

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS A, HIDALGO, JR.

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

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CASE NO.: 54209

On Appeal from a Final Judgment of  
Conviction entered by The Eighth Judicial  
District Court

**APPELLANT'S AMENDED APPENDIX**

Volume 20 of 25

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<sup>2</sup> Id.

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# **Transcript of Jury Trial Day 11**

**Continued**

1 THE COURT: No juror question -- oh, yes. Jeff.

2 MR. GENTILE: I need to reopen. I really do need to reopen direct  
3 because I completely forgot about the next day, and we need to go over that.

4 THE COURT: Go ahead.

5 MR. GENTILE: May I?

6 THE COURT: Yes. I'll allow it.

7 REDIRECT EXAMINATION

8 BY MR. GENTILE:

9 Q Mr. Dibble, on the 22<sup>nd</sup> of May --

10 A Yes.

11 Q -- I think you testified on direct that you made the suggestion to  
12 me the day before that maybe I ought to come back to Las Vegas?

13 A Yes. I realized it was a case that was going to take some  
14 attention.

15 Q And on the 22<sup>nd</sup> of May, did you meet once again with Mr.  
16 Hidalgo?

17 A Yes, I did.

18 Q Okay. And who else was present at that meeting?

19 A Well, that meeting was actually broken into three portions. You  
20 and I met them at what was then the Gentile Limited offices.

21 Q The same building we're in now?

22 A Same building.

23 Q Same floor?

24 A Just a different wing.

25 Q Right, same floor.

1           A     We went into a conference room and met with both of them  
2 together, and then you asked Ms. Espindola to leave the room because you  
3 needed to speak with your client privately. The three of us remained in that  
4 room, and then at the conclusion of that meeting with the client you returned --  
5 or she returned to the room, and we finished up and said good night.

6           MR. GENTILE: Nothing further.

7           THE COURT: Let me ask this juror question. Can you tell us where  
8 everyone was sitting during this interview or draw it. Either tell us or draw the  
9 location of everybody during the interview, the first interview with Mr.  
10 DePalma's office.

11          THE WITNESS: The first interview. There were only four of us, Jerry  
12 DePalma was sitting behind his desk. They were sitting in client chairs in front  
13 of the desk. Ms. Espindola was sitting to Jerry's right, Hidalgo was sitting to  
14 his left, and I was sitting at a side chair -- I think we brought one in or there  
15 was something over there that I was sitting on because it wasn't that big an  
16 office.

17          THE COURT: All right. Any follow-up based on that last juror question?

18          MR. GENTILE: Yes.

19 BY MR. GENTILE:

20          Q     So if you were Jerry DePalma, who is closest to you to your left?

21          A     Who is closest?

22          Q     Who is closest to you to your left?

23          A     Well, I would be here --

24          Q     Okay. Who would be next to you?

25          A     In front of the desk would be Luis Hidalgo and Anabel Espindola.



1 MR. GENTILE: Okay.

2 THE COURT: All right. Mr. Adams.

3 RECROSS EXAMINATION

4 BY MR. ADAMS:

5 Q As to the meeting on May the 22<sup>nd</sup>, Little Lou wasn't at that  
6 meeting either, was he?

7 A No.

8 MR. ADAMS: Thank you.

9 THE COURT: Mr. Pesci.

10 MR. PESCI: Thank you.

11 RECROSS EXAMINATION

12 BY MR. PESCI:

13 Q So your testimony is that on May the 22<sup>nd</sup>, Ms. Espindola was  
14 asked to leave at a certain point during the meeting between you, Mr. Gentile  
15 and Mr. H?

16 A Yes. That's also something that is standard in the -- was standard  
17 in Mr. Gentile's office.

18 Q That's my next question. How come it wasn't done the day  
19 before?

20 A Different attorneys do things different ways.

21 Q Was Mr. DePalma working or doing this on behalf of Mr. Gentile  
22 'cause Mr. Gentile was out of town?

23 A I don't know what kind of arrangement -- well, I mean, he was  
24 obviously meeting with them on -- instead of Mr. Gentile, but if there was some  
25 kind of formal arrangement, I wouldn't -- I'm not aware then.

1 MR. PESCI: Thank you.

2 THE COURT: Anything from the jury?

3 Anything else, Mr. Gentile?

4 MR. GENTILE: Your Honor, I believe Mr. Denino had a note, and I don't  
5 know that it's been answered.

6 THE COURT: I just asked it.

7 MR. GENTILE: Oh, you did ask it, okay. I just wanted to make sure.

8 THE COURT: All right. Mr. Adams, anything else?

9 MR. ADAMS: No, ma'am, thank you.

10 THE COURT: All right. Mr. Dibble, thank you for your testimony.

11 Please don't talk about your testimony with anyone else who may be a witness.

12 You are excused.

13 And, Mr. Gentile, call your next witness.

14 MR. GENTILE: Different witness.

15 THE COURT: Sir, just come on up those couple of stairs there, and  
16 please remain standing facing our court clerk.

17 RODOLFO VILLALTA

18 Having been called as a witness and being first duly sworn testified as follows:

19 THE CLERK: Please be seated and please state and spell your name.

20 THE WITNESS: Rodolfo Villalta, R-o-d-o-l-f-o, V as in Victor, i-l-l-a-l-t-a.

21 DIRECT EXAMINATION

22 BY MR. GENTILE:

23 Q Mr. Villalta, where are you originally -- where were you born?

24 A San Salvador.

25 Q And how long have you been in the United States?

1 A 30 years.

2 Q Are you a citizen?

3 A Yes, I am.

4 Q Do you know Luis Hidalgo Junior?

5 A Yes, I do.

6 Q Do you know Luis Hidalgo III? I'm going to take perhaps the

7 privilege of doing that.

8 A Yes.

9 Q And how do you know him?

10 A I know Luis' family from El Salvador for more than 42 years.

11 Q Sir, what do you do for a living?

12 A I'm actually a computer network administrator.

13 Q And for how long have you been working with computers?

14 A About 23 years.

15 Q Where do you work right now?

16 A Actually, I'm unemployed right now.

17 Q I'm sorry. Well, I guess we're not keeping you from anything

18 anyway.

19 A No.

20 Q The -- are you related to the Hidalgos?

21 A No, I'm not.

22 Q Did there come a point in time when you went to work for Mr.

23 Hidalgo?

24 A Yes, I did.

25 Q When did you first start working for Mr. Hidalgo?

1 A Back in San Francisco around 1982.  
2 Q Okay. And what did you do for him then?  
3 A I was going to college, and his dad hired me to maintain his body  
4 shop.  
5 Q And where was that body shop?  
6 A In San Bruno, California.  
7 Q Do you remember the name of it?  
8 A Hidalgo's Auto Body Works.  
9 Q And how long did you work for Hidalgo's Auto Body Works?  
10 A It was a part-time job, and I did it for about four years.  
11 Q Did there come another time when you went to work for Mr.  
12 Hidalgo?  
13 A Yes.  
14 Q And where was that?  
15 A That was when he came to Las Vegas.  
16 Q Did you move to Las Vegas at the same time?  
17 A I moved two years later.  
18 Q I see. So when did you move to Las Vegas?  
19 A Around 2000.  
20 Q And where did you go to work for Mr. Hidalgo?  
21 A I help him with his computer network at the Simone's Auto Body.  
22 Q And did you remain working for Simone -- well, when I say work  
23 for Mr. Hidalgo, were you an employee?  
24 A I was not an employee; I was more like a contract employee.  
25 Q And how long did you do contract work for Mr. Hidalgo at the auto

1 body shop?

2 A About two, three years.

3 Q And then did there come a time that you also did some work for  
4 him at the Palomino Club?

5 A Yes.

6 Q And were you an employee there?

7 A Yes, I was.

8 Q And when did you start working there?

9 A Around September -- no, actually, August of 2000.

10 Q And for how long did you remain -- you were actually an employee  
11 at the Palomino a couple of different times; is that correct?

12 A Yes.

13 Q This first time in August of 2000, how long did you remain an  
14 employee then before you then left?

15 A Five years.

16 Q And do you remember when you left?

17 A December 28, 2005.

18 Q And why did you leave?

19 A Actually, 2004, I'm sorry.

20 Q 2004. And why did you leave?

21 A One of the main reasons that I left is because my relationship with  
22 Anabel in particular, okay, deteriorated.

23 Q Okay. Did your relationship with Luis Hidalgo deteriorate?

24 A Nope, never did.

25 Q Did there come a time when you came back to work at the

1 Palomino?

2 A Yes.

3 Q And was that -- when was that?

4 A That was when Mr. Adam Gentile took over.

5 Q And do you remember when that was?

6 A That was -- let's see, around September 2005.

7 MR. GENTILE: Now, can we see the exhibits, the two, I don't remember  
8 what they are, C1 and C2.

9 THE COURT: The diagrams?

10 MR. GENTILE: The diagrams.

11 THE COURT: I think they're D1 and D2, the big diagrams.

12 BY MR. GENTILE:

13 Q I want to focus your attention to --

14 THE COURT: Jeff, the easel. There's one, I think, back there.

15 MR. GENTILE: Do we have a second easel? I'm going to put them up  
16 next to each other and ask Mr. Villalta to come down.

17 THE COURT: Mr. Villalta, Jeff, our bailiff, is going to hand you the hand  
18 microphone. The reason is that everything that's said is being recorded, and  
19 your voice is kind of soft and tough to pick up.

20 BY MR. GENTILE:

21 Q Sir, are you familiar with what's portrayed on Exhibits D1 and D2?

22 A Yes, I am.

23 Q Are you familiar with the diagram itself in terms of the actual  
24 creation of the diagram?

25 A Yes, I am.

1 Q And why is it that you're familiar with it?

2 A Because I work there.

3 Q Because you helped create it?

4 A Well, I worked there. I helped create it.

5 Q Okay. And was it created on a computer?

6 A Yes, it was.

7 Q Okay. And it -- on your computer?

8 A Yes.

9 Q Okay. Would you tell the ladies and gentlemen of the jury what  
10 we're looking at here, and if something is mislabeled, let us know. D1, let's  
11 start with D1.

