

1 when the prosecutor asked you that the whole purpose, or one
2 of the major purposes of this phony indictment in state court
3 was for you to -- for -- to somehow be maneuvered into Judge
4 Bongiovanni; correct?

5 A Correct.

6 Q Okay. And with the Jack Jerdan conversations -- and the
7 purpose of it was twofold. One was to try to get Judge
8 Bongiovanni, right? And the second was to try to get Jack
9 Jerdan and Paul Dottore, wasn't it?

10 A Correct.

11 Q So what you were doing is, they created this indictment
12 where you were going to then tell Dottore and Jerdan so that
13 they could start talking about the Cal Fed fraud case, right?

14 A Correct.

15 Q Okay. I mean, that was the scheme, wasn't it, that --
16 that you were hired to participate in?

17 A Yes.

18 Q Okay. And that's hired by the FBI and Metro?

19 A Correct.

20 Q Okay. Now, so all the conversations that you're going
21 through from September on about your bribe are all pursuant to
22 your directions from the FBI, right?

23 A Correct.

24 Q So when you were testifying on direct how you wanted Jack
25 Jerdan to pay to help you with fees, that was part of the

1 scheme that had been -- that had been dreamed up for your
2 participation against Dottore and Jerdan, right?

3 A It was Dottore's idea and I went along with it.

4 Q Okay. Well, you went along with the idea to try to get
5 indicted with Dottore?

6 A No.

7 Q Oh.

8 A You said Jerdan --

9 Q Okay.

10 A -- getting money from Jerdan, that's what you said.

11 Q All right. Now, with that then, you have the
12 conversations, and in those conversations on the Cal Fed, that
13 starts, you said, around what, December, right?

14 A Excuse me?

15 Q December of 1994?

16 A The first conversation?

17 Q Yeah, around -- with Dottore, somewhere around December
18 6th?

19 A Yes.

20 Q Okay.

21 A December 6th is when I let them know I had that letter --

22 Q Okay.

23 A -- about that.

24 Q And that was all prearranged pursuant to this scheme,
25 right?

1 A Correct.

2 Q Okay. And so they gave you this thing called a Markham
3 notice saying that you were going to be indicted?

4 A That's correct.

5 Q And then you ran to Dottore with it, right?

6 A [No audible response].

7 Q Now, one of the things that you did during this period of
8 time was try to meet with Gerard Bongiovanni, correct?

9 A I didn't try to meet with him personally, no, sir.

10 Q Well, wait a minute, we just heard a conversation where
11 you said that you called Dottore up and asked him, could you
12 go out on the golf course and play golf with him, didn't you?

13 A That was in January.

14 Q Okay.

15 A You were talking about December.

16 Q Okay.

17 A Okay.

18 Q In January.

19 A Okay.

20 Q And that idea came from the FBI, didn't it?

21 A Correct.

22 Q Okay. And the idea of being indicted came from the FBI.
23 Then the idea of getting an O/R before the surrender date was
24 the FBI's, too, wasn't it?

25 A Correct.

1 Q Okay. So what had happened is, the matter had actually
2 been placed on calendar for you to surrender on the
3 indictment, right?

4 A I don't know if it was placed on the calendar for me to
5 surrender; I really don't know. I'm --

6 Q Well, you had conversations with Dottore that you were
7 supposed to come in.

8 A I wanted him to get an attorney so I could surrender --

9 Q Okay.

10 A -- yes.

11 Q And that was the conversation that you had with Mr.
12 Dottore where he said, it's foolish to flee to take ten,
13 twelve days to get bail, right?

14 A Correct.

15 Q And so there actually was a court date set for you to
16 come into court and what we call "return the indictment."

17 A Okay.

18 Q Is that correct?

19 A I believe so.

20 Q Okay. Now, then what came about was, where the FBI --
21 and I'll use "the FBI" generically to include also Mr.
22 Nicholson or anyone in Metro, okay?

23 A Okay.

24 Q Okay. So when we're talking -- then the FBI decides,
25 well, what we want is, we want Gerard Bongiovanni to O/R you

1 the day before; right?

2 A Correct.

3 Q And so what they did is, they set up this scheme where
4 you would then get arrested, and then Judge Bongiovanni would
5 O/R you; right?

6 A I asked Paul to get O/R'd, yes.

7 Q Well, that was pursuant to this scheme you're dealing
8 with the FBI, right?

9 A Well, they were just going to let me go the next day.
10 I'm the one who put the pressure on 'em to see if I could get
11 O/R'd earlier.

12 Q Well -- they weren't the ones that put the pressure on
13 you to get arrested, they're the ones that actually went out
14 the day before and had Metro police officers, pursuant to an
15 agreement with you, to get arrested, didn't they?

16 A Correct.

17 Q They're the ones that set that up, right? I mean --

18 A The actual arrest, yes.

19 Q Yeah. You didn't call Metro and said, come on down and
20 get me?

21 A No.

22 Q I didn't think so.

23 Now, you then involved Amy Baker into it, too, didn't
24 you?

25 A Yes.

1 Q Okay. So you had her participate in this for you?

2 A Yes.

3 Q Okay. Now what happened is, and I don't want to have to
4 go through and play these, but you were -- you called Mr.
5 Dottore and you appeared to be very frantic when he told you
6 that you weren't gonna get out that night?

7 A That's correct.

8 Q Okay. I don't know if that was contrived or not, but
9 nevertheless you told Mr. Dottore that you wanted him to get
10 you out immediately?

11 A That's correct.

12 Q And I think you told him on two or three occasions, is
13 that correct?

14 A At least.

15 Q Okay. And you were making those calls from inside the
16 jail?

17 A Yes, I was.

18 Q Now you said in one of those calls that you were
19 interviewed by Intake Services, were you? The pretrial
20 release people?

21 A Yes, sir.

22 Q All right. So you filled all that information out?

23 A I believe so.

24 Q Okay. And a matter of fact, the next day when you were
25 released, you were released through the auspices of the

1 pretrial release where you had to sign an agreement on
2 appearing, didn't you?

3 A I believe so.

4 Q Yeah. Okay. Now, the thing that happened, if I -- if I
5 -- when you were going through the conversations that were
6 being played, you were telling us that when Dottore was saying
7 that he was talking to people, you assumed -- or you said that
8 you thought he was talking to Judge Bongiovanni?

9 A On certain occasions, yes.

10 Q Okay. Now I'm talking the day before, the day before you
11 get out, when you're making these calls to Dottore?

12 A Depending on the conversation, if you'd like to show it
13 to me.

14 Q Okay. Well, where he was saying that he was going to
15 call "his guy," remember that, and then he told you -- and
16 then he finally told you that he was gonna get you out?

17 A Was he also with his guy at the bowling alley, that guy,
18 is that the conversation you're referring to? I'd like to see
19 what you're talking about.

20 Q No, no. No, I'm talking the night you get arrested,
21 okay? You -- well, let's leave it that you were calling
22 frantically to Paul Dottore to get you out.

23 A That's correct.

24 Q Okay. And that was part of the scheme, wasn't it?

25 A Yes.

1 Q Yes. And you didn't get out that night, did you?

2 A No.

3 Q Okay. Now, then after you get out the next day, you get
4 out through the -- and -- through the pretrial release
5 program, and you had to get fingerprinted and all that stuff,
6 right, on the execution of the warrant?

7 A That's correct.

8 Q Okay. After that, you then -- you -- before this you
9 said you had a conversation with Mr. Dottore, and I think we
10 played it, and that you wanted five thousand -- Dottore said
11 the amount was five thousand dollars (\$5000) --

12 A Correct.

13 Q -- correct? And you said, that's to get the case
14 dismissed?

15 A I don't know if those were my exact words, but -- I'd
16 like to see it, and --

17 Q Okay. If we could --

18 A -- if I said it, I'd be more than happy to say I said it.

19 Q What's that?

20 A I said, if I said it, I'd be more than happy to say I
21 said it --

22 Q Okay.

23 A -- if I could see it.

24 Q Well, it would be on the -- I believe it's on that 12
25 tape where -- or would it be on 12? The 6 tape? It's the

1 tape --

2 MR. JOHNSON: I think it's 122, is what you're
3 looking at.

4 MR. PITARO: Okay.

5 BY MR. PITARO:

6 Q If you got it up there. You may have it in those
7 binders.

8 THE WITNESS: 122?

9 THE COURT: 122?

10 THE WITNESS: Okay.

11 MR. PITARO: The Government binders.

12 THE WITNESS: I think I got it right here.

13 BY MR. PITARO:

14 Q And what I'm referring you to is where -- where Dottore
15 tells you that he doesn't want as much as -- as much as you
16 guys were gonna take from Olejack -- as a matter of fact,

17 you're the one who says, as much as Louie, and minus our end.

18 And then he says, "No, make it five thousand." Right?

19 MR. JOHNSON: Mr. -- Mr. Pitaro, I'm sorry, the tape
20 that you're referring to --

21 MS. SHOEMAKER: 93.

22 MR. JOHNSON: -- is 92 -- or 93, excuse me.

23 MR. PITARO: 93.

24 THE WITNESS: 93? Okay.

25 (Pause in the proceeding)

1 BY MR. PITARO:

2 Q Are you there?

3 THE COURT: What is the question, Mr. Pitaro?

4 BY MR. PITARO:

5 Q That's where you start out with the five thousand dollars
6 (\$5000), right?

7 THE COURT: I think he's indicated five thousand
8 dollars (\$5000). I think your question was --

9 THE WITNESS: I -- one of the conversations I did --

10 THE COURT: Just a moment. I think your question
11 was, for that -- was that for a dismissal? Is that the only
12 question you have?

13 MR. PITARO: Yes.

14 THE COURT: Okay.

15 BY MR. PITARO:

16 Q I mean, the -- the initial -- what you started out with,
17 the initial five thousand dollars (\$5000) was to get your case
18 dismissed, right?

19 A Correct.

20 Q Okay. Now, I -- I want to just carry through that, and
21 maybe we can do it without too much difficulty, but. The five
22 thousand dollars (\$5000) to get it dismissed, you then -- you
23 then get indicted, you then get out, and then you go see Mr.
24 Flangas, right?

25 A Correct.

1 Q Now, Mr. Flangas -- you then asked Mr. Flangas, you want
2 this matter resolved quickly, right?

3 | A Correct.

4 Q Okay. And you tell Dottore you want it resolved quickly,
5 correct?

6 | A | Min-hum.

7 Q And I'll just carry you through the sequence, we might be
8 able to do it easier this way. And so -- and you're having
9 conversations with the FBI as to -- as to what it is to say to
10 Mr. Flangas and to Mr. Dottore concerning your case, right?

11 A Go ahead.

12 Q Is that correct?

13 | A | Correct.

14 Q Okay. So what we have then is, is you then get with Mr.
15 Dottore and you tell Mr. Dottore, okay, I want the case
16 dismissed quickly. And that doesn't happen, does it?

17 A That doesn't happen, no.

18 MR. JOHNSON: Objection, that's a compound question.

19 THE COURT: Well, I think he understands the
20 question, and it's been -- I think the evidence is clear it
21 doesn't happen.

22 | MR. PITARO: Okay.

23 THE COURT: Let's move on.

24 BY MR. PITARO:

25 Q Now -- now, what you did then is, then after talking with

1 the FBI, you decide that you'll pitch that the case gets
2 dismissed by way of a writ, isn't that correct?

3 A I don't decide anything.

4 Q No. I'm saying that you talked to Mr. Dottore about a
5 writ after talking with the FBI people about seeing about
6 getting the case dismissed by way of a writ, correct?

7 A I believe we asked for a writ, yes.

8 Q Okay. And first, there is conversations that were played
9 earlier that you and Dottore said, yeah, that sounds good, we
10 can get the case dismissed with a writ, correct, initially?

11 A Initially --

12 Q Yeah.

13 A -- that was Mr. Flangas's suggestion.

14 Q Okay. Well, Mr. Flangas never filed a writ, did he?

15 A No, sir.

16 Q And then Mr. Dottore then tells you, well, we can't grant
17 a writ, can we?

18 A That's correct.

19 Q Okay. But the problem was that Mr. Dottore's telling
20 you, well, they said they can't grant a writ, but there was
21 even a writ filed, was there?

22 A I don't know if there was or not.

23 Q Okay. Well, that's the impression you got, wasn't it --

24 A Yes.

25 Q -- there was no writ filed --

1 A That's --

2 Q -- correct?

3 A -- the impression I got.

4 Q Okay. And you discussed the fact that the case never got
5 dismissed by writ and Flangas never even filed one, correct?

6 A That's correct.

7 Q Okay. And then you discussed with the FBI, okay, well,
8 let's see if we can get the case moved earlier again. This is
9 after the writ, do you remember that?

10 A I know we asked for a delay at one time.

11 Q No, this is before you get to the delay; this is about
12 February.

13 A We asked to have it moved up?

14 Q Yeah. You went to Mr. Dottore and said, I don't want to
15 hang around, can I get this case moved up?

16 A That's possible.

17 Q Okay. And what happened is, even though you supposedly
18 had the Judge bribed, it didn't get moved up, did it?

19 A I don't believe so.

20 Q Okay. Then you asked Mr. Dottore, after talking with the
21 FBI, we want to waive the jury, don't we, I want a bench
22 trial, that is the judge decides the case instead of a jury?

23 A That was a suggestion I made to Mr. Flangas.

24 Q That's right. And you also told Mr. Dottore that, that
25 that's what you wanted to do?

1 A I told him I was going to suggest that to Mr. Flangas.

2 Q Well, let me see if I can find it, because isn't it true
3 that Mr. -- you said in one of the conversations, "Paul,
4 remember you told me I didn't have to have a jury?" That I
5 don't have to go in front of a jury, and I decide I don't want
6 to go in front of a jury, and I want to waive the jury?

7 A Yes.

8 Q Okay.

9 A I said that.

10 Q Okay. And so then you suggested that to Mr. Dottore to
11 see what we could do. And that was based upon conversation
12 with the FBI, wasn't it?

13 A I believe I suggested it to the attorney, Mr. Flangas.

14 Q Yes. And you also discussed it with Mr. Dottore, didn't
15 you?

16 A I mentioned it to him, yes.

17 Q Okay. And the reason you were mentioning it to Mr.
18 Dottore is that you were hoping this information -- you were
19 told based upon this bribe you'd paid was going to get
20 filtered back to Judge Bongiovanni and that's what was going
21 to happen, right?

22 A Possibly.

23 Q Yes. And that didn't happen, did it?

24 A No, that didn't.

25 Q Okay. And then you go in -- and let me -- let me just

1 get here. I mean, Mr. Flangas is a bit of a cantankerous man,
2 isn't he?

3 A You could say that.

4 Q Well, you went -- matter of fact, did a couple of times
5 in the tapes, right?

6 A Yes, I did.

7 Q You said that you -- given -- well, it almost appeared
8 you were afraid that every time you called him he was
9 screaming at you.

10 A That's true.

11 Q And probably was, wasn't he?

12 A Yes, he was.

13 Q Okay. And so then you decide, with the FBI there, that
14 you can't -- you're not gonna get the -- you didn't get the
15 bench trial that you wanted, okay, that you were going to have
16 a jury trial, right?

17 A I think we had it postponed.

18 Q Yeah, you did have it postponed --

19 A Okay.

20 Q -- okay, and that was on August 7th, wasn't it?

21 A I don't know the exact date.

22 Q Okay. Now during that whole period of time, you have
23 told us in the tapes that we've listened to and your testimony
24 that during this whole period of time Dottore's telling you
25 that everything's going to be okay, don't worry about it.

1 A That's correct.

2 Q Okay. And yet by the time we get done with the case and
3 we had that conversation that you played, Dottore is finally
4 telling you because you had told him Flangas wants to go to
5 trial, right?

6 A Correct.

7 Q And maybe it was true and maybe it wasn't, but it
8 appeared that you were saying, wait a minute, what the heck is
9 happening, I'm going to be in a jury trial in this case,
10 right?

11 A I would have been in a jury trial, yes.

12 Q Yeah. And that caused you a bit of pause, didn't it?

13 A I wondered why it had to be that way, yes.

14 Q Yes. And then Dottore who's telling you that he's got
15 this case fixed -- now remember we're back now when this is
16 happening, we're down in December of '95, aren't we?

17 A I believe it was late December, yes.

18 Q Okay. I'm sorry, I misspoke. It was -- we're talking
19 August, September of '95.

20 A In that area, yes.

21 Q Yeah. And now with this bribe that has been paid, that
22 Dottore is telling you not to worry, the last thing he tells
23 you, hey, don't worry about it. Maybe Pete will win it and
24 maybe he won't win it, but don't worry because remember you
25 still got the judge, right?

1 A That's what he said, yes.

2 Q That's what Dottore told you.

3 A Correct.

4 Q Okay. So every time you told Dottore for almost a year
5 that you wanted something done, it never really got done, did
6 it?

7 A I'm not real sure if anything ever got done or not.

8 Q That's right. Even though Dottore kept telling you that
9 things were going to get done.

10 A That's correct.

11 Q Right? And he told you they were going to get done
12 because he's with the judge, and every time you would ask
13 something he'd call you back in a day and, geez, I was just
14 with the guy, and he told -- don't worry, right?

15 A He would say that.

16 Q Um-hmm. And actually there was a point when you did
17 worry, didn't you?

18 A Well, that --

19 Q Even with the FBI on your side, you were beginning to
20 worry, weren't you?

21 MR. JOHNSON: Objection, Your Honor.

22 MR. PITARO: Why, I think that's --

23 THE COURT: You may respond.

24 BY MR. PITARO:

25 Q Huh?

1 A Not really worried.

2 Q Well --

3 THE COURT: He's answered, counsel. Let's move on.

4 MR. PITARO: Okay.

5 BY MR. PITARO:

6 Q So what we really have here then is a series of
7 conversations that you, working for the FBI, and Mr. -- Mr.
8 Dottore trying to get money out of you, okay, is telling you
9 what's going to happen and it doesn't, and the crowning thing
10 was the FBI told you, don't tell Flangas, right?

11 A Correct.

12 Q And then Dottore told you, don't tell Flangas, correct?

13 A That's correct.

14 Q Now isn't it true that during this period of time that
15 you had asked about Judge Bongiovanni and Dottore said he
16 doesn't want to meet with you, right, like in the golf course?

17 A Correct.

18 Q And as a matter of fact, you called him one time. Now
19 remember, this is the man that you've got bribed, okay, and
20 you probably said that maybe a hundred times today, that
21 you've got bribed, that Dottore tells you the next day, I
22 couldn't talk to you, the judge was there, right?

23 A Correct.

24 Q Then he told you, I don't want the judge to know I'm
25 involved, isn't that correct?

1 A Yes.

2 Q And actually, why don't we get the tape where you are
3 told by Dottore, and maybe you have it in front of you, but
4 you're told by Dottore, one, I ain't going through the judge,
5 I'm going through the law clerk, right, remember that one?

6 A Was that pertaining to getting me out?

7 Q Yeah.

8 A When I was in jail?

9 Q Yes.

10 A Vaguely remember a --

11 Q Yes.

12 A -- conversation where he mentioned the law clerk, yes.

13 Q Um-hmm. And what he said was, well, the judge isn't
14 going to have anything to do with it. The law clerk's my guy
15 that I'm talking to, right?

16 A I don't remember it quite like that --

17 Q Okay.

18 A -- but I'd like to see it.

19 Q Well, this was the -- this was actually the tape where
20 you body bugged Dottore at the Tropicana Hotel. Remember that
21 one?

22 A I remember a tape at the --

23 Q Um-hmm.

24 A -- Tropicana Hotel, yes.

25 Q Do you also remember a conversation with Dottore where in

1 fact Dottore said, the fat guy can't know anything about it?

2 A Meaning his involvement in the bank fraud?

3 Q Meaning his involvement of the -- the fat guy can't know
4 about it.

5 A Know about what?

6 MR. JOHNSON: Your Honor, I think if we're going to
7 get to this specific, Mr. Pitaro should show Mr. Salem which
8 statement he's --

9 THE COURT: Well, I think Mr. Salem has responded
10 that the question is that the fat guy shouldn't know about it
11 and the response is the bank fraud.

12 BY MR. PITARO:

13 Q Okay. All right. Let me ask you this. Dottore never
14 told you the fat guy shouldn't know about the bank fraud
15 because -- but the fat guy can know I'm going to bribe him,
16 did he?

17 A No, he didn't want him to know about the bank fraud.

18 Q Okay. Well, none of the tapes that we listened to he
19 ever said the bank fraud, did he?

20 A He says his involvement, yes.

21 Q Okay. His involvement. Well, his involvement was that
22 he was bribing the judge, right?

23 A Depends on how you interpret it.

24 Q Okay.

25 A I interpreted it --

1 Q And you interpreted it --

2 A -- as his involvement in the bank fraud.

3 Q -- one way.

4 MR. JOHNSON: Objection, Your Honor.

5 BY MR. PITARO:

6 Q And you interpreted it one way, right? Is that correct?

7 A That's my interpretation.

8 Q Okay. And Mr. Dottore told you that I won't have any in
9 any more, correct?

10 A Finish the statement. If what?

11 Q If the fat guy knows about what I'm doing?

12 A Doing about what?

13 Q Well --

14 A Maybe we should hear that tape because I'm --

15 Q Okay.

16 A -- vague about that.

17 Q All right. Well, you testified to it earlier in the day.

18 (Off-record colloquy)

19 Q While we're finding those, let's go to the scam of Jack
20 Jerdan, okay? Now what you said is that you participated in
21 this scam, i.e., that you were trying to get money from
22 Jerdan, correct?

23 A What I participated in was, when you have people involved
24 in something, if one of them was to go down, the other two
25 would always or should jump to his side to help him.

1 Q Is that known as honor among thieves?

2 A Well, whatever it's known as, if one person went down and
3 didn't ask the other two --

4 Q Um-hmm.

5 A -- then they would think possibly that he had cut a deal.

6 Q Well, you had -- but your case was a little different,
7 wasn't it?

8 A No.

9 Q Well, sure it was. Didn't you tell Mr. Dottore to tell
10 Mr. Jerdan that if he didn't pay, you would cut a deal?

11 A After Mr. Dottore had told Mr. Jerdan that he had already
12 given me eighteen hundred dollars (\$1800).

13 Q Then you and Mr. Dottore, you told us on direct, you guys
14 agreed to that --

15 A Yes.

16 Q -- lie, right?

17 A Yes, we did.

18 Q And you engaged in perpetrating this lie on Mr. Jerdan,
19 didn't you?

20 A Yes, I did.

21 Q And Mr. Dottore persisted in perpetrating this lie on Mr.
22 Jerdan, correct?

23 A Yes, he did.

24 Q And when you were doing it, you were doing it with the
25 full knowledge of the FBI that you were perpetrating this

1 fraud and this lie on Mr. Jerdan, right?

2 A It was a role.

3 Q It was a role --

4 A Yes.

5 Q -- that you played very well, didn't you?

6 A Well, that's up to you.

7 Q Huh?

8 A I don't know. You can be the judge of that.

9 THE COURT: Let's move on, counsel.

10 MR. PITARO: It isn't me.

11 THE COURT: Counsel, let's move on.

12 BY MR. PITARO:

13 Q Let me ask you this, isn't it true that you and Mr.
14 Dottore had a conversation where you and he decided that on
15 the eighteen hundred dollars (\$1800) that you were telling
16 Jerdan was bail that you'd each make nine hundred (900)?

17 A I don't remember cutting up nine hundred dollars (\$900)
18 with him. The figure was just that he had told Mr. Jerdan
19 that he had contributed eighteen hundred dollars (\$1800).

20 Q Okay. You don't remember Mr. Dottore telling you we
21 could each make nine hundred (900)?

22 A I don't remember that.

23 Q Okay. It -- we will then come to it.

24 A Okay.

25 Q In any event, Mr. Dottore never paid eighteen hundred

1 dollars (\$1800) to get you out either.

2 A No, sir, he did not.

3 Q Okay. Then you and Mr. Dottore had a conversation where
4 you were then going to tell Mr. Jerdan that in addition to the
5 eighteen hundred (1800), Mr. Dottore had borrowed twelve
6 hundred (1200) on his life insurance policy and gave that to
7 you, isn't that correct?

8 A He was going to say he borrowed twelve hundred dollars
9 (\$1200), but I don't remember if that was contributed towards
10 the eighteen.

11 Q Well, he'd already -- no, by this time he had already
12 said, you guys had already told Jerdan that Dottore had done
13 the eighteen.

14 A Yeah, but I --

15 Q Now this is -- this is in the -- the latter part or mid
16 part of January 1995, and you and Dottore said, okay, we'll
17 tell him that I got twelve hundred (1200) from the life
18 insurance.

19 A That's possible, but I thought --

20 Q Right.

21 A -- the twelve hundred (1200) was part of the eighteen
22 hundred (1800).

23 Q But it couldn't be if you'd already decided that Dottore
24 had already paid the eighteen hundred (1800), right?

25 A I think is was he asked him where he got the money.

1 Q Well, Mr. Jerdan of all people should know that Mr.
2 Dottore probably borrowed the eighteen hundred (1800) before
3 the life insurance because it was Mr. Jerdan's wife that was a
4 life insurance agent that got the check for Mr. Dottore,
5 wasn't it?

6 A That's possible.

7 Q So -- so where we end up on this is quite truthfully that
8 you never spoke with Judge Bongiovanni or Gerry Bongiovanni
9 about this. All the information you got from Gerry
10 Bongiovanni was what Paul Dottore told you.

11 A That's correct.

12 Q Okay. All the information you got -- or most of the
13 information you got on the Louie Olejack either was what
14 you're saying Louie told you, the FBI told you or Paul Dottore
15 told you, right?

16 A That's correct.

17 Q Okay. Now as a matter of fact, Paul Dottore even told
18 you, he told you, in -- oh, it's got to be February of 1995,
19 he told you that the case was in front of Gerry Bongiovanni
20 even after you told him, Louie's already cut a deal and it's
21 in front of Maupin, right?

22 A Correct.

23 Q And you knew that wasn't true, didn't you?

24 A I didn't know that wasn't true because it hadn't been
25 ruled on, supposedly had cut a deal.

1 Q And it was in front of Maupin, wasn't it?

2 A Correct.

3 Q Okay. As a matter of fact, Louie told you it was in
4 front of Maupin.

5 A Yes, he did.

6 Q The FBI told you it was in front of Maupin, didn't they?

7 A I don't believe I asked them --

8 Q You --

9 A -- if it was in front of Maupin.

10 Q You never asked them?

11 A I don't believe so.

12 Q You had all these conversations with Louie and Paul
13 Dottore working for the FBI and you and them never got
14 together as to what department the darn case was in?

15 A I don't think at that time Louie was a big issue. He
16 wasn't around.

17 Q His case was.

18 A He wasn't.

19 Q You guys started, as a matter of fact, you and Mr.
20 Dottore started on the Olejack scam, if I may be so blunt,
21 prior to the wire taps, the first tape that was entered in
22 this case, right?

23 A That's correct.

24 Q And that scam continued all the way through --

25 MR. JOHNSON: Objection, Your Honor. The use of the

1 term scam is argumentative.

2 MR. PITARO: Okay.

3 BY MR. PITARO:

4 Q That -- that attempt to get twenty thousand dollars
5 (\$20,000) from Mr. -- from Mr. Olejack continued all the way
6 through until the time that he in fact had pled guilty in
7 front of Judge Maupin, right?

8 A I don't know the status of Mr. Olejack's cases.

9 Q Well, didn't the conversation you had with Mr. Dottore
10 that you said to him, I don't know why Louie wants to plead to
11 the bending case that they don't have him on and get the
12 Caribbean Stud case where they do have them, I don't know why
13 he ought to -- why he's doing that deal.

14 A But I never know if those consummated.

15 Q I understand that.

16 A Okay.

17 Q But you -- you at least had conversations enough with Mr.
18 Olejack to know what the deal was.

19 A Not after that point. I haven't spoken to him in over
20 two years.

21 Q Well, this is '97.

22 A Yeah --

23 Q Okay.

24 A -- and you say this took place in '95.

25 Q This all ended in February of '95, right? And you had

1 spoken to him up to at least February of '95, right?

2 A Possibly.

3 Q Okay. Well, that's when you told -- that's the
4 conversation you had with Mr. Dottore.

5 A And --

6 Q And Louie's already in front of Maupin.

7 A That was Louie's words, yes.

8 Q Um-hmm. And Dottore's telling you, no, it's still in
9 front of Bongiovanni and he's going to queer the deal because
10 Louie didn't pay.

11 A Yes, sir, he said that.

12 Q As a matter of fact, that was --

13 THE COURT: Counsel, we've covered that ground.

14 MR. PITARO: Okay.

15 THE COURT: And I think there's no question about it
16 that, number one, the case apparently was before Judge Maupin,
17 and notwithstanding that Mr. Dottore had indicated that it was
18 before the defendant and there was -- and all those questions
19 have been asked. Let's move on.

20 MR. PITARO: All right. Could I have a minute?

21 THE COURT: Sure.

22 (Pause in the proceedings)

23 BY MR. PITARO:

24 Q Now, Mr. Salem, when we talked about this, just so I can
25 make sure I've covered the bases of what I said in opening

1 statement, you said that you haven't paid any income tax on
2 the government money except for in '94?

3 A For the year of '94, correct.

4 Q And how much did you declare in '94?

5 A I don't remember.

6 Q Okay. How much did the government pay you in '94?

7 THE COURT: How much what? I'm sorry.

8 THE WITNESS: Maybe, maybe --

9 BY MR. PITARO:

10 Q How much did they pay you in '94?

11 A Possibly four thousand dollars (\$4,000).

12 Q Okay. So the fifty-five thousand dollars (\$55,000) you
13 got, there's fifty-one thousand (51,000) that you haven't paid
14 in the government money that they gave you, right? I mean
15 they gave you approximately fifty-five thousand (55,000).

16 A That's including expenses.

17 Q I understand.

18 A Okay. Correct.

19 Q It was about eight thousand in expenses, nine thousand --

20 A Something like that --

21 Q -- something like that?

22 A -- yes.

23 Q Okay. So that -- that amount of money, that's never been
24 declared.

25 A That's -- that's true.

1 Q And that's been from '94, right?

2 A '95.

3 Q And '95. '95?

4 A '95.

5 Q Okay. Now, in addition, you said you didn't -- that you

6 haven't paid any of that money back that you scammed of Cal

7 Fed.

8 A Cal Fed? That's correct.

9 Q Okay. You didn't pay any of the money back where Johnson

10 gave you that four thousand (4,000)?

11 A That's correct.

12 Q As a matter of fact, isn't it true that you have not paid

13 anything back of any monies you received in illegal conduct

14 until the time you -- up till the time you cut this deal with

15 the government?

16 A From what year?

17 Q Huh?

18 A From what year?

19 Q Well, you didn't pay any money back in '89, did you?

20 A '89? I claimed income tax --

21 Q No, I said --

22 A -- in '89.

23 Q -- you pay it back, you stole.

24 A Well -- well --

25 Q How much money from the DI?

1 A I gambled that year. I won and lost in gambling.
2 Q Well, I'm not talking about that --
3 A Well --
4 Q -- I'm talking about money you stole.
5 A I don't believe necessarily it was stealing. I found a
6 way to beat the game.
7 Q Um-hmm. And that was by having marked cards.
8 A No, sir. It wasn't.
9 Q Um-hmm. The blackjack --
10 A It was a way of --
11 Q -- well, you cooler deck in.
12 A It was a way of counting cards.
13 Q Well, let me get this straight. A cooler deck is a way
14 of counting card?
15 A It's like slugs. Are you familiar with a slug?
16 Q Yes.
17 A Okay. Are you familiar with the ace location?
18 Q Yes.
19 A Is the ace location illegal?
20 Q Putting a cooler deck is.
21 A Is a ace --
22 Q Where did the deck come from?
23 A -- location illegal?
24 Q Let me ask you this. Where'd the deck come from?
25 A From the casino.

1 Q Okay. And how much did you -- you and Mr. Dottore win
2 with your cooler deck?

3 A It wasn't a cooler.

4 Q You said it was a cooler.

5 A You called it a cooler. I said it was a false shuffle.

6 Q A false shuffle. Now --

7 A There's a difference.

8 Q Okay. Now let me just ask you this, then, then that
9 meant the dealer had to be involved in this, right? Was he?

10 A Was he?

11 Q Yes.

12 A Of course he was.

13 Q Of course he was.

14 A Of course he was.

15 Q So the DI hired a dealer to deal cards.

16 A Go ahead.

17 Q You played in the game --

18 A Um-hmm.

19 Q -- or someone played in the game.

20 A Somebody.

21 Q Okay. Played in the game and the dealer doesn't shuffle
22 the cards, he gives a false shuffle leaving a slug of cards so
23 that he can have a predetermined outcome of the hands, right?

24 A He doesn't shuffle completely.

25 Q Completely.

1 A Completely.

2 Q Like being almost pregnant.

3 THE COURT: And they won a hundred and twenty
4 thousand dollars (\$120,000) and I think the evidence is clear.
5 Go ahead.

