

1 band then appear to be as thick as fifty one-hundred-dollar
2 bills in a rubber band would be?

3 A Yes, they would.

4 Q Can you please hold that envelope up for the jury and
5 turn it in a different direction so they can see how thick the
6 envelope is?

7 All right. Agent Hanford, I believe when you testified
8 yesterday, or possibly the day before, that you as the case
9 agent were required to review all the pertinent tapes that
10 were intercepted during the course of the wiretaps on the
11 various phones that were being intercepted during this
12 investigation; is that correct?

13 A That's correct.

14 Q All right. And during your review of those tapes and in
15 preparation for trial, did you look specifically at calls
16 where persons contacted the defendant or his staff for the
17 release of persons from jail or bail reductions?

18 A Yes, I did.

19 Q How often did attorneys contact the defendant or his
20 staff to have people released from jail, either on their own
21 recognizance or to have bail reduced?

22 MR. PITARO: Your Honor, I'm going to have to object
23 without foundation. All he can do is testify as to calls that
24 he may have reviewed, that were pointed out to him that he
25 reviewed. That would not be --

1 THE COURT: Why don't you rephrase the question,
2 counsel.

3 BY MS. SHOEMAKER:

4 Q Agent Hanford, you indicated that you reviewed all the
5 tapes that you believed were pertinent in the investigation,
6 is that correct?

7 A That's correct.

8 Q And did you specifically look for instances where people
9 had called to request either the release of someone on their
10 own recognizance or a reduction of bail?

11 A Yes, I did.

12 Q And in looking for those calls, did you look at -- well,
13 let me back up. When people are monitoring, or intercepting
14 calls over the wire, listening in on conversations, do they
15 have to take notes of the conversations they were listening
16 to?

17 A Yes, they keep a log.

18 Q All right. Did you review the logs?

19 A Yes.

20 Q And when you reviewed the logs, were you looking at the
21 logs also specifically to find instances where persons called
22 for -- requesting that somebody be released from jail on their
23 own recognizance or for bail reduction?

24 A Yes.

25 Q How frequent would you say during the entire period of

1 time that a wiretap was up on the defendant's home telephone
2 and his chambers telephone that -- let's right now just direct
3 your attention to attorneys calling up and requesting people
4 to be released from jail or have their bail reduced?

5 MR. PITARO: Your Honor, I'm going to have to object
6 to the term of frequency, I don't think he's in a position to
7 do that. He can say that on such and such a day that he
8 reviewed a log or that he saw something like that, but I don't
9 think --

10 THE COURT: Oh, I think, counsel --

11 MR. PITARO: -- he's entitled to say --

12 THE COURT: -- he can --

13 MR. PITARO: -- frequency.

14 THE COURT: -- make an assessment as to -- you're
15 talking about all of the tapes, and you're asking him how
16 often -- I think the question isn't altogether clear, a day or
17 a week or a month such calls would be made?

18 MS. SHOEMAKER: Your Honor, what I'm asking him is
19 if during the entire period of time that the wiretap was up on
20 the defendant's home telephone and the chambers telephone,
21 based on his review of the logs for all of those days and the
22 tapes of all the calls, and specifically looking for these
23 type of calls, how common or frequent was it that an attorney
24 would call up the defendant or his staff and request either an
25 O/R release or a bail reduction for people who were in jail.

1 THE COURT: Okay. And you object to the question?

2 MR. PITARO: Yes.

3 THE COURT: The objection's overruled.

4 You may respond.

5 THE WITNESS: There was a large number of such
6 calls.

7 BY MS. SHOEMAKER:

8 Q All right. And were these calls -- how many attorneys,
9 approximately, do you recall calling the defendant and
10 requesting --

11 MR. PITARO: Your Honor --

12 BY MS. SHOEMAKER:

13 Q -- this type of release?

14 MR. PITARO: -- I'm going to have to object, lack of
15 foundation. He's now saying "a large number," which could be
16 anywhere, depending upon who you are.

17 THE COURT: I understand.

18 MR. PITARO: And then secondly, this question is
19 going in trying to incorporate things that either are or are
20 not in evidence without identifying 'em, and making
21 generalized statements.

22 MS. SHOEMAKER: Your Honor, this is summary-type
23 testimony. He indicated that it was -- there were a large
24 number of calls where these requests were made, and now I'm
25 asking him approximately how many attorneys were calling to do

1 this.

2 THE COURT: The objection's overruled.

3 THE WITNESS: Other than Mr. Flangas, there were
4 very few attorneys.

5 BY MS. SHOEMAKER:

6 Q Did you notice anything different about the calls where
7 Mr. Flangas would call and request the O/R release or a bail
8 reduction from the instances where other attorneys would call
9 and make the request?

10 MR. PITARO: I would object, Your Honor, that's not
11 proper summary testimony, and it's assuming facts not in
12 evidence.

13 THE COURT: I'm going to sustain the objection.

14 BY MS. SHOEMAKER:

15 Q Mr. Salem [sic], do you know where -- do you recall Terry
16 Salem testifying --

17 THE COURT: This is not Mr. Salem.

18 MS. SHOEMAKER: I'm sorry.

19 BY MS. SHOEMAKER:

20 Q Agent Hanford, do you recall when Mr. Salem was
21 testifying he stated that he got a copy of his state charges,
22 the indictment, from either you -- he believed he got it from
23 either you or Detective Nicholson?

24 A Yes, I remember that.

25 Q Do you know who Terry Salem actually got the indictment

1 from?

2 MR. PITARO: I would object, Your Honor. I think
3 they're gonna have to lay foundation, if he gave --

4 THE COURT: Question is, do you know who. And he
5 may respond to that. How you know may be a different
6 question.

7 THE WITNESS: I'm sorry, could you repeat the
8 question?

9 BY MS. SHOEMAKER:

10 Q Yes. Do you know who Mr. Salem actually got the
11 indictment from?

12 A From Mr. Dottore.

13 MR. PITARO: Your Honor --

14 THE COURT: It'll be stricken.

15 MR. PITARO: Thank you.

16 BY MS. SHOEMAKER:

17 Q Did you give Mr. Salem a copy of the indictment?

18 A No.

19 Q To your knowledge, did Detective Nicholson give a copy of
20 the indictment to Mr. Salem?

21 A Not to my knowledge.

22 Q All right. Who was in charge of this investigation, you
23 or Detective Nicholson?

24 A I was.

25 Q To your knowledge, did Detective Nicholson do anything in

1 the investigation without your knowledge or supervision?

2 A Not to my knowledge.

3 Q Do you recall when Mr. Salem testified about a meeting
4 between Terry Salem and Paul Dottore on January 3rd, 1995,
5 where Mr. Dottore took Mr. Salem to Peter Flangas's house and
6 then later had a conversation with him after that meeting?

7 A Yes, I recall that.

8 Q All right. And do you recall that there was no tape of
9 that recording played during Mr. Salem's testimony?

10 A Yes, that's true.

11 Q Do you recall in fact that the government represented
12 during that testimony that there was no tape of that
13 conversation?

14 A I recall that.

15 Q Did you later locate a tape of that conversation?

16 A Yes, I did.

17 Q ~~Can you explain for the jury how it is that you -- well,~~
18 first of all, when the government made the representation that
19 no tape existed, did you know or realize that a tape did
20 exist?

21 MR. PITARO: Well, Your Honor, this is now December
22 of 1997; this is January of 1995, two years and I believe
23 about eleven months. And that's the first time after Mr.
24 Salem was off that we had this disclosure. So I think what
25 they're trying to do is, they're trying to have Agent Hanford

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1 rehabilitate the government, and the government rehabilitate
2 Mr. Hanford over this tape. And I think it --

3 THE COURT: What's the objection to the question?

4 MR. PITARO: I think it's leading, and I think it's
5 -- well, I think it -- I think, one, it's leading, and, two,
6 it's misleading; the question's leading and the attempt is to
7 mislead.

8 MS. SHOEMAKER: Your Honor, I believe the agent's
9 entitled to explain why a tape is now located for this
10 conversation that wasn't previously located when Mr. Salem
11 testified.

12 THE COURT: The objection's overruled.
13 You may respond.

14 THE WITNESS: The agent that was putting the wire on
15 Mr. Salem was also assigned to another case with a different
16 file number.

17 BY MS. SHOEMAKER:

18 Q Let me -- let me just interrupt you right here to start
19 at the beginning. When the representation was made, did you
20 realize that a tape existed for that meeting that day?

21 A No.

22 Q And what caused you to go look for the tape, or how did
23 you -- how did you find out there was a tape?

24 A Mr. Johnson asked me to determine why there was no tape
25 that day.

1 Q All right. And I believe you testified earlier in your
2 direct examination that sometimes -- that you tried to have a
3 recording of every meeting, but that sometimes that wasn't
4 possible, is that correct?

5 A That's correct.

6 Q And you gave us an example that Terry Salem might not
7 have had a recorder on the phone where he was at the time he
8 had a conversation, is that correct?

9 A That's correct.

10 Q All right. Were there also other instances or reasons
11 why a recording might not have been made?

12 A Well, if Mr. Salem was meeting with someone who I was in
13 fear of might check for a recorder, I would not put a recorder
14 on him.

15 Q All right. When you went to check then about the fact of
16 no recording on that date, were you looking to find out the
17 specific reason why a recording wasn't made that day?

18 A Yes.

19 Q Okay. And what happened when you went to find out what
20 the reason was?

21 MR. PITARO: Well, obviously he couldn't have found
22 out what the reason was, because now three years later we come
23 up with the tape that he said that he was the case agent and
24 supervised everything, he didn't know about. So he can't
25 testify why they didn't have one.

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1 THE COURT: Well, you can cross-examine him as to
2 that, but the question is appropriate.

3 You may respond.

4 BY MS. SHOEMAKER:

5 Q What -- what did you learn when you went to find out why
6 there allegedly was no tape on that date?

7 A Basically, the tape was filed in the wrong file.

8 Q Okay. Can you explain for the jury how that happened?

9 A The agent who --

10 MR. PITARO: Your Honor, I think we might as well --
11 this is hearsay now, why don't we bring the agent in who
12 allegedly filed it in the wrong file under his direction in
13 here.

14 THE COURT: Well, unless he has --

15 MR. PITARO: He can't testify to it.

16 THE COURT: -- percipient information, it would be
17 hearsay, counsel.

18 BY MS. SHOEMAKER:

19 Q All right. But you located a tape and found that it had
20 been filed with the wrong case?

21 A Yes.

22 Q Did you file it?

23 THE COURT: You personally did that, is that
24 correct?

25 THE WITNESS: Yes, I did.

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1 BY MS. SHOEMAKER:

2 Q Did you file it with the wrong case, yourself?

3 A No.

4 MS. SHOEMAKER: Court's indulgence for just one
5 moment.

6 THE COURT: Yes.

7 (Pause in the proceeding)

8 BY MS. SHOEMAKER:

9 Q Agent Hanford, when you found the tape of the meeting on
10 January 3rd, 1995, did you review it?

11 A Yes, I did.

12 Q Was the tape a recording of the entire meeting between
13 Mr. Salem and Mr. Dottore?

14 A It doesn't appear to be, no.

15 Q And why do you say "it doesn't appear to be"?

16 A It looks to me that -- like the tape ran out before the
17 meeting was over.

18 Q Okay. In reviewing what was recorded on the tape, did
19 Mr. Salem have any conversations with Mr. Dottore about
20 payment of money to Mr. Bongiovanni?

21 A Yes, he did.

22 Q What did you hear him say on that tape?

23 MR. PITARO: Well, Your Honor, I'm assuming if
24 they're gonna be asking, they're not gonna play the tape. But
25 if they're gonna be asking that sort of stuff, then I'm sure

1 I'm entitled to cross-examine about it.

2 MS. SHOEMAKER: I don't have any objection to Mr.
3 Pitaro cross-examining about it, Your Honor.

4 MR. PITARO: I mean, I'm doing this --

5 THE COURT: If that's your only objection --

6 MR. PITARO: -- I'm doing this in the interest of
7 having to go through and drag that tape out. If they, you
8 know, they can get out what they think it says, and I can ask
9 him about it myself.

10 THE COURT: Well, you certainly can cross-examine
11 him about it.

12 MR. PITARO: Thanks.

13 MS. SHOEMAKER: And the tape has been provided to
14 Mr. Pitaro, so if necessary if he wants to play the tape for
15 the jury he can do that. I'm just trying to save time here,
16 Your Honor.

17 THE COURT: Okay. Go ahead.

18 THE WITNESS: Mr. -- at one point near the early
19 part of the meeting Mr. Salem asks Mr. Dottore if he'll stand
20 for twenty-five now and twenty-five later, or words to that
21 effect.

22 BY MS. SHOEMAKER:

23 Q When you say "if he'll stand for twenty-five now and
24 twenty-five later," what do you mean by that?

25 A Will the judge stand for twenty-five now and twenty-five

1 later.

2 Q Okay.

3 MR. PITARO: Well, Your Honor, I'm going to strike
4 that. That's not what -- that's not what it was, that's his
5 impression of what Salem or Dottore was saying. I thought he
6 was going to be able to say what was said, which is something
7 different than what he thinks was said.

8 MS. SHOEMAKER: I wasn't asking --

9 MR. PITARO: I mean, his interpretation.

10 MS. SHOEMAKER: I wasn't asking what the agent's
11 interpretation was, I was asking what does Agent Hanford mean
12 when he said -- when he -- what did he mean when he just
13 testified as to what Terry Salem said.

14 MR. PITARO: Well, I don't think that's the problem.
15 I don't think he can mean what he thinks Salem said. I
16 thought the question was supposed to be what him and -- what
17 Salem and Dottore said, not what he means. ~~That's the~~
18 problem, it's interpretation.

19 THE COURT: I think the question was not clear, and
20 it will be stricken. You can rephrase the question.

21 BY MS. SHOEMAKER:

22 Q Agent Hanford, can you please tell the jury to the best
23 of your recollection exactly what it was that Terry Salem said
24 concerning the payment of the money?

25 THE COURT: Now if -- and clearly there's gonna be

1 cross-examination; clearly that tape can be played, and
2 clearly counsel could require it to be played right now if he
3 chose to. But I take it you don't have any problem with him
4 responding, as long as you --

5 MR. PITARO: No, as long as he --

6 THE COURT: -- can cross-examine him.

7 MR. PITARO: -- he's relating what is. It's a --
8 it's a long thing, we'd be here another -- to go through it, I
9 mean, we might be able to do it easier in cross. I have no --

10 THE COURT: Okay.

11 MR. PITARO: -- no problem with the procedure.

12 THE COURT: Then he may respond. But what you're
13 talking about is his understanding only of what was said.

14 MS. SHOEMAKER: Actually, Your Honor, what I'm
15 asking the agent is if he can please tell the jury to the best
16 of his recollection what it was that Mr. Salem said about the
17 payment of the money.

18 Court's indulgence for one moment.

19 THE COURT: Yes.

20 (Pause in the proceeding)

21 (Off-record counsel colloquy)

22 BY MS. SHOEMAKER:

23 Q Agent Hanford, will you please tell the jury to the best
24 of your recollection, as closely as you can, exactly what it
25 was that Mr. Salem said to Mr. Dottore about his ability to

1 come up with the five-thousand-dollar bribe payment for Mr.
2 Bongiovanni.

3 A To the best of my recollection, and I'm sure it's not
4 word for word, Mr. Salem's words were, will he stand for
5 twenty-five now and twenty-five later.

6 Q All right. Did Mr. Salem make any statements, at least
7 on the tape, about possibly being able to come up with the
8 first half of the money sometime the following week?

9 A Yes.

10 MS. SHOEMAKER: I'll pass the witness at this time,
11 Your Honor.

12 THE COURT: Okay. Are you prepared to cross at this
13 point?

14 MR. PITARO: I -- were you gonna take a --

15 THE COURT: You want five minutes if -- if you want
16 five, ten minutes to organize yourself, I'll give you that.

17 MR. PITARO: Are you going to take a break this
18 morning, or no?

19 THE COURT: I'll take -- I normally wouldn't, but
20 I'll take a ten-minute break to give you an opportunity to
21 organize yourself.

22 MR. PITARO: Okay.

23 THE COURT: If you wish. If you don't --

24 MR. PITARO: All right.

25 THE COURT: Okay.

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1 MR. PITARO: Yeah, I'm about ready, but let me look
2 through this to try to get the --

3 THE COURT: Okay. We'll take ten minutes, but we'll
4 come back immediately.

5 (Jury recessed at 10:09 a.m.)

6 THE COURT: Let me meet with you for just a minute.
7 This need not be on the record.

8 (Court recessed until 10:42 a.m.)

9 (Jury is present)

10 THE COURT: Please be seated.

11 Mr. Pitaro --

12 MR. PITARO: Thank you, Your Honor.

13 THE COURT: -- you may proceed.

14 MR. PITARO: Stipulate the jury's here?

15 THE COURT: Yes, thank you.

16 MS. SHOEMAKER: Yes, Your Honor.

17 THE COURT: Okay.

18 CROSS-EXAMINATION

19 BY MR. PITARO:

20 Q Mr. Hanford, I -- my name's Tom Pitaro, as I'm sure you
21 know --

22 A Yes.

23 Q -- and I'm going to be asking you a few questions about
24 this matter. All right?

25 A Fine.

1 Q Okay. Now you are in fact what is designated as the case
2 agent, isn't that correct?

3 A In this case, yes, that's correct.

4 Q Okay. Now, a case agent is the designation of the agent
5 who is in charge of a particular investigation, isn't that
6 correct?

7 A That's correct.

8 Q Okay. Now your title, general title is a special agent,
9 isn't that correct?

10 A That's correct also.

11 Q And -- I'm sorry?

12 A I said, that's correct also.

13 Q Okay. And the term "special agent" is the generic term
14 of what people employed by the FBI are called, isn't that
15 correct?

16 A All ten thousand of us, yes.

17 Q Yes, that's what I'm saying. And so the issue of the
18 special agent doesn't connote anything unique about this
19 investigation?

20 A No.

21 Q Okay. It's actually "the case agent" that connotes
22 something unique about this case, isn't that correct?

23 A That's correct.

24 Q And that is in fact that you were the guy in charge?

25 A Of this investigation, yes.

1 Q Of this investigation. And being in charge of this
2 investigation, you had people who, although they didn't work
3 for you, worked what we could say under your direction in this
4 particular investigation, is that correct?

5 A That's correct.

6 Q And what you told us was, there were a number of FBI
7 agents that were involved at various points, correct?

8 A That's correct.

9 Q And then you said that you also had a man by the name of
10 Nicholson. That was Detective Nicholson who testified before?

11 A That's correct.

12 Q Okay. You also enlisted other local police officers,
13 didn't you?

14 A There was one other investigator from NDI.

15 Q Okay. But there was also, for example, the officers who
16 arrested Mr. Salem, or was that really just a ruse?

17 A No, they were assigned for that particular purpose, yes.

18 Q Okay. But under this umbrella as case agent, all these
19 people worked under your direction basically?

20 A At various times, yes.

21 Q Okay. Now -- and as the case agent, it was your
22 responsibility to gather the evidence, correct?

23 A Correct.

24 Q It was your responsibility to be in charge of gathering
25 of evidence and directing other personnel what to do and where

1 to go?

2 A That's right.

3 Q Okay. In addition to your duties as the case agent, you
4 were also the one who was basically in charge of Mr. Terry
5 Salem, isn't that correct?

6 A I don't know about "in charge of" him, but I was the case
7 agent for his particular case, yes.

8 Q Okay. Well, in -- under the terms of the way law
9 enforcement and defense attorneys talk, you were the guy that
10 "rolled" Terry?

11 A That's right.

12 Q Okay. And by "rolling" him, you were the one who was
13 allegedly responsible for him becoming a government witness,
14 or a cooperating witness, or an informant, or whatever you
15 want to call him?

16 A I would call him a cooperating witness, yes.

17 Q Okay. All right. And the terms of "snitch" and all
18 those things, I don't want to get into those, but I -- you
19 want to call him a cooperating witness?

20 A Yes.

21 Q Okay. Now, prior to becoming a cooperating witness he
22 was a prime suspect in various frauds, wasn't he?

23 A In a bank fraud, yes.

24 Q Well, he was actually a suspect in other matters also,
25 wasn't he?

- 1 A Yes, he was.
- 2 Q Okay. As a matter of fact, you guys had -- "you," the
- 3 FBI, in the course of an investigation had actually run in an
- 4 FBI agent to Terry Salem, hadn't you?
- 5 A Yes, we did.
- 6 Q And by "run in" I mean that you had a Mr. Steve Johnson
- 7 pretend that he was also a thief, and then have him try to
- 8 engage in various illegal conduct with Mr. Salem, correct?
- 9 A That's right.
- 10 Q Is that correct?
- 11 A That's correct.
- 12 Q I mean, that was the nature of his undercover operation,
- 13 right?
- 14 A Right.
- 15 Q And that wasn't restricted to the Cal Fed bank fraud
- 16 case, was it?
- 17 A No, it wasn't.
- 18 Q It actually dealt with Mr. Salem and institutions back
- 19 east, and banking institutions in New York, counterfeiting and
- 20 various other offenses that we went into with Mr. Salem,
- 21 correct?
- 22 A That's correct.
- 23 Q Okay. And you were aware of all of those things, were
- 24 you not?
- 25 A Yes.

1 Q Okay. So at the time that you rolled Mr. Salem, so to
2 speak, you were aware not only from your own investigation,
3 but also from other investigation done by the Federal Bureau
4 of Investigation that Mr. Salem was involved in a variety and
5 a multitude of -- of activity?

6 A He was involved in other criminal activities, yes.

7 Q Yes, okay. And that was one of the things that actually
8 directed your attention to him, isn't that correct?

9 A That's right.

10 Q And it was one of the things that it was sufficient
11 enough that you felt that it warranted the use of an
12 undercover FBI agent, i.e., this Mr. Johnson?

13 A That's right.

14 Q Okay. And that's all happening in 1993, isn't it, and
15 early '94?

16 A 1993 and into September of 1994.

17 Q Okay. With Mr. Johnson?

18 A Yes.

19 Q Okay. So there was all these things going on up until
20 September of 1994. Now, how early in 1993 did this start?

21 A July.

22 Q So this actually went back from July of 1993. Now was
23 this your initial involvement in the case, in July of 1993?

24 A Yes.

25 Q Okay. So you have actually yourself been involved as

- 1 case agent on this matter since July of 1993?
- 2 A That's right.
- 3 Q And that would be four years and five months ago?
- 4 A Right.
- 5 Q So that's how long you've been involved in this case?
- 6 A Yes.
- 7 Q Okay. Now, as part of this case -- then I would have to
- 8 say then, isn't it true that this case is a very, very big
- 9 part of your FBI career?
- 10 A In timewise, I suppose it is.
- 11 Q Okay.
- 12 A I've been an agent for sixteen years --
- 13 Q Okay.
- 14 A -- so that's about 20, 25 percent of it.
- 15 Q Well, let's -- let me just cut right to the chase. The
- 16 fact that you are the case agent on a judicial bribery case is
- 17 a very big case for you, isn't it?
- 18 A It's a big case, yes.
- 19 Q Yeah. And you have invested over four, almost four and a
- 20 half years of your life into this case, haven't you?
- 21 A Yes.
- 22 Q Okay. And you've spent most of your time, have you not,
- 23 working on this case?
- 24 A I would say about half of my time, yes.
- 25 Q Okay. So you spent almost two years and three months of

1 your life working on this case?

2 A Yes.

3 Q Okay. Now isn't it true that -- well, do you know a Mr.
4 Chuck Jones?

5 A Yes, I do.

6 Q And he's a detective down in Glendale, Arizona, isn't he?

7 A Yes, he is.

8 Q And isn't it true that you had a conversation with him
9 earlier this year wherein you told Mr. Jones that certain
10 activities that he was involved in concerning Mr. Salem was
11 screwing up the biggest case of your career?

12 A No, that's totally inaccurate.

13 Q Isn't it true that you actually had a conversation with
14 Mr. Jones?

15 A Yes, I did.

16 Q You got on the phone and talked to him about Mr. Salem,
17 didn't you?

18 A Yes, I have.

19 Q Okay. And you called him, didn't you?

20 A We had a number of calls back and forth.

21 Q Okay. And isn't it true that you told him that this was
22 the biggest case of your career?

23 A That's totally untrue.

24 Q And isn't it true that this is in fact the biggest case
25 of your career?

1 A That's also totally untrue.

2 Q Isn't it true that when you cut this deal with Mr. Salem
3 -- as a matter of fact, you're the one that cut the deal,
4 didn't you?

5 A No.

6 Q Well, you told us that this deal with Mr. Salem was
7 pursuant to a plea agreement, isn't that correct?

8 A That's correct.

9 Q Except there's one problem, isn't there, the plea
10 agreement wasn't signed, wasn't entered into until January
11 10th, 1996, was it?

12 A I think that's when he entered the plea.

13 MR. PITARO: Okay. May I approach the witness, Your
14 Honor.

15 THE COURT: You may.

16 MR. PITARO: This is the copy you guys gave me.

17 (Off-record counsel colloquy)

18 BY MR. PITARO:

19 Q Are you aware of the case designations in this district?

20 A No.

21 Q Are you aware that when it says 96 after a matter that it
22 means the year 1996?

23 A Yes, I'm aware of that.

24 Q Okay.

25 MR. PITARO: Could I just approach the witness,

1 Judge?

2 THE COURT: You may.

3 BY MR. PITARO:

4 Q I just want to show you what appears to be the plea
5 memorandum and see if you can tell me when that deal was
6 entered into. You can look at the front, Mr. Hanford, or the
7 back.

8 A Well, there's a signature on the back that's dated
9 January 10th, 1996.

10 Q Okay. And does that comport with your remembrance, if
11 you would, of when this formal plea agreement was entered
12 into?

13 A Yes.

14 Q Okay. Now, that there was about one and a half years
15 after he started cooperating, isn't that correct?

16 A That's correct.

17 Q Now you were in fact the one, you said yesterday or the
18 day before, that got involved in paying Mr. Salem money?

19 A That's right.

20 Q Okay. You said that you had to go through this
21 procedure, isn't that correct?

22 A That's correct.

23 Q Now you said there was a procedure to get someone money,
24 and you had to go first to the special agent in charge, I
25 think you call him?

1 A Well, I said I had to go first to my supervisor, and
2 then --

3 Q Okay. So you in fact went to your supervisor, didn't
4 you?

5 A Yes.

6 Q You were the one that went to your supervisor and said, I
7 want Terry Salem to be compensated, isn't that correct?

8 A That's correct.

9 Q You're the one then who then asked your supervisor, or
10 you yourself went to the special agent in charge of the Las
11 Vegas office and asked for Mr. Salem to be compensated, isn't
12 that correct?

13 A That's correct.

14 Q Isn't it true that you said yesterday or the day before
15 that you were the one that didn't want Mr. Salem to work?

16 A That's correct.

17 Q Well, you knew, did you not, based upon the fact you've
18 been involved in this case since July of 1993, that Salem
19 hadn't had a job for four years, had he?

20 A No, I don't think he did.

21 Q No, he didn't have a job, did he?

22 A Not that I recall.

23 Q So it really wasn't some great imposition on Mr. Salem
24 where the FBI is telling him you can't work, 'cause he hadn't
25 worked for over four years, had he?

- 1 A He hadn't, no.
- 2 Q He hadn't worked legitimately for four years, had he?
- 3 A Not that I'm aware of.
- 4 Q This is the guy you cut the deal with, right?
- 5 A Mr. Salem, yes.
- 6 Q This is the guy that you then turned around and had to go
- 7 to your supervisors, you wanted to pay him approximately three
- 8 thousand dollars a month, isn't that correct?
- 9 A That's correct.
- 10 Q And you had been previously asked, well, what about the
- 11 restitution of all the money that he stole; do you remember
- 12 that?
- 13 A Yes.
- 14 Q Okay. And you said that it would be ludicrous?
- 15 A No, I didn't say ludicrous.
- 16 Q What did you say?
- 17 A I said it wouldn't make any sense.
- 18 Q It wouldn't make any sense for Mr. Salem to have to pay
- 19 money back on the Cal Fed fraud, correct?
- 20 A No, that's not what I said.
- 21 Q Well, what you said was that you didn't want the
- 22 government money to be used, why shouldn't Mr. Salem have to
- 23 use his own money to pay back Cal Fed, right?
- 24 A That's right.
- 25 Q Now, this Cal Fed thing happened when, in March of 1993?

1 A Yes.

2 Q Okay. And that's -- that's four years and nine months
3 ago, isn't it?

4 A Yes, it is.

5 Q And he hasn't paid one single penny, has he?

6 A No. That's for this Judge to order.

7 Q No, wait a minute, I didn't ask you that, I asked you,
8 did he pay one penny in the last four years and nine months?

9 A No, he hasn't.

10 Q Okay. Well, when you were cutting this deal with Mr.
11 Salem, when you were cutting the deal with Mr. Salem, you
12 could have put as part of that deal as a representative of the
13 United States of America in dealing with a man who has
14 perpetrated a major fraud on a bank and on an estate of -- of
15 an elderly man, you could have put in there as part of that
16 deal, couldn't you, if you wanted, well, Mr. Salem, I think
17 you ought to pay something back, even if it's a token; you
18 could have done that, couldn't you?

19 A I have no authority to do that.

20 Q You could have said to it, Mr. Salem, why don't you pay
21 money back, I don't want to deal with you, I don't want to
22 give you consideration for these cases, I don't want to
23 forgive all your prior criminal conduct that you've been going
24 on for years and years --

25 MS. SHOEMAKER: Your Honor, I'm gonna --

1 BY MR. PITARO:

2 Q -- unless you pay something back.

3 THE COURT: Wait a minute. Wait a minute.

4 MS. SHOEMAKER: -- I'm going to object to this on
5 two grounds. First of all, the agent's already answered the
6 question, number one. And Number two, Mr. Pitaro is being
7 argumentative without any reason; he can simply ask the
8 questions.

9 THE COURT: This witness is very cooperative with
10 you, counsel.

11 MR. PITARO: I am not trying to be argumentative,
12 Your Honor.

13 THE COURT: Well, lower your voice.

14 MR. PITARO: Okay.

15 THE COURT: And he has answered the question. Let's
16 move on.

17 BY MR. PITARO:

18 Q Taxes. Now you said he got three thousand dollars
19 (\$3,000) a month, right?

20 A That's correct.

21 Q You get paid by the FBI, I assume?

22 A Of course.

23 Q Well, let's hope, right?

24 A Definitely.

25 Q Okay. And your pay -- your paycheck comes from the

1 United States of America, doesn't it?

2 A Yes, it does.

3 Q Comes from the same entity that was paying Mr. Salem,
4 doesn't it?

5 A Yes.

6 Q They take taxes out of your paycheck, don't they?

7 A Yes.

8 Q They didn't take anything out of Mr. Salem's, did they?

9 A No.

10 Q So, since he's been paid in this what you said was, what,
11 about forty -- what'd you say, forty-four thousand?

12 A Forty-five thousand dollars (\$45,000).

13 Q Huh? Forty-four, forty-five thousand?

14 A Forty-five thousand.

15 Q Forty-five thousand dollars one hundred (\$45,100) I think
16 it was, wasn't it?

17 A Yes.

18 Q Forty-five thousand one hundred (45,100), he hadn't paid
19 -- well, didn't even have to pay any taxes on that, did he?

20 A No.

21 Q Okay. And as a matter of fact, you said prior that it
22 was all right with you that he didn't pay taxes?

23 A I didn't say that.

24 Q What was the term again that you used that -- when I --
25 when I asked you about having to pay back Mr. Mazzetti's

1 estate? What was the term you said you used?

2 A I said it would be nonsensical.

3 Q Nonsensical?

4 A Yes.

5 Q Okay. Well, what you said then about the taxes is that
6 it satisfied you that he didn't pay taxes, isn't that correct?

7 A I said when?

8 Q It satisfied you. You were asked the question, "And did
9 that satisfy you that he didn't have a legal obligation to do
10 so, referring to taxes?" And your answer was, "Answer: It
11 satisfied me."

12 A I instructed him he had to pay taxes.

13 Q Isn't it -- isn't it -- I'm asking weren't you asked that
14 question on March 28th, 1997, and the question was "And did
15 that satisfy you that he didn't have a legal obligation to do
16 so." and your response was "It satisfied me."

17 MS. SHOEMAKER: Your Honor, can I ask counsel what
18 transcript and page he's referring to.

19 MR. PITARO: I'm sorry, 3/28/97, page 210.

20 MS. SHOEMAKER: Grand jury?

21 MR. PITARO: No. No, Kutash, 3/28. The cross.

22 MS. SHOEMAKER: You're talking about the bank fraud
23 trial?

24 MR. PITARO: No.

25 I'm -- I'm sorry, it's August '97, I apologize.

1 MS. SHOEMAKER: And, I'm sorry, what page was that?

2 MR. PITARO: 210.

3 BY MR. PITARO:

4 Q I apologize. The fact that I got the date wrong didn't
5 throw you on the question, did it?

6 A Not really.

7 Q Okay.

8 A To be honest with you, I don't remember the question and
9 the answer.

10 Q Okay.

11 MR. PITARO: May I approach the witness?

12 THE COURT: You may.

13 MS. SHOEMAKER: Your Honor, I believe what Mr.
14 Pitaro, the question and answer he's pointing out is taken out
15 of context, and I would ask if -- that Mr. Pitaro be required
16 to read the question and answer that precedes that.