12 A This one here is the first floor of the Palomino Club.

13 Q That's D1. We all know what you're talking about except it's  
14 going to be typed up. So if you say this one here, when you read it, nobody's  
15 going to know what you're talking about.

16 A File on D1 represents the first floor of the Palomino Club.

17 Q Okay. Give us a quick tour in terms of -- is it only the Palomino  
18 Club, D1?

19 A Actually, it represents two clubs.

20 Q Okay. Tell us what clubs it represents.

21 A The back portion of the building is called Lacy's Lounge, and that  
22 has a separate license than the rest of the club.

23 Q What is Lacy's Lounge? We see the top -- I think you just ran your  
24 hand across it.

25 A It's all this right here.

1 Q Okay. So it covers the entire --

2 A Yes.

3 Q -- width of the D1 --

4 A Lacy's Lounge had its own parking lot in the back of the building  
5 which it share with Jerry's Nugget Casino. This is the main entrance, and you  
6 come through a long hallway into the section where the main bar was, the DJ  
7 booth, and there's also -- there's one thing missing is the stage. There used to  
8 be a pole right here.

9 Q Okay. Now, what's in the back of that?

10 A And this is a second dance floor, okay. This one had a wooden  
11 floor. It had also a rotating crystal ball that would basically give the different  
12 light effects to the dancers. And right in the back of the building there is a  
13 dressing room.

14 Q You know what, that's not marked, and since you know what it is,  
15 let's have you mark it.

16 MR. DIGIACOMO: Do you have a different color to make the record real  
17 clear?

18 MR. GENTILE: We can do that.

19 MR. DIGIACOMO: Just a thought. If you don't want to it's okay with  
20 me.

21 MR. GENTILE: I mean, it's not necessary, but the handwriting is going  
22 to show us that, but do you have a red marker by any chance?

23 THE COURT: I have a red ballpoint pen.

24 BY MR. GENTILE:

25 Q And then what's behind that dressing room?



1           A     This one is an office, and normally whoever is running that back  
2 section of the club will sit in that office right there.

3           Q     Okay.

4           A     This is a hallway.

5           Q     And what does it lead to?

6           A     This hallway basically leads to the back of the Palomino Club, but  
7 it mainly was built as a fire exit, okay, because this is all fire exits right here.

8           Q     Okay. I see a stairwell or stairs --

9           A     That stairway goes to the second floor of the club which is  
10 basically represented on D2.

11          Q     Why don't you take the No. 1 and write it and circle it, and then  
12 come over here to D2 and write a No. 1 where it's represented on D2. It's a  
13 stairway it's got to lead somewhere, right?

14          A     Yes.

15          Q     Now, go back to D1, please. What is this room?

16          A     This is a loading deck.

17          Q     Loading deck?

18          A     Uh-huh. This is where all the liquor would come in. All the  
19 vendors would bring truck into the club.

20          Q     Okay. Is that a room or is that a dock?

21          A     It's actually -- this is actually the dock --

22          Q     Okay. So write --

23          A     -- and this is the room right here.

24          Q     All right. Write the dock in where it is. And then next to the  
25 loading dock, what's there? What are we looking at?

1 A This is a small dressing room. It had about 12 lockers in there.  
2 Q 12 lockers. Now, I see your other stairwell; where does that lead?  
3 A This stairways would go up to the second floor to the DJ.  
4 Q Okay. Why don't you write No. 2 and circle it. And come over  
5 here to D2 and put a corresponding to where -- okay, great.  
6 Now, what is this room?  
7 A This one is a closet, and this closet we use as a storage, and we  
8 used to keep cleaning supplies, power washer was there also.  
9 Q Do you know how many -- I see a lot of diagrams of doors. How  
10 many doors are in this building?  
11 A About 98 doors.  
12 Q 98 doors, okay. Can you fill in the rest of this and show us what  
13 it is. What are you putting in there?  
14 A This is the beer cooler; it keeps all the kegs. This is just a big  
15 connecting room.  
16 Q Just an empty space?  
17 A Empty space, yeah.  
18 Q Okay. Now, I see some doorways going from right to left. Does  
19 this appear to be accurate?  
20 A Yes.  
21 Q It says room with coolers. What did you call it?  
22 A Actually, the cooler is right over here and right here is an ice -- two  
23 icemakers. I'm going to put ice 2 and ice 1. And this is a big walk-in  
24 refrigerator.  
25 Q Keep going for us, will you. I see a big space.

1 A There is a door missing on this diagram.  
2 Q 98 doors and there's a door missing?  
3 A Yeah, right here.  
4 Q Okay. Well, draw a door.  
5 A It opens this way, and it's also red.  
6 Q It's red, the door is red?  
7 A Yes.  
8 Q This space here, what is that? And the only reason saying this  
9 space here is 'cause he's going to fill it in.  
10 A This is the kitchen.  
11 Q Kitchen. About how big is that kitchen?  
12 A I would say about 600 square feet.  
13 Q How big is the building?  
14 A 62,000 square foot.  
15 Q 62,000 square foot?  
16 A Top and bottom.  
17 Q All right. Now, you see something labeled Rudy's office. Is that  
18 accurate?  
19 A Yes, it is. I had a question; what is X143?  
20 Q Well, that's another issue.  
21 A I was just wondering in case it related to an extension, phone  
22 number.  
23 Q No. Why, what was the extension in that?  
24 A 105.  
25 Q 105?

1 A Yeah.

2 Q Can you tell us what those other rooms are?

3 A Let's see.

4 Q Is there a bathroom there somewhere?

5 A Yes, the bathrooms are right here.

6 Q Is there another bathroom in the -- these are public bathrooms?

7 A Yes.

8 Q Is there a private bathroom back there someplace?

9 A Actually, this one should be the private bathroom.

10 Q Is there a liquor room?

11 A This is a hallway, and this is your liquor room. This is another

12 closet with lockers also.

13 Q So have we got pretty much everything filled in now?

14 A And this is the audio video room.

15 Q Audio video room. Is there a DJ booth on that floor somewhere?

16 A Yes.

17 Q Where is it?

18 A Actually, DJ booth is somewhere here. It's got to be right here.

19 Q Could you write that in.

20 A This has the stairs going to the DJ room. So this is your DJ room.

21 Q How much time did you spend in this building in the five years that

22 you worked there prior to May of -- well, prior to December of 2004?

23 A I would say an average of 10 hours per day.

24 Q For how many days a week?

25 A Before my family move here I was -- I spent there seven days a

1 week.

2 Q When did your family move here?

3 A Around May of 2003.

4 Q Okay. Would you take the stand again.

5 Mr. Villalta, how many days a week prior to December of 2004 and  
6 after you started working at the Palomino in 2000 did you encounter Luis  
7 Hidalgo Junior?

8 A Every evening, every day.

9 Q Okay. And you said that there were how many doors?

10 A About 98 doors.

11 Q How do you know that there's 98 doors?

12 A 'Cause I counted with the fire department.

13 Q Okay. And who was responsible for keying those doors?

14 A I was.

15 Q You were?

16 A Uh-huh.

17 Q And what -- what does that mean when I say responsible for  
18 keying the doors? Tell us what your role was with respect to keys and --

19 A I hire a company called ABC Locks, and their main shop is on  
20 Sunset Street, and they came for a couple of days. They came with tool,  
21 trucks, and they make keys for every door that I told them to make a key for.

22 Q And who had possession of those keys?

23 A Every key was labeled, and there was a lockbox that would keep  
24 all the keys in one section, and I was the only one that --

25 Q Where was that?

1 A That was in the main office downstairs.

2 Q The main office downstairs. Okay. Well, then, I need you to look  
3 at the downstairs diagram again.

4 Where is the main office downstairs?

5 A Right here.

6 Q So Ariel's office?

7 A Yes.

8 Q You just made a circle, a red circle around the words that  
9 somebody else wrote there that says Ariel's office. Do you recognize that  
10 handwriting by the way?

11 A I would say looks like Anabel's.

12 Q Anabel, okay. All right. But this is where the lockbox for the keys  
13 were; am I correct?

14 A Yes.

15 Q Okay. Who had a key to the lockbox for the keys?

16 MR. PESCI: Judge, if we could get a predicate to time.

17 BY MR. GENTILE:

18 Q When you left there in December of 2004, is that where the  
19 lockbox was?

20 A Yes.

21 Q When you went back to work there, is that where the lockbox  
22 was?

23 A Yes.

24 MR. PESCI: If we could get the time on the return back as well.

25 / / /

1 BY MR. GENTILE:

2 Q When did you go back to work, what year? Do you remember  
3 what year?

4 A I went back in 2005.

5 Q Okay. So you were gone for less than a year?

6 A Yes.

7 Q Okay. And the lockbox was -- when you came back to work, the  
8 lockbox was exactly where it was when you left work?

9 A Yes.

10 Q When you left in December of 2004, who had a key for the  
11 lockbox?

12 A I had.

13 Q Did anybody else?

14 A No.

15 Q Okay. When you came back to work, who had a key for the  
16 lockbox?

17 A I still have the key.

18 Q Okay. Take the stand, please.

19 To your knowledge when you were there at least, did Luis Hidalgo  
20 Junior have a key to the lockbox?

21 A No, he didn't.

22 Q How do you know?

23 A 'Cause there was only one key. Let me say why, okay.

24 Q Okay, why was there only one key?

25 A When the Perrys left and sold the business to Mr. Hidalgo, I spend

1 approximately five to six months with the owner at that time, okay, and she  
2 handed me a set of keys, and in those keys was that lock key, okay, for that  
3 box, and there was only one key, and it was never duplicated until I gave that  
4 key to Adam.

5 Q Okay. Now, what year was that?

6 A When I gave the key to Adam?

7 Q Yeah.

8 A That was in 2006, I would say.

9 Q Okay. So until you did that, as far as you know, you're the only  
10 one who had the key?

11 A Yes.

12 Q And there was never a second key made?

13 A Never a second key made.

14 Q So if somebody wanted to get into that key box, that lockbox for  
15 the keys, did they have to ask you?

16 A Yes. They would also still --

17 Q Let me ask you another question. In the time that you spent with  
18 Luis Hidalgo prior to leaving in December of 2004, how many keys did he  
19 carry?

