were  
9 crimes, as if there were conspiracies, and so  
10 forth, that is just a means of talking about or  
11 getting into a discussion as to the various matters  
12 that we had to cover. And it was not in any way  
13 to imply that I had made a determination, or  
14 there had been a crime committed, or there was a  
15 conspiracy, or that any of the facts that I had  
16 talked about are actually facts. These are all  
17 matters for your decision and for your decision  
18 only.

19 All right. We are now at the stage that I  
20 spoke to you about almost three weeks ago. We  
21 started with 16 jurors. We are still very fortunate  
22 to have all 16 of you ready to go to work.  
23 Unfortunately, as I explained at the beginning,  
24 only 12 of you are going to have that duty and  
25 privilege, which means Barnetta Shefrin, Reginald

1  
2 Allen, Patricia Langford and Hyman Wattenberg,  
3 your services as jurors in this case is at an  
4 end.

5 I told you at the beginning that you should  
6 not feel that this in any way -- that your  
7 participation in the case is of any less importance  
8 than if you were on the deliberating jury. It is  
9 just under the rules it is 12 and it is not 16.  
10 Your part of this case has been just as important  
11 a part as that of any of the other 12 jurors.  
12 I want to thank you for the near heroic labors  
13 that you have put in here with what I am told  
14 is a rather stiff hand. You have put in a lot  
15 of work. You have been very attentive. I  
16 want to thank you for what you have done. You  
17 have made a significant contribution to the case  
18 because your presence here has made it possible  
19 at this point to have the case reassured of going  
20 on to a just conclusion. When the other jurors  
21 retire to deliberate you are excused and relieved  
22 of all strictures that I have placed upon you.

23 Now, your oaths sum up your duties, ladies  
24 and gentlemen, and that is without fear or favor  
25 to anyone you will well and truly try the issues

1  
2 between these parties according to the evidence  
3 given to you here in Court and according to the  
4 laws of the United States.

5 You may now retire to the jury room and  
6 begin your deliberations.

7 (The following occurred at 11:52 o'clock  
8 A.M. in open Court.)

9 THE CLERK: Ladies and gentlemen of the  
10 jury, take your pens and pencils with you.

11 The four alternates, I would like to see  
12 you on the side. You can bring me back your  
13 pads and pencils.

14 Now, counsel, I will be out in a minute  
15 to collect all of your Exhibits.

16 (The jury thereupon retired from the  
17 Courtroom at 11:53 o'clock A.M. to begin their  
18 deliberations.)

19  
20 \* \* \*  
21  
22  
23  
24  
25

\* \* \*

13 THE COURT: Ladies and gentlemen, I have your  
14 notes.

15 Take the second one first, Court's Exhibit  
16 21, which says:

17 "Also, we requested a copy of your instructions  
18 of this morning two to three hours ago and still  
19 have not received them. "Receipt of them is  
20 imperative to further our deliberations."

21 I can appreciate your frustration. The delay  
22 has been due to the fact that the Court reporters  
23 did not get them typed quite as quickly as I had  
24 hoped they would be able to. They had them for  
25 perhaps 35 minutes. They are being proofread.

1  
2 I had just this minute finished reading them.  
3 There were a couple of changes I had to make, where  
4 a typographical error could probably create some  
5 problems, which we will correct in longhand for you.  
6 There are a few typographical errors which are  
7 obviously seen.

8 One admonition I should give you with respect  
9 to the instructions: you should not single out any  
10 instruction or find a line here and say that solves  
11 the problem. You must consider the instructions as  
12 a whole and apply them in the way that I gave them  
13 overall.

14 Now, with respect to Court's Exhibit 20, which  
15 is your note about, first, "may we be provided with  
16 Court stenographer's transcript of the Ellie Cook  
17 testimony."

18 I answered that to you, saying:

19 "I cannot send you the transcript." However,  
20 I will have any part or all part of it read to  
21 you here in the Courtroom. Please let me know what  
22 part or parts you wish to hear."