6 MR. PITARO: Okay.

7 BY MR. PITARO:

8 Q Now, so what we end up with is all the way through this
9 you've not paid anything back, you paid four thousand dollars
10 (\$4,000) income tax out of the fifty thousand dollars
11 (\$50,000), you didn't pay anything on the --

12 THE COURT: Counsel, this is --

13 MR. PITARO: I'm almost done, Judge, I'm in --

14 THE COURT: Well, you are done if that's all you're
15 going over because you've gone over it twice already.

16 MR. PITARO: Okay.

17 THE COURT: You clearly have what you need to argue
18 it, counsel --

19 MR. PITARO: Let me just ask you this.

20 THE COURT: -- and you've summarized once already.

21 MR. PITARO: Okay. All right.

22 BY MR. PITARO:

23 Q And what we have then left out of this, as far as your
24 involvement in this, is your word.

25 A Correct.

1 Q Actually, we don't even have that, do we? We have your
2 repeating Paul Dottore's words.

3 A No, that's not true.

4 Q Okay. As far as Judge Bongiovanni's concern, what we
5 have is you repeating Paul Dottore's words, right?

6 A You have my own conversations in there also.

7 Q Okay. And we can evaluate those as we see fit, right?

8 A Yes, sir, you can.

9 Q Thank you.

10 THE COURT: Any redirect?

11 (Off-record colloquy)

12 (Pause in the proceedings)

13 MR. PITARO: Your Honor, could I just ask this.

14 THE COURT: If you have something different. I
15 don't want you to --

16 MR. PITARO: Well, I promised that I'd ask him to --

17 that he could look at an exhibit and I don't want to -- anyone
18 to think I'm being unfair, so if you could look at Exhibit
19 544?

20 THE COURT: 544?

21 MR. PITARO: Yeah. 5-4-4. 5-4-4.

22 THE COURT: Has it been received or are you just
23 trying to refresh his memory?

24 MR. PITARO: Refresh his recollection is what I
25 asked him he could look at.

MRIP0-08009-BONG0412

1 BY MR. PITARO:

2 Q You at page 13? See where Dottore says "no, you know".

3 A I'm looking for it.

4 MR. JOHNSON: I'm sorry, what transcript are you on?

5 MR. PITARO: 5-4-4.

6 THE COURT: Now is it a transcript or is it an
7 exhibit?

8 MR. PITARO: It's the transcript in the book.

9 THE COURT: Okay. So it's not an exhibit. It
10 simply is a transcript 5-4-4.

11 MR. PITARO: Yes. Yes.

12 THE COURT: Okay.

13 MR. PITARO: In the book.

14 MR. JOHNSON: What page are you on?

15 MR. PITARO: 13.

16 BY MR. PITARO:

17 Q Do you see it there, Mr. Salem?

18 A And which paragraph am I supposed to be reviewing here?

19 Q Where it says, "no, you know you're in eighteen hundred
20 (1800) --

21 THE COURT: Mr. Pitaro, you can approach him with
22 the transcript and show it to him if you want to.

23 BY MR. PITARO:

24 Q Page 13.

25 A I'm on page 13.

NR1 PO-08009-BONG0413

1 (Pause in the proceedings)

2 Okay.

3 Q Actually to make it easier for you, that's part of the
4 conversation that the government didn't play in their Exhibit
5 103, and isn't that true that what's said there is, with
6 Dottore saying to you:

7 "You know, you're in eighteen hundred (1800) and you
8 gotta, ah, Paul's gotta pay them people that maybe
9 we can make nine hundred (900) a piece off the
10 prick."

11 Right?

12 A Then I gotta take the attorney fifteen hundred (1500).

13 Q Well --

14 A Right.

15 Q -- you said well, that's, no, said after that, you said,
16 well, that's what I'm saying, right? So you and Dottore back

17 in December did talk about making money off Mr. Jordan, right?

18 A Correct.

19 Q And it was the nine hundred (900) a piece, right?

20 A Correct.

21 Q And that was before we ever got to the life insurance and
22 the twelve hundred dollars (\$1200), right?

23 A Okay. Yes.

24 Q Thank you.

25 THE COURT: Redirect?

SALEM - REDIRECT

234

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(Off-record colloquy)

(Pause in the proceedings)

REDIRECT EXAMINATION

BY MR. JOHNSON:

Q Mr. Salem, I wanted to clarify one thing in regard to the phony probate that was set up or was considered as to the Mazzetti estate. You indicated that there -- you had worked with some people about setting up a phony probate.

A Yes, sir.

Q And you indicated that the beneficiary was going to be Mr. Dottore?

A Yes, sir.

Q Was Mr. Dottore actually working with you in terms of setting up that phony probate?

A No, sir.

Q Why did you use his name on the phony probate?

A Needed an Italian name.

Q But he didn't know anything about this plan?

MR. PITARO: I would object, Your Honor, as to what Mr. Dottore may or may not know.

THE COURT: I'm sorry.

MR. PITARO: I say I would object to him testifying what Mr. Dottore may or may not know.

MR. JOHNSON: He participating in doing the crime. He knows whether Mr. Dottore was involved in the crime and why

1 they used his name on the crime.

2 THE COURT: Well, you can ask him insofar as he
3 knows if Mr. Dottore was involved.

4 BY MR. JOHNSON:

5 Q Insofar as you know, was Mr. Dottore involved?

6 A No, he was not.

7 Q Mr. Salem, not to minimize the impropriety of your
8 discussions, but in terms of the daub discussions that you had
9 with Mr. Dottore during 1994, did you ever actually engage in
10 any daub or cheat during that period of time?

11 A No, sir.

12 Q In terms of the duplicate payroll checks idea that you
13 had, did you ever carry out any duplicate payroll scheme?

14 A No, sir.

15 Q In terms of the treasury bonds that you looked at, did
16 you ever actually achieve any -- cashing any of those bonds?

17 A No, sir.

18 Q In terms of the person involved in the high tech
19 equipment, did you ever actually send someone in to buy high
20 tech equipment fraudulently?

21 A No, sir.

22 Q Now let's not make any mistake, you were considering it,
23 right?

24 A Yes, sir.

25 Q And if you actually probably had been able to do any of

1 those things, you would have done them?

2 A Possibly, yes, sir.

3 Q But you aren't getting a pass on any of those because
4 they didn't come to pass, did they?

5 A That's correct.

6 Q Now when you were released from jail on December 21,
7 1994, I just want to clarify this, you appeared in court
8 didn't you? When you were released on your state charge in
9 December 21, of 1994, you appeared in state court, is that
10 correct?

11 A Yes, sir.

12 Q All right. And who was the judge that you appeared in
13 front of?

14 A Judge Bongiovanni.

15 Q And who was the individual that granted you the O/R bond?

16 A Judge Bongiovanni.

17 (Pause in the proceedings)

18 MR. JOHNSON: No other questions at this time, Your
19 Honor.

20 MR. PITARO: I -- I --

21 THE COURT: Do you have anything further?

22 MR. PITARO: I just have two.

23 RECROSS EXAMINATION

24 BY MR. PITARO:

25 Q And those other things that we spoke about, all we have

1 is your word that you didn't do anything, right?

2 A What other things, sir?

3 Q Well, he just asked you about the high tech and all those
4 -- what we have left with is ultimately your word that you
5 didn't engage in this conduct, right?

6 A Unless you have proof otherwise, it's true.

7 Q All right. Unless I got proof, we gotta -- okay. Well,
8 let me just ask you this. You just said that Dottore wasn't
9 involved in the will, but you used Dottore's name, right?

10 A I used his name, yes.

11 Q All right. Okay. Now, here's the problem I got. If
12 Dottore's supposed to receive this couple million dollars in
13 this estate and Dottore doesn't know, who was going to be
14 Dottore?

15 A Deal with that when we came to it.

16 Q Umm. Okay.

17 THE COURT: Anything further?

18 MR. JOHNSON: No, Your Honor.

19 THE COURT: Okay. You're excused, Mr. Salem.

20 Once again, ladies and gentlemen, you've been very
21 patient and you get tomorrow off. Tomorrow is Friday, isn't
22 it?

23 THE CLERK: Yes, it is.

24 THE COURT: Okay. And we'll start at 8:30 Monday
25 morning.

1 During the recess that we're about to take, you must
2 comply with all of the instructions that the Court has given
3 you, you must not discuss the case among yourselves or with
4 anyone, and that, of course, includes family members. You
5 mustn't permit anyone to discuss the case in your presence.
6 You mustn't form or express any opinion regarding the guilt or
7 innocence of the defendant until the case is finally submitted
8 to you.

9 You must not investigate on your own, you must not
10 read, watch or listen to any report of any commentary on the
11 trial by any medium of information including, but not limited
12 to newspapers, television or radio, and I will ask you as I've
13 asked you before.

14 Surely there will be things in the newspapers, it is
15 possible that there may be things on television and it is
16 likely as well that there may be something on the radio and
17 I'm ordering that you not listen to any of those things. If
18 any of those things started to come on, you're to leave the
19 room.

20 If anybody then asks you about them after -- and
21 while I know there are people who think that judges give those
22 instructions and don't really think they'll be followed, I
23 think they will be followed and I have every confidence that
24 you will do exactly as the Court has indicated. And if anyone
25 were to talk to you or try to impose themselves upon you, I'd

1 want to hear about that.

2 We'll be in recess then until 8:30 Monday morning.

3 I would ask again that you be here no later than 8:15 and
4 we'll start at 8:30 Monday morning.

5 Once again, thank you so much. You've been very,
6 very patient with all of us.

7 (Jury recessed at 5:17 p.m.)

8 THE COURT: Counsel, I want you to start thinking
9 right away about the instructions. If you haven't, I want the
10 instructions to be reviewed and I want to know by Wednesday,
11 and things may change depending upon what evidence comes in.
12 I want to know by Wednesday what instructions, if any, are
13 objected to.

14 I'll tell you that I'm going to give my stock
15 instructions and I think they are far better than any other
16 instructions you can go to.

17 MR. PITARO: And I'm sure you're -- can I get a copy
18 of them?

19 THE COURT: Sure, we can run a copy of them.

20 MR. PITARO: What I'm saying is, is that I don't
21 know what they are. I'm assuming that they'll probably be the
22 same --

23 THE COURT: Well --

24 MR. PITARO: -- as the other ones.

25 THE COURT: -- you've included my stock

1 instructions, haven't you?

2 MR. JOHNSON: I think we're using, I mean, we're
3 using your stock instructions that we used in the Kutash
4 trial.

5 THE COURT: And you've served those on counsel,
6 haven't you?

7 MR. JOHNSON: Yes.

8 MR. PITARO: It could -- that might --

9 THE COURT: Yeah. Look them over and I want to know
10 by Wednesday what instructions you differ on. You may not
11 have any differences. I don't see that instructions are
12 necessarily pivotal in this case.

13 Thank you very much, counsel.

14 MR. PITARO: Thank you, Judge.

15 THE COURT: We'll be in recess.

16 MR. PITARO: Have a nice weekend.

17 (Off-record colloquy)

18 (Court adjourned at 5:20 p.m. until 8:30 a.m.,

19 Monday, December 8, 1997)

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CERTIFICATION

I (WE) CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM
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United States District Court
District of Nevada
Las Vegas, Nevada

CLERK, U.S. DISTRICT COURT
DISTRICT OF NEVADA

BY LSJ DEPUTY

UNITED STATES OF AMERICA

Plaintiff

vs.

GERARD J. BONGIOVANNI

Defendant

. Docket No. CR-S-96-098-LDG(RJJ)

. Las Vegas, Nevada

. December 8, 1997

. 8:43 a.m.

JURY TRIAL - DAY 4

THE HONORABLE LLOYD D. GEORGE PRESIDING
CHIEF UNITED STATES DISTRICT COURT JUDGE

COURT RECORDER:

JUDY WATSON
U.S. District Court

TRANSCRIPTION BY:

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1 S-O-N.

2 THE CLERK: And what city and state do you reside
3 in?

4 THE WITNESS: Clark County, Las Vegas, Nevada.

5 THE CLERK: Thank you.

6 COURT RECORDER: And your middle name?

7 THE WITNESS: Eldon, E-L-D-O-N.

8 DIRECT EXAMINATION

9 BY MS. SHOEMAKER:

10 Q Detective Nicholson, will you please tell the jury how
11 you're employed?

12 A Yes, I'm a detective with the Metropolitan Police
13 Department approximately a little over twenty-six years.

14 Q When you say the Metropolitan Police Department, are you
15 referring to the Las Vegas Metropolitan Police Department?

16 A Yes, I am.

17 Q All right. Detective, did you assist Agent Hanford and
18 the FBI in their investigation of Gerard Bongiovanni and other
19 individuals concerning judicial bribery?

20 A Yes, I did.

21 Q As part of your assistance in that investigation did you
22 participate in a physical surveillance of Paul Dottore and
23 later a search of Gerard Bongiovanni and his residence on
24 October 17th, 1995?

25 A Yes, I did.

1 Q Do you recall what day of the week that was?

2 A Yes, it was a Tuesday.

3 Q All right, first of all, what was the purpose of
4 surveilling Paul Dottore that day?

5 A The purpose of the surveillance was that we were going to
6 surveil Paul Dottore and the money that was given to him by
7 Terry Salem. That surveillance --

8 Q Let me stop you right there.

9 A Okay.

10 Q When you say the purpose was to surveil Paul Dottore and
11 money that was given to him by Terry Salem, when was money
12 given to Terry Salem?

13 A The money was given to Terry Salem that evening and it
14 was somewhere between approximately 7:25 p.m. and 7:40 p.m.

15 Q Okay. Let's just start at the beginning.

16 A Okay.

17 Q Terry Salem was given money on October 17th, 1995, is
18 that correct?

19 A That's correct. He was given ten recorded serial number
20 one-hundred-dollar bills provided to him by Special Agent
21 Hanford.

22 Q All right.

23 MR. PITARO: Well, Your Honor, then I'm -- unless
24 he's present, he's going to be testifying to hearsay. We'd
25 like to know what he was doing and not --

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1 THE COURT: You may need to lay some foundation.

2 MR. PITARO: -- use hearsay.

3 BY MS. SHOEMAKER:

4 Q Agent Nicholson -- or, excuse me, Detective Nicholson,
5 you participated in the physical surveillance that evening, is
6 that correct?

7 A That's correct.

8 Q All right. And when you were participating in this
9 physical surveillance, what was it your understanding, first
10 of all, that you were there to observe?

11 MR. PITARO: Objection, Your Honor. His
12 understanding of what he is to observe in the future is
13 speculative. He can testify what he did --

14 THE COURT: The objection is overruled. Let's move
15 on.

16 BY MS. SHOEMAKER:

17 Q What was your purpose in surveilling Mr. Dottore that
18 night? Your very first purpose, what were you there to
19 observe?

20 A To observe him meet with Terry Salem.

21 Q All right. Did you have a basis for believing that Mr.
22 Dottore was going to meet with Mr. Salem that evening?

23 A Yes.

24 MR. PITARO: Your Honor, object.

25 THE COURT: Objection is overruled.

1 THE WITNESS: Yes, we did, from previous recorded
2 phone conversations through the FBI.

3 BY MS. SHOEMAKER:

4 Q All right. Now you indicated a moment ago that the FBI
5 gave Terry Salem ten recorded -- or ten hundred-dollar bills
6 which the serial numbers had been recorded, is that correct?

7 A That's correct.

8 Q Were you present when that money was handed to Mr. Salem?

9 A Yes, I was.

10 Q Okay. Approximately what time did the FBI give Mr. Salem
11 the ten hundred-dollar bills that were supposed to be passed
12 to Mr. Dottore?

13 A I believe it was very close to 7:00 o'clock in -- 7:00
14 p.m. in the evening.

15 Q And you had an understanding that Mr. Salem was supposed
16 to meet with Mr. Dottore and give him that money later that
17 evening?

18 A Yes, I did.

19 Q Okay. Was there another purpose in your conducting the
20 physical surveillance that evening?

21 A Yes.

22 Q We believed that Paul Dottore was going to meet with the
23 defendant, Judge Bongiovanni.

24 Q All right, and what was your understanding with respect
25 to that meeting?

1 A With respect to that meeting we felt that it -- he would
2 meet with him a -- Paul Dottore would meet with him a short
3 time after picking up the money from Terry Salem.

4 Q All right. And for what purpose?

5 A To give him --

6 MR. PITARO: Your Honor, that is not proper
7 testimony as for him to be speculating as to what is. I mean
8 he's getting into areas that are not proper. And they're
9 speculation and prejudicial. He can testify what he did.

10 MS. SHOEMAKER: Your Honor, at this point all we're
11 trying to do is establish what Detective Nicholson's purpose
12 was in conducting the surveillance to explain what he did
13 after that point in time.

14 MR. PITARO: Then it's been asked and answered.

15 THE COURT: Well, I think it has been asked and
16 answered, counsel.

17 BY MS. SHOEMAKER:

18 Q All right, Detective Nicholson, did you have a plan that
19 you were going to do if Paul Dottore was seen meeting with Mr.
20 Bongiovanni that night?

21 A Yes, we did.

22 Q And what was the plan?

23 A The plan was to stop Paul Dottore after he had met with
24 the defendant and approach him and try to solicit his
25 cooperation in regards to this case.

1 Q All right, and did you have a plan depending on what Mr.
2 Dottore may have -- whether he would have agreed to do that or
3 not?

4 A Yes. If he would have agreed --

5 MR. PITARO: Objection, Your Honor.

6 THE COURT: The objection is overruled.

7 THE WITNESS: Okay. If he would have agreed and
8 cooperated with us we would have asked him to go in and record
9 conversations with the defendant. If he declined to cooperate
10 then we were going to execute two search warrants.

11 BY MS. SHOEMAKER:

12 Q All right. Had you already obtained those search
13 warrants?

14 A Yes, they were obtained by the FBI by Special Agent
15 Hanford, and they were in the possession of Special Agent
16 Chris Byers.

17 Q All right. Did you observe Terry Salem and Paul Dottore
18 meet that evening after the FBI had given Mr. Salem the ten
19 one-hundred-dollar bills?

20 A Yes, we did. We were, myself and Special Agent Hanford
21 were in --

22 MR. PITARO: Your Honor, it's non-responsive. He
23 answered the question "yes."

24 THE COURT: Repeat the question, please.

25 //

1 BY MS. SHOEMAKER:

2 Q Did you observe Terry Salem and Paul Dottore meet that
3 night after the FBI had given Terry Salem the ten hundred-
4 dollar bills?

5 A Yes, I did.

6 Q All right. Where did you observe them meet?

7 A I was paired up with Special Agent Hanford in his
8 vehicle. We were parked in the parking lot on the east side
9 of the Tropicana back by the second tower there, and we were
10 one or two rows back. Terry Salem was at -- standing at the
11 bottom of the stairs that lead up to that tower if you park in
12 that section of the Tropicana Hotel and Casino.

13 At approximately 7:25 p.m. we observed Paul Dottore
14 driving his vehicle in, stop at the stairwell, and observed
15 Terry Salem get up, I think he was sitting on the stairs, get
16 up and get into Paul Dottore's vehicle. That vehicle then
17 proceeded to the southeast section of the parking lot of the
18 -- of that structure in the back part there.

19 Approximately fifteen minutes later the vehicle came
20 back. Terry Salem got out of the passenger side of the
21 vehicle, Paul Dottore left, and the surveillance continued on
22 that vehicle.

23 Q All right. Now, did you indicate what time it was
24 approximately that Paul Dottore pulled into the parking lot
25 and picked up Mr. Salem?

1 A I believe it was approximately 7:25 p.m. in the evening.
 2 Q All right. Now you indicated that they were in the car
 3 for approximately fifteen minutes before Mr. Dottore dropped
 4 Mr. Salem back off where he had picked him up, is that
 5 correct?
 6 A That's correct, yes.
 7 Q All right. So that would have been approximately 7:40
 8 p.m. then when Mr. Dottore left the Tropicana parking lot, is
 9 that correct?
 10 A Yes.
 11 Q Where did Mr. Dottore go from there?
 12 A From there he went to his residence.
 13 Q All right. And approximately how far away is his
 14 residence from the Tropicana Hotel?
 15 A I believe it took him approximately ten minutes --
 16 Q Okay, so --
 17 A -- to get home.
 18 Q -- would it have been then approximately ten minutes
 19 before 8:00 o'clock that evening when Mr. Dottore arrived back
 20 at his residence?
 21 A Yes, it would.
 22 Q Okay. Do you recall how many people participated in the
 23 physical surveillance that night?
 24 A There are a number of vehicles, number of personnel. I'd
 25 say no less than six.

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1 Q All right. Do you recall who the people were who
2 participated or what agencies they were with?

3 A I believe all of the agents were FBI agents with the
4 exception of Mike Abbott who's with NDI, Nevada Division of
5 Investigation, and myself.

6 Q Okay. Did Mr. Dottore leave his residence later that
7 evening?

8 A Yes, he did. He left his residence at approximately
9 8:15 p.m.

10 Q Was anyone with Mr. Dottore when he left his residence?

11 A His wife.

12 Q Okay. Do you know what her name is?

13 A Rose.

14 Q All right. Where did Mr. Dottore and his wife Rose go
15 from there?

16 A They went to the Circle K at Eastern and Russell, sits on
17 the northwest corner.

18 Q All right. Approximately --

19 A They just live a couple blocks from there.

20 Q Okay. How long were they at the Circle K? Approximate?

21 A I'd say approximately maybe four or five minutes.

22 Q Okay. And where did they go from there?

23 A From there they went to the defendant's residence on
24 Rockington.

25 Q Is that in Las Vegas, as well?

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1 A Yes, it is.

2 Q Okay. And approximately how far is Defendant
3 Bongiovanni's residence from the Circle K?

4 A I would say a little less than a mile.

5 Q Okay, so approximately what time then did Paul Dottore
6 and his wife arrive at Defendant Bongiovanni's residence that
7 evening?

8 A It was very close to 8:30 p.m.

9 Q Okay. Did you and Agent Hanford conduct physical
10 surveillance on Mr. Bongiovanni's residence while Paul Dottore
11 and his wife were inside?

12 A Yes, we did.

13 Q Approximately how long was Paul Dottore and his wife
14 inside the Bongiovanni residence that night?

15 A Approximately one hour.

16 Q Could you observe the Bongiovanni residence from where
17 you were located?

18 A Yes, we could.

19 Q All right. Did Mr. Dottore and his wife leave Mr.
20 Bongiovanni's residence at some time later that evening?

21 A Yes, they left the resident [sic] at approximately 9:30
22 p.m.

23 Q Okay, so they'd been there for approximately one hour?

24 A Yes, very close to an hour.

25 Q All right. What did you do when Paul Dottore left

1 Bongiovanni's residence that evening?

2 A We observed them come out of the residence and get in
3 their vehicle. They departed, they went southbound on McLeod
4 to Russell Road and made a right turn. As soon as they got
5 onto McLeod Special Agent Hanford and myself followed and
6 initiated a traffic stop with his red light and siren after
7 they turned onto Russell Road to go westbound.

8 Q All right. So you followed Paul Dottore then, when he
9 left the residence?

10 A That's correct.

11 Q And then you ultimately pulled him over?

12 A Yes.

13 Q Okay. Was anyone else present when you and Agent Hanford
14 pulled Mr. Dottore over?

15 A Yes, there was two other vehicles, I believe, part of the
16 surveillance team and I believe it was three agents.

17 Q Okay. And where were these other cars and agents
18 located?

19 A One had positioned itself behind us and the other one had
20 positioned itself a car length or two in front of Paul
21 Dottore's vehicle.

22 Q I believe you indicated earlier in your testimony that
23 one of your purposes in the surveillance was to approach Mr.
24 Dottore for his cooperation if he met with Defendant
25 Bongiovanni that evening, is that correct?

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1 A Yes, it is.

2 Q Okay. What happened then when you stopped Mr. Dottore,
3 was that in order to approach him for his cooperation?

4 A Yes, it was. We had stopped --

5 MR. PITARO: Objection. Non-responsive.

6 THE COURT: The question can be answered with yes or
7 no. Go on.

8 BY MS. SHOEMAKER:

9 Q What happened when you stopped Mr. Dottore?

10 A We approached the vehicle --

11 Q Who's "we"?

12 A Special Agent Hanford and myself.

13 Q Okay, and where were the other agents at this time?

14 A They were still in their vehicles.

15 Q Okay. What happened from there?

16 A We advised Paul that --

17 MR. PITARO: Your Honor, could I object. He keeps
18 using "we".

19 THE COURT: It may be helpful to be more specific as
20 to precisely who, if the witness remembers.

21 BY MS. SHOEMAKER:

22 Q Okay. You and Agent Hanford both approached the car, is
23 that correct?

24 A That's correct.

25 Q All right. Who initiated the conversation with Mr.

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1 Dottore at that point?

2 A Special Agent Hanford.

3 Q All right, were you present?

4 A Yes, I was.

5 Q Did you hear what he said?

6 A Yes, I did.

7 Q Can you please tell the jury what Mr. Dottore -- or
8 excuse me -- what Agent Hanford said to Mr. Dottore?

9 MR. PITARO: Objection, hearsay.

10 MS. SHOEMAKER: Your Honor, it's not being offered
11 for the truth of the matter at this time. I'm only offering
12 what the agent and detective told Mr. Dottore, briefly --

13 THE COURT: It isn't being offered for the truth of
14 it.

15 MR. PITARO: It most certainly is.

16 THE COURT: It most certainly isn't. The Court's
17 ruled --

18 MR. PITARO: Well, you don't -- with all due
19 respect, Judge --

20 THE COURT: Let's move on.

21 MR. PITARO: -- we don't know what it is yet, so I
22 don't know --

23 THE COURT: Well, I know what it is, let's move on.

24 BY MS. SHOEMAKER:

25 Q What did Agent Hanford tell Mr. Dottore when he

1 approached the car?

2 A First identified himself again as Special Agent Hanford
3 with the FBI and Detective Nicholson with Metro, and that he
4 was not under arrest, that all we wanted to do was talk to
5 him. We asked if he would be willing to come back and talk to
6 us for a few minutes, and then no matter what he said he was
7 not going to be placed under arrest, that he was free to go
8 that evening.

9 Q Did Mr. Dottore agree to talk to you that night?

10 A Yes, he did.

11 Q And did he go to your car to talk to you?

12 A Yes. He got out of his vehicle, he walked back to the --
13 Agent Hanford's vehicle on the passenger side. For standard
14 safety procedures I advised him that I was going to --

15 MR. PITARO: Objection, this is non-responsive to
16 the question.

17 THE COURT: It is non-responsive.

18 BY MS. SHOEMAKER:

19 Q Did Mr. Dottore go back to the car with you and Agent
20 Hanford and agree to talk to you?

21 A Yes, he did.

22 Q All right. When he got into the car, did you or Agent
23 Hanford -- what did you tell him?

24 MR. PITARO: Objection, foundation.

25 THE COURT: Sustained.

1 BY MS. SHOEMAKER:

2 Q When you and Agent Hanford went back to the car with Mr.
3 Dottore did you get in the car?

4 A Yes, we did.

5 Q Was anyone else present?

6 A No --

7 Q How --

8 A -- not in the vehicle.

9 Q All right. How long were you in the vehicle with Mr.
10 Dottore? Approximately.

11 A I'm going to say approximately ten minutes.

12 Q All right. When you first got into the vehicle, did you
13 or Agent Hanford say anything to Mr. Dottore?

14 A Yes.

15 Q Who made the statements to him?

16 A Special Agent Hanford did.

17 Q Could you hear what he said to Mr. Dottore?

18 A Yes, I was sitting right next to him.

19 Q What did Agent Hanford tell Mr. Dottore when you first
20 got into the car?

21 MR. PITARO: Objection, hearsay.

22 MS. SHOEMAKER: Your Honor, it's not being offered
23 for the truth.

24 THE COURT: Overruled. Let's move on.

25 THE WITNESS: He advised him that no matter what he

1 had said this evening he was not under arrest and that he was
2 free to go, but we would like him to sit there and listen to
3 see what we had to say first. Agent Hanford advised him that
4 he was under investigation for judicial corruption -- or
5 bribe, and also for a bank fraud. He advised that Terry Salem
6 was a cooperating witness and that all of his phone
7 conversations and all of his meetings had been recorded.

8 BY MS. SHOEMAKER:

9 Q Did Agent Hanford ask Mr. Dottore if he would cooperate
10 in the investigation of Gerard Bongiovanni?

11 A Yes, he responded by saying, what would I have to do,
12 what would it take?

13 MR. PITARO: Your Honor, I'm going to object. These
14 are not 801 type statements and it's hearsay.

15 THE COURT: Well, they're admissions of a sort.

16 MS. SHOEMAKER: And --

17 THE COURT: The objection is overruled.

18 MR. PITARO: That's -- with all due respect, Your
19 Honor, that's not an admission.

20 THE COURT: The objection is overruled. Let's move
21 on.

22 BY MS. SHOEMAKER:

23 Q What did Agent Hanford state when Mr. Dottore asked what
24 he would have to do to cooperate?

25 A I'm sorry, would you repeat the question?

1 Q What did Agent Hanford tell Mr. Dottore he would have to
2 do if he wanted to cooperate in the investigation?

3 A He advised --

4 MR. PITARO: Hearsay.

5 THE COURT: Overruled. Let's move on.

6 THE WITNESS: He advised him that he would have to
7 wear a recorder and go in and meet with the defendant and
8 record the conversations with him from that point on.

9 BY MS. SHOEMAKER:

10 Q And what was Mr. Dottore's response?

11 A He --

12 MR. PITARO: Objection, hearsay. Doesn't follow
13 with an 801.

14 THE COURT: Overruled.

15 THE WITNESS: He stated, "I don't think I can do
16 that."

17 BY MS. SHOEMAKER:

18 Q All right. So Mr. Dottore indicated then in that
19 conversation in Agent Hanford's vehicle that evening that he
20 was not willing to cooperate in the investigation, is that
21 correct?

22 MR. PITARO: Your Honor, I would -- Your Honor, with
23 all due respect. She's paraphrasing and testifying.

24 THE COURT: Sustained.

25 MR. PITARO: And I'd ask it be stricken and the

1 jury --

2 THE COURT: I understand.

3 MR. PITARO: -- told to disregard those other
4 statements.

5 THE COURT: Well, the question is what you're
6 talking about. I've sustained the objection, let's move on.

7 BY MS. SHOEMAKER:

8 Q Did Mr. Dottore agree to cooperate?

9 A No.

10 MR. PITARO: Objection. Leading.

11 BY MS. SHOEMAKER:

12 Q What happened after that?

13 A Rose Dottore was brought back to the vehicle and sat in
14 the back seat behind Special Agent Hanford. Paul requested
15 Detective -- or correction -- Special Agent Hanford to advise
16 her of the situation and what was going on.

17 Q And what did -- what was Paul Dottore doing during that
18 time?

19 A He asked if he could get out of the vehicle while Special
20 Agent Hanford was briefing his wife on what the circumstances
21 were and what the investigation was about. We had walked up
22 to the front of his vehicle --

23 Q Who's "we"?

24 A Myself and Paul Dottore.

25 Q All right. And where was Agent Hanford and Rose Dottore

1 at that time?

2 A Agent Hanford was sitting in the driver's seat of his
3 vehicle and Rose Dottore was sitting behind him.

4 Q All right. So you and paul Dottore got out of the car
5 then while Agent Hanford was talking about the case to Rose
6 Dottore?

7 A That's correct.

8 Q All right. And where did you and Paul Dottore go?

9 A We walked up to the right front of his vehicle which was
10 parked -- stopped in front of us.

11 Q All right. And what, if anything, happened at that
12 point?

13 A We began having some conversation there, and I looked at
14 Paul and I says, "Paul, would you consent to emptying your
15 pockets out on the hood of the vehicle?" He responded by
16 saying, "Yes, I have nothing to hide." And he took everything
17 out of his pockets and placed it on the hood of the vehicle.

18 Q What, if anything, did you find?

19 A I observed a amount of money there. I could see four
20 one-hundred-dollar bills and some other monies that were
21 contained with it.

22 Q Do you recall what other money was with the four one-
23 hundred-dollar bills you saw?

24 A Yes. There were, I believe, two twenties, a five, and I
25 believe two or three singles.

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1 Q Okay. What did you do when you saw four one-hundred-
2 dollar bills there?

3 A I had asked one of the other agents that were in the car
4 in front of us that were out of the vehicle now standing at
5 the rear of the vehicle if they had a list of the --

6 MR. PITARO: Your Honor, hearsay.

7 MS. SHOEMAKER: Your Honor --

8 THE COURT: What's the question, again?

9 MS. SHOEMAKER: I asked what the -- what Detective
10 Nicholson did when he observed the four one-hundred-dollar
11 bills.

12 THE COURT: What he did?

13 MS. SHOEMAKER: Yes, Your Honor.

14 THE COURT: Okay. Well, you may respond to what you
15 did.

16 THE WITNESS: I asked if one the --

17 MR. PITARO: That's the hearsay, Judge.

18 MS. SHOEMAKER: Your Honor, he's not -- we're not
19 offering this for the truth at this point in time. He -- all
20 he's doing is showing what he did when he found the four one-
21 hundred-dollar bills on Paul Dottore.

22 MR. PITARO: Judge, if this isn't offered truth of
23 the matter asserted, I have no idea why it would be -- it's
24 being offered. They're offering that all these things are in
25 fact because they say it is. And then to say, well, we're not

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1 offering for the truth of the matter is absurd --

2 MS. SHOEMAKER: It will --

3 MR. PITARO: -- that's why it's hearsay.

4 MS. SHOEMAKER: -- it will --

5 THE COURT: Is it simply to show the sequence of
6 what happened?

7 MS. SHOEMAKER: It will explain why -- what
8 Detective Nicholson did from that point and what his
9 understanding and Agent Hanford's understanding was when they
10 left the scene.