17 THE COURT: Why don't you do that, counsel.

18 MR. PITARO: I can only read it from the top of the
19 page, 'cause I pulled the pages.

20 MS. SHOEMAKER: Well, I'll be happy to give him the
21 bottom of page 209, Your Honor.

22 BY MR. PITARO:

23 Q All right. It starts:

24 "Plus, he told you he wasn't going to file a tax return?

25 "Answer: Yes, he told me that his attorney advised him

1 not to file at that time.

2 "Question: Did that satisfy you you didn't have a legal
3 obligation to do so?

4 "Answer: It satisfied me. I don't."

5 A Yes, that's correct.

6 Q Okay. Now the attorney that he had -- now, at this point
7 in time he's making -- he has made three thousand dollars
8 (\$3,000) a month from the government without incurring any tax
9 liability, correct?

10 A He has a tax liability.

11 Q But he hasn't paid it?

12 A No.

13 Q Okay. Now, and during that period of time then -- he
14 then ended up with a court appointed attorney, correct?

15 A Yes.

16 Q Okay. Once again at taxpayer's expense?

17 A ~~I believe that's the procedure.~~

18 Q Yes, okay. Now, it would seem to me that what we have
19 then is, we have a person that you went to bat for with your
20 superiors to get the man paid, correct?

21 A That's correct.

22 Q And then you went to bat with your superiors to make sure
23 that his past sins were forgiven, correct?

24 A No, I don't have that authority.

25 Q Okay. Well, you're the one that talked to him, right?

1 A Talked to whom?

2 Q Mr. Salem, that's who we're talking about.

3 A Yes.

4 Q Okay. And you're the one that said that -- that you
5 wanted to cut a deal with him? Right?

6 A Yes.

7 Q And you told him the general outline of the deal that you
8 wanted to cut with him, correct?

9 A No, the deal, as you refer to it, was negotiated with his
10 attorney and the United States Attorney's office, not me.

11 Q And it took 'em a year and a half? The deal wasn't
12 consummated until January of 1996, right?

13 A That's a question you can address to them, not to me.

14 Q Okay. Well, then let me just address this question to
15 you. During that period of time when we're waiting for the
16 deal to be consummated in January of 1996 you had authorized

17 or you had sought to request, and he was in fact paid over
18 forty-five thousand dollars, wasn't he?

19 A Yes, I've said that.

20 Q And that was pursuant to a deal, wasn't it?

21 A Yes.

22 Q Now, in addition to -- in addition to this, Mr. Salem, as
23 you're aware, still, for example, has in his possession --
24 well, let me ask you this; most of the stuff dealing with Mr.
25 Salem, not all, but a lot of the stuff dealing with Mr. Salem

1 had to do with fraud or deception, didn't it?

2 A I would say so, yes.

3 Q Okay. In other words what he would do is he would go out
4 he would change identification, if you would, or who he was or
5 who other people would to fraudulently deprive others of
6 money, correct?

7 A At times he's done that.

8 Q Yeah, I mean he's done a lot of things, but what I'm
9 talking about right now is the idea of identification and
10 misidentification for fraudulent purposes, right?

11 A Right.

12 Q Okay. Now during the period of time that we're going on
13 with you, you told us, for example, that Mr. Salem isn't
14 working for the FBI anymore?

15 A What time -- period of time are we talking about now?

16 Q Okay. I'm sorry, that was not -- that was not clear.

17 You told us yesterday or the day before that he stopped
18 getting paid in January of 1995, I guess it was, around then?

19 A Yes.

20 Q Okay. But as late as right now, or in this year, you're
21 aware that Mr. Salem has in fact had counterfeit
22 identification on him?

23 A In his possession, yes.

24 Q Yeah. That he's had slot cheating equipment?

25 A Yes.

1 Q Okay. That he's had the ability to make counterfeiting
2 and fraudulent ID, right?

3 A I'm not sure about that last part in terms of equipment
4 to make, manufacture things. I'm not aware of that.

5 Q Okay. And basically your position is the FBI has allowed
6 him to possess this stuff, isn't that correct?

7 A We were aware he had it, yes.

8 Q Well, okay. You're aware of this guy, who you testified
9 that you'd been investigating for a number of years, had all
10 these -- and was involved in all these fraudulent and
11 deceptive illegal practices, that he stopped supposedly
12 working for you in 1995 and you stopped paying him. And now,
13 here we are two years later, over two years later in 1997, and
14 you're telling us that you and the FBI said, well, we know
15 that he's still got all these fraudulent things. Isn't that
16 correct?

17 A Part of your statement's correct and part of it isn't.

18 Q Okay. Well, is it correct that he has these things?

19 A He doesn't have them now as far I'm aware.

20 Q Well, okay, I'm sorry. As early as this year, the
21 beginning of this year he had 'em, right, until something
22 happened, right?

23 A Yes.

24 Q Okay, and he had 'em -- and he had 'em then. That's
25 still two years, isn't it --

1 A Yes.

2 Q -- from the time he stopped? And you're saying that he's
3 not working -- you had no control over him, did you? I mean
4 after 1995, did you?

5 A Physical control?

6 Q Yeah.

7 A I've never had physical control over him.

8 Q Well, remember what you told us, that he had to be ready
9 for you three hundred and sixty-five days a year, day in, day
10 out, twenty-four hours a day if you needed him?

11 A That's correct.

12 Q Okay. Well, and you said that -- you told us, I think,
13 yesterday or the day before that he -- that he has somehow
14 fulfilled his obligation to you under what you perceived to be
15 the agreement, save and except for testimony, right?

16 A On this case, yes.

17 Q Okay. And yet you, with full knowledge, still allowed
18 this guy, and given his background, to have counterfeit
19 identification of various sorts, right?

20 A Yes.

21 Q Okay. He had blank identification?

22 A Yes.

23 Q He had outdated identification?

24 A Yes.

25 Q He had stuff where he could put names on it with no dates

1 on it, right?

2 A Yes.

3 Q Okay, he had phony driver's licenses?

4 A Yes.

5 Q Okay, he had other people's driver's licenses, correct?

6 A Yes.

7 Q And you're telling us for the last two years you have
8 basically known about that and done nothing about it, correct?

9 A That's correct.

10 Q And let me ask you again. Is this the biggest case of
11 your career?

12 A No, it isn't.

13 Q Okay. Now, let me ask you something else. Part of your
14 investigation you have told us that you had what's known as
15 pen registers?

16 A That's right.

17 Q Okay. Now a pen register is some sort of a mechanical
18 device that records telephone calls coming in to a certain
19 number -- or going out from a certain number, I guess it is,
20 correct?

21 A That's correct.

22 Q Okay. Did I get that right, it's going out?

23 A At the time we're talking about in 1995 --

24 Q No, I'm just talking about a general pen register, and
25 then maybe we can get specific.

1 A Well, I can't answer that specifically the way you asked
2 it.

3 Q Okay, then why don't you --

4 A I mean, the technology has changed is what I'm trying to
5 say.

6 Q Well, okay. I'm talking about the time that we're
7 dealing with, 1993, '94, and '95.

8 A At that -- at that time it recorded outgoing, yes.

9 Q Okay. And you said that you had pen register on Mr.
10 Dottore's phone for eight hundred and eighty days?

11 A I think I said more than eight hundred.

12 Q Okay. All right, and you had it on Mr. Bongiovanni's
13 phone for six hundred and sixty days?

14 A Yes. Six hundred plus, something like that.

15 Q Okay. I'm not going to hold you to the exact day, but
16 it's over eight hundred on Dottore and over six hundred on Mr.
17 Bongiovanni, correct?

18 A Yes.

19 Q Okay. Now, during that period of time, and you said that
20 you went through and you reviewed all these pen registers,
21 correct?

22 A Yes.

23 Q Okay. Do you remember the conversation we were talking
24 about about Pat? Where I said it was Rose? Remember that
25 conversation?

1 A Yes.

2 Q Okay. Did you ever look on the pen register to see whose
3 number that was?

4 A I don't know whether I did or not.

5 Q Well, there any record of you ever even looking that up?

6 A I don't know --

7 Q I mean --

8 A -- we had thousands and thousands of calls. I don't
9 know.

10 Q I know, but you said that you went through and you
11 specifically pulled that one call out to play to the jury,
12 right?

13 A That's right.

14 Q Okay. And all I'm asking you, did you ever look up the
15 number to see whose number it was?

16 A And I'm telling you, I don't know.

17 Q Okay. Well, as you sit here today, under oath, do you
18 know whose number it is?

19 A No.

20 Q Now speaking of what you were doing during this period of
21 time that you spent the last, well, at least two years and
22 three months of your life on this case, we went into general
23 areas of -- of how much time you were spending and how much
24 time Mr. Salem was spending. And you told us Mr. Salem had to
25 be available every day and that he had to be available every

1 hour for you. Okay, now, you testified that Mr. Salem went
2 and was involved in investigations in other -- in other
3 locations, isn't that correct?

4 A That's correct.

5 Q Has Mr. Salem had to testify pursuant to his agreement
6 with you in any other case, save and except the cases that
7 we're talking about arise out of the Cal Fed?

8 A Not yet.

9 Q Not yet? Well, he stopped formally working for you in
10 '95, right?

11 A No, that's not correct. I've never said that.

12 Q Okay, you stopped paying him in '95?

13 A That's right.

14 Q All right. So he hasn't had to testify anyplace else,
15 save and except in the cases arising out of this, right?

16 A Not yet.

17 Q Okay. Now, how many times out of this period of time
18 from September of 1994 to January of 1995 -- first, where was
19 Mr. Salem living?

20 A At what time?

21 Q '94, September '94 through '95.

22 A I couldn't give you exact dates. At one point he was
23 living in Alpine, California and then he went to Phoenix,
24 Arizona, went back to Alpine, California, and then back to
25 Phoenix, Arizona, so --

1 Q Okay. When the time that he's -- most of the time then
2 in this case he was, I believe, he was in Alpine, wasn't he,
3 or in the southern California area?

4 A A lot of the time, yes.

5 Q Most of the time?

6 A A lot of the time. I -- like I said, I don't have
7 specific dates.

8 Q Well, I'm not asking as specifics, but you're the case
9 agent who's in charge of Mr. Salem. All I'm --

10 THE COURT: He's answered the question, counsel.
11 let's move on.

12 BY MR. PITARO:

13 Q Well, then let's go down and when he was down in Alpine,
14 California. On how many times in that period of time? Okay?

15 THE COURT: How many times what?

16 BY MR. PITARO:

17 Q I'm sorry. Actually, I made a mistake, didn't I? He
18 stopped -- he stopped -- I misstated. I said January of '95.
19 It's actually January '96.

20 A Right. It should be December of '95.

21 Q Okay. December, January, in that area. Okay, didn't
22 want to -- that I was cutting it down. It was really a period
23 of a year and three months, wasn't it?

24 A That's correct.

25 Q Okay. Now how many times in the year and three months

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1 did you cause him to have to go someplace other than Las Vegas
2 pursuant to the investigations arising out of this?

3 A I can only give you a general guess without looking. But
4 between a dozen and two dozen times.

5 Q Okay.

6 A It'd be hard to say.

7 Q So the majority of the expenses he incurred during this
8 period of time, this nine thousand dollars (\$9,000) expense
9 was to come up here to Las Vegas, wasn't it?

10 A That's right.

11 Q Okay. And my math -- I am not a mathematician, but three
12 months is about ninety days, give or take a few days, three
13 hundred and sixty-five, we're looking about four hundred and
14 seventy -- sixty-five, seventy-five days that he was working,
15 right?

16 A I'll accept your math.

17 Q Okay, well. Three hundred sixty-five plus ninety is four
18 fifty and a couple extra days -- say four fifty, give you the
19 benefit. So in those four hundred and fifty days out of to
20 get this three thousand dollars (\$3,000) a month and all these
21 other things, Salem may have had to leave his home, maybe
22 twelve -- no -- twelve to twenty-four times, correct?

23 A You said other cases, other than this one.

24 Q Yeah, other than this.

25 A Oh, yes. Yeah.

1 Q Right?

2 A Yes, other than this case.

3 Q All right. And quite truthfully, when we went through
4 the 302s and the tapes there, he actually didn't come here
5 every week, did he?

6 A No.

7 Q Matter of fact there were periods of time when he didn't
8 come here for months, right?

9 A I think there was a period of time where he didn't come
10 here for several months.

11 Q Several months, right?

12 A Yes.

13 Q And then when he would come he'd only come in for a
14 weekend?

15 A Well, it wasn't always a weekend.

16 Q Well --

17 A He would come two, three days at a time.

18 Q Thank you. Not only he'd come in like a Sunday night and
19 leave a Tuesday?

20 A Sometimes, yes.

21 Q Okay. And then the FBI was putting him up at the
22 Tropicana, right?

23 A Yes.

24 Q Now, during this -- this period of time that Mr. Salem's
25 in Alpine, you're the case agent, right?

1 A Yes.

2 Q And you're supervising Mr. Salem?

3 A Yes.

4 Q So what you're doing in this period -- and you're in Las
5 Vegas, though, aren't you?

6 A That's right.

7 Q So Alpine, I think, is about three hundred and -- three
8 hundred miles from here, isn't it?

9 A That's right.

10 Q So your supervision was basically done long distance,
11 wasn't it?

12 A Yes.

13 Q It was done over the telephone, wasn't it?

14 A Yes, it was.

15 Q As a matter of fact, sir, you don't know what Mr. Salem
16 was doing during the periods of time that he wasn't talking to
17 you over the telephone or wasn't up here with you, right?

18 A No, I wasn't physically watching him, no.

19 Q Okay. As a matter of fact there was no monitor on him,
20 was there?

21 A Monitor?

22 Q Well, I mean, you didn't have anyone there say monitoring
23 his phones, did you?

24 A No.

25 Q Okay. You didn't have anyone down there say going over

1 to make sure that he was there? You didn't have him checking
2 in with anyone, did you?

3 A No.

4 Q So he basically had a job for three thousand dollars
5 (\$3,000) a month that he didn't -- that he didn't have to
6 check in unless you got him on the phone, right?

7 A Right.

8 Q And he basically carried a cellular a lot, didn't he? Or
9 a beeper?

10 A A beeper.

11 Q Okay, so you could beep him?

12 A Yes.

13 Q And that's generally how you got in touch with him,
14 wasn't it?

15 A Right.

16 Q All right, so you didn't even know where he was when he
17 was beeping you, did you?

18 A Not always, no.

19 Q No, I mean, you just knew that he was at least within
20 whatever the jurisdiction of "Beep World" is, wherever you get
21 -- however that's done, right?

22 A Right.

23 Q Okay. Now, in the time that you've spent in this, I
24 listened to a lot of tapes and you have, too, and the jury
25 has, and what we hear is we heard a lot of Sam's and -- Sam's

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1 and Carmella's and that of last names unknown, right?

2 A Right.

3 Q Okay, now you are here in Las Vegas, correct?

4 A Yes.

5 Q And you know that the courthouse is like the next block
6 over?

7 A That's right.

8 Q Okay. And these calls all took place in 1994 and 1995?

9 A That's right.

10 Q Okay, now, you, as the case agent, has never actually
11 even gone over to the Clark County Jail and determined who
12 these people were, were you?

13 A No, it was not important.

14 Q Okay. As a matter of fact, you haven't gone over there
15 and you haven't gone over and interviewed them and asked them
16 about any of these calls that they were picked up on, did you?

17 A No.

18 Q You don't even know their last names as we sit here four
19 years and three months later from the time you started this
20 investigation, do you?

21 A No.

22 Q Okay. And yet the thrust of this investigation was that
23 Gerry Bongiovanni was doing something improper with O/Rs or
24 bail reductions or bail requests, correct?

25 A That was one of the --

1 Q That was one of 'em.

2 A -- areas.

3 Q Okay. But we don't even know who those people are,
4 'cause you haven't gone over and checked, have you?

5 A No.

6 Q So all those tapes just have some unknown last name
7 unknown, right?

8 A Yes.

9 Q Now, in addition we've talked about traffic tickets,
10 haven't we?

11 A We have.

12 Q Okay. Now on all these traffic tickets that we've had,
13 this was also part of your investigation, wasn't it?

14 A Yes.

15 Q As a matter of fact in your affidavits you go on and on
16 about traffic tickets, don't you? In your affidavits for
17 additional --

18 MS. SHOEMAKER: Your Honor, I'm going to object --

19 MR. PITARO: -- wiretaps.

20 MS. SHOEMAKER: -- to questions into the affidavits
21 for any of the wiretaps.

22 THE COURT: Okay. Sustained. Let's move on.

23 BY MR. PITARO:

24 Q Well, let me ask you this, we heard testimony for example
25 about a ticket for a girl by the name of Kimberly Donahue.

1 A Yes.

2 Q All right, and that was part of -- that was -- you
3 referred to that numerous times, didn't you?

4 A Did I refer to it?

5 Q Yeah. Well, haven't you referred to that in documents
6 that you've prepared?

7 MS. SHOEMAKER: Your Honor, again, I think Mr.
8 Pitaro's starting to ask questions about what was put in
9 affidavits for the wiretaps.

10 Q Well, I can ask him, he did it. It's not like I'm asking
11 him what someone else has done, asking what he did, that's
12 all.

13 MS. SHOEMAKER: But what is the relevance of having
14 something in an affidavit for a wiretap that the Court has
15 approved?

16 MR. PITARO: 'Cause it goes to what he did and the
17 way he conducted his investigation. Well, let me cut to the
18 chase.

19 THE COURT: Well, ask him what he did, counsel.
20 BY MR. PITARO:

21 Q Did you ever go to the court and pull the record to find
22 out what happened in the Kimberly Donahue ticket?

23 A No.

24 Q So in the period of time that this has gone on, you never
25 even went to the court to find out what happened, did you?

1 A No.

2 Q You don't even know because you never looked as to what
3 the disposition was, right?

4 A Yeah.

5 Q You don't even know who the judge was, do you?

6 A No.

7 Q Now, let's go to the Jack Jerdan tickets, okay? Excuse
8 me.

9 (Off-record colloquy between Mr. Pitaro and Clerk)

10 BY MR. PITARO:

11 Q Basically what your investigation has been is that Gerry
12 Bongiovanni somehow was reducing traffic tickets, isn't that
13 correct?

14 A That was part of the investigation.

15 Q Okay. But -- I'm going to show you the tickets in a
16 minute. But isn't it true that you never even went over and
17 saw how the Jack Jerdan ticket, for example, was disposed of?

18 A As far as I was concerned it wasn't --

19 Q Well, I didn't ask you how you were concerned, I asked
20 you, did you go over and look at the ticket?

21 A No.

22 Q So you don't even know who the judge was that was
23 involved in the Jack Jerdan ticket?

24 A No.

25 Q You never even went to this judge and said, I want to

1 know who the judge is 'cause I want to know, Judge, if Gerard
2 Bongiovanni did anything -- put any influence on you in this
3 ticket. You didn't do that, did you?

4 A No.

5 Q You didn't do it for the -- any of the tickets, did you?

6 A No.

7 Q Now, in addition to not doing it for the tickets, there
8 are tickets, for example -- you know who Judge Boyle is?

9 A No.

10 Q Well, you don't know that Judge Boyle is the -- is one of
11 the -- is the traffic ticket, basically, judge or master over
12 in the county?

13 A I don't know Judge Boyle.

14 Q Okay, do you know what he does?

15 A I don't know him, how would I know what he does?

16 Q Well, you were the case agent investigating Gerard
17 Bongiovanni fixing tickets.

18 THE COURT: Counsel, he's answered the question.
19 Let's move on. He doesn't know who he is.

20 (Off-record counsel colloquy)

21 MR. PITARO: Your Honor, may I just approach the
22 witness with 601 and 603, which is certified copies from the
23 -- one is from the Municipal Court of Henderson, the other
24 one's from the Justice Court?

25 THE COURT: You may.

1 (Off-record colloquy between Mr. Pitaro and Clerk)

2 MR. PITARO: I believe they're introductory, Judge.
3 They are certified.

4 THE COURT: Any objection?

5 MS. SHOEMAKER: We don't have any objection, Your
6 Honor.

7 THE COURT: Now what are the numbers again, counsel?

8 MR. PITARO: I'm sorry. The Jack Jerdan is 601.

9 THE COURT: 601 will be received.

10 (Defendant's Exhibit No. 601 admitted)

11 MR. PITARO: And then the Kimberly Donahue from
12 Henderson is 603.

13 THE COURT: 603 will be received.

14 (Defendant's Exhibit No. 603 admitted)

15 MR. PITARO: Okay.

16 BY MR. PITARO:

17 Q I'd just ask you to look at the Jack Jerdan ticket, which
18 is Exhibit 601, and I would direct your attention down to
19 where, do you see where it says JDG-Bix?

20 A I see that.

21 Q Okay. Now you're aware that one of the local Justice of
22 the Peace we have is a judge by the name of James Bixler?

23 A Yes, I'm aware of that.

24 Q Okay. And I'd like to show you, if I could, Exhibit 603,
25 which is from Henderson. And I'd ask you to look at the

1 second page of the certified court record -- I'm sorry -- the
2 third page and direct your attention to the second line down
3 or the second entry down.

4 A I see it, yes.

5 Q Okay, and you see where it has that on February 6th, 1994
6 at 6:00 o'clock in the evening Kimberly Donahue was no
7 contest?

8 A Actually February 6, 1995, it says nolo contendere plea.

9 Q Okay. And nolo contendere means, or no contest means the
10 same thing as nolo contendere. One's English, one's Latin,
11 right?

12 A That's right, yes.

13 Q Okay. And that was done by Judge Proctor out in
14 Henderson?

15 A That's what it says, yes.

16 Q Okay, and down there it has TSS, which is the traffic
17 school?

18 A It says TSS.

19 Q Doesn't it say something there about she has to go to
20 traffic school?

21 A On this page?

22 Q It should.

23 A It says TSS amend to improper PKG. I don't --

24 Q Well, PKG probably means park -- illegal parking, doesn't
25 it?

1 MS. SHOEMAKER: Objection to speculation, Your
2 Honor.

3 THE COURT: Well, you may be able to even stipulate
4 to what these initials mean --

5 MR. PITARO: Well, okay, okay.

6 BY MR. PITARO:

7 Q I mean, you don't -- you don't dispute that it means
8 parking that was reduced after traffic school to a parking
9 ticket?

10 A I would say that that's probably what that says, yes.

11 Q And --

12 (Off-record counsel colloquy)

13 BY MR. PITARO:

14 Q Now, let me ask you this, if I could -- let me just show
15 you a couple more of these, which would be certified copies of
16 -- which is Exhibit 602, which is a Carrie [phonetic]
17 Anderson.

18 MS. SHOEMAKER: Your Honor, I'm going to object to
19 the Carrie Anderson one until we can tie it in through Paul
20 Dottore. I don't know that that's the person the ticket was
21 referred to in the transcript.

22 MR. PITARO: Well, I can -- I can introduce it,
23 Judge, and then if I can't tie it up then it can be stricken.
24 But I have a certified copy.

25 THE COURT: I'll receive it, and if you don't tie it

1 up it'll be stricken.

2 (Defendant's Exhibit No. 602 admitted)

3 MR. PITARO: And then 604, which is a certified copy
4 of a ticket for an Arnie -- Arnold DeFabio, which is 604.
5 Move to admit that also.

6 May I approach the witness?

7 THE COURT: Yes. You want the exhibits to be
8 received?

9 MR. PITARO: Yes.

10 THE COURT: They will be received.

11 (Defendant's Exhibit No. 604 admitted)

12 BY MR. PITARO:

13 Q Now the one in 602, which is this Carrie Anderson. Do
14 you see where it says JDG, which stands for the judge, that
15 there is nothing there?

16 A Yes, there's just asterisks.

17 Q Okay. And then we're on the judge on 604, which is Arnie
18 DeFabio, where it says Bix?

19 A Yes.

20 Q Okay, and that's Bixler?

21 A That's what you've told me.

22 Q Okay. So even as -- even as we're here today on
23 December, whatever today is, I've lost track, 9th or 10th or
24 something, of 1997, you don't know even the indications of
25 what happened to these tickets and who did it, right?

1 A I don't think we ever disputed that they were reduced.

2 Q Okay. And isn't it true that you never interviewed any
3 of the various people concerning these tickets to determine
4 whether or not Gerard Bongiovanni himself, or anyone else, had
5 done anything out of the usual in these tickets, isn't that
6 correct?

7 A That's correct.

8 Q Okay. And let me just follow up in this area. You never
9 went over and you talked to the supervisor of the traffic
10 court, did you?

11 A No.

12 Q In other words you don't even know the procedure for the
13 way the traffic tickets are handled at the traffic counter
14 over in Justice Court?

15 A Not other than what you've told me.

16 Q Okay. And you don't know what -- how it's done in Las
17 Vegas City Court either, do you?

18 A No.

19 Q Or in Henderson?

20 A No.

21 Q Basically you don't know where -- how it happens any
22 place, do you?

23 A I know it's not done for bribes.

24 Q I'm sorry, what?

25 A I say, I know it's not done for bribes.

1 Q Well, now, I didn't ask that. I'm not arguing with you,
2 please, don't get upset with me. Now isn't it true that you
3 didn't go and you didn't ask what the procedures were for
4 Justice Court tickets?

5 A That's correct.

6 Q And you didn't go for Las Vegas Municipal Court tickets,
7 did you?

8 A That's correct.

9 Q And you didn't go for Henderson tickets?

10 A That's correct.

11 Q And so this idea of matters being reduced to illegal
12 parking and paying fines is not something that you don't have
13 any knowledge of whether that's the way it's done or not in
14 any of these jurisdictions, do you?

15 A Would you repeat the question, please?

16 Q Well, you don't know if it's a common occurrence that,
17 for example, to have traffic matters if you go to be reduced
18 to illegal parking?

19 A It may be a common occurrence.

20 Q Okay. Well, you don't know, do you?

21 A I don't know.

22 Q And you're the case agent?

23 A I was not --

24 Q Isn't that correct?

25 A -- investigating whether it's illegal to reduce a parking

1 ticket.

2 THE COURT: He's the case agent. Let's move on.

3 BY MR. PITARO:

4 Q Now, when you get -- how many -- let me ask you this.

5 I sort of got off track. Going just back to those pen
6 registers, how many calls during this period of time did you
7 intercept on your pen register? In other words, how many
8 calls did Paul Dottore and Gerard Bongiovanni have back and
9 forth?

10 A There were many. I couldn't even give a guess. There
11 were many.

12 Q In the thousands, wasn't it?

13 A At least the hundreds.

14 Q In the hundreds?

15 A I would say, yes.

16 Q Well, they called at least -- Paul Dottore called
17 basically every day, didn't he?

18 A Yes.

19 Q And you had him under a pen register at least for eight
20 hundred and eighty days?

21 A Yes.

22 Q And then numerous times he would call more times,
23 wouldn't he?

24 A Sometimes, yes.

25 Q Okay. And likewise backwards for Gerard Bongiovanni

1 talking to Paul Dottore, that would also be in the hundreds,
2 wouldn't it?

3 A Many, many calls.

4 Q Okay. Now how many telephone calls out of this whole
5 mess did you -- did you cause to be intercepted?

6 MS. SHOEMAKER: Your Honor, can we get a
7 clarification whether he's talking interception over the pen
8 register or interception over the wiretap?

9 MR. PITARO: I'm sorry, that was not clear.

10 BY MR. PITARO:

11 Q Okay. How many telephone -- not counting the pen
12 register, how many telephone conversations did you actually,
13 you meaning the people working under your control and
14 direction, actually record --

15 A Again --

16 Q -- of -- of conversations of Paul Dottore?

17 A How many conversations of Paul Dottore --

18 Q Yeah.

19 A -- is that what you're asking?

20 Q Yeah, well, how many did you do total?

21 A I've never counted 'em. I'm sure they're in the
22 thousands.

23 Q In the thousands.

24 A Oh, yes.

25 Q Okay. Well, actually you had tapes that were over a

1 thousand, just tapes of calls, isn't that correct?

2 A Some of those had multiple calls on them.

3 Q So there were literally thousands of calls that you --
4 that you intercepted?

5 A Yes.

6 Q And isn't it true that the majority of those calls
7 between Dottore and Mr. Bongiovanni were calls of chit-chat
8 back and forth?

9 A I guess all calls are chit-chat back and forth.

10 Q Well, isn't it true that what they were talking about
11 were things that people who would be friends would talk
12 about --

13 A Yes.

14 Q back and forth --

15 A Yes.

16 Q -- right?

17 A Yes.

18 Q And that's the majority of the calls, isn't it?

19 A Yes.

20 Q Okay. As a matter of fact, you're aware that Mr. Dottore
21 would call at 8:00 o'clock almost every night, wouldn't he?

22 A Around that time, yes.

23 Q Okay. And you're aware that's because that would be the
24 time that Mr. Bongiovanni would have put his wife to bed,
25 isn't that correct?

1 A I wasn't aware that that was the reason, but it makes
2 sense.

3 Q Well, you heard Mr. Dottore say it, didn't you?

4 A I think I heard it in one of the calls, yes.

5 Q Now, you also were involved in the wiretaps what we call
6 minimization, isn't that correct?

7 A Yes.

8 Q And minimization is the fact that what you're supposed to
9 do is you're supposed to minimize telephone calls. That is,
10 if people are talking and they're not talking about anything
11 that you have a good faith belief to talk about, then you're
12 supposed to shut the machine off?

13 A That's right.

14 Q Isn't that correct?

15 A That's correct.

16 Q And yet, you know, when we listened to -- with these
17 calls that you intercepted out of these thousands, you were
18 intercepting and had calls between Angela Bongiovanni, a
19 thirteen-year old girl and her friends, didn't you?

20 A And -- as soon as a call comes on it's intercepted. We
21 take a certain amount of time to determine who the parties are
22 and then we turn it off. Then they're instructed after a
23 period of time to turn it back on again to see who's still
24 there and what they're talking about.

25 Q So when Angela is talking to her friends you were

1 monitoring her calls?

2 A No, not entirely, no. But --

3 Q Well, not entirely, but actually -- you actually
4 monitored calls that would last up to five minutes in duration
5 where this girl and her friends were talking about boys and
6 sex and stuff.

7 MS. SHOEMAKER: Your Honor, I'm going object --

8 BY MR. PITARO:

9 Q Did you stop that?

10 MS. SHOEMAKER: I'm going --

11 THE COURT: Just a moment? Yes?

12 MS. SHOEMAKER: I'm going to object to any further
13 questions about minimization procedures. There's not a
14 challenge in this proceeding here about whether or not the
15 agents properly minimized. The agents are allowed to
16 initially listen to the conversation to determine who the

17 parties are and whether it's innocent nature, to hang up and
18 come back on periodically to see what's going on. There's
19 nothing improper in that, and this is an irrelevant area.

20 MR. PITARO: Well, one follow-up question, if I may,
21 then I'll be done.

22 THE COURT: Well, I think the objection is well
23 taken, counsel. He's indicated the procedure and that --

24 MR. PITARO: Well, my problem is they didn't follow
25 it, and that's what I want to get into. That they were

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1 actually listening to --

2 MS. SHOEMAKER: I --

3 MR. PITARO: -- little kid's calls. And that's what
4 I want to ask him.

5 THE COURT: Well, there's no -- there's no contest
6 of the calls as I understand it.

7 MR. PITARO: The duration, Judge. Okay, we have
8 calls where they are listening to these girls talking back and
9 forth, and surely under their minimization --

10 THE COURT: It's not relevant, counsel, the
11 objection is sustained. Let's move on.

12 BY MR. PITARO:

13 Q Well, you didn't think Angela Bongiovanni was part of any
14 scheme to fix tickets, did you?

15 A Of course not.

16 Q Or her friends?

17 A Of course not.

18 Q Now, there's a couple other things that I want to get
19 into with you and that involves the Jack Jerdan, what I will
20 call the Jack Jerdan scam. Now, from September on, any
21 conversations that Terry Salem was making with Mr. Dottore or
22 Mr. Jerdan concerning this matter was done under your auspices
23 and your supposed control, right?

24 A Yes.

25 Q Okay, so you would go on and you would direct him as to

1 what to say and what to do, isn't that correct?

2 A Yes.

3 Q And so you were aware that Mr. Salem and Mr. Dottore had
4 actually put together a scheme to extort money from Mr.
5 Jerdan, weren't you?

6 A Yes.

7 Q Okay. And this was a -- this was what you as an -- the
8 case agent from the United States of America's FBI was having
9 Mr. Jerdan -- I mean, Mr. Salem participate in against Mr.
10 Jerdan, correct? Isn't that correct?

11 A No, you have it entirely incorrect.

12 Q Well, I don't -- let me just ask you this. Isn't it Mr.
13 Salem made calls to Mr. Jerdan that you were aware of under
14 your direction and control telling Jerdan to pay -- to pay him
15 money?

16 A Mr. Dottore --

17 Q Isn't that true?

18 A To pay him money?

19 Q Sure.

20 A Yes.

21 Q Okay. To pay Mr. Salem money?

22 A Yes, Mr. Jerdan was under investigation.

23 Q The fact you're under investigation doesn't mean you can
24 get extorted does it?

25 A No, but you can have discussions about criminal activity.

1 Q And so what you were doing, you were having Mr. Salem
2 tell Mr. Jerdan and Mr. Salem tell Mr. Dottore to make up --
3 to try to get money from Mr. Jerdan, right?