23 "Yes! Testimony of August 14th of direct  
24 examination of the conversation between Myers and  
25 Johanson."

1  
2 Now, counsel and I have conferred about this,  
3 and if I understand your request correctly, it is  
4 that you want only the testimony of Ellis Cook on  
5 his direct examination, what he said about a conver-  
6 sation between Congressman Myers and Mr. Johanson.

7 We find that at page 1151 of the record.

8 The question is:

9 "Then what happened?"

10 "A Congressman Myers came back in with  
11 Mr. Johanson. They introduced me to Congressman  
12 Myers and I went back to my own office. I was in  
13 Mr. Criden's office at that time. A few minutes  
14 later they called me in. Apparently, Congressman  
15 Myers had left."

16 Counsel and I are agreed there is nothing  
17 more in the direct testimony of Mr. Cook that pertains  
18 to conversations or dealings in the presence of  
19 Mr. Cook between Myers and Johanson.

20 My question to you, is that what you wanted  
21 to hear or do you have reference to something else?

22 THE FOREPERSON: Something else?

23 THE COURT: If you can tell me what it is,  
24 fine. If you want to go back and phrase it for  
25 me precisely in a note, you can do that, too.

1  
2 (Pause)

3 THE FOREPERSON: Your Honor, the jury has  
4 selected me to be foreman.

5 The conversation that we requested is the one  
6 with Congressman Myers and Mr. Johanson in Mr.  
7 Johanson's home in Longport prior to the August 22nd  
8 meeting.

9 THE COURT: Was that in the testimony of  
10 Congressman Myers?

11 THE FOREPERSON: It was also in the testimony  
12 of Congressman Myers; but we believe we have reference  
13 to it in the testimony of Mr. Cook as well.

14 THE COURT: Is it Mr. Cook's version that you  
15 want to hear?

16 THE FOREPERSON: Yes.

17 THE COURT: Not Congressman Myers'?

18 THE FOREPERSON: Yes.

19 THE COURT: Yes, meaning <sup>not</sup> ~~no~~ Congressman  
20 Myers'?

21 THE FOREPERSON: Yes, you are correct. WE  
22 want Mr. Cook's and not Mr. Myer's.

23 THE COURT: All right. I understand what it  
24 is you wish to hear. Give me a chance to find it  
25 with counsel and we will call you back in when we

1  
2 can locate it, and I will have the charge for you  
3 very shortly.

4 THE FOREPERSON: Thank you very much.

\* \* \*

1  
2 THE COURT: Ladies and gentlemen, from the  
3 direct testimony of Mr. Cook, page 1135;

4 "Q Did you have occasion to discuss this  
5 matter with Mr. Cridan and Mr. Johanson again?

6 "A At a later time. And, I would say, within  
7 a week or so, Mr. Johanson had indicated he had  
8 talked with Congressman Myers and he would be willing  
9 to meet with the Sheik or the Sheik's representatives.  
10 I don't remember which one it was.

11 "Q And did Mr. Johanson say anything else?

12 "A At that point, no, sir."

13 That's all we can find that fits into the  
14 category of what you gave to us. So it's the answer  
15 to the question you have asked.

16 I don't mean to say you can't hear anything  
17 else. You can have the whole thing read back to  
18 you, the whole transcript, I suppose if necessary; but  
19 I have tried to answer the question that you have asked.

20 Now, you may have to ask a different question  
21 if you are looking for something else. That's  
22 all for the moment.

23 I will have the transcript and the business on  
24 the charge sent into you in a minute. You may  
25 resume your deliberations.

\* \* \*

10 THE COURT: Ladies and gentlemen, I have  
11 your note. It indicates that you have reached  
12 a verdict.

13 Would you take the verdict, please?

14 THE CLERK: Yes, your Honor.

15 Madam Forelady, would you please rise?

16 Madam Forelady, ladies and gentlemen of  
17 the jury, have you agreed upon a verdict?

18 JUROR NUMBER ONE: Yes, we have.

19 THE CLERK: I refer to the form of verdict.

20 How do you find the defendant Myers on  
21 Count One?

22 JUROR NUMBER ONE: Guilty.

23 THE CLERK: How do you find the defendant  
24 Errichetti on Count One?

25 JUROR NUMBER ONE: Guilty.

4  
1  
2 THE CLERK: How do you find the defendant  
3 Johanson on Count One?