11 THE COURT: Okay. The objection is overruled.

12 BY MS. SHOEMAKER:

13 Q What did you do when you found -- or you saw the four
14 hundred-dollar bills?

15 A I requested the list of the recorded ten one-hundred-
16 dollar bills to compare the four one-hundred-dollar bills that
17 were in his pocket with the list, ~~which was the money that we~~
18 had given to Terry Salem earlier.

19 Q Did any of the hundred bills that Paul Dottore had pulled
20 out of his pocket match the serial numbers of the hundred-
21 dollar bills that Terry Salem had been given by the FBI to
22 pass on to Paul Dottore earlier that evening?

23 A The first bill that I -- that I believe I checked or the
24 agent checked -- I was right there when we were --

25 MR. PITARO: Well, Your Honor, if he didn't do it, I

1 mean, that's the thing. He wants to testify what everyone
2 else in the world did. He's up here to testify what he did.

3 THE COURT: Well, you may need to lay some
4 foundation as to precisely what he observed.

5 BY MS. SHOEMAKER:

6 Q Did you personally check the serial numbers of any of
7 those hundred-dollar bills against the list of the serial
8 numbers of the bills that had been given to Terry Salem?

9 A No.

10 Q Okay. Did --

11 THE COURT: The objection is sustained.

12 BY MS. SHOEMAKER:

13 Q Did you observe anybody else check the serial numbers of
14 a hundred-dollar bill and compare it with a list that they had
15 of the serial numbers of the hundred-dollar bills that had
16 been given to Terry Salem?

17 A Yes.

18 Q Okay. Did the person who was checking the serial numbers
19 indicate that the first bill they looked at matched the list?

20 MR. PITARO: Hearsay.

21 THE COURT: Sustained.

22 MS. SHOEMAKER: Your Honor, it's not being offered
23 for the truth at this time, but to explain why the agent --

24 THE COURT: Oh, I think it is.

25 MS. SHOEMAKER: -- what he did at that point.

1 THE COURT: You're asking what occurred and it's for
2 the identification of these bills. The objection will be
3 sustained.

4 BY MS. SHOEMAKER:

5 Q Detective Nicholson, after you had somebody compare a
6 serial number of a hundred-dollar bill that had been found
7 from Paul Dottore, what did you do?

8 A When one of the bills matched, we had left the --

9 MR. PITARO: Objection, Your Honor.

10 THE COURT: It'll be stricken.

11 BY MS. SHOEMAKER:

12 Q What did you do after you asked an agent to check if any
13 of the serial numbers of the hundred-dollar bills matched?

14 A We departed the traffic stop scene and proceeded to the
15 defendant's residence.

16 Q When you say "we" departed and proceeded to the
17 defendant's residence, who left the scene?

18 A Special Agent Hanford and myself.

19 Q All right. And what was your purpose in leaving?

20 A We had to execute the search warrants prior to 10:00
21 o'clock, 10:00 p.m.

22 Q All right. And approximately what time did you arrive at
23 Defendant Bongiovanni's residence?

24 A It was approximately a quarter to 10:00.

25 Q And do you know whether Paul Dottore left the scene at

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1 the same time that you and Agent Hanford left?

2 A No, he was still there with the other agents there that
3 were going over some paperwork.

4 Q All right. Was anyone else present at Defendant
5 Bongiovanni's residence when you arrived there at
6 approximately -- what time did you say?

7 A Approximately a quarter to 10:00 p.m.

8 Q Okay. Was anyone else present when you arrived at his
9 residence?

10 A Yes.

11 Q Who else was present?

12 A There was Special Agent Geir Magnesen, Special Agent Joe
13 Degnan, Special Agent Chris Byers, Special Agent Hanford, Mike
14 Abbott with NDI and myself.

15 Q Okay. How many warrants were you there to execute?

16 A We were there to execute two search warrants.

17 Q And what were the search warrants -- can you be more
18 specific about that?

19 A Yes. The search warrants allowed us to search the
20 defendant's person and the other search warrant was for the
21 residence.

22 Q And what were you authorized to search for pursuant to
23 those warrants?

24 A We were authorized to search for the ten recorded
25 hundred-dollar bills and to look for only those. We had felt

1 that we had already had four of 'em --

2 MR. PITARO: Objection, Your Honor. Non-responsive.

3 THE COURT: Oh, I think it's responsive. Let's move
4 on.

5 BY MS. SHOEMAKER:

6 Q All right. You indicated you believed you were there to
7 look for how many?

8 A Six out of the ten.

9 Q Okay. And why did you believe you were only looking for
10 six?

11 A 'Cause I believe that we believed that Paul Dottore had
12 the other four on him when we departed the traffic stop scene.

13 Q All right. What happened when you arrived at
14 Bongiovanni's residence to execute the warrants?

15 A I had knocked on the door. I believe it's his daughter,
16 Angela Bongiovanni answered the door. I identified myself as

17 Detective Nicholson and that we needed to see the Judge in
18 reference to a couple of search warrants. She turned around
19 and started to walk back as to get the Judge. At that same
20 moment he had come into view, I believe, out of a hallway. I
21 again identified myself as Detective Nicholson with the Las
22 Vegas Metropolitan Police Department, that we were there to
23 see him in reference to a couple of search warrants, and he
24 said, come on in.

25 Q All right. Where was Agent Hanford at this time?

1 A Agent Hanford was out front, I believe, on the sidewalk,
2 and I believe he was talking on a cell phone, or with another
3 -- there was another agent there, so I don't know if he was
4 talking on the phone or the other agent.

5 Q All right. Who all went inside the house when Agent --
6 or excuse me -- when Defendant Bongiovanni invited you in?

7 A The other agents that I just previously mentioned with
8 the exception of Special Agent Hanford.

9 Q Okay. What happened when you got into the residence?

10 A We got into the residence. The defendant had walked over
11 to a little kitchen table, it was like a little kitchenette,
12 and he sat down there. And Special Agent Byers walked up,
13 advised him of the two search warrants, that one was for his
14 person, one was for the residence, that we there to search for
15 hundred-dollar bills that we had recorded the serial numbers
16 on. That Paul Dottore was just here, we know --

17 MR. PITARO: Your Honor, this is all hearsay.

18 MS. SHOEMAKER: Your Honor, this is not --

19 MR. PITARO: He's -- no he's testifying what Byers
20 is saying.

21 MS. SHOEMAKER: This is not being offered for the
22 truth of the matter, but just to explain what was said to
23 Defendant Bongiovanni to explain or show the context of what
24 he said in response.

25 MR. PITARO: Well, then call Byers.

1 THE COURT: The objection is overruled.

2 BY MS. SHOEMAKER:

3 Q All right. So you indicated that Agent Byers advised the
4 defendant then that you had two search warrants and you were
5 looking for hundred-dollar bills, is that correct?

6 A Yes.

7 Q Did he say anything more specific about what -- where
8 these hundred-dollar bills had come from?

9 A Yes, he told him that Paul Dottore --

10 MR. PITARO: Hearsay.

11 THE COURT: You may continue.

12 THE WITNESS: Oh, okay. That Paul Dottore had just
13 left the residence and that we knew that he had given him some
14 money and that was the monies that we were searching for.

15 BY MS. SHOEMAKER:

16 Q All right. Did Mr. Bongiovanni say anything at that
17 point?

18 A Yes.

19 Q What did he say?

20 A He said, Paul was here, we didn't even talk about money,
21 all we had was coffee.

22 Q What happened after that?

23 A He sat at the kitchen table, little kitchenette table,
24 and he was reading the paperwork that was presented to him, he
25 had gotten up, walked over to a coffee table about five or six

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1 feet away and gotten a cigarette, and he came back, sat down
2 and started reading the warrants again. Then asked Special
3 Agent Byers, what's this all about. At that point, Agent
4 Buyers went out and got Special Agent Hanford.

5 Q All right. Had the agents begun searching Mr.
6 Bongiovanni's house at that point?

7 A No, not at that point.

8 Q All right. Approximately how much time had passed from
9 the time you went into the house and Agent Byers explained why
10 you were there and the time that Agent Byers went out and got
11 Agent Hanford to come back in?

12 A Maybe a minute.

13 Q Okay. When Agent Hanford came back in the house, were
14 you present?

15 A Yes, I was sitting there at -- by the table that the
16 defendant was sitting at.

17 Q Did Agent Hanford tell Mr. Bongiovanni anything about the
18 search?

19 A Yes, he advised him again, almost the same thing that
20 Special Agent Byers had advised him. He again responded by
21 saying, no, they only came by for coffee.

22 Q When you say, "they" only came by for coffee, what are
23 you saying Mr. Bongiovanni said?

24 A Paul Dottore and Rose.

25 Q All right. So did Mr. Bongiovanni then deny to both

1 Agent Byers and to Agent Hanford that he knew anything about
2 the hundred-dollar bills?

3 A That is correct.

4 Q What happened after that?

5 A Okay. When Special Agent Hanford came in, the rest of
6 the agents went ahead and went into different rooms to start
7 the search just before he came to the table to make that
8 comment. After that comment, he walked down the hall --

9 Q Who's "he"?

10 A I'm sorry -- Special Agent Hanford walked out of sight
11 and down the hall. Approximately fifteen, twenty seconds
12 later he walked back into view. He walked up to the table
13 again, addressed the defendant, said, look, we know Paul
14 Dottore was here, he gave you some money, you can make this
15 easy on everybody just by telling us the money's -- where the
16 money is at --

17 MR. PITARO: Your I'm going to object. ~~Hearsay.~~

18 MS. SHOEMAKER: Your Honor, again, this is to
19 explain what Defendant Bongiovanni said afterwards. It's not
20 being offered for the truth.

21 MR. PITARO: Well, he's not testifying what the
22 Bongiovanni said, he's testifying what the Hanford said. I
23 mean, Hanford's there. We don't need him to --

24 THE COURT: I presume you intend to call the agent,
25 is that correct?

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1 MS. SHOEMAKER: And Agent Hanford will come, yes,
2 Your Honor.

3 THE COURT: Okay. The objection is sustained.
4 Let's move on.

5 BY MS. SHOEMAKER:

6 Q What did Mr. Bongiovanni say in response?

7 A He said, well, you can go ahead and look, you're not
8 going to find anything.

9 Q All right. What happened after that?

10 A After that, he got up, he turned around right to the
11 kitchen area --

12 Q Who's "he"?

13 A I'm sorry, the defendant got up from the kitchen, the
14 little kitchenette table and gotten a glass of water, sat back
15 down and was again looking at the paperwork that was provided
16 to him.

17 Q Were you present at that time?

18 A Yes I was.

19 Q All right. Was anyone else present at that time?

20 A Yes. Special Agent Byars was also standing there.

21 Q All right. And where were the other agents?

22 A They were in the house conducting the search.

23 Q All right. Did Mr. Bongiovanni say anything at that
24 point?

25 A Yes. He requested to go in and check on his wife because

1 of the fact there were so many people in here, he wanted to be
2 able to explain to her if she got upset or something that he
3 could explain to her what was going on.

4 Q All right. Approximately how long after Agent Hanford
5 had come in and explained the situation to Mr. Bongiovanni did
6 Mr. Bongiovanni ask you if he could go check on his wife?

7 A Were only three to four minutes.

8 Q Okay. And did you agree?

9 A Yes.

10 Q What happened at that point?

11 A The defendant had gotten up from the kitchen table and
12 started to walk away down the hall when I looked down and I
13 saw that there was a left rear pocket on the pair of -- it was
14 like he had on a pair of work-out shorts on. I had asked him
15 -- and from that there was a tear in that pocket and I could
16 see what I believe was folded up money in there.

17 Q How far away was Mr. Bongiovanni from you when you saw
18 the hole in the pocket and what you believed was money?

19 A Three to four feet.

20 Q Okay. Was this the first time you'd seen the pocket on
21 his shorts?

22 A Yes, it was.

23 Q All right. What did you do when you saw the hole and
24 what you thought was money?

25 A I asked him, I said, do you have something in your

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1 pocket? He said, no. I said, stop. I then walked up behind
2 him and at the same time I had said "stop," Special Agent
3 Hanford was walking back down the hall. I reached into his
4 left -- his only pocket, the left rear pocket, and pulled out
5 folded-up money and counted out over his shoulder in the
6 presence of Special Agent Hanford one, two, three, four, five.

7 Q All right.

8 A There was five --

9 THE COURT: Now whose pocket are you talking about?

10 THE WITNESS: Defendant's pocket.

11 THE COURT: Okay.

12 BY MS. SHOEMAKER:

13 Q What did you do when you found the five hundred-dollar
14 bills in the defendant's rear pocket?

15 A We had gone back to the kitchen, little kitchen table,
16 there and placed the money there and Special Agent Byers, I
17 believe it was, started a what we call a return or receipt.

18 Q And can you be more specific what happened when you got
19 back to the table in terms of the receipt?

20 A Yes, the monies were compared with the list that the FBI
21 agent had for the recorded hundred-dollar bills. All five of
22 those matched on that list and then we fill out what we call a
23 return.

24 Q Okay.

25 A A return is what we have to do any time we execute a

1 search warrant, we have to fill out a return showing what we
2 had seized or what is being taken as evidence, and a copy of
3 that is left with the defendant or the residents or whatever
4 you're serving.

5 Q All right. So the five hundred-dollar bills then that
6 were seized -- or found on the defendant, were they seized
7 then?

8 A Yes, they were.

9 Q Okay. Did the search stop when you found the five
10 hundred-dollar bills in the defendant's rear pocket?

11 A The search warrants, when they're executed, only --

12 MR. PITARO: Objection, Your Honor, non-responsive.

13 THE COURT: Sustained.

14 BY MS. SHOEMAKER:

15 Q Did the search stop when you found the five one-hundred-
16 dollar bills --

17 A Yes, it did.

18 Q -- in the defendant's rear pocket? All right. Now at
19 that point, when you found those five one-hundred-dollar
20 bills, you were under the impression that you had found a
21 total a nine between Mr. Dottore and Mr. Bongiovanni, is that
22 correct?

23 A Yes, it is.

24 Q All right. Why did the search stop at that point since
25 you still had one other hundred-dollar bill that appeared to

1 be missing?

2 A Special Agent Hanford and myself discussed that it didn't
3 seem reasonable that he would have hidden one of the hundred-
4 dollar bills. We also stated that -- we also realized that
5 Paul had stopped at the --

6 MR. PITARO: Your Honor, this is all hearsay.

7 THE COURT: Just a moment. Sustained.

8 BY MS. SHOEMAKER:

9 Q All right. You indicated you didn't believe that one of
10 the bills would have been hidden somewhere else, is that
11 correct?

12 MR. PITARO: Your Honor, that was what was
13 sustained, and she can't then ask the question back that way
14 to get around the sustained objection.

15 MS. SHOEMAKER: I didn't understand the --

16 THE COURT: Why don't you rephrase your question.

17 You're talking about a conversation between Agent
18 Hanford and this witness, is that correct?

19 MS. SHOEMAKER: Your Honor, I'm not trying to elicit
20 what the conversation was, I'm only trying to elicit --

21 THE COURT: Well, he's just --

22 MS. SHOEMAKER: -- the reason they stopped the
23 search --

24 THE COURT: -- he's talking about the conversation.

25 MS. SHOEMAKER: -- when they're still missing a

1 hundred-dollar bill.

2 THE COURT: Okay. What this witness did you can
3 certainly make inquiry of.

4 BY MS. SHOEMAKER:

5 Q Did you believe that you would find the missing hundred
6 -- what you thought was just one missing hundred-dollar bill
7 in Mr. Bongiovanni's residence at that point?

8 A No.

9 Q Did the warrant authorize you to search for anything
10 other than those ten one hundred-dollar bills?

11 A No.

12 Q So all together, from the time the agents actually
13 started conducting the search and the time you found the five
14 one-hundred-dollar bills in the defendant's rear pocket, how
15 many minutes had elapsed?

16 A Three, four minutes, maybe.

17 Q Okay. Now you indicated that after you found the five
18 one-hundred-dollar bills in the defendant's rear pocket, that
19 you went back to the kitchen table, is that correct?

20 A Yes.

21 Q And while Agent Byers was checking the serial numbers and
22 doing up the receipt for that money, did -- was Agent Hanford
23 in the kitchen as well?

24 A Yes, he was.

25 Q And were you present as well?

1 A Yes, I was.

2 Q At that point, did Agent Hanford advise the defendant
3 what the investigation was about with more particularity?

4 MR. PITARO: Your Honor, I would object. Hearsay.

5 MS. SHOEMAKER: Your Honor, again, it's not being
6 offered for the truth, but to show what was said to the
7 defendant to explain what his reaction was to that.

8 THE COURT: The objection is overruled.

9 THE WITNESS: Yes, Special Agent Hanford advised the
10 defendant that we knew Paul Dottore had given this money to
11 him in reference to a case that was pending before him in his
12 courtroom.

13 BY MS. SHOEMAKER:

14 Q And what was Mr. Bongiovanni's reaction?

15 A He just shrugged his shoulders.

16 Q Did Agent Hanford or anyone else tell Mr. Bongiovanni
17 specifically --

18 MR. PITARO: Your Honor --

19 MS. SHOEMAKER: -- what case it was --

20 MR. PITARO: -- could I object? I mean now we've
21 gone from this witness testifying to what Mr. Hanford's
22 saying, now he's going to testify to what Mr. Hanford or
23 anyone else unknown may have said.

24 MS. SHOEMAKER: I can narrow the question, Your
25 Honor, and again, I'm not offering it --

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1 THE COURT: Go ahead.

2 MS. SHOEMAKER: -- for the truth.

3 THE COURT: I understand.

4 MR. PITARO: Well, Your Honor, of course it's being
5 offered for the truth.

6 MS. SHOEMAKER: It's not, Your Honor, and I can
7 explain.

8 THE COURT: Well, I don't know what the question is
9 at this point, counsel, and I -- go ahead, ask your question.

10 BY MS. SHOEMAKER:

11 Q Did Agent Hanford or anyone else, to your knowledge, tell
12 the defendant that evening specifically what case it was that
13 it was believed he had taken a bribe in?

14 MR. PITARO: Objection.

15 THE WITNESS: No.

16 MR. PITARO: Hearsay.

17 THE COURT: The objection's overruled.

18 BY MS. SHOEMAKER:

19 Q Was Jeff Kutash's name or the civil litigation in which
20 Jeff Kutash was a party ever mentioned to Mr. Bongiovanni to
21 your knowledge during the search?

22 A No.

23 MR. PITARO: Your Honor, obviously if they didn't
24 tell them any case, they surely didn't tell them any specific
25 case.

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1 MS. SHOEMAKER: Your Honor, the question was
2 different, whether --

3 MR. PITARO: It may have --

4 MS. SHOEMAKER: -- Mr. Kutash's name was ever
5 mentioned.

6 MR. PITARO: It may have been different, but the
7 general encompassed the specific.

8 THE COURT: The objection is overruled. Let's move
9 on.

10 BY MS. SHOEMAKER:

11 Q Did -- I'm sorry, was your answer no?

12 A Would you please --

13 Q Was Jeff Kutash's name or the civil litigation in which
14 he was a party ever mentioned during the execution of the
15 search warrant at Mr. Bongiovanni's residence that night to
16 your knowledge?

17 A No.

18 MS. SHOEMAKER: I'll pass the witness, Your Honor.

19 THE COURT: Okay. Cross-examination?

20 CROSS-EXAMINATION

21 BY MR. PITARO:

22 Q Detective Nicholson, let me just clear a couple things up
23 before I go to this search. You've been a police officer a
24 long time, right?

25 A Little over twenty-six years.

- 1 Q Twenty-six years. They tell you how to testify?
- 2 A Pardon?
- 3 Q They teach you how to testify?
- 4 A In the --
- 5 Q Give you little points.
- 6 A In the Academy --
- 7 Q Sure.
- 8 A -- yes.
- 9 Q Tell you to make sure you look at the jury?
- 10 A That's correct.
- 11 Q Okay. Even though -- as a matter of fact, you know
- 12 you're not supposed to get into hearsay, right?
- 13 A Yes.
- 14 Q Yeah. Okay. Now let me just ask you this. Going back,
- 15 you've been a detective for a number of years. Do you know
- 16 Judge Bixler?
- 17 A Yes, I do.
- 18 Q How long have you known him?
- 19 A I don't personally know him. I mean, I know he is a
- 20 Justice of the Peace --
- 21 Q Right.
- 22 A -- and I don't know how long he has been in office.
- 23 Q You know his secretary, Dee?
- 24 A Yes. I don't know her personally, I know her by Dee and
- 25 that's about the extent of it.

1 Q Okay. Have you ever seen her?

2 A Yes, I have.

3 Q You ever been in her chambers?

4 A In her chambers?

5 Q His chambers, where her secretarial desk is?

6 A Where the secretarial desk is, yes, mm-hmm.

7 Q Yeah, okay. Now you've brought traffic matters over
8 there to be placed on Judge Bixler's calendar, correct?

9 A Yes, in open court.

10 Q No, no. Wait a minute. You brought 'em over to be
11 placed on his calendar, right?

12 A No, I didn't bring any --

13 Q Well, how'd they get there?

14 A They had to call down for them.

15 Q Okay. How did they know to call down? Isn't it true
16 that you asked them to place these on the calendar?

17 A Pardon?

18 Q You asked these traffic matters to be placed on calendar?

19 A Yes.

20 Q Okay.

21 A Mm-hmm.

22 Q And what you did is you called the judge's secretary.

23 A That's correct.

24 Q Okay.

25 A Mm-hmm.

1 Q And then Judge Bixler at some point in time, then Judge
2 Bixler had a calendar and you showed up.

3 A Yes, he sets a calendar --

4 Q Is -- is -- well, just please answer my question. And he
5 set a calendar and you showed up, right?

6 A Mm-hmm.

7 THE COURT: Counsel, just a moment. Obviously this
8 is beyond the scope. I take it that nobody has any objection
9 and --

10 MR. PITARO: No, we've discussed this.

11 THE COURT: Pardon?

12 MR. PITARO: We've discussed this --

13 THE COURT: Okay.

14 MR. PITARO: -- that I was going to go into this.

15 Isn't that correct.

16 THE COURT: Well, this is your witness at this time.

17 MS. SHOEMAKER: We did agree that rather than have
18 him have to recall him, that we would allow him --

19 THE COURT: That's fine.

20 MS. SHOEMAKER: -- to get into this limited area --

21 THE COURT: That's fine.

22 MS. SHOEMAKER: -- on cross.

23 BY MR. PITARO:

24 Q And so basically then you go down and Judge Bixler made a
25 disposition in these tickets, correct?

1 A In open court.

2 Q In open court.

3 A That's correct.

4 Q Okay. That's the way Judge Bixler does things, isn't it?

5 A That's correct, yes.

6 Q Okay. And were these tickets yours personally?

7 A No, they were not.

8 Q Whose were they?

9 A They were confidential sources, possibly people that have

10 given us information over the years that have come to us with

11 a problem and asked if there's --

12 Q Well, I don't --

13 A -- any way --

14 Q -- I don't want to go --

15 A -- we could get some assistance.

16 Q Who are they? Were there -- they were --

17 MS. SHOEMAKER: Your --

18 BY MR. PITARO:

19 Q -- were they regular people? Were they all just

20 informants? Some friends, weren't they?

21 A No, I had one for my brother once.

22 Q Oh, well, your brother's not your friend?

23 A We haven't spoken in quite a while.

24 Q Okay. But enough that you brought your brother's traffic

25 ticket down?

1 A Yes, he had come to town --

2 Q I don't care --

3 A -- and gotten married and --

4 Q -- I just want to know if you brought it down.

5 A No, it was -- it was --

6 Q Called in.

7 A Yes, I did, mm-hmm.

8 Q It was called in. It was called in to Dee Jones --

9 A That is correct, mm-hmm.

10 Q -- and then it was put on the traffic calendar?

11 A That's correct.

12 Q And it was disposed of?

13 A No, there was -- there was -- I believe there was a fine.

14 He may have dismissed it, I can't recall.

15 Q Okay. It either was dismissed or reduced to illegal

16 parking, do you remember which?

17 A No, I don't, mm-hmm.

18 Q Okay. So, your knowledge is it was either dismissed or

19 reduced with a -- is that correct?

20 A That's correct, yes.

21 Q With a small fine?

22 A That's correct.

23 Q Okay. And this was where you actually went out to Judge

24 where Bixler's bench was and you went up there and you spoke

25 to him about the matter and Dee Jones was seated right next to

- 1 him, right?
- 2 A I believe she was, yes.
- 3 Q Okay. And that's the way it happened, not only your
4 brother's, but on the others, correct?
- 5 A Yes, mm-hmm.
- 6 Q Okay. And you've been around for about twenty-odd years
7 in the courthouse. There wasn't a D.A. in this -- in there,
8 was there? There wasn't a D.A. in this case?
- 9 A No, there was not, mm-hmm.
- 10 Q Okay. Thank you. And there was nothing unusual about
11 this was there, and I don't mean to imply there was, but there
12 wasn't, was there?
- 13 A No, it was in open court.
- 14 Q Okay. Now what I'd like to do is go to this search or
15 the events that you were testifying to --
- 16 A Mm-hmm.
- 17 Q -- which were October 17th, 1995, is that correct?
- 18 A Yes.
- 19 Q Okay. Now, did you conduct a surveillance on January
20 17th, 1995?
- 21 A January 17th?
- 22 Q Yeah.
- 23 A Did I conduct a surveillance?
- 24 Q Yes.
- 25 A I don't recall if I conducted a surveillance. Are you

1 talking about pertaining to this case or just a surveillance?

2 Q Well, let me direct your attention. January 17th, 1995,
3 that's when Salem -- you and Hanford supposedly gave Salem
4 twenty-five hundred dollars (\$2500), correct?

5 A I don't know if I was there for that meeting.

6 Q Well, don't you remember the envelope where the money was
7 put in a sealed envelope for Salem to give to Dottore back in
8 January 1997, I mean '95?

9 A I don't believe I was there for that one.

10 Q Well, are you aware that a surveillance wasn't conducted?

11 A No, I was not.

12 Q So you're not aware of what happened with that twenty-
13 five hundred (2500)?

14 A Not unless at one point I had reviewed some of Special
15 Agent Hanford's reports.

16 Q Was this a joint investigation with you and Metro?

17 MS. SHOEMAKER: Objection. Calls --

18 MR. PITARO: With you and the FBI?

19 MS. SHOEMAKER: Objection. It calls for a legal
20 conclusion and it's irrelevant.

21 THE COURT: Sustained.

22 MR. PITARO: Well, Your Honor, he has previously
23 testified that it was.

24 THE COURT: I've sustained the objection, counsel.

25 //

1 BY MR. PITARO:

2 Q Well, you were involved in this investigation, weren't
3 you?

4 A Yes, we were cooperating with the FBI.

5 Q And when people would be interviewed, you'd go with
6 Detective Hanson -- or Agent Hanson?

7 A Agent Hanford? Yes.

8 Q Hanford. I'm sorry.

9 A That's okay.

10 Q Agent Hanford, I'm sorry. Agent Hanford, you'd go with
11 him?

12 A Yes, I would.

13 Q Okay. You'd gone and interviewed Dottore before with
14 him, hadn't you?

15 A Yes, as Metropolitan Police Department.

16 Q What do you mean as Metro?

17 A At the very beginning of this?

18 Q Yeah, back in '94?

19 A Yes, we had gone out and identified ourselves as
20 Metropolitan Police Department.

21 Q Okay. But, wait a minute, he's with the FBI.

22 A That's correct.

23 Q You identified yourself as a police officer?

24 A That's correct.

25 Q And how did he identify himself?

1 A As a police officer.

2 Q Not as an FBI agent?

3 A That's correct.

4 Q Okay. From Metro?

5 A That's correct.

6 Q All right. Now you sat and discussed these matters in --

7 with -- in the presence of Hanford with Mr. Salem, isn't that

8 correct?

9 A Yes.

10 Q Okay. You did that on numerous times, didn't you?

11 A Yes, that's correct.

12 Q Okay. Basically, most of the time that Hanford was

13 involved, you were involved, right? You were like partners on

14 this?

15 A Yes, we were. Uh-huh.

16 Q Okay.

17 A Mm-hmm.

18 Q And so what you're telling us now is that when the

19 twenty-five hundred dollars (\$2500) was supposedly paid by

20 Salem -- by the FBI to Salem --

21 A Mm-hmm.

22 Q -- you don't remember it?

23 A That's correct. I wasn't there on that meeting. There

24 were some meetings that I was not present on. I could have

25 been out of town, on vacation, I don't recall.

1 Q Okay. Now in addition, in addition to those meetings,
2 you also went to other individuals, is that correct?

3 A Yes, it is.

4 Q Okay. And one of those people was a guy by the name of
5 Marty Carson?

6 MS. SHOEMAKER: Your Honor. I'm going to object to
7 the relevance of this area.

8 THE COURT: How is it relevant, counsel?

9 MR. PITARO: How is it relevant?

10 THE COURT: Yes.

11 MR. PITARO: Because they would use Marty Carson as
12 an informant, or he was his informant, and they would --

13 THE COURT: In this particular matter?

14 MR. PITARO: Yes.

15 MS. SHOEMAKER: Your Honor, I don't believe that's
16 accurate, and even if it were, it still wouldn't be relevant.

17 THE COURT: Well, I don't know where you're going
18 with it.

19 MR. PITARO: Well --

20 THE COURT: Do you want to meet with me at sidebar
21 for --

22 MR. PITARO: Well, why don't I just try to get there
23 and if they don't like it, they can object?

24 THE COURT: Well, I'm sustaining the objection and
25 if you want to meet with me at sidebar.

1 MR. PITARO: Fine.

2 (Discussion at sidebar)

3 THE COURT: Incidentally, in my judgment, the vast
4 majority of these questions about the plan and so forth --

5 MR. PITARO: Of the what?

6 THE COURT: About the plan and so forth, are simply
7 foundational questions under 511. I don't have a moment's
8 difficulty with that kind of inquiry. Where --

9 MR. PITARO: Well, just for the record, I did
10 because I don't think it was -- it was offered for any other
11 purpose but to prejudice the jury. It was clearly hearsay.
12 It clearly wasn't made --

13 MR. JOHNSON: Shh.

14 MR. PITARO: -- under 801.

15 THE COURT: Well --

16 MR. PITARO: -- and you ruled --

17 THE COURT: -- in any event, I'm telling you that --

18 MR. PITARO: That's fine, but I don't think so.

19 THE COURT: -- you may have that impression, but
20 it's a foundational kind of questioning to get to a certain
21 area and --

22 MR. PITARO: Now this witness has testified that
23 he's been involved in this investigation, that he was
24 basically his partner, they were feeding --

25 THE COURT: Tell me where it is you intend to go

1 with what you're asking.

2 MR. PITARO: I'm going to ask him about Marty
3 Carsons, that he did interview him, and that he would -- he
4 would in addition feed evidence to Marty Carsons to feed to
5 Dottore, and those tapes and exhibits that they have have
6 referenced those, he's the person.

7 Now let me just say this, we're going through this
8 same drill again that they say in prior testimony --

9 MS. SHOEMAKER: Shh.

10 MR. PITARO: -- please -- they say in prior
11 testimony --

12 MR. JOHNSON: -- hear everything that's being said.

13 THE COURT: No -- yeah, hold it down.

14 MR. PITARO: They say in prior testimony that this
15 happens and they come in and they object and say, no, it
16 isn't. I get an objection sustained even though they've
17 already said it. We have the same damn thing happening now
18 with the informant. I had -- and I pointed it out to you
19 before that we had Agent Hanford testify in front of the grand
20 jury on numerous occasions. Marty Carsons was an informant,
21 now they're saying, oh, no, we can't say he's an informant.

22 Let me just say this. I'm entitled --

23 THE COURT: Well, I don't know what you're talking
24 about. Hanford hasn't even testified.

25 MR. PITARO: No, we talked about this before, Judge,

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1 and --

2 THE COURT: Well, and --

3 MR. PITARO: -- and we came through the same -- the
4 same thing, and I'm entitled --

5 THE COURT: Well, I don't know --

6 MR. PITARO: -- to get into --

7 THE COURT: -- what you're talking about, but in any
8 event, let's stick with this and not get on to all these
9 peripheral matters.

10 What is it that you want to do?

11 MR. PITARO: That he had conversations with -- and
12 interviews with Carson and Dottore and that he, based upon
13 Agent Hanford, would -- they would feed information to this
14 Marty Carsons which was alleged to be -- was supposed to be
15 one of his informants during this investigation.

16 MS. SHOEMAKER: Your Honor, first of all, Marty
17 Carson was not an informant. Agent Hanford did on at least
18 one -- on one occasion I'm aware of referenced him that way in
19 the grand jury, but he was --

20 MR. PITARO: I was --

21 THE COURT: Just be patient.

22 MS. SHOEMAKER: -- talking about him being a Metro
23 informant. He's not a Metro informant, but whether or not --
24 and we're not denying they did give information to Marty
25 Carson to pass on to Paul Dottore, but what relevance does

1 that have to anything? It doesn't make any difference whether
2 they fed information to Paul Dottore about the bank fraud --

3 THE COURT: Well, it might be relevant. Why is it
4 relevant?

5 MR. PITARO: It's relevant because it goes to the
6 issue of the things that Dottore is saying and that he has
7 testified to.