4 A No, I told him to engage in conversations.

5 Q Now, Mr. Salem would then have conversations with Mr.
6 Dottore concerning lies that they were going to tell to Mr.
7 Jerdan in an attempt to get money from him, isn't that
8 correct?

9 A Yes, it was an undercover operation.

10 Q Right. And we heard that, right?

11 A Yes.

12 Q We heard those tapes?

13 A Yes, you did.

14 Q Okay. Well, Mr. Dottore thought you were serious, wasn't
15 he?

16 A Yes, he was --

17 Q Okay --

18 A -- he was the one we were investigating.

19 Q -- and so did Mr. Jerdan? And so did Mr. Jerdan?

20 A Yes.

21 Q Okay. Now, you heard Mr. Salem testify and part of your
22 -- your duties as the case agent, we heard about all these
23 multiple -- these multiple withdrawals under the Cal Fed case,
24 is that correct?

25 A Yes.

1 Q Now, isn't it true that the way the procedure was set up
2 was that Salem would come into town upon request of Dottore
3 and then go to the bank and meet with Quintana?

4 A Yes.

5 Q Okay. And so Salem now tells you, although there was six
6 withdrawals, he only participated in four of 'em, right?

7 A That's right.

8 Q And, but he told you that in those four, at least, he was
9 called in by Mr. Dottore to go to the bank.

10 A Yes.

11 Q Okay? Isn't that correct?

12 A Yes.

13 Q Okay. And yet, Mr. Dottore told you that he received --
14 initially told you that he received no money from the Cal Fed
15 case, right?

16 A That's correct.

17 Q And a matter of fact, even after you and Mr. Dottore sat
18 down with his attorney and you guys and engaged in a
19 cooperation agreement with Mr. Dottore, Mr. Dottore told you
20 that he didn't receive any money, isn't that correct?

21 A That's correct.

22 Q As a matter of fact Mr. Dottore lied to you at that time,
23 didn't he?

24 A Yes, he did.

25 Q Okay. Now, that is something that he didn't receive any

1 money, is something that was important to you, wasn't it?

2 A Yes.

3 Q Okay, and that was at the August -- I'm sorry -- the
4 April 17th meeting, wasn't it? April 17th, 1997?

5 A I believe so, yes.

6 Q Okay. And you filled out a 302 over that, didn't you?

7 A Yes.

8 Q Okay. And basically what you did is you went in with Mr.
9 Dottore about the Cal Fed fraud and he told you he didn't get
10 any money? Right?

11 A Yes, he had told us he didn't get any money, yes.

12 Q Okay. At -- at the April 17th --

13 A Yes.

14 Q -- interview? That was the interview you had with him,
15 right?

16 A Yes.

17 Q Okay. And, of course, you knew that Mr. Salem had told
18 you, and you were aware from your investigation that it was in
19 fact Mr. Dottore who was the one who had called Mr. Salem on
20 four separate occasions to come out to perpetrate frauds,
21 right?

22 A That's what Mr. Salem said, yes.

23 Q Okay. And the perpetration of those frauds resulted in
24 at least from what they admitted to of over a hundred thousand
25 dollars?

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1 hasn't said he doesn't remember anything. I don't think this
2 is a proper way of questioning the agent by showing him his
3 report --

4 THE COURT: Well, I don't know what he --

5 MS. SHOEMAKER: -- and starting to ask him what's in
6 it.

7 THE COURT: -- intends to ask him, but he certainly
8 can give him a copy of the 302.

9 MR. PITARO: Okay. And as a matter of --

10 THE COURT: Remember, please, this is not a
11 statement of Dottore.

12 MR. PITARO: I understand.

13 THE COURT: This is the report of the agent.

14 MR. PITARO: Right. Well, when you made -- let me
15 just maybe -- you're right, Judge. Let me add a little
16 foundation.

17 BY MR. PITARO:

18 Q When you made this -- when you wrote this 302, what you
19 did is you tried to be as accurate as possible, isn't that
20 correct?

21 A That's correct.

22 Q And you tried to put down the important points that were
23 covered in the conversation, right?

24 A Yes.

25 Q And the purpose of that is to keep records of it, isn't

1 that correct?

2 A That's correct.

3 Q Okay. Now, isn't it true when you look at that April
4 17th, 1997 report, there's no mention of you even talking
5 about the Cal Fed case with Dottore?

6 A (Pause in the proceedings)

7 I don't see the Cal Fed case in here.

8 Q So what we have then, you just told us how important the
9 Cal Fed case was, how important it was whether or not Mr.
10 Dottore got any money and your 302 that's supposed to
11 memorialize the conversation you had with Mr. Dottore doesn't
12 even mention it, does it?

13 A Not in there, no.

14 Q Okay. Well, there's no other 302 for 4/17/97 that you
15 prepared is there?

16 A I don't know.

17 Q Okay. Well, what we have here then is the 302 that you
18 prepared, and what you're telling us now is this 302 left out
19 some very important facts, didn't it?

20 A There's no mention in there about --

21 Q That's right.

22 A -- the Cal Fed case.

23 Q That means you left it out, didn't you?

24 A Either that or it wasn't said.

25 Q Well, you just got done telling us that it was said,

1 didn't you?

2 A I recall that he denied getting --

3 Q Right.

4 A -- any money from the Cal Fed Bank, yes.

5 Q Right. As a matter of fact, a few days later you then
6 wrote another 302 referencing back to this conversation. Do
7 you want me to show that to you? Maybe I'll do that so you --

8 A Yes, I know the one.

9 Q What?

10 A I know the one you're talking --

11 Q All right.

12 A -- about.

13 Q So a couple of days later, you wrote another 302
14 referencing back -- I think it was April 28th you wrote a 302,
15 which is what we call an FBI police report, right?

16 A Yes. I think it was April --

17 Q So when we're --

18 A -- I think it was April 22nd, though.

19 Q Yeah. That's when it happened. You didn't write the
20 memo until April 28th, though.

21 A Well, that could be.

22 Q Okay. So on April 28th, you wrote a memo that you said
23 happened on April 22nd saying that when Dottore told you that
24 he lied to you on April 17th, that he had lied to you on April
25 17th, right?

1 A That's what he said, yes.

2 Q Okay. Except that there's nothing in your April 17th
3 report even mentioning Cal Fed 'cause you'd just -- isn't that
4 correct, you just reviewed it?

5 A Yes. That's correct.

6 Q Okay. So what we have then, is we have what's supposed
7 to be a accurate, as you just told us, an accurate
8 representation of what happened in these interviews and now
9 we've found out that you left out what had previously told us
10 was a very, very important piece of information, isn't that
11 correct?

12 A Not entirely, no.

13 Q Well, not entirely, there's no mention of Cal Fed.

14 A I said there's no mention of Cal Fed.

15 Q Well, there's a way to get around quirky defense
16 attorneys asking these questions, isn't there?

17 MS. SHOEMAKER: Objection, Your Honor.

18 MR. PITARO: And asked did you record it?

19 MS. SHOEMAKER: Argumentative questions.

20 THE COURT: It is.

21 MR. PITARO: All right.

22 THE COURT: It is argumentative.

23 MR. PITARO: That was, and I withdraw it. I'm
24 sorry, Your Honor.

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

1 BY MR. PITARO:

2 Q Did you record this conversation with -- this interview
3 with Mr. Dottore?

4 A You mean like mechanically record it?

5 Q Yeah.

6 A No.

7 Q Like turn a tape recorder on.

8 A No, we can't do that.

9 Q You can't do that?

10 A No.

11 Q You can't ask Mr. Dottore, can you consent to a tape
12 interview of this?

13 A No.

14 Q You sent Mr. Salem and -- with body bugs, didn't you?

15 A Maybe I should clarify that. The FBI does not permit it.

16 Q They don't permit it because --

17 MS. SHOEMAKER: Objections to the reasons the FBI
18 doesn't permit it, Your Honor.

19 MR. PITARO: He's an FBI. I can ask him.

20 BY MR. PITARO:

21 Q They don't permit it and then the only -- the only record
22 that anyone has of what really happened is contained in your
23 302s, right? That's the purpose of these 302s, right?

24 MS. SHOEMAKER: Your Honor, I'd ask for some
25 foundation whether the agent knows the reason the FBI has that

1 policy.

2 BY MR. PITARO:

3 Q I would hope you know, do you?

4 A No, I don't know the reason for the policy. I didn't
5 make it.

6 Q Well, I -- now part of your deal with Mr. Salem was Mr.
7 Salem was, in fact, supposed to go down and he was supposed to
8 talk to -- pretend that he was under investigation first,
9 correct, for the Cal Fed case?

10 A Yes.

11 Q Okay. And then you had set up that he was going to be a
12 phony arrest basically on the indictment, is that correct?

13 A That was a real arrest.

14 Q Well, it was a real arrest except that contrary to other
15 people that get arrested, he knew that he at least had some --
16 the FBI setting it up, right?

17 A Yeah, right.

18 Q Okay. Is that correct?

19 A That's correct.

20 Q I mean, it wasn't like this happened without Mr. Salem
21 know what was happening, was it?

22 A No, he knew he was going to be arrested.

23 Q Okay. And that was by agreement with you, wasn't it?

24 A Yes.

25 Q Okay. And so the purpose of that was to see if he could

1 get O/R'd the night before, because he was supposed to go to
2 court the next day, correct?

3 A No, the purpose of it was to generate conversations on
4 the telephone.

5 Q Well, the conversations had to actually have been
6 generated before, right? And Mr. Dottore had said that he's
7 going to go into court to voluntarily surrender, right?

8 A We had conversations before, yes.

9 Q Yeah. Okay. Now a voluntary surrender, maybe if you
10 could -- isn't it true that what a voluntary is, if a person
11 knows that there's outstanding legal process against them and
12 that he voluntarily goes in to surrender so that he can get
13 the matter in court versus running the risk of being arrested,
14 right?

15 A That's right.

16 Q And that happens quite frequently, doesn't it?

17 A Yes.

18 Q Okay. I mean, defense attorneys will call up and say,
19 Agent Hanford, I understand you're looking for my guy, let me
20 bring him in on Tuesday or something, right?

21 A That's right.

22 Q Okay. And so what he had here then was the effect that
23 it was set up that Mr. Salem was going to go in and
24 voluntarily surrender on the 21st of December, 1995, wasn't
25 he?

1 A That's right.

2 Q And then -- and then you decided that what you were going
3 to do is you were going to have him arrested the night before
4 and then request an O/R, correct?

5 A That's right.

6 Q And an O/R, with my accent, O/R stands for own
7 recognizance release, doesn't it?

8 A That's right.

9 Q Okay. And in fact, though, what would happened is he
10 didn't get released on his own recognizance the night before,
11 did he?

12 A No, not 'til the next day.

13 Q Okay. It actually then went through the court system,
14 didn't it?

15 A Yes.

16 Q Okay. And he was released under the auspices of the
17 pretrial release program, wasn't he?

18 A He was released on his own recognizance.

19 Q Well, are you aware, under the pretrial release program,
20 how when a person is released in court that they have to go
21 through the pretrial release program and sign the conditions
22 of release?

23 A No, not really. I'm not aware of that --

24 Q You're not aware that --

25 A -- I've never been --

1 Q -- people that get out of jail that what they have to do
2 is when -- to get out, they have to sign an agreement that
3 they will show up?

4 A Oh, I'm sure that's true, yes.

5 Q Okay. And that's done through pretrial release when
6 you're released through the court?

7 A Yes, I assume so.

8 Q Okay. And if you're released through the jail, then the
9 jail has an additional form that they file, or another type of
10 release agreement that they file, are you aware of that?

11 A No.

12 Q All right. Then as case agent, I guess what you're
13 telling us, then, is that you didn't go over and check with
14 the Clark County Detention Center and see what the procedure
15 and protocols were for bail request going directly through the
16 jail, did you?

17 A No.

18 Q So you don't know what the procedure was for judges
19 calling the jail?

20 A No.

21 Q You are aware, of course, that there is a procedure for
22 that?

23 A Yes.

24 Q Okay. But you didn't take -- you didn't go over and talk
25 to this, for example, Commander Schweikert [phonetic] is in

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1 charge of the jail or anyone else who's in charge of the jail,
2 did you?

3 A No.

4 Q Okay. In addition, you didn't go over and you didn't
5 talk to Mr. Phillips who's the head of the pretrial release
6 program, did you, to see what their procedures were?

7 A No.

8 Q Now, after Mr. Salem was released, you then had him go
9 down and talk to Mr. Flangas, didn't you?

10 A Yes.

11 Q Okay. Now, when we talked about Mr. Flangas, we were
12 talking about this tape that just came up.

13 A Yes.

14 Q Isn't that correct?

15 A That's correct.

16 Q Now, you told us you were the case agent. At the
17 beginning of my questioning, you said that you were the guy
18 that was in charge of everything.

19 A Yes.

20 Q You were the guy that decided what Salem was going to say
21 and where and how he was going to say it, correct?

22 A Yes.

23 Q You were the one that decided when Salem was going to
24 come into town and when he wasn't going to come into town,
25 right?

1 A That's right.

2 Q You decided who he was going to meet and who he wasn't
3 going to meet, didn't you?

4 A Yes.

5 Q And you were the one that decided that he was to go over
6 and meet with Flangas, isn't that correct?

7 A That's correct.

8 Q And you were the one who decided that he was going to get
9 wired up with this body bug, isn't that correct?

10 A Yes.

11 Q And a body bug really is just a term we use for a hidden
12 recorder to go over and talk to people, isn't that correct?

13 A That's correct.

14 Q And you're the case agent and you're in charge of getting
15 all of this, aren't you?

16 A Yes.

17 Q Okay. As a matter of fact, that's your -- your
18 responsibility was to try to get Mr. Salem to go over there
19 and engage Mr. Dottore in incriminating conversation, isn't
20 that correct?

21 A Right.

22 Q And you told us it wasn't until last Friday that you had
23 any idea that this conversation had been recorded.

24 A Yes, that's correct.

25 Q And yet you were the one who back on January 3rd, 1995

1 was the one that told Salem to go over and get recorded,
2 right?

3 A That was definitely my mistake.

4 Q Okay. And so after Salem went over and made these
5 recordings, you, after you'd gone through the trouble to body
6 bugging him, right? There's actually an agent that does that
7 for you, doesn't it?

8 A Another agent did it, yes.

9 Q Another agent -- you have to call this other agent out,
10 have him wire Mr. Dottore up, and then -- and then have him go
11 see someone with a body bug on, right

12 A Yes, wire Mr. Salem up, yes.

13 Q I'm sorry, Mr. Salem up. And what you're telling us then
14 from January of '95 that's what, two years and eleven months,
15 it just came that this here had been recorded?

16 A Yes, I told you that.

17 Q Okay. Now in that conversation -- remember yesterday we
18 were hearing the conversation about Mr. Dottore telling Mr.
19 Salem that the judge doesn't want to meet with him, he doesn't
20 want to golf with him, et cetera, et cetera?

21 A Yes.

22 Q Okay. But isn't it true that in the January 3rd
23 conversation, it was Mr. Salem who suggested, the day before,
24 to Mr. Dottore that he wanted to go out and eat and golf with
25 the judge?

1 A That's correct.

2 Q Okay. As a matter of fact, prior to the conversation
3 that we played, and I asked you to review that conversation,
4 didn't I, during one of the breaks?

5 A Yes.

6 Q And during that conversation, what actually had happened,
7 had it not, it was Mr. Dottore initially thought that Mr.
8 Salem was talking about the -- that them going out with their
9 wives, if you would, the "girls," as they put it, to go out
10 and then Mr. Dottore, when he found out he was talking about
11 going out with the judge, he told Mr. Salem the day before
12 that conversation, no, the judge isn't going to go with us,
13 correct?

14 A Correct.

15 Q He's said, nope, no way, he isn't -- he won't go with the
16 three -- just the three of us --

17 A That's correct.

18 Q -- isn't that correct?

19 A That's correct.

20 Q So that was all done at the instigation of a conversation
21 by Mr. Salem the day before, wasn't it?

22 A Yes.

23 Q Okay. So Mr. Salem had already been told the day before
24 that Mr. Dottore didn't want him to meet the judge.

25 A Right.

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1 Q Okay. He didn't want him to go golfing with him. He
2 didn't want him to go eat with him.

3 A Right.

4 Q Okay. Now, of course, part of your investigation, I
5 assume, was to try to get Mr. Salem to meet with Jerry
6 Bongiovanni.

7 A We attempted to, yes.

8 Q Okay. You attempted to do that. And isn't it true that
9 every time Mr. Salem tried to meet with Mr. Bongiovanni during
10 the whole period of time, and I won't go through the -- all
11 the contacts so we can get this going, but during that whole
12 period of time, it was Mr. Dottore that always told Mr. Salem
13 that the judge wouldn't meet with him.

14 A That's right.

15 Q Okay. There is never anything where we had where the
16 judge said he wouldn't meet with him, was there?

17 A No.

18 Q As a -- it was always Dottore putting the road block up
19 for one reason or another, wasn't it?

20 A Mr. Dottore always said that Judge Bongiovanni would not
21 meet with Mr. Salem --

22 Q Okay.

23 A -- yes.

24 Q Now, in addition, part of -- part of your -- your plan
25 was to try to get Mr. Flangas, who ended up being the

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1 attorney, Mr. Flangas having Mr. Salem go and ask Mr. Flangas,
2 can we get this case dismissed, isn't that correct?

3 A Yes.

4 Q Well, isn't it true that even as we sit here today, that
5 we don't even know what it is that Jerry Bongiovanni was
6 supposed to do for this five thousand dollars (\$5,000), do we?

7 A No.

8 Q Even though you told the grand jury that he was supposed
9 to dismiss the case, right?

10 A That was what the plan was, yes.

11 Q Okay. Well, you told the grand jury under oath that that
12 is in fact what the scheme was.

13 A Yes, it was.

14 Q Okay. But as we sit here today, you don't even know, as
15 the case agent, after all this time what it is -- you already
16 said what he was -- what Jerry Bongiovanni was supposed to do,

17 right? Now, you, of course, went in front of the grand jury
18 on a number of times, isn't that correct?

19 A Yes.

20 Q And I want to just ask you concerning some of those
21 things. First, let me go with the Louis Olejack matter, okay?

22 A Yes.

23 Q Now what you told us on -- the last day or two that
24 you're investigating this allegation of -- of a bribe of Jerry
25 Bongiovanni through Salem and Dottore for Louie Olejack,

1 right?

2 A Yes.

3 Q And Louie Olejack was alleged to have been a card cheat,
4 I guess, for a better description.

5 A Yes.

6 Q Okay. And you were aware of this, I think, supposedly
7 sometime in late '93?

8 A Well, no, I think we would have been aware of it in '94.

9 Q Now I thought that the conversations were referring back
10 to November of '93, maybe I'm wrong --

11 A But we didn't have the --

12 Q -- but at least late '93 or early '94.

13 A -- in '93, we didn't have the wire up, so I wouldn't
14 have been aware of it.

15 Q Well, you could have been aware of it, because you said
16 you had Special Agent Johnson in under cover before the
17 beginning of '94, didn't you?

18 A But I don't remember any discussion --

19 Q Okay.

20 A -- of Mr. Olejack.

21 Q You don't remember. But in any event, early on in this
22 investigation is what we were talking about Louie Olejack,
23 right?

24 A Yes.

25 Q Okay. Now in the Louie Olejack case, what this arose out

1 of was an alleged Caribbean Stud scheme, right, out at
2 Stateline?

3 A Actually, there was two separate cases.

4 Q Okay. There was one at Harrah's, and that was the
5 bending of cards case?

6 A Yes.

7 Q Isn't that correct? Where Mr. Olejack was alleged to
8 have bent the cards in such a manner that someone could read
9 the cards as they were dealt, right?

10 A That's correct.

11 Q That's known as crimping or bending, right?

12 A Yes.

13 Q Okay. Then the second one was supposedly they had a --
14 there was supposed to have been a scheme on a Caribbean Stud
15 game out at Stateline, right?

16 A That's correct.

17 Q And Caribbean Stud is just some sort of card game that's
18 been invented recently for casino play, right?

19 A Yes.

20 Q And those were the -- those were the two cases, right?
21 Correct?

22 A Yes.

23 Q Now you were aware, were you not, as a case agent that
24 the Caribbean Stud case or the Stateline case was in front of
25 Justice of the Peace Jan Smith out of Goodsprings?

1 A Yes.

2 Q And you're also aware that the Harrah's, the bending
3 case, was in front of Justice of the Peace Bill Jansen --

4 A Yes.

5 Q -- isn't that correct? Now did you talk to Judge
6 Jansen --

7 A Not about --

8 Q -- about this case?

9 A -- this case, no.

10 Q Now you know who Judge Jansen is, don't you?

11 A Yes.

12 Q You used to work with him, didn't you?

13 A No, I didn't work with him. He retired before I got
14 here.

15 Q He retired before you got there?

16 A Yes.

17 Q Okay. And -- but you didn't go over and ask him about
18 this case that was pending in front of him?

19 A No.

20 Q Did you go out and talk to Judge Smith about the case
21 that was pending?

22 A No.

23 Q Did you pull the records even on these cases?

24 A Yes.

25 Q When did you pull them?

1 A It would have been in 1994.

2 Q Okay. In 1994 then, with the bending case, that -- the
3 bending case was in front of Judge Jansen in justice court
4 here, and then the Caribbean Stud case was in front of Judge
5 Smith out at Goodsprings, right --

6 A Yes.

7 Q -- Stateline, right?

8 A Right.

9 Q Now, those two cases remained in justice court, the
10 various justice courts, until approximately September of 1994,
11 isn't that correct?

12 A I believe so, yes.

13 Q Okay. And then in September of 1994, and I take it with
14 no input from you, you being the FBI, that the Clark County
15 District Attorney's office decided to indict Mr. Olejack on
16 both those cases, isn't that correct?

17 A That's right.

18 Q And so what they did is, they consolidated the
19 Goodsprings case and they consolidated the justice court case
20 in front of Judge Jansen and they consolidated them into a
21 State indictment, is that correct?

22 A That's right.

23 Q And that State indictment was randomly tracked to
24 Department VII of District Court, wasn't it?

25 A Yes.

1 Q And Department VII of District Court is not Judge
2 Bongiovanni's court, was it?

3 A No.

4 Q Okay. His was Department IV.

5 A That's right.

6 Q This here was actually put in front of Judge Bill Maupin.

7 A Right.

8 Q Okay. And so that is the sequence of the way these
9 courts were at -- where they physically were through the time
10 period that we're talking about, isn't that correct?

11 A Up to that point, yes.

12 Q Okay. And then -- then at some point in time I think it
13 was in February of 1995, Mr. Olejack entered into plea
14 negotiations in front off Judge Maupin in Department VII,
15 didn't he?

16 A Yes, I believe so.

17 Q Okay. And he was then granted probation and went on his
18 way.

19 A Yes.

20 Q Okay. As a matter of fact, what he did is he pled guilty
21 to the Harrah's case and they dismissed the Caribbean Stud
22 case.

23 A Right.

24 Q Isn't that correct?

25 A That's correct.

1 Q Okay. So at no time did -- did Mr. Olejack ever pay any
2 money to either Mr. Dottore or Mr. Salem, did he?

3 A No.

4 Q As a matter of fact, you heard this and became aware of
5 -- their scheme was is it -- that Dottore started out at five,
6 doubled it to ten and then him and Mr. Salem doubled it to at
7 least twenty.

8 A That's right.

9 Q Okay. And there's indication that they may have even
10 asked for more, isn't there?

11 A That's right.

12 Q Okay. Now the situation is that Mr. Olejack never paid a
13 penny, did he?

14 A No, he didn't.

15 Q Okay. Now what we have then, is in the Olejack case, we
16 have the case going from Goodsprings in Justice Court 5 into

17 District Court VII, right? That's the sequence over about a
18 year --

19 A Yes.

20 Q -- a year or so, wasn't it?

21 A Yes.

22 Q Okay. Where -- it then finally ends up being disposed of
23 in the same department it got assigned to pursuant to the
24 random selection process, right?

25 A That's right.

1 MS. SHOEMAKER: Objection, Your Honor. This has all
2 been asked and answered.

3 THE COURT: It has been asked and answered, counsel.

4 BY MR. PITARO:

5 Q Now -- now we've had -- there's been testimony about the
6 amount of the splits on the Cal Fed case, and isn't it true
7 that you were aware that Mr. Salem had, in fact, paid the --
8 how much -- what was it, at one time he paid about forty-four
9 thousand dollars over to Mr. Jerdan? He took forty to go back
10 to California with.

11 A That's right, yes.

12 Q And we know that he skimmed ten off the top there, right?

13 A Yes.

14 Q Okay. And then of the forty -- there was about forty-
15 four thousand left on that withdrawal, correct?

16 A I'd have to look at all of the --

17 Q Okay.

18 A -- individual figures that --

19 Q Well, wasn't it -- let me just help you out. Wasn't it,
20 that of the four people involved, Salem took another eleven
21 thousand (11,000) and left about thirty-three thousand
22 (33,000) to be divided between Quintana, Jerdan, and Dottore?

23 MS. SHOEMAKER: Your Honor, I'm going to have to
24 object to this line of questioning. Mr. Pitaro has already
25 elicited from Mr. Salem this impeachment material. This is

1 not going to any prior inconsistent statement or anything.
2 Mr. Salem acknowledged where he scammed people out of money in
3 that bank fraud.

4 MR. PITARO: Your Honor, I'm entitled to go into
5 this agent's understanding because they brought out in direct,
6 and that's all I'm doing, is his understanding as case agent.

7 THE COURT: Well, you examined him during your
8 cross-examination, didn't you, of the total --

9 MR. PITARO: Not him.

10 THE COURT: -- amount of the scams?

11 MR. PITARO: This is the first time he's been on the
12 stand. I can -- they can't ask -- with all due respect,
13 Judge --

14 THE COURT: Well, now, just a minute. Didn't you
15 make inquiry and talk to this witness about --

16 MR. PITARO: This witness?

17 THE COURT: Yes.

18 MR. PITARO: Not about the split, no.

19 MS. SHOEMAKER: With Mr. Salem he did, Your Honor,
20 and to that extent --

21 MR. PITARO: I'm talking about this witness.

22 MS. SHOEMAKER: -- this is just cumulative. There's
23 no prior inconsistent statement.

24 THE COURT: Well, there were some questions about
25 the total amount of the scam.

1 MR. PITARO: All right. Let me -- let me just --

2 THE COURT: Go ahead.

3 MR. PITARO: -- couple now and I'll get out of
4 there.

5 THE COURT: If you can get to it briefly.

6 MR. PITARO: Okay.

7 BY MR. PITARO:

8 Q What it was, was, there was about thirty-three thousand
9 dollars under one of those withdrawals that was turned over to
10 Jerdan, right?

11 A Without all the documents and the figures, I really
12 couldn't say which dollar went where.

13 Q Well, I'm not asking you which dollar went where, all I'm
14 saying is, is that Salem, according -- as case agent, you were
15 aware that Salem on the eighty-five thousand (85,000)
16 withdrawal, took forty thousand (40,000), he said, for
17 California, he took ten off that, that left about forty-four,
18 forty-five thousand dollars.

19 THE COURT: Counsel, I think what the witness is
20 saying, is without the documentation, he knows about the
21 matter generally, but he can't respond specifically. Is that
22 what you're saying?

23 THE WITNESS: Yes, Your Honor.

24 THE COURT: Okay.

25 MR. PITARO: Okay. Let me -- let me just --

1 BY MR. PITARO:

2 Q You're saying that the case agent -- you can't respond
3 to --

4 THE COURT: He's saying he can't remember off the
5 top --

6 MR. PITARO: Oh.

7 THE COURT: -- of his head. He needs the
8 documentation.

9 THE COURT: Isn't that what you're saying?

10 THE WITNESS: Yes, Your Honor.

11 THE COURT: How much longer are you going to be with
12 this witness, counsel?

13 MR. PITARO: Not much longer, Judge.

14 THE COURT: What do you mean by not much longer?

15 MR. PITARO: Well, I know, I have that tendency,
16 don't I? Hopefully, maybe fifteen, twenty minutes.

17 THE COURT: Okay. I'm going to take noon recess
18 now.

19 MR. PITARO: All right.

20 THE COURT: We'll reconvene at -- I have a 1:00
21 o'clock matter --

22 THE CLERK: Yes, Your Honor.

23 THE COURT: Okay. We'll reconvene at -- try to be
24 prepared to go at 1:15 and it may be between 1:15 and 1:30. I
25 think the 1:00 o'clock matter is relatively brief.

1 Let me meet with you at sidebar for just a moment.

2 THE BAILIFF: All rise.

3 THE COURT: The jury is excused. You are to follow
4 all of the instructions that the Court has given you.

5 (Jury recessed at 12:01 p.m.)

6 (Discussion at sidebar)

7 THE COURT: I wanted to report to you --

8 MR. PITARO: Yeah.

9 THE COURT: -- that I have entered the order --

10 MR. PITARO: Okay.

11 THE COURT: -- relative to Kutash --

12 MR. PITARO: Okay.

13 THE COURT: -- and the warrant has been issued.

14 MR. PITARO: Should I call Oscar?

15 THE COURT: I've called Oscar --

16 MR. PITARO: Okay.

17 THE COURT: -- and I've told him that I've done
18 that, but I think it would be a good idea for you to call him,
19 it isn't resolved, during the lunch hour. I'll put that
20 warrant in the hands of the marshal --

21 MR. PITARO: Okay.

22 THE COURT: -- and they then will --

23 MR. JOHNSON: Could you make the warrant out to the
24 marshals or any duly authorized federal agent?

25 MR. PITARO: I'll see if I can get Oscar to do --

1 THE COURT: I suppose for --

2 MR. PITARO: -- stuff. I don't know how you do
3 these things.

4 THE COURT: Well, I've got it right --

5 MR. PITARO: [unintelligible]

6 THE COURT: -- right in here. You give me the
7 language and I'll create -- you don't have any problem with
8 that as long as it's straight up, but why don't you call --
9 Oscar's prepared for you to call him.

10 MR. PITARO: Okay. I'll do it as soon as I get out.

11 THE COURT: All right.

12 MR. PITARO: Maybe if you want to show him his 302
13 to refresh his recollection so I don't have to waste time on
14 that.

15 THE COURT: . You have no objection to that?

16 MR. JOHNSON: On which point?

17 MR. PITARO: To the --

18 THE COURT: During the recess?

19 MR. PITARO: No. No. No. What you can show him --
20 the same old 302 he did, how he said about the -- the split of
21 the agent --

22 MR. JOHNSON: Oh.

23 THE COURT: Why don't the two of you come back with
24 me, take a look at this warrant, and you tell me how you want
25 it modified and be sure that nobody has any objection.

1 (End of discussion at sidebar)

2 (Court recessed at 12:01 p.m. until 1:32 p.m.)

3 (Jury is present)

4 THE COURT: Please be seated.

5 The Court notes the presence of counsel and as well
6 the defendant.

7 Will counsel stipulate to the presence of the jury?

8 MR. PITARO: Yes, Your Honor.

9 MS. SHOEMAKER: Yes, Your Honor.

10 THE COURT: Okay. Thank you.

11 Mr. Pitaro, you may continue.

12 MR. PITARO: Thank you, Your Honor.

13 CROSS-EXAMINATION (Continued)

14 BY MR. PITARO:

15 Q Mr. Hanford, when we broke for lunch, you were unsure as
16 to the division of the split in the eighty-five thousand
17 dollars (\$85,000). Over the lunch hour, did you have a chance
18 to review documents?

19 A Yes, I had.

20 Q Okay. And the split was as I suggested, it was forty-
21 four thousand (44,000) and forty?

22 A It -- my understanding is, of the eighty-five thousand
23 (85,000), it was -- half was split to people in California and
24 the remaining half was split four ways.

25 Q Okay. What I'm saying, I'm saying that he took forty to

1 California?

2 A Yes.

3 Q Leaving forty-four in --

4 A Well, I think -- I think he said he -- I don't know what
5 Salem said, but I think in the 302, what they said, they split
6 it half, half and half.

7 Q So basically the people in Nevada were supposed to get
8 ten or -- ten to eleven thousand (10,000-11,000) each?

9 A Yes.

10 Q Okay. And then -- and that's where Salem was taking
11 another -- at least ten on the other side?

12 A Right.

13 Q Okay. And that was contained in the 302s that you -- or
14 you reviewed something to come up with that -- that
15 recollection, is that correct?

16 A Yes. I had to do a little math, but --

17 Q Okay.

18 A -- based on the 302.

19 Q All right. Now, in addition to the situation with Salem
20 and Mr. Dottore as far as what Salem was going to be
21 requesting of Mr. Dottore, he was also going to be requesting
22 matters from Mr. Flangas in conjunction with what he was
23 requesting from Mr. Dottore, isn't that correct? This is
24 Terry Salem, after he's been arrested.

25 A Requesting matters?

1 Q Yes.

2 A I don't understand the question.

3 Q All right. Let me go through this. Terry Salem told --
4 went to Pete Flangas, didn't he?

5 A Yes.

6 Q And Dottore told Salem that he did not want Flangas to
7 know about the arrangement Dottore and Salem allegedly had
8 with Gerry Bongiovanni, correct?