20 A To my knowledge only two of them.

21 Q And what were they?

22 A There was one key for the back door entrance, which also is the  
23 side door entrance and the key for his office.

24 Q Did Mr. Hidalgo ever ask you to open up anything for him in the  
25 time that you worked for him?



1 A Nope.

2 Q Did you ever see him ask anybody to open things up?

3 A Nope.

4 Q Did you ever see him open anything up?

5 A Nope.

6 Q Did you also maintain the safes?

7 A Yes, I did.

8 Q To your knowledge, did Mr. Hidalgo have the combinations to the

9 safes?

10 A No, he never did.

11 Q How do you know that?

12 A Because those safes were always opened either by Anabel

13 Espindola or myself.

14 Q How about Ariel, did Ariel open a safe?

15 A Actually, Ariel had access to the safe in the main office, which is

16 labeled her office on D1.

17 Q Right. Other than that did she have any other safes?

18 A Nope.

19 Q How long you known Mr. Hidalgo, Mr. H?

20 A 34 years.

21 Q How many days in that 34 years have you spent with him?

22 A Almost every day.

23 Q Do you have an opinion as to his character for truthfulness?

24 A He's a very -- I always admire him because of the things that he

25 was involved, okay, as I grew up, and I think he's a very truthful person, very

1 honest.

2 MR. GENTILE: Thank you. Nothing further.

3 THE COURT: All right. Thank you.

4 Mr. Arrascada.

5 MR. ARRASCADA: No questions, Your Honor.

6 THE COURT: All right. Thank you.

7 Mr. Pesci.

8 MR. PESCI: Yes, thank you.

9 CROSS-EXAMINATION

10 BY MR. PESCI:

11 Q Sir, on, I think it's D1, you were asked to put in a whole bunch of  
12 labels. Do you remember those questions?

13 A Yes.

14 Q All right. Did I understand you correctly to say that you're the one  
15 that created this?

16 A I helped create it.

17 Q How did you help create this?

18 A With program called AutoCad, a computer program.

19 Q When did you create it?

20 A I would say around 2004, perhaps.

21 Q 2004?

22 A Or prior to that.

23 Q Okay. Now, my recollection of your testimony was that in the  
24 Lacy Lounge section of this there was a dance floor that's not reflected on D1;  
25 is that correct?

1 A Yes.

2 Q Now, why is it not on there?

3 A It was miscalculated just the same way that the door was missed.

4 Q Okay. So there's a door missing and then there's a dance floor

5 missing?

6 A Not a dance floor I said a dance pole.

7 Q A dance pole?

8 A Yeah.

9 Q Got it. So this is not exactly accurate to the way the Palomino

10 looked on May the 19<sup>th</sup>, 2005, is it?

11 MR. GENTILE: Objection. The pole was in Lacy's.

12 MR. PESCI: Well, I thought I heard testimony that this whole kit and

13 caboodle, 60-plus thousand square feet is all part of the one building that the

14 Palomino Club is in.

15 THE WITNESS: Both D1 and D2, which represents two floors, yes, but I

16 also said that there is two clubs.

17 MR. PESCI: Sure. Sure.

18 BY MR. PESCI:

19 Q We've got Lacy's up here at the top, right?

20 A It's at the bottom.

21 Q Lacy's is at the bottom?

22 A Yeah. You're looking at D1, which is the first floor.

23 Q Okay. Where's Lacy's?

24 A Right here.

25 Q Now, for the purposes of referring to it on this diagram, is this the

1 top of the diagram?

2 A No, that's the bottom of the diagram, the bottom floor.

3 Q We've got the label here. I'm just trying to make it clear for the  
4 record. Is this the top of the diagram?

5 A No, that's the bottom.

6 Q So you want me to go like this?

7 A Oh, you mean the top, no, you had it right.

8 Q Okay. That's all I'm trying to get out. As we're looking at this,  
9 the top of this diagram is the section where Lacy's is?

10 A Yes.

11 Q So we know that there's a pole missing and there's a door missing  
12 on this diagram, Defendants' D1, correct?

13 A Yes.

14 Q So this is not completely accurate to the way it was on May the  
15 19<sup>th</sup>, 2005, is it?

16 A Well, if that's the case I would say no, but.

17 Q Okay. I believe you were asked to fill in where there was some  
18 bathrooms. Do you recall just having some difficulty at first finding where the  
19 bathroom was? I'm just asking if you recall --

20 A Yes, I did.

21 Q Mr. Gentile asked you, and it took you a minute to find it; is that  
22 accurate to say?

23 A Uh-huh.

24 Q Is that yes?

25 A Yes.

1 Q Even though you've been in this how many times you had  
2 difficulty at first just looking at this diagram finding the actual bathroom on the  
3 diagram?

4 A I had difficulty, yes, but also --

5 Q And that's where the bathroom is, right?

6 A Yes.

7 Q And it just took you a minute to get oriented, right?

8 A Yes.

9 Q Okay. Now, I think you said that you gave the keys to this  
10 lockbox to who in 2006?

11 A Adam Gentile.

12 Q Adam who?

13 A Gentile.

14 Q And is that the son of Mr. Gentile?

15 A Yes, he is.

16 Q Who is your boss right now?

17 A I don't have a boss right now.

18 Q Okay. When is the last time -- when did you stop working for the  
19 Palomino Club?

20 A It was in July 16 of 2007.

21 Q And when you left in July 2007, who was your boss?

22 A Adam.

23 Q Adam Gentile?

24 A Yes.

25 Q Okay. And if I've understood you correctly, there was only one

1 key to the lockbox?

2 A Yes.

3 Q And that you were the only one that had that key?

4 A Yes.

5 Q And you left the Palomino in December of '04?

6 A Left the Palomino in December '04.

7 Q I should say you left working in December 2004?

8 A Yes.

9 Q And you came back in when in 2005?

10 A Around September, August 2005.

11 Q Do you have any knowledge as to how the place functioned  
12 without that key from December of '04 to September of '05?

13 A It was all those were spare keys that nobody really need to have  
14 them in order for the club to be operational and functional.

15 Q So the keys in the lockbox are not necessary to function the  
16 building?

17 A Nope.

18 Q So your testimony is that Mr. H did not have a key that isn't used  
19 for anything anyway?

20 A Like I say, he only have two keys, one for the back door and one  
21 for his office.

22 Q Okay. But the lockbox that contained the keys, you're saying that  
23 the business can be operated without access to that lockbox?

24 A Yes, and it still does.

25 Q Okay. You also said, if I understood you correctly, that Mr.

1 Hidalgo did not have the combination to the safes?

2 A Yes.

3 Q And I apologize just so we're really clear. Mr. H, not Little Luis,  
4 not Luis Hidalgo III?

5 A Mr. H, yes.

6 Q And all the questions I just asked you were about Mr. H, not Luis  
7 Hidalgo III?

8 A Yes.

9 Q All right. So your testimony is that the owner of the Palomino  
10 Club, one, didn't have keys to get into the building, and 2, didn't know how to  
11 open up the safes?

12 A That's correct.

13 Q And he operated business like that for how long as far as you  
14 knew?

15 A Four and a half, five years.

16 MR. PESCI: Thanks. Nothing further.

17 THE COURT: Any juror questions?

18 Jeff, oh, goodness.

19 Why don't we just take a five-minute break while Jeff collects the  
20 juror questions.

21 Ladies and gentlemen, once again of course you're reminded of the  
22 admonition that is still in place during our brief five-minute break. Ladies, make  
23 use of it. Notepads in your chairs.

24 Sir, don't discuss your testimony during our five-minute break.

25 (Recess taken 5:48 p.m. to 6:13 p.m.)

1 THE COURT: All right. Court is now back in session. We got a couple  
2 of jury questions on the size of the building, and I'm just going to ask you. Did  
3 you mean that the building, the inside of the Palomino was 62,000 square feet?

4 THE WITNESS: I made a mistake. It's 22,000.

5 THE COURT: Thank you.

6 Mr. Gentile, continue, please, and then I'll get to the other juror  
7 questions.

8 REDIRECT EXAMINATION

9 BY MR. GENTILE:

10 Q Mr. Villalta, when you say you made a mistake, did you misspeak?

11 A Yes, I did.

12 Q Okay. So you knew the size of the club?

13 A Yes.

14 Q And there are many buildings on that -- in addition to the Palomino,  
15 there's another building behind it that's used for storage?

16 A Yes.

17 Q If you add it all up it's probably 60,000?

18 A I would say so.

19 MR. GENTILE: Nothing further.

20 THE COURT: Yes, Mr. Adams.

21 MR. ADAMS: Nothing from back here.

22 THE COURT: All right. Cross?

23 MR. PESCI: No, Your Honor.

24 THE COURT: All right. We've got a couple juror questions up here.

25 Mr. Villalta, Anabel Espindola testified that she put a memo on May



1 20<sup>th</sup> that described Plan B on your desk. Do you remember that memo?

2 MR. DIGIACOMO: Judge, May 20<sup>th</sup> of 2005.

3 THE COURT: Right, of 2005. Do you remember seeing a memo  
4 regarding a Plan B on your desk?

5 MR. GENTILE: Your Honor, he wasn't working there in May of 2005  
6 how could he?

7 MR. DIGIACOMO: That was my point.

8 THE COURT: I ask the question. All right.

9 On the decision to rekey the locks, do you know whose decision  
10 that was?

11 THE WITNESS: Anabel.

12 THE COURT: And do -- don't speculate but if you know -- do you know  
13 why that decision was made?

14 THE WITNESS: It was made because it happened when Mr. Hidalgo  
15 was taking over the club so we needed new keys for all the doors.

16 THE COURT: Okay. And counsel approach.

17 (Conference at the bench.)

18 THE COURT: I want to clarify something. Now, when you talked about  
19 rekeying the locks, were those the locks on the doors or locks on some other  
20 safes or lockboxes or other items?

21 THE WITNESS: Just the doors.

22 THE COURT: Just the doors?

23 THE WITNESS: Yes.

24 THE COURT: And were those all the doors or just the exit and entrance  
25 doors?

1 THE WITNESS: Every door.

2 THE COURT: Every door. Okay. And what about like the cash register  
3 or the bar, were there locks on the cash drawers?