8 Now, let me just point out is --

9 THE COURT: Now Dottore hasn't testified either.

10 MR. PITARO: And Salem, he's testified through the
11 tapes. He's testified through the tapes, and I assume he's
12 going to come up --

13 THE COURT: Well, how does it go to it? How is it
14 relevant?

15 MR. PITARO: How is it relevant?

16 THE COURT: Yeah.

17 MR. PITARO: It is relevant because it's part and
18 parcel of this investigation that they're trying to convict my
19 client of. I am not talking about an investigation of
20 shoplifting down at the Boulevard Mall. We're talking about
21 an investigation he's involved in and his participation in and
22 the way they're participating in it and the way they're doing
23 it to try to get my client in this case, not any other case.

24 THE COURT: Then what you want to ask is did you
25 feed information to this party that was --

1 MR. PITARO: Mm-hmm. And then what did he report
2 back.

3 THE COURT: Well, you want to limit it to that?

4 MR. PITARO: That and then -- that is -- and then
5 this is -- this is also the individual that I supplied you the
6 information on under the -- where they took that excerpt out
7 and Dottore was talking about intimidating witnesses so they
8 wouldn't testify against him. That's -- this is the same
9 Marty Carson, and that was part and parcel of the information
10 that was being -- was being fed. So that's what I'm doing.

11 MS. SHOEMAKER: Your Honor, the fact that Metro may
12 have told Marty Carson something about the bank fraud
13 investigation hoping that Marty Carson would pass it on to
14 Paul Dottore and that it would generate conversations over our
15 wiretap implicating Paul Dottore and Jack Jerdan and Salem in
16 the bank fraud has no relevance whatsoever --

17 MR. PITARO: You proffered these tapes.

18 MS. SHOEMAKER: -- as to whether there were bribes
19 being taken by Bongiovanni.

20 MR. PITARO: Your Honor, then why were they played?
21 Why did you allow a hundred tapes --

22 THE COURT: Yeah --

23 MR. PITARO: -- to be played?

24 THE COURT: -- why were they played? Right.

25 MS. SHOEMAKER: Your Honor --

1 MR. PITARO: Over my objection.

2 MS. SHOEMAKER: -- the conversations that were being
3 played, I'm not sure I'm even sure what's being asked. The
4 only conversations that were being played concerning the bank
5 fraud were just enough to show that they were involved in the
6 bank fraud and --

7 THE COURT: Well, let me tell you, I'm not at all
8 sure that it's anything other than tangentially relevant, but
9 if you want to ask, did you supply information to this party
10 and did this party come back to you with information, go ahead
11 and do that, but that'll be the end of it. That's the limit
12 of it. Okay?

13 MR. PITARO: All right. The -- the other thing is
14 the other -- well, that's with Carson, that's where they
15 objected. That's fine.

16 (End of discussion at sidebar)

17 THE COURT: You may proceed, Mr. Pitaro.

18 MR. PITARO: All right.

19 BY MR. PITARO:

20 Q Detective Nicholson, you know an individual by the name
21 of Marty Carsons?

22 A Yes, I do.

23 Q Okay. And he was an informant for you?

24 A No, he was not.

25 MS. SHOEMAKER: Objection, Your Honor.

1 THE COURT: He's indicated no. Let's move on.

2 BY MR. PITARO:

3 Q He was a person then that you would talk to?

4 A Yes.

5 Q You would then feed information to him?

6 A Yes.

7 Q Okay. Wasn't hard to say that. Now, and then you would
8 hope --

9 THE COURT: Counsel --

10 MR. PITARO: -- that he would then tell --

11 THE COURT: -- the commentary on the side is
12 unnecessary.

13 MR. PITARO: I'm sorry.

14 THE COURT: Let's move on.

15 BY MR. PITARO:

16 Q Then you would -- then he would feed back information to
17 you, isn't that correct?

18 A No.

19 Q Well, wouldn't he tell you what was happening? Wouldn't
20 he tell you about the conversations, for example, he'd have
21 with Paul Dottore? What did he tell you about the
22 conversations he had with Paul Dottore?

23 MS. SHOEMAKER: Objection, Your Honor, can the
24 witness --

25 THE COURT: Let the witness respond.

1 THE WITNESS: I don't believe that he covered all
2 the conversations. He would make comments that he had talked
3 to him, he couldn't believe that he did it --

4 BY MR. PITARO:

5 Q No, I'm not asking that. My question was real specific.
6 Didn't he tell you information that he would get from
7 conversations with Paul Dottore?

8 A His conversations with Paul Dottore is Paul Dottore was
9 always denying it to him.

10 MR. PITARO: Your Honor, that is non-responsive. I
11 am asking him --

12 THE COURT: Well --

13 MR. PITARO: -- a simple question.

14 THE COURT: -- he's indicated that, yes, he did.
15 That's my understanding of the answer.

16 THE WITNESS: Yes.

17 THE COURT: Okay. Let's move on.

18 BY MR. PITARO:

19 Q So he would indicate back to you then information that
20 Paul Dottore relayed to him, right?

21 A That's correct.

22 Q Okay. And you would relay to Mr. Carsons information you
23 wanted relayed to Mr. Dottore, correct?

24 A Not relayed to him in -- if you'd be more specific on the
25 relay. It's not like I'm telling him something 'cause we knew

1 that they were talking on the phone. Is that what you're --

2 Q Well, you told Mr. Carsons the thing is because you
3 wanted Mr. Carsons to then tell Mr. Dottore what you had told
4 him, right?

5 A No. Usually the call was initiated by Martin, Marty.

6 Q To you?

7 A Yes.

8 Q And then you would give him information about this
9 investigation?

10 A Not information about the investigation.

11 Q You'd then give him false information?

12 A I wouldn't call it false. I would call it information
13 that he would call Paul on.

14 Q You wouldn't call it truth or you wouldn't call it false,
15 you'd call it, what you'd call Paul with.

16 A I'd call it truthful information. It was usually after
17 the fact and --

18 Q Okay. So you would --

19 A -- or I'd tell him I didn't know --

20 Q So --

21 A -- which I did.

22 Q So, in fact, you did do this.

23 A Yes.

24 THE COURT: He's indicated he did.

25 MR. PITARO: Thank you.

1 THE WITNESS: Yes. Yes.

2 BY MR. PITARO:

3 Q Now you interviewed, you said, with Mr. Hanson and Mr.
4 Dottore back in '94?

5 A Special Agent Hanford?

6 Q Hanford. Yes.

7 A Yes, that's correct.

8 Q Okay. Let me ask you this, going to the stop of Mr.
9 Dottore on October 17th, 1995, okay --

10 A Mm-hmm.

11 Q -- the one you were just testifying to --

12 A Yes.

13 Q -- you said you initiated a traffic stop?

14 A That's correct.

15 Q Okay. Mr. Dottore wasn't violating any traffic laws was
16 he?

17 A It was a term I used to stop the vehicle.

18 Q Uh-huh. Okay. So what you did is --

19 A Mm-hmm.

20 Q -- he's driving down the street and three vehicles corner
21 him, isn't that correct?

22 A No.

23 Q Well, one pulls him over with red lights, right?

24 A That's correct.

25 Q One pulls in front of him.

1 A That wasn't until a minute or two afterwards --

2 Q All right.

3 A -- I believe.

4 Q All right. So one -- okay, one's in front of him --

5 A Not directly in --

6 Q -- and where's the third one?

7 A -- he's a good car length in front of him, a car length
8 or two.

9 Q Okay. He's way down the road?

10 A Not way down the road. I said a car length or two.

11 Q Okay. And where's the third vehicle?

12 A The third vehicle is back behind us --

13 Q Okay. And then --

14 A -- probably another car length.

15 Q Okay. And then all those people got out of these things
16 and started walking these car lengths to Mr. Dottore?

17 A No.

18 Q No, they got out of the car, didn't they?

19 A Eventually they had gotten out of the car. The vehicle
20 that was in front of us after Paul Dottore had gotten out of
21 the vehicle with me and we were standing by his vehicle, the
22 two agents that were in that first car were out at the back of
23 their car appeared to be talking.

24 Q So the answer was, yes, they got out of their cars.

25 A Yes.

1 Q Okay. And you say that you went up and then you got
2 these conversations with Mr. Dottore and he voluntarily gave
3 you all this money?

4 A He didn't volunteer to give us the money. He had emptied
5 his -- he has cooperated by emptying his pockets that he had
6 nothing to hide.

7 Q Right. Did you ask him to sign a consent to search form?

8 A No, I did not.

9 Q Who did?

10 A I don't know who did.

11 Q Someone did.

12 A That's correct --

13 Q And --

14 A -- but I don't know who it was.

15 Q Okay. Someone, now you don't know if it was you, you
16 don't know if it was Hanford --

17 MS. SHOEMAKER: Objection, Your Honor, this area
18 that we're getting into now is totally irrelevant and this
19 defendant has no standing to challenge that.

20 THE COURT: He --

21 MR. PITARO: Wait a minute, Your Honor, they
22 testified about it. I'm entitled to go into the facts and
23 circumstances what they brought out in direct.

24 MS. SHOEMAKER: There was no further testimony about
25 signing any consent to form --

1 MR. PITARO: Your Honor --

2 MS. SHOEMAKER: -- the form to consent.

3 MR. PITARO: -- of course not, they didn't want to
4 mention it. That's why I do. That's what the adversary
5 system is. They can't say we can get our stuff out but we
6 didn't ask it so you can't ask.

7 MS. SHOEMAKER: Your Honor --

8 MR. PITARO: They went at great length about the
9 facts and circumstances of this search.

10 MS. SHOEMAKER: This is not an issue in this case --

11 THE COURT: It is not an issue in this --

12 MS. SHOEMAKER: -- as to whether or not it was a
13 voluntary consent.

14 MR. PITARO: It may not be a legal issue for
15 standing --

16 THE COURT: It's not an issue, counsel.

17 MR. PITARO: -- but it is a factual issue of what he
18 said, okay, and it goes to the issue of what he said.

19 THE COURT: Well, let's move on.

20 MR. PITARO: Can I ask the question?

21 THE COURT: About the consent?

22 MR. PITARO: The fact that Mr. Dottore refused to
23 sign a consent to search.

24 THE COURT: It really --

25 MR. PITARO: He did.

1 THE COURT: It really is not an issue. Let's move
2 on.

3 MR. PITARO: Then I move to strike their testimony
4 that he did a search [sic] it.

5 THE COURT: And the motion is denied. Let's move
6 on.

7 BY MR. PITARO:

8 Q When you got to Jerry Bongiovanni's house, how were you
9 dressed?

10 A I had on a police yellow jacket that has -- it's the
11 bright yellow jackets that has police going down the arms and
12 across the front and across the back it says "Police," and
13 then I have a clip-on badge that I had out on the jacket.

14 Q And how was the FBI dressed?

15 A They had their blue jackets on, I believe it's a dark
16 blue, it says "FBI" on it.

17 Q How big are the "FBI" letters?

18 A I don't recall, I think they're just over the left pocket
19 and I'm not sure if they go down the sleeves and around the
20 back or not.

21 Q Now how many people went into Jerry Bongiovanni's house
22 even before Agent Hanford got in?

23 A Let's --

24 Q How about five?

25 A -- that'd be -- yes, five, five, five of us.

1 Q Thank you.

2 A Mm-hmm.

3 Q And you were one of 'em?

4 A Yes, I was.

5 Q And you were there with Agent Byers?

6 A That's correct.

7 Q Now what agent went into Mrs. Bongiovanni's bedroom?

8 A I don't know.

9 Q You know one went in, you're telling us you just don't

10 know who it was?

11 A Yeah, I don't know who it was because I was primarily in

12 the kitchenette area the whole time.

13 Q So when you're saying no one's searching in there, you

14 don't know if this agent isn't searching, do you?

15 A I'm sorry, would you repeat the question?

16 Q Well, you had testified on direct examination that no one

17 was searching the house, and I'm saying you know that there

18 was an agent in Mrs. Bongiovanni's bedroom and -- but you

19 don't know what they were doing, do you?

20 MS. SHOEMAKER: Your Honor, I think what Detective

21 Nicholson had testified is at a certain point that the agents

22 weren't searching and I think what Mr. Pitaro's now talking

23 about is later when they were searching and he needs to ask

24 the question if he testified they weren't searching at a

25 certain point, how does he know that, if he wants, but to

1 suggest that they were out there possibly searching when
2 Detective Nicholson said they weren't searching, he ought to
3 get it clear exactly what time he's talking about.

4 BY MR. PITARO:

5 Q Well, you know what I'm talking about, don't you? This
6 all happened, you said, within just a couple minutes.

7 THE COURT: Well, counsel, you have the same
8 foundational obligations to address these issues. You want to
9 talk about an agent, I think you asked the question and the
10 witness indicated that he didn't know what witness had done
11 thus and so.

12 BY MR. PITARO:

13 Q All right. So you don't know --

14 THE COURT: Now, if you want to go further with it,
15 go ahead.

16 BY MR. PITARO:

17 Q -- what was happening in Mrs. Bongiovanni's bedroom?

18 A No, I do not.

19 Q You don't know what was happening in the living room?

20 A The front living room, I could see the front living room.
21 There was nobody in the front living room at the time.

22 Q Well, where was Angela?

23 A She wasn't in my sight. I don't know if she went back to
24 her bedroom or not.

25 Q Do you know if an agent was with her?

1 A I don't know.

2 Q Okay. You don't know if an agent was with Mr.

3 Bongiovanni's son, G.B.?

4 A I don't know. I don't know if he was in the residence.

5 Q You never saw him?

6 A No. I don't recall seeing him.

7 Q Okay. So you don't know if one agent was talking to him
8 in his mother's bedroom?

9 A No.

10 Q Okay. Now you do know that you were searching in the
11 kitchen?

12 A I wasn't searching in the kitchen.

13 Q Well, who was?

14 A I was standing there --

15 Q Who was? Who was going through the cupboards?

16 A Nobody was at that point.

17 Q What point did they start going through the cupboards?

18 A We didn't get to that point.

19 Q Well, you did actually get to a point where you went
20 through the cupboards in the kitchen, didn't you? Someone
21 did.

22 THE COURT: You'll have to answer out loud.

23 THE WITNESS: I don't recall searching the
24 cupboards, and myself and Special Agent Byers were the only
25 ones in the kitchenette area and we were standing there

1 watching the defendant and while he was reading the papers
2 that he was presented with.

3 BY MR. PITARO:

4 Q All right. So it's your testimony now that no one was
5 searching in the cupboards in the kitchen?

6 A I don't recall --

7 Q Or don't you remember?

8 A -- anybody searching the kitchen in the cupboards.

9 Q Okay. So now you don't remember. Okay. Now when you're
10 sitting there with Mr. Bongiovanni -- now, when you came in,
11 of course, you came in pretty loud, didn't you?

12 A No, it was --

13 Q You guys came in yelling that you were the FBI and Metro,
14 right?

15 A No.

16 Q You scared this little girl, didn't you?

17 A No.

18 Q Okay. Five guys came in, right? You all came through
19 the front door, didn't you?

20 A We had knocked on the door. Angela opened the door.
21 I identified myself. I explained the purpose that we were
22 there --

23 Q To -- to this girl.

24 A -- that we needed to see the judge about couple a search
25 warrants. She was apparently going to respond by turning

1 around and calling her father, at which point he came into
2 view from the hallway. I again identified myself and stated
3 the purpose what we were there for.

4 Q Did anyone raise their voice?

5 A No.

6 Q No one ever yelled?

7 A No.

8 Q No one ever yelled at Jerry Bongiovanni about what you
9 were there for?

10 A No.

11 Q No one ever yelled at him to give us the money?

12 A No.

13 Q No one ever yelled at G.B., his son?

14 A If they did, I didn't hear it.

15 Q Okay, well. Now let me ask you this, there was five
16 people in there at this time, right, in the house?

17 A That's correct.

18 Q Two of 'em were in the kitchen?

19 A Myself and Special Agent Byers were in the kitchen.

20 Q Where were the other three?

21 A When we first --

22 Q No, when you were in the kitchen, you said that you --

23 A Okay.

24 Q -- and Agent Byers are there, there's five of -- there's
25 five of you in there --

- 1 A Uh-huh.
- 2 Q -- Hanford, you said, hasn't even got there to make it
- 3 six, where were the other three?
- 4 A At which point?
- 5 Q What, were you all in the kitchen together?
- 6 A At what time frame?
- 7 Q When you first got there.
- 8 A When we first got there, they were standing right there
- 9 just outside the kitchenette area.
- 10 Q In what?
- 11 A Pardon?
- 12 Q In what?
- 13 A It'd be like in the hall --
- 14 Q Okay.
- 15 A -- right there which splits the --
- 16 Q Did you lose -- did you --
- 17 A -- the bedroom and the front room and the kitchen area,
- 18 right --
- 19 Q Well --
- 20 A -- right in that little area.
- 21 Q Yeah, didn't you lose sight of these three other guys?
- 22 A Pardon?
- 23 Q Didn't you lose sight of 'em at some point in time in
- 24 those few minutes that you were there?
- 25 A Yes.

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1 Q Okay. And where'd they go, do you know?

2 A I have no idea. They went into the residence somewhere.

3 Q Okay. So they were some place else in the residence?

4 A That's correct.

5 Q Okay. And Angela wasn't in the kitchen, was she?

6 A No.

7 Q Okay. And G.B. wasn't in the kitchen?

8 A No.

9 Q Okay. Now you said that you had had conversations.

10 Byers and you were telling Mr. Bongiovanni what you were

11 looking for --

12 A Special Agent Byers --

13 Q -- isn't that correct?

14 A -- did.

15 Q Okay. And you said that Mr. Bongiovanni would make

16 comments, is that correct? Like what's this all about?

17 A That's correct.

18 Q Okay. And isn't it true he also said, isn't there

19 something wrong with the money -- or is there something wrong

20 with the money?

21 A That's correct.

22 Q And that was --

23 MS. SHOEMAKER: Your Honor, can we have a sidebar?

24 MR. PITARO: -- that was when you and Agent Byers

25 were there?

1 THE COURT: Just a moment. Counsel.

2 (Discussion at sidebar)

3 THE COURT: I think you headed exactly where I told
4 you that you can't head, counsel, as far as the event you
5 recall on the counterfeit.

6 MR. PITARO: If I can make my -- let you know what
7 happened. They told you again --

8 MR. JOHNSON: Your Honor.

9 MR. PITARO: They told you --

10 THE COURT: Keep your voice down.

11 MR. PITARO: Okay. They told you wrong. They said
12 that that counterfeiting comment wasn't made until after the
13 money was seized. Now in the Kutash trial, you allowed the
14 counterfeiting in and here's the testimony I'm going because
15 of what he said, "what's it all about?" This is when Byers
16 would advise them what they would looking for. He would make
17 comments, "what's it about, there's something wrong with the
18 money, is it counterfeit money." He made that well before
19 this money was found and you let these comments in and these
20 are the comments from the Kutash case, and when they told you
21 their motion, without hearing the evidence, they told you it
22 happened afterwards and it didn't, and just as in the Kutash
23 matter, this happened before, and I'm entitled to get into
24 that. And here it is, there it is, page 128 of the Kutash
25 trial, exactly what Nicholson said. This is Nicholson's

1 testimony.

2 THE COURT: And what's your position?

3 MS. SHOEMAKER: Your Honor, I don't believe that
4 initially that we stated that the -- all of the statements
5 were made after the money was found, although the statement
6 was repeated after it was found. The test -- we have a report
7 -- the initial report indicated that nothing was said until
8 after the money was found and then Detective Nicholson
9 testified in the last trial that he thought he had made the
10 comment about the counterfeiting, not the other stuff, prior
11 to the money being found. Then when I talked to him about
12 that afterwards, he's not sure whether it happened. And he
13 knows it was stated after the money was found but he's not
14 sure --

15 THE COURT: Well --

16 MS. SHOEMAKER: -- when --

17 MR. PITARO: Well, I'm entitled --

18 THE COURT: -- just a moment, the question is
19 whether it's appropriate for him to ask the questions. Do you
20 have some objection to his --

21 MS. SHOEMAKER: Yes, Your Honor, we still -- our
22 position is that it's a self-serving statement that's not
23 admissible, it's hearsay, and it's not necessary to give
24 meaning to his denial that he knew anything about any hundred-
25 dollar bills, that Paul Dottore had just been there for coffee

1 and that the subject of money had never come up.

2 The statement about asking a question, is this
3 possibly counterfeit, even if it was asked prior to the money
4 being found, is not necessary to give any meaning to -- or
5 explain the fact that he had denied having any knowledge about
6 the money or having received any hundred-dollar bills from
7 Paul Dottore. If he had a concern about that, he could have
8 still said, well, yes, I have the money, what's wrong with
9 that, you know, is there something wrong with it, but to just
10 sit there and then just say, start asking the questions as the
11 agents are there going and executing the search warrant after
12 he's already denied repeatedly that he knew anything about it,
13 go ahead and search, you're not going to find anything, it
14 isn't necessary to give any meaning, it's just a self-serving
15 statement and it's the only reason they want it brought in.

16 MR. PITARO: That's not true.

17 THE COURT: Well --

18 MR. PITARO: Let me --

19 THE COURT: -- just a minute. Let me ask you a
20 question.

21 MR. PITARO: Sure. State of mind.

22 THE COURT: Just a minute. If we're talking about
23 the money, somebody says something about why was there any
24 reason to talk about anything until the money was found?

25 MR. PITARO: Because they were -- remember what he

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1 said, Byers and him spoke to Mr. Bongiovanni, was telling him
2 what it was about while we're sitting at the table, what we
3 are looking for and Bongiovanni was making comments like what
4 is this about, his state of mind, while he's inquiring of the
5 agents what's it about, is there something wrong with the
6 money, is it counterfeit money. This is before the money was
7 found. The fact that they don't like that is not -- it goes
8 to -- it goes to it -- my God, if this was supposed to be a
9 two-way trial to get the truth out, this here is before this
10 money was found and it was allowed in under state of mind when
11 -- in Kutash, this is where it comes -- this is his sworn
12 testimony, and if he denies it, then I'm entitled to impeach
13 him on it. It's as simple as that. And it's state of mind as
14 well as --

15 MR. JOHNSON: This is your next witness. I'm sorry,
16 I shouldn't be interrupting.

17 MS. SHOEMAKER: I was just going to say, Your Honor,
18 that state of mind at that point after he's already made these
19 denials doesn't have any relevance.

20 MR. PITARO: And she's the one that -- she was
21 actually the one who got it. It wasn't that this was
22 something she didn't know --

23 THE COURT: Shh.

24 MR. PITARO: She was -- this is her testimony that
25 she got out. This wasn't cross. Cross doesn't start 'til

1 later. Look what it says, "When we're sitting at the
2 table" --

3 MR. JOHNSON: Your Honor --

4 MR. PITARO: -- that's where it is.

5 MS. SHOEMAKER: Your Honor --

6 MR. JOHNSON: Your Honor.

7 MS. SHOEMAKER: -- that was --

8 MR. PITARO: And I'm entitled to get into that.

9 MS. SHOEMAKER: Your Honor, the question was not
10 asked in that regard and at that time the Court had ruled in
11 that case that that statement could come in and then we have
12 raised separately the issue about how it is a self-serving
13 statement and it is not entitled to come in. It's not
14 necessary to give meaning to his prior lies. He's already
15 lied repeatedly to the agents --

16 MR. PITARO: He has not.

17 MS. SHOEMAKER: -- as to whether that money was
18 there. The testimony's already come out that he lied twice at
19 that point about having any knowledge of the money, that Paul
20 Dottore had only been there for coffee, so if the money had
21 never come up, go ahead and search, they're executing the
22 search, at that point this is being said. The search is --
23 the search is being --

24 MR. PITARO: The subject was the money --

25 THE COURT: Just -- just wait a minute.

1 MS. SHOEMAKER: Your Honor, that is what the
2 testimony has come out here, and those statements, the asking
3 the question, is this money counterfeit, the only purpose he's
4 trying to get it in there is to show that -- to bring up an
5 excuse to the jury about why he may have lied, but that is not
6 necessary to give any meaning of the self-serving statement.
7 He should have to take the stand and testify, I thought that
8 the money might be counterfeit and that's why I lied if he
9 wants to bring it in for his state of mind, but it should not
10 be coming in otherwise. It has no relevance.

11 MR. PITARO: Your Honor, I don't know, maybe I,
12 after twenty-three years, I don't understand the rules of
13 evidence but this -- this is -- this is another instance --

14 MR. JOHNSON: Your Honor --

15 MR. PITARO: -- where they're making the objection
16 after some -- in some other place. They -- it's out there --
17 it says, it says before --

18 MR. JOHNSON: Your Honor --

19 MR. PITARO: Well, wait a minute, let me finish.

20 MR. JOHNSON: -- I've talked with Agent Hanford and
21 Mr. Hanford says --

22 MR. PITARO: I don't care about Hanford --

23 THE COURT: Shh.

24 MR. PITARO: I think Hanford --

25 COURT RECORDER: One at a time, please.

1 MR. JOHNSON: Just --

2 MR. PITARO: -- I think Hanford and Nicholson's a
3 liar, how's that? I don't think they're truthful people.

4 THE COURT: Just let him finish.

5 MR. PITARO: I don't have to take their
6 representations.

7 MR. JOHNSON: Mr. Hanford says everything Mr. Pitaro
8 is saying is coming across very clear to where he's sitting.
9 I'm not trying to interrupt Mr. Pitaro's argument, all I'm
10 saying is Mr. Hanford has told me that whatever Mr. Pitaro is
11 saying back here is coming across very clear. And that's --

12 THE COURT: Well, I'll have to ask you to tone it
13 down.

14 MR. JOHNSON: That's what I'm concerned about.

15 THE COURT: I'm going to sustain the objection.
16 Let's move on.

17 (End of discussion at sidebar)

18 BY MR. PITARO:

19 Q Detective Nicholson, were you there when Agent Byers
20 spoke with Mr. Bongiovanni?

21 A Yes.

22 Q And this was before any money -- you found any money,
23 isn't that correct?

24 A Yes.

25 Q And you're at the kitchen table?

1 A That's correct.

2 Q And this is before any money was found?

3 A That's correct.

4 Q Okay. And this was before Agent Hanford came into the
5 house?

6 A Yes.

7 MR. PITARO: Now, Your Honor, I think I've laid the
8 foundation.

9 MS. SHOEMAKER: Your Honor, same objection.

10 THE COURT: Sustained. Let's move on.

11 BY MR. PITARO:

12 Q Now, you've told us that Agent Hanford is in the house
13 when you found the money, right?

14 A Yes, he was.

15 Q Now you say you found it in a hallway?

16 A No, I found it in his --

17 Q That Mr. Bongiovanni was in the hallway, isn't that
18 correct?

19 A I found it in his rear pocket.

20 Q Okay. He was standing in the hallway?

21 A He was starting to walk down the hallway.

22 Q Was he in the hallway or wasn't he?

23 A Yes, he was.

24 Q Okay. Then he was in the hallway, correct?

25 A Yes.

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL RIPPO,

Appellant,

-vs-

E.K. McDANIEL, et al.,

Respondent.

No. 53626

FILED

OCT 19 2009

TRACIE A. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

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1 didn't know whether or not he would still be willing to do
2 anything.

3 MR. JOHNSON: Your Honor the government would move
4 for the admission of Exhibit 103.

5 THE COURT: 103?

6 MR. JOHNSON: Yes.

7 MR. PITARO: No objection, Your Honor.

8 THE COURT: Received. You may play the tape.

9 (Plaintiff's Exhibit No. 103 admitted)

10 MR. JOHNSON: Your Honor, pursuant to the
11 stipulation of counsel, Exhibit 103 is a conversation that it
12 was recorded on December 22nd, 1994 at approximately 1950
13 hours, which would be about 7:50 p.m. It's an incoming call
14 to Paul Dottore's home telephone, the call is between Paul
15 Dottore and Terry Salem.

16 MR. PITARO: Your Honor, just for clarification,
17 obviously Mr. Johnson is skipping back one now, it's not in
18 sequence.

19 MR. JOHNSON: That's correct, Your Honor, I'm -- I
20 skipped one and now we're moving back to a call on December
21 22nd. I assume it's -- I'm -- did you receive it?

22 THE COURT: Yes, it's been received.

23 MR. JOHNSON: I'm sorry.

24 MR. PITARO: Yeah, I have no objection.

25 MR. JOHNSON: Your Honor, pursuant to the

1 stipulation of counsel, Government Exhibit 103 is a
2 conversation occurring on December 22nd, 1994 at 1950 hours
3 military time, which would be 7:50 p.m. It's an incoming call
4 to Paul Dottore's home telephone, the conversation is between
5 Paul Dottore and Terry Salem. With the Court's permission I
6 would ask Agent Voltz to play the conversation.

7 (Plaintiff's Exhibit No. 103 played)

8 BY MR. JOHNSON:

9 Q Mr. Salem, looking at page 1 of the government exhibit --
10 or transcript for Government Exhibit 103, at the bottom of the
11 page you said, "Well, 'cause I called you a million times
12 after I got out." What were you referring to by "after I got
13 out"?

14 A After I got out of jail I called him on his phone a
15 number of times.

16 Q Looking at the bottom of page 2, top of page 3, Dottore
17 says:

18 "I went and seen him today. I said, what the fuck, he
19 says, what do you want me to do, tell everybody I'm going
20 to do something. He says, I couldn't, I couldn't, I
21 couldn't call no more, I couldn't do nothing, I don't
22 want to."

23 You replied; "All right, all right, don't worry about
24 it."

25 When Dottore stated that he "went and seen him today," who did

1 you understand him to be referring to?

2 A He went and saw the judge, Judge Bongiovanni.

3 Q And what did you understand Dottore to mean when he said;
4 "he says, what do you want me to do, tell everybody I'm going
5 to do something"?

6 A My understanding was I put a lot of pressure on Paul to
7 get me out as soon as possible, and the judge had -- I wanted
8 the judge to get me out right then and there, I didn't want to
9 wait until the next day, and he couldn't do that without
10 exposing himself.

11 Q What do you mean exposing himself?

12 A Show that he went out of his way to help me.

13 MR. PITARO: Your Honor -- Your Honor, I think we're
14 engaging in --

15 THE COURT: Sustained.

16 MR. PITARO: Thank you.

17 BY MR. JOHNSON:

18 Q You make a statement on page 4, toward the bottom of the
19 page, "Louie's already told" -- in the middle of the first
20 sentence -- or phrase by you, you state, "Louie's already told
21 half the world." Who are you referring to by Louie?

22 A Did you say page 4?

23 Q Page 4. Look at the second phrase from the bottom, you
24 say --

25 A Oh, okay. Okay.

1 Q -- "No, I had to change the battery."

2 A Okay.

3 Q And the toward the end you say, "Louie's already told
4 half the world."

5 A Oh, Louie told everybody that I was O/R'd.

6 Q Who are you referring to by Louie?

7 A Louis Olejack.

8 Q Looking at page 5 of the transcript, Dottore says to you;
9 "I didn't tell Mickey, I said I'm going to try to help --
10 I'm going to try to help Terry now, so maybe Louie will
11 wake up."

12 You state; "Well, you went and told Louie.

13 "Dottore: Yeah."

14 You state; "Louie talked to a guy -- some guys in
15 California.

16 "Dottore: Oh, that's great."

17 You state: "But you know he didn't say nothing about
18 your friend."

19 Looking at the top of that series of statements, when Dottore
20 says "I didn't tell Mickey," who are you -- who do you
21 understand him to be referring to there?

22 A Mickey Gresser.

23 Q What did you understand Dottore to be telling you when he
24 said, "I'm going to try to help Terry now, so maybe Louie will
25 wake up"?

1 A He was saying that he was going to try to get the judge
2 to help me and Louie would see that.

3 Q At the bottom of the page you indicate Louie talked to a
4 guy, some guys in California. Dottore responds, "Oh, that's
5 great." And you respond; "You know he didn't say nothing
6 about your friend." Who were you referring to by "your
7 friend"?

8 A Judge Bongiovanni.

9 MR. JOHNSON: Your Honor, the government would move
10 for the admission of Exhibit 115.

11 THE COURT: 115.

12 MR. PITARO: No objection, Your Honor.

13 THE COURT: Received.

14 (Plaintiff's Exhibit No. 115 admitted)

15 MR. JOHNSON: Your Honor, Government Exhibit 115,
16 pursuant to the stipulation of counsel is a recording of a
17 conversation occurring on December 30th, 1994 at approximately
18 1723 hours military time, which would be about 5:23 p.m. It's
19 an incoming call into Paul Dottore's home telephone,
20 participants in the call are Paul Dottore and Terry Salem. At
21 this point, Your Honor, I'd ask to play the tape.

22 THE COURT: You may play the tape.

23 (Plaintiff's Exhibit No. 115 played)

24 BY MR. JOHNSON:

25 Q Mr. Salem, looking at page 1 of the transcript at the

1 beginning, Dottore says:

2 "How are you."

3 You respond: "Good, how are you."

4 "Oh, great. When you coming."

5 You state: "Ahh, Monday."

6 What are you stating there?

7 A That I'm coming into Las Vegas Monday.

8 Q Mr. Dottore responds; "Okay, we got an appointment with
9 your attorney Tuesday." What did you understand him to mean
10 by that statement?

11 A That we would be meeting with Peter Flangas on Tuesday.

12 Q Do you know what day you were going to be flying in, in
13 terms of calendar day?

14 A I believe it was the 1st or the 2nd.

15 Q Of January, 1995?

16 A Of January, yes. January. I believe it was the 2nd.

17 Q January 2nd?

18 A I believe so.

19 Q Looking at the bottom of -- or bottom half of page 2,
20 going over to page 3, you state in the middle:

21 "Ah, I thought I was supposed to bring fifteen hundred.