9 A Correct.

10 Q Okay. And as a matter of fact, without going through it,
11 but as a matter of fact, there would be a period of --
12 consistent all throughout this time at various times that
13 Dottore would reiterate to Mr. Salem that he -- that Flangas
14 wasn't to know anything.

15 A That's right.

16 Q Okay. Now you as the case agent in directing Mr. Salem,
17 of course, were privy to that information, weren't you?

18 A That's right.

19 Q Okay. Now you could have had Mr. Salem at any point in
20 time tell Mr. Flangas that Gerry Bongiovanni was allegedly
21 doing something wrong, isn't that correct?

22 A Yes, that would have been the end of the investigation.

23 Q Okay. But you could have told him, isn't that true?

24 A Yes.

25 Q Okay. And you told him not to do that, didn't you?

1 A Yes.

2 Q Okay. So what you were doing is, you were telling him
3 the same thing that Dottore was telling him.

4 A Yes.

5 Q But for different reasons.

6 A For different reasons, yes.

7 Q Sure. Now, and so when Flangas is then kept in the dark
8 by not only Mr. Salem, but ostensibly by Mr. Dottore, correct?

9 A Yes.

10 Q Okay. Now, you, during this period of time, would direct
11 Mr. Salem. For example, you started out to have Mr. Salem
12 request of Mr. Dottore if the matter could be quickly
13 dismissed, isn't that correct?

14 A Yes.

15 Q And then Mr. Salem had conversations with Mr. Dottore;
16 correct?

17 A Correct.

18 Q And then Mr. Salem had conversations with Mr. Flangas.

19 A Right.

20 Q And the case was not quickly dismissed, was it?

21 A No.

22 Q Then you had conversations -- or you directed Mr. Salem
23 to tell Mr. Flangas and to tell Mr. Dottore that you wanted
24 the matter moved up from the August, I think it was 17th,
25 1995, trial date, isn't that correct?

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- 1 A "Moved up," you mean as it would come sooner?
- 2 Q Yes, to have the matter heard sooner.
- 3 A Yes.
- 4 Q I think the phrase was, "within the next thirty days or
- 5 so, so I -- we can get this off my back."
- 6 A Yes.
- 7 Q Okay. And then Mr. -- he -- Mr. Salem told Mr. Dottore,
- 8 but that didn't get accomplished, did it?
- 9 A No.
- 10 Q Then you had Mr. Salem -- you directed Mr. Salem to ask
- 11 Mr. Flangas and Mr. Dottore if you could in fact -- if Mr.
- 12 Salem could in fact have the matter tried without a jury.
- 13 A Yes.
- 14 Q In other words, what we call a bench trial?
- 15 A That's right.
- 16 Q Okay. And a bench trial is, instead of having the
- 17 evidence presented to a jury as the triers of fact, it's
- 18 presented to a judge and the judge makes the decision.
- 19 A That's right.
- 20 Q Okay. And that was part of what you were trying to get
- 21 Mr. Salem to accomplish, isn't that correct?
- 22 A Yes.
- 23 Q And that didn't get accomplished did it?
- 24 A No.
- 25 Q Okay. Then we have the conversations where you then sent

1 Mr. Salem in to talk to Mr. Flangas, correct?

2 A Yes.

3 Q Okay. And Mr. Salem was wired, he had a body bug on him
4 when he went in and talked to Mr. Flangas?

5 A Yes.

6 Q So what you did is, you had Mr. Salem wired when he's
7 going in to talk to the attorney who you know doesn't know
8 anything about it, correct?

9 A Yes.

10 Q Okay.

11 A That's what undercover operations are all about.

12 Q Now, when this undercover operation that they're all
13 about was in there, the case then Mr. Flangas -- then
14 chastised in loud, vociferous and profane language Mr. Salem
15 for not coming in and seeing him earlier, isn't that correct?

16 A Oh, yes.

17 Q Okay. As a matter of fact, Mr. Dottore then admits that
18 the information that he was giving to Mr. Salem about his
19 conversation with Mr. Flangas, he really wasn't going down and
20 doing that all the time, was he?

21 A I've lost the train somewhere --

22 Q Okay.

23 A -- along there.

24 Q Dottore's telling Salem that he's talking to Flangas all
25 the time?

- 1 A Yes.
- 2 Q But it's now -- now obvious that Dottore wasn't talking
- 3 to Flangas when he was telling Salem.
- 4 A I think sometimes he was talking to Flangas.
- 5 Q But sometimes he wasn't?
- 6 A Yes.
- 7 Q Some of the representations he's making to Salem that
- 8 what was going to happen pursuant to his conversations with
- 9 Flangas were made up, weren't they?
- 10 A Yes, I believe that's what Mr. Dottore would say.
- 11 Q Okay. And so what we do then, we then have the case down
- 12 to, even in August, and Mr. Dottore now tells Mr. Salem that
- 13 he may have to go to trial anyway, isn't that correct?
- 14 A Yes.
- 15 Q And that -- but still not to worry, because even if he
- 16 goes to trial and lose that he supposedly has the judge --
- 17 A Yes.
- 18 Q -- isn't that correct?
- 19 A That's right.
- 20 Q So all the way through of the directions you gave Mr.
- 21 Salem of trying to accomplish things concerning the
- 22 disposition of the case, they didn't come to be, did they?
- 23 A No.
- 24 Q Okay. Even though Mr. Dottore always assured Mr. Salem
- 25 that they were in fact going to come about, isn't that

1 correct?

2 A No, he would assure him that he would ask about them.

3 Q Okay. That he would try to get it -- that it was going
4 to be, not to worry.

5 A Not to worry.

6 Q I -- I think the re-occurring phrase of Paul Dottore to
7 Terry Salem during this period of time was, don't worry about
8 it.

9 A Right.

10 Q It's all taken care of, right?

11 A Right.

12 Q But in fact, none of those things that we -- you and I
13 just discussed were in fact taken care of, were they?

14 A No.

15 Q Now, so what we then come down to is the -- and let me
16 just carry this theme a little further on the Salem -- go

17 ahead, have some water.

18 A That's all right.

19 Q Now, so what we do is, what we come down to is you then
20 decide because the -- we started now in December of 1994 and
21 how you're down to about October of 1995, and now you decide
22 that you're going to give Salem some more money, isn't that
23 correct?

24 A Right.

25 Q All right. And pursuant to the decision to give Salem

1 some more money, you seek and obtain an authorization for an
2 additional wiretap, isn't that correct?

3 A Right.

4 Q And that wiretap was on the residence of -- of Gerry
5 Bongiovanni, wasn't it?

6 A Among others, yes.

7 Q Okay. And Dottore?

8 A And Dottore.

9 Q Okay. And what you told us yesterday, or the day before
10 yesterday, is that when you conducted the search pursuant to
11 the search warrant which was on October 17th, 1995, that you
12 were not aware of the Kutash calls.

13 A Right.

14 Q Okay. But in truth and in fact you were aware of the
15 calls going between Dottore and Star Leavitt, weren't you?

16 A Not on the day of the search, no.

17 Q Okay. Well, isn't it true that you told us yesterday
18 that the reason that the -- there was no additional search for
19 the ten -- the five thousand dollars (\$5,000) was because it
20 had been reported to you that there was supposed to be a drug
21 deal?

22 A The -- you're mixing two things together. That's not
23 accurate, no.

24 Q Isn't it true that -- isn't it true that Agent Howey, and
25 he is an agent with the FBI --

1 A Right.

2 Q -- was monitoring telephone calls the weekend of the 14th
3 and the 15th --

4 A At least on the 15th.

5 Q -- of October. Huh?

6 A On the 15th he was.

7 Q Okay. And that Agent Howey came to you prior to the
8 search and told you that he thought there was a drug deal
9 going down.

10 A He called me on the phone on the evening of the 15th, and
11 he didn't -- that was -- those were not his words.

12 Q Did he indicate to you that there was going to be a drug
13 deal?

14 A He said he had overheard a conversation and he described
15 the conversation to me; and I asked him what his impression of
16 it was, and he said it sounded to him like a drug deal.

17 Q Okay. You got a call on Sunday night and he told you it
18 may be a drug deal, correct?

19 A That's what I just said, yes.

20 Q Okay. And you didn't do anything to investigate that,
21 did you?

22 A No.

23 Q Okay. Now, the thing is, we've listened yesterday -- and
24 you were in court when we heard these tapes, correct?

25 A Yes.

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1 Q Okay. Now, the people that were listening to these tapes
2 were operating under your direction, weren't they?

3 A Yes.

4 Q These were seasoned, I assume, FBI agents that were
5 listening to these tapes, right?

6 A Some were agents and some were clerical personnel.

7 Q Okay. So clerical person and agents were listening to
8 the conversations, right?

9 A Yes.

10 Q And then they were taking notes as they listened to these
11 conversations, weren't they?

12 A Yes, they keep a log.

13 Q And they were -- they're supposed to be the substance of
14 what was being said, isn't that correct?

15 A Yes.

16 Q And you just told us earlier, before lunch, that if
17 there's nothing to do with any criminal conduct, that what you
18 do is you minimize it, you shut the machine off, right?

19 A Right.

20 Q But we know, don't we, because we listened to the tapes
21 just in the last day or so while you've been sitting up there
22 on the witness stand that you didn't minimize those tapes from
23 the 14th and the 15th, correct?

24 A Which -- which tapes are we talking about?

25 Q Well, we're talking about the first Paul Dottora to Gerry

1 Bongiovanni tape.

2 A Oh, right, yes, those tapes.

3 Q Okay. Then we're talking about the second one and the
4 third one. There was about three or four. I can go through
5 and, you know --

6 A No --

7 Q -- you were listening.

8 A -- they were not minimized.

9 Q Huh?

10 A They were not minimized.

11 Q They were not minimized. So what you're telling us is
12 under the directions that were given to these agents, that
13 they are sitting there listening to these tapes because
14 according to you if there wasn't -- if there wasn't evidence
15 of some conduct, they were to shut the machine off, right?

16 A Yes.

17 Q Okay. And so what you're saying now is, then those
18 people didn't tell you, save and except Agent Howey saying
19 that he thought that this was all about a drug deal, correct?

20 A Correct.

21 Q Okay. And what we have then is the FBI agents listening
22 to these calls, not minimizing them; and what you're telling
23 us is that nothing was done about it.

24 A Not at that time.

25 Q Okay. Now isn't it true that it was your normal

1 procedure to listen to the weekend tapes on the following
2 Monday?

3 A Yes.

4 Q Okay. Now, these tapes -- because you're telling us that
5 you were going to conduct a search on Tuesday, right?

6 A Correct.

7 Q And the search was going to be about the Salem matter,
8 right?

9 A Yes.

10 Q And the reason that you had -- you had actually directed
11 it to occur at that time, didn't you?

12 A Yes.

13 Q I mean, you were the one that caused it to happen on the
14 17th, right?

15 A Right.

16 Q So we now know that over here on the 17th you're going to
17 have a search, right?

18 A Right.

19 Q And we know that you went to a judge and you said, I want
20 wiretaps, okay, so I can pick up information about the Salem
21 alleged bribe, right?

22 A Right.

23 Q And you knew that -- what you were trying to do was get
24 telephone conversations that you could get, and then you could
25 have your search on the 17th when you gave Salem this marked

1 money, right?

2 A Right.

3 Q Okay. But now what you're telling us, that even though

4 you went to all the trouble to get the -- to get the wiretap

5 set up so that you could then go over and do the search on the

6 17th, you're telling us that what you did in this specific

7 case was deviate from your policy and didn't review the

8 wiretaps that you had actually requested for the specific

9 purpose of the search on that Tuesday night, correct?

10 A I didn't review them at that time. I reviewed them

11 later.

12 Q Now you testified back in August, didn't you?

13 A Yes.

14 Q Okay. And you testified, if I could, on page 203 --

15 MS. SHOEMAKER: I'm sorry --

16 MR. PITARO: -- of your testimony --

17 MS. SHOEMAKER: -- which date is this coming from,

18 August?

19 MR. PITARO: The August cross.

20 MS. SHOEMAKER: On which page?

21 MR. PITARO: 203.

22 MS. SHOEMAKER: Okay.

23 MR. PITARO: If I could just approach the witness.

24 THE COURT: You may.

25 //

1 BY MR. PITARO:

2 Q And if you could just look at lines 9, 10 and 11 to 13,
3 if you could read that quickly to yourself.

4 (Pause in the proceedings)

5 A Yes.

6 Q Okay. And isn't it true that you were asked at that
7 time, and before it, but -- and the question was:

8 "So that's the reason there wasn't any surveillance
9 at the Riviera on the night of the 15th?"

10 And your answer was: "No."

11 And the question was: "The reason that there was no
12 surveillance, that you hadn't listened to the calls?"

13 Answer: "No, I knew about the calls.

14 Question: "Oh, you knew about the calls?"

15 And then answer: "Yes."

16 Now that's what you -- that's what you said, isn't that

17 correct?

18 MS. SHOEMAKER: Your Honor --

19 MR. PITARO: And then -- wait a minute, let me
20 finish, please. Okay?

21 BY MR. PITARO:

22 Q Then you went on to explain that you thought it was a
23 drug deal, or Howey told you he thought it was a drug deal,
24 correct?

25 A Then I went on to explain?

1 THE COURT: Just -- just a moment.

2 Yes?

3 MS. SHOEMAKER: Your Honor, I'm going to object to
4 just leaving the questions and answers where Mr. Pitaro left
5 off because it's taken out of context. If he continues on
6 with the next question and answer, it will explain what Mr.
7 Hanford actually testified to.

8 THE COURT: Why don't you go on, counsel.

9 MR. PITARO: Well, I think I did.

10 BY MR. PITARO:

11 Q Didn't I say that then you went on and you characterized
12 that Agent Howey then said --

13 THE COURT: No, read the questions and answers.
14 It's the same as 106, counsel.

15 BY MR. PITARO:

16 Q "Well, when did you listen to the calls?"

17 Answer: "I got a call. I didn't listen -- or that's not
18 how I knew. I got a call from Agent Howey on Sunday
19 night, didn't tell me all the calls, he called me and
20 said, there appeared to be in his characterization a drug
21 deal. He said someone's coming into town, someone's
22 bringing something. He says it sounds like it might be a
23 drug deal."

24 Correct?

25 A Correct.

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1 Q Okay. And that was the reason you're now saying -- or
2 you said that there wasn't a surveillance under Riggio
3 [phonetic], correct? Because the information you knew on
4 Sunday.

5 A I made a judgment not to do a surveillance of what Agent
6 Howey thought might be a drug deal.

7 Q Now when we go to the 17th, you had previously got a
8 search warrant, correct?

9 A It may have been the same day --

10 Q Do you --

11 A -- or the day before.

12 Q -- remember when?

13 A It was either the same day or the night before.

14 Q Okay. Now you went over in fact and searched, or
15 participated in as the case agent in the -- the execution of
16 the search warrant in Gerry Bongiovanni's house, isn't that
17 correct?

18 A I was there.

19 Q Well, you were the case agent, weren't you?

20 A Yes, I was the case agent.

21 Q You were the guy in charge.

22 A Not of the search, but I was the case agent.

23 Q Well, you were the case agent so you were the case agent
24 who was in charge of the guy who was in charge of the search.

25 A Yes.

1 Q Okay. And I just want to ask you this: isn't it true
2 that when you came in, you had the FBI jackets on?

3 A Blue jackets. They say FBI in yellow letters, yes.

4 Q Okay. The yellow one like we see on TV with the yellow
5 lettering?

6 A I don't know what you're seeing on TV, but --

7 Q Okay.

8 A -- they're blue with yellow letters.

9 Q All right. And there was -- you testified on direct
10 examination, one of the agents was in searching Mrs.
11 Bongiovanni's bedroom, correct?

12 A Yes.

13 Q Okay. And you were aware that she was critically ill?

14 A Yes.

15 Q Now you also were aware that Angela, the daughter, was
16 there?

17 A I didn't see her, but I understand from other people that
18 she was there.

19 Q Okay. And G.B., his son, was there?

20 A I saw him, yes.

21 Q Well, because he was in the room with his mother, wasn't
22 he?

23 A I didn't see him in there. I did see him in the kitchen
24 area.

25 Q Okay. And the kitchen area was in fact searched, people

1 were going through the cupboards and anything.

2 A I didn't see that.

3 Q And as a matter of fact, were you then when they went in?

4 A No.

5 Q And you said that you were out there with a Mr. Toliatti
6 [phonetic]?

7 A Supervisor Togliatti, he was my boss, I guess you'd say.

8 Q Okay. So he was there, too.

9 A Yes, he didn't go inside, but he was outside. Yes.

10 Q Okay. Because he's not mentioned in these 302s as being
11 there.

12 A No, he didn't participate. He was just there to observe.

13 Q All right. Now -- so you were the one that then directed
14 Agent Byers and Detective Nicholson to go into the house?

15 A Yes.

16 Q All right. Isn't it true that the procedure when you're
17 going into -- on a search warrant is to be very assertive?

18 A It depends on the circumstances.

19 Q Okay. Well, isn't it true that you're trained to be
20 assertive, to take control of the situation?

21 A Mr. Pitaro, I told you, it depends on the circumstances.

22 Q Well, isn't it true that the people were -- Nicholson and
23 Byers were being assertive in a loud manner on that night?

24 A As I said on direct, I never heard a loud statement from
25 either -- any of the agents or any of the Bongiovanni family.

1 Q What about yourself?

2 A Or me.

3 Q Well, isn't it true that you weren't there when they went
4 in?

5 A No, I was outside.

6 Q Okay. And so maybe they were loud and you didn't hear
7 them, huh?

8 A I wasn't there.

9 Q Okay. So you don't know.

10 A I can't -- I can't tell you. I wasn't there.

11 Q So you don't know if they were or not.

12 THE COURT: He's answered the question, counsel.

13 BY MR. PITARO:

14 Q Now, let me go on to another area, and that goes to --
15 your testimony under -- here is under oath today, isn't it?

16 A Yes, it is.

17 Q And you testified in front of the grand jury, didn't you?

18 A Yes.

19 Q And then you were the one that executed, or signed
20 warrants, search warrants and things of that nature?

21 A Yes.

22 Q Okay. And wiretaps?

23 A Yes.

24 Q Okay. And isn't it -- if we could, if I could play
25 Exhibit 547-1, which is --

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1 THE COURT: Has that been received already, counsel?

2 MR. PITARO: Judge, 121 was received which was the
3 Government's Exhibit.

4 THE COURT: And you're asking --

5 MS. SHOEMAKER: I'm sorry, Your Honor, can -- Mr.
6 Pitaro, can you repeat --

7 MR. PITARO: It's your -- it's your Exhibit 121.

8 MS. SHOEMAKER: Can you give me the date and time of
9 that and I'll find your copy that you want to introduce?

10 MR. PITARO: I'll get it for you in one minute.

11 It's a tape of January 3rd, 1995. Actually, if they
12 just have 121, it might be just as easy for the purpose of
13 which I'm going to do, or you could just look at the
14 transcript.

15 THE COURT: Whatever, counsel.

16 Do you have 121 before you?

17 THE WITNESS: Yes, I do, Your Honor.

18 BY MR. PITARO:

19 Q Now -- now 121 is the tape of the conversation, okay, and
20 in that tape, the portion that isn't played is that Paul
21 Dottore is calling Gerard Bongiovanni and he initially starts
22 inquiring about how his eyes are doing, correct?

23 A Do you want me to look at your exhibit?

24 Q Yeah, whatever's easier.

25 A What's your exhibit?

1 Q It'd be 547-1. And let me just give you the factual
2 scenario. What had happened was earlier in the day --

3 THE COURT: Well --

4 MR. PITARO: -- according to what we have --

5 THE COURT: -- now just a -- just a moment. 547 has
6 not yet been received, and so the jury should not --

7 MR. PITARO: 547-1.

8 THE COURT: Well, that's not been received.

9 MR. PITARO: Okay. Then I would move for it to be
10 received.

11 THE COURT: Do you have any objection to it being
12 received?

13 MS. SHOEMAKER: No, Your Honor, we don't.

14 THE COURT: Okay. 547 will be received.

15 MR. PITARO: Thank you, Judge.

16 (Defendant's Exhibit 547-1 admitted)

17 MR. PITARO: Judge, I think it has the dash on it.
18 Those are the ones where I put the dash behind it so --

19 THE COURT: 547-1? Actually it's 547-1A, I take it.

20 MR. PITARO: Yeah, 1A is the transcript.

21 THE COURT: Yes.

22 (Off-record colloquy with the clerk)

23 THE COURT: Do you want to play the tape?

24 MR. PITARO: Yes, let me just play the tape, if I
25 could, Judge.

1 THE CLERK: Give her the tape. Then if I can have
2 the transcript.

3 MR. PITARO: Let me just do it that way then.

4 (Off-record colloquy)

5 (Pause in the proceedings)

6 BY MR. PITARO:

7 Q And this is a call dated 1/3 from Paul Dottore to Gerard
8 Bongiovanni, correct?

9 A Correct.

10 Q Okay.

11 MS. SHOEMAKER: For the record, I suppose we should
12 state what year it is as well, and time.

13 MR. PITARO: 1/3/95, 2022.

14 THE COURT: Okay. You may play the tape

15 (Defendant's Exhibit 547-1 played)

16 BY MR. PITARO:

17 Q All right. Now Agent Hanford, you listened to that
18 conversation, is that correct?

19 A That's correct.

20 Q I want to direct your attention to the third page, about
21 a little after half-way down, okay?

22 A Yes.

23 Q And where it says: "Bongiovanni: You've got a mortgage
24 payment out of there." Correct?

25 A Correct.

- 1 Q Okay. Now you heard that on the tape, didn't you?
- 2 A I've never heard it that way, I'll be honest with you.
- 3 Q Well, "You've got a mortgage payment out of there" is on
- 4 the tape, isn't that correct? You --
- 5 A When I hear it, I hear it as "I got a mortgage out of
- 6 there." That's what I hear.
- 7 Q Well, why don't we -- we've stipulated that this is that
- 8 and we've heard the testimony, right?
- 9 A You've heard the tape.
- 10 Q Yeah. Now, let me ask you this, up until August of 1997,
- 11 this tape read different, didn't it?
- 12 A It said, "I got a mortgage payment of there." That's --
- 13 Q That's right. It said "I got a mortgage payment" instead
- 14 of "You got a mortgage payment," correct?
- 15 A Right.
- 16 Q As a matter of fact, you went and told the grand jury
- 17 under oath that's what the tape said, isn't that correct?
- 18 A And that's the way I hear it. Yes.
- 19 Q And that's what you put in the search warrant, isn't that
- 20 correct? Your affidavit in support of a wiretap
- 21 authorization.
- 22 A Probably did. That's the way I hear it.
- 23 Q And so what we have then is the situation that the
- 24 official tape totally contradicts what you say, right?
- 25 A I don't think it contradicts at all.

1 MS. SHOEMAKER: Your Honor, I would object to that.
2 The tape --

3 THE COURT: Sustained.

4 MS. SHOEMAKER: -- doesn't contradict what the
5 agent's saying.

6 THE COURT: Sustained.

7 BY MR. PITARO:

8 Q Isn't it true that the transcript that's been stipulated
9 to be accurate --

10 MS. SHOEMAKER: The transcript has not been
11 stipulated to be accurate, and Your Honor has instructed the
12 jury that it's the tape that controls, not the transcript.

13 MR. PITARO: Okay.

14 THE COURT: And that's still the --

15 MR. PITARO: Okay. Why don't we do this, if I
16 could.

17 BY MR. PITARO:

18 Q Why don't you look to the government's exhibit book, 121.

19 MS. SHOEMAKER: We'll stipulate that the
20 government's transcript now has it as "You got a mortgage
21 payment out of there."

22 BY MR. PITARO:

23 Q Will you look at -- I'd don't -- I'd rather you do it so
24 we can have it on the record. Why don't you look at 121. And
25 that's the tape the government put in, right?

1 A That's right.

2 Q Okay. And that's the one that's in evidence, or in as a
3 aid to the jury, correct?

4 A It's not evidence.

5 Q Well, I'm sure the Judge can handle that. I'd said it is
6 the --

7 THE COURT: Well, he's correct.

8 MR. PITARO: -- transcript.

9 THE COURT: It is not evidence. I've told them it
10 isn't evidence. The tape is the evidence.

11 MR. PITARO: I understand that, Judge.

12 BY MR. PITARO:

13 Q But the government transcript 121 has it different,
14 correct?

15 A Yes, it does.

16 Q Okay. Well, then let's go to another one then and maybe
17 it'll be a little different on it.

18 MR. PITARO: If we could play then Exhibit --

19 BY MR. PITARO:

20 Q Well, before I get on that one, remember earlier in the
21 day I asked you about that we didn't know what was -- Judge
22 Bongiovanni was supposed to be doing. And you said, to this
23 day, we really don't know. Remember that? And I mentioned,
24 isn't it true you said in the grand jury that all charges were
25 to be dismissed; and you said, you didn't remember that.

1 Remember me asking you that earlier in the day?

2 A No, I don't understand the question.

3 MS. SHOEMAKER: I don't believe that's what Agent
4 Hanford said, Your Honor.

5 BY MR. PITARO:

6 Q Well, me just ask you this: didn't you tell the grand
7 jury under oath that Dottore assured Salem that the charges
8 would all be dismissed?

9 THE COURT: Just -- just a moment.

10 MS. SHOEMAKER: Objection, Your Honor. There hasn't
11 been an inconsistent statement here. This isn't proper for
12 Mr. Pitaro to be reading from the grand jury transcript
13 without --

14 THE COURT: Why don't you --

15 MS. SHOEMAKER: -- the agent denying something.

16 THE COURT: -- come up to sidebar.

17 (Discussion at sidebar)

18 THE COURT: Did you talk with Mr. Goodman?

19 MR. PITARO: Right. I saw him when he was leaving
20 the courthouse.

21 THE COURT: It's my understanding that --

22 MR. PITARO: I'll serve him.

23 THE COURT: -- that he will accept service.

24 MR. PITARO: He said he'll accept it.

25 THE COURT: Okay.

1 MR. PITARO: Okay?

2 THE COURT: Go ahead.

3 MR. PITARO: Judge --

4 THE COURT: What's this all about?

5 MR. PITARO: What we had was, earlier in the day --

6 THE CLERK: Shh.

7 MR. PITARO: -- earlier in the day --

8 THE COURT: Come on over here.

9 MR. PITARO: Earlier in the day he said that, as we
10 hear, that never show of what it was. And I said, isn't -- I
11 believe I said that --

12 THE COURT: What are you talking about?

13 MR. PITARO: It's about the idea that all the
14 charges will be dismissed and that's what he said. And so
15 it's a bit inconsistent with what he said, and that's all --
16 that's what I want to show them then.

17 THE COURT: That all charges be dismissed?

18 MR. PITARO: That he told the grand jury that
19 Dottore assured Salem that all the charges would be dismissed.
20 And when I asked him earlier in the day, as over here, that we
21 don't know -- you don't know as you're sitting here what it
22 was that Judge Bongiovanni was supposed to do for the five
23 thousand. He said, no, I don't.

24 MS. SHOEMAKER: Your Honor, Mr. Pitaro also had
25 asked him, isn't it true that Mr. Dottore told Mr. Salem at

1 various times that Bongiovanni was going to do different
2 things, and that we don't know what it was that was supposed
3 to be agreed to. And Agent Hanford said, yes.

4 And the evidence is, and what's come out in the
5 trial in the tapes is that, at times Paul Dottore said Gerard
6 Bongiovanni was going to dismiss the case. At other times he
7 said other things. Other times he said, Bongiovanni just
8 said, don't worry about it, it'll all be taken care of.

9 MR. PITARO: I don't have to ask that though.

10 MS. SHOEMAKER: And what he said is, that we don't
11 know what Bongiovanni agreed to do.

12 MR. PITARO: Well --

13 THE COURT: But --

14 MR. PITARO: I'm going to ask him that --

15 THE COURT: Just --

16 MR. PITARO: -- that you told the grand jury that
17 all the charges would be dismissed, and you told him that --

18 THE COURT: Now you're talking about the dismissal
19 of the --

20 MR. PITARO: The Salem charges, yes.

21 THE COURT: -- the Salem charges.

22 MR. PITARO: Yeah.

23 THE COURT: Well, just ask him that.

24 MR. PITARO: Well, that's what I was doing.

25 THE COURT: Isn't it true that you did thus and

1 SO --

2 MR. PITARO: In front of the grand jury under oath.

3 Yeah. That's all.

4 THE COURT: He's read this, hasn't he?

5 MR. PITARO: I assume so.

6 MS. SHOEMAKER: Oh, yeah, I'm sure he has.

7 THE COURT: Okay. Yeah, you can ask him.

8 (End of discussion at sidebar)

9 BY MR. PITARO:

10 Q Agent Hanford, isn't it true that on August 9th, 1996,
11 you, while under oath in front of the grand jury seated here
12 in Las Vegas, told the grand jury that Dottore assured Salem
13 that all the charges would be dismissed; and that Dottore said
14 -- told Salem that they'd need two thousand for Flangas and
15 five thousand for the judge in order to get the charge
16 dismissed. Isn't that true that's what you said?

17 A I believe that's what I said except for, I think you have
18 the date wrong. But other than that.

19 Q I have it as -- you did testify on August 9th, 1996,
20 didn't you?

21 A I --

22 Q I'm sorry.

23 A I --

24 Q Did I say August? I meant April.

25 A Yes.

IN THE SUPREME COURT OF THE STATE OF NEVADA

FILED

MICHAEL RIPPO,
Appellant,
-vs-
E.K. McDANIEL, et al.,
Respondent.

No. 53626

OCT 19 2009

TRADIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

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1 Q Okay. And you were in back of him, correct?

2 A That's correct.

3 Q And Agent Hanford was in front of him?

4 A Yes, coming up towards him, yes.

5 Q So at this time Agent Hanford was on one side of him and

6 you were on the other side of him? That's correct?

7 A Yes.

8 Q And he asked could he go check on his wife, isn't that

9 correct?

10 A Prior to him going down the hallway --

11 Q Okay.

12 A -- and when he was sitting in the kitchen area, he had

13 asked if he could go --

14 Q He was concerned --

15 A -- check on his wife.

16 Q -- about his wife, wasn't he?

17 A Yes.

18 Q Okay. And he was concerned about what was going on,

19 isn't that correct? Well, he kept asking, he wanted to talk

20 to the person who was in charge, didn't he?

21 THE COURT: Did the witness respond?

22 MR. PITARO: Did he -- well, let me ask --

23 THE WITNESS: I don't know how concerned he was or

24 not. He was sitting there reading the papers and then he had

25 asked if he could go check on his wife.

1 BY MR. PITARO:

2 Q So he asked you if he had permission to go check on his
3 wife?

4 A Yes.

5 Q Okay. And he wanted to know who was in charge, didn't
6 he?

7 A Prior to that. That was Special Agent Hanford.

8 Q Well, I -- he -- no, Jerry Bongiovanni wanted to talk to
9 the person in charge, isn't that correct?

10 A He did, Special Agent Hanford.

11 Q I didn't ask you, did he do it later, I said, didn't he
12 want to talk to the person in charge? Now is that difficult?

13 MS. SHOEMAKER: Your Honor, I'm going to object
14 to --

15 THE COURT: Counsel, I don't want that to happen
16 again.

17 BY MR. PITARO:

18 Q Did Jerry Bongiovanni articulate by means of words his
19 desire --

20 THE COURT: Just a minute. I think you -- do you
21 understand the question?

22 THE WITNESS: No, Your Honor, I don't. I don't know
23 --

24 THE COURT: The question is, did he ask to talk to
25 the person in charge.

08009-BONG0505

1 THE WITNESS: At that point?

2 BY MR. PITARO:

3 Q At any point, Detective Nicholson, any point?

4 A I don't recall if he did or not.

5 Q Well, didn't Mr. Byers go out and get Hanford at Mr.
6 Bongiovanni's request?

7 A No.

8 Q And Mr. Bongiovanni said there were so many people in his
9 house he was worried about his wife, right?

10 A Yes, he had made reference --

11 Q Okay.

12 A -- to that nature that he had --

13 Q Okay.

14 A -- had some concerns and wanted to go in and check on
15 her.

16 Q And did you see who the FBI agent was that was in his
17 wife's bedroom at this time?

18 A No, I did not.

19 MR. PITARO: I have nothing further.

20 THE COURT: Anything further?

21 MS. SHOEMAKER: Just one moment, Your Honor, please.

22 (Pause in the proceeding)

23 MS. SHOEMAKER: No further questions, Your Honor.

24 THE COURT: Okay. We'll take our noon recess. The
25 jury is instructed as you have been.

1 Mr. Nicholson, keep yourself available in case
2 you're called again. You're not leaving town are you?

3 THE WITNESS: No, sir.

4 THE COURT: Okay. We'll be in recess.

5 MR. JOHNSON: I'm sorry, Your Honor, when did you
6 say we'd be back?

7 THE COURT: At 1:30.

8 MR. JOHNSON: 1:30?

9 (Court recessed at 11:56 a.m. until 1:33 p.m.)