4 THE WITNESS: Yes, there were, but those were not --

5 THE COURT: Those were not rekeyed.

6 THE WITNESS: No.

7 THE COURT: Okay. Just the doors that people walk in and out of?

8 THE WITNESS: Yes.

9 THE COURT: All right. Let's see, Mr. Digiacomo, was it?

10 Mr. Pesci, do you have any questions based on those last juror  
11 questions?

12 MR. PESCI: No, Your Honor.

13 THE COURT: Mr. Gentile, do you have any questions?

14 MR. GENTILE: No, Your Honor.

15 THE COURT: Mr. Arrascada?

16 MR. ARRASCADA: No, Your Honor.

17 THE COURT: All right. Any other juror questions?

18 Mr. Villalta, thank you for your testimony. Please don't discuss  
19 your testimony with anybody else who may be called as a witness in this case.  
20 Thank you, and you are excused.

21 Mr. Gentile, call your next witness.

22 MR. GENTILE: PK Hadland.

23 THE COURT: Sir, come on up here, please, to the witness stand, just up  
24 those couple of stairs, and then just please remain standing facing our court  
25 clerk who will administer the oath to you.

1 PEE-LARR HANDLEY

2 Having been called as a witness and being first duly sworn testified as follows:

3 THE CLERK: Please be seated and please state and spell your name.

4 THE WITNESS: My name is Pee-Larr Handley spelled P-e-e, dash, capital  
5 L-a-r-r, last name Handley, H-a-n-d-l-e-y.

6 DIRECT EXAMINATION

7 BY MR. GENTILE:

8 Q Mr. Handley, what's your date of birth?

9 A February 8<sup>th</sup>, 1971.

10 Q And where were you born?

11 A Williams Air Force Base, Chandler, Arizona.

12 Q Okay. And have you ever been in the military?

13 A Yes, I have.

14 Q When?

15 A I joined the --

16 MR. DIGIACOMO: Objection. Relevance, Judge.

17 THE COURT: Overruled.

18 THE WITNESS: I joined the United States Air Force in '90 and got out  
19 February of '94, I believe it was.

20 BY MR. GENTILE:

21 Q When did you move to Las Vegas?

22 A I was stationed out here in 1991 and lived here ever since.

23 Q And you say you got out in '94?

24 A Yes, sir.

25 Q What did you do for a living from the time that you got out?

1 A Various jobs.

2 Q Tell us.

3 A I started off initially in security. I got a security job at the Sahara.  
4 Then from there I got a job at security at Sam's Town. Then I did private  
5 security for various locations, bars, nightclubs. Then I became a bouncer at a  
6 couple nightclubs. Did some DJ work and ended up becoming an audio-visual  
7 technician for Encore Productions.

8 Q When did you start in the audio-video area?

9 A Formally 1997, I believe it was.

10 Q And where were you working at that time?

11 A When I started or --

12 Q Yes.

13 A Prior to there I was at Boomerangs, and someone in the union, in  
14 the local -- actually it was a local union out of New York saw my work and said  
15 I was in the wrong business.

16 Q Are you a union member?

17 A I am.

18 Q Of what union?

19 A Local 720 IATSE.

20 Q Okay. So you started with Encore in '97; did you say?

21 A I believe it was '97, yes.

22 Q How long did you remain with them?

23 A I was with them up until -- on and off up until 2004.

24 Q Okay.

25 A I had a period there where I was no longer with them when I --

1 they moved me over to Mandalay Bay, and I was there for about two years  
2 opening the property and getting everything situated. And then at that point I  
3 felt I had done all I could and wanted to further myself and joined the union.  
4 And the hotel created a position for me and made me a lead production  
5 technician for entertainment for the hotel. So I did that for two years.

6 Q What hotel was that?

7 A Mandalay Bay.

8 Q Okay. What are you doing now?

9 A I now am freelancing or what they call a bounce technician for the  
10 union, for Local 720.

11 Q And what kind of work do you do?

12 A It's easier to say what I don't do in the field. The only thing I  
13 don't do anymore is hand-held camera. Everything else that falls under the  
14 realm of production I do, which is high rigging, ground rigging, which is hanging  
15 stuff in the air or sending stuff up in the air like all the lighting rigs and  
16 everything that goes on for concerts.

17 I do lighting design, CAD design, audio, video. I do camera work,  
18 but I don't do hand held because of an injury I sustained. I don't feel that --  
19 well, at the time I didn't feel that having a camera on my shoulder was going to  
20 be very -- very healthy for me.

21 Q Okay. And what kind of events do you currently work in?

22 A Everything.

23 Q Okay. Do you -- did there come a time when you learned where  
24 the Palomino Club was?

25 A Yes.

1 Q And when was that?

2 A It would have been, best guess, would probably have been  
3 February of '92.

4 Q And how did that come about?

5 A My friends took me there for my 21<sup>st</sup> birthday, the guys I was in  
6 the military with.

7 Q Did there come a time when you started doing some work for -- at  
8 the Palomino?

9 A Yes.

10 Q When was that?

11 A Oh, to be exact, I would say around 2000, maybe. I can't  
12 remember exactly. It was -- I was doing work for the Satin Saddle which was a  
13 club next to the Palomino, but to them it was still considered part of the  
14 Palomino.

15 Q Was it owned by the same ownership?

16 A Yes.

17 Q And who was the owner at that time?

18 A The Perrys.

19 Q When you say the Perrys, do you remember the first name of the  
20 owner?

21 A I remember Paul Perry's wife. I don't rem -- Gail, Gail was her  
22 name, yes.

23 Q Did there come a -- and what did you do when you first started  
24 working for -- I shouldn't say working for the Palomino. Were you an employee  
25 of the Palomino Club at that time?

1 A No.

2 Q What were you doing at the Palomino?

3 A The title I used, I guess, to describe what I was doing was more of  
4 an entertainment consultant. I helped with the lighting and the sound.  
5 Basically I started off doing the sound. They had a full club at the Satin Saddle,  
6 and the sound system short-circuited and fried, and they were like, great, now  
7 we've got to shut down, blah, blah, blah. And I said, it's not that bad; I can fix  
8 it. And they're like, can you.

9 So I went underneath the stage or underneath the DJ booth and  
10 rewired it and got it up and working, and they said, well, would you be able to  
11 do anything else as far as, you know, what else, you know, you said this is  
12 crap. What do we need to fix.

13 So I put together a little proposal for them on what needed to be  
14 done to make it functional, and they chose to have me do it.

15 Q So you got the contract to do it?

16 A Yes, sir.

17 Q All right. Did there come a time -- strike that. Have you had an  
18 ongoing relationship with the Palomino as an independent contractor?

19 A Yes.

20 Q Did there come a time when that -- when you came in contact  
21 with a Luis Hidalgo Junior?

22 A Luis Hidalgo Junior --

23 Q Maybe I should say Mr. H, how about that? Do you know a guy  
24 named Mr. H?

25 A I do know a guy named Mr. H.

1 Q And is he here?  
2 A Yes, he is.  
3 Q Could you point him out for us?  
4 A He's right there in the sweater.  
5 Q Is he standing up?  
6 A He just stood up and sat back down.  
7 Q How long have you known him?  
8 A I'd say probably around 2000, since 2000.  
9 Q And he remained the owner of the Palomino Club until about  
10 2006, early 2006; is that your memory?  
11 A As far as I can remember I think that may -- that should be about  
12 right.  
13 Q In that time frame, how often would you see him?  
14 A How often would I see him? If he was at the club I would see him  
15 quite often.  
16 Q You weren't at the club constantly, were you?  
17 A Not constantly, but at least on average I'd say four days a week.  
18 Q All right. And what was your -- you were an independent  
19 contractor; you were never an employee?  
20 A Never an employee.  
21 Q So then why would you be going to the Palomino four days a  
22 week?  
23 A I kind of had a vested interest in the Palomino.  
24 Q Do you mean a financial interest?  
25 A Not so much financial in direct -- in monetary value. It was more --



1 I had worked for somebody ever since I started in the industry. I always did  
2 what everybody else wanted me to do and followed their plans, their design, so  
3 on and so forth.

4 When the Palomino was bought out and they wanted to revamp it,  
5 they approached me after what I had done at the Satin Saddle and said, what  
6 do you think, you know, we want you to come over and take a look at the  
7 system. And I told them, I said, To say it's antiquated is a joke. I said it's, you  
8 know, this stuff is crap. It's not going to last. I don't like the way it's done. I  
9 don't think it's safe, and I can redo this for you.

10 Q So sort of your baby?

11 A It was absolutely 100 percent my baby. It was the first time that I  
12 started from scratch and said I want to wipe everything out and do this my  
13 way. And what I did was I took X amount of dollars and made it look like -- my  
14 goal was to basically showcase my ability as a designer and a programmer.

15 Q And did you use it for that?

16 A I absolutely did.

17 Q Did there come a time when you would use the -- you say  
18 showcase your ability, did you ever show it to any other prospect or current  
19 customers of yours?

20 A Absolutely.

21 Q And how would you go about doing that?

22 A It usually depended. What we ended up doing when the club was  
23 purchased and I ripped everything out, it was right before 9/11. So I had gone  
24 through and done all the research and everything. Like I said, again, it was a  
25 big project for me. I did all the research, got the, you know, wheeled and

1     dealed to make sure I got the lowest prices on everything but was still  
2     something I could work with.

3                 And then Mr. H said, We have seven days to get this done, and I  
4     kind of looked at him and I went, You're kidding, right, and he says, No, I'm  
5     serious. I can't afford to be down. We've got to get this up in seven days.  
6     And I said okay.

7                 Q     Did you get it done?

8                 A     We got it done, but not the way it -- it did not go per design.

9                 Q     Did 9/11 have something to do with that?

10                A     Absolutely. All the equipment we bought and everything was  
11     sitting on a runway and stuck on a runway.

12                Q     So what ultimately happened?

13                A     It actually worked as far as me as a designer. It worked in my  
14     favor because all the vendors and stuff I had worked with over all the years,  
15     and this is why, I said I had a vested interest in it. They all rallied together and  
16     said, hey, he's, you know, he needs to get this done. Blah, blah, blah. Let's  
17     get him, you know, what do you need.