4 JUROR NUMBER ONE: Guilty.

5 THE CLERK: How do you find the defendant  
6 Criden on Count One?

7 JUROR NUMBER ONE: Guilty.

8 THE CLERK: How do you find the defendant  
9 Myers on Count Two?

10 (Bribery)

11 JUROR NUMBER ONE: Guilty.

12 THE CLERK: How do you find the defendant  
13 Errichetti on Count Two?

14 (Bribery.)

15 JUROR NUMBER ONE: Guilty.

16 THE CLERK: How do you find the Defendant  
17 Johanson on Count Two?

18 (Bribery.)

19 JUROR NUMBER ONE: Guilty.

20 THE CLERK: How do you find the Defendant  
21 Criden on Count Two?

22 (Bribery)

23 JUROR NUMBER ONE: Guilty.

24 THE CLERK: How do you find the Defendant  
25 Myers on Count Three?

1 JUROR NUMBER ONE: Guilty.

2 THE CLERK: How do you find the defendant  
3 Errichetti on Count Three?

4 JUROR NUMBER ONE: Guilty.

5 THE CLERK: How do you find the Defendant  
6 Johanson on Count Three?

7 JUROR NUMBER ONE: Guilty.

8 THE CLERK: How do you find the Defendant  
9 Criden on Count Three?

10 JUROR NUMBER ONE: Guilty.

11 THE CLERK: The Court having received your  
12 verdict you the jury say you find the defendants  
13 Myers, Errichetti, Johanson and Criden guilty on  
14 counts one, two on bribery and count three, so say  
15 you all?

16 JURORS: We do.

17 THE CLERK: Please be seated. Thank you.

18 THE COURT: Ladies and gentlemen, that  
19 concludes not only three long weeks of work but  
20 your obligations in connection with this trial.

21 Does someone wish to have the jury polled?

22 MR. DUFFY: Yes.

23 MR. BROWN: Yes.

24 THE COURT: Bill the jury.  
25

1  
2 THE CLERK: Juror number one, is that  
3 your verdict?

4 Starting on this side, Juror Number One,  
5 is that your verdict?

6 JUROR NUMBER ONE: Yes.

7 THE CLERK: Juror number two, is that your  
8 verdict?

9 JUROR NUMBER TWO: Yes.

10 THE CLERK: Juror number three, is that  
11 your verdict?

12 JUROR NUMBER THREE: Yes.

13 THE CLERK: Juror number four, is that  
14 your verdict?

15 JUROR NUMBER FOUR: Yes.

16 THE CLERK: Juror number five, is that  
17 your verdict?

18 JUROR NUMBER FIVE: Yes.

19 THE CLERK: Juror number six, is that your  
20 verdict?

21 JUROR NUMBER SIX: Yes.

22 THE CLERK: Juror number seven, is that  
23 your verdict?

24 JUROR NUMBER SEVEN: Yes.

25 THE CLERK: Juror number eight, is that

1  
2 your verdict?

JUROR NUMBER EIGHT: Yes.

3  
4 THE CLERK: Juror number nine, is that  
5 your verdict?

JUROR NUMBER NINE: Yes.

6  
7 THE CLERK: Juror number ten, is that your  
8 verdict?

JUROR NUMBER TEN: Yes.

9  
10 THE CLERK: Juror number eleven, is that  
11 your verdict?

JUROR NUMBER ELEVEN: Yes.

12  
13 THE CLERK: And juror number twelve, is that  
14 your verdict?

JUROR NUMBER TWELVE: Yes.

15  
16 THE CLERK: Thank you.

\* \* \*