10 (Jury is not present)

11 THE COURT: Be seated, please.

12 Counsel, you want to come to sidebar, please.

13 (Discussion at sidebar)

14 THE COURT: What I want you to do is come over here.

15 MR. PITARO: That's fine.

16 THE COURT: I know that you don't mean to

17 communicate with the jury. My recollection is that this thing
18 already is in, and there was no motion to strike. Didn't he
19 -- wasn't he asked and didn't he say something about
20 counterfeit?

21 MS. SHOEMAKER: No, I don't believe so, Your Honor.

22 THE COURT: I think he did. I'll play the tape back
23 and see.

24 MS. SHOEMAKER: My --

25 THE COURT: It's a very close question. It isn't a

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1

United States District Court
District of Nevada
Las Vegas, Nevada

CLERK, U.S. DISTRICT COURT
DISTRICT OF NEVADA

BY LD 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:

NORTHWEST TRANSCRIPTS, INC.
Las Vegas Division
P.O. Box 35257
Las Vegas, Nevada 89133-5257
(702) 658-9626

Proceedings recorded by electronic sound recording, transcript
produced by transcription service.

1 today. Let's get it resolved and done with.

2 THE COURT: Why don't we see if we can get him here
3 at noon -- or at 5:00 tonight.

4 THE CLERK: 5:00 today?

5 THE COURT: Yes.

6 THE CLERK: Okay.

7 (Pause in the proceeding)

8 (Jury convened at 1:45 p.m.)

9 THE COURT: Please be seated.

10 Will counsel stipulate to the presence of the jury.

11 MR. PITARO: Yes, Your Honor.

12 MS. SHOEMAKER: Yes, Your Honor.

13 THE COURT: Thank you.

14 Call your next witness please.

15 MS. SHOEMAKER: Government calls Agent Hanford.

16 JERRY HANFORD, PLAINTIFF'S WITNESS, IS SWORN

17 THE CLERK: Thank you. Please be seated. Please
18 state your name and spell your last name for the record.

19 THE WITNESS: Jerry Hanford, H-A-N-F-O-R-D.

20 THE CLERK: What city and state do you reside in?

21 THE WITNESS: Las Vegas, Nevada.

22 THE CLERK: Thank you.

23 DIRECT EXAMINATION

24 BY MS. SHOEMAKER:

25 Q Agent Hanford, will you please tell the jury how you're

1 employed?

2 A I'm employed as a special agent with the FBI.

3 Q How long have you been a special agent with the FBI?

4 A Nearly sixteen years.

5 Q And are you currently assigned to the Las Vegas Division?

6 A Yes, I am.

7 Q Were you the agent who was assigned as primary
8 responsibility to this investigation?

9 A Yes, I was.

10 Q Are you the agent who convinced Terry Salem to cooperate
11 in this case?

12 A Yes, I am.

13 Q When did you first approach Terry Salem for his
14 cooperation?

15 A September 20th, 1994.

16 Q Where did that take place?

17 A In the Excalibur Hotel.

18 Q Was anyone else present?

19 A Detective Nicholson and Special Agent Kathleen Magnafici
20 [phonetic].

21 Q Were any promises made to Terry Salem at that time?

22 A No.

23 Q What understanding was reached with Mr. Salem that day?

24 A I told Mr. Salem that if he would agree to cooperate that
25 I would make his agreement known to the United States

1 Attorney's office.

2 Q Did Mr. -- did Mr. Salem have any impression that he was
3 going to be able to walk away from every criminal activity
4 he'd been involved in?

5 MR. PITARO: Your Honor, I'm going to object.

6 It's --

7 THE COURT: Sustained.

8 BY MS. SHOEMAKER:

9 Q When were promises made to Mr. Salem in connection with
10 this case?

11 A After the meeting with him at the -- at the Excalibur
12 Hotel he obtained an attorney and negotiated an agreement with
13 the United States Attorney's office.

14 Q All right. Were the promises that were made as part of
15 those negotiations made on behalf of the government by the
16 U.S. Attorney's office then and not the FBI?

17 A That's correct.

18 Q And were they made in connection with a plea agreement?

19 A Yes, they were.

20 MR. PITARO: Your Honor, I'm going to object, this
21 is clearly outside the scope of his knowledge, if they're
22 testifying as to what the U.S. Attorney did.

23 THE COURT: Sustained. Let's move on.

24 BY MS. SHOEMAKER:

25 Q Are you aware that as part of Terry Salem's plea

1 agreement he was required to cooperate with the government?

2 A Yes, he was.

3 Q Was his cooperation limited to this case?

4 A No, he assisted the government in a number of other
5 cases.

6 Q What specifically -- well, not real specifically, but
7 generally, what was Terry Salem required to do as part of his
8 cooperation?

9 A Initially he was told that he would have to assist the
10 government in the investigation of --

11 MR. PITARO: Your Honor, could we have foundation as
12 to who's telling him this?

13 THE COURT: Yes.

14 BY MS. SHOEMAKER:

15 Q Who spoke to Mr. Salem about what cooperation was going
16 to be required of him?

17 A I did.

18 Q All right. When did this take place?

19 A At the meeting at the Excalibur Hotel on September 20th.

20 Q All right. And what did you tell him was going to be
21 required of him in terms of his cooperation?

22 MR. PITARO: Your Honor, this is now hearsay, and it
23 appears that the government is attempting to vouch, that is to
24 place the credibility of the government behind Mr. Salem
25 through this testimony, which is clearly improper.

1 MS. SHOEMAKER: This is not any attempt to vouch for
2 Mr. Salem's credibility, Your Honor, it's simply to explain
3 for the jury what Mr. Salem was required to do in exchange for
4 the promises that the jury has already heard have been given
5 to Mr. Salem in exchange for his cooperation.

6 MR. PITARO: It sure sounds like vouching to me.

7 THE COURT: Okay. The objection is overruled. I
8 think it's a matter of --

9 MR. PITARO: It's also hearsay.

10 THE COURT: -- providing background and foundation.
11 Why don't you ask the question again.

12 BY MS. SHOEMAKER:

13 Q What was Mr. Salem told that he would have to do in
14 connection with his cooperation with the government?

15 A I told Mr. Salem that he would have to cooperate in the
16 investigation of the bank fraud at California Federal and the
17 investigation of corruption involving Judge Bongiovanni, and
18 in any other matter that I directed him to assist the
19 government in.

20 Q All right. And has Terry Salem provided -- or cooperated
21 with the government in connection with both the bank fraud
22 investigation and this case?

23 A Yes, he has.

24 Q Has he also cooperated in other matters?

25 A Yes, a number of other matters.

1 Q Were those matters limited to the District of Nevada?

2 A No, in addition to Las Vegas, Nevada, he assisted our
3 offices in Los Angeles, San Diego, in Houston and Phoenix and
4 Detroit, Pittsburgh.

5 Q When did Mr. Salem begin cooperating with the FBI?

6 A Immediately after the meeting at the Excalibur Hotel.

7 Q In September of 1994?

8 A That's right.

9 Q All right. And how long was he actively cooperating with
10 the FBI?

11 A Until October 17th of 1995.

12 Q Let me rephrase that last question.

13 When did Mr. Salem --

14 MR. PITARO: Well, Your Honor, I don't think -- she
15 can ask another question, I don't see there was any ambiguity
16 in it.

17 MS. SHOEMAKER: All right. Let me ask another
18 question.

19 BY MS. SHOEMAKER:

20 Q When did Mr. Salem stop actively cooperating with the
21 government in all of these various investigations?

22 A The end of December, 1995.

23 Q All right. How often was Terry Salem required to do
24 anything or to be available for the FBI in these various
25 cases?

1 A He was required to be available every day.

2 Q Did you have any discussions with Terry Salem about his
3 employment situation during that time?

4 A I told him because of the nature of the investigation and
5 the frequency with which we would need him that I didn't want
6 him to obtain any employment so that there would be no excuse
7 if I needed him immediately.

8 Q All right. Now, you heard Terry Salem testify in this
9 trial that he was paid for his services in connection with his
10 cooperation, is that correct?

11 A That's correct.

12 Q All right. And how much approximately was he paid for
13 his cooperation altogether?

14 A A little more than forty-five thousand dollars (\$45,000).

15 Q Was that forty-five-thousand-dollar figure based on his
16 cooperation solely in this case or for all of the cases?

17 A For all of the cases.

18 Q And how did you arrive at that figure?

19 A Actually I didn't arrive at the figure, I told him --

20 MR. PITARO: Well, then I guess that ends the
21 question.

22 THE COURT: Sustained.

23 BY MS. SHOEMAKER:

24 Q Who arrived at that figure?

25 A An accountant in our office.

1 Q Do you know what factors were considered in reaching that
2 figure?

3 MR. PITARO: Objection, hearsay.

4 THE COURT: Well, I think you need some foundation
5 to determine how he knows. Let's move on, counsel.

6 BY MS. SHOEMAKER:

7 Q Is it unusual to pay cooperating witnesses?

8 A No.

9 Q Is it unusual to pay cooperating witnesses as much as
10 three thousand dollars (\$3,000) a month?

11 MR. PITARO: Objection, leading, Your Honor, and
12 self-serving.

13 THE COURT: Overruled, you may respond.

14 MR. PITARO: And lack of foundation.

15 THE WITNESS: It's not unusual in a case of this
16 magnitude, no.

17 BY MS. SHOEMAKER:

18 Q Do you have to get approval prior?

19 MR. PITARO: Your --

20 THE COURT: Just a moment. I think she's laid a
21 foundation as to the experience and so forth, counsel.

22 Go ahead.

23 BY MS. SHOEMAKER:

24 Q Do you have to get approval prior to paying a cooperating
25 witness?

1 A Yes, there's a number of levels of approval that I have
2 to go through.

3 Q And can you just generally summarize what you need to do
4 to get that approval?

5 A After the amount is determined I have to have it approved
6 by my supervisor and then in turn by the special agent in
7 charge of the Las Vegas office. And then since it involves a
8 cooperating witness it also has to be approved by the United
9 Stated Attorney's office.

10 Q Are you familiar with the factors that are taken into
11 account when deciding how much to pay a cooperating witness?

12 A Yes.

13 Q What sort of factors are taken into consideration?

14 A His family situation, whether or not he has anyone to
15 support other than himself, where he's living, in the case
16 where he's supposed to be portraying someone of a particular
17 lifestyle, how much money it would take to sustain that type
18 of lifestyle, expenses he might incur, such as phone bills,
19 utilities and other expenses.

20 Q Are you aware whether Terry Salem incurred phone bills in
21 connection with his cooperation in this and other cases?

22 A Yes, he did, I saw some of his phone bills.

23 Q And approximately how much would these phone bills be?

24 A Somewhere sometimes between four and on the high side
25 sometimes as much as seven or eight hundred dollars a month.

1 Q All right. Now, you heard Terry Salem testify that he
2 was also paid for expenses, is that correct?

3 MR. PITARO: Well, Your Honor, could I have a --
4 more foundation, I mean my phone bill is high too. I don't
5 believe he's saying that Terry Salem's phone bill for the
6 government was seven or eight hundred dollars (\$800) a month.
7 He said he looked at his phone bills.

8 THE COURT: Why don't you clarify that.

9 BY MS. SHOEMAKER:

10 Q When you looked at his phone bills, first of all, you're
11 referring to Terry Salem's phone bills?

12 A That's correct.

13 Q All right. And when you looked at these phone bills did
14 you look to determine what calls were made on behalf of the
15 government or as part of his cooperation in the case, or was
16 there ever any discussion breaking down what percentage of the
17 bills would relate to his cooperation?

18 A Well, to answer the last part of your question first, no,
19 there was never any discussion as to which part of the bill
20 was government and which part was personal. I did --

21 MR. PITARO: I think that is sufficient then, if he
22 didn't do it then he can't start testifying about throwing
23 these figures out there.

24 THE COURT: It'll be stricken.

25 Let me ask you this, was that part of the expenses

1 or was that part of the monthly payment to him?

2 THE WITNESS: That was part of the monthly payment,
3 he had to pay his own phone bill out of the monthly payment.

4 THE COURT: Okay.

5 The testimony relative to the amounts will be
6 stricken.

7 BY MS. SHOEMAKER:

8 Q Do you know whether in connection with his cooperation
9 with the government --

10 THE COURT: And when I order something stricken then
11 you disregard that.

12 BY MS. SHOEMAKER:

13 Q Do you know, Agent Hanford, in connection with Terry
14 Salem's cooperation with the government in this and other
15 cases, was he required to make long distance telephone calls?

16 A Yes, he was.

17 Q How frequently was he required to do that?

18 A Daily.

19 Q And would he make these on his own telephone or did you
20 provide him with another phone where you'd get the bill
21 separate?

22 A He made them on his own phone.

23 Q Okay. So you know that his telephone -- home telephone
24 bills then would include at least calls that you had directed
25 him to make on a daily basis or other agents had directed him

1 to make on a daily basis?

2 A That's right.

3 Q All right. Now, you heard Terry Salem testify that he
4 was also paid for expenses in connection with his cooperation,
5 is that correct?

6 A That's correct.

7 Q All right. Do you know, were these expenses actually
8 paid directly to Terry Salem?

9 A No, the bills would come to the FBI and we would pay
10 them.

11 Q All right. And when you say you would pay them, would
12 you pay them directly to whoever was billing?

13 A That's correct.

14 Q And what sort of expenses were paid in --

15 A Air fare, car rental, hotel bills, meals if he was
16 staying in the hotel.

17 Q And approximately how much money was paid for expenses in
18 connection with Mr. Salem's cooperation in all of these
19 different cases during that period of time?

20 A Between eight and nine thousand dollars (\$9,000).

21 Q Okay. And just for clarification purposes, what period
22 of time are you talking about that he was -- these expenses
23 were paid for?

24 A From the day he started cooperating, September 20th,
25 1994, until the end of the undercover operation, in the end of

1 December, 1995.

2 Q All right. Now, you indicated that Mr. Salem stopped
3 actively assisting the FBI in its various investigations in
4 December of 1995, is that correct?

5 A That's correct.

6 Q Did he continue to provide information to the FBI in
7 various matters after that time?

8 A Yes, he still does.

9 MR. PITARO: Your Honor, I don't believe they've --
10 if I can't get into -- that they shouldn't be able to start
11 testifying in these vague things. I think we need foundation
12 as to what he's doing and what -- and what Agent Hanford is
13 doing back.

14 MS. SHOEMAKER: Your Honor, the case law indicates
15 that the government is entitled to elicit information, and
16 defense can to a general extent, in terms of a cooperating
17 witness's cooperation with the government. But when you have
18 cases that are still ongoing or haven't been indicted yet,
19 that the defendant is not entitled to get into the specifics
20 as to what cases they were. I can have the agent testify in a
21 little more detail about the types of things he was doing, but
22 we should not be required to go into the specifics as to --

23 THE COURT: Well, clearly one is prevented from
24 going into ongoing cases where it may interrupt the
25 investigation, but I'll allow counsel to go into these matters

1 to a very limited extent, and you can go into them if you --

2 MR. PITARO: Thank you, Your Honor.

3 MS. SHOEMAKER: Thank you, Your Honor. Is the Court
4 going to require me to go into further information at this
5 point in time, or I'll move on?

6 THE COURT: No, but I will allow counsel to address
7 those things in a limited fashion.

8 MS. SHOEMAKER: That's fine, thank you, Your Honor.

9 BY MS. SHOEMAKER:

10 Q Agent Hanford, was Mr. Salem paid for any of the
11 information he's provided to the FBI after December of 1995?

12 A No.

13 Q Now, are you aware that Mr. Salem as part of his
14 cooperation agreement was also required to testify in a number
15 of proceedings in addition to this proceeding?

16 A Yes, he was.

17 Q Do you know whether Mr. Salem has already testified in
18 prior proceedings?

19 A Yes, he has.

20 Q And is he expected to testify in future proceedings?

21 A If -- it's possible, yes.

22 Q Has Mr. Salem --

23 MR. PITARO: Well, Your Honor, I think that
24 presupposes that there are future proceedings.

25 THE COURT: I'm sorry.

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1 MR. PITARO: So I -- I said that presupposes that
2 there are, and I think that's misleading in terms of what the
3 government has asked.

4 THE COURT: Well, I don't see a problem. Let's move
5 on.

6 BY MS. SHOEMAKER:

7 Q Has Mr. Salem been paid for his testimony in this or any
8 other case, other than an ordinary witness fee?

9 A No.

10 Q Now, as part of Mr. Salem's cooperation in this case,
11 that is the investigation of Defendant Bongiovanni, was he
12 required to participate in an undercover operation?

13 A Yes, he was.

14 Q Who developed the plans for that undercover operation?

15 A I did.

16 Q What did the undercover operation involve generally?

17 A The undercover -- excuse me, undercover operation
18 involved the investigation of corruption involving Judge
19 Bongiovanni.

20 MR. PITARO: Your Honor, I'm -- I think he ought to
21 be allowed to testify and not editorialize.

22 THE COURT: I'm sorry.

23 MR. PITARO: I say, I think he ought to be allowed
24 -- he should be allowed or forced to testify to facts, not
25 editorializing in terms of what it is, and that's exactly what

1 he's doing.

2 THE COURT: Well, let me suggest, if you'll listen
3 very carefully to the questions asked and respond specifically
4 to those questions, and then you ask another question.

5 BY MS. SHOEMAKER:

6 Q What did the undercover operation involve generally, I'm
7 not talking about the nature of the investigation, but what
8 was the plan?

9 MR. PITARO: Then it's irrelevant. Why don't we get
10 to what happened? I object in relevancy and prejudicial.

11 THE COURT: I think we do -- just a moment, counsel.
12 I think we have some background that's been provided, and I
13 think it's redundant to -- unless there's something different
14 about the plan than we've already heard, let's move on.

15 BY MS. SHOEMAKER:

16 Q You heard testimony from Terry Salem that as part of the
17 undercover operation he was directed to talk with Paul Dottore
18 and try to meet with Mr. Bongiovanni as well in connection
19 with a bribe to be paid to Bongiovanni in a state case that
20 was brought against Terry Salem, is that correct?

21 A That's correct.

22 MR. PITARO: Your Honor, I mean I hate to stand up
23 here, but it is not the function of this witness to
24 regurgitate back that he heard what we all heard, and that's
25 an improper question.

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1 MS. SHOEMAKER: Your Honor --

2 MR. PITARO: I mean what she asked him was, did you
3 hear Terry Salem testify, and now she's trying to editorialize
4 a day's worth of testimony. That's improper questioning.

5 THE COURT: Well, whether or not it's improper, it's
6 wasteful. Let's move on.

7 MS. SHOEMAKER: I'm just trying to lead into an
8 area, Your Honor.

9 THE COURT: I understand. Let's move on.

10 BY MS. SHOEMAKER:

11 Q Agent Hanford, when you had Terry Salem meet with Paul
12 Dottore during this undercover operation, did you try to have
13 him --

14 MR. PITARO: Objection, foundation.

15 THE COURT: Let her finish the question, counsel.

16 BY MS. SHOEMAKER:

17 Q -- did you have him try to record all of his
18 conversations with Mr. Dottore?

19 A Yes, we did.

20 Q All right. Was it always possible to have Mr. Salem
21 record every conversation he had with Mr. Salem -- with Mr.
22 Dottore?

23 A No.

24 Q Can you just explain generally for the jury what would be
25 some examples of times when he would not be able to record the

1 conversation?

2 A For instance if Mr. Dottore paged him --

3 MR. PITARO: Your Honor, I'm going to have to
4 object. That was a question that they should have asked Mr.
5 Salem.

6 MS. SHOEMAKER: Your Honor, this question can come
7 through this agent just as well.

8 MR. PITARO: He -- how can he testify what Salem was
9 or wasn't doing unless he was there?

10 THE COURT: The objection is overruled, let's move
11 on.

12 MS. SHOEMAKER: May he answer the question, Your
13 Honor?

14 THE COURT: Yes.

15 BY MS. SHOEMAKER:

16 Q Can you please explain for the jury generally what are
17 some types of situations where you weren't able to get a
18 recording of the conversation between Mr. Salem and Mr.
19 Dottore?

20 MR. PITARO: Could I have the foundation for it?

21 MS. SHOEMAKER: It's a general question, Your Honor.

22 THE COURT: You may respond.

23 THE WITNESS: Well, for instance if they were
24 speaking over a telephone that we didn't monitor in which Mr.
25 Salem was not able to have a device to record the

1 conversation.

2 BY MS. SHOEMAKER:

3 Q All right. Did the FBI give Terry Salem money on any
4 occasions that was intended to be passed to Gerard Bongiovanni
5 through Paul Dottore?

6 A Yes, we did.

7 Q How many occasions did the FBI do this?

8 A Twice.

9 Q Did you specifically give the money to Mr. Salem?

10 A Yes, I did.

11 Q All right. When was the first time you gave Mr. Salem
12 money?

13 A January 17th, 1995.

14 Q How much money did you give him that day?

15 A Two thousand five hundred dollars (\$2,500).

16 Q And what was that twenty-five hundred dollars (\$2500)

17 supposed to represent?

18 A It was --

19 MR. PITARO: Your Honor, I'm going to object, it was
20 supposed to have -- he can't start testifying what to Salem to
21 Dottore does, he can testify what he does.

22 THE COURT: Well, again, maybe I should have let her
23 go into the plan. I think clearly he can testify to this.

24 You may respond.

25 THE WITNESS: The two thousand five hundred dollars

1 (\$2,500) represented the first half of the bribe money to be
2 paid to Judge Bongiovanni.

3 BY MS. SHOEMAKER:

4 Q All right. Did you conduct any -- first of all, was
5 Detective Nicholson present when you gave the money to Mr.
6 Salem on January 17th, 1995?

7 A No, he was not.

8 Q Did you conduct any physical surveillance to determine
9 whether Terry Salem met with Paul Dottore that day?

10 A Yes.

11 Q Do you know whether Paul Dottore called Defendant
12 Bongiovanni that evening after he had gotten the money from
13 Terry Salem?

14 A Yes, he did.

15 Q And do you recall what was discussed or arranged in that
16 telephone call?

17 MR. PITARO: Your Honor, that's hearsay, it's
18 already, hopefully, been played, it's wasteful, redundant.

19 THE COURT: The objection is sustained. Let's move
20 on.

21 BY MS. SHOEMAKER:

22 Q When was the second time that you gave Terry Salem money
23 to pass on to Bongiovanni through Paul Dottore?

24 A October 17th, 1995.

25 Q How much money did you give Terry Salem that day?

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1 A One thousand dollars (\$1,000).

2 Q What denomination were the bills that day?

3 A Ten one-hundred-dollar bills.

4 Q Did you keep any record of which hundred-dollar bills
5 specifically were given to Terry Salem that day?

6 A I photocopied the ten one hundred-dollar bills before I
7 gave them to Mr. Salem.

8 MS. SHOEMAKER: Your Honor, may I approach the
9 witness?

10 THE COURT: Yes.

11 MS. SHOEMAKER: For the record I'm going to be
12 handing Agent Hanford what's been marked as Government Exhibit
13 213A, a copy of which has been provided to defense counsel.

14 BY MS. SHOEMAKER:

15 Q Do you recognize Exhibit 213A, Agent Hanford?

16 A Yes, this is a photocopy of the ten one-hundred-dollar
17 bills.

18 Q That you gave Terry Salem on October 17th, 1995?

19 A Yes.

20 MS. SHOEMAKER: Your Honor, I'd move for admission
21 of 213A.

22 MR. PITARO: Could I see a copy of that? All I got
23 is a blank here.

24 THE COURT: Why don't you hand the exhibit to him.
25 Do you have any objection, counsel?

1 MR. PITARO: No, Your Honor.

2 THE COURT: The exhibit -- what number is it?

3 MS. SHOEMAKER: 213A.

4 THE COURT: 213A will be received.

5 (Plaintiff's Exhibit No. 213A admitted)

6 MS. SHOEMAKER: Thank you.

7 BY MS. SHOEMAKER:

8 Q Did you conduct a physical surveillance on October 17th,
9 1995 to determine whether Terry Salem met with Paul Dottore to
10 give him the money that night as arranged?

11 A Yes, I did.

12 Q Did you see Mr. Salem and Mr. Dottore meet that night?

13 A Yes, I did.

14 Q Where did you see them meet?

15 A Outside the Tropicana Hotel.

16 Q Approximately what time was that?

17 A It was a little after 7:00 o'clock in the evening.

18 Q Were other agents participating in the physical
19 surveillance that evening?

20 A Yes, there was a number of other agents.

21 Q Do you know where Paul Dottore went after he met with
22 Terry Salem that night?

23 A He went home.

24 Q And do you know approximately what time it was that he
25 arrived at his home?

1 A Believe it was around a quarter to 8:00, I'm not sure
2 exactly.

3 Q Okay. But approximately a quarter to 8:00?

4 A Yes.

5 Q Do you know whether Paul Dottore contacted Mr.
6 Bongiovanni when he got home that night?

7 A Yes, he did.

8 Q Do you know whether Mr. Dottore agreed to meet with Mr.
9 Bongiovanni that night?

10 MR. PITARO: Your Honor --

11 MS. SHOEMAKER: I'll withdraw that question and
12 rephrase it.

13 BY MS. SHOEMAKER:

14 Q Do you know whether Paul Dottore did meet with Mr.
15 Bongiovanni that night?

16 A Yes, he did.

17 Q All right. Approximately what time did they meet?

18 A It was approximately 8:30.

19 Q Do you know if Mr. Dottore went anywhere between the time
20 he left Terry Salem earlier that evening and he went home and
21 when he got to Mr. Bongiovanni's house still later in the
22 evening? Did he go anywhere else to your knowledge?

23 MR. PITARO: Your Honor, I would object, leading, I
24 thought these were going to be foundational questions, but
25 they're constant leading questions without foundation.

1 THE COURT: Well, you're talking about what happened
2 in terms of where he went?

3 MS. SHOEMAKER: Yes, Your Honor.

4 THE COURT: The objection is overruled. You may
5 make such inquiry.

6 You understand the question?

7 THE WITNESS: Yes, I do, Your Honor.

8 THE COURT: Okay. You may respond.

9 THE WITNESS: Between Mr. Dottore leaving his own
10 residence and arriving at Mr. Bongiovanni's residence, he
11 stopped at the Circle K.

12 BY MS. SHOEMAKER:

13 Q Okay. When you say "the" Circle K, can you be a little
14 bit more specific?

15 A It's a Circle K located at Russell and Eastern.

16 Q Okay. And how long was he there approximately?

17 A No more than about five minutes.

18 Q All right. Did you conduct physical surveillance on Mr.
19 Bongiovanni's house while Paul Dottore was over there that
20 night?

21 A Yes, I did.

22 Q Approximately how long was Mr. Dottore inside the
23 residence?

24 A About 45 minutes.

25 Q Do you know whether anyone else was with him?

1 A Mrs. Dottore.

2 Q When you say Mrs. Dottore are you referring to Rose
3 Dottore?

4 A Yes, that's her.

5 Q All right. Did you see Paul Dottore leave the
6 Bongiovanni residence that night?

7 A Yes, I did.

8 Q Approximately what time was that?

9 A About 9:15.

10 Q What happened from there?

11 A I followed him out of the street away from the residence
12 and as he turned onto Russell I put on the red light on my car
13 and had him pull over.

14 Q All right. When Mr. Dottore pulled over, what did you
15 do?

16 A I approached the car. I asked him to roll down the
17 window. I told him he was not under arrest, that he was not
18 going to be under arrest, but I would like to talk with him
19 for a few minutes.

20 Q Did Mr. Dottore agree to talk to you?

21 A Yes, he did.

22 Q All right. Without going into any detail of the
23 specifics of the conversation, can you just state generally
24 what it was that you and Mr. Dottore discussed in the car?

25 MR. PITARO: Your Honor, that -- I'm going to

1 object. I think it's hearsay what they're asking concerning
2 this conversation and then to say you can do it generally, and
3 then of course if I ask anything it'll be objected because
4 it's specific. Now, I think it's hearsay.

5 MS. SHOEMAKER: Your Honor, at this point we're
6 offering it for two purposes. One is we want to show what was
7 and was not said to Mr. Dottore that night because that will
8 become relevant later in terms of conduct that the defendant
9 exhibited a few days later and, also, to explain what the
10 agents did from that point forward, why they took certain
11 actions that they did when they left the scene with Mr.
12 Dottore.

13 MR. PITARO: It -- go ahead. It's still hearsay.

14 THE COURT: The objection's overruled. You may
15 respond.

16 THE WITNESS: Could you repeat the question, please?

17 BY MS. SHOEMAKER:

18 Q Yes. Can you just state generally for the jury what was
19 discussed when Mr. Dottore went to your car and spoke to you
20 that night?

21 A I told Mr. Dottore that he was and had been under
22 investigation for judicial bribery and for bank fraud. I told
23 him that Terry Salem had been cooperating with the FBI for a
24 number of months and had recorded conversations between
25 himself and Salem. I told him that I would like him to

1 cooperate in the investigation.

2 Q And did Mr. Dottore agree to cooperate?

3 A No, he said he couldn't do that.

4 Q All right. What happened after Mr. Dottore said he
5 didn't want to cooperate?

6 A I asked him if he would like me to speak to his wife
7 about the situation, and he said that he would. So I went to
8 the -- Mr. Dottore's car and got Mrs. Dottore and asked her to
9 accompany me back to my car.

10 Q All right. And what happened at that point?

11 A I explained to Mrs. Dottore the same thing I just --

12 MR. PITARO: Your Honor, if this isn't --

13 THE COURT: Sustained.

14 MR. PITARO: -- I object as hearsay.

15 THE COURT: Sustained.

16 BY MS. SHOEMAKER:

17 Q All right. Do you know whether during the time that you
18 were talking to Mrs. Dottore, Paul Dottore emptied his pockets
19 for Detective Nicholson?

20 A Outside of the car, yes.

21 Q Okay. When you left the scene that evening, did you have
22 any knowledge concerning any money that may have been found on
23 Mr. Dottore when he emptied his pockets?

24 A I saw four one-hundred-dollar bills.

25 Q All right. What was your understanding when you left the

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1 scene in terms of those four hundred-dollar bills that you had
2 seen?

3 A At least one of them was not a marked bill and that at
4 least one was -- excuse me. Let me -- I understood that at
5 least one of them was a marked bill.

6 Q All right. At the time --

7 A But I didn't see the other three identified.

8 Q -- at the -- all right. Just for clarification purposes
9 then, when you left the scene with Paul Dottore, you knew four
10 one-hundred-dollar bills had been found and you had the
11 understanding that one of them matched the serial numbers of
12 the bills you'd given Terry Salem earlier that night, is that
13 correct?

14 A That's correct.

15 Q Did you know at that time that any of them did not match
16 the serial numbers?

17 A Not at that point.

18 Q Okay. What did you do when you left scene?

19 A I drove to Mr. Bongiovanni's residence.

20 Q Who -- was anyone with you when you drove over to Mr.
21 Bongiovanni's?

22 A Detective Nicholson.

23 Q All right. Do you know whether Paul Dottore stayed at
24 the scene when you and Detective Nicholson left?

25 A Yes, he was still there when I left.

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1 Q When you say a search warrant can you be more specific?

2 A We had -- actually, we had three warrants but we only
3 executed two.

4 Q And what were the two that you executed?

5 A One for Mr. Bongiovanni's house and one for his person.

6 Q Okay. What did the search warrants authorize you to
7 search for?

8 A Ten specific one-hundred-dollar bills.

9 Q And can you be more specific as to what ten hundred-
10 dollar bills you were looking for?

11 A The same ten one-hundred-dollar bills that I had given
12 Mr. Salem.

13 Q Did the warrant list the serial numbers that you had
14 photocopied?

15 A Yes, it did.

16 Q Okay. When you arrived at Mr. Bongiovanni's house, how
17 many hundred-dollar bills did you think you were going to be
18 looking for when you were executing the warrants based on what
19 you had seen and found at the scene with Paul Dottore a few
20 minutes earlier?

21 A Six. Six one-hundred-dollar bills.

22 Q Okay. And is that because there were four bills found on
23 Mr. Dottore?

24 A That's right.

25 Q Okay. Before you went into the house, did you learn

1 something different?

2 A Yes, I learned that --

3 MR. PITARO: Your Honor, hearsay.

4 THE COURT: Sustained. You'll need some foundation
5 as to how he learned what.

6 BY MS. SHOEMAKER:

7 Q When you arrived at the house what did you do?

8 A On the way over I had received a page on my pager to call
9 the agents who were with Mr. Dottore, so when I arrived at Mr.
10 Bongiovanni's house I used a cell phone to call back there.

11 Q Whose cell phone did you use?

12 A Mr. Togliatti, Special Agent Togliatti.

13 Q And where did you make this phone call?

14 A From Mr. Togliatti's car.

15 Q All right. Was this outside of Defendant Bongiovanni's
16 residence then?

17 A Yes, it was.

18 Q Okay. And who did you call?

19 A I called back to the agents who were at -- with Mr.
20 Dottore.

21 Q All right. When you called back there, did you learn
22 something about the hundred-dollar bills that had been taken
23 from Paul Dottore to cause you to realize that you should be
24 searching for something other than six one-hundred-dollar
25 bills in Mr. Bongiovanni's residence?

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1 A I learned that one of the bills they found did not match
2 the ten that was on the list --

3 Q All right.

4 A -- on the warrant.

5 Q Were you told whether the other three matched?

6 A Yes, they did.

7 Q Okay. So at that point then, you knew you were missing
8 seven of the one-hundred-dollar bills?

9 A That's right.

10 Q Okay. While you were on the telephone talking to the
11 agents who were with Mr. Dottore, what was Detective Nicholson
12 doing? Was he standing there or do you know what he did?