18                Q     Okay.

19                A     And so they helped me redo everything.

20                Q     And after that you used this sort of like a model for getting  
21     business?

22                A     Correct.

23                Q     Okay. Now, when you would go into the club four days a week,  
24     would you be paid for all of your time that you were in the club?

25                A     Not -- not really. At the end of -- at the end of the month, they

1 would usually write me a check for like \$250 for the month. Like I said, it was  
2 more for me. It was more, like I said, a vested interest where I wanted to be  
3 able to showcase it, you know, showcase my ability, so on and so forth.

4 And the vendors that I had dealt with also sent people down there,  
5 and they used it to their advantage to sell, you know, instead of selling, you  
6 know, trying to find somebody to buy a \$20,000 light, they could turn around  
7 and sell them a bunch of \$2,000 lights, you know, and then the operating  
8 system and everything else for it instead of, you know, instead of chasing away  
9 a client who has X amount of dollars to spend you can say, hey, I can get you  
10 this much bang for your buck.

11 Q Okay. And so in that sense then, and I want to use this not in the  
12 theatrical sense but in the selling sense, was this sort of like a sample or a  
13 showroom for you?

14 A Yes, it was.

15 Q And when you would go there, would your purpose be to see to it  
16 that nobody screwed it up?

17 A Very much so. So much so that a lot of people probably didn't like  
18 to see me come in.

19 Q What nights would you usually go in?

20 A I made it an absolute point to be there Friday and Saturday night.  
21 If I was working at my -- at any of my other jobs, I would get off. It didn't  
22 matter if it was midnight, 1 o'clock, 2 o'clock; I would get down there to make  
23 sure that the sound system hadn't been messed up, that the lights still worked  
24 and see if anybody had any, you know, had any requests or anything like that,  
25 make sure the, you know, that all the music was working, DJs were happy, all

1 that kind of stuff.

2 Q All right. Did there come a time in the year 2005 that you met a  
3 person by the name of Deangelo Carroll?

4 A Yes.

5 Q Okay. And who was Deangelo Carroll?

6 A When I met him he was basically running around doing whatever,  
7 cleaning, whatever. He wanted to be a DJ is what he aspired to be at the time  
8 that I met him.

9 Q Did you know someone named Anabel Espindola?

10 A I did.

11 Q And who is she?

12 A She was the general manager for the Palomino and also Simone's  
13 Auto Plaza.

14 Q Did you know a person by the -- well, you've already identified  
15 Luis -- we call him Mr. H in this courtroom. What do you usually call him?

16 A I called him H or Mr. H.

17 Q Okay. What did he do in 2005? What did you see him doing?  
18 What kind of functions?

19 A He was -- well, he was the owner. He basically would come in  
20 and be in the office and then go out on the floor, walk the floor, kind of -- I kind  
21 of called it shake hands and kiss babies, kind of, and then if things were slow,  
22 he would go into the office and get -- get change and then go out and start  
23 throwing money to the girls on stage to try to stimulate business and keep  
24 morale up.

25 Q What was your routine when you would go to the Palomino?

1           A     My routine was I almost always made a beeline straight for the DJ  
2 booth, go up into the DJ booth, check with the DJ, make sure that he got his  
3 dancers' lists in because in my eyes everything that had to do with performance  
4 fell under entertainment. So make sure he had the lists of the dancers to know  
5 when they go up, that the office has the list so that the biggest thing in my  
6 industry is you never have a dead stage, and that's what I tried to emphasize  
7 with everybody. So I made lists and stuff so that would happen.

8                     So it was check on the DJ, check on the booth, check on the lights,  
9 check on the sound. Then from there I would call up to the office to see if Mr.  
10 H was in and then usually touch bases with him and then hang out and make  
11 sure that everything kind of goes smoothly.

12           Q     When you were there in the year 2005, did you meet a person  
13 named TJ Hadland?

14           A     Yes, I did.

15           Q     And who was TJ Hadland?

16           A     TJ was one of our cab guys. He was outside taking care of the  
17 tickets for the cabs which was the way in which they, you know, however  
18 many people they brought in they got that on a little slip, and then they would  
19 take that in and get paid for however many people they brought in. And then  
20 he would hail cabs and put people in cabs when they got ready to leave.

21           Q     I want to call your attention to May of the year 2005. Do you  
22 recall a night when you had, let's say, words with TJ Hadland?

23           A     Yes, I do.

24           Q     And when I say words, I'm saying that obviously in a  
25 euphemistical sense, a bit of a disagreement?

1           A     I guess you could call it a disagreement.

2           Q     Okay. And tell us what you remember about it.

3           A     I had been asked to help oversee the operations of the club that  
4 night, just basically make sure everything went smoothly on the floor and that  
5 everything went well by Anabel. And I showed up, and we had been having a  
6 little bit of a problem with cabs late at night.

7           Q     What was the nature of the problem?

8           A     The nature of the problem was that cabs weren't coming. And I  
9 would again bring clients down there or recommend the place to people, and  
10 it's kind of disheartening when you send somebody down to, you know, down  
11 to a location, they get there and then when it's time for them to leave, they're  
12 waiting, and the next day you get a call, hey, you know, everything was great.  
13 The place looked great, blah, blah, blah, but it took me an hour and a half to get  
14 out of there.

15          Q     How did that relate to TJ?

16          A     What had happened and what I had noticed was TJ wasn't on  
17 post. He wasn't out front.

18          Q     What does on post mean?

19          A     At the entrance to the Palomino, there's a foyer or receiving area,  
20 whatever you want to call it. And he's -- his position is outside those doors to  
21 greet people as they come in. The other thing it serves as --

22          Q     So he would be on the outside?

23          A     On the outside of the doors. The other thing it does is as cabs are  
24 driving by Las Vegas Boulevard, they see him out there; they know the place is  
25 open. It makes it easier to flag them, et cetera, and it keeps, you know,

1 basically what I tried to explain to him when we had words was that if you're  
2 outside they know we're still open. After hours, if there's not a lot of activity  
3 out in the parking lot, they'll drive by and not think we're open, you know.

4 And then I've got people waiting on cabs, and we're trying to call,  
5 blah, blah, blah, and it just makes -- makes everything bad.

6 Q Well, you say he wasn't on post. How did you respond to him not  
7 being on post?

8 A I walked back out front from the floor, and he was sitting at the  
9 shoe shine stand where the shoe shine booth, right next to the cage.

10 Q Okay. Is that -- is there a shoe shine stand inside the Palomino  
11 Club?

12 A At one time it was a shoe shine stand; now it's just this big throne  
13 looking chair, but I call it the shoe shine stand because that's what it was there  
14 for.

15 Q Well, it's obvious, I mean, the construction of it?

16 A Correct. It's -- it's designed as a shoe shine.

17 Q Okay. And you saw him sitting in it?

18 A Yes, I did.

19 Q And how did you respond to that?

20 A I asked him what he was doing.

21 Q Without telling us what he said, what did you do after he  
22 responded?

23 A I asked him to go outside and get on his post.

24 Q And again, did he respond to you? Don't tell us what he said.

25 A Yes, he did.

1 Q And after he responded to you, what did you say to him?

2 A I told him if he had a problem with what I was asking him to do, I  
3 was doing it on behalf of the management and the owners of the Palomino, and  
4 he was more than welcome to call Anabel and complain to her.

5 Q Did you then report it to anyone?

6 A Yes, I did. I wrote it up.

7 Q You wrote it up. And to whom did you report it?

8 A I reported it to Anabel, and I turned the paperwork into the office  
9 manager.

10 Q And did you learn what happened after that with respect to TJ,  
11 and of course, I'm not talking about the man's death, but, I mean, was there --  
12 was there -- what occurred with respect to his remaining employed at the  
13 Palomino?

14 A His employment was terminated.

15 Q And do you know who terminated him?

16 A My understanding that Anabel did.

17 Q And were you asked to do anything by Anabel with respect to that  
18 termination?

19 A Yes, I was.

20 Q And in response to what she asked you to do -- did you do what  
21 she asked you to do?

22 A Yes, I did.

23 Q What did you do?

24 A I showed up and met Ariel, the office manager, in the office. They  
25 explained to me that they were letting TJ go, and he had a final check, and



1 they wanted to make sure that he left without any problems.

2 Q Okay. Now, in terms of your experience with Mr. Hadland, why  
3 would they call you to fulfill that role?

4 A In terms of TJ?

5 Q Yeah, why you? Why not do it with --

6 A Why me in general?

7 Q Why you in general with respect to TJ?

8 A With respect to TJ. Not many people -- not many people argued  
9 with me or caused problems with me, et cetera.

10 Q Was TJ argumentative in your experience?

11 A Could be.

12 Q Now, had you ever reported TJ previously to the management of  
13 the Palomino?

14 A For not being on post, I believe so.

15 Q For anything else?

16 A I had spoke to -- I had spoke to Mr. H about something I had  
17 observed.

18 Q And what was it that you observed?

19 A I observed TJ on occasion and also Deangelo on occasion selling  
20 VIP passes.

21 Q And where were they selling those passes?

22 A Out front.

23 Q And when you say selling VIP passes, what do you mean?

24 A Basically, the VIP passes were for free admission into the club, and  
25 what would happen is the cabs would show up, and they would -- a cabbie

1 would come in, and let's say I didn't always know what we were paying, but I  
2 knew we were -- I'm sorry, what was being paid, but say the Palomino was  
3 paying \$30 a head, if a cab brings in five people, they're expecting \$150.

4 The customers will pay \$30 a head, and, you know, you'd get TJ  
5 or Deangelo would write up the ticket, give the ticket to the driver. The driver  
6 takes it up. He gets paid for the number of people that he brings in, full price,  
7 full admission, full pay.

8 There came a time where there were issues with the VIP cards. At  
9 one point cabbies got nothing if somebody came in with a VIP card. That was  
10 creating problems, and cabbies were just like, hey, this is, you know, this is  
11 stupid, and all of a sudden we're not getting people there. They came up with  
12 an alternate plan to where they paid lower amounts for VIP cards. So the  
13 cabbies were at least, you know, getting something.