22 "Dottore: Yeah."

23 "Salem: Yeah."

24 "Dottore: Okay."

25 You ask: "Is that right."

1 Dottore responds: "Yeah, that's for the lawyer. Yeah."
 2 You state: "Yeah."
 3 Dottore states: "Okay."
 4 You then state: "That's what I -- that's -- that's what
 5 you meant, right?"
 6 Dottore states: "No, I meant the other guy."
 7 Who did you understand Dottore to be referring to by "the
 8 other guy"?
 9 A Judge Bongiovanni.
 10 Q You then respond:
 11 "Oh, well, we didn't have a figure yet on what to bring.
 12 "Dottore: Five I told you."
 13 "Salem: Five hundred?"
 14 "Geez, no, Terry" -- Dottore then states: "Uh, gee, no,
 15 Terry, I wish it was five hundred."
 16 What did you mean by, "well, we didn't have a figure yet on
 17 what to bring"?
 18 A I didn't know exactly how much he wanted me to bring to
 19 give the judge, the figure of the bribe.
 20 Q Dottore then responds;
 21 "Five I told you."
 22 "Five hundred?"
 23 And Dottore says: "Gee, no, --
 24 MR. PITARO: Well --
 25 MR. JOHNSON: -- "Terry, I wish it was five

1 hundred."

2 THE COURT: Just a moment, counsel.

3 MR. PITARO: Your Honor -- Your Honor, I'm having a
4 problem with the type of answer, we didn't have a figure yet,
5 and then he says, well, we didn't have a figure. We just had
6 a tape a few minutes ago where they talked about five thousand
7 (\$,000). I think if Mr. Salem is saying that he's telling the
8 truth then he, you know, but what he's doing is he's just
9 repeating back what that is, which are obviously not true
10 statements.

11 THE COURT: Well --

12 MR. PITARO: I mean, that's what -- that's what
13 we've got here.

14 THE COURT: I don't know what the objection --

15 MR. PITARO: We're playing a tape --

16 THE COURT: Just a moment. I don't know what the
17 objection is, and I don't see any good reason to ask the
18 obvious, let's move on.

19 BY MR. JOHNSON:

20 Q What did you --

21 MR. JOHNSON: Your Honor, in the December 20th
22 conversation Mr. Dottore states that he thinks that it will
23 probably be around five thousand dollars.

24 THE COURT: I understand.

25 MR. JOHNSON: In this conversation he's -- I want

1 him to clarify that Mr. Dottore is stating that the bribe will
2 be five thousand dollars (\$5,000).

3 THE COURT: Go ahead.

4 MR. JOHNSON: Your Honor -- I'm sorry --

5 BY MR. JOHNSON:

6 Q Mr. Salem, when Mr. Dottore says -- you said: "Geez, no,
7 Terry, I wish it was five hundred," what did you understand
8 the bribe payment was supposed to be?

9 A Five thousand (5,000).

10 Q Looking at the bottom of page 3, Mr. Dottore states --
11 well, you state:

12 "Oh, does he have to have it right this minute?"

13 Dottore replies: "Well, he asked me again today, you
14 know, so I don't know, he said -- I said, don't worry
15 about it, it's okay. He said, okay."

16 Who did you understand him to be referring to by "he"?

17 A Judge Bongiovanni.

18 Q Looking at the top of page 5, Dottore states to you:

19 "Yeah, he don't know what we're doing. You know,
20 what you and I are doing is completely different
21 than what you and Pete are doing."

22 What did you understand Mr. Dottore to mean by that statement?

23 A Pete had -- didn't know anything about the bribe to the
24 judge. That was between Paul and I, that particular
25 transaction.

1 MR. JOHNSON: Your Honor, the government moves for
2 the admission of Government Exhibit 116.

3 THE COURT: 116?

4 MR. JOHNSON: Yes, Your Honor.

5 MR. PITARO: No objection.

6 THE COURT: 116 will be received.

7 (Plaintiff's Exhibit No. 116 admitted)

8 THE COURT: This again does not include this
9 witness.

10 MR. JOHNSON: Your Honor, Government Exhibit 116
11 pursuant to the stipulation of counsel is a recording of a
12 conversation occurring on January 1, 1995 at approximately
13 1729 hours military time which would be 5:29 p.m., and is an
14 incoming call into Paul Dottore's home telephone. The
15 participants in the call are Paul Dottore and Jack Jerdan.

16 With your permission, Your Honor, I'll have Agent
17 Voltz play the tape.

18 THE COURT: You may play the tape.

19 (Plaintiff's Exhibit No. 116 played)

20 BY MR. JOHNSON:

21 Q Mr. Salem, at this point in time toward the end of
22 December, 1994 and the first of January, 1995, did you and Mr.
23 Dottore come up with any plan to get money from Mr. Jerdan?

24 A Yes, we did.

25 Q And who came up with the idea of approaching Mr. Jerdan

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1 for money?

2 A We both sat down and discussed the fact that he should
3 come up with some money to help me out.

4 Q When you say "we both," you're referring to both you and
5 Mr. Dottore?

6 A Yes.

7 Q In terms of convincing Mr. Jerdan, why did you believe
8 Mr. Jerdan should help you out?

9 A Well, he was a co-conspirator in the --

10 MR. PITARO: Your Honor, once -- once -- I mean,
11 he's working as a government informant now which is part of a
12 scheme against Mr. Jerdan, and arguing that -- that Jerdan
13 should be helping him out because he has a legitimate problem
14 I don't think is proper.

15 MR. JOHNSON: Well --

16 MR. PITARO: I mean, that's where we're going with
17 this as if -- as if this isn't a scam. Call it a scam and
18 then don't have him testify how legitimate it is.

19 MR. JOHNSON: I'm not sure there's an objection
20 there, Your Honor.

21 THE COURT: Well, I think the objection is that
22 it's been coming in based upon a conspiracy and clearly this
23 witness is no longer a conspirator, and you're asking for
24 his --

25 MR. JOHNSON: I'm asking in regard to Mr. Dottore's

1 -- this gets into an issue that Mr. Pitaro raised in his
2 opening about Mr. Salem and Mr. Dottore approaching Mr. Jerdan
3 in regard to getting money from Mr. Jerdan. I think Mr. --

4 THE COURT: Okay. What is the question again, Mr.
5 Johnson?

6 MR. JOHNSON: I was going to ask Mr. Salem how they
7 were going -- how they were going to approach Mr. Jerdan to
8 convince -- Mr. Dottore and he were supposed to approach Mr.
9 Jerdan to convince him to pay some money.

10 MR. PITARO: I don't have an objection to that.

11 THE COURT: Pardon?

12 MR. PITARO: I don't have an objection to that, but
13 I don't think that was the question.

14 THE COURT: Well, that's where he's going. I
15 thought that was the question. Go ahead.

16 BY MR. JOHNSON:

17 Q Mr. Salem, just very generally, how were you planning --
18 how did you and Mr. Dottore discuss approaching Mr. Jerdan to
19 request him to provide money?

20 A Mr. Dottore was going to suggest to Mr. Jerdan that he
21 help defer some of the cost of the attorney was going to cost
22 us -- cost me, I should say, and he was going to let him know
23 that he had contributed eighteen hundred dollars (\$1800) to
24 help bail me out. He told him that he had put eighteen
25 hundred dollars (\$1800) bail for myself and that he thought

1 Mr. Jerdan should also contribute, and I told Mr. Jerdan I
2 thought he should contribute.

3 Q All right. Had you really put up any eighteen hundred
4 dollars (\$1800) for bail?

5 A No, sir, neither one of us did. No.

6 Q But you were going to have to make an outlay of expenses
7 for the attorney?

8 A That's correct.

9 MR. PITARO: Well, Your Honor, the FBI paid the
10 attorney. We know that. He didn't pay anything.

11 THE COURT: Well, you can address that on cross-
12 examination, counsel. Let's move on.

13 MR. JOHNSON: Thank you, Your Honor.

14 Your Honor, the government would move for the
15 admission of Exhibit 118.

16 THE COURT: 118 will be received.

17 (Plaintiff's Exhibit No. 118 admitted)

18 MR. JOHNSON: Thank you, Your Honor. Pursuant to
19 the stipulation of counsel, Government Exhibit 118 is a
20 recording that occurred -- of a conversation that occurred on
21 January 2nd, 1995, at approximately 1628 hours military time
22 which is 4:28 p.m. It's an incoming call from -- to Paul
23 Dottore's home telephone. The participants in the
24 conversation are Paul Dottore and Terry Salem.

25 I would ask Agent Voltz to go ahead and play the

1 conversation.

2 THE COURT: Go ahead and play it.

3 (Plaintiff's Exhibit No. 118 played)

4 BY MR. JOHNSON:

5 Q Mr. Salem, looking at page 2 of the transcript for 118 at
6 the very top you state, "So what's -- what's our time schedule
7 for tomorrow?" What were you asking in that question?

8 A What time were we going to go see the attorney.

9 Q And what attorney was that?

10 A Mr. Flangas, Gus -- Peter Flangas.

11 Q Further on at the bottom of page 2 you ask:

12 "What about Jack?"

13 Dottore responds: "I just talked to him today and he
14 says, you know, I'll help anybody, you know I can help
15 him, but I'm short this week, but a -- you know."

16 What did you -- who were you referring to by "Jack"?

17 A Jack Jerdan.

18 Q And when Dottore responded, "I just talked to him today
19 and he says I'll help anybody, you know I can help him, but
20 I'm short this week," what did you understand Mr. Dottore to
21 be explaining to you?

22 A Mr. Dottore asked him to help me out financially.

23 Q And was this pursuant to your agreement with Mr. Dottore
24 to approach Mr. Jerdan about providing some money to you?

25 A Yes, it was.

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1 Q Just so we're clear, in terms of your -- yours or --
2 approaching or agreeing to allow Dottore to approach Jerdan
3 about money for you to help you deal with this state
4 indictment, did you convey to Mr. Hanford, or Agent Hanford
5 that you were going to do this?

6 A Yes, I did.

7 Q And did Mr. Hanford agree to allow you to approach Jerdan
8 in regard to providing money for your case with the state?

9 A Yes, sir.

10 Q Besides investigating Judge Bongiovanni, were you also
11 assisting at this point in time in the investigation of Mr.
12 Dottore and Mr. Jerdan on the bank fraud charges?

13 A Yes, I was.

14 Q Looking at page 5 of the transcript at approximately the
15 middle of the page, you state:

16 "And then a -- [sighs] I gotta figure out now how
17 does that other guy want his, all at once or half at
18 a" --

19 "Dottore: Yeah, probably so. That'd be the best
20 thing. This way you know you're in and you ain't
21 got to worry about nothing."

22 When you state "now I gotta figure out now how does that other
23 guy want his," who are you referring to by the "other guy"?

24 A Judge Bongiovanni.

25 Q And when you say, "how the other guy wants his, all at

1 once or half," what are you referring to?

2 A The five thousand dollars (\$5,000).

3 Q The five thousand dollars (\$5,000) for what?

4 A For the bribe.

5 Q At page 6 of the transcript toward the top, Dottore
6 states to you, "Louie's the key to the -- Louie's the key to
7 the financial problem." Who did you understand Mr. Dottore to
8 be referring to by Louie?

9 A Louis Olejack.

10 Q And when Mr. Dottore says, "the key to the financial
11 problems," what did you understand him to be referring to?

12 A That we would both end up making five thousand dollars
13 (\$5,000) if Louie went ahead with his bribe.

14 Q And that was a bribe as to who?

15 A The bribe to Judge Bongiovanni to get Louie out of his
16 trouble.

17 MR. JOHNSON: Your Honor, I don't know when you were
18 planning on breaking for lunch. There's a series of calls
19 that sorta need to be played together. If this is a good time
20 to break --

21 THE COURT: Okay.

22 MR. JOHNSON: -- this is a good time --

23 THE COURT: How long --

24 MR. JOHNSON: -- for us to break.

25 THE COURT: -- is it going to take to play those?

1 MR. JOHNSON: It'll probably be about fifteen
2 minutes.

3 THE COURT: Okay. Why don't we go ahead for the
4 next fifteen.

5 MR. JOHNSON: All right. Thank you, Your Honor.
6 Your Honor, the government would move for the
7 admission of Exhibit 119.

8 THE COURT: 119? Well, counsel, it may be a good
9 idea to recess.

10 Barbara, do you know, do I have anything on at 1:00
11 o'clock?

12 THE CLERK: I don't think so, Your Honor. Let me
13 just check.

14 (Off-record colloquy between Court and Clerk)

15 THE COURT: Let's go on then for another fifteen
16 minutes and I'll recess until 1:15.

17 MR. JOHNSON: I had moved for the admission of
18 Exhibit 119, Your Honor.

19 THE COURT: 119 is received.

20 (Plaintiff's Exhibit No. 119 admitted)

21 MR. JOHNSON: Your Honor, pursuant to the
22 stipulation of counsel, Government Exhibit 119 is a recording
23 that occurred on January 3rd, 1995 at approximately 0917
24 military hours, military time which would be about 9:17 a.m.
25 It is an outgoing call from Paul Dottore's home telephone.

1 The participants in the call are Paul Dottore and Gerard
2 Bongiovanni.

3 With the Court's permission, I would ask Agent Voltz
4 to play the conversation.

5 THE COURT: She may play the conversation.

6 (Plaintiff's Exhibit No. 119 played)

7 MR. JOHNSON: Your Honor, the government would move
8 for the admission of Exhibit 120.

9 THE COURT: 120?

10 MR. JOHNSON: Yes.

11 THE COURT: 120 will --

12 MR. PITARO: No objection, Your Honor.

13 THE COURT: -- will be received.

14 (Plaintiff's Exhibit No. 120 admitted)

15 MR. JOHNSON: Your Honor, pursuant to the
16 stipulation of counsel, Exhibit 120 is a recording that was
17 made on January 3rd, 1995, at approximately 1456 hours
18 military time which would be 2:56 p.m. It's an outgoing call
19 from Paul Dottore's home telephone number. Participants in
20 the call are Paul Dottore and Gerard Bongiovanni.

21 I would ask Agent Voltz to play the call now.

22 THE COURT: You may play the tape.

23 (Plaintiff's Exhibit No. 120 played)

24 BY MR. JOHNSON:

25 Q Mr. Salem, on January 3rd, 1995, did you go and met with

- 1 Peter Flangas?
- 2 A Yes, I did.
- 3 Q Where did you meet with Mr. Flangas?
- 4 A At his home.
- 5 Q And where was his home located?
- 6 A I believe it's on the country club golf course, Las Vegas
- 7 Golf Course.
- 8 Q How did you get to Mr. Flangas' home?
- 9 A In Mr. Dottore's car.
- 10 Q In arriving, what -- approximately what time did Mr.
- 11 Dottore pick you up?
- 12 A It was around noonish.
- 13 Q In riding over to Mr. Flangas' house, was there anyone
- 14 else in the car?
- 15 A No, just the two of us.
- 16 Q Did anyone else go over and meet with Mr. Flangas at the
- 17 same time that you met with him?
- 18 A Yes, another gentleman, I believe his name was Dominic.
- 19 Q At the time you met with Mr. Flangas, did you bring any
- 20 money?
- 21 A Yes, I did.
- 22 Q And how much did you bring?
- 23 A Fifteen hundred dollars (\$1500).
- 24 Q And what was that for?
- 25 A That was as a retainer for Mr. Flangas.

- 1 Q And how did you get the fifteen hundred dollars (\$1500)?
- 2 A From Mr. Hanford.
- 3 Q Who did you give the money to?
- 4 A I gave it to Mr. Flangas.
- 5 Q After your meeting with Mr. Flangas on January 3rd, 1995,
- 6 how did -- who drove you away from the meeting?
- 7 A Mr. Dottore.
- 8 Q On January 3rd, 1995, did you bring or have any money for
- 9 Judge Bongiovanni?
- 10 A On the 3rd?
- 11 Q On the 3rd.
- 12 A No, sir.
- 13 Q During January 3rd, 1990 [sic], did Mr. Dottore raise the
- 14 issue of money for Judge Bongiovanni?
- 15 A Yes, he did.
- 16 Q And where were you when this issue was raised?
- 17 A We were in the car.
- 18 Q And that was Mr. Dottore's car?
- 19 A Yes, sir.
- 20 Q And who was present?
- 21 A Mr. Dottore and myself.
- 22 Q And what did Mr. Dottore say?
- 23 A He brought up the fact that I should have some money for
- 24 the judge and --
- 25 Q And how did you respond?

1 A I said, how much does he need, you know, at this
2 particular time? And half was agreed upon, twenty-five
3 hundred dollars (\$2500).

4 Q And when did you indicate you would pay twenty-five
5 hundred dollars (\$2500)?

6 A I told him in approximately a week.

7 Q And when did you indicate you'd pay the rest?

8 A Some time after that. *— not for truth of*

9 MR. PITARO: Could I object, Your Honor. I've never
10 been provided a copy of any tape of this.

11 THE COURT: I'm sorry.

12 MR. PITARO: I said I was never provided a copy of
13 any tape of this conversation, I don't believe.

14 MR. JOHNSON: There isn't a tape of this
15 conversation.

16 MR. PITARO: But, Your Honor, they were having him
17 record all the conversations, I thought he said at the
18 beginning that he had -- he had a recorder.

19 THE COURT: Counsel, he said there was no recording
20 of this.

21 MR. JOHNSON: Your Honor, the government would move
22 the admission of Exhibit 121.

23 THE COURT: 121?

24 MR. PITARO: Your Honor, on the -- the 106, they're
25 playing tapes that really -- where he's not a participant and

1 some of the 106 stuff, if it's not where I can ask him on
2 cross what's in a couple of these things, like these indirect
3 -- that was the last couple of ones with Judge Bongiovanni, so
4 -- although we were going to try to do them in cross through
5 his things, it's coming up with these, I think are causing --

6 THE COURT: And you'll do that with --

7 MR. PITARO: -- a bit of a problem.

8 THE COURT: -- transcripts, is that what you're
9 saying?

10 MR. PITARO: I might be able to -- I could -- I'm
11 going to need a witness to read it to, I suppose, and ask him
12 if that is what was said, but it's not going to be his
13 conversations.

14 THE COURT: Well, I'll have to defer rulings until
15 -- some of those questions may be totally appropriate. I
16 don't think there has ever been any saying that every
17 conversation has been recorded in any event, and you certainly
18 can cross-examine as to conversations that may have occurred.
19 From the testimony that I've heard, it would appear as though
20 there were a lot of conversations that were not recorded. A
21 good many were, but a good many were not.

22 MR. PITARO: No, what I'm talking about is the next
23 tape they're playing. They're not playing a Paul Dottore,
24 Gerard Bongiovanni --

25 THE COURT: I understand --

1 MR. PITARO: -- and they did that before, that's
2 what --

3 THE COURT: -- and your concern is being able to
4 cross-examine this witness as to that conversation.

5 MR. PITARO: Right. They're playing it there by the
6 time I get to it, so maybe if I could -- well, I'll -- if I
7 could ask him what's on -- it may be just as easy.

8 THE COURT: Well, if he has some knowledge and it's
9 appropriate cross-examination, I'll certainly allow you to
10 make inquiry and if it's objected to, I'll just have to rule
11 on it.

12 MR. PITARO: Okay.

13 MR. JOHNSON: 121, I take it, is admitted, Your
14 Honor?

15 THE COURT: It is admitted.

16 (Plaintiff's Exhibit No. 121 admitted)

17 MR. JOHNSON: Your Honor, pursuant to the
18 stipulation of counsel, Government Exhibit 121 is a recording
19 that was made on January 3rd, 1995. This recording occurred
20 at approximately 2022 hours military time, or 8:22 p.m. It is
21 an outgoing call from Paul Dottore's home telephone. The
22 participants in the call are Paul Dottore and Gerard
23 Bongiovanni.

24 I would ask for the Court's permission for Agent
25 Voltz to play the conversation.

1 THE COURT: You may play it. Let me just suggest,
2 incidentally, Mr. Pitaro, even though this is coming in in the
3 examination of this witness, and I suppose that's for some
4 kind of continuity in the presentation of the case, and it may
5 or may not be played, it most likely will not be played during
6 the testimony of Paul Dottore. It would be my inclination to
7 allow you to cross-examine at that point because it's a
8 conversation of Mr. Dottore as to his conversations. Okay?

9 MR. PITARO: Okay. That'll probably do it. Thanks.

10 MR. JOHNSON: Agent Voltz can go ahead and play the
11 conversation?

12 THE COURT: He may -- she may.

13 (Plaintiff's Exhibit No. 121 played)

14 MR. JOHNSON: That was the series I wanted to go
15 through, Your Honor. Do you want me to keep --

16 THE COURT: Is that the series?

17 MR. JOHNSON: That was the series, but I can go on.
18 There's -- if you'd rather I go on.

19 THE COURT: Well --

20 MR. JOHNSON: There's a --

21 THE COURT: -- candidly, what I'm trying to do is
22 move over that 1:00 o'clock hearing. I'm going to -- if
23 that's the end of the series, we'll take our recess now and
24 we'll reconvene at 1:15.

25 The jury is instructed to follow all of the

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1 instructions that the Court has given you. We'll be in recess
2 until 1:15. I would like you to be here no later than ten
3 minutes after the hour.

4 (Off-record colloquy)

5 (Jury recessed at 12:23 p.m.)

6 THE COURT: Counsel, could I see you for a moment.
7 This need not be recorded.

8 (Court recessed at 12:23 p.m., until 1:25 p.m.)

9 (Jury is present)

10 THE COURT: Please be seated. The Court notes the
11 presence of counsel and the defendant. Will counsel stipulate
12 to the presence of the jury?

13 MR. JOHNSON: Yes, Your Honor.

14 MR. PITARO: Yes, Your Honor.

15 THE COURT: Okay. Go right ahead, Mr. Johnson, once
16 you get a witness.

17 MR. JOHNSON: Mr. Salem's coming on.

18 THE CLERK: You're reminded you're still under oath.

19 THE WITNESS: Okay.

20 MR. JOHNSON: Your Honor, the government would move
21 for the admission of Government Exhibit 122.

22 THE COURT: 122? 122 will be received.

23 (Plaintiff's Exhibit No. 122 admitted)

24 THE COURT: I take it your silence indicates you
25 have no objection.

1 MR. PITARO: I was just looking at it. I had to
2 find it first. Okay.

3 THE COURT: And you can go ahead and play the tape
4 if you wish.

5 MR. JOHNSON: Thank you, Your Honor.

6 Tape -- Government Exhibit 122A -- oh, I need to
7 tell the jury that we went through and turned off their
8 headphones, so if any of them had left them on, I'll need to
9 re-turn them on.

10 THE COURT: Incidentally, if you can hear okay
11 without the headphones, you're not obligation -- obligated to
12 use them, but if it helps you, you feel free to use them.

13 MR. JOHNSON: Government Exhibit 122 is a tape
14 recording of a conversation occurring on January 5, 1995, at
15 approximately 1557 hours military time which would be 3:57
16 p.m. It is a conversation, incoming call over Paul Dottore's
17 telephone between participants Paul Dottore and Terry Salem.

18 I'd ask that Agent Voltz play the call at this time.

19 THE COURT: Okay.

20 (Plaintiff's Exhibit No. 122 played)

21 BY MR. JOHNSON:

22 Q Mr. Salem, looking at the transcript for Government
23 Exhibit 122, at the bottom of page 1, you state, "Do you think
24 you and your oversized friend might want to play the Desert
25 Inn next Tuesday?" Who were you referring to by Mr. Dottore's

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1 oversized friend?

2 A Judge Bongiovanni.

3 Q Why were you trying to set up a round of golf for next
4 Tuesday?

5 A I was going to make the twenty-five hundred dollar
6 (\$2500) payment at the golf course, and at the time I was
7 probably going to be having a surveillance wire on.

8 Q So your plan was to try to set up a pay -- a direct
9 payment to Judge Bongiovanni.

10 A That's correct.

11 Q Was there any significance at setting up the date for the
12 following Tuesday?

13 A Well, it had been -- I had told Paul that I'd come with
14 twenty-five hundred (2500) within about the next week or so,
15 so that would have been the date that would have coincided
16 with the payment I had promised him.

17 MR. JOHNSON: Your Honor, the government would move
18 for the admission of Exhibit 123.

19 THE COURT: 123?

20 Counsel, I think I'm missing a volume.

21 MR. JOHNSON: Missing a volume?

22 THE COURT: I think I am. Did you say 123?

23 MR. JOHNSON: Yes, Your Honor.

24 THE COURT: No, I'm okay. Go ahead.

25 We only have three volumes, don't we?

1 MR. JOHNSON: Three volumes --

2 THE COURT: Three volumes.

3 MR. JOHNSON: -- of tapes.

4 THE COURT: Yeah.

5 MR. JOHNSON: That's right, Your Honor.

6 THE COURT: Okay. I'm fine.

7 MR. JOHNSON: Just so I'm -- the Court has received

8 123?

9 THE COURT: 123. Yes.

10 (Plaintiff's Exhibit No. 123 admitted)

11 MR. JOHNSON: Your Honor, Exhibit 123, pursuant to
12 the stipulation of counsel, is a recording of a telephone call
13 occurring on January 5, 1995, at approximately 2004 hours
14 military time which would be 8:04 p.m. It's an outgoing call
15 from Paul Dottore's telephone. The participants in the call
16 are Paul Dottore and Gerard Bongiovanni.

17 I would ask that the call be played at this time.

18 THE COURT: It may be played.

19 (Plaintiff's Exhibit No. 123 played)

20 MR. JOHNSON: Your Honor, the government would move
21 for the admission of Exhibit 124.

22 MR. PITARO: Could I have just a moment on this one,
23 Judge?

24 (Pause in the proceedings)

25 MR. PITARO: I have no objection, Judge.

1 THE COURT: 124 will be received.

2 (Plaintiff's Exhibit No. 124 admitted)

3 MR. JOHNSON: Your Honor, pursuant to the
4 stipulation of counsel, Government Exhibit 124 is a recording
5 of a telephone call occurring on January 6, 1995. The time of
6 the call was approximately 1601 hours military time which
7 would be 4:01 p.m. It's an incoming call to Paul Dottore's
8 home telephone. The participants in the call are Paul Dottore
9 and Terry Salem.

10 With the Court's permission, I'd ask Agent Voltz to
11 play the call.

12 THE COURT: You may play the tape.

13 (Plaintiff's Exhibit No. 124 played)

14 BY MR. JOHNSON:

15 Q Mr. Salem, looking at page 1 of the transcript for
16 Government Exhibit 124, Dottore, in the middle of the page
17 states:

18 "No. Well, he asked me first, he said, are you
19 crazy. I said why. He said, I can't be, I can't do
20 nothing until it's over. After it's over, we'll
21 golf, we'll eat, we'll dance, we'll sing."

22 Who did you understand Dottore to be referring to by "he" when
23 he says, "well, he asked me first, he said, are you crazy"?

24 A Judge Bongiovanni.

25 Q And what did you understand Dottore to be telling you

1 when he was making this statement to you?

2 THE COURT: Mr. Salem, you may want to take those
3 off.

4 THE WITNESS: That he didn't want to be seen in my
5 presence until my case was over with.

6 BY MR. JOHNSON:

7 Q By "he" who are you referring to?

8 A The judge, Bongiovanni.

9 Q And was this in reference to your invitation to have a
10 round of golf?

11 A Yes, sir, it was.

12 Q Looking at page 2 of the transcript at the bottom half of
13 the page, approximately four phrases up from the bottom of the
14 page, you state:

15 "How did you -- or how -- what did you do today?"

16 Dottore responded: "He took me golfing.

17 You said: "Oh."

18 Dottore said: "A -- a -- the first time he called I was
19 in the car with him."

20 Who did you understand Dottore to be referring to when he said
21 "he took me golfing"?

22 A Judge Bongiovanni.

23 MR. JOHNSON: Your Honor, the government moves for
24 the admission of Government Exhibit 125.

25 THE COURT: 125.

1 MR. PITARO: No objection.

2 THE COURT: Received. You may play the tape.

3 (Plaintiff's Exhibit No. 125 admitted)

4 MR. JOHNSON: Your Honor, pursuant to the
5 stipulation of counsel, Government Exhibit 125 is a
6 conversation recorded on January 6, 1995, at approximately
7 1624 hours military time which would be 4:24 p.m. It is an
8 incoming call -- excuse me, incoming call to Paul Dottore's
9 home telephone. Participants in the call are Paul Dottore and
10 Terry Salem.

11 Your Honor, I'd ask Agent Voltz to play the call.

12 (Plaintiff's Exhibit No. 125 played)

13 BY MR. JOHNSON:

14 Q Mr. Salem, looking at page 1 of the transcript for
15 Government Exhibit 125, about the middle of the page you
16 state: "Ah, did Jack call ya yet?" Who were you referring to
17 by "Jack"?

18 A Jack Jerdan.

19 Q Dottore responded: "No." And then you said: "Okay.
20 Good. I just got off the phone with him about ten minutes
21 ago." Had you called Mr. Jerdan?

22 A Yes, I did.

23 Q And was that in furtherance of your cooperation with the
24 FBI?

25 A Yes, sir.

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1 Q In terms of investigating Mr. Jerdan's involvement in the
2 bank fraud?

3 A Yes, sir.

4 Q Looking at page 2 of the transcript in the middle of the
5 page, you state, "And I said, well, here are my two choices,
6 Jack, either I pay this guy some money Monday or I can just
7 cop a plea. That's all." When you made the reference to "I
8 can pay this guy some money Monday," who were you referring to
9 there?

10 A At that time I was referring to the attorney. I had to
11 have money for my attorney.

12 Q And then when you said "or I can just cop a plea," what
13 do you mean by "just cop a plea"?

14 A That I could just cut a deal, plead guilty and turn them
15 in.

16 Q And by "them" who are you referring to?

17 A Mr. Dottore and Mr. Jerdan.

18 Q And by turning them in, what are you referring to?

19 A Turn them into the police.

20 Q And you called Mr. Jerdan in an effort to see if he was
21 willing to provide any money for assistance to you on your
22 state charges?

23 A Yes, sir.

24 (Pause in the proceedings)

25 MR. JOHNSON: Your Honor, the government moves for

1 the admission of Exhibit 126.

2 THE COURT: 1267

3 MR. JOHNSON: Yes, Your Honor.

4 MR. PITARO: No objection.

5 THE COURT: 126 will be received.

6 (Plaintiff's Exhibit No. 126 admitted)

7 MR. JOHNSON: Your Honor, pursuant to the
8 stipulation of counsel, Exhibit 126 is a recording that was
9 made on January 8, 1995, at approximately 2007 hours military
10 time, which would be 8:07 p.m. It's an outgoing call from
11 Paul Dottore's home telephone. The participants in the call
12 are Paul Dottore and Gerard Bongiovanni.

13 I would ask Agent Voltz to play the call at this
14 time.

15 (Plaintiff's Exhibit No. 126 played)

16 MR. JOHNSON: Your Honor, the government moves for
17 the admission of Exhibit 127.

18 MR. PITARO: No objection, Judge.

19 THE COURT: 127 will be received.

20 (Plaintiff's Exhibit No. 127 admitted)

21 MR. JOHNSON: Thank you, Your Honor.

22 Your Honor, pursuant to the stipulation of counsel
23 Exhibit 127 is a recording of a telephone call occurring on
24 January 12, 1995 at 10 -- excuse me -- at 2059 hours military
25 time, which would be about 8:59 p.m. It's an incoming call

1 into Paul Dottore's home telephone between participants Paul
2 Dottore and Terry Salem.

3 BY MR. JOHNSON:

4 Q Mr. Salem, I'd like to for a moment have you look at this
5 phone conversation in which you were involved in. Where were
6 you located at the time that you made this telephone call?

7 A 1/12/95?

8 Q Yes.

9 A At that time I was -- should have been still in
10 California at that time.

11 Q So would you have made the telephone call from
12 California?

13 A Alpine.

14 Q Alpine, California?

15 A Yes.

16 Q And where would you have been calling?

17 A I would have been calling Mr. Dottore's house.

18 Q In what state?

19 A Nevada.

20 MR. JOHNSON: Your Honor, I'd ask that Agent Voltz
21 be allowed to play the conversation?

22 THE COURT: She may.

23 (Plaintiff's Exhibit No. 127 played)

24 BY MR. JOHNSON:

25 Q Mr. Salem, I'm looking at page 1 of the transcript for

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1 Exhibit 127. Approximately two thirds of the way down the
2 page you state, "Well, I'll get the twenty-five." What were
3 you referring to by the twenty-five?

4 A The twenty-five hundred (2500) which was half of the five
5 thousand (5,000) I was supposed to give Judge Bongiovanni.

6 Q And why were you supposed to give the money to Judge
7 Bongiovanni?

8 A For a bribe.

9 Q In the next statement you make you say, "You know, and
10 then the other he'll give me probably hopefully within thirty
11 days." Who were you referring to by the "he" in that
12 sentence?

13 A My father.

14 Q And what were you stating to Mr. Dottore in this
15 sentence?

16 A That I was borrowing the money from my father, the
17 twenty-five hundred (2500) which was the other half of the
18 payment.

19 Q Looking at page 2 of the transcript. At the top you
20 state, "I'll be in late Monday." What were you flying in to
21 do?