13 A He went into the house.

14 Q Okay. Was anyone else there?

15 A Special Agents Byers, Degnan, Magnesen, Investigator
16 Abbott.

17 Q All right. And did they go into the house as well?

18 A Yes, they did.

19 Q Okay. Did there come a point in time when you went into
20 the house?

21 A Yes. Special Agent Byers came out and got me, and asked
22 me to come into the house.

23 Q Approximately how much time had passed -- well, first of
24 all, did you see when Agent Byers and Detective Nicholson and
25 the other agents went into the house?

1 A Yes, I saw them enter the house.

2 Q Approximately how much time passed between the time they
3 entered the house and the time Agent Byers came back outside
4 and asked you to come into the house?

5 A Approximately three minutes.

6 Q And did Agent Byers indicate why he wanted you to go back
7 into the house?

8 A He said that Mr. Bongiovanni had some questions and he
9 would prefer that I answer them.

10 Q All right. Who preferred that you'd answer them?

11 A Special Agent Byers.

12 Q Okay. When you went into the house, did you see Mr.
13 Bongiovanni as soon as you walked in the door?

14 A Yes.

15 Q Where was he situated?

16 A At the dinette table.

17 Q And where would that have been in relation to where you
18 were when you walked in the door?

19 A As you walk in the door there's a small foyer area. He
20 would be off the right.

21 Q Okay. When you say a dinette area, is that part of the
22 kitchen?

23 A It's adjacent to the kitchen.

24 Q Okay. Where was Agent Byers?

25 A He was with -- was with Mr. Bongiovanni.

1 Q Where was Detective Nicholson?

2 A Also with Mr. Bongiovanni.

3 Q And where were the other agents, Magnesen and Degnan and

4 Abbott?

5 A They were in the living room foyer area.

6 Q All right. What were Agents Degnan, Magnesen and the

7 Nevada Division of Investigation Officer Abbott -- what were

8 they doing when you walked into the house?

9 A Just waiting.

10 Q All right. And what was Detective Nicholson -- what was

11 -- he and Agent Byers -- what were they doing?

12 A They were with Mr. Bongiovanni.

13 Q All right. Was anyone searching the house at that point?

14 A Not at that point, no.

15 Q All right. What did you do when you walked into the

16 house?

17 A I went over Mr. Bongiovanni and I explained to him that

18 we were looking for certain one-hundred-dollar bills that he

19 had been given by Mr. Dottore that evening. And he responded

20 that --

21 MR. PITARO: Objection, lack of foundation.

22 MS. SHOEMAKER: We haven't --

23 THE COURT: As to who was present?

24 MR. PITARO: Well, they're questioning a man.

25 THE COURT: Pardon?

1 MR. PITARO: They're questioning him in a criminal
2 investigation. They haven't laid any foundation for the
3 admissibility of that, have they?

4 BY MS. SHOEMAKER:

5 Q Was Defendant Bongiovanni --

6 MR. PITARO: Is that sustained then or --

7 THE COURT: Under arrest or -- go ahead.

8 MS. SHOEMAKER: I'll lay some further foundation.

9 BY MS. SHOEMAKER:

10 Q Was Defendant Bongiovanni under arrest at that time?

11 A No.

12 Q Was Defendant Bongiovanni free to leave at that time?

13 A Yes.

14 MR. PITARO: Could I take him on voir dire?

15 THE COURT: Go ahead.

16 VOIR DIRE EXAMINATION

17 BY MR. PITARO:

18 Q Where was he free to leave to? You had five agents --
19 six agents in the house, two of 'em by him in the kitchen,
20 where was he free to go?

21 A After his person was searched --

22 Q Where was he free to go?

23 A May I answer?

24 Q Not after -- where was he free to go when you walked in
25 the house and first said something to him?

1 THE COURT: Well, let him answer, counsel. You've
2 asked the question.

3 THE WITNESS: He would have been free to go after
4 his person was searched.

5 BY MR. PITARO:

6 Q He would have been free, so he wasn't free to go, was he?

7 A Not until his person was searched.

8 Q Thank you.

9 DIRECT EXAMINATION (Continued)

10 BY MS. SHOEMAKER:

11 Q Was the defendant under arrest at that time?

12 A No.

13 MR. PITARO: Irrelevant, Your Honor.

14 MS. SHOEMAKER: Your Honor --

15 THE COURT: I'm going to -- go ahead.

16 MS. SHOEMAKER: -- may we proceed? Thank you.

17 BY MS. SHOEMAKER:

18 Q All right. I've lost train of thought. What did you
19 tell Mr. Bongiovanni when you got into the house?

20 A I told him that --

21 MR. PITARO: Lack of foundation, Your Honor.

22 MS. SHOEMAKER: Your Honor, we have a time, we have
23 a place, we have who was present, we have what the
24 circumstances were surrounding their purpose in being there
25 and when he was free to leave. The fact that they had a

1 search warrant to search for the defendant and then he's free
2 to leave doesn't make it an involuntary statement.

3 MR. PITARO: It doesn't make it -- it doesn't make
4 it a statement. They're there for a search, not for
5 questioning.

6 THE COURT: Well, we're talking, to begin with,
7 about what this witness said to him, counsel.

8 BY MS. SHOEMAKER:

9 Q What did you tell Mr. Bongiovanni at that point in time?

10 A That we knew Mr. Dottore had just been over and that we
11 were searching for certain one-hundred-dollar bills that had
12 been given to him by Mr. Dottore.

13 Q At that point in time, did the defendant volunteer any
14 statements to you?

15 MR. PITARO: Objection, Your Honor. Volunteering is
16 not the word. We already have the predicate now that he
17 wasn't free to leave and he's asked him questions and there's
18 no foundation for it under the law.

19 THE COURT: What about that, counsel?

20 MS. SHOEMAKER: Your Honor, I can rephrase it.

21 BY MS. SHOEMAKER:

22 Q Was Mr. Bongiovanni asked any question at that point?

23 A No.

24 Q Did he make a statement at that point?

25 A Yes, he did.

1 Q Was he forced to make the statement at that point?

2 A No, not at all.

3 MS. SHOEMAKER: May we proceed, Your Honor?

4 THE COURT: You may.

5 BY MS. SHOEMAKER:

6 Q What did defendant state after you told him that you were
7 there to recover hundred-dollar bills you knew Paul Dottore
8 had just delivered to him?

9 A That he didn't know about any money, that Paul Dottore
10 had just been there for coffee.

11 Q At that point in time, when you were talking to Defendant
12 Bongiovanni and he made those statements, had any of the
13 agents who were present initiated or started the search --

14 A No.

15 Q -- of his residence?

16 MR. PITARO: I would -- objection, Your Honor. Lack
17 of foundation -- he tells us where these other agents are.
18 He's in the kitchen he said, now.

19 THE COURT: You may need to lay some further
20 foundation.

21 BY MS. SHOEMAKER:

22 Q When you walked into the house you indicated that
23 Detective Nicholson and Agent Byers were with the defendant in
24 the kitchen, is that correct?

25 A That's correct.

1 Q Were they with him throughout this time that you were
2 speaking to Mr. Bongiovanni and he made those statements to
3 you?

4 A Yes, they were.

5 Q All right. You also indicated that when you walked into
6 the house that you saw Agent Dagnen, Agent Magnesen, and
7 Investigator Abbott standing in the foyer living room area, is
8 that correct?

9 A That's correct.

10 Q Do you know whether they were still there throughout this
11 period of time that you were speaking to the defendant?

12 A Yes, they were.

13 Q All right. Could you see whether they were -- had
14 started searching?

15 A They weren't searching at that point, no.

16 MR. PITARO: That's non-responsive to the question.
17 She's asked, could he see what.

18 THE COURT: Could you see?

19 BY MS. SHOEMAKER:

20 Q Could you see?

21 A Yes, I could see.

22 Q Okay. And they were not searching during that time?

23 A No.

24 Q All right. After Mr. Bongiovanni told you, in response
25 to your statements that he didn't know anything about the

1 hundred-dollar bills and that Paul Dottore had just been there
2 for coffee, what did you do?

3 A I told the agents to start the search.

4 Q All right. What did you do after you told the agents to
5 start the search?

6 A I walked down the hallway to see how the search was
7 proceeding.

8 Q All right. First of all, when you told the agents to
9 search, did Detective Nicholson or Agent Byers participate in
10 the search?

11 A No.

12 Q All right. Where were they?

13 A They stayed with Mr. Bongiovanni.

14 Q All right. So you had Agent Magnesen, Agent Degnan, and
15 Investigator Abbott who were executing the search of the
16 house, is that correct?

17 A That's correct.

18 Q Did you participate in the search yourself?

19 A No.

20 Q What were you doing?

21 A I was walking down the hallway.

22 Q All right. And were you just there to oversee the search
23 then?

24 A Yes, that's right.

25 Q Okay. Did you do anything when you started to walk down

1 the hallway?

2 A This is the first time I had been down to that part of
3 the house so I just looked around to see what -- where the
4 rooms were, what the size of the house was, how difficult the
5 search would be.

6 Q What happened after that?

7 A I saw that it was going to be very difficult.

8 Q And can you be more specific? What did you see that made
9 you think that it was going to be difficult?

10 A There were a number of rooms, we were searching for
11 things that are relatively small, I saw that it could take a
12 very long time.

13 Q All right. Was there something else specific that you
14 saw that made you do something?

15 A I saw that it was -- that particularly Special Agent
16 Magnesen was having difficulty.

17 Q And can you be more specific, please?

18 A Well, the room that he was -- he was searching was the
19 room that Mrs. Bongiovanni was bedridden in and it was very
20 dark -- he had difficulty seeing.

21 Q Okay. When you say that the room that Agent Magnesen was
22 searching, the room in which Mrs. Bongiovanni was bedridden,
23 was dark, was he attempting to search in the dark?

24 A There was a small amount of light in there from the
25 television but that's all the light that was in there.

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1 Q He had not turned on a light to the bedroom?

2 MR. PITARO: Well, Your Honor, that's not responsive
3 to the question. Question wasn't was the television was on,
4 the question was, wasn't Magnesen searching.

5 THE COURT: No, the question was was it -- was there
6 any light and the response was responsive. He said there was
7 very little light, only the light from the television set.
8 Let's move on.

9 BY MS. SHOEMAKER:

10 Q So are you saying then that Agent Magnesen was trying to
11 search that room without turning on a light?

12 A That's correct.

13 Q All right. When you saw that, what did you do?

14 A I turned around, went back to talk to Mr. Bongiovanni
15 again to see if we could shortcut this whole procedure.

16 Q All right. How much time had passed between the time you
17 told the agents to begin the search and the time that you
18 decided to turn around and go speak to Mr. Bongiovanni again?

19 A Perhaps a minute.

20 Q All right. When you went -- first of all, was Mr.
21 Bongiovanni still in the kitchen?

22 A Yes.

23 Q Could you see what he was doing when you walked into the
24 kitchen?

25 A He was at the same place, at the table.

1 Q All right. Were Detective Nicholson or Agent Byers still
2 there with him?

3 A They were still there.

4 Q Okay. Did you make any statements to the defendant at
5 that time?

6 A I told Mr. Bongiovanni that we had a warrant to search
7 the house, and that we were going to stay until we found the
8 bills, but that it would be a lot easier on everybody if he
9 would just turn over the bills to us so that we could leave.

10 Q Were you yelling when you told him that?

11 A No.

12 Q Did you ever hear anybody yell, give us the money?

13 A I didn't hear a raised voice the entire time I was in
14 that house.

15 Q What did Mr. Bongiovanni say in response to your
16 statement that he should make this a lot easier and just give
17 you the money?

18 MR. PITARO: Lack of foundation, again, Your Honor.
19 They haven't established the required elements.

20 BY MS. SHOEMAKER:

21 Q Did you ask any questions of Mr. Bongiovanni at that
22 point or did you just make the statement to him that he could
23 save everybody a lot of time and trouble if he told you where
24 the money was?

25 MR. PITARO: Well, Your Honor, if that isn't a

1 statement or a question, it's still the same thing. It's
2 trying to elicit a response.

3 THE COURT: I think it probably is tantamount to a
4 question, counsel. Let's move on.

5 BY MS. SHOEMAKER:

6 Q Did Mr. Bongiovanni make any statements to you at that
7 time?

8 MR. PITARO: Your Honor, I --

9 THE WITNESS: Yes, he did.

10 MR. PITARO: I'm going to have the same objection.

11 THE COURT: Well, the question is did he make any
12 statements, and the answer is yes.

13 MR. PITARO: Okay. That's fine.

14 BY MS. SHOEMAKER:

15 Q What did he say?

16 MR. PITARO: Well, that's the objection.

17 THE COURT: Sustained.

18 MS. SHOEMAKER: Your Honor, may we have a sidebar?

19 THE COURT: No, let's move on.

20 BY MS. SHOEMAKER:

21 Q Did you continue the search after Mr. Bongiovanni made
22 whatever statement to you?

23 A Yes, we did.

24 Q How long did the search continue?

25 A No more than five minutes.

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1 Q When did the search end?

2 A A little after 10:00 o'clock.

3 Q What happened to end the search?

4 A The -- five of the bills were found in Mr. Bongiovanni's
5 pocket.

6 Q Were you present when those bills were found?

7 A Yes.

8 Q What happened when the five bills were found in Mr.
9 Bongiovanni's pocket?

10 A Detective Nicholson removed them from his pocket and
11 showed them to me.

12 Q What did you do?

13 A Well, at that point I knew we still hadn't recovered all
14 of the bills --

15 MR. PITARO: Objection. That is not responsive.

16 THE COURT: What did you do?

17 BY MS. SHOEMAKER:

18 Q What did you do when you saw that five bills had been
19 found on Defendant Bongiovanni?

20 A I stopped the search.

21 Q What happened with Mr. Bongiovanni at that point?

22 A He accompanied Detective Nicholson back to the dinette
23 table again.

24 Q What happened at that point?

25 A He sat back down at the table and then shortly after that

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1 I came up to the table.

2 Q All right. Do you know whether the bills that were found
3 on Mr. Bongiovanni were compared to the serial numbers listed
4 in the warrant?

5 A They were.

6 Q And did the bills match?

7 A They did.

8 Q Were the bills seized?

9 A Yes, they were.

10 Q Was a receipt left with Mr. Bongiovanni?

11 A Yes, it was.

12 Q Now, you indicated from your testimony that five of the
13 bills were found on Defendant Bongiovanni and three bills that
14 matched the serial numbers were found on Paul Dottore. Is
15 that correct?

16 A That's correct.

17 Q So there were still two outstanding hundred-dollar bills,
18 is that right?

19 A That's right.

20 Q All right. Why did you stop the search of Mr.
21 Bongiovanni's house if you knew there were still two bills
22 missing?

23 A It seemed unlikely that he would have separated some of
24 the money off and hidden it in a separate place and there
25 seemed to be a likelihood that Paul Dottore may have cashed

1 one or more of them at the Circle K, so I thought that would
2 be a good place to start looking for it.

3 Q Okay. When you went into the kitchen area where Mr.
4 Bongiovanni was and the five hundred-dollar bills were being
5 compared with the serial numbers on the search warrant, did
6 you tell Mr. Bongiovanni at that time what you believed the
7 bills involved or related to?

8 A I told him that I thought he had received the money to
9 influence his decision in a case that was before him.

10 Q Did you tell him what case specifically you thought they
11 may have pertained to?

12 A No.

13 Q Did you ever mention Jeff Kutash's name or the civil
14 litigation involving Jeff Kutash during the search that night?

15 A No, never.

16 Q To your knowledge, did anybody else mention Jeff Kutash
17 or his litigation that night?

18 A I never heard the name mentioned.

19 Q Did you or Detective Nicholson mention Jeff Kutash's name
20 or his civil litigation when you stopped Paul Dottore that
21 night?

22 A No.

23 Q What was Defendant's Bongiovanni's reaction when you told
24 him that you believed the hundred-dollar bills had been paid
25 to him as a bribe in connection with the case before him?

1 A He shrugged his shoulders and asked if he was going to
2 get a --

3 MR. PITARO: Your Honor --

4 THE WITNESS: -- copy of the warrant.

5 MR. PITARO: -- it's hearsay. His reaction is not
6 statements.

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

8 BY MS. SHOEMAKER:

9 Q Did you leave Mr. Bongiovanni's residence at that time?

10 A Yes.

11 Q Was he placed under arrest?

12 A No.

13 Q Did you try to locate the other two hundred-dollar bills?

14 A Yes, we did.

15 Q And where did you look?

16 A Looked at the Circle K and looked back with Mr. Dottore.

17 Q Did you ultimately find the missing two one-hundred-
18 dollar bills?

19 A Yes, Mr. Dottore had them.

20 Q Agent Hanford, have you brought with you the actual bills
21 that were seized from Paul Dottore and Defendant Bongiovanni
22 that night?

23 A Yes, they're with me here.

24 Q All right. Can you please pull them out of your file
25 there. And I believe they've been marked into two separate

1 envelopes as Exhibits 213B and C, is that correct?

2 A That's correct.

3 Q Can you please identify which set has the bills that were
4 seized from Paul Dottore and which set has the bills that were
5 seized from Defendant Bongiovanni?

6 A Set 213B are the bills seized from Mr. Dottore. And set
7 213C are the bills seized from Mr. Bongiovanni.

8 MS. SHOEMAKER: Your Honor, I'd move for admission
9 of Exhibits 213B and C.

10 THE COURT: Any objection, counsel?

11 MR. PITARO: Not beyond the prior objections.

12 THE COURT: The exhibits will be received, 213B and
13 213C.

14 (Plaintiff's Exhibit Nos. 213B and 213C admitted)

15 MS. SHOEMAKER: Thank you, Your Honor.

16 BY MS. SHOEMAKER:

17 Q Agent Hanford, do you know whether other money was found
18 on Paul Dottore in addition to the six one-hundred-dollar
19 bills that you've already referenced, five matching the search
20 warrant and one that was not?

21 A Yes, other money was found in his shirt pocket.

22 Q All right. Was that money seized?

23 A No.

24 Q During the course of this investigation and the
25 investigation of the bank fraud underlying the Salem bribe,

1 did you obtain court authorization to have wiretaps on a
2 number of telephones?

3 A Yes, I did.

4 Q Which telephones would that include?

5 A Mr. Dottore's home telephone, Mr. Bongiovanni's home
6 telephone, and two telephones in Mr. Bongiovanni's judicial
7 chambers.

8 Q Can you tell the jury approximately when you were up on
9 wiretaps on each of these telephones?

10 A Approximately early February of 1994 we started the
11 wiretap on Mr. Dottore's residence. In late May or early June
12 we started the wiretap on Mr. Bongiovanni's residence, and
13 then about a month after that we started first one telephone
14 in the chambers and then shortly after that the second
15 telephone in the chambers.

16 Q Okay. And approximately how long were the wiretaps up on
17 the telephones?

18 A Well, different ones were up for different periods of
19 time, but they were all ended by February of 1995 for a period
20 of time.

21 Q All right. And then were any of them reinstituted later
22 in 1995?

23 A In October 1995, they were all -- four of them were
24 reinstituted for another fifteen days.

25 Q Okay. And you were the case agent on this investigation

1 and the bank fraud investigation the entire time, is that
2 right?

3 A That's correct.

4 Q Okay. As the case agent, were you responsible for
5 reviewing the wiretap materials that were obtained pursuant to
6 those orders?

7 A Yes.

8 Q And did you review the pertinent calls?

9 A Yes, I have.

10 Q When would you typically do that?

11 A On a usual day I would try to do it the day after the
12 call was intercepted.

13 Q Were there times that you did not review the calls the
14 day after they were intercepted?

15 A Yes, there were.

16 Q And can you state generally when would you not review the
17 tapes the following day?

18 A Well, for instance, on a weekend I wouldn't review them
19 until the following Monday. Then there were times when I was
20 either out of town or assigned to other cases and it might be
21 two or three days before I would get back to them.

22 Q Okay. So unless you were occupied with some other matter
23 or it was a weekend or a holiday or you were out of the office
24 for some reason, you would review them the next day?

25 A Yes, that's right.

1 Q Okay. During the course of the investigation and in
2 preparation for this trial, did you identify a number of tapes
3 and records relating to the allegations and the indictment
4 concerning the Kutash bribe?

5 A Yes, I did.

6 MS. SHOEMAKER: At this time, Your Honor, I'd move
7 for admission of a tape recording marked Exhibit 169.

8 THE COURT: 169?

9 MS. SHOEMAKER: Yes, Your Honor.

10 THE COURT: Now is that the exhibit or the tape
11 number?

12 MS. SHOEMAKER: It's the tape, Your Honor.

13 THE COURT: Have you given it an exhibit number?

14 MS. SHOEMAKER: Pardon me?

15 THE COURT: What is the exhibit?

16 MS. SHOEMAKER: Oh, I'm sorry, Your Honor.

17 THE COURT: It is the exhibit --

18 MS. SHOEMAKER: It's the exhibit number.

19 THE COURT: -- number. Okay.

20 Do you have any objection to 169?

21 MR. PITARO: Could I have just one moment to -- if I
22 could just get there, Judge.

23 (Pause in the proceeding)

24 THE COURT: It's 169. If you'll stand by just a
25 moment until it's received.

1 MR. PITARO: I have no objection.

2 THE COURT: Okay. 169 will be received and you may
3 turn to Exhibit Number 169. But again, I caution you, don't
4 read from the transcript until you hear the tape played.

5 (Plaintiff's Exhibit No. 169 admitted)

6 MS. SHOEMAKER: Your Honor, pursuant to the parties'
7 stipulation, Exhibit 169 is a tape recording of a conversation
8 that occurred on October 13th, 1995, at 1505 military time,
9 which is 3:05 in the afternoon. It was an outgoing call
10 placed from Defendant Gerard Bongiovanni's home telephone to
11 Del Potter. May we play the tape at this time?

12 THE COURT: You may play the tape.

13 MS. SHOEMAKER: Thank you.

14 (Plaintiff's Exhibit No. 169 is played)

15 BY MS. SHOEMAKER:

16 Q Agent Hanford, do you know who Del Potter is?

17 A He was Judge Bongiovanni's law clerk.

18 Q Do you know who Jeff Kutash is?

19 A He was the producer of the Splash production.

20 Q And where did Splash play?

21 A At the Riviera Hotel in Las Vegas.

22 MS. SHOEMAKER: Your Honor, I'd move for the
23 admission of Exhibit 172, which is a tape recording.

24 THE COURT: Okay. Any objection to 172, counsel?

25 MR. PITARO: If I could quickly look. Your Honor,

1 I'm going to -- under Rule 106, I'd like the introductory
2 portion of the tape played. And I have a copy of that
3 available because it's a -- it's an incomplete tape.

4 THE COURT: Do you have any problem with the
5 introduction being played? Are you familiar with it?

6 MS. SHOEMAKER: Your Honor, I don't recall whether
7 that was one of the ones that Mr. Pitaro gave us prior to
8 trial, but he did --

9 MR. PITARO: Yes, it is.

10 MS. SHOEMAKER: Okay. He gave us a number of
11 transcripts prior to trial of the complete calls that we do
12 have objections to the complete call coming in because there
13 are a number of things that are either totally irrelevant or
14 that are inadmissible under the rules of evidence. And
15 there's nothing about this portion of the conversation that is
16 misleading and if Mr. Pitaro believes it is, we can address
17 that when it gets time for cross-examination.

18 THE COURT: Why don't we wait until cross-
19 examination, counsel. And I'll note the objection but I'll
20 allow this portion of it to be played.

21 (Plaintiff's Exhibit No. 172 admitted)

22 MS. SHOEMAKER: Thank you, Your Honor.

23 Pursuant to the parties stipulation, Exhibit 172 is
24 a tape recording of a conversation occurring on October 15th,
25 1995, at 9:35 in the morning. It was an outgoing call from

1 Paul Dottore's home telephone to Gerard Bongiovanni.

2 May we play the tape at this time?

3 THE COURT: You may with the clear understanding
4 that if counsel wishes and it's appropriate, then under Rule
5 106 the Court will allow the entire tape to be played or at
6 least portions of it.

7 MS. SHOEMAKER: Thank you, Your Honor.

8 (Plaintiff's Exhibit No. 172 is played)

9 MS. SHOEMAKER: Your Honor, I'd move for the
10 admission of a tape recording marked Government Exhibit 173.

11 THE COURT: Any objection to 173, counsel?

12 MR. PITARO: Excuse me one second, Judge.

13 No objection, Your Honor.

14 THE COURT: It'll be received, 173.

15 (Plaintiff's Exhibit No. 173 admitted)

16 MS. SHOEMAKER: Thank you, Your Honor.

17 Pursuant to the parties' stipulation, Exhibit 173 is
18 a tape recording of a conversation occurring on October 15th,
19 1995, at 9:44 in the morning, between Paul Dottore and Lynn
20 Leavitt. This call was placed from Paul Dottore's home
21 telephone.

22 BY MS. SHOEMAKER:

23 Q First of all, Agent Hanford, before we play this tape,
24 this tape 173 occurred minutes after the conversation that was
25 just played that was marked 172, is that correct?

1 A That's correct.

2 MS. SHOEMAKER: Your Honor, may we play the tape at
3 this time?

4 THE COURT: You may play the tape.

5 (Plaintiff's Exhibit No. 173 is played)

6 MS. SHOEMAKER: Your Honor, I'd move for the
7 admission of a tape recording marked Government Exhibit 174.

8 THE COURT: Any objection, counsel?

9 MR. PITARO: Yes, Your Honor, 801.

10 THE COURT: You're objecting --

11 MR. PITARO: Yes.

12 THE COURT: -- on the basis of 801?

13 MR. PITARO: Yep.

14 THE COURT: That it is not a conspiracy, is that the
15 idea? 801(d)(2)(E) or --

16 MR. PITARO: Yes.

17 THE COURT: Which --

18 MS. SHOEMAKER: And we're offering it as a statement
19 under 801(d)(2)(E), as coconspirator statements.

20 THE COURT: I think it is a 801(d)(2)(E)
21 conversation, counsel. The objection's overruled.

22 (Plaintiff's Exhibit No. 174 admitted)

23 MS. SHOEMAKER: Pursuant to the stipulation of the
24 parties, Your Honor, this is a tape recorded conversation
25 occurring on October 15th, 1995, approximately fifteen to

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1 twenty minutes after the last call which is this one being
2 10:06. It was an incoming call over Paul Dottore's home
3 telephone and it's between Paul Dottore and Starrlee Leavitt.

4 May we play the tape at this time?

5 THE COURT: You may play the tape.

6 (Plaintiff's Exhibit 174 is played)

7 BY MS. SHOEMAKER:

8 Q Agent Hanford, do you know who Starrlee Leavitt is?

9 A She was a -- the showroom manager for the Splash Hotel at
10 the Riviera -- Splash show at the Hotel Riviera.

11 Q Okay. And backing up just a second, a question I had
12 skipped over concerning the prior call between Paul Dottore
13 and Lynn Leavitt. Do you know who Lynn Leavitt is?

14 A He is Starrlee Leavitt's husband.

15 Q Okay.

16 MS. SHOEMAKER: Your Honor, may I approach the
17 witness?

18 THE COURT: You may.

19 MS. SHOEMAKER: For the record, I'm going to be
20 handing Agent Hanford what's been marked as Government's
21 Exhibit 202A and 200, which have already been received in
22 evidence pursuant to the parties' stipulation.

23 BY MS. SHOEMAKER:

24 Q Pursuant to the parties' stipulation, Exhibit 202A is a
25 telephone bill for Jeffrey Kutash. Agent Hanford, would you

1 please take a look at that bill and tell the jury what is Jeff
2 Kutash's phone number?

3 A (310) 377-0726.

4 Q Now, I would ask you to please look at Exhibit 200 which,
5 pursuant to the parties' stipulation, is a telephone bill for
6 a telephone at Lynn Leavitt's residence. Do you know whether
7 Starrlee Leavitt lives with Lynn Leavitt?

8 A Yes, she does.

9 Q Okay. Can you tell the jury, looking at Exhibit 200,
10 what --

11 THE COURT: Well, my understanding is you've
12 stipulated to it being received. You want to the Court to
13 receive the exhibit?

14 MS. SHOEMAKER: Your Honor, I believe it has been
15 received pursuant to the parties' stipulation in the first day
16 of trial.

17 THE COURT: Okay.

18 MS. SHOEMAKER: Yes.

19 THE COURT: And the Court has accepted the
20 stipulation as to this exhibit?

21 THE CLERK: Yes, Your Honor.

22 MS. SHOEMAKER: I believe so, Your Honor.

23 THE COURT: Okay.

24 BY MS. SHOEMAKER:

25 Q Agent Hanford, looking at Exhibit 200, will you please

1 tell the jury what Starrlee and Lynn Leavitt's telephone
2 number was?

3 A (702) 361-2598.

4 Q All right. Now, I will ask you if you would please look
5 for the date, October 15th, 1995, on Exhibit 200, that is
6 Starrlee Leavitt's telephone bill, and indicate whether there
7 are any telephone calls on that bill for October 15th, 1995,
8 to the number you just indicated was Jeff Kutash's phone
9 number. That is (310) 377-0726.

10 A The record indicates that there are two calls to Jeff
11 Kutash's number.

12 Q What time was the first phone call made?

13 A 10:13 a.m.

14 Q And approximately -- or what does the bill reflect how
15 long that conversation lasted?

16 A On line 4 of the bill, where the call is, it reflects
17 that the call lasted for three minutes.

18 Q Okay. Now you indicated this first call was at 10:13 in
19 the morning, is that correct?

20 A That's correct.

21 Q And the tape that we just played prior to your testifying
22 about that record was a conversation at 10:06 in the morning,
23 is that correct?

24 A That's correct.

25 Q So this phone call from Starrlee Leavitt's house to Mr.

1 Kutash's residence then would have been made approximately
2 five to seven minutes after she spoke to Paul Dottore, is that
3 correct?

4 A Depending on the length of the first call, yeah, five to
5 seven minutes.

6 Q Okay.

7 MS. SHOEMAKER: At this time, Your Honor, I would
8 move for admission of tape recording marked 175.

9 THE COURT: Any objection to 175?

10 MR. PITARO: Yes, Your Honor, under 801 and it's
11 calling for double hearsay.

12 MS. SHOEMAKER: And, Your Honor, all of it's being
13 offered, including the hearsay -- the alleged hearsay within
14 hearsay, as exceptions under 801(d)(2)(E).

15 THE COURT: The objection's overruled. The tape
16 will be received.

17 (Plaintiff's Exhibit No. 175 admitted)

18 MS. SHOEMAKER: Pursuant to the parties stipulation,
19 Exhibit 175 is a tape recorded conversation occurring on
20 October 15th, 1995, at 10:16 in the morning, which is
21 approximately right after the call shown on Starrlee Leavitt's
22 phone bill to Jeff Kutash. And it was occurring over Paul
23 Dottore's home telephone -- it was an incoming call with
24 Starrlee Leavitt.

25 May we play the tape at this time?

1 THE COURT: You may play the tape.

2 (Plaintiff's Exhibit No. 175 is played)

3 BY MS. SHOEMAKER:

4 Q All right. Agent Hanford, now I'd like you to look back
5 again at Exhibit 202A, in front of you, which again, pursuant
6 to the parties' stipulation, is a telephone bill for Jeff
7 Kutash covering that day, October 15th, 1995. And I'd ask you
8 if you would look to the same time that this call was being
9 placed from Starrlee Leavitt to Paul Dottore and indicate
10 whether his -- that is Jeff Kutash's telephone bill reflects a
11 call from Mr. Kutash's residence at the same time, 10:16 a.m.?

12 A Yes, on page 2 of the exhibit, toward the bottom, it's
13 the one, two, three, four, five, six, seventh call from the
14 bottom. There's a call at 10:16.

15 Q And what number was dialed from Mr. Kutash's residence at
16 10:16 on October 15th?

17 A Excuse me a minute. (310) 454-3288.

18 Q Do you know whose telephone number that is?

19 A That's the Martin Romley residence.

20 Q Mr. Romley was Mr. Kutash's partner, is that correct?

21 A That's correct.

22 MS. SHOEMAKER: Your Honor at this time I would move
23 for admission of a tape recording marked Exhibit 180.

24 THE COURT: 180?

25 MS. SHOEMAKER: Yes, Your Honor, 1-8-0.

1 THE COURT: Any objection, counsel?

2 MR. PITARO: No, Your Honor.

3 MS. SHOEMAKER: Pursuant to --

4 THE COURT: 180 will be received.

5 (Plaintiff's Exhibit No. 180 admitted)

6 MS. SHOEMAKER: Thank you, Your Honor.

7 Pursuant to the stipulation of the parties, Exhibit
8 180 is a tape recorded conversation occurring on October 15th,
9 1995, at 13:48 military time, which is 1:48 in the afternoon.
10 It was an outgoing call from Paul Dottore's home telephone to
11 Gerard Bongiovanni at his home telephone.

12 May we play the tape at this time?

13 THE COURT: You may.

14 (Plaintiff's Exhibit No. 180 is played)

15 MS. SHOEMAKER: Your Honor, now I would move for the
16 admission of a tape recording marked Exhibit 181.

17 THE COURT: 181?

18 MS. SHOEMAKER: Yes, Your Honor.

19 MR. PITARO: Your Honor, I'm going to object to
20 these series of phone calls that I don't believe that they
21 constitute any improper conduct.