14 Well, what I saw was these people are getting out of the cabs, and  
15 TJ and Deangelo had both turned around and at first I thought they were  
16 getting a tip 'cause I'm seeing money exchange hands, but then I see them  
17 hand a VIP card to these people. They go up, they go in. The cabbie comes  
18 out, and I had a couple cabs say that the Palomino was ripping them off, and  
19 that's when I brought it to -- I brought it to Mr. H's attention that, you know, I  
20 think this is what I see, you know.

21 Q Did you ever hear the term used by Mr. Hidalgo or anybody else at  
22 the Palomino Club, the term Plan B?

23 A Yes.

24 Q And when you heard the term Plan B, was it always used to mean  
25 the same thing?

1           A     When he was speaking to me and he talked to me about Plan B, I  
2 knew what he was talking about.

3           Q     And what did you understand it to be?

4           A     It was -- it was in relation to how the club was operating and how  
5 money was going out. It was in relation to whether or not to stick with Plan A,  
6 which is pay X amount for regular admission, pay X amount for VIP cards. If  
7 not, then wipe it out and go to Plan B which would be paying across the board.

8           Q     I want to call your attention to the 19<sup>th</sup> of May in the year 2005.  
9 Do you recall being at the Palomino Club that night?

10          A     I do.

11          Q     And do you remember why you were at the Palomino Club that  
12 night?

13          A     Yes.

14          Q     Okay. Now, that's a Thursday night?

15          A     I believe that's correct.

16          Q     And why were you at the Palomino that night?

17          A     I had a good client showing up that I invited.

18          Q     Do you remember who the client was?

19          A     It was a McNeilus was the group.

20          Q     McNeilus?

21          A     McNeilus.

22          Q     Can you spell it?

23          A     M-c-n-e-i-l-u-s, I believe it is.

24          Q     Okay. And what is McNeilus?

25          A     McNeilus is a company that manufactures trucks. Some of their

1 subsidiaries are OshKosh. They do rollover plows, snow equipment. They also  
2 do garbage trucks and concrete mixers and all that kind of stuff.

3 Q And why did you have McNeilus coming to the club that night?

4 A They were clients of mine, and I had brought them down there  
5 before. I did the lighting for their booth, and we had -- we were steadily  
6 stepping up the lighting in there, but again, cost is always an issue. So I was  
7 trying to -- that's what I used, you know, to try to sell people on additional  
8 lighting is you don't have to pay top dollar. So they had been there before, and  
9 they enjoyed themselves there.

10 Q And so you were at the club that night to do what with respect to  
11 McNeilus?

12 A To make sure that they got picked up correctly and on time this  
13 time.

14 Q When you say this time, had there been a problem in the past?

15 A Yes, there had.

16 Q And what was that problem?

17 A Deangelo was supposed to pick them up in the limo, and he didn't  
18 show up.

19 Q Now, that's not on the 19<sup>th</sup> of May, some earlier occasion?

20 A It was prior, correct.

21 Q So when you got there that night, what do you recall about  
22 whether your clients got picked up on time or not?

23 A What do I recall as far as did they get picked up? Or?

24 Q Were there problems?

25 A Yes.

1 Q Okay. Tell the ladies and gentlemen of the jury what the problem  
2 was.

3 A The problem was Deangelo was in the van -- well, the van was  
4 gone. I was told Deangelo was in the van, and the limo was sitting out front.

5 Q Who was supposed to drive the limo?

6 A Deangelo was.

7 Q Okay. And how do you know that arrangements had been made  
8 for that to occur?

9 A I arrived early that day to speak with -- Mr. H's son, I call him Little  
10 Louie. I stopped by to talk to Little Louie who opens the club and also  
11 scheduled -- did the schedule for pick ups and stuff like that. I said, please  
12 make sure -- and I had talked to him previously about this, and I just wanted to  
13 drive home that, hey, I don't want to see this screwed up again. We need to  
14 make sure Deangelo does his job and picks these people up. He said, We know  
15 about it; it will get taken care of.

16 Q What time did you get to the Palomino that night?

17 A It would have been sometime after opening so the doors open at 5.  
18 I usually -- I'd say it was sometime after 5, probably before 6.

19 Q And what if any problems did you encounter with respect to your  
20 clients being picked up on time?

21 A I don't recall the exact time they were scheduled to be picked up.  
22 I know it was after -- it would have been after 9 because that's when the  
23 majority of the girls came in, and I wanted to make sure the club was full of  
24 girls, you know, that we had a, you know, a full lineup for them. And I  
25 remember I walked outside, about an hour, about 8 o'clock, somewhere around

1 then, and I saw the limo sitting outside.

2 Q And what did you do in response to that?

3 A I called Little Louie.

4 Q And after talking to Little Louie what did you do?

5 A I went back inside and then I think I went upstairs to talk to  
6 Anabel and Mr. H and Little Louie.

7 Q Now, when you were upstairs --

8 Can I have that photo, please. Can I have this marked next in  
9 order, please.

10 THE COURT: Would counsel approach, please while Ms. Husted is  
11 getting the exhibit marked.

12 (Conference at the bench.)

13 BY MR. GENTILE:

14 Q I'm going to show you what's been marked Proposed Exhibit G  
15 and ask you to take a look at it and see if you recognize it?

16 A Yeah, it's the upstairs office at the Palomino.

17 Q And when you say the upstairs office, is this referred to as some  
18 person's office?

19 A Yeah, Mr. H's office.

20 Q This is Mr. H's office. Does it appear to you in that photograph to  
21 be in substantially the same condition at least furniturewise as the view in that  
22 photograph expresses as it was back in May 2005, other than being relatively  
23 empty as compared to that?

24 A Yeah. There was no Chicago helmet and stuff in there.

25 Q Okay.

1 MR. GENTILE: Move it into evidence at this time.

2 THE COURT: Any objection.

3 MR. DI GIACOMO: No, Your Honor.

4 MR. ADAMS: None from us, Your Honor.

5 THE COURT: All right.

6 (Defense Exhibit G admitted.)

7 BY MR. GENTILE:

8 Q Could you step down here, please.

9 A Sure.

10 Q Could you show the ladies and gentlemen of the jury -- would you  
11 point out to the ladies and gentlemen of the jury what they're looking at here in  
12 terms of -- I think there are three chairs in this room?

13 A Yes, there are.

14 Q Okay. There's also a doorway. So would you just sort of explain  
15 what this perspective is.

16 A This perspective is looking at the main desk. Right here is a  
17 doorway that leads to a bathroom that's up that wall right there where that  
18 handrail is. There's a private bathroom there and bath or shower, and right  
19 inside this doorway off to the left-hand side there's a little kitchen area right  
20 there. This is the main desk, and that's a big chair that's back there. Back  
21 behind here, which you can't see in this photo, is where all the monitors and  
22 everything are for the club.

23 Q They have other photographs that show --

24 A Then this is the -- that's the entertainment system that actually  
25 runs the sound and lighting and switching and stuff for the room itself, for that

1 particular room, main desk, two chairs are always there and then the hutch that  
2 keeps all the files and everything.

3 Q Okay. Now, you see that desk, the chair behind the desk?

4 A This one here?

5 Q Who usually sat in that chair?

6 A Anabel did.

7 Q Okay. And there are two chairs in front of the desk?

8 A Correct.

9 Q Did anybody usually sit in one of those chairs?

10 A Yes. Mr. H usually sat in this chair right here.

11 MR. GENTILE: Could we have some sort of a marker that we could mark  
12 them. Well, I guess we don't need to.

13 THE COURT: Well, there's two --

14 MR. GENTILE: We don't need to.

15 BY MR. GENTILE:

16 Q So if you're looking at this photograph, when you said this chair  
17 right here, you meant the chair that's on the left-hand side of the photograph --

18 A Correct.

19 Q -- in front of the --

20 A Yes.

21 Q And the one that Anabel sat in is this gray upholstered chair that's  
22 behind the desk?

23 A Correct.

24 Q Okay. How many times were you -- I'd like you to stay down here  
25 for a minute. How many times were you in that office that night?



1 A Two that I recall.

2 Q Okay. And was Anabel in the office both times?

3 A Yes.

4 Q When you walked into the office the first time, had your clients  
5 been picked up yet?

6 A No.

7 Q When you walked into the office the second time, had your clients  
8 been picked up yet?

9 A Yes.

10 Q And about what time was that second time?

11 A I would say probably around after 11 I believe it was.

12 Q And when you came in that time, who was in the office?

13 A Anabel and Mr. H.

14 Q And where was Anabel seated?

15 A Anabel was behind the desk.

16 Q And where was Mr. H?

17 A I don't know where he was when -- well, the -- you can't see in  
18 this photo right here, but up this way, like this actual walkway goes through to  
19 a door, and then there's a hallway and another door right there. I came in  
20 through the outer set of doors and then knocked on this -- the door that leads  
21 into this room right here, and he came and got me.

22 Q All right. So after you entered the room, how many people were  
23 in the room on that occasion after 11 o'clock?

24 A Myself, Mr. H, and Anabel.

25 Q Anybody else?

1 A Not that I recall. I was pretty much focused on them.  
2 Q All right. And what did you do after Mr. H let you in?  
3 A He sat down. I kind of plopped down in the chair --  
4 Q Which chair did you sit in.  
5 A I sat in this chair right here.  
6 Q Okay. So you sat in the chair that's on the right?  
7 A Correct.  
8 Q And he sat in the chair that's on the left?  
9 A That is correct.  
10 Q And Anabel was in the chair behind the desk?  
11 A Correct.  
12 Q Okay. How long were you in the office at that time?  
13 A I'd say maybe 15 minutes.  
14 Q And is that the last time that you were in the office that night?  
15 A Yes.  
16 Q Did Anabel ever get out of her chair?  
17 A Not that I recall.  
18 Q Do you ever recall seeing Mr. H get out of his chair and walk  
19 anywhere with Anabel?  
20 A No, I do not.  
21 Q Did you ever see Anabel walk into the kitchenette area?  
22 A Not that -- not that night that I recall.  
23 Q Okay. You can resume the stand.  
24 THE COURT: Maybe this would be --  
25 MR. GENTILE: I think this would be a good place to stop.

1 Did I move this into evidence?

2 THE COURT: Yeah, you did, and it was admitted.

3 Ladies and gentlemen, this is probably a good time to take our  
4 evening recess. We'll reconvene tomorrow morning at 9:30.