22 A I was flying in to meet with Paul to give him the twenty-
23 five hundred (2500) for Judge Bongiovanni.

24 Q Looking at mid-way on page 2 of the transcript you state,
25 "God, that's tough. Well, tell that guy he, you know, you'll

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1 -- you'll see me Tuesday in the morning." Who were you
2 referring to by "that guy?"

3 A Judge Bongiovanni.

4 Q Looking at page 3 of the transcript, at the top you
5 state:

6 "Okay, well, I just wanted you to let the fat guy know
7 that.

8 Dottore responds: "Yeah.

9 "Salem: He'll get something Tuesday."

10 Who were you referring to by "the fat guy?"

11 A Judge Bongiovanni.

12 Q And what were you referring to by "he'll get something
13 Tuesday?"

14 A That he'll get twenty-five hundred dollars (\$2500) on
15 Tuesday.

16 Q And that was for what?

17 A Half of the five thousand dollar (\$5,000) -- for the
18 bribery.

19 Q Did you subsequently provide money to Dottore to give to
20 Mr. Bongiovanni?

21 A Yes, sir.

22 Q Do you remember what day that was?

23 A It was the 17th.

24 Q Of what month?

25 A January.

1 Q What year, now?

2 A 1995.

3 Q So on January 17, 1995?

4 A Yes, sir.

5 Q How much did you give to Mr. Dottore?

6 A Twenty-five hundred dollars (\$2500).

7 Q And who provided you the twenty-five hundred (2500) to
8 give to Mr. Dottore?

9 A Agent Hanford.

10 Q Where were you at the time that you gave the money to Mr.
11 Dottore?

12 A I was in my room at the Tropicana Hotel.

13 Q And was anyone else present in the room?

14 A When the actual money was turned over or --

15 Q Well, was anyone else ever present in the room any time
16 during your meeting with Mr. Dottore?

17 A Yes, my wife, Amy.

18 Q And at the time the money was actually turned over was
19 anyone else present in the room?

20 A No, not at that time?

21 MR. JOHNSON: Your Honor, the government would move
22 for the admission of Exhibit 129.

23 THE COURT: 129?

24 MR. JOHNSON: That's correct.

25 MR. PITARO: Yes, Your Honor, I'll object to that.

1 That's not relevant. He's talking to his sister-in-law.

2 THE COURT: How is it relevant, counsel?

3 MR. JOHNSON: It's party admissions, Your Honor.

4 This was -- this conversation in which Mr. Bongiovanni
5 indicates that he has financial limitations occurs just before
6 he receives the -- we allege he receives the bribe payment
7 from Mr. Dottore.

8 THE COURT: It's obliquely relevant, counsel. The
9 objection will be overruled.

10 (Plaintiff's Exhibit No. 129 admitted)

11 MR. JOHNSON: Thank you, Your Honor.

12 Your Honor, Government Exhibit 129, pursuant to the
13 stipulation of counsel, is a recording of a telephone
14 conversation occurring on January 17, 1995 at the approximate
15 time of 1915 hours military time, which would be 7:15 p.m. It
16 is an outgoing call from Bongiovanni's home telephone.

17 Participants in the call are Gerard Bongiovanni and an
18 individual by the name of Pat. I'd ask that Agent Voltz play
19 the call at this time.

20 (Plaintiff's Exhibit No. 129 played)

21 MR. JOHNSON: Your Honor, the government moves for
22 the admission of Exhibit 130.

23 MR. PITARO: No objection.

24 THE COURT: Received.

25 (Plaintiff's Exhibit No. 130 admitted)

1 MR. JOHNSON: Your Honor, pursuant to stipulation of
2 counsel Exhibit 130 is a recording of a telephone call made on
3 January 17, 1995 at approximately 1955 hours military time,
4 which would be 7:55 p.m. It is an outgoing call from Paul
5 Dottore's home telephone. The participants in the call are
6 Paul Dottore and Gerard Bongiovanni, Jr.

7 BY MR. JOHNSON:

8 Q Mr. Salem, before we play the call, this call occurred at
9 approximately 7:55 p.m. in the evening on January 17th. By
10 this time had you given the money to Dottore for the bribe
11 payment?

12 A Yes, sir. I had.

13 MR. JOHNSON: Your Honor, at this point I would ask
14 that Agent Voltz play this call.

15 THE COURT: You may.

16 (Plaintiff's Exhibit No. 130 played)

17 BY MR. JOHNSON:

18 Q Mr. Salem, you have the original transcripts in this
19 case, and my transcript in terms of the time for that call,
20 130, is blurred. Your transcript is the controlling one.
21 Pursuant to the stipulation could you read off what the time
22 was for the conversation for 130?

23 A 1953 military time.

24 Q All right. I think I had said before it was 1955, but
25 the original transcript shows 1953.

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1 A Yes.

2 Q And that'd be 7:53 p.m.

3 A P.m.

4 MR. PITARO: Well, Judge, what actually counts is
5 the original tape.

6 THE COURT: I'm sorry?

7 MR. PITARO: The original tape counts not the
8 original transcript. The transcript is nothing but what the
9 tape does.

10 THE COURT: No, this identifies the time, counsel.

11 MR. PITARO: I understand that. Mine says 1955.

12 AGENT HANFORD: The time would be on that tape.

13 MR. JOHNSON: I think that there's a blurring on my
14 transcript if you --

15 THE COURT: There's a blurring on mine, as well.

16 MR. JOHNSON: Your Honor, the government moves for
17 the admission of Exhibit 132.

18 THE COURT: 132 will be received.

19 (Plaintiff's Exhibit No. 132 admitted)

20 MR. JOHNSON: Your Honor, pursuant to the
21 stipulation of counsel, Government Exhibit 132 is a recording
22 of a telephone call occurring on January 17, 1995 at the
23 approximate time of 2006.

24 THE COURT: Why don't you stand by just a moment.
25 Let me have counsel approach and bring your transcripts with.

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1 (Discussion at sidebar)

2 THE COURT: Is yours clear? Because mine did look
3 like 1:33. Yeah, yours is just like mine.

4 MR. PITARO: Yeah, yours is no different than mine.

5 MS. SHOEMAKER: I can represent -- I can represent
6 for the record that it's 1953 on the xerox copy. It just came
7 out looking like it was 1955.

8 THE COURT: Yeah, it looks like it's rolled at the
9 top, counsel. Are the two minutes in any event?

10 MS. SHOEMAKER: Yes, they are.

11 THE COURT: They are.

12 MS. SHOEMAKER: They are.

13 THE COURT: Okay. It -- yours is as mine.

14 MR. PITARO: Well, what does the tape say? That's
15 all I'm asking.

16 MS. SHOEMAKER: The tape, it says 1953.

17 MR. PITARO: Then alls we do is look at the tape.

18 MR. JOHNSON: Well, this is --

19 MR. PITARO: -- written on the original --

20 THE COURT: Have you got it written on the tape?

21 MS. SHOEMAKER: The stipulation though was based --
22 was saying that the calls were made at the dates and times --

23 MR. PITARO: Well, I understand --

24 MS. SHOEMAKER: -- on the transcript.

25 MR. PITARO: -- but we've got one now that -- you

1 know -- I assumed that we were doing that.

2 THE COURT: Well, why don't we --

3 MR. PITARO: Why don't we let --

4 THE COURT: -- is it on the tape?

5 MR. PITARO: -- clear it up

6 MS. SHOEMAKER: It should be on the tape and the
7 Agent can certainly testify that was the time.

8 MR. PITARO: Well, those are redacted tapes. I
9 mean, I don't know. Well, whatever maybe we can clear it up.
10 Let's --

11 THE COURT: Well, check the tape and look at it
12 together and unless there's some evidence to the contrary it
13 will be 7:53. All right? Or 1953.

14 (End of discussion at sidebar)

15 THE COURT: Go ahead, counsel.

16 MR. JOHNSON: Your Honor, you've admitted Exhibit

17 132. I skipped one, I want to go back and move admission at
18 this time for Exhibit 131.

19 THE COURT: Any objection to 131?

20 MR. PITARO: No, Your Honor.

21 THE COURT: It'll be received.

22 (Plaintiff's Exhibit No. 131 admitted)

23 MR. PITARO: Just subject to what we mentioned.

24 MR. JOHNSON: Excuse me one minute, Your Honor.

25 (Pause in the proceeding)

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1 MR. JOHNSON: Your Honor, pursuant to the
2 stipulation of counsel, Government Exhibit 131 is a recording
3 occurring on January 17th, 1995 at approximately 17 -- or
4 excuse me, 1953, which would be 7:53 p.m. -- which would be, I
5 guess 7:53 p.m. This is an outgoing call from Paul Dottore's
6 home telephone. Participants in the call are Gerard
7 Bongiovanni and Paul Dottore.

8 At this time I'd ask Agent Voltz to play the call.

9 (Plaintiff's Exhibit No. 131 played)

10 MR. JOHNSON: I would now go to Exhibit 132 which
11 was previously received. This, pursuant to counsel's
12 stipulation, is a telephone call occurring on January 17th,
13 1995 at approximately 2006 hours military time, which would be
14 about 8:06 p.m. It's an incoming call to Paul Dottore's home
15 telephone. The participants in the call are Paul Dottore and
16 Dominic Strano.

17 I'd ask Agent Voltz to play the call at this time
18 with the Court's permission.

19 (Plaintiff's Exhibit No. 132 played)

20 MR. JOHNSON: Your Honor, the government moves for
21 admission of Exhibit 133.

22 THE COURT: 133 will be received.

23 (Plaintiff's Exhibit No. 133 admitted)

24 MR. JOHNSON: Your Honor, Government Exhibit 133,
25 pursuant to the stipulation of counsel, is a tape recording of

1 a conversation occurring on January 17, 1995 at 2121 hours,
2 which would be 9:21 p.m. It's an incoming call to Paul
3 Dottore's home telephone. The participants or voices in the
4 call are Paul Dottore, Dominic Strano, and Gerard Bongiovanni.

5 At this time I'd ask Agent Voltz to play the
6 conversation.

7 (Plaintiff's Exhibit 133 played)

8 MR. JOHNSON: Your Honor, the government moves for
9 the admission of Exhibit 146-2. Is it received, Your Honor?

10 THE COURT: Received.

11 (Plaintiff's Exhibit No. 146-2 admitted)

12 MR. JOHNSON: Your Honor, Government Exhibit 146-2
13 is a tape recording of a conversation occurring on February 8,
14 1995 at approximately 2057 hours military time, which would be
15 8:57 p.m. Participants in the call are Paul Dottore and Rose
16 Dottore.

17 I'd ask Agent Voltz to play the call.

18 (Plaintiff's Exhibit 146-2 played)

19 MR. JOHNSON: Your Honor, the government would move
20 for the admission of Exhibit 146-3. Is it received, Your
21 Honor?

22 THE COURT: Well, you're identifying the number
23 that's being called and --

24 MR. JOHNSON: Essentially it's identifying of the
25 page number. Mr. Salem, once it's received, will explain the

1 conversation.

2 THE COURT: Okay. It -- it'll be received.

3 (Plaintiff's Exhibit No. 146-3 admitted)

4 MR. JOHNSON: Mr. -- pursuant to the stipulation of
5 counsel, Government Exhibit 146-3 is a recording of a
6 telephone communication occurring on February 8, 1995 this
7 time at approximately 2150 hours military time, which would be
8 9:50 p.m. It indicate -- it is an outgoing call to 1-800-759-
9 7243 with the entry of a PIN number 314-1453. Mr. Salem, do
10 you recognize the PIN number?

11 A Yes, I do.

12 Q And do you recognize also the outgoing telephone number?

13 A Yes, I do.

14 Q Could you explain what those two numbers are significant
15 as to you?

16 A The initial 800 number is a Sky Page number. The number
17 preceding that, the 314-1453 is my personal PIN number.

18 MR. JOHNSON: Your Honor, that's really all that we
19 were wanting to get into with the conversation. If counsel
20 for the defendant doesn't care we don't need to play the
21 actual entry of the digits to the jury.

22 THE COURT: Do you want it played, Mr. Pitaro?

23 MR. PITARO: I've never figured out the call
24 anyways, Judge.

25 THE COURT: Let's move on.

1 MR. JOHNSON: All right. Your Honor, the government
2 would move for the admission of Exhibit 147A.

3 THE COURT: 147?

4 MR. JOHNSON: I'm -- not 147A, just 147, I'm sorry.

5 THE COURT: Okay.

6 MR. PITARO: No objection.

7 THE COURT: Received.

8 (Plaintiff's Exhibit No. 147 admitted)

9 MR. JOHNSON: Pursuant to the stipulation of
10 counsel, Exhibit 147 is a tape recording of a telephone call
11 also occurring on February 8, 1995 at approximately 2158 hours
12 military time, which would be 9:58 p.m. It's an incoming call
13 to Paul Dottore's home telephone. Participants in the call
14 are Paul Dottore and Terry Salem.
15 BY MR. JOHNSON:

16 Q Mr. Salem, would this telephone call be a response to the
17 page that you -- we just talked about in regard to Exhibit
18 146?

19 A Yes.

20 MR. JOHNSON: Your Honor, I would ask now that Agent
21 Voltz play Exhibit 147.

22 THE COURT: You may play the exhibit.

23 (Plaintiff's Exhibit No. 147 played)

24 BY MR. JOHNSON:

25 Q Looking at page 2 of the transcript, Mr. Salem, near the

1 top of the page Dottore states to you:

2 "Yeah, uh, he just said, you know, what are you worried
3 about? You ain't got nothing to worry about. What --
4 what Pete says to you, he can't control that."

5 Who did you understand to be -- Dottore to be referring to
6 when he said, "He just said, uh, you know, what are you
7 worried about? You ain't got nothing to worry about."

8 A Judge Bongiovanni.

9 Q Dottore then goes on and says, "That's a -- that's a lot
10 of money and he didn't say nothing, so you just got to argue
11 with Pete." When Dottore says, "He didn't say nothing," who
12 did you understand him to be referring to?

13 A Judge Bongiovanni.

14 Q And then when he tells you, "so you just got to argue
15 with Pete," who was he referring to by "Pete"?

16 A Peter Flangas, the attorney.

17 Q And what did you understand him to mean by, "you just got
18 to argue with Pete?"

19 A Peter Flangas wanted ten thousand dollars (\$10,000) which
20 seemed like an awful lot of money to me. And I was asking
21 Paul to intervene and talk to the -- to Judge Bongiovanni
22 about possibly talking to Mr. Flangas about lowering that fee.

23 Q In this statement by Mr. Dottore, "so you just got to
24 argue with Pete," what did you understand Mr. Dottore to be
25 telling you?

1 A That I would just have to argue with Pete myself, that
2 nobody else was going to get involved.

3 Q At page 4 of the transcript near the top of the page,
4 Dottore states, "And he says as far as you know him that you
5 -- there's nothing to worry about, you know." Who did you
6 understand Dottore to be referring to by "he" there?

7 A Judge Bongiovanni.

8 Q Looking at the next page, page 5 of the transcript, the
9 second phrase down from the top you state:

10 "I asked Louie, who does it go to, who's it going before,
11 he says it never went before your guy -- the guy.

12 "Dottore: That's right.

13 "Salem" -- you state then: "And I mean it was never even
14 assigned to him.

15 Dottore then responds: "Yes, it is."

16 Looking at the top of that set of statements where you said,

17 "I asked Louie," who were you referring to by "Louie"?

18 A Louis Olejack.

19 Q What were you telling Dottore when you stated, "he says
20 it never went before your -- the guy?"

21 A Mr. Olejack said his case was never assigned to Judge
22 Bongiovanni's court.

23 Q At the bottom of that group --

24 MR. PITARO: Could I have some foundation for that
25 if we're going to --

1 THE COURT: You need some foundation, counsel.

2 MR. JOHNSON: That's fine, Your Honor.

3 BY MR. JOHNSON:

4 Q Had you talked to Mr. Olejack in regard to approximately
5 the time of this conversation with Mr. Dottore?

6 A Yes, I did have a conversation with Mr. Olejack.

7 Q Do you remember approximately when it occurred in
8 relation to this conversation?

9 A It was possibly a few weeks before this conversation.

10 Q And how was that conversation, over the telephone or in
11 person?

12 A I asked Mr. Olejack how his case was going, and he said,
13 it had not been assigned to Mr. --

14 THE COURT: That isn't the question. The question
15 is, was the -- was the conversation face to face or over the
16 telephone.

17 THE WITNESS: I'm sorry. It was over the phone.

18 BY MR. JOHNSON:

19 Q All right. And who were participants in that
20 conversation?

21 A Mr. Olejack and myself.

22 Q At the bottom of that group of statements on page 5
23 Dottore makes the statement, "Yes, it is." What did you
24 understand Mr. Dottore to mean by that?

25 A That Mr. Olejack's case was assigned before Judge

1 Bongiovanni's court.

2 Q That was what Mr. Dottore was indicating to you he
3 believed?

4 A Yes, sir.

5 MR. PITARO: Well, I -- Your Honor, I -- the "I
6 believed" isn't there. It's -- that's what he said.

7 THE COURT: Well, in any event the transcript is --
8 and the tape is --

9 MR. PITARO: Yeah, that's why I'm objecting to the
10 question.

11 THE COURT: -- what will govern.

12 BY MR. JOHNSON:

13 Q At the top of page 6 Dottore states:

14 "You know, don't say -- don't say nothing to Louie.

15 You respond: "I ain't going to say a word.

16 Dottore says: "[unintelligible] let him call you."

17 What did you understand Mr. Dottore to be instructing to you
18 then?

19 A Don't say anything to Mr. Olejack about the case being
20 assigned to Judge Bongiovanni's court. And I said, "I won't
21 say anything."

22 Q Looking at page 10 of the transcript, approximately the
23 middle of the page Dottore states to you:

24 "I told -- I told my guy, I said, if I'd have known he
25 wanted that much I -- I -- I'd have got a few instead of

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1 him and told him to forget about it. You know what I
2 mean?

3 You respond, "Mm-hmm."

4 Dottore states: "But he didn't say nothing, he just
5 smirked."

6 At the beginning where Dottore states, "I told -- I told my
7 guy, I said, if I had known he wanted that much I would have
8 got a few instead of him." Who did you understand Dottore to
9 be referring to by "my guy?"

10 A May I finish just reading this whole thing here?

11 Q Take your time.

12 A Okay. I --

13 Q You need me to repeat the question?

14 A Could you, please?

15 Q All right. Looking at the middle of the page where
16 Dottore states, "I told -- I told my guy, I said if I had

17 known he wanted that much I -- I'd have got a few instead of
18 him and told him to forget about it." Who was Dottore
19 referring to, to your understanding, by "my guy"?

20 A Judge Bongiovanni.

21 Q And then when he makes the statement, "If I had -- had
22 known he wanted that much," who was he referring to there by
23 the "he"?

24 A Peter Flangas.

25 Q And then at the bottom where Dottore says, "But he didn't

1 say nothing, he just smirked," who did you understand him to
2 be referring to by the "he" there?

3 A Judge Bongiovanni.

4 MR. JOHNSON: Your Honor, the government moves for
5 the admission of Exhibit 154.

6 THE COURT: 154?

7 MR. PITARO: 150 what? I'm sorry.

8 MR. JOHNSON: 4.

9 MR. PITARO: 4.

10 THE COURT: I'm sorry, counsel, 154?

11 MR. JOHNSON: 154.

12 MR. PITARO: No problem.

13 THE COURT: Received.

14 (Plaintiff's Exhibit No. 154 admitted)

15 MR. JOHNSON: Your Honor, pursuant to the
16 stipulation of counsel, Exhibit 154 is a recording of a
17 conversation occurring on February 15, 1995, at approximately
18 2129 hours military time, which would be about 9:29 p.m. It's
19 an outgoing call from Paul Dottore's home telephone. The
20 participants in the call are Paul Dottore and Terry Salem.
21 BY MR. JOHNSON:

22 Q Mr. Salem, I need to make one point clear and I just
23 realized that as I'm standing here and I don't want to forget
24 it 'cause it's very important. Moving back to January 17th
25 where you said you had the meeting with Mr. Dottore and

1 provided him with twenty-five hundred dollars (\$2500), how did
2 you get to Las Vegas to meet with Mr. Dottore and provide him
3 with that money?

4 A I flew in.

5 Q And when did you fly in?

6 A I believe it was the day before.

7 Q And that would have been January 16th?

8 A Yes sir, I believe so.

9 Q Of 1995?

10 A Yes, sir.

11 Q And where did you fly from?

12 A I flew from -- 1995 -- it would have been from
13 California.

14 Q And you flew then into Las Vegas, Nevada?

15 A Yes, sir.

16 Q And that was for the purpose of meeting with Mr. Dottore?

17 A Yes, it was.

18 Q All right. Let's go back now and jump ahead to February
19 15, 1994, to Exhibit 154.

20 MR. JOHNSON: I would ask at this time, Your Honor,
21 that Agent Voltz play Exhibit 154 occurring on February 15,
22 1995, at approximately 9:29 p.m.

23 (Plaintiff's Exhibit No. 154 played)

24 BY MR. JOHNSON:

25 Q Mr. Salem, looking at page 2 of the transcript for

1 Government Exhibit 154. At the very top Dottore states to
2 you, "He couldn't get off the phone and I saw the other one
3 tonight at the lanes and all he told me is please just tell
4 him not to worry, he ain't going nowhere." Who did you
5 understand Mr. Dottore to be referring to by "the other one
6 tonight at the lanes"?

7 A That would have been Judge Bongiovanni.

8 Q And what did you understand Mr. Dottore to be explaining
9 to you when he said, "And all he told me is please just tell
10 him not to worry, he ain't going nowhere"?

11 A That I wasn't in any trouble, that I would be taken care
12 of, and I wouldn't be going to jail.

13 Q At the bottom of page 2 you make a statement about three
14 phrases up.

15 "Salem: How fast can it come before him -- I mean --

16 "Dottore: Well, I don't know. That's what I'm going to
17 try to find out tomorrow 'cause --"

18 Then you reply, "'Cause I don't want to wait 'til
19 August."

20 What did you mean by the statement, "I don't want to wait 'til
21 August"?

22 A I believe my trial date was in August and I wanted to try
23 to get it over with as soon as possible.

24 Q But your trial had been set for August of 1995?

25 A I believe so.

1 MR. JOHNSON: Your Honor, the government would move
2 for the admission of Exhibit 156.

3 THE COURT: 156?

4 MR. JOHNSON: Yes, Your Honor.

5 MR. PITARO: No objection.

6 THE COURT: Received.

7 (Plaintiff's Exhibit No. 156 admitted)

8 MR. JOHNSON: Your Honor, pursuant to the
9 stipulation of counsel, Government Exhibit 156 is a recording
10 of the telephone conversation occurring on February 17, 1995,
11 at 13:09 hours military time or 1:09 p.m. It's an incoming
12 call to Paul Dottore's home telephone. The participants in
13 the conversation are Paul Dottore and Terry Salem.

14 I'd ask that Agent Voltz play the call at this time.

15 (Plaintiff's Exhibit No. 156 played)

16 BY MR. JOHNSON:

17 Q Looking at page 1 of the transcript, Mr. Salem, you state
18 initially:

19 "Oh, by the way, you know, Louie's deal's all done. I
20 mean he -- he went to court and everything.

21 "Dottore: Oh, he did?

22 "Salem: Yeah.

23 "Dottore: Who'd he go in front of?

24 "Salem: Maupin, I told you.

25 "Dottore: I wonder how that happened."

1 Who are you referring to by "Louie"?

2 A Louis Olejack.

3 Q And were you referring to his criminal case?

4 A Yes, sir.

5 Q Looking at the bottom of page 2, at the -- Dottore
6 states, "And as far as you, he says, you know, everything's
7 going to fall into place so I don't want to talk about it no
8 more. And that's all he told me and I said, okay." Who'd you
9 understand Dottore to be referring to by "as far as you, he
10 says, you know, everything's going to fall into place," who
11 was he referring to by "he says"?

12 A Judge Bongiovanni.

13 MR. JOHNSON: Your Honor, the government moves for
14 the admission of Exhibit 162.

15 THE COURT: 162?

16 MR. JOHNSON: Yes.

17 MR. PITARO: No objection.

18 THE COURT: Received.

19 (Plaintiff's Exhibit No. 162 admitted)

20 MR. JOHNSON: Pursuant to the stipulation of
21 counsel, Government Exhibit 162 is a consensual recording made
22 on July 25, 1995, at approximately 1300 hours, military time,
23 which would be about 1:00 p.m. It is a call placed to Paul
24 Dottore from Terry Salem. Participants in the call are Paul
25 Dottore and Terry Salem.

1 I'd ask Agent Voltz to play the call at this time.

2 (Plaintiff's Exhibit No. 162 played)

3 BY MR. JOHNSON:

4 Q Looking at the bottom of page 1 of the transcript for
5 Exhibit 162, Mr. Salem, and going up to page 2. You state:

6 "Well -- yeah, well, what's going on? Did you talk to
7 them guys?"

8 "Dottore: Yeah."

9 You state: "Okay."

10 "Dottore: Nothing. He just said, you know, whatever
11 Pete wants to do, let Pete do. If Pete thinks he can win
12 it, let him win it. If Pete loses it, what's he worried
13 about, he's got me. So."

14 Who did you understand Dottore to be referring to by "he just
15 said"?

16 A Judge Bongiovanni.

17 Q Looking now at page 11 of the transcript. Approximately
18 three phrases down Dottore states to you,

19 "All right. When are you going to get the other guy's
20 thing?

21 You state: "Ah, who? Mickey's?"

22 "Dottore: No, the twenty-five (25).

23 "Salem: The twenty-five? You know I'm lost.

24 "Dottore: The other half.

25 You state: "Now you really got me.

1 "Dottore: For my guy.

2 "Salem: Your guy?

3 "Dottore: Yeah.

4 "Salem: Oh, oh, I'm sorry."

5 Who did you understand Dottore to be referring to for my -- by
6 "my guy"?

7 A The twenty-five hundred (2500) was for Judge Bongiovanni.

8 Q And what was that for?

9 A The remaining payment on the five thousand (5,000).

10 Q Five thousand dollar (\$5,000) what?

11 A Bribe.

12 MR. JOHNSON: Your Honor, the government would move
13 for the admission of Exhibit 163.

14 THE CLERK: Mr. Pitaro.

15 MR. PITARO: No objection.

16 THE COURT: 163 will be received.

17 (Plaintiff's Exhibit No. 163 admitted)

18 MR. JOHNSON: Your Honor, pursuant to the
19 stipulation of counsel, Exhibit 163 is a recording of a
20 consensual -- is a consensual recording of a conversation
21 occurring on August 7, 1995. It is a call placed to Paul
22 Dottore from Terry Salem. The participants in the call are
23 Paul Dottore and Terry Salem.

24 I'd ask that Agent Voltz be allowed to play the cal
25 now.

1 (Plaintiff's Exhibit No. 163 played)

2 BY MR. JOHNSON:

3 Q Mr. Salem, looking at page 1 of the transcript, you state
4 in the middle of the page:

5 "But the good news is better than the bad news. I'm
6 going to need like thirty days. I got to get -- I got to
7 get -- got to have that guy postpone it for thirty days
8 so I can get Gerry his money."

9 Who were you referring to by Gerry?

10 A Judge Bongiovanni.

11 Q And what were you referring to by "his money"?

12 A About the twenty-five hundred dollars (\$2500) that I was
13 supposed to come up with -- the remaining twenty-five hundred
14 (2500).

15 Q And where just before that you say, "I got to have that
16 guy postpone it for thirty days." Who were you referring to
17 by "that guy"?

18 A That would have been Peter Flangas.

19 Q And when you say "postpone it for thirty days," what are
20 you referring to?

21 A Postpone my trial day.

22 MR. JOHNSON: Your Honor, the government moves for
23 the admission of Exhibit 164.

24 MR. PITARO: No objection.

25 THE COURT: Received.

1 (Plaintiff's Exhibit No. 164 admitted)

2 MR. JOHNSON: Your Honor, pursuant to the
3 stipulation of counsel, Exhibit 164 is a recording --
4 consensual recording made of conversation on August 8, 1995,
5 at approximately 1640 hours military time, which would be 4:40
6 p.m. It is a call to Paul Dottore's home telephone from Terry
7 Salem. Participants in the call are Paul Dottore and Terry
8 Salem.

9 I would ask Agent Voltz to play the call at this
10 time.

11 (Plaintiff's Exhibit No. 164 played)

12 BY MR. JOHNSON:

13 Q Mr. Salem, looking at page 1 of Exhibit -- of the
14 transcript for Exhibit 164, approximately a little more than
15 midway down the page Dottore states to you, "Are you going to
16 get -- is he going to get you a postponement?" Who is he
17 referring to by the "he" to your understanding?

18 A Peter Flangas.

19 Q You then state:

20 "I don't know."

21 Dottore responds, "I told the other guy you wanted it.

22 He said it -- that ain't no problem."

23 You respond then, "I know. All he's got to do is ask for
24 it."

25 When Dottore states to you, "I told the other guy you wanted

1 it. He said it -- that ain't no problem," who did you
2 understand Dottore to be referring to by "the other guy"?

3 A Judge Bongiovanni.

4 Q And then when you say in your subsequent sentence, "I
5 know. All he's got to do is ask for it," who are you
6 referring to by the "he"?

7 A Peter Flangas.

8 Q On the top of page 2, Dottore states to you, "Well, you
9 got to deal with Peter, so let him -- let him yell all he
10 wants." Who was referring to by "Pete"?

11 A Peter Flangas.

12 Q On page 4 of the transcript, second phrase, you state,
13 "I'd just appreciate it if you'd let him know my financial
14 position and that's why I needed the thirty days, that's all."
15 Who are you referring to by the "him" in that sentence?

16 A That would be Peter Flangas.

17 Q All right. Dottore then responds, "Yeah." You state,
18 "All right." Dottore then states, "Yeah. Well, I told the
19 other guy today so maybe he'll talk to him today." Who did
20 you understand Dottore to be referring to by "the other guy"?

21 A Judge Bongiovanni.

22 MR. JOHNSON: Your Honor, I move for the admission
23 of Exhibit 165.

24 MR. PITARO: No objection.

25 THE COURT: Received.

1 (Plaintiff's Exhibit No. 165 admitted)

2 MR. JOHNSON: Your Honor, Exhibit 165 is a
3 consensual recording of a conversation occurring on August 24,
4 1995, at approximately 11:30 hours military time, which would
5 be 11:30 a.m. It is a call to Paul Dottore's home telephone
6 from Terry Salem. Participants in the call are Paul Dottore
7 and Terry Salem.

8 I'd ask Agent Voltz to play the call at this time.

9 (Plaintiff's Exhibit No. 165 is played)

10 BY MR. JOHNSON:

11 Q Mr. Salem, looking at page 1 of the transcript, at the
12 very beginning, you state: "Yeah, so I was half asleep when
13 you called last night." What are you referring to by that
14 sentence?

15 A Evidently he called me last night and I was half asleep
16 when he called.

17 Q Had you recorded that conversation?

18 A Let me go back and look.

19 Q Do you recall right now as you sit here whether or not
20 you recorded that conversation?

21 A I don't recall offhand.

22 Q Looking at -- further on page 1 of the transcript or
23 Exhibit 165, you state about the middle of the page, [groggy,
24 laying on the couch] "Did you say that this guy wanted it by
25 Christmas?" Dottore responds, "No, he said, I don't want to

1 wait 'til Christmas." What were you referring to by -- who
2 were you referring to by "this guy"?

3 A Judge Bongiovanni.

4 Q And Dottore stated, "No, he said, I don't want to wait
5 'til Christmas." Who did you understand Dottore to be
6 referring to?

7 A Judge Bongiovanni.

8 Q Looking at page 2 of the transcript, about one-third of
9 the way down, you state, "And I'll have to do -- what I'll
10 have to do is I'll have to hold back on Pete for another
11 couple of weeks. You know what I'm saying?" What were you
12 telling Mr. Dottore at that point?

13 A That I wouldn't be able to pay Mr. Flangas for another
14 few weeks, that I'd use the thousand dollars (\$1,000) to pay
15 Judge Bongiovanni.

16 Q And that was to pay Judge Bongiovanni what?

17 A A thousand dollars (\$1,000) of the twenty-five hundred
18 (2500) remaining on the bribe.

19 Q Mr. Dottore then responds, "Yeah." And you make the
20 statement, "Rob Peter to pay Paul" and Mr. Dottore then says,
21 "No, not Paul." What did you understand Mr. Dottore to mean
22 by his remark, "No, not Paul"?

23 A That the money was not going to him, it was going to go
24 to Judge Bongiovanni.

25 Q Looking at page 4 of the transcript at approximately one-

1 third of the way down, you state:

2 "You know, I'll give it to him within thirty days. I'll
3 give him a G note and that's all, and Pete can -- he's
4 going to have to just wait 'cause this is more important
5 right now -- or right this minute. I don't want him
6 mad." Who were you referring to when you stated "I'll
7 give him" -- "Within thirty days I'll give him a G note?"

8 A Judge Bongiovanni.

9 Q And at the bottom of that paragraph when you state, "I
10 don't want him mad," who are you referring to?

11 A I was referring to Judge Bongiovanni.

12 MR. JOHNSON: Your Honor, the government moves for
13 the admission of Exhibit 166.

14 Is it received, Your Honor?

15 THE COURT: Received.

16 (Plaintiff's Exhibit No. 166 admitted)

17 MR. JOHNSON: Your Honor, pursuant to the
18 stipulation of counsel, Exhibit 166 is a consensual recording
19 occurring on September 29, 1995, at approximately 1430 hours,
20 military time, which would be about 2:30 p.m. It's an
21 outgoing call from Terry Salem to Paul Dottore's home
22 telephone. The participants in the call are Terry Salem and
23 Paul Dottore.