22 MS. SHOEMAKER: Your Honor, this conversation is
23 being admitted for two purposes. One, it would come in under
24 801(d)(2)(E) as to Mr. Flangas's statements --

25 THE COURT: Let me let the jury take a recess.

1 We'll take a fifteen minutes recess. I'll meet with
2 you at the sidebar for just a moment.

3 (Jury recessed)

4 THE COURT: Counsel.

5 (Off-record colloquy)

6 (Discussion at sidebar)

7 THE COURT: Now this is a conversation with Flangas?

8 MS. SHOEMAKER: Yes, Your Honor. And actually, I
9 could probably --

10 THE COURT: You're starting into a new area?

11 MS. SHOEMAKER: No, Your Honor, we're not. I
12 mentioned 801(d)(2)(E) that's a secondary reason for bringing
13 it in. It just happens to be that there's some discussion
14 between Mr. Flangas and Mr. Bongiovanni about a bail or an own
15 recognizance release of somebody in that conversation. But
16 the primary purpose for bringing it in is because during the
17 conversation Mr. Bongiovanni mentions that Paul Dottore has
18 arrived at the house, and that's the real purpose we're
19 offering this particular conversation, is to show that Paul
20 Dottore did go over to Bongiovanni's as he said he was going
21 to in the last phone conversation. And it becomes critical
22 because when he leaves the residence a few minutes later he
23 calls Starrlee Leavitt, and he'll testify that that's when he
24 told her that he had discussed the bribe amount with
25 Bongiovanni and he tells him how much it's going to cost. So

1 it corroborates.

2 THE COURT: During and in furtherance of the arrival
3 of? That's a circumstance that --

4 MS. SHOEMAKER: To that extent, Your Honor, Mr.
5 Flangas's statements wouldn't be being offered for the truth,
6 but only because that's part of the rest of the conversation,
7 and it's Bongiovanni's statements as admissions that the
8 defendant went over to his residence at that point in time,
9 would be why it would come in.

10 THE COURT: Bongiovanni is saying --

11 MS. SHOEMAKER: He says, your best client, Pete;
12 then he goes, I mean, Paul, is at the door.

13 MR. PITARO: I think it should be redacted down to
14 that. I mean, you -- you just stood up and said --

15 THE COURT: You avoid it altogether. You have any
16 problem stipulating to that language?

17 MR. PITARO: If -- what I've read says, it says. I
18 have no problem with that, if that's what it says, no.

19 THE COURT: Well, I don't see any reason --

20 MR. PITARO: That -- that portion, yeah.

21 THE COURT: -- for the rest of it to come in.

22 Why don't you, during a recess, see if you can
23 indicate that this telephone conversation contains a statement
24 that -- now, who's making the statement, is it --

25 MS. SHOEMAKER: Bongiovanni.

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1 THE COURT: -- Flangas?

2 MS. SHOEMAKER: No, Bongiovanni is making the
3 statement.

4 THE COURT: Bongiovanni is saying, your best client,
5 or --

6 MS. SHOEMAKER: He states that Paul is at -- is at
7 the door.

8 MR. PITARO: Well, I'm prepared to stipulate that at
9 such and such a time that Bongiovanni said, Paul is at the
10 door.

11 THE COURT: You're prepared to stipulate --

12 MR. PITARO: Sure. That's what --

13 THE COURT: -- to that?

14 MR. PITARO: -- that's what it says; that's no
15 problem.

16 MS. SHOEMAKER: Okay. Then we don't need to play
17 that one tape, and we'll put that in.

18 (End of discussion at sidebar)

19 MR. JOHNSON: How long is the recess, Your Honor?

20 THE CLERK: Fifteen.

21 THE COURT: Oh, we'll take fifteen. Let me suggest
22 to you, I -- we can go off the record.

23 (Court recessed at 3:05 p.m. until 3:26 p.m.)

24 (Jury is present)

25 THE COURT: Please be seated.

1 It was my understanding, counsel, that you were
2 going to arrive at some sort of a stipulation and save the
3 playing of this next tape. Is that correct?

4 MS. SHOEMAKER: Yes, Your Honor.

5 The parties -- rather than play Exhibit 181, the
6 parties will stipulate that on October 15th, 1995 in this
7 conversation between Peter Flangas and Gerard Bongiovanni at
8 1352 military time, or 1:52 in the afternoon, that Mr.
9 Bongiovanni stated to Mr. Flangas towards the end of the
10 conversation, "And your best client, Pete -- I mean, Paul is
11 at the door, so I'll see you later."

12 THE COURT: Okay. That tape then should be removed
13 from the evidence that's received, but with the clear
14 understanding -- and that is the stipulation, Mr. Pitaro, as I
15 understand it?

16 MR. PITARO: Yes, Your Honor.

17 THE COURT: Okay. And again, such a stipulation is
18 evidence that you can consider.

19 MS. SHOEMAKER: May I approach the witness, Your
20 Honor?

21 THE COURT: You may.

22 DIRECT EXAMINATION (Continued)

23 BY MS. SHOEMAKER:

24 Q Agent Hanford, I'm going to hand you what's been marked
25 Exhibit 201B, which has been received in evidence. And

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1 pursuant to the parties' stipulation is identified as a
2 telephone record for a cellular telephone used by Paul
3 Dottore; and this bill covers the date October 15th, 1995.
4 And if you need to refer back to Exhibit 200 with Starrlee
5 Leavitt's telephone number, please do so if necessary.

6 But can you please look at Exhibit 201B and indicate
7 whether a call was placed over Paul Dottore's cellular
8 telephone to Starrlee Leavitt that afternoon?

9 A On the fourth call from the bottom, it says 2:01 p.m. and
10 then the call listed number (702) 361-2598, which is the
11 Leavitts' home telephone number; and it was a call of two
12 minutes in duration.

13 Q Okay. So that at 2:01 then was approximately eight
14 minutes or so after the conversation the parties just
15 stipulated where Mr. Bongiovanni announced that Paul was at
16 the door?

17 A That's correct, about nine minutes.

18 Q And how long was the conversation that occurred at 2:01
19 on Paul Dottore's cellular telephone?

20 A Two minutes.

21 Q Now I'll ask you to look at Exhibit 200, which is
22 Starrlee Leavitt's home telephone bill, and ask you to look at
23 shortly after the 2:01 call she received from Paul Dottore,
24 and indicate whether you see a telephone call placed to Jeff
25 Kutash's phone number, again from Exhibit 202A being (310)

1 377-0726?

2 A On that Exhibit 200 on line 5 it says, the date 10/15/95,
3 time 2:05 p.m., and then the call is to the number I recognize
4 as the Kutash residence, which is (310) 377-0726.

5 Q How long was that call?

6 A One minute.

7 Q All right. Now I'll ask you to look back at Exhibit 201B
8 again, which is Paul Dottore's cellular telephone bill. Do
9 you see another call to Starrlee Leavitt's residence that
10 afternoon?

11 A The last call at the bottom of the page at 2:14 p.m. is
12 to (702) 361-2598, which again is the Leavitts, and that's for
13 one minute.

14 Q And that was at 2:14 p.m., did you say?

15 A That's correct.

16 Q Now you did not have a wiretap on Paul Dottore's cellular
17 telephone, is that correct?

18 A No, we did not.

19 Q Okay.

20 MS. SHOEMAKER: Your Honor, at this time I would
21 move for admission of a tape recording marked Government's
22 Exhibit 182.

23 MR. PITARO: Objection under 801.

24 MS. SHOEMAKER: It's being offered as 801(d)(2)(E),
25 Your Honor.

1 THE COURT: Okay.

2 (Pause in the proceeding)

3 THE COURT: Okay, the objection's overruled. It
4 will be received.

5 (Plaintiff's Exhibit No. 182 admitted)

6 MS. SHOEMAKER: Thank you, Your Honor.

7 Pursuant to the parties' stipulation, Exhibit 182 is
8 a recorded conversation that occurred on October 15th, 1995 at
9 1739 military time, which is 5:39 in the evening. It's an
10 outgoing call from Paul Dottore's home telephone to number
11 (702) 794-9246, and it's a conversation between Paul Dottore
12 and Starrlee Leavitt.

13 BY MS. SHOEMAKER:

14 Q Before we play this tape, Agent Hanford, do you know
15 where Starrlee Leavitt was, or do you recognize the telephone
16 number where Paul Dottore called her in this conversation?

17 A That's one of the numbers at the Riviera -- Riviera
18 Hotel.

19 Q Okay. And you indicated that Starrlee Leavitt worked
20 there?

21 A That's correct.

22 Q Okay.

23 MS. SHOEMAKER: May we play Exhibit 182 at this
24 time, Your Honor?

25 THE COURT: You may.

1 (Plaintiff's Exhibit No. 182 is played)
2 MS. SHOEMAKER: At this time I would move for
3 admission of Exhibit 184, which is another tape recording.
4 THE COURT: 184?
5 MS. SHOEMAKER: Yes, Your Honor.
6 THE COURT: Now at least in my -- was that 182?
7 MS. SHOEMAKER: Yes, Your Honor.
8 THE COURT: Mine contains -- okay, I'm sorry, you
9 just put two copies here. All right.
10 Your request is for 183 now?
11 MS. SHOEMAKER: 184, Your Honor.
12 THE COURT: 184, I'm sorry.
13 MS. SHOEMAKER: Skipping over 183.
14 THE COURT: Any objection, Mr. Pitaro?
15 MR. PITARO: No, Your Honor.
16 THE COURT: 184 will be received.
17 (Plaintiff's Exhibit No. 184 admitted)
18 MS. SHOEMAKER: Thank you, Your Honor.
19 Pursuant to the parties' stipulation, Exhibit 184 is
20 a telephone conversation between Paul Dottore and Gerard
21 Bongiovanni in which Angela Bongiovanni is also intercepted at
22 one point. It occurred on October 15th, 1995 at military time
23 1833, which is 6:33 in the evening. It was an outgoing call
24 from Paul Dottore's home telephone number to Gerard
25 Bongiovanni at his home.

1 At this time I would ask that we be permitted to
2 play Exhibit 184.

3 THE COURT: You may play 184.

4 MS. SHOEMAKER: Thank you.

5 (Plaintiff's Exhibit No. 184 is played)

6 MS. SHOEMAKER: May I approach the witness, Your
7 Honor?

8 THE COURT: You may.

9 BY MS. SHOEMAKER:

10 Q Agent Hanford, I'm going to hand you what's been marked
11 as Government Exhibit 203A, which has been received into
12 evidence, and pursuant to the parties' stipulation is
13 identified as a cellular telephone bill for a telephone -- a
14 cellular telephone that Jeff Kutash used, and this bill covers
15 the date October 15th, 1995.

16 Would you please go ahead and pull that bill out of the
17 plastic and turn to page 5. And I'll direct your attention to
18 October 15th, 1995 towards the latter part of the afternoon or
19 early evening. Do you see a call on Mr. Kutash's cellular
20 telephone bill to Starrlee Leavitt's residence?

21 (Pause in the proceeding)

22 A You said on page 5?

23 Okay, yes, I found it. It's at 5:53 p.m.

24 Q Okay. And how long did that call last?

25 A One minute.

1 Q All right. Now I'm going to ask you to please look at
2 Exhibit 202A, which I believe is in front of you, and was
3 received in evidence, which is a phone bill for Jeff Kutash's
4 home telephone. I would ask you to look at the date October
5 15th, 1995 in the early evening. I'll just direct your
6 attention to 6:50 p.m.

7 Do you see a telephone call on Exhibit 202A from Jeff
8 Kutash at 6:50 p.m.?

9 A Yes.

10 Q And what number was called there?

11 A (310) 454-3288.

12 Q And I believe you testified earlier that was the Romley
13 residence?

14 A That's correct.

15 MS. SHOEMAKER: At this time, Your Honor --

16 BY MS. SHOEMAKER:

17 Q -- oh, and how long was that call?

18 A One minute.

19 MS. SHOEMAKER: At this time, Your Honor, I would
20 move for admission of Exhibit 185.

21 THE COURT: 185?

22 MS. SHOEMAKER: Yes, Your Honor.

23 THE COURT: Any objection, counsel?

24 MR. PITARO: Yes, Your Honor.

25 MS. SHOEMAKER: It's 801(d)(2)(E), Your Honor.

1 (Pause in the proceeding)

2 THE COURT: It will be received.

3 (Plaintiff's Exhibit No. 185 admitted)

4 MS. SHOEMAKER: Thank you.

5 Pursuant to the parties' stipulation, Exhibit 185 is
6 a tape-recorded conversation of a call between Paul Dottore
7 and Starrlee Leavitt on October 15th, 1995 at 1852 military
8 time, which is 6:52 p.m. It was an incoming call over Paul
9 Dottore's home telephone.

10 BY MS. SHOEMAKER:

11 Q First of all, Agent Hanford, before we play this tape,
12 this tape 185 occurring at 6:52 p.m. is approximately one
13 minute after the call from Mr. Kutash's residence to the
14 Romley residence in 202A, is that correct?

15 A That's correct.

16 MS. SHOEMAKER: May we play Exhibit 185, Your Honor?

17 THE COURT: You may.

18 (Plaintiff's Exhibit No. 185 is played)

19 BY MS. SHOEMAKER:

20 Q Was Starrlee Leavitt still at the Riviera when this call
21 was made?

22 A Yes.

23 MS. SHOEMAKER: May I approach the witness, Your
24 Honor?

25 THE COURT: You may.

1 BY MS. SHOEMAKER:

2 Q Agent Hanford, I'm going to hand you what's been marked
3 as Government Exhibit 208 and was received in evidence, and it
4 has been identified as a pen register.

5 First of all, can you explain for the jury what a pen
6 register is?

7 A It's an electrical device that is attached to a
8 particular phone number that records -- whenever a call is
9 made out from that telephone, it records the time, the date
10 and the number dialed. If a call is made into that telephone
11 number, it recalls -- it records the time, the date and
12 duration of the call, but not where it comes from, unless it's
13 another phone that also has a pen register in it, and then
14 it'll indicate that it's coming from another pen register
15 phone.

16 Q All right. So is Exhibit 208 then, that's been received
17 as a pen register, a printout of a pen register that was on
18 telephones in this case?

19 A It is.

20 Q All right. Can you tell the jury what telephones and
21 what period of time Exhibit 208 covers?

22 A There's actually two phones here, one is Gerard
23 Bongiovanni's phone, and the other is Paul Dottore's phone.

24 Q When you say Gerard Bongiovanni's telephone, are you
25 referring to his home telephone?

1 A Yes.

2 Q All right. And what time period does the printout that's
3 in front of you, 208, cover?

4 A From 10/13 through 10/16.

5 Q 1995?

6 A That's correct.

7 Q All right. I'm going to direct your attention now
8 towards the end of that pen register in front of you, and the
9 printout of it, to October 15th, 1995, in the early evening
10 hours. In fact, I'll start with this: direct your attention
11 to the area of 7:07 that evening. On Paul Dottore's home
12 telephone, can you see whether he attempted to call Defendant
13 Bongiovanni's residence a number of times?

14 A There's four calls in a row from Paul Dottore's residence
15 to Judge Bongiovanni's residence.

16 Q Okay. And what times were those calls placed?

17 A 1908, which would be 7:08, 1908 and 15 seconds. And then
18 another one at 1908 and 53 seconds. The next one's at 1911
19 and 20 seconds. And the last one's at 1913 and 51 seconds.

20 Q Okay. Now from your review of the wiretap that was
21 ongoing at that time, and the pen register, can you tell the
22 jury what you know about Paul Dottore's attempts to contact
23 the Bongiovanni residence in those calls?

24 A The first three calls he didn't get through.

25 Q All right. And then in the fourth call he did get

1 through?

2 A Yes, he did.

3 Q Okay.

4 MS. SHOEMAKER: At this time, Your Honor, I would
5 move for admission of Exhibit 186.

6 THE COURT: Any objection, counsel?

7 MR. PITARO: Let me just look at it, if I could.

8 THE COURT: Surely.

9 MR. PITARO: Yes, Your Honor, 801.

10 THE COURT: The objection's --

11 MS. SHOEMAKER: These are --

12 THE COURT: -- overruled. It'll --

13 (Plaintiff's Exhibit No. 186 admitted)

14 MS. SHOEMAKER: Thank you, Your Honor.

15 Pursuant to the stipulation of the parties, Exhibit
16 186 is a tape recording of a conversation between Paul Dottore
17 and Gerard Bongiovanni on October 15th, 1995 at 1913 military
18 time, which is 7:13 p.m. It was an outgoing call from Paul
19 Dottore's home telephone to Gerard Bongiovanni at his home
20 telephone.

21 BY MS. SHOEMAKER:

22 Q Before we play this tape, Agent Hanford, is this the
23 fourth call that was placed from the Dottore residence to
24 Bongiovanni within those minutes?

25 A Yes, it is.

1 Q And this is the call where they got through?

2 A Yes, it is.

3 MS. SHOEMAKER: May we play Exhibit 186 at this
4 time, Your Honor?

5 THE COURT: You may.

6 (Plaintiff's Exhibit No. 186 is played)

7 MS. SHOEMAKER: May I approach the witness, Your
8 Honor?

9 THE COURT: You may.

10 BY MS. SHOEMAKER:

11 Q Agent Hanford, I'm going to hand you what's been marked
12 and received into evidence as Exhibits 204A, 204B, 205, and
13 205B.

14 MS. SHOEMAKER: Pursuant to the parties'
15 stipulation, Exhibit 204A and 204B are airline records
16 concerning a flight that Jeff Kutash took from Los Angeles to
17 Las Vegas on October 15th, 1995. And Exhibits 205A and B are
18 records from the Delmonico Bar at the Riviera Hotel, and also
19 the Riviera Hotel hotel registration records showing Jeff
20 Kutash at the hotel on October 15th, 1995.

21 BY MS. SHOEMAKER:

22 Q First, I would ask you to look at Exhibits 204A -- first
23 look at 204A and indicate what flight was it that Jeff Kutash
24 flew on to Las Vegas that day?

25 A The flight number?

1 Q Yes.

2 A Okay. 2166, I believe.

3 Q And can you see from Exhibit 204A what time it was
4 scheduled to depart?

5 If you can't -- you can turn to 204B.

6 A I'm sure it's on there somewhere, but.

7 Q Okay. If you'll look at Exhibit 204B. Can you indicate
8 from that letter from United Airlines what time the flight
9 actually took off?

10 A It took off from Los Angeles at 20 -- 2027.

11 Q And what is that in ordinary time?

12 A 8:27.

13 Q And what time did it arrive in Las Vegas?

14 A It reached the gate at Las Vegas at 2119, which would be
15 9:19 p.m.

16 Q Okay. Now would you please look at Exhibits 205A and
17 205B. First of all, does Exhibit 205A reflect that Mr. Kutash
18 stayed at the Riviera on October 15th, 1995?

19 A Yes, it does.

20 Q All right. Now will you please look at Exhibit 205B,
21 which are the receipts from the Delmonico Bar at the Riviera
22 Hotel. Can you look at the times that are reflected on
23 Exhibit 205B and indicate when those receipts were signed?

24 A There's three separate receipts, the first one's at 2319,
25 the second one at 2320, and the third one at 2329.

- 1 Q Okay. And that's military time, correct?
- 2 A That's correct.
- 3 Q All right. What would be the ordinary time for that?
- 4 A 11:19, 11:20 and 11:29 p.m.
- 5 Q Okay. Now, if you would please look back to the pen
- 6 register that was marked Exhibit 208. And I'll ask you to
- 7 turn towards the end and look where it reflects calls on Paul
- 8 Dottore's home telephone on October 15th, 1995 in the late
- 9 evening. Do you see an incoming call at 11:23?
- 10 A I see one at 11:24.
- 11 Q 11:24?
- 12 A Yes.
- 13 Q How long did that call last?
- 14 A Twenty-two seconds.
- 15 Q Does the pen register reflect where that call came from?
- 16 A No.
- 17 Q Sorry. Now immediately after that incoming call at 11:24
- 18 p.m., does the pen register reflect that Paul Dottore, or
- 19 somebody at Paul Dottore's residence, placed an outgoing call?
- 20 A Yes, at 11:25 an outgoing call was made to the
- 21 Bongiovanni residence.
- 22 Q And how long did that call last?
- 23 A One minute and 17 seconds.
- 24 Q All right. Was the wiretap up at that hour of the day?
- 25 A No.

1 Q Can you explain for the jury why the wiretap was not up
2 at 11:25 p.m.?

3 A Our past experience had shown that there were very few
4 calls after 10:00 p.m. at night.

5 Q Okay. So what hours were you typically up on the wire?

6 A From 8:00 o'clock in the morning 'til 10:00 o'clock at
7 night.

8 Q Okay. Now I'll ask you to turn to Exhibit 201B which is
9 in front of you, again, pursuant to the parties' stipulation,
10 that is the cellular telephone record for the cellular
11 telephone Paul Dottore used, and ask you to look at the calls
12 that were placed on October 15th, 1995 after 11:25 p.m. Was
13 -- were any calls placed after 11:25 p.m. on that cellular
14 telephone?

15 A Well, on page 2, the second call down from the top,
16 there's a call at 11:32 p.m. to number 794-9246.

17 Q Do you recognize where that number is?

18 A The Riviera Hotel.

19 Q And how long did that call last?

20 A One minute.

21 Q All right. Now I'd ask you to flip back again to the pen
22 register that's been marked Exhibit 208. And if you would
23 turn to the part of that printout that reflects calls that
24 were made from Paul Dottore's home telephone on the morning of
25 October 16th, 1995, the day after all these calls that we've

1 just been talking about. And I'll direct your attention to
2 the morning. Do you see a number of calls where someone at
3 Paul Dottore's residence attempted to reach somebody at Gerard
4 Bongiovanni's residence on October 16th, 1995 in the morning?

5 A There's four calls -- excuse me, actually three calls to
6 the Bongiovanni residence.

7 Q What time were those calls placed?

8 A 8:11 a.m., 8:15 a.m. and 8:21 a.m.

9 Q How long was the call at 8:11 a.m.?

10 A 42 seconds.

11 Q What about the call at 8:15 a.m.?

12 A 55 seconds.

13 Q And what about the call, I believe you said 8:21 a.m.?

14 A 8:21 a.m. 56 seconds.

15 Q Is there a call on there at 8:26 in the morning?

16 A Yes.

17 Q And where was that call to?

18 A To the Bongiovanni residence.

19 Q Okay. How long did that call last?

20 A 40 seconds.

21 MS. SHOEMAKER: At this time, Your Honor, I would
22 move for admission of Exhibit 187.

23 THE COURT: 187?

24 MS. SHOEMAKER: Yes, Your Honor.

25 THE COURT: Any objection, counsel?

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1 MR. PITARO: No, Your Honor.

2 THE COURT: Received.

3 (Plaintiff's Exhibit No. 187 admitted)

4 MS. SHOEMAKER: Your Honor, pursuant to the
5 stipulation of the parties, Exhibit 187 is a tape recording of
6 a series of calls, four calls, that were placed from Paul
7 Dottore's home telephone on the morning of October 16th, 1995,
8 the first call being at 8:19 in the morning, the second call
9 at 8:20, the third call at 8:26, and the fourth call at 8:29.
10 The second and third calls there were placed to Defendant
11 Bongiovanni's home telephone. In these various calls Paul
12 Dottore is a participant in one of the calls, Del Potter is a
13 participant, one of the calls an unknown female is a
14 participant, one of the calls Gerard Bongiovanni is a
15 participant, and also at one point an unknown male is a
16 participant.

17 THE COURT: You may play the tapes.

18 MS. SHOEMAKER: Thank you, Your Honor.

19 BY MS. SHOEMAKER:

20 Q Before we play the tape, Agent Hanford, you had indicated
21 a moment ago that the pen register reflects Paul Dottore
22 attempted to reach Gerard Bongiovanni at his home telephone at
23 8:11 and 8:15 that morning, which would have been prior to
24 these four calls on this tape. Were those calls intercepted
25 over the wire?

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1 A No, they were not.

2 Q All right. Was the wire just started a little bit late
3 that day?

4 A Apparently, yes.

5 Q Okay.

6 MS. SHOEMAKER: May we play the tape at this time,
7 Your Honor?

8 THE COURT: You may.

9 (Plaintiff's Exhibit No. 187 is played)

10 MS. SHOEMAKER: At this time I would move for
11 admission of Exhibit 188.

12 THE COURT: Any objection to --

13 MR. PITARO: No, Your Honor.

14 THE COURT: 188 will be received.

15 (Plaintiff's Exhibit No. 188 admitted)

16 MS. SHOEMAKER: Thank you, Your Honor.

17 Pursuant to the stipulation of the parties, Exhibit
18 188 is a recording of a series of calls, again it's four
19 calls, each of them is an incoming call over Diane Woofter's
20 telephone on October 16th, 1995, at 1114, 1355, 1613 and 1648
21 military time, which would be 11:14 in the morning, 1:55 in
22 the afternoon, 4:13 in the afternoon and 4:48 in the
23 afternoon. The participants are Paul Dottore and Diane
24 Woofter, and in one reception Del Potter as well.
25 ///

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1 BY MS. SHOEMAKER:

2 Q First of all, before we play the tape, Agent Hanford, do
3 you know who Diane Woofter is?

4 A She was Judge Bongiovanni's secretary.

5 MS. SHOEMAKER: May we play Exhibit 188 at this
6 time?

7 THE COURT: You may.

8 (Plaintiff's Exhibit No. 188 is played)

9 BY MS. SHOEMAKER:

10 Q All right, Agent Hanford, a few minutes ago you explained
11 for the jury what a pen register was and indicated that you
12 had a pen register on Paul Dottore's home telephone and Gerard
13 Bongiovanni's home telephone at a certain point during the
14 investigation. Did you have the pen register on those two
15 home telephones for a longer period of time than the few days
16 that were in Exhibit 208?

17 A Yes. The pen register on Mr. Dottore's phone covered a
18 period of over eight hundred days, and on Mr. Bongiovanni's
19 home phone a period of over six hundred days.

20 Q All right. Did you also have a pen register on the two
21 chambers telephones, that is Gerard Bongiovanni's chambers
22 telephone and the telephone that Diane Woofter used?

23 A Yes, we did.

24 Q And were those on also for a substantial period of time?

25 A Yes.

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1 Q Did you review the pen registers on a periodic basis
2 throughout the investigation?

3 A Periodically, yes.

4 Q All right. And I believe you testified a few minutes ago
5 that you were only actually monitoring calls over the wiretaps
6 from about 8:00 in the morning until 10:00 p.m., did you say?

7 A Yes, generally.

8 Q All right. And that was because, I believe you
9 indicated, that there were very rarely calls after 10:00 p.m.
10 and before 8:00 a.m., is that correct?

11 A That's correct.

12 Q All right. Have you done a summary analysis of the
13 number of calls that were placed between Paul Dottore's home
14 telephone and either Gerard Bongiovanni's home telephone, his
15 chambers telephone or the secretary's telephone during this
16 entire period of time that pen registers were up on the
17 telephones?

18 A Yes, I did.

19 MS. SHOEMAKER: May I approach the witness, Your
20 Honor?

21 THE COURT: You may.

22 BY MS. SHOEMAKER:

23 Q I'm going to hand you, Agent Hanford, what's been marked
24 as Government Exhibit 209 and was received in evidence as a
25 summary of some of the information from the pen registers. Do

1 you recognize that exhibit?

2 A Yes, it's a computer summary of the pen register
3 information.

4 Q All right. Is Exhibit 209, that summary, is it charts of
5 calls that occurred between 10:00 or 11:00 o'clock p.m. and I
6 believe 9:00 o'clock in the morning?

7 A Different charts cover different periods of time here,
8 yes.

9 Q Okay. But between all of the charts that are in front of
10 you, are those a list of all the calls that were recorded over
11 the pen registers while the pen registers were up that
12 occurred after 11:00 p.m. and prior to 9:00 o'clock in the
13 morning?

14 A That's correct.

15 Q Okay. Why don't you turn, first of all, to the first
16 page of the summary, the one that actually has a sticker on it

17 Government Exhibit 209. Can you please tell the jury what
18 that page reflects, in term -- and all I mean by that is, what
19 days of the week, or what time period this first page of the
20 chart concerns?

21 A It reflects a summary of all calls made from the Dottore
22 residence to the Bongiovanni residence, or vice versa, from
23 11:00 o'clock at night until midnight.

24 Q Okay. Will you look at the next page? There are two
25 calls listed on that page. And what does this chart pertain

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1 to?

2 A All calls made from the Dottore residence to the
3 Bongiovanni residence, or vice versa, from midnight until 6:00
4 a.m.

5 Q All right. And then the third page on the chart has a
6 number of calls on there. What does that chart reflect?

7 A This is all calls made from the Bongiovanni residence to
8 the Dottore, or the Dottore residence to the Bongiovanni
9 residence, from 6:00 a.m. in the morning 'til 9:00 a.m. in the
10 morning.

11 Q All right. And if you would turn then to the fourth
12 page. And what does that chart cover?

13 A This is all calls between those same two numbers I just
14 mentioned between 6:00 in the morning and 9:00 in the morning,
15 but only on weekdays.

16 Q Okay. All right, now I'd ask you to turn back to the
17 first two pages, which I believe you indicated the first page
18 covers calls between 11:00 o'clock and midnight, and the
19 second page covers calls from midnight to 6:00 in the morning;
20 is that correct?

21 A That's correct.

22 Q Okay. Was there a particular reason that you broke this
23 into two pages, or did you have to do that because of the way
24 the computer was set up, by date?

25 A Between chart 1 and 2?

1 Q Yes.

2 A They cover different periods of time. The computer cuts
3 off at midnight, so --

4 Q Okay.

5 A -- it has to be broken up into two charts.

6 Q All right. So if you read the first page and the second
7 page together then, would that reflect all calls that were
8 back and forth between the Dottore residence and the
9 Bongiovanni residence between 11:00 o'clock at night and 6:00
10 in the morning?

11 A That's correct.

12 Q And how many calls -- well, first of all, if you look at
13 the two charts there, how many of those calls occurred after
14 midnight?

15 A Two.

16 Q All right. And what times did those two calls occur?

17 A There's one at 8 minutes after midnight, and one at 50
18 minutes after midnight.

19 Q Okay. So essentially then, the pen register summaries
20 reflect that other than these two calls that occurred shortly
21 after midnight, all the calls that occurred after -- between
22 11:00 p.m. and 6:00 in the morning were really between 11:00
23 o'clock p.m. and midnight or shortly afterwards?

24 A That's correct.

25 Q Okay. Now, out of all those calls that occurred after

1 11:00 p.m. and prior to 6:00 in the morning, how many of those
2 calls fell on a weekend?

3 A Counting the ones after midnight?

4 Q Yes.

5 A Six.

6 Q All right. And how many calls occurred on a weekday
7 after 11:00 o'clock p.m.?

8 A Four.

9 Q All right. And when I say weekday, you're counting calls
10 on Friday p.m., is that correct?

11 A That's correct.

12 Q Okay. Now the wiretap was not up when these phone calls
13 were made after 11:00 o'clock, is that correct?

14 A That's correct.

15 Q Okay. Do you know what any of these calls concerned?

16 A No.

17 Q Okay. Now if you'll turn over to the third page, that's
18 calls that occurred between 6:00 in the morning and 9:00 in
19 the morning on, did you say weekdays?

20 A This one's all calls, page 3.

21 Q Okay. And then page 4 then, is that the one that is just
22 on the weekdays?

23 A That's correct.

24 Q Okay. How many of the calls were between 6:00 and 9:00
25 in the morning on a weekend, looking at page 3?

1 A Three.

2 Q All right. And then looking at page 4 then, that would
3 be all the calls that occurred between 6:00 in the morning and
4 9:00 in the morning on a weekday?

5 A Right, page 4, yes.

6 Q Yes.

7 A That would be all calls on weekdays, yes.

8 Q All right. How many calls total were there between 6:00
9 in the morning and 9:00 in the morning on a weekday?

10 A Eleven.

11 Q All right. How many of those eleven calls occurred on
12 October 16th, 1995?

13 A Four.

14 Q All right. So that would leave seven calls other than
15 October 16th, 1995 that occurred during this eight hundred
16 some days?

17 A That's correct.

18 Q Now, of those seven calls that occurred prior to 9:00 in
19 the morning on days other than October 16th, 1995, was the
20 wiretap in place for any of those calls?

21 A For some of them, yes.

22 Q Okay. Can you -- why don't you, first of all, starting
23 with the very first call on the fourth page there where you've
24 got seven calls listed in a row that occurred prior to 9:00 in
25 the morning, if you could explain for the jury wherever you

1 know what a particular call was for, or why the call may have
2 occurred on that particular day that early in the morning.

3 MR. PITARO: Your Honor, that's going to call for
4 speculation.

5 THE COURT: Why don't you rephrase the question,
6 counsel.

7 MS. SHOEMAKER: Okay.

8 BY MS. SHOEMAKER:

9 Q First of all, why don't you go ahead and point to calls
10 that you know were intercepted over the wire.

11 A The August the 30th call was intercepted over the wire.

12 Q Okay. And do you know what that call concerned?

13 A Arranging a golf date between Mr. Dottore and --

14 MR. PITARO: Your Honor, I'm going to have to object
15 to him talking about tapes and telephone calls --

16 THE COURT: Sustained.

17 MR. PITARO: Thank you.

18 BY MS. SHOEMAKER:

19 Q Were any of these days, the seven days where calls were
20 placed prior to 9:00 in the morning, holidays?

21 A The two calls on September the 5th; September the 5th is
22 Labor Day. The next call, November 11th, is Veterans Day.