5 And, sir, you are instructed to be here tomorrow morning no later  
6 than 9:30. During the recess, please don't discuss your testimony with  
7 anybody else who may be called as a witness in this case. Thank you, and you  
8 are excused. And if you need to talk to Mr. Gentile, you can wait for him out in  
9 the hallway.

10 Ladies and gentlemen, as you just heard, we'll be reconvening at  
11 9:30 tomorrow morning. Once again, you're reminded of the admonishment  
12 that you're not to discuss this case or any subject matter relating to the case  
13 with each other or with anyone else. Do not read, watch, or listen to any  
14 reports of or commentaries on any subject connected with the trial. Don't do  
15 any independent research on the trial by the internet or any other medium.  
16 Don't visit any of the locations at issue, and please don't form or express an  
17 opinion on the case.

18 Once again, leave your notepads on your chairs. I would like Juror  
19 No. 11 to please remain in the courtroom. The rest of the jury can go ahead  
20 and exit through the double doors, and we'll see you all back here at 9:30.

21 If anyone has any pending questions, please hand those to Jeff on  
22 your way out.

23 (Jury recessed 6:55 p.m.)

24 THE COURT: Sir, I understand that there's an issue if we go past  
25 Wednesday for your employment, and I know we've discussed this, but that

1 was weeks ago, and I don't have my notes from jury selection. So could you  
2 refresh my memory as to what the conflict is if we go past Wednesday.

3 JUROR NO. 11: Absolutely. I'm the director of security for a major  
4 security company, and I handle all the contracts. We have two major shows in  
5 Palm Springs, California Thursday and Friday night. The major shows are  
6 bringing in the managers and the tour agents and everybody that's got to do  
7 with those shows, and I'm going down there to make the shows look good, but  
8 because we're all coming together we're going to discuss our future contracts  
9 with those shows for our company. And it just doesn't pertain to those two  
10 talents. It's the talent for AG, Clear Channel, all those.

11 THE COURT: And the two shows are what?

12 JUROR NO. 11: Billy Joel on Thursday night and Match Box 20 on  
13 Friday night.

14 THE COURT: Okay.

15 JUROR NO. 11: We have a third show, but I'm not staying for the third  
16 show.

17 THE COURT: Okay. And your company, your guys are the ones that  
18 are doing security for both of these concerts?

19 JUROR NO. 11: We're not doing internal security for them; we're going  
20 down for consultants and for security for the talent. We're contract for the  
21 talent.

22 THE COURT: For the talent, so to make sure nothing happens to the  
23 star or the band, okay.

24 JUROR NO. 11: That is correct. And on top of that, it's the first show  
25 for that venue. It's a brand new venue. So we've also talked to the director of

1 entertainment, director of security, and we're going down there for that also.

2 THE COURT: Okay. And let me ask you this. You will be back then  
3 Saturday?

4 JUROR NO. 11: I would.

5 THE COURT: And you're not actually working the shows; it's just that  
6 you need to be down there in what, a consulting capacity or?

7 JUROR NO. 11: We are working the shows for the talent.

8 THE COURT: I mean, are you personally going to be working the show?

9 JUROR NO. 11: Yes.

10 THE COURT: Okay. And what does that work entail?

11 JUROR NO. 11: We are personal security for the talent.

12 THE COURT: No, I mean you personally, what do you do?

13 JUROR NO. 11: My job?

14 THE COURT: Yeah.

15 JUROR NO. 11: I'm the director of security.

16 THE COURT: No. No. I guess I meant it in a really, really basic way,  
17 like you direct guys around the stage or you -- what do you do?

18 JUROR NO. 11: Once the talent arrives at the hotel, it's my  
19 responsibility to make sure they get to point a, point b, point c, point d, and  
20 they're arriving at noon on Thursday.

21 THE COURT: And on an unrelated issue, my bailiff informs me that you  
22 think you -- and this was before he testified that he'd worked at the Mandalay  
23 Bay, that you recognized the last witness from the Mandalay Bay?

24 JUROR NO. 11: I was out in the lobby and I saw the gentleman, and I  
25 put the name PK together with the face, and I do work with him on concerts at

1 Mandalay Bay.

2 THE COURT: Okay. So you currently work with him?

3 JUROR NO. 11: Whenever he works -- I'm at every concert pretty  
4 much, and he comes in and does work for the concert tour, like he said, the  
5 lighting, things like that. He's one of the -- I've had him in numerous shows in  
6 the past eight years.

7 THE COURT: Do you directly work with him, or is it more you recognize  
8 him as somebody who does the production, lighting and whatnot?

9 JUROR NO. 11: He's not security so I don't directly work with him.  
10 He's roaming around backstage. He has come up to me several times and said  
11 we have a problem. I need you, you know, a security guy to do this or  
12 whatever, and we would.

13 THE COURT: Okay. Anything about that relationship, the fact that you  
14 know him and you have seen his work firsthand that would impact your ability  
15 to be fair and impartial to either side in this case?

16 JUROR NO. 11: No.

17 THE COURT: All right. Does anyone have any follow-up questions for  
18 Juror No. 11?

19 MR. DI GIACOMO: I have just a couple.

20 First, Mr. Handley, during the time that you've had interaction with  
21 him, have you ever formed an opinion as to his truthfulness or untruthfulness?

22 JUROR NO. 11: I've never formed -- no.

23 MR. DI GIACOMO: Never had an occasion to judge that one way or the  
24 other?

25 JUROR NO. 11: My opinion is he's a very honest guy. When I've

1 worked with him he's helped me take care of issues in my direction and my  
2 areas.

3 MR. DI GIACOMO: My question is for you then, based upon your  
4 interactions with this individual, can you set that aside and listen to the  
5 evidence that the evidence establishes that he's not credible, would you be able  
6 to consider that despite what your prior contact was with him?

7 JUROR NO. 11: I know that -- this is my answer to your question. I  
8 know that he's very credible in my eyes from what I've seen in the past.

9 MR. DI GIACOMO: So based upon --

10 JUROR NO. 11: He's never done anything wrong to me.

11 MR. DI GIACOMO: So what you're saying is before you've come in here  
12 you've assessed him as a credible individual before you ever walked into a  
13 courtroom?

14 JUROR NO. 11: I would say yes.

15 MR. DI GIACOMO: Now let's talk about your other -- your other problem  
16 is this isn't like you're some security guard on the floor. You have the  
17 responsibility for protecting Billy Joel and Match Box 20?

18 JUROR NO. 11: That's correct.

19 MR. DI GIACOMO: And you had this previous engagement set up for  
20 some time now, correct?

21 JUROR NO. 11: Going on almost a month.

22 MR. DI GIACOMO: And we only asked you through last Friday, correct?

23 JUROR NO. 11: That is correct.

24 MR. DI GIACOMO: And it would be a massive hardship for you to miss  
25 that on Thursday and Friday?

1 JUROR NO. 11: Absolutely because it's a future contract involved, and  
2 everybody's flying in to talk about this. They wouldn't typically fly in for this  
3 just to see him.

4 MR. DI GIACOMO: Thank you very much, sir.

5 THE COURT: Are you the only guy that meets on this contract, or do  
6 you have like a partner or an associate that's also involved in negotiating the  
7 contract, or is it just you?

8 JUROR NO. 11: Just me.

9 THE COURT: Just you?

10 JUROR NO. 11: That's correct.

11 THE COURT: Any follow-up? Any other questions?

12 MR. GENTILE: Just one question. Well, maybe it might be more than  
13 one question.

14 What time must you leave in order to get there for your --

15 JUROR NO. 11: I'm driving down. I have to be there by noon.

16 MR. GENTILE: On Thursday?

17 JUROR NO. 11: On Thursday. So Palm Springs is four and a half hours,  
18 7:30, 8:00 in the morning I planned on leaving. And, again, I apologize but I  
19 didn't know this was going to go this far.

20 THE COURT: No, and we didn't know, and you probably mentioned it,  
21 and we said, oh, no. There's not a problem.

22 JUROR NO. 11: And I didn't mention it because I didn't think it was  
23 going to go this far. That's why I didn't create any issues because there was  
24 enough issues in the courtroom. But coming last Thursday, Friday, that's when  
25 I mentioned to Jeff that I see there's an issue coming up here.



1 THE COURT: All right. Let me go ahead and have you exit the  
2 courtroom and just hang around in the vestibule or in the hallway for a moment.

3 JUROR NO. 11: And of course leave this on my chair, right?

4 THE COURT: Yes, leave it on your chair.

5 JUROR NO. 11: And again, I can supply the hotels that I'm staying at.

6 THE COURT: No, I believe you. I mean, you haven't sat here for all  
7 these days to come up with an excuse at the eleventh hour. I completely  
8 believe you.

9 (Juror exited the courtroom.)

10 THE COURT: Well, I know the State doesn't want him now because he  
11 knows --

12 MR. DI GIACOMO: Well, he obviously has a bias, but I also think -- but  
13 in legitimate fairness and before we ever knew the bias, I said this to the Court,  
14 we told these people last Friday. This is a big deal. None of us get to hang out  
15 with Billy Joel, first of all for a job. I mean, make him get some signatures or  
16 some autographs, but the truth of the matter is that it's only fair and  
17 appropriate that he be allowed to go.

18 We have three alternates, and we're in the third week and haven't  
19 lost anybody.

20 THE COURT: My whole thing -- I'm not going to kick him for bias -- my  
21 whole thing is we told him, you know, we didn't indicate it would be this long.  
22 I mean, we can make him come in tomorrow and sit through everything  
23 knowing we're not going to finish tomorrow, or we can excuse him now and  
24 not make him come back tomorrow. So that was why I excused him right now  
25 to see what people's impression was on that..

1 MR. ADAMS: Judge, the only thing I would add is earlier when we were  
2 talking about timing, I took an opposing to Mr. Gentile about trying to power  
3 through, and what had motivated my thought was to try to be able to keep the  
4 juror, this juror. If he is going to be released and --

5 THE COURT: Well, we can keep him till tomorrow and see where we  
6 are, but honestly --

7 MR. ADAMS: It's not --

8 THE COURT: -- this is not going to be a 30- or 40-minute deliberation I  
9 don't think.

10 MR. ADAMS: No. And so I withdraw my request to argue tomorrow  
11 based on if he's not going --

12 THE COURT: Well, we're still going to argue tomorrow because  
13 otherwise they'll get this case in the afternoon on Thursday, and they might  
14 have to come back Friday. Their whole concern was not to have to come back  
15 Friday at this point. So we're still going to power through tomorrow.