24 BY MR. JOHNSON:

25 Q Mr. Salem, did you record this consensual recording?

1 A Yes sir, I did.

2 Q And where were you when you made this call?

3 A I was in California when I made this call.

4 Q Did there come a time in approximately the fall or late
5 summer of 1995 in which you moved to Arizona?

6 A Oh, I'm sorry, 9/29. I had just moved to Arizona in 8 of
7 '95.

8 Q When you say 8 of '95 are you --

9 A August of '95. I apologize.

10 Q All right. At the time that you made this telephone
11 call, where were you located?

12 A I was in Arizona at the time of this call.

13 Q And where were you calling Mr. Dottore?

14 A In Nevada.

15 Q And so this call was from Arizona to Nevada?

16 A Yes sir, it was.

17 MR. JOHNSON: Your Honor, at this point in time, I
18 would ask Agent Voltz to play the Exhibit 166.

19 (Plaintiff's Exhibit No. 166 is played)

20 BY MR. JOHNSON:

21 Q Mr. Salem, looking at page 1 of Exhibit 166, at the
22 bottom of the page you state -- when Dottore says to you,
23 "What's happening," you state, "Nothing, I just called to let
24 you know I'll be in town within a week or so and I'll have
25 that money for that guy -- some money for the guy, let's put

1 it that way." Who are you referring to by "that guy"?

2 A Judge Bongiovanni.

3 Q And what were you referring to by "that money"?

4 A The remaining money that I owed for the bribe.

5 MR. JOHNSON: Your Honor, the government moves for
6 the admission of Exhibit 168.

7 THE COURT: 168?

8 MR. JOHNSON: Yes, Your Honor.

9 THE COURT: Received.

10 (Plaintiff's Exhibit No. 168 admitted)

11 MR. JOHNSON: Your Honor, pursuant to the
12 stipulation of counsel, Exhibit 168 is a recording of a
13 conversation over Paul Dottore's home telephone on
14 approximately -- not approximately, on October 12, 1995, at
15 approximately 1407 hours military time, which would be 2:07
16 p.m. It's an incoming call.

17 I'd ask that Agent Voltz play the call at this time.

18 (Plaintiff's Exhibit No. 168 is played)

19 BY MR. JOHNSON:

20 Q Mr. Salem, looking at page 2, approximately one-third of
21 the way down, you state, "And then I'm going to be driving in.
22 Uh, I'll be there maybe Monday night, Tuesday morning, are you
23 going to be around?" Where were you driving in to?

24 A I was driving in to Las Vegas, Nevada.

25 Q And where were you going to be driving in from?

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1 A Arizona.

2 Q And what was the purpose that you were going to be
3 driving in at this time?

4 A To give Mr. Dottore a thousand dollars (\$1,000) to give
5 to Judge Bongiovanni.

6 Q And what was the thousand dollars (\$1,000) supposed to be
7 for?

8 A For a bribe.

9 MR. JOHNSON: Your Honor, the government moves for
10 the admission of Exhibit 183.

11 THE COURT: 183.

12 MR. JOHNSON: 183.

13 MR. PITARO: No problem.

14 MR. JOHNSON: Is it received, Your Honor?

15 THE COURT: Received.

16 (~~Plaintiff's Exhibit No. 183 admitted~~)

17 MR. JOHNSON: Your Honor, pursuant to the
18 stipulation of counsel, Exhibit 183 is a recording of a
19 conversation occurring on October 15, 1995 at approximately
20 1814 hours military time, which would be 6:14 p.m. It's an
21 incoming call to Paul Dottore's home telephone from -- and the
22 participants are Paul Dottore and Terry Salem.

23 I'd ask that Agent Voltz play the call at this time.

24 THE COURT: Let me ask, is this a reasonable place
25 to break? You apparently have some additional --

1 MR. JOHNSON: We're close to the end but it would be
2 a reasonable place to take a break, Your Honor.

3 THE COURT: We'll take a fifteen-minute break.
4 The jury will follow all of the instructions.

5 (Court recessed at 3:04 p.m. until 3:24 p.m.)

6 (Jury is not present)

7 THE COURT: Just be seated.

8 Have Mr. Pitaro come in for just a minute.

9 I just need to see one of you. You can remain
10 seated.

11 COURT RECORDER: You want this on record?

12 THE COURT: Yeah, this should be.

13 (Off-record colloquy)

14 (Discussion at sidebar)

15 THE COURT: I talked separately with Mr. Pitaro
16 because it's my understanding you have no difficulty once a
17 tape has been received to giving a copy to the newspaper. We
18 did that in the last trial. And Mr. Pitaro --

19 MR. JOHNSON: My position is whatever you say is
20 okay is okay.

21 THE COURT: Okay. As long as you have no objection,
22 I don't have any problem with it. I think it's public record.

23 MR. PITARO: I think if was the transcript they
24 wanted, the dailies.

25 THE COURT: It is the transcript -- no, no. Oh, no.

1 It's the transcript of the tapes is --

2 MR. PITARO: Oh.

3 THE COURT: -- what she wants. No, we don't have
4 dailies.

5 MR. PITARO: Oh, I thought someone said there was.

6 THE COURT: Is there a daily?

7 THE CLERK: We're doing a daily.

8 THE COURT: Right?

9 MR. PITARO: I mean -- that's what I -- okay. Well,
10 in any event that's --

11 THE COURT: Well, that's even more so.

12 MR. PITARO: -- you know.

13 THE COURT: Yeah. I will then include that.

14 MR. PITARO: All right.

15 THE COURT: All that she wants is the tapes and we
16 did that during the last trial and I think it is a matter of
17 public record.

18 MR. JOHNSON: The tape transcripts?

19 THE COURT: The tape transcripts.

20 MR. JOHNSON: I said it's whatever --

21 MR. PITARO: What?

22 MR. JOHNSON: -- you want to do.

23 MR. PITARO: Right. What --

24 THE COURT: Well, I --

25 MR. PITARO: -- whatever you want is fine with me.

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1 THE COURT: Well, I don't think I --

2 MR. PITARO: As long as the jury's admonished.

3 THE COURT: Oh, I'll admonish the --

4 MR. PITARO: Yeah.

5 THE COURT: -- I'm not going to tell them that
6 anybody has the --

7 MR. PITARO: No, no. But, I'm just saying --

8 THE COURT: -- for those. Oh, I'll admonish them
9 ever time they leave. No, I don't think I could give the
10 paper daily transcripts. It costs the government money and I
11 don't think I could do that.

12 MR. JOHNSON: No.

13 MR. PITARO: That's what I thought you were
14 questioning about 'cause they had mentioned earlier that there
15 is dailies.

16 MR. JOHNSON: While we're -- while we're down here,
17 I'll just -- I'm trying to convince Ms. Shoemaker, if you'll
18 allow it, 'cause when we're going to have Agent Hanford
19 testify most of the other tapes are going to come in and it'll
20 probably take a day to two days for that to happen.

21 THE COURT: To excuse her?

22 MR. JOHNSON: Not to excuse her, she's going to do
23 it. She's handling Agent Hanford.

24 THE COURT: Oh. Oh, okay.

25 MR. JOHNSON: But I wanted -- if we could get a

1 stool, do you have any problem if she sits on a stool during
2 the testimony?

3 THE COURT: You don't have any problem with that do
4 you?

5 MR. PITARO: Get two.

6 THE COURT: Pardon? Get two?

7 MR. PITARO: Get me one. I like real hard back
8 chairs and these are killing me.

9 (Off-record colloquy between Court and counsel)

10 MR. PITARO: Oh, Judge, one other thing. I know you
11 took a break now, but Eric told me at the break that he may be
12 fifteen, twenty -- twenty -- I don't know.

13 MR. JOHNSON: I think I'll be just about fifteen
14 more minutes.

15 MR. PITARO: 'Cause I'm going to need just -- at
16 least a few minutes to try to -- before I charge up.

17 THE COURT: And you want me to take another break?

18 MR. PITARO: Well, that's what I'm -- I thought he
19 was going to be longer than he told me, but --

20 THE COURT: Well, I'll just let them stand up --

21 MR. PITARO: Okay.

22 THE COURT: -- and stretch for --

23 MR. PITARO: Okay. Thanks.

24 (End of discussion at sidebar)

25 MR. JOHNSON: Your Honor, in terms of Mr. Pitaro's

1 cross-examination, there is about three issues that I wanted
2 to raise at sidebar before he began his cross-examination.
3 You want to wait until he gets here?

4 THE COURT: Yeah, I'd rather wait.

5 (Off-record colloquy)

6 (Jury reconvened at 3:28 p.m.)

7 THE COURT: Please be seated. Clerk notes the
8 appearance of counsel and the defendant. Will counsel
9 stipulate to the presence of the jury?

10 MR. PITARO: Yes, Your Honor.

11 THE COURT: Okay. Mr. Johnson, you may continue.

12 MR. JOHNSON: Thank you, Your Honor.

13 THE COURT: Would you like a glass of water?

14 (Pause in the proceeding)

15 THE COURT: Go ahead, counsel.

16 MR. JOHNSON: Your Honor, just for the record, we --
17 there was the one tape that there was an issue as to whether
18 the time was 1955 or 1953 hours. That was Exhibit 130. We
19 checked the tape and showed it with Mr. -- to Mr. Pitaro and
20 the correct time was 1953 for Exhibit 130.

21 MR. PITARO: For -- great. So both of 'em are 153.

22 THE COURT: I'm sorry, counsel?

23 MR. PITARO: Yes, both of them were 153. 131, 132,
24 Mr. Johnson.

25 MR. JOHNSON: I believe we'd moved for the admission

1 of Exhibit -- and it had been received, Exhibit 183. That,
2 according to the stipulation of counsel, is a recording made
3 on October 15, 1995, at approximately 1814 hours military
4 time, which would be 6:14 p.m. It's an incoming call from
5 Terry Salem to Paul Dottore. Participants in the call are
6 Paul Dottore and Terry Salem.

7 I'd ask at this time that that call be played, Your
8 Honor.

9 THE COURT: It may be played in -- I think it has
10 been received. If there's any question, the Court will
11 receive the Exhibit 183.

12 (Plaintiff's Exhibit No. 183 played)

13 BY MR. JOHNSON:

14 Q Mr. Salem, did you travel to Las Vegas, Nevada on October
15 16, 1995?

16 A Yes sir, I did.

17 Q And from where did you travel?

18 A Arizona.

19 MR. JOHNSON: Your Honor, the government would move
20 for the admission of 189.

21 THE COURT: 189?

22 MR. JOHNSON: 189.

23 MR. PITARO: No objection, Judge.

24 THE COURT: Received.

25 (Plaintiff's Exhibit No. 189 admitted)

1 MR. JOHNSON: Your Honor, pursuant to the
2 stipulation of counsel, Exhibit 189 is a recording of a
3 conversation over a telephone, Paul Dottore's home telephone,
4 occurring on October 17, 1995. This call occurred at 1838
5 hours military time, which would be approximately 6:38 p.m.
6 An incoming call. The participants in the call are Paul
7 Dottore and Terry Salem.

8 I'd ask that Agent Voltz play the call at this time.

9 (Plaintiff's Exhibit No. 189 played)

10 BY MR. JOHNSON:

11 Q Mr. Salem, what was the purpose of this call that you
12 placed to Paul Dottore on October 17, 1995?

13 A I was going to give Mr. Dottore a thousand dollars
14 (\$1,000) to give to Judge Bongiovanni.

15 Q And was this call to arrange the meeting with Mr.
16 Dottore?

17 A Yes sir, it was.

18 Q Did you subsequently meet with Mr. Dottore?

19 A Yes sir, I did.

20 Q And where did you meet with him?

21 A I met him outside the back steps of the Island Tower at
22 the Tropicana Hotel in his car.

23 Q And was that pursuant to the instructions that you
24 reached in this telephone call at 6:38 p.m. on October 17th?

25 A Yes sir, it was.

1 Q And approximately when did you meet with him?

2 A Approximately 7:30, 7:15, somewhere in that area.

3 Q Who was present?

4 A Just Mr. Dottore and I were in the car.

5 Q And what did you provide Mr. Dottore?

6 A Ten one-hundred-dollar bills.

7 Q And who had provided you with the one-hundred-dollar
8 bills?

9 A Agent Hanford.

10 Q And again, this was done as part of your cooperation with
11 the government?

12 A Yes sir, it was.

13 MR. JOHNSON: Your Honor, the government would move
14 for the admission of Exhibit 190.

15 THE COURT: 190?

16 MR. JOHNSON: Yes, 190.

17 THE COURT: It will be received.

18 (Plaintiff's Exhibit No. 190 admitted)

19 MR. JOHNSON: Your Honor, pursuant to the
20 stipulation of counsel, Exhibit 190 is a recording of a
21 telephone call over Paul Dottore's home telephone occurring on
22 October 17, 1995, at 2012 hours, military time, which would be
23 8:12 p.m. Participants in the call are Paul Dottore and
24 Gerard Bongiovanni.

25 I'd ask Agent Voltz to play the call at this time.

1 (Plaintiff's Exhibit No. 190 played)

2 MR. JOHNSON: Your Honor, in going over the tapes we
3 had played during the break there is one tape that I had
4 intended to play as part of this whole group, that I would
5 move for admission now, and that's Government Exhibit 84-2.

6 THE COURT: I'm sorry. 84 --

7 MR. JOHNSON: The government would move for the
8 admission of 84-2.

9 THE COURT: Okay.

10 (Pause in the proceedings)

11 MR. PITARO: No objection.

12 THE COURT: Received.

13 (Plaintiff's Exhibit No. 84-2 Admitted)

14 MR. JOHNSON: Your Honor, pursuant to the
15 stipulation of counsel, Government Exhibit 84-2 is a telephone
16 conversation occurring on December 7th, 1994 at 1355 hours

17 military time, which would be 1:55 p.m. Participants in the
18 call are Paul Dottore and Jack Jerdan.

19 I'd ask Agent Voltz to play the call at this time.

20 (Plaintiff's Exhibit No. 84-2 played)

21 BY MR. JOHNSON:

22 Q Mr. Salem, after you made the payment to Mr. Dottore of
23 one thousand dollars (\$1,000) for Judge Bongiovanni on October
24 17, 1995, did that conclude your involvement in the
25 investigation of Judge Bongiovanni?

1 A Yes, sir, it did.

2 Q You received payment from the FBI for the period of about
3 September of 1994 through December of 1995?

4 A Yes, sir.

5 Q During that period of time you earned, over that sixteen-
6 month period, about forty-five thousand dollars?

7 A Yes, sir, approximately.

8 Q In terms of reporting that money on income taxes, did you
9 report any of that money?

10 A Just '94.

11 Q All right. So you did file for the income for the year
12 1994?

13 A Yes, sir.

14 Q You did not file any of the income for the year 1995?

15 A No, sir.

16 Q All right. Why did not -- didn't you prepare a tax
17 return for the year 1995?

18 A I was advised at that time, by my attorney, to wait until
19 this whole procedure was over with.

20 Q All right. And who is your attorney?

21 A Barry Lieberman.

22 Q After the conclusion of your cooperation in this
23 investigation, did you reach a plea agreement with the United
24 States Government?

25 A Yes, I did.

1 Q And in the course of reaching that plea agreement, did
2 you agree to plead guilty to any charge?

3 A Yes, sir, I agreed to plead guilty to bank fraud.

4 Q And that was a federal bank fraud charge?

5 A Yes, sir.

6 Q And was it -- did that fraud concern your entire conduct
7 that you engaged in at California Federal Bank?

8 A Yes, sir.

9 Q Now, do you understand that the sentencing -- that your
10 sentence is controlled in federal court by something called
11 the sentencing guidelines?

12 A Yes, sir, I do.

13 Q And do you understand that pursuant to the sentencing
14 guidelines, your conduct is given an offense level
15 representing various factors underlying the seriousness of the
16 offense?

17 A Yes, I do.

18 Q Who do you understand has the ultimate authority in
19 deciding what your offense level should be for the bank fraud
20 that you participated in?

21 A I believe the Judge.

22 Q Pursuant to your agreement, by agreeing to plead guilty
23 to the bank fraud, do you receive any immediate benefit to
24 your offense level by pleading guilty?

25 A I believe it --

1 MR. PITARO: Your Honor, I'm always troubled on that
2 question of them asking the legal advice, especially on that -
3 - on that.

4 THE COURT: What is the question, counsel?

5 MR. JOHNSON: I'm asking essentially in regard to
6 the 3-level reduction for acceptance of responsibility, which
7 is specifically noted in his plea agreement, Your Honor.

8 THE COURT: I think that can be addressed, counsel,
9 as long as everyone understands that it's ultimately the
10 determination of the Court that makes a determination as to
11 what the sentence will be.

12 BY MR. JOHNSON:

13 Q As part of your plea agreement -- let me rephrase the
14 question. As part of your plea agreement, was there -- by
15 agreeing to plead guilty did the government indicate that it
16 would recommend to the Court that you receive a 3-level
17 reduction for acceptance of responsibility?

18 A Yes, sir.

19 Q Pursuant to the plea agreement did the -- was there a
20 recommendation made -- did the government make a
21 recommendation to the Court as to what it thought your offense
22 level should be?

23 A Yes, sir, it did.

24 Q And did that recommendation include giving you credit for
25 acceptance of responsibility?

1 A Yes, sir.

2 Q And is it your understanding that the government's
3 position concerning your sentencing range under the guidelines
4 should be approximately 30 to 37 months?

5 A Yes.

6 Q Now, in addition to acceptance of -- recommending that
7 you receive credit for acceptance of responsibility, did the
8 government in your plea agreement also provide you with any
9 other agreement to you?

10 A Just that the extent of my cooperation would be let --
11 let be know to the Judge at the time of my sentencing.

12 Q All right. Did the government agree that if you had
13 provided substantial assistance it would make -- in its
14 opinion if you had provided substantial assistance it would
15 make a motion to the Court, which would allow the Court to go
16 below the sentencing guideline range?

17 A Yes, sir.

18 Q Who do you understand has ultimate authority to decide if
19 you should get any reduction below the guideline range for
20 your cooperation?

21 A The Judge.

22 Q Pursuant to your plea agreement could the Court, to your
23 understanding, at your sentencing order you to pay restitution
24 to California Federal?

25 A Yes, sir.

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1 Q And what do you understand restitution to mean?

2 A The amount of money that had been gotten from the bank.

3 Q All right. Do you understand that pursuant to the
4 sentencing guidelines the Court could order you to pay the
5 full amount of the bank's loss beyond just what you received
6 in this case?

7 A Yes, sir, I do.

8 MR. JOHNSON: Just one moment, Your Honor.

9 BY MR. JOHNSON:

10 Q One more question in regard to your plea agreement, Mr.
11 Salem. At the time you reached the plea agreement, did the
12 government agree not to prosecute you for any prior conduct
13 occurring before the plea agreement that you informed the
14 government of at the time of the plea agreement?

15 A Yes, sir.

16 Q All right. And I want to jump back to really the first
17 call that we played yesterday, in which you asked Mr. Dottore
18 if he had looked into Jimmy Zapata or Zapada, paying a bribe
19 to Judge Bongiovanni. You -- at the conclusion of that call
20 Mr. Dottore indicated that he possibly would look into it, was
21 there any further conversation regarding Mr. Zapada -- Sepedra
22 [phonetic]?

23 A No, sir.

24 MR. JOHNSON: Your Honor, the government has no
25 further questions at this time.

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1 THE COURT: Counsel, if you want to use one of those
2 attorney's offices --

3 MR. PITARO: That's okay, Judge, thank you.

4 THE COURT: Okay. Do you want a few minutes?

5 MR. PITARO: It may be fumbled, but, no, I can just
6 start getting --

7 THE COURT: Why don't you come to sidebar for just a
8 moment.

9 (Discussion at sidebar)

10 MR. PITARO: I don't want to have to move
11 everything.

12 THE COURT: You can go back there or --

13 MR. PITARO: Huh? What's that?

14 THE COURT: You can go back there if you want to for
15 a few minutes and we'll unless we just have them stand and --

16 MR. PITARO: Oh, okay. All right. I just didn't
17 want to traipse back and then traipse back up.

18 THE COURT: No, you can go back there and you can
19 take Bongiovanni with you and you can take your -- you had
20 some questions about -- it may not be a problem.

21 MR. JOHNSON: There was three things I wanted to
22 look into. First of all Mr. Pitaro indicated to me that he
23 was going to question Mr. Salem in regard to a loan shark loan
24 that he had made. How is -- I don't see how that is relevant
25 at all. Not a loan that he made but he'd agreed -- he'd

1 received a loan from a loan shark. I'm not sure I see how
2 that's illegal contact going to his honesty.

3 MR. PITARO: No, but it shows the relationship, that
4 is the relationship that is going on between him and Dottore
5 and some of the other players that are involved. What's
6 actually happening is Dottore is -- in addition to this is
7 collecting the monies for Salem, acting at times as a
8 intermediary with the -- with the loan shark who is a person
9 by the name of Richard Schreiber [phonetic] where they were
10 also talking about doing some things with what's -- it's the
11 relationship, I'm not accusing him of being a loan shark. And
12 it's not -- it's not in terms of impeaching him with it,
13 because you can't impeach him if he's paying it, it's in terms
14 of showing that the relationship that he and Dottore had is
15 one that is much more than this casual thing that he initially
16 testified to. So it's just going to be like one or two.

17 THE COURT: Well, I can think you can establish that
18 without talking about loan sharking. Have you engaged in
19 other enterprises with Mr. Dottore or something of that
20 nature.

21 MR. PITARO: Well, yeah, I'm not saying that it's a
22 608, 'cause he's not --

23 THE COURT: Yeah.

24 MR. PITARO: -- not doing a fine.

25 THE COURT: Well, let's stay away from it, but I'll

1 certainly allow you to establish their friendship.

2 MR. PITARO: Okay.

3 MR. JOHNSON: We aren't going to establish a
4 friendship through the fact that Mr. Dottore --

5 THE COURT: No.

6 MR. JOHNSON: -- acted as intermediary for a loan
7 shark loan.

8 THE COURT: No. You understand that. Not going to
9 mention loan sharking at all.

10 MR. PITARO: All right. If that's what you say I
11 have -- okay.

12 THE COURT: That's what you understand, isn't it?

13 MR. PITARO: What you just said, yes.

14 THE COURT: Yeah.

15 MR. PITARO: Yeah, okay.

16 MR. JOHNSON: All right. This -- the second thing
17 regards, it's back to the -- since their conversation
18 yesterday concerning the green thing.

19 THE COURT: Concerning what?

20 MR. JOHNSON: Concerning the green thing, where Mr.
21 Dottore and Mr. Salem discussed possibly that Mr. Salem could
22 set somebody up with -- to get the green thing. And there's a
23 reference made to the green thing that Mr. Salem had got 'em
24 for somebody I think named Francis. That sentence related to
25 Mr. Salem trying -- looking into setting up somebody to

1 possibly purchase marijuana, and Mr. Salem will indicate that
 2 at one time prior to this conversation occurring that he did
 3 transport small amount of marijuana for someone named Francis.
 4 I'm moving to exclude that, and it's not 608 in that it
 5 doesn't go to truthfulness - truthfulness. Now, Mr. Pitaro
 6 already has said it's relevant as to the issue of bias, in
 7 that it's something that technically under the plea agreement
 8 we've given Salem a passport. But the government's position
 9 is if that supports leaning in any way in that direction that
 10 it should be excluded under 403 as unduly prejudicial. The
 11 case law is clear that Mr. Pitaro doesn't have a right to
 12 bring out any and everything against a witness and that
 13 certain types of conduct may be too prejudicial to justify
 14 allowing questioning in that regard. The issue here is
 15 whether or not Mr. Salem has any bias which goes to his
 16 credibility. Mr. Pitaro has plenty of ammunition to spend on
 17 attacking Salem's credibility and his receipt of benefits from
 18 the government under the plea agreement. This --

19 THE COURT: Well, you're just saying that under 403
 20 even if it's admissible it shouldn't be received because it's
 21 prejudicial.

22 MR. JOHNSON: That's right.

23 MR. PITARO: Let me respond. First --

24 THE COURT: Go ahead.

25 MR. PITARO: First, I've got -- I can --

1 THE COURT: Keep it down.

2 MR. PITARO: They give me this information through
3 their obligation under Giglio.

4 THE COURT: Through their what now?

5 MR. PITARO: Giglio, Giglio, however you want to
6 pronounce it.

7 MR. JOHNSON: Giglio.

8 MR. PITARO: It's pronounced Giglio --

9 MR. JOHNSON: Is that right?

10 MR. PITARO: -- but everyone says Giglio.

11 It is -- it is part of it, they sent it to me and
12 we've had -- we've -- what we're having is they've just put
13 out that anything he did prior to this has been forgiven.
14 Now, he may say, okay --

15 THE COURT: When did this occur?

16 MR. PITARO: During the periods of the time we're
17 talking about.

18 MR. JOHNSON: Well, the telephone call occurred I
19 think in February --

20 MR. PITARO: During this period of time.

21 MR. JOHNSON: -- or March of '94.

22 MR. PITARO: I've got it on tape. As a matter of
23 fact that was one of the tapes --

24 MR. JOHNSON: There is one telephone call.

25 MR. PITARO: -- I put in my book, I'm going to ask

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1 him about in my play, is that they actually go through this.
2 This is part of the thing the government gave up. The
3 government --

4 THE COURT: Well, just tell me what you want to do.

5 MR. PITARO: I'm going -- I'm going to just
6 basically ask him, isn't it true that in addition to the
7 things you testified to yesterday, is that you engaged in with
8 Mr. Dottore in trying to set up a drug thing and that you had
9 prior to this -- prior to this conversation you'd got into
10 another thing with a person by the name of Ms. Frank
11 [phonetic] at the Vegas World, and that you and Dottore had a
12 conversation about this when Dottore asked you about it.

13 THE COURT: When was this?

14 MR. PITARO: I got it in my notes, it's sometime in
15 February during this period of time. And then in addition --
16 and in addition under the Giglio what they did is they told me
17 who Dottore -- Dottore and the informant, it's in the -- I
18 believe --

19 MR. JOHNSON: We're not talking about Dottore though
20 now.

21 MR. PITARO: Wait a minute, they're both part and
22 parcel. Dottore when he talks about it says, can you get me a
23 hundred of what the stuff you used to get for Frankie.

24 MR. JOHNSON: No, he doesn't say Frankie.

25 MR. PITARO: Whatever the guy's name is.

1 MR. JOHNSON: It's someone --

2 MR. PITARO: Huh?

3 MR. JOHNSON: It's someone else. But he does say --

4 MR. PITARO: Okay. And then -- that's part of the
5 Giglio, and then that's the conversation that's going during
6 this period of time and their relationships with each other
7 and then they --

8 THE COURT: Well, let me take just a -- just a
9 moment. I -- abbreviate it --

10 MR. PITARO: I'm going to try.

11 THE COURT: Well, just limit it to the single
12 incident. It is collateral, and I don't know what he's going
13 to say or not say, but you're stuck with whatever his answer
14 is, but make it brief. Isn't it true that, and describe this
15 single transaction as far as marijuana is concerned, and
16 that's all that I'll allow.

17 MR. JOHNSON: The only -- the other thing we'd ask,
18 Your Honor, is his questions as to Mr. Salem's bad conduct and
19 things that he got into should be directed toward Mr. Salem
20 and not including Mr. Dottore. A lot of the stuff involved
21 Mr. Dottore, we aren't arguing that, and he can ask Mr.
22 Dottore about that during his cross-examination. But he
23 shouldn't be getting into at this point, didn't you do this
24 with Mr. Dottore, didn't you do that with Mr. Dottore.

25 MR. PITARO: Your Honor, they have -- I have to get

1 into that -- that -- that is the relationship --

2 THE COURT: You don't have to get into --

3 MR. PITARO: -- we spent two days doing, and their
4 crimes they're talking --

5 THE COURT: I'll allow you to do that.

6 MR. PITARO: I'm not going to spend a lot of time --

7 THE COURT: But very briefly.

8 MR. PITARO: All right.

9 THE COURT: It shouldn't take more than twenty
10 seconds.

11 MR. JOHNSON: And the last thing, I don't know if
12 you want to look at it --

13 MR. PITARO: Well, no.

14 MR. JOHNSON: -- is that we're going to object to
15 the playing of the August 7 tape with Peter Flangas and Terry
16 Salem as inadmissible hearsay.

17 THE COURT: What is Flangas just chewing him out?

18 MR. PITARO: No, he's telling -- he's lying to
19 Flangas, he's going to Flangas at direction of the FBI and he
20 is lying to Flangas. And that's what I'm going to get into,
21 that the course of conduct he's engaged in has been lying, and
22 he lied to Flangas. And I probably won't play the tape
23 because it's so late.

24 THE COURT: He's probably expected to lie to
25 Flangas.

1 MR. PITARO: Well, he may be, but I'm entitled to --
2 I'm entitled to go into that.

3 THE COURT: Well, no, no, no, no, no. If you don't
4 get into it, fine, I'm going to keep it out at this point.
5 I'll play the tape because I don't know what it is, and then
6 I'll --

7 MR. PITARO: Well, I was -- I was -- given the time
8 I wasn't going to play it, I was just going to ask him about
9 it.

10 THE COURT: Well, ask him --

11 MR. JOHNSON: Why are you going to ask it?

12 THE COURT: What are you going to ask him about it?

13 MR. PITARO: Well, I mean, I --

14 MR. JOHNSON: We may not have a problem with you
15 asking.

16 MR. PITARO: Give me a minute, 'cause I'm getting
17 frustrated that anything that they bring up, I mean a lot of
18 the stuff that they've got into, I can't get into.

19 THE COURT: Well, now, just a minute, you've been
20 successful, I don't want -- you've been successful in getting
21 these things in. What is it that you intend to say about the
22 tape? I don't want to waste a lot of time playing a tape with
23 an attorney chewing somebody out.

24 MR. PITARO: I'm not going -- what I'm saying, given
25 the time, it's not the question of that, it's the question is

1 THE COURT: -- that's incompatible and you can argue
2 that. But I don't -- I don't expect you to go into, from this
3 witness, something that's incompatible with somebody else.

4 MR. PITARO: No, no, this is what he said. Salem
5 -- they played the -- an August 7th tape between Salem and
6 Dottore.

7 THE COURT: And you played it and you've got it on
8 record.

9 MR. JOHNSON: No, no, no, he's --

10 MR. PITARO: Okay. And now I'm going to go into the
11 fact that there -- some things are incompatible with what he's
12 telling Dottore. That's the --

13 THE COURT: Well, I --

14 MR. PITARO: That's what I'm saying.

15 THE COURT: Well, I think he can --

16 MR. PITARO: That's all. That's all I'm saying.

17 MR. JOHNSON: He can't say didn't Peter Flangas tell
18 you this or didn't Peter Flangas tell you that.

19 MR. PITARO: Brought it up. He brought -- he
20 brought these conversations up. Every tape they played have
21 had -- many of the tapes --

22 THE COURT: You can refer to the tapes and ask him
23 questions about those tapes.

24 MR. JOHNSON: But he wants to refer to a separate
25 tape that hasn't been played that was a meeting --

1 MR. PITARO: I could play it.

2 MR. JOHNSON: -- between Terry Salem and Peter
3 Flangas, and we don't want --

4 THE COURT: Well, I don't know if you could or not,
5 but you're talking about the tapes that have been played.
6 Isn't it true that there was this inconsistency in the tapes,
7 that's what you're talking about?

8 MR. PITARO: No, no. They played a tape where Salem
9 tells Dottore what's happening during this whole course of
10 time with him and Flangas.

11 THE COURT: Mm-hmm.

12 MR. PITARO: Okay.

13 THE COURT: Mm-hmm.

14 MR. PITARO: And that I'm saying is there is
15 evidence about that that is going to go to his conversations
16 with Dottore. They mention, for example --

17 THE COURT: Things that Flangas --

18 MR. PITARO: The things that Salem is talking about,
19 and Dottore is telling Salem --

20 THE COURT: Go ahead and ask your questions --

21 MR. PITARO: And if it's a problem --

22 THE COURT: -- and you object to them at the time
23 and I'll address --

24 MR. PITARO: I don't think they're going to object
25 once I ask it.

1 Thank you.

2 THE COURT: How long do you want, counsel?

3 MR. PITARO: You know, Judge, give me five minutes,
4 a few minutes here I can probably do it.

5 THE COURT: Okay. You can either do it here or you
6 can go back --

7 MR. PITARO: That's okay, 'cause I can just keeping
8 walking back and do it. Give me a minute and I'll set up.

9 (End of discussion at sidebar)

10 THE COURT: You want to stand up and stretch for a
11 moment.

12 (Pause in the proceedings)

13 MR. PITARO: Your Honor, with the Court's permission
14 I may be bouncing back and forth.

15 THE COURT: That's fine.

16 CROSS-EXAMINATION

17 BY MR. PITARO:

18 Q Mr. Salem, my name is Tom Pitaro and I represent Gerard
19 Bongiovanni, so I'm going to ask you a couple questions, if I
20 may.

21 A All right, sir.

22 Q I would ask that you answer my question as directly as
23 you could, and if it calls for a yes or no answer if you'd
24 give me that, and if you can't then tell me and then I'll
25 decide whether I want to put it in such a way or just leave

1 it.