23 Q All right. Do you recall interceptions that occurred on
24 August 4th of 1994?

25 A Yes.

1 Q And do you recall anything in particular that was going
2 on involving Paul Dottore where he contacted Defendant
3 Bongiovanni on a number of times that day?

4 A Paul Dottore's son was arrested that day.

5 Q Were these two calls then on August 4th, 1994 at 7:20 in
6 the morning, both of them at 7:20 in the morning, relating to
7 Paul Dottore's son's arrest?

8 A I would assume so, yes.

9 Q All right. So of the seven days that there was a call
10 prior to 9:00 o'clock in the morning, other than the four
11 calls on October 16th, 1995, three of those calls were placed
12 on a holiday, two of the calls related to Paul Dottore's son's
13 arrest, and one was involving golf; is that correct?

14 A That's correct.

15 Q So there's only one conversation there that you don't
16 know what it pertained to, and that was November 22nd, 1994,
17 is that right?

18 A That's right.

19 Q And turning back to page 1, how many calls does the chart
20 reflect were made after 11:00 o'clock p.m.?

21 MR. PITARO: Your Honor, I think that's been asked
22 and answered.

23 MS. SHOEMAKER: Not how many.

24 THE COURT: You may respond.

25 THE WITNESS: After 11:00 and before midnight?

1 BY MS. SHOEMAKER:

2 Q Yes.

3 A Eight.

4 Q Okay. And you had indicated there were two calls after
5 midnight, is that right?

6 A That's right.

7 Q Okay. So there were a total of ten calls between 11:00
8 o'clock p.m. and 6:00 o'clock in the morning, is that right?

9 A That's right.

10 Q Was that for the entire eight hundred and some days that
11 the pen register was up?

12 A Yes.

13 Q Do you know the date the original indictment in this case
14 was returned?

15 A April 16th, 1996.

16 Q And do you know the date that it became public or was
17 unsealed?

18 A The following day.

19 Q April 17th, 1996?

20 A That's correct.

21 Q Do you know whether the Kutash bribe that's alleged in
22 the superseding indictment was also alleged in that original
23 indictment?

24 A Yes, it was.

25 Q Now you testified earlier that on October 17th, 1997,

1 which was one and two days after all these events involving
2 the Kutash matter, that you executed search warrants at Gerard
3 Bongiovanni's house, is that right?

4 A That's right.

5 Q Did you request in the search warrant authorization to
6 search for any money that had been obtained from Jeff Kutash?

7 A No.

8 Q Why not?

9 A I didn't know about it then.

10 Q Okay. Now we've played a number of tapes that were
11 intercepted on October 15th and 16th pertaining to that
12 matter, had you reviewed those tapes at that time?

13 A Not at that time, no.

14 Q All right. And why had you not reviewed them at that
15 time?

16 A Those -- the 16th and the 17th I was occupied with

17 preparing and getting signed the search warrant and organizing
18 the search and surveillance for the 17th.

19 Q All right. So you had not reviewed those tapes and were
20 not aware of the significance of those tapes at the time?

21 MR. PITARO: Your Honor, I'm going to have to object
22 to that because he was aware of the tapes, and he was aware of
23 what -- of what was happening; it's the interpretation that
24 was different, and we know that. And trying to ask the
25 question like that to get him to say something different about

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1 tapes that he's claiming now he doesn't know anything about I
2 think is improper.

3 MS. SHOEMAKER: Your Honor, I can -- I can ask a
4 different form of the question.

5 MR. PITARO: It's still improper.

6 THE COURT: Go ahead, start -- ask the question
7 again.

8 THE COURT: Go ahead. Start -- ask the question
9 again.

10 BY MS. SHOEMAKER:

11 Q Agent Hanford, when you applied for and later executed
12 the search warrants at Defendant Bongiovanni's house, were you
13 aware of all of these conversations pertaining to what is
14 alleged as the Kutash bribe?

15 A Not all of them, no.

16 Q All right. How many of them were you aware of?

17 A Well, the one in particular I was aware of in the evening
18 of October the 15th.

19 Q All right. And which call is that that you're referring
20 to?

21 A It's the call between Starrlee Leavitt and Paul Dottore
22 where Starrlee Leavitt says somebody -- he's coming up and
23 he's going to bring it with him --

24 Q All right.

25 A -- or words to that effect.

1 Q How did you learn -- first of all, when did you learn
2 about that conversation?

3 A On the evening of October 15th.

4 Q The same day the conversation was intercepted?

5 A That's correct.

6 Q How did you learn of it?

7 A Agent Howey called me and told me he had intercepted the
8 conversation and he read me his notes.

9 Q All right. And do you recall what Agent Howey told you
10 about that conversation?

11 A He said it sounded to him like it was a drug deal.

12 Q All right. Did you actually listen to the tape at that
13 time?

14 A No.

15 Q And when did you first listen to the tape?

16 A It would have been later in the week on -- of the 16th --

17 Q All right.

18 A -- of October.

19 Q Had you been notified about any of these other tapes that
20 have been played relating to the Kutash bribe?

21 A No.

22 Q Were you aware of any of the records relating to the
23 Kutash bribe?

24 A I don't understand what you mean by "records."

25 Q Well, the phone records that you've been testifying about

1 that showed phone calls back and forth from Starrlee Leavitt's
2 residence to Jeff Kutash, and Jeff Kutash to Starrlee
3 Leavitt's residence, and Paul Dottore's cellular telephone
4 records to Starrlee Leavitt, and so forth?

5 A No, not at that time.

6 Q Okay. So at the time you applied for the search warrant
7 to search for Mr. Bongiovanni's residence and his person, the
8 only information you had that turns out to be related to this
9 Kutash matter is the one conversation you said Agent Howey
10 told you about?

11 A That's right.

12 Q And Agent Howey had told you it was about -- he thought
13 it might pertain to a drug deal?

14 A That was his perception, yes.

15 Q Okay. And you didn't --

16 THE COURT: Counsel, let me suggest again, when
17 evidence is clear, there's no reason to take the time to

18 review that with questions that simply are summarizing. That
19 can be done during the arguments.

20 BY MS. SHOEMAKER:

21 Q Did you, in response to what Agent Howey told you about,
22 that one conversation, decide to do anything to pursue that
23 conversation?

24 A I decided not to do anything.

25 Q And why is that?

1 MR. PITARO: Your Honor, I think that's calling for
2 him to --

3 THE COURT: Sustained.

4 MR. PITARO: -- to speculate now, two years later,
5 to explain why he didn't do something.

6 THE COURT: I've sustained your objection, counsel.

7 MR. PITARO: Thank you.

8 BY MS. SHOEMAKER:

9 Q All right. Shortly after the search warrants were
10 executed at Mr. Bongiovanni's residence, are you aware that
11 the newspapers reported the fact of the search and the fact
12 that Mr. Bongiovanni was under investigation for bribery?

13 A Yes.

14 Q When recording -- or, excuse me, when reviewing the
15 recordings that were intercepted over the wiretaps in this
16 case during the investigation and in preparation and in

17 preparation for trial, did you identify two tapes relating to
18 the allegations in the indictment concerning a bribe paid to
19 the defendant by Kenneth Lombard?

20 A Yes.

21 MS. SHOEMAKER: Your Honor, I would move for
22 admission of Exhibit 23.

23 THE COURT: 23?

24 MS. SHOEMAKER: Yes, Your Honor.

25 THE COURT: Do you have any objection, counsel?

1 MR. PITARO: I -- going to have to get it, Judge. I
2 guess we're going backwards now.

3 MS. SHOEMAKER: For the jurors and the Court, that's
4 in binder number 1.

5 (Pause in the proceedings)

6 THE COURT: Are you starting into a new area now,
7 counsel?

8 MS. SHOEMAKER: Yes, Your Honor.

9 THE COURT: Do you have any objection to this
10 exhibit, counsel?

11 MR. PITARO: Your Honor, I don't think it has
12 anything to do with anything under 801.

13 THE COURT: What's the basis for receiving it?

14 MS. SHOEMAKER: Your Honor, the purpose of receiving
15 it is to establish it will tie in with the next tape, Kenneth
16 Lombard going to Defendant Bongiovanni's house in April of
17 1994.

18 THE COURT: Let me talk with you for a moment at
19 sidebar.

20 (Off-record colloquy)

21 (Discussion at sidebar)

22 MS. SHOEMAKER: The two tapes together, Your Honor,
23 will show that Kenneth Lombard went to Defendant Bongiovanni's
24 house in April of 1994, which is the time period that Tina
25 Lombard will testify she observed Kenneth Lombard give

1 Defendant Bongiovanni an envelope of money that was his
2 payment as a bribe in a criminal case. And in these
3 conversations, Paul Dottore asks if -- asks Bongiovanni if
4 Lombard gave it all to him, and Judge Bongiovanni says that,
5 he did and if he didn't he would have been cut off. In the
6 first conversation he's indicating that he hasn't gone over
7 there yet.

8 MR. PITARO: With all -- with all due respect, this
9 is the most speculative -- that first tape talks about soup,
10 okay? I don't care what you want to say, that's what it does.

11 The second one has -- is -- has no meaning
12 independent of any other testimony, especially with the first
13 one. And secondly, I'm going to ask you to please don't ask
14 them to stop referring to an interpretation, will you please
15 go to the Kenny Lombard bribe and then we start talking about
16 a tape. And that's not their thing.

17 But this first tape talks about soup. Okay?

18 MS. SHOEMAKER: Your Honor --

19 MR. PITARO: And they want to get -- it -- I've made
20 my objection. It's got nothing to do with this case. It's
21 the most -- with all due respect, it appears to be the most
22 stupid sequence of tapes out of this whole thing.

23 MS. SHOEMAKER: Your Honor, it -- when Tina
24 Lombard --

25 MR. PITARO: And they can't tie this --

1 THE COURT: Just -- just a minute.

2 MS. SHOEMAKER: -- testifies -- when Tina Lombard
3 testifies that Kenneth Lombard went to the house in April of
4 1994 to pay his bribe, these tapes corroborate the fact that
5 he did go there, that he gave something to Bongiovanni, that
6 he gave him all of it. And Mr. Pitaro, while he's stating
7 now, and he said in his opening statement that they're talking
8 about soup, you can see from the calls, particularly the first
9 call --

10 THE COURT: Let me tell you --

11 MS. SHOEMAKER: -- they are not talking about soup.

12 THE COURT: -- what maybe we'll need to do is -- is
13 get the predicate testimony and then call this witness back,
14 and I'll allow that if you choose, but -- and I haven't read
15 this tape. I don't think this tape was in the first trial.

16 MR. JOHNSON: This was.

17 MS. SHOEMAKER: Yes, I believe they both were in the
18 first trial, Your Honor.

19 THE COURT: Were they?

20 MS. SHOEMAKER: Yes.

21 MR. PITARO: Judge, let me just say, they can't take
22 a tape in --

23 THE COURT: Well --

24 MR. PITARO: -- in April --

25 THE COURT: -- what I'm telling you is that I'm not

1 going to receive these tapes now. We can go to a different
2 area.

3 MR. PITARO: Okay.

4 THE COURT: Let me, while we're here, there's -- I
5 think there's plenty of evidence to give the Court enough
6 preliminary information to suggest -- to indicate that there
7 was a conspiracy and lays the predicate information to
8 consider 801(d)(2)(B). There's a number of things that deal
9 with that, even going back -- and I guess this was this
10 conversation between Potter and Bongiovanni that talks about
11 Kutash's after this, of course; but even that tape separate
12 and by itself seems to suggest, without there being any
13 discussion at that point of a bribe, that clearly there was
14 conversation that could arguably be interpreted as efforts to
15 deny the citizens of the state of Nevada the honest services
16 of the judge. And all -- and the many tapes that were
17 received during the same testimony, I think have clearly laid
18 the predicate for these tapes.

19 This one I don't know about, and I'm going to ask
20 that you defer addressing these tapes until the testimony, if
21 it comes in, comes in; and then I think as to these tapes, the
22 proper predicate would be laid. But I'm not going to take a
23 chance without knowing what's in these tapes.

24 MS. SHOEMAKER: Your Honor --

25 THE COURT: And I just don't remember.

1 MS. SHOEMAKER: -- one other thing in regard to the
2 second thing Mr. Pitaro brought up, that he was objecting to
3 my -- what he characterized as my referencing as evidence of
4 these bribes. And I'm not referencing it that way, I just
5 asked a preliminary question which I intend to do before each
6 series or groups of tapes just to identify what they relate to
7 for, I mean, relevance before we move for admission of them --

8 THE COURT: Oh, I understand.

9 MS. SHOEMAKER: And I was only referring to them in
10 terms of -- regarding the -- whether he identified tapes that
11 relate to the allegations in the indictment concerning --

12 MR. PITARO: But that's --

13 MS. SHOEMAKER: -- law.

14 MR. PITARO: -- not even close to what you said.
15 You said, let's turn to the Kenny -- Kenny Lombard bribe. You
16 didn't say anything about allegations --

17 THE COURT: Okay. Well, I've ruled on that.

18 And -- and I want you all to remember, I think it's
19 Rule 511 that allows the Court to determine the sequence and
20 what comes and what doesn't. I think much of what you're
21 objecting to, and I understand part of the reason at least
22 that you're doing it, are preliminary things that come in just
23 to lay a foundation for the rest of the evidence. But let's
24 move onto something other than this at this point.

25 MR. PITARO: Okay.

HANFORD - DIRECT

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1 (End of discussion at sidebar)

2 BY MS. SHOEMAKER:

3 Q Agent Hanford, in your review of the wiretap evidence in
4 this case, have you identified three tapes that pertain to
5 allegations in the indictment that Gerard Bongiovanni accepted
6 money from Jack Jerdan in connection with a traffic ticket
7 Jack Jerdan had?

8 A Yes, I have.

9 MS. SHOEMAKER: Your Honor, I would move for
10 admission of Exhibit 76.

11 THE COURT: 76?

12 MS. SHOEMAKER: Yes, Your Honor. That would be in
13 binder number 2.

14 (Off-record colloquy)

15 THE COURT: Okay. Do you have any objection to 76,
16 counsel?

17 MR. PITARO: I'm trying to -- well, I suppose I can
18 have a continuing then objection all through without having to
19 say it for everything, is that correct?

20 THE COURT: No, I prefer you to object to it tape by
21 tape. And you do object to this one?

22 MR. PITARO: Yes.

23 THE COURT: Okay. The objection's overruled.

24 (Plaintiff's Exhibit No. 76 admitted)

25 MS. SHOEMAKER: Thank you, Your Honor.

1 Pursuant to the stipulation of the parties, Exhibit
2 76 is a tape recording of a conversation between Paul Dottore
3 and Jack Jerdan on September 28th, 1994, at military time
4 1700, which is 5:00 o'clock p.m. It was an outgoing call from
5 Paul Dottore's home telephone to (702) 228-0768, and the
6 participants were Paul Dottore and Jack Jerdan.

7 BY MS. SHOEMAKER:

8 Q First of all, Agent Hanford, do you recognize the
9 telephone number that Paul Dottore dialed?

10 A It's Jack Jerdan's number.

11 MS. SHOEMAKER: May we play Exhibit 76, Your Honor?

12 THE COURT: You may.

13 (Plaintiff's Exhibit No. 76 is played)

14 MS. SHOEMAKER: At this time I would move for
15 admission of Exhibit 77.

16 THE COURT: Okay. Do you object to this one,
17 counsel?

18 MR. PITARO: Yes.

19 THE COURT: Okay. The objection is overruled.

20 (Plaintiff's Exhibit No. 77 admitted)

21 MS. SHOEMAKER: Thank you, Your Honor.

22 Pursuant to the stipulation of the parties, Exhibit
23 77 is a tape recording of a conversation occurring on October
24 3rd, 1994, at 9:50 in the morning. It was an outgoing call
25 from Paul Dottore's home telephone to (702) 228-0768, and the

1 participants in this conversation are Paul Dottore, Jack
2 Jerdan and Ann Jerdan.

3 BY MS. SHOEMAKER:

4 Q First of all, Agent Hanford, this telephone, again, is
5 this Jack Jerdan's?

6 A Yes, it is.

7 Q And do you know who Ann Jerdan is?

8 A Ann Jerdan is Jack Jerdan's wife.

9 MS. SHOEMAKER: May we play tape 77, Your Honor?

10 THE COURT: Your may.

11 (Plaintiff's Exhibit No. 77 is played)

12 MS. SHOEMAKER: At this time I would move for
13 admission of Exhibit 79.

14 MR. PITARO: Same objection.

15 THE COURT: Overruled. 79 will be received.

16 (Plaintiff's Exhibit No. 79 admitted)

17 MS. SHOEMAKER: Thank you, Your Honor.

18 Pursuant to the stipulation of the parties, Exhibit
19 79 is a tape recording of a conversation between Paul Dottore
20 and Jack Jerdan on December 5th, 1994 at 2139 military time,
21 which is 9:39 p.m. It was an outgoing call from Paul Dottore
22 to 321-2060.

23 May we play this tape at this time, Your Honor?

24 THE COURT: You may.

25 (Plaintiff's Exhibit No. 79 is played)

1 BY MS. SHOEMAKER:

2 Q Do you know who Frankie is?

3 A Jack Jerdan's stepson.

4 Q Agent Hanford, in reviewing the tapes in this case, did
5 you identify a tape concerning allegations in the indictment
6 that Gerard Bongiovanni solicited money from an individual by
7 the name of Michael, also known as Mickey, Gresser, in
8 connection with a traffic ticket?

9 A Yes.

10 MS. SHOEMAKER: At this time I would move for
11 admission of Exhibit 50, which is in binder number 1.

12 THE COURT: 50?

13 MS. SHOEMAKER: 50, 5-0.

14 That's Exhibit 50.

15 THE COURT: Any objection, Mr. Pitaro?

16 MR. PITARO: Yes, Your Honor.

17 THE COURT: Okay. The objection's overruled.
18 Exhibit 50 will be received.

19 (Plaintiff's Exhibit No. 50 admitted)

20 MS. SHOEMAKER: Thank you, Your Honor.

21 Pursuant to the stipulation of the parties, Exhibit
22 50 is a recorded conversation between Paul Dottore and Michael
23 or Mickey Gresser -- I believe the transcript may say Dresser,
24 it should say Gresser -- on July 20th, 1994, at 2134 military
25 time, which is 9:34 p.m. It was an outgoing call from Paul

1 Dottore's home telephone to (702) 361-2060.

2 May we play Exhibit 50 at this time?

3 THE COURT: You may play Exhibit 50.

4 (Plaintiff's Exhibit No. 50 is played)

5 BY MS. SHOEMAKER:

6 Q Agent Hanford, from you review of that conversation, were
7 you able to determine that Gerard Bongiovanni was at Paul
8 Dottore's house when this conversation took place?

9 MR. PITARO: Object, Your Honor. He wasn't there,
10 and it calls for speculation.

11 THE COURT: It doesn't call for speculation. He can
12 answer yes or no.

13 You may respond.

14 THE WITNESS: Yes.

15 BY MS. SHOEMAKER:

16 Q And when you say yes, are you saying, yes, he was, or,
17 yes, you recall?

18 A Yes, he was.

19 Q Okay.

20 THE COURT: Well, just a moment, that's a predicate
21 question. What -- you were able to determine, how were you
22 able to determine? Was this witness a percipient witness,
23 or --

24 MS. SHOEMAKER: No, I believe I asked him, Your
25 Honor, in reviewing the call whether he was able to tell from

1 his review of the call.

2 MR. PITARO: And that was my objection.

3 THE COURT: Okay. And the time frames that you're
4 talking about.

5 MS. SHOEMAKER: Pardon me?

6 THE COURT: And the time frames?

7 MS. SHOEMAKER: Time frame when he reviewed the
8 call?

9 THE COURT: No. You're saying that from reviewing
10 the time frame of the call, he was able to determine that
11 somebody was there?

12 MS. SHOEMAKER: Oh. No, Your Honor. What I was
13 asking the agent was, in his review of this recorded
14 conversation, was he able to determine from voice
15 identification that Gerard Bongiovanni was present at Paul
16 Dottore's house in the background.

17 MR. PITARO: There's no voice of him.

18 THE COURT: Well, that -- that's another matter.
19 Asking him if he were able to, it would follow then, how. How
20 could he determine that?

21 MS. SHOEMAKER: All right.

22 THE COURT: Is there some background statement,
23 something of that nature?

24 BY MS. SHOEMAKER:

25 Q Agent Hanford, this is a redacted conversation, is that

1 correct?

2 a That's correct.

3 Q All right. From the conversation that was redacted here,
4 were you able to identify Gerard Bongiovanni's voice in the
5 background?

6 THE COURT: Well, I'm going to sustain the -- him
7 answering the question. If you want to play the tape that
8 confirms that, that's another matter, or if counsel were
9 willing, after having heard the tape, to agree that that is
10 so.

11 MS. SHOEMAKER: All right. I'll move on, Your
12 Honor.

13 BY MS. SHOEMAKER:

14 Q Agent Hanford, in reviewing the tapes in this
15 investigation and in preparation for trial, were you able to
16 identify three conversations that pertain to a traffic ticket
17 that Greg Lioce had Gerard Bongiovanni do something with
18 through Paul Dottore?

19 A Yes, I was.

20 MS. SHOEMAKER: At this time, Your Honor, I would
21 move for Exhibit -- admission of Exhibit 1.

22 THE COURT: Exhibit 1?

23 MS. SHOEMAKER: Yes, Your Honor.

24 THE COURT: Do you have any objection to this tape,
25 counsel?

1 MR. PITARO: Yes, Your Honor. And 2 and 3.

2 MS. SHOEMAKER: It's actually going to be tapes
3 numbered 1, 3 and 18.

4 MR. PITARO: 1, 3, and 18 then.

5 THE COURT: And what's the basis for receiving this
6 tape, Ms. Shoemaker?

7 MS. SHOEMAKER: Your Honor, these tapes -- these
8 three tapes are being offered as evidence of the scheme to
9 defraud alleged under Sections 1343 and 1346. And through
10 these tapes it will become apparent that this was a situation
11 where Paul Dottore was passing on tickets from Greg Lioce to
12 the defendant for him to have the defendant arrange for the
13 ticket to be fixed or reduced.

14 MR. PITARO: Your Honor, first I object to the thing
15 of "fix." Two, the government knows that the way traffic
16 tickets are, these tapes go through that Lioce went down, he
17 went to the traffic window, he got a day to go to traffic
18 school; and there's no allegation of anything else. And
19 that's -- what we're doing with these tickets, and that's been
20 the basis of my objections with these tickets.

21 MS. SHOEMAKER: Your Honor, the --

22 MR. PITARO: And this doesn't -- wait, please --

23 THE COURT: Let him finish, counsel.

24 MR. PITARO: And this doesn't establish anything,
25 let alone a conspiracy.

1 MS. SHOEMAKER: As we've indicated previously, Your
2 Honor, the evidence is going to show a pattern of conduct
3 where the defendant did things in exchange, or -- based on
4 friendship and favoritism for particular people, and this was
5 not something he was doing for anyone and everyone.

6 MR. PITARO: It's not --

7 MS. SHOEMAKER: This is just one part of that
8 pattern of conduct, Your Honor.

9 MR. PITARO: With all due respect --

10 THE COURT: Okay. You're asking -- just a minute.
11 You're asking to have 1, 3 and what?

12 MS. SHOEMAKER: 18. And 18 would be the quid pro
13 quo conversation.

14 (Pause in the proceedings)

15 MR. PITARO: I'd also point out that Number 18 is a
16 month and a half after the conversation. With all due
17 respect, it wasn't even his brother.

18 THE COURT: Okay. It may be that they'll come in,
19 but I'm not prepared to -- I'm going to invite you to go on
20 and we'll -- you're going to be with this witness tomorrow as
21 well?

22 MS. SHOEMAKER: Yes, Your Honor.

23 BY MS. SHOEMAKER:

24 Q Agent Hanford, in your review of the of the wire
25 interceptions in this investigation, did you identify three

1 tapes that relate to a traffic ticket that Arnie DeFabio was
2 arranging for Defendant Bongiovanni to fix or reduce in
3 exchange for a quid pro quo?

4 MR. PITARO: Your Honor, I'm objecting to the form
5 of the question that this agent is there for fixing tickets.
6 She can direct him --

7 THE COURT: I'm sustaining the objection.

8 MR. PITARO: Thank you.

9 MS. SHOEMAKER: Then I'll just move, Your Honor, for
10 admission of Exhibit 78 to begin with.

11 THE COURT: 78?

12 MS. SHOEMAKER: Yes, Your Honor, which would be in
13 binder number 2.

14 (Pause in the proceedings)

15 THE COURT: And you're objecting to Number 78?

16 MR. PITARO: I'm sorry, yes.

17 THE COURT: Pardon?

18 MR. PITARO: Yes. I had to put on my --

19 THE COURT: Okay. The objection is overruled. 78
20 is received.

21 (Plaintiff's Exhibit No. 78 admitted)

22 MS. SHOEMAKER: Thank you, Your Honor.

23 Pursuant to the stipulation of the parties, Exhibit
24 78 is a recorded conversation between Paul Dottore and Arnie
25 DeFabio on December 5th, 1994, at 11:03 in the morning. It

1 was an incoming call over Paul Dottore's home telephone.

2 BY MS. SHOEMAKER:

3 Q First of all, Agent Hanford, do you know who Arnie
4 DeFabio is?

5 A He's a friend of Paul Dottore's.

6 MS. SHOEMAKER: May we play tape number 78 at this
7 time?

8 THE COURT: You may.

9 (Plaintiff's Exhibit No. 78 is played)

10 MS. SHOEMAKER: Move for admission of Exhibit 80,
11 which is a follow-up call.

12 THE COURT: 80?

13 MS. SHOEMAKER: Yes, Your Honor.

14 MR. PITARO: Same thing as far as --

15 THE COURT: Okay.

16 MR. PITARO: -- hearsay as far as Gerard

17 Bongiovanni.

18 THE COURT: The objection is overruled.

19 (Plaintiff's Exhibit No. 80 admitted)

20 MS. SHOEMAKER: Pursuant to the parties'
21 stipulation, Exhibit 80 is a recorded conversation between
22 Paul Dottore and Arnie DeFabio occurring on December 6th,
23 1994, at 10:06 in the morning. It's an incoming call on Paul
24 Dottore's telephone.

25 May we play tape 80 at this time?

1 THE COURT: You may.

2 MS. SHOEMAKER: Thank you, Your Honor.

3 (Plaintiff's Exhibit No. 80 is played)

4 MS. SHOEMAKER: At this time, Your Honor, I would
5 move for admission of Exhibit 111, which is a recording
6 pertaining to other tickets that were handled in exchange for
7 a quid pro quo.

8 MR. PITARO: The same objection.

9 MS. SHOEMAKER: It's in Binder Number 2.

10 THE COURT: The objection is overruled.

11 (Plaintiff's Exhibit No. 111 admitted)

12 MS. SHOEMAKER: Pursuant to the parties stipulation
13 Exhibit 111 is a recorded conversation between Paul Dottore
14 and Joe Milano occurring on -- excuse me -- December 29th,
15 1994 at 1517 military time, which is 3:17 in the afternoon.
16 It was an out-going call from Paul Dottore's home telephone to
17 (702) 735-6866.

18 BY MS. SHOEMAKER:

19 Q Before I play this tape, Agent Hanford, do you know who
20 Joe Milano is?

21 A I believe he's a local tailor.

22 MS. SHOEMAKER: May we play tape number 111 at this
23 time?

24 THE COURT: You may.

25 (Plaintiff's Exhibit No. 111 is played)

1 MS. SHOEMAKER: At this time I would move for the
2 admission of a follow-up call, which is Exhibit 128, which can
3 be found in Binder Number 3. 128.

4 THE COURT: Any objection?

5 MR. PITARO: Same objection.

6 THE COURT: Overruled.

7 (Plaintiff's Exhibit No. 128 admitted)

8 MS. SHOEMAKER: Pursuant to the stipulation of the
9 parties, Exhibit 128 is a recorded conversation between Paul
10 Dottore and Joe Milano on January 14th, 1995 at 1315 military
11 time, which is 1:15 in the afternoon. It was an incoming call
12 over Paul Dottore's home telephone.

13 May we play tape 128 at this time?

14 THE COURT: You may.

15 (Plaintiff's Exhibit No. 128 is played)

16 MS. SHOEMAKER: At this time, Your Honor, I would
17 move for the admission of Government's Exhibit 146-1, which
18 pertains to another ticket that Paul Dottore was arranging to
19 have taken care of in exchange --

20 MR. PITARO: I would object --

21 THE COURT: Again the commentary --

22 MR. PITARO: I would object to the characterization.

23 THE COURT: Are you going into a different area now?

24 MS. SHOEMAKER: It's another ticket, Your Honor.

25 THE COURT: Okay. Well, it's -- it is 5:00 o'clock

1 and we'll take our evening recess, ladies and gentlemen.

2 Again during the recess you must comply with all of
3 the instructions that the Court has given you. You must not
4 discuss this case among yourselves, or with any other persons,
5 that includes family. You mustn't permit anyone to discuss
6 the case in your presence. You mustn't form or express any
7 opinion regarding the guilt or innocence of the defendant
8 until the case is finally submitted to you. You must not
9 investigate anything relative to this case on your own. You
10 mustn't read or watch or listen to any report of or commentary
11 on the trial by any medium of information, including, but not
12 limited to, newspapers, television, or radio.

13 I have an 8:00 o'clock in the morning, do I?

14 THE CLERK: Yes, Your Honor, you do.

15 THE COURT: What is it?

16 THE CLERK: A sentencing.

17 THE COURT: Is that all I've got?

18 THE CLERK: Yes, just one 8:00 o'clock.

19 THE COURT: Okay. We'll reconvene at 8:30. I'd
20 like you to be here no later than 8:15 and appreciate very
21 much your timely appearance. It's been very good of you.
22 We'll be in recess until tomorrow morning at 8:30.

23 (Jury recessed at 4:58 p.m.)

24 (Off-record colloquy)

25 THE COURT: Well, let me ask, maybe you would just

MRJ-PG-08009-BONG0771

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United States District Court
District of Nevada
Las Vegas, Nevada

CLERK, U.S. DISTRICT COURT
DISTRICT OF NEVADA

BY DEPUTY

UNITED STATES OF AMERICA

Plaintiff

vs.

GERARD J. BONGIOVANNI

Defendant

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

. Las Vegas, Nevada

. December 10, 1997

. 9:29 a.m.

JURY TRIAL - DAY 6

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

COURT RECORDER:

JUDY WATSON
U.S. District Court

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08009-BONG0771

JA007134

1 MS. SHOEMAKER: Yes, Your Honor.

2 THE COURT: Okay.

3 THE CLERK: This is the time set for Day 6 in the
4 jury trial in Criminal-S-96-98-LDG(RJJ), the United States of
5 America versus Gerard Bongiovanni.

6 Counsel, please note your appearance.

7 MS. SHOEMAKER: Jane Shoemaker and Eric Johnson for
8 the United States.

9 MR. PITARO: And Tom Pitaro for Gerard Bongiovanni.

10 THE COURT: Okay. Thank you.

11 You may continue.

12 MS. SHOEMAKER: Thank you, Your Honor.

13 JERRY HANFORD, PLAINTIFF'S WITNESS, REMAINS UNDER OATH

14 DIRECT EXAMINATION (Continued)

15 BY MS. SHOEMAKER:

16 Q Agent Hanford, I have just a few other areas that I want
17 to go over with you before we pass you for cross-examination.

18 MS. SHOEMAKER: First of all, Your Honor, may I
19 approach the witness?

20 THE COURT: You may.

21 BY MS. SHOEMAKER:

22 Q I'm handing you what's been marked Government Exhibit
23 207. Do you recognize Exhibit 207?

24 A Yes, I do.

25 Q What do you recognize it to be?

1 A It's a white, business-size envelope containing fifty
2 one-dollar bills with a rubber band around them.

3 MS. SHOEMAKER: Your Honor, I'd move for the
4 admission of Exhibit 207.

5 THE COURT: You object.

6 MR. PITARO: I would object.

7 THE COURT: Okay, the objection's overruled. This
8 has been discussed, I think it's relevant, and it will be
9 received.

10 (Plaintiff's Exhibit No. 207 admitted)

11 THE COURT: Carol? Lodge this with the court as
12 well.

13 THE CLERK: Yes, Your Honor.

14 BY MS. SHOEMAKER:

15 Q Agent Hanford, have you ever looked at a hundred-dollar
16 bill before?

17 A Of course.

18 Q And I take it you've looked at one-dollar bills as well?

19 A Yes.

20 Q Have you ever compared the two for thickness?

21 A Yes, at your request.

22 Q All right. Do -- is a one-hundred-dollar bill and a one-
23 dollar bill approximately the same thickness?

24 A They appear to me to be the same thickness, yes.

25 Q Okay. So would the fifty one-dollar bills in the rubber