16 Now, if we finish arguments at 6:30, they're probably just going to  
17 go home and then come back Thursday to deliberate. But now if they have a  
18 rebuttal case, we may be doing argument Thursday morning anyway.

19 I just don't see finishing with this guy, doing the gal, the California  
20 guy, the -- Mr. Hidalgo Junior, settling jury instructions, arguing, and the juror  
21 being able to deliberate plus the bathroom breaks.

22 MR. GENTILE: Well, you know, frankly --

23 THE COURT: I mean, I can have him come back tomorrow; that's why I  
24 excused him like I just said. And then just tell him tomorrow, look, we really  
25 hoped to get it done, but we're going to make you the alternate.

1 MR. ADAMS: May we have just a moment.

2 THE COURT: Yeah, I mean, that may be the better way to do it.

3 MR. PESCI: Even if that were to happen --

4 MR. DI GIACOMO: To save us some time, do you want to canvass the  
5 two defendants, or do you want to do that in the morning?

6 THE COURT: No, I'm not going to canvass them till right before they're  
7 going to be -- because Mr. --

8 MR. PESCI: The State's --

9 THE COURT: I mean, I prefer to do it right before the last --

10 MR. DI GIACOMO: I was just suggesting that that's --

11 THE COURT: No. No. I mean, I just --

12 MR. PESCI: The other concern the State has in this juror, Judge, is even  
13 if we power through tomorrow, there could be a desire to get a quick verdict  
14 because he can't be here the next day.

15 THE COURT: That's a concern for either side, I think.

16 MR. DI GIACOMO: Oh, I know, it's a concern for everybody, but it's  
17 just a concern. Nobody wants a jury to make a determination based on  
18 anything other than the facts.

19 MR. GENTILE: Well, there's two separate issues. One is whether he  
20 comes back, and the other is with all due respect because you've been so  
21 patient, it seems as though there's some sort of a rush to get a judgment in this  
22 case at this point, and that's a separate issue.

23 THE COURT: Well, no. I mean, I don't think there's a rush, but I think,  
24 not the Court, but, you know, in the beginning, in the beginning I think, you  
25 know, people wanted to break at 4:45 as opposed to going to 6 like the Court

1 wanted to do. And because an hour here, 30 minutes there, this and that,  
2 we've now reached a place where we're way behind. And so it's not, you  
3 know, like I said, it doesn't matter to me. I'm happy -- it's easier for me  
4 honestly to have a nice long lunch and come and do this in the afternoon and  
5 quit at 5.

6 I understand what you're saying, but it is what it is, and --

7 MR. GENTILE: I have a real --

8 THE COURT: I mean, I have no problem bringing the jury in Thursday  
9 morning. I don't want a jury with this guy worried about missing a contract to  
10 come back with a wrong verdict however it is because they're not willing to  
11 deliberate. So, I mean, I think that's why Thursday night I'd be inclined to -- I  
12 mean Wednesday if we finish, I'd be inclined to make him come back Thursday  
13 because then they've taken off work and they have the whole day --

14 MR. GENTILE: When you say if we finish, if we finish what?

15 THE COURT: Arguments.

16 MR. GENTILE: You really think that we're going to be able to get  
17 through these witnesses, a rebuttal case, a jury instruction settlement and all of  
18 that argument tomorrow?

19 MR. DI GIACOMO: Well, I mean, at some point you might say  
20 something different, but for right now, let's just -- why don't we just start and  
21 see where we get to.

22 THE COURT: Well, I mean, I don't know if the State's really going to do  
23 a rebuttal case, and if I think the rebuttal is tangential to anything important, I  
24 may say, you know what, I don't think that there's really enough to rebut there.  
25 It's a minor point. I don't know what they're going to put on.

1 MR. GENTILE: They have a statement --

2 THE COURT: If it's a major point then they're allowed to do it.

3 MR. GENTILE: They have a statement that they took from Mr. Handley  
4 that I have requested and counsel has refused to give it to me. I grant you that  
5 he is not on their list. So I suppose we could get into that issue. But that's  
6 what that's about.

7 THE COURT: Okay. Well, in terms of excusing this juror today or  
8 making him come back for Wednesday, the State's preference is to excuse him  
9 today. Defense's preference is what?

10 MR. ADAMS: Judge, I would say if you -- if we got through everything  
11 and all the spheres came together and we got it to the -- finished argument  
12 magically by 7 somehow, if you're going to break at that point regardless of  
13 what the jury wants to do, I'd say release him. I mean, let's not make the guy  
14 a captive. But if the Court might tell the jurors, let the bailiff know what your  
15 preference is if you guys want to deliberate well into the night tonight then  
16 we'll start deliberation.

17 THE COURT: Well, we'll let them deliberate a little bit, but I -- I'm not  
18 going to keep them here till 1 or 2 in the morning.

19 MR. ADAMS: I'm not saying keep them. If you put the ball in their  
20 court they may choose to stay.

21 THE COURT: Well, except here's the deal. It's not just the bailiff who  
22 has to stay. I don't mind staying, but the Court's whole staff has to stay until  
23 1 and 2 in the morning, and, you know, these gals start at 7, and it's really not  
24 fair to my staff.

25 MR. ADAMS: I'm not lobbying for that.

1 THE COURT: No. No. No. I'm just saying this is not a department  
2 where people work until 1 and 2 in the morning. Some departments are  
3 different. I just don't -- I just think it's inhuman to do that. You know, 9  
4 o'clock at night, 10 o'clock at night I might, but my fear would still be -- I guess  
5 we could make him come back tomorrow and see where we are and go from  
6 there.

7 MR. GENTILE: Well, I think probably better than anything would be to  
8 ask the juror if he wants to do that.

9 THE COURT: All right.

10 MR. GENTILE: And if the case can go to the jury tomorrow and they  
11 deliberate into the evening --

12 MR. PESCI: We're talking about all the stars lining up to that. We  
13 maybe end at 7 o'clock and then we're going to send him home; how is this  
14 guy even going to be a part of that process? Why are we --

15 MR. DI GIACOMO: Yeah, I mean, why are we even -- and I could tell  
16 the Court, I know the Court doesn't find he should go for bias, I can tell you  
17 that the credibility of Pee-Larr Handley is going to be something hotly contested  
18 in this case.

19 THE COURT: Yeah. I mean, all he said though really, if you listened to  
20 him is well, in his dealings with Pee-Larr Handley he didn't, you know, I mean,  
21 he didn't find him to be dishonest.

22 MR. DI GIACOMO: If a juror had said during our voir dire one of your  
23 main witnesses --

24 THE COURT: You would have kicked him.

25 MR. DI GIACOMO: You would have kicked him, right?

1 THE COURT: Right.

2 MR. DI GIACOMO: Now we have an additional problem with him. I  
3 don't understand why he's still here when we still have three alternates.

4 THE COURT: All right. Bring Mr. --

5 MR. GENTILE: Adkins.

6 THE COURT: Thank you so much.

7 Sir, we've gone round and round about this and the odds of  
8 whether or not we think realistically we're going to be able to finish and so you  
9 can participate in deliberations tomorrow, and obviously we don't want you to  
10 feel rushed, and we don't want that to impact your verdict one way or the  
11 other. And candidly in going over the scheduling and everything like that, I  
12 mean, the odds of us getting completely finished to full deliberation and verdict  
13 by tomorrow at sometime before, you know, 10 o'clock at night is very remote.  
14 And so I think to be fair to you I'm going to go ahead and excuse you now.

15 I just want to thank you and apologize to you that you've spent all  
16 of these days here and it's kind of for naught. There are alternates here; you  
17 were not one of the alternates. You were one of the original jurors. So if it's  
18 any consolation, some of the alternates may be excused anyway. But now you  
19 can see the importance of having alternates to give us that flexibility. And I  
20 want to thank you for your patience and your willingness to serve and your  
21 attentiveness and all of that.

22 You know, you probably won't see any of the other jurors on your  
23 way out, but if you do and they ask you anything about what we've discussed,  
24 please don't discuss anything like that with them. Okay.

25 JUROR NO. 11: Absolutely. I just want to thank everyone here,

1 including you, Your Honor, and everyone. I appreciate you all.

2 THE COURT: All right. And like I said, I really appreciate --

3 JUROR NO. 11: It was an experience here.

4 THE COURT: Feel free to contact us if you're interested in what the  
5 verdict is.

6 JUROR NO. 11: Okay.

7 THE COURT: Thank you very much, sir.

8 JUROR NO. 11: And again, I apologize to everyone here.

9 THE COURT: No. You know what, it's not your fault at all because we,  
10 you know, over and over again said it would definitely be over by Wednesday,  
11 and we had hoped -- I know you brought this problem to my bailiff's attention --  
12 honestly, I had hoped we would do closings today and give it to the jury for you  
13 to be deliberating tomorrow or do closings in the morning tomorrow, and you  
14 guys would get it in the afternoon in plenty of time. You know, it just isn't  
15 panning out that way unfortunately.

16 JUROR NO. 11: And I do want to give kudos to Jeff for not saying  
17 anything about all the questions he's been asked. They ask him a lot of  
18 questions, and he's like, I can't say anything. So I just wanted to let you know.

19 THE COURT: All right. So he's doing good.

20 JUROR NO. 11: He's doing good.

21 THE COURT: All right. Thank you very much.

22 MR. ADAMS: Judge, are you asking us not to speak with him? I mean,  
23 we'll do whatever you instruct.

24 MR. DI GIACOMO: I don't think it's ever appropriate to speak to --

THE COURT: Typically until after the verdict. I mean, obviously after



1 the verdict you can.

2 JUROR NO. 11: Speaking to who?

3 MR. DI GIACOMO: We shouldn't be speaking to you until after the  
4 verdict.

5 JUROR NO. 11: I don't think you'll see me.

6 THE COURT: Thank you very much.

7 We'll see you back here at 9:30 tomorrow.

8 (Recess taken 7:16 p.m.)

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