2 MR. JOHNSON: Your -- objection, Your Honor, Mr.
3 Pitaro asks the question --

4 THE COURT: I'll govern the --

5 MR. JOHNSON: -- Mr. Salem has a right to answer.

6 THE COURT: You ask your questions --

7 MR. PITARO: Okay.

8 THE COURT: -- and I'll make a determination if it's
9 a yes or no answer.

10 MR. PITARO: Just trying to ---

11 BY MR. PITARO:

12 Q Now, Mr. Salem, you told us at the beginning of the
13 testimony of the things that you had been involved in when the
14 government asked you, is that correct?

15 A Yes, sir.

16 Q And basically you were a bit modest, weren't you?

17 A Meaning?

18 Q Well, meaning this, these tapes pick up late 1993 early
19 1994, don't they, that's when you first started being recorded
20 by the government?

21 A Correct.

22 Q Now, you told us, for example, that you made a plea
23 agreement and that plea agreement anything you've done prior
24 to September of 1994 was basically forgiven?

25 A Correct.

1 Q Okay. Now, you told us, for example, about a 1989 dice
2 game, is that correct?

3 A Yes, sir.

4 Q And how much money did you make in that?

5 A It was a Blackjack game.

6 Q Blackjack?

7 A Yes.

8 Q That's where you -- you put what, a cooler in?

9 A Yes, sir.

10 Q And what is a cooler, could you tell the jury?

11 A It was a shoe where the dealer did not shuffle all the
12 cards.

13 Q Okay. And so the sequence of the cards would be known to
14 the players?

15 A Correct.

16 Q And so that's how you scammed the casino?

17 A Correct.

18 Q And how much did you make?

19 A Approximately it grossed about a hundred and twenty
20 thousand.

21 Q And did you declare that in your income tax?

22 A I declared earnings that year; not all of that was mine.

23 Q Well, did you declare the hundred and twenty that you
24 scammed out of the casino?

25 A No, sir.

1 Q Okay. Thank you. And Mr. Dottore was involved in that,
2 wasn't he?

3 A Yes, sir.

4 Q Okay. Now, you told us that your relationship with Mr.
5 Dottore was you just happened to know him and now we've got it
6 you and he defrauding -- what casino was that again, I'm
7 sorry?

8 A The Dunes.

9 Q The Dunes out of a hundred and twenty thousands going
10 back to 1989, correct?

11 A Correct.

12 Q Okay. Now, let's just jump forward to the time where the
13 FBI starts picking you up, which is sometime in late '93,
14 isn't it?

15 A I believe it was before then, but, yes.

16 Q Okay. Well, when did you first meet Steve Johnson, the
17 undercover FBI agent?

18 A Sometime in '93.

19 Q Okay. Now, with Mr. Johnson you and he engaged in trying
20 to do counterfeiting, didn't you?

21 A Yes.

22 Q Okay. And you had someone down south and something, and
23 with Mr. Johnson putting together a counterfeiting deal,
24 correct?

25 A Bearer bonds.

1 Q Okay. Now, these bearer bonds, how much were those?

2 A He only --

3 Q What was the dollar amount?

4 A He only showed me one.

5 Q Okay. Well, what was the dollar amount, do you remember?

6 A I don't remember the amount of what he said he could get,
7 but he showed me one bond.

8 Q Okay. Well, if I -- if I may -- let me do it this way,
9 maybe we could do it quicker. On February 5th, 1994 you had a
10 conversation with Mr. Dottore and you told him that the bearer
11 bonds were two million dollars worth, that correct?

12 A May I see that conversation?

13 Q Sure, if one --

14 A Sure.

15 (Off-record counsel colloquy)

16 BY MR. PITARO:

17 Q While we're getting that for you, Mr. Salem, prior to
18 your testimony here you reviewed a bunch of tapes, isn't that
19 correct?

20 A Yes, sir.

21 Q And you reviewed prior testimony that you may have given?

22 A Yes, sir.

23 Q And you reviewed the -- what they call the 302s of the
24 FBI reports of statements that you made with the FBI, you
25 reviewed those, too?

1 A I might have reviewed some of them, yes.

2 Q Okay. And then you talked with the prosecutors and you
3 talked with the FBI agents about this -- these facts, correct?

4 A I don't remember going over the reports from the FBI.

5 Q Okay.

6 A But other statements I have made pertaining to these
7 cases, yes.

8 Q Okay.

9 MR. PITARO: Your Honor, may I approach the witness?

10 THE COURT: You may.

11 BY MR. PITARO:

12 Q If you would, Mr. Salem, if you could look at Exhibit
13 501, maybe take a quick look at that and see if that would
14 refresh your recollection about four things. One, that you
15 mentioned two million dollars in bearer bonds, you mentioned
16 doing something with credit cards, talked about a stock deal
17 and you talked about a dice scam with Bob Berney [phonetic] --
18 a dice scam concerning Bob Berney. And that was all on
19 February 5th, 1994.

20 A Okay. Okay.

21 Q Okay. Did you read that transcript?

22 A Yes.

23 Q Take a glance at it?

24 A Yes.

25 Q Isn't it true that you mentioned it to Mr. Dottore that

1 the amount of the bearer bonds were two million?

2 A Yes, sir.

3 Q Okay. Isn't it true that you and he discussed trying to
4 get cards, that is stolen credit cards, to cash?

5 A Trying to get what, sir?

6 Q Cards, I'm from New England, C-A-R-D-S, cards.

7 A Yes, sir, we discussed that, yes.

8 Q Okay. And that's just in that transcript. Then there
9 was a stock deal which at least was represented to have some
10 problems with it?

11 A Yes.

12 Q Okay. And that was a five-hundred-thousand-dollar stock
13 deal?

14 A Yes, sir.

15 Q And then there was also the Bob Berney dice scam?

16 A A suggestion, yes.

17 Q Yes. As a matter of fact you were the one that had told
18 Bob Berney to call Mr. Dottore about the dice scam, and Mr.
19 Dottore was calling you back asking you why do you have Berney
20 calling you about the dice scam, correct?

21 A Correct.

22 Q Now, in addition to that, if you could move to Exhibit
23 504, now, isn't it true that in that -- on March 4th, 1994 you
24 and Dottore had another conversation, and at this time you
25 were talking about a scam of three hundred thousand dollars in

1 wire transfers with Steve Johnson, who at that time you did
2 not know was an undercover FBI agent?

3 A That's correct.

4 Q Okay. As a matter of fact during that conversation Mr.
5 Dottore told you he thought Steve was a cop and that's why he
6 didn't want to get involved, correct?

7 A Yes, sir.

8 Q And he told you not to tell Steve that Dottore thought he
9 was a cop, right?

10 A That's correct.

11 Q Now, when we go on with these that there are other
12 situations where you dealt with with Mr. Dottore, is that
13 correct?

14 A Yes, sir.

15 Q For example, if you looked at Exhibit 507, this is still
16 in April now of 1994, okay, and that's where you and he were

17 talking about how you could -- you could move some marked
18 cards into a card game, is that correct?

19 A Well, I'll have to look at it real quick.

20 Q I'm sorry, it's Exhibit 507, if you maybe -- they're
21 tabulated there if -- it should be. That'd be April 5th,
22 1994.

23 A I'm reading it right now.

24 Q Okay.

25 A Talking about a dice game, is that what you said?

- 1 Q Marking cards.
- 2 A Marking cards?
- 3 Q Yes, with Marty Carson.
- 4 A Oh, a spot with Marty Carson.
- 5 Q Yes. Well, what you meant by the spot was trying to put
- 6 a marked deck in, isn't that correct, into a card game?
- 7 A Yes.
- 8 Q Okay.
- 9 A Yes.
- 10 Q And what you would do is you would somehow mark the cards
- 11 so that you'd be able to defraud the other players or the
- 12 house, correct?
- 13 A Correct.
- 14 Q I mean that's the purpose of it, right?
- 15 A Yes, sir.
- 16 Q Yeah. And then you were also talking even on that same
- 17 day about setting up a bookmaking operation in Antigua?
- 18 A Yes, sir.
- 19 Q Okay. And that was using some familial influence that
- 20 you had to get a bookmaking operation set up with the
- 21 government, correct?
- 22 A A legal one, yes.
- 23 Q Uh-huh. Except that the person had to give up a piece of
- 24 it to you and Mr. Dottore to get involved, isn't that correct?
- 25 A For obtaining the license, yes, sir.

1 Q All right. So he had to give a piece up to use your
2 influence down in Antigua, correct?

3 A Yes, sir.

4 Q Now, if you could go, for example, maybe up to July of
5 '94, you and Mr. Dottore had another conversation, and that
6 would be in Exhibit 525, isn't that correct?

7 A I'll look at it in a second.

8 MR. JOHNSON: Sorry, Mr. Pitaro, what one are you
9 looking at?

10 MR. PITARO: 525.

11 BY MR. PITARO:

12 Q And let me ask the question, maybe you can answer it,
13 probably know the answer without having to look, but you and
14 Mr. Dottore in July 11th, 1994 were discussing Mr. Dottore
15 bringing someone to you who wanted to move a hundred a week of
16 green things.

17 A Yes, sir.

18 Q And that was moving marijuana, wasn't it?

19 A He had inquired about that, yes, sir.

20 Q Yes. And as a matter of fact a person by the name of
21 Fiora [phonetic] met you down in L.A., didn't he?

22 A Who?

23 Q Mr. Fiora.

24 A I don't know a Fiora, no.

25 Q And this was to -- was to move the marijuana to

1 Connecticut and you wanted it to come to California, the guy
2 had to come to California, correct?

3 A I never met with this gentleman in California, sir, no.

4 Q Where did you meet him?

5 A I didn't. It was strictly a conversation with Mr.
6 Dottore.

7 Q Okay. Well, what he had said, and he referenced, if
8 you'd look in 525 --

9 A Mm-hmm.

10 MR. JOHNSON: Objection, Your Honor.

11 THE COURT: Sustained. You've addressed that --

12 MR. PITARO: Okay.

13 THE COURT: -- we're dealing with a collateral
14 matter, let's move --

15 MR. PITARO: All right.

16 THE COURT: -- on to the next issue, Mr. Pitaro.

17 BY MR. PITARO:

18 Q Okay. If we could go to even at the end of that month,
19 you and Mr. Dottore discussed trying to take the card games
20 down in Phoenix, is that correct?

21 A Tried to what?

22 Q Take a card game down in Phoenix.

23 A I don't remember that conversation.

24 Q Okay. Now, going on to July 20th of 1994, you and Mr.
25 Dottore started talking about this income tax refund checks,

1 isn't that correct?

2 A Yes, I mentioned an income tax refund to him.

3 Q Okay. And what you had is you had someone down in L.A.
4 that would steal the credit -- the income tax refund checks
5 out of the mail and you needed someone to cash 'em, isn't that
6 correct?

7 A I said I had two income tax refund checks, did he know of
8 anybody that could negotiate them.

9 Q Well, you cashed one yourself, didn't you?

10 A That's what I did with Mr. Johnson.

11 Q Okay. And what it was these were stolen income tax
12 checks, weren't they, I mean they weren't yours?

13 A No, they weren't mine.

14 Q They were someone else's?

15 A Yes, sir.

16 Q So what you were doing is cashing someone else's income
17 tax refund?

18 A Yes, sir, I did.

19 Q Okay. And then on that same time you also talked with
20 Mr. Dottore that you had a spot up in San Jose to work the
21 daub in, isn't that correct?

22 A I told him there was a place up there to play poker and
23 if he wanted to use the daub, that's a possibility.

24 Q Okay. Now, why don't you tell this jury what the daub
25 is?

- 1 A The daub is a procedure where you can mark a card so you
- 2 can read it --
- 3 Q Okay. So what --
- 4 A -- when you're playing.
- 5 Q -- in essence what you can do is you can read the cards
- 6 so you can cheat the game. Okay.
- 7 A Yes, sir.
- 8 Q So you were telling Mr. Dottore that there was a spot up
- 9 in San Jose to do that?
- 10 A Yes, sir, I did.
- 11 Q Now, then in July 21st you and Mr. Dottore had a
- 12 conversation, I assume it's still about the same income tax
- 13 refunds that are snatched right out of the mail, is that the
- 14 same one that you were talking about with Mr. Johnson?
- 15 A I believe that's possible.
- 16 Q Okay. Now, then in addition on 7/28 of 1994, you went
- 17 with -- you called Mr. Dottore, you and Mr. Dottore had a
- 18 conversation where you had a deal where you had, as you put
- 19 it, two black people who could come up to Los -- Las Vegas and
- 20 cash checks and they would duplicate the checks, the payroll
- 21 checks, right? Why don't you look at 532?
- 22 A I will have to look at that right now.
- 23 Q Sure.
- 24 A 532?
- 25 Q Yes.

1 A Okay.

2 (Pause in the proceedings)

3 Okay.

4 Q Okay. And that was a payroll check scam, wasn't it?

5 Right at the beginning.

6 A Yes.

7 Q 'Cause right after you get down with talking about the
8 payroll scam, Mr. Dottore then went into the two hundred and
9 fifty thousand dollar Treasury bond scam out of Cleveland,
10 didn't he?

11 A Yes, he mentioned that, yes, sir.

12 Q And then you went and spent the next few days trying to
13 get someone to see if you could move those Treasury bonds,
14 correct?

15 A I talked to Mr. Johnson.

16 Q Uh-huh. Now, outside of -- oh, I'm sorry. You also had
17 a spot for Mr. Dottore that you called him out that you had
18 the big high tech equipment scam going, where you needed
19 someone that looked real good to go in and pretend that he was
20 successful to buy high tech equipment, isn't that correct?

21 A I remember a conversation to that effect, nothing ever
22 took place, yes.

23 Q Mm-hmm. And then you also had a conversation -- let's
24 see, you had the high tech, you had the daubs, we had the
25 Treasury notes --

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1 MR. JOHNSON: Objection.

2 THE COURT: Sustained.

3 MR. PITARO: Okay. I'm just standing up here trying
4 to --

5 BY MR. PITARO:

6 Q Oh, you also had another one, didn't you, where you
7 brought Mr. Johnson, you wanted people to come over and you
8 had a room set up where they would come over and they'd put
9 this pitch on for you, do you remember that, where you were
10 trying to get Mr. Johnson to come over and put that pitch down
11 in Alpine?

12 A No, sir.

13 Q Okay.

14 A I had mentioned it to Mr. Johnson and he showed interest
15 that he would like to see it being demonstrated.

16 Q Oh, okay. All right. So you did have this pitch?

17 A No, I did not personally, no.

18 Q Well, who did?

19 A I knew somebody that did.

20 Q So you were -- you were pitching Mr. Johnson about this
21 other guy's pitch?

22 A No, sir, I had mentioned the pitch to him and he said he
23 was interested in seeing it.

24 Q Okay. And what --

25 A Not going for it.

1 Q -- what was this pitch?

2 A It's called a --

3 MR. JOHNSON: Objection, Your Honor.

4 THE COURT: Sustained. Let's move on.

5 BY MR. PITARO:

6 Q But all these are things that you didn't mention when you
7 -- the Government was asking all those other things that you'd
8 done during this period of time, isn't that correct? Save and
9 except -- save and except the twenty-three thousand dollar
10 (\$23,000) checks.

11 A Are you saying I completed all these scams, or just
12 talked about 'em?

13 Q No, I'm saying that you were involved in 'em, whether
14 they were completed or not.

15 A I think they knew about most of 'em.

16 Q Okay. Now, so what we have when we're talking about all
17 the past sins being forgiven, we're talking about all these
18 things, aren't we?

19 MR. JOHNSON: Objection, Your Honor. There's no
20 indication that all these things ever were completed to become
21 crimes.

22 THE COURT: Sustained. He's indicated he talked
23 about all of them, counsel.

24 BY MR. PITARO:

25 Q Now, in addition, on the Cal Fed fraud, okay?

1 A Okay.

2 Q You had said that when you got involved in this Cal Fed
3 fraud, when you first talked to the FBI you told 'em -- now
4 this is September and the Cal Fed fraud was the previous year,
5 correct?

6 A The Cal Fed fraud was --

7 Q '93.

8 A -- March of '93.

9 Q Okay. And -- and you started cooperating in September of
10 '94.

11 A Correct.

12 Q Right. And you had said that you got involved in this
13 when some guy by the name of Mack came up to you in a card
14 game?

15 A No, sir, he called.

16 Q Oh, I thought you said you met him at the Commerce Club?

17 A I met him after a phone call, yes, sir.

18 Q Okay. Wasn't he a card player with you?

19 A No, sir.

20 Q Now, Mack, you didn't know his last name?

21 A Now I do, Daniel Womack.

22 Q I understand.

23 A Okay.

24 Q But when he called you up and asked you to get involved
25 in a -- in a multi-million-dollar scam, he just called you --

1 how did he get your number?

2 A He had my number, we had met a long time ago in
3 California.

4 Q Okay. Now Mack also had other things going that he tried
5 to pitch you on, didn't he?

6 A He always a small scam going.

7 Q Uh-huh. And so did you?

8 A Occasionally.

9 Q Yes. Now, this small scam with Cal Fed, you said you
10 ended up out of your scam getting, what a hundred and eight
11 thousand (108,000)?

12 A Personally?

13 Q No, that -- that's what the scam was?

14 A Yes, sir.

15 Q Okay. And you told us on direct that what you did is,
16 the split was supposed to be fifty-fifty, the California

17 people and then the four guys up in Las Vegas, you, Dottore,
18 Jerdan and Quintana, correct?

19 A I determined that split.

20 Q Okay.

21 A Yes.

22 Q Well, that's what you told the other fellows --

23 A Yes.

24 Q -- right?

25 A Yes.

1 Q And that's what you told them the split was?

2 A Yes.

3 Q You didn't tell them that you weren't paying the people

4 in California for three of the four plays, were you?

5 A That's correct.

6 Q And you didn't tell 'em that you kept ten thousand out of

7 the money that was actually brought to California, correct?

8 A That's correct also.

9 Q Okay. So you didn't tell him that. Now, in addition to

10 the Cal Fed scam though -- and by the way, this happened in

11 March of 1993?

12 A Yes, sir.

13 Q And you haven't paid Cal Fed back anything yet, have you,

14 and this is December of '97?

15 A No, I haven't.

16 Q Okay. Now let me just ask you something out of that Cal

17 Fed scam. That wasn't all of it, was it?

18 A What do you mean?

19 Q Well, Mr. -- poor Mr. Mazzetti's estate, "poor" because,

20 one, he died, and two, whatever money he had left was being

21 scammed. Mr. Mazzetti's estate was about 2.4 million, wasn't

22 it?

23 A I don't have a clue as to what it was.

24 Q Didn't you tell the FBI that it was about a 2.4-million-

25 dollar scam?

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1 A I was told --

2 Q I mean, an estate?

3 A -- I was told what the -- what it was worth.

4 Q Oh, okay. Well, in addition to transferring the funds,
5 correct --

6 A Correct.

7 Q -- that -- you also were involved in setting up a phony
8 probate, weren't you?

9 A Correct.

10 Q Okay. And this phony probate was to get the rest of the
11 money by claiming that someone was Mr. Mazzetti's heir, and it
12 was -- this was set up, wasn't it?

13 A This was.

14 Q And you actually signed Mr. Mazzetti's names to these
15 fraudulent documents, didn't you?

16 A Correct.

17 Q Okay. And could you tell the jury who the beneficiary of
18 Mr. Mazzetti's estate was?

19 A Mr. Dottore.

20 Q Now -- and that's another one of the offenses that you've
21 -- have got a pass on, correct?

22 A I don't believe that that offense ever went through.

23 Q Okay.

24 A I mean --

25 Q All right. Now, let me just ask you this. In September

1 of 1994 you tell us that you became a Government informant.
 2 Now I want to go back to Louie Olejack, okay. Now Louie
 3 Olejack is alleged, I guess --
 4 A A what?
 5 Q Alleged.
 6 A Okay.
 7 Q To have been involved in numerous cheating scams?
 8 A If you say so.
 9 Q Well, you knew so, didn't you?
 10 A I can't allege what he's been involved in.
 11 Q Okay. Well, you knew that he had been arrested for the
 12 bending cards, right?
 13 A Yes, sir.
 14 Q And you knew that he had the Caribbean Stud case going,
 15 right?
 16 A That's correct.
 17 Q And you were pretty friendly with Louie, weren't you?
 18 A Yes, I was.
 19 Q I mean, he called you a lot of times, right?
 20 A Yes, sir.
 21 Q Did you ever to anything with Louie?
 22 A Occasionally.
 23 Q Okay, what, occasionally?
 24 A We had gone out and played cards together.
 25 Q Okay. What kind of cards? I mean, did you -- did you

1 ever do anything that may have been a little illegitimate?

2 A Counting cards.

3 Q Um-hmm. What about titles with automobiles with Billy
4 Rosenbloom?

5 A Titles with automobiles?

6 Q Automobiles.

7 A I don't have a clue as to what you're talking about, with
8 the title to an automobile.

9 Q Now, with Mr. Olejack you talked to Mr. Dottore, correct?

10 A Correct.

11 Q Okay. And you guys came up with the idea that you were
12 gonna be able to hit Louie for twenty thousand dollars
13 (\$20,000) for his case, right?

14 A Correct.

15 Q Okay. Now, Louie, as you said on direct examination,
16 actually didn't believe -- he thought you were scamming him, I
17 think was the term you used yesterday?

18 A I used that, yes.

19 Q Okay. And that was your impression what Louie thought
20 about what you guys were asking for?

21 MR. JOHNSON: Objection, calls for speculation.

22 THE COURT: Sustained.

23 MR. PITARO: But I'm asking for his opinion, Judge,
24 of what he thought Mr. Olejack --

25 THE COURT: You may respond.

1 THE WITNESS: Yes. Yes.

2 BY MR. PITARO:

3 Q Okay. Now, even before you became paid by the Government
4 Mr. Olejack was telling you that this case wasn't in fact in
5 front of Gerard Bongiovanni; isn't that correct?

6 A The first correspondence was, he didn't believe it was in
7 front of the judge; correct.

8 Q Okay. And quite truthfully, you were never able to show
9 him anything, or convince him that it was, were you?

10 A Not personally.

11 Q No. And basically all you got concerning this being in
12 front of Judge Bongiovanni was in fact what Paul Dottore was
13 telling you?

14 A That's correct.

15 Q Matter of fact, Paul Dottore even told you that he got it
16 placed in front of Judge Bongiovanni, didn't he?

17 A I don't think --

18 Q Or implied it?

19 A Implied that, yes, sir.

20 Q Okay. He implied that he had got this case in front of
21 Judge Bongiovanni. Now I'll give you, up until September that
22 all you had was Paul Dottore and Louie, Paul saying it was,
23 Louie saying it wasn't. But after September of 1994 you had
24 the FBI to tell you if the case was in front of Judge
25 Bongiovanni, isn't that correct?

1 A I never asked.

2 Q You never asked and they never told you?

3 A I never asked if it was in front of him.

4 Q Did they ever tell you?

5 A At one particular time it wasn't in front of him.

6 Q Now we're talking about the Arizona Stud -- I mean, the
7 Caribbean Stud game and the bending case, right?

8 A Correct.

9 Q Okay. Did they tell you that initially the Greensprings
10 case -- Goodsprings case, which is the Whiskey Pete's out at
11 Stateline, was in front of the justice of the peace out there?

12 A Did the FBI tell me this?

13 Q Yes.

14 A No.

15 Q Did Louie?

16 MR. JOHNSON: Your Honor, I'm going to object, I
17 don't know the relevance of what the FBI told Mr. Salem in
18 regard to where Mr. Louie Olejack's case is.

19 THE COURT: What is the relevance, counsel?

20 MR. PITARO: Well, because, Your Honor -- and maybe
21 -- let me try it a different way then.

22 BY MR. PITARO:

23 Q The case in front of -- the Caribbean Stud case was down
24 in Stateline, wasn't it? Whiskey Pete's --

25 A Whiskey Pete's.

1 Q -- you know what Whiskey Pete's is?

2 A Okay.

3 Q Matter of fact, you knew it so well that you were able to
4 call and get Louie Olejack the information of what happened
5 the next day, weren't you?

6 A Yes, sir.

7 Q You had someone on the inside, so to speak, that you
8 could call?

9 MR. JOHNSON: Objection, Your Honor.

10 THE COURT: Inside of what?

11 BY MR. PITARO:

12 Q Inside of the casino who could give you the information
13 concerning what happened to Louie Olejack so you could get
14 back with Louie Olejack as to how he got caught; correct?

15 A I had somebody I could call to find out what happened out
16 there at --

17 Q And who was that?

18 A Who told me that?

19 Q Yes.

20 A A gentleman that no longer works there, a gentleman by
21 the name of Randy Pierce.

22 Q Okay. Now, the case downtown -- or on The Strip, let me
23 put it that way, it was at Harrah's, right?

24 A I believe so.

25 Q And that was the bending case?

1 A I believe so.

2 Q And that predated the Caribbean Stud case?

3 A Yes.

4 Q Now, about the time that you became a Government witness
5 were you aware that the two cases went in front of -- were
6 consolidated, that Mr. Olejack was indicted and it went in
7 front of Department VII, Judge Maupin?

8 A I didn't know exactly who it had gone before. I had
9 heard something to the effect that it had gone before Judge
10 Maupin, and I believe that was in one of the conversations.

11 Q Now, after you started cooperating with the FBI in
12 September, one of the things you were cooperating with them
13 about was the Louie Olejack case, wasn't it?

14 A That's correct.

15 Q Okay. Now, I may have got this wrong, but it seemed to
16 me that after you started cooperating with the Government that
17 you would make recordings of conversations you would have with
18 people.

19 A That's correct.

20 Q Is that correct?

21 A Yes, sir.

22 Q And you would make, as we've heard, you'd make called
23 "body bug" type conversations, that you would have a recorder
24 on you when you were talking to somebody? Like you did with
25 Mr. Dottore that you testified about.

1 A At times.

2 Q Okay. And then you would also do it on the telephone?

3 A Correct.

4 Q And you were out there on this Louie Olejack matter with
5 the FBI, right?

6 A Yes.

7 Q Okay. Did you ever record any conversations with Mr.
8 Olejack?

9 A I don't believe so.

10 Q Now, if --

11 MR. PITARO: -- if I may, if I could have this
12 marked. I will tell the Court and the prosecutor that this is
13 not a certified copy, but I'll represent that it is in fact a
14 certified --

15 THE COURT: The evidence seems to be clear that the
16 case was before Judge Maupin. Is there any dispute as to
17 that?

18 MR. JOHNSON: No, Your Honor. At the time that
19 it was resolved, it is our understanding it was in front of
20 Judge --

21 MR. PITARO: No, that's not correct.

22 THE COURT: I think the evidence is clear, isn't it?

23 MR. PITARO: Well, what I -- they're saying at the
24 time it was resolved, I'm saying from September of 1994 it was
25 in front of Judge Maupin.

1 THE COURT: Is there any evidence that it was in
2 front of anybody else? Because the only evidence we have
3 now --

4 MR. JOHNSON: I'm not sure as I sit here right now,
5 Your Honor.

6 THE COURT: Okay.

7 MR. PITARO: I --

8 MR. JOHNSON: But again, I would object -- I'm not
9 sure what -- while I understand what Mr. Pitaro is trying to
10 do, I'm not sure how it's relevant as to cross-examination of
11 this witness.

12 THE COURT: Well, it's clearly relevant.

13 MR. PITARO: That's what we're charged with.

14 THE COURT: It's a factor.

15 MR. JOHNSON: And I -- it's relevant as --

16 THE COURT: It may not be --

17 MR. JOHNSON: -- maybe to the case, if Mr. Pitaro
18 wants to enter it. But I don't see the point of cross-
19 examining Terry Salem and asking, are you aware that this was
20 in front of so and so at a certain time, are you aware it was
21 in front of so and so at a certain time.

22 THE COURT: Oh, I think it's relevant.
23 And I take it you have no objection to the exhibit.

24 MR. JOHNSON: I haven't seen it.

25 MR. PITARO: Give me the book, the last number.

1 Well, if I can, here's a copy.

2 THE COURT: What is the exhibit, counsel?

3 MR. PITARO: It is not certified, but it is actually
4 a copy of the indictment.

5 Just tell me what our last number is.

6 (Off-record colloquy)

7 THE CLERK: Mark this 559? Okay.

8 MR. JOHNSON: Your Honor, we don't have any problem
9 stipulating that as a certain date and time a case may have
10 been in front of Judge Maupin, but we don't believe that the
11 indictment, Mr. Olejack's indictment comes in as relevant to
12 this case.

13 THE COURT: Why don't you talk about that after.
14 If you can just stipulate. That's what's relevant, I don't
15 know that the indictment is necessarily --

16 MR. PITARO: Well -- okay.

17 THE COURT: -- especially if it isn't certified, or
18 exemplified really is what's required.

19 Go ahead.

20 MR. PITARO: Well, unless they object because of
21 that fact.

22 THE COURT: Well, they are objecting.

23 MR. PITARO: Are you objecting it's not certified?

24 Then --

25 MR. JOHNSON: No, we're objecting 'cause the charges

1 in the indictment themselves and the statement --

2 THE COURT: Well, what I'm telling you is --

3 MR. JOHNSON: -- of fact in the indictment
4 themselves are not --

5 THE COURT: -- is who it was before --

6 MR. JOHNSON: -- is not relevant to this case.

7 THE COURT: -- is relevant, as far as I'm concerned.

8 But there is an agreement to stipulate as to that. And I
9 don't know what's in the indictment, and I don't know that
10 that necessarily is relevant. So let's move on.

11 BY MR. PITARO:

12 Q Well, what we have then, don't we, Mr. Salem, is the fact
13 that you're pitching, you and Dottore are pitching Louie
14 Olejack even after September of 1994 to pay you guys twenty
15 thousand dollars (\$20,000) for a case that's not in front of
16 Gerard Bongiovanni; isn't that correct?

17 A I wasn't pitching him because I was hardly in any contact
18 with him.

19 Q Well, you just testified to all these conversations you
20 had with Louie Olejack on direct. Don't you remember when I
21 asked you, did you -- or you were asked by the prosecution,
22 did you talk to Louie Olejack in December, did you -- remember
23 that? You testified on it, you'd talked to Louie Olejack in
24 December of 1994 about his indictment?

25 A I remember that.

1 Q Okay. So you were in contact with him, weren't you?

2 A That particular phone call.

3 Q As a matter of fact --

4 A Yes, sir.

5 Q -- you talked to us in --

6 THE COURT: Counsel. Counsel, just a moment. Let
7 him finish.

8 MR. PITARO: Okay.

9 BY MR. PITARO:

10 Q As a matter of fact, on direct examination you talked on
11 a number of conversations you had with Mr. Olejack; isn't that
12 correct?

13 A In '94?

14 Q In '94 and '95?

15 A There were two three-minute conversations, yes.

16 Q Um-hmm. But those two- or three-minute conversations
17 were such that you told Mr. Dottore, I think the Olejack thing
18 is still alive?

19 A According to Mr. Olejack --

20 Q Um-hmm.

21 A -- that's the impression he gave me, yes.

22 Q Okay. Matter of fact, you're telling us that there was
23 supposed to have been appeals on all the stuff going on in
24 this case?

25 A That's what he had told me, yes, sir.

1 Q Now, the FBI of course is monitoring your -- all your
2 activities, because as we were told that you're available for
3 them 365 days a year, twenty-four hours. Didn't at some point
4 in time in 1994 they tell you that the case was not in front
5 of Bongiovanni?

6 A No, sir.

7 Q And what about '95, when'd they tell you then?

8 A I don't think the subject ever came up as to Mr. Olejack.

9 Q Well, but you told us that you're working for the FBI
10 making three thousand dollars (\$3000) a month, got fifty-five
11 thousand dollars (\$55,000) in -- what you're doing, is one of
12 the things you're trying to do is nail Judge Bongiovanni
13 because of the Louie Olejack case. And you're telling us they
14 never spoke to you about it?

15 A They might have said that it never came before him at the
16 end. But I didn't pursue Mr. Olejack, I just passed on
17 information as far as the conversations with Mr. Dottore.

18 Q Okay. Now, the same sort of thing actually happens, does
19 it not, when we get to what we call your bribe. Isn't it true
20 -- and let me just ask this first. You said that you'd met
21 Gerard Bongiovanni, or you said you knew him. You didn't
22 really know him, did you, you'd seen him once before?

23 A I said I had met him a few years ago; he handled a case.

24 Q Okay. But not for you, he handled it for someone else?

25 A A buyer for my restaurant --

1 Q Okay.

2 A -- that's what I said.

3 Q And so that's the only contact you ever had with him?

4 A Yes, sir.

5 Q And that sale of that restaurant was back in the, what,
6 '80s?

7 A Mid-'80s, yes.

8 Q The mid-'80s. So from the mid-'80s to the time we're
9 talking about, you'd never seen him again, save and except
10 when you appeared in front of him on the 21st of December,
11 1994?

12 A Saw him, never talked to him.

13 Q Okay. Now, let me ask you this. You never talked to
14 him, right?

15 A No, sir.

16 Q Everything that you were told, that you testified to on
17 these conversations, not one of those things were ever told to
18 you by Gerard Bongiovanni, isn't that correct?

19 A That's correct, sir.

20 Q Everything you were told was what Paul Dottore told you,
21 correct?

22 A That's correct.

23 Q Okay. Now let me, if I can just quickly go through some
24 of this. You started out -- as a matter of fact -- let me
25 just start at the beginning. As a matter of fact you